The Republic of Turkey in Europe: Reconsidering the Luxembourg Exclusion

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Abstract

The EU’s rebuff of Turkey’s application for accession represents more than a missed opportunity to strengthen and deepen the relationship between these two related spheres. Indeed, the lack of finesse—the unnecessarily impolitic form of the rejection—propels Turkey in the opposite direction. The old assumption that relations with Europe were of primary importance is “subject to increasingly critical examination.” Acknowledging that Turkey may not be ready for accession in the next wave, the EU should have pursued some less antagonizing route. The premature decision to begin negotiations with Cyprus only intensifies the conflict.
THE REPUBLIC OF TURKEY IN EUROPE: RECONSIDERING THE LUXEMBOURG EXCLUSION

Patrick R. Hugg*

The law of any polity is a construct embedded in a specific social and political culture and its transmutation to other polities is not easily achieved.¹

INTRODUCTION

Long-heralded are the pitfalls of comparing one legal construct with another, and few modern illustrations so effectively prove this maxim as the current controversy over the accession of the Republic of Turkey to the European Union (or “EU” or “Union”). Forming the literal bridge between Europe and Asia Minor,² Turkey represents both a connection and a separation between western and eastern worlds in a complex context that blurs and qualifies meaningful comparisons. Amid a myriad of interacting forces, the Luxembourg Summit’s stark rejection of Turkey has propelled this strategic country away from Europe. The EU declaration that, of twelve applicants, only Turkey would be excluded from the formal launch of accession negotiations, which ignited indignation from Turkish leaders.³ At this pivotal

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² David Gotleib et al., Conference On Comparative Law—Recent Developments in European, American, and Turkish Law: “Team Kansas” Goes to Turkey, 45 U. KAN. L. REV. 671, 703 (1996). “Istanbul . . . straddles the Bosphorus as the bridge between Europe and Asia and gateway between Mediterranean and Black Seas. As a result, Turkey is where Western and Eastern cultures meet, interact, and must come to some resolution, a process that has not always proven peaceful.” Id. For an expanded discussion of the bridge metaphor from both sides of the Europe-Asia Minor divide, including cultural, political, economic, and strategic considerations, see Ian O. Lesser, Bridge or Barrier? Turkey and the West After the Cold War, in TURKEY’S NEW GEOPOLITICS: FROM THE BALKANS TO WESTERN CHINA 100-01 (Graham Fuller & Ian Lesser eds. 1993).

³ Edward Mortimer, Pyrrhic Victory, FIN. TIMES, Dec. 17, 1997, at 20; Turkey and the
time of advancing evolutions in Europe's new political and economic structures, a more creative and constructive policy at Luxembourg would have produced a less dangerous result. "Since the West needs a friendly, co-operative partner at the eastern end of the Mediterranean as much as ever[,] ... the Luxembourg rebuff seems astonishingly ill-judged." 

The post-modern evolution of Europe presents a dynamic time in political history—the rise of a new international law, with a move away from state sovereignty and toward cooperation in international institutions, from ideology to liberal democratic pluralism, from conflict of empires to interdependence of states, from conflict to cooperation, and from war to peace. The values of pluralism become clearer as events unfold toward the new century.

The EU's slow, but inexorable, march toward the next round of Member State accessions has generated widespread enthusiasm in Eastern and Central Europe. Yet, the laborious pro-

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4. Literally volumes have been written about the historic changes resulting from the decline of the Soviet Union, the fall of the Berlin wall, and the completion of the European Union's (or "EU" or "Union") internal market. One of the more recent and relevant interpretations of Europe's new political and economic structures is MICHAEL EMERSON, REDRAWING THE MAP OF EUROPE 1 (1998).

5. See The Luxembourg Rebuff, ECONOMIST, Dec. 20, 1997, at 17 ("Amends should be made as quickly as possible."). Unfortunately, as is more fully developed below, they have not. Id.

6. Kennedy, supra note 1, at 376. (stating that this is electrifying combination and historic break permitting both disciplinary continuity and renewal); Josef Joffe, Three Unwritten Rules that Undermined NATO's War, INT'L HERALD TRIB., July 26, 1999, at 8. It is hoped that the "war" in Kosovo and its chaotic aftermath in 1999 will ultimately represent an anomaly, as the "first and last" North Atlantic Treaty Organization (or "NATO") war. Joffe, supra.

7. Peter Norman, Union Finds Unity of Purpose, FIN. TIMES, Apr. 30, 1999, at 3 ("EU membership is more than ever a goal for Associate and other nations in eastern, central, and southern Europe."). Both economic and political motives have fueled interest in joining the European Community (or "EC" or "Community"), with many states viewing the Community as an engine for economic development, a vote of confirmation for the emerging democracies with the stamp of EU membership (and to discount remembrances of past dictatorships), and a remedy for the feelings of exclusion from the mainstream—especially Turkey. Id. JOHN REDMOND, THE NEXT MEDITERRANEAN EN-
cess has also magnified attention and intensified controversy on a wide range of issues across the continent, representing "the EU's biggest challenge ever," and pointedly posing an indelicate dilemma over the proposed accessions of Turkey and its flash-point protagonist, Cyprus. Today's escalated tension magnifies the centuries-old political, religious, and cultural conflict between EU-member Greece and EU-applicant Turkey. As it has for millennia, the Aegean Sea sets the stage for international confrontation, including the possibility of armed conflict. Cyprus—a tiny but controversial island nation divided by a U.N. LARGEMENT OF THE EUROPEAN COMMUNITY: TURKEY, CYPRUS AND MALTA 3-4 (1993). In particular, Turkey's ambition to join the EU "has taken on added urgency in light of recent geopolitical changes and the accelerating pace of European unification." Gotlieb, supra note 2, at 703.

8. 2 LYKKE FRIS, THE END OF THE BEGINNING OF EASTERN ENLARGEMENT 1 (EioP, 1998). Enlargement implicates significant economic and political issues: reform of EU institutions and policy, the Common Agriculture Policy, the Cohesion Funds, the free movement of workers, etc. Id. at 9. For a full analytical review of current trends in European integration and EU enlargement, see Helen E. Hartnell, Subregional Coalescence in European Regional Integration, 16 Wis. Int'L L.J. 115 (1997). Recent trends suggest a coalescence of sub-regional cooperation, counterbalancing the powerful regional initiatives such as the EU producing a more fair, balanced approach to European integration. Hartnell, supra.

9. The military, ethnic, and religious division of Cyprus comprises a conflict as resolute and intractable as any in history, including those in Ireland and Palestine. See, e.g., Thomas Ehrlich, Cyprus, the "Warlike Isle:" Origins and Elements of the Current Crisis, 18 Stan. L. Rev. 1021 (1966).

10. JOHN NEWHOUSE, EUROPE ADrift 252 (1997). Conflict in the Aegean, and especially Cyprus, has "deep and tangled roots." Id. Greece and Turkey trade litanies of accusations: abuses in the Balkans; Aegean maritime and airspace violations; aggression in Cyprus; mistreatment of Muslims or Orthodox religious minorities. See Loucas Tsilas, Greek-Turkish Relations in the Post-Cold War Era, 20 Fordham Int'l L.J. 1589, 1590 (1997); Kandemir Nuzhet, Turkey-Greece Relations, 19 Fordham L. Rev. 1851, 1852 (1996); Stephen Kinzer, In Snatching a Fugitive Rebel, Ankara Wins Opportunities on Several Fronts, N.Y. Times, Feb. 17, 1999, at A6. The recent discovery that Greek diplomats sheltered Turkey's most notorious fugitive, Kurdish terrorist Abdullah Ocalan, illustrates the conflict anew. Id.


12. Ehrlich, supra note 9, at 1024. "It is hard to believe that a territory so small and with so few people could so disturb the peace of the world." Id. Cyprus occupies 3572 square miles. Suzanne Palmer, The Republic of Northern Cyprus: Should the United States Recognize It as an Independent State, 4 B.U. L. Rev. 423, 423-24 (1986) (stating that Cyprus sits 44 miles off Turkey's coast and 600 miles from Greek mainland); DAVID MUNRO, OXFORD DICTIONARY OF THE WORLD 270 (1995). Cyprus is approximately the size of the island of Hawaii with 4050 square miles. Munro, supra.
Buffer Zone—was promised to start accession negotiations in 1998. Turkey—a massive peninsular ally and bridge to the West—was rudely relegated to the end of the accession line, with no expectation of serious consideration for years. The rejection was made more egregious because of the active roles played in the decision by former ally Germany and arch-enemy Greece. The potential radiation of this destructive, multi-layered conflict looms perilously: Greeks against Turks, Christians against Muslims, Asians against Europeans.

Well-known are the intransigent struggles between Israel and Palestine, and Northern Ireland and Ireland. Politics, religion, and history have spilled together to generate deep and seemingly intractable conflicts between distinct communities.

13. Letter from Nicosia: On Civilization’s Fault Line, ECONOMIST, June 20, 1998, at 99. The armed standoff in Cyprus presents the world’s only remaining divided capital city, Nicosia. Id.

14. Conclusions of the Presidency, supra note 3, at pt. 1.11; see Fris, supra note 8, at 8 (“The original five plus Cyprus would be invited to the actual negotiating table, the remaining five would speed up their negotiation preparation.”).

15. The language of the Conclusions of the Luxembourg Presidency expressly announces that 11 of the 12 applicants advance to the accession process, while no mention is made of Turkey until a subsequent section of the document that unveils a special strategy to help prepare it for accession at some later time. Conclusions of the Presidency, supra note 3, at pts. 1.10, 1.31.

16. Or, perhaps, ever. See Mortimer, supra note 3, at 20 (considering Turkey’s exclusion at Luxembourg and that “it is not surprising that Turks believe the EU has no serious intention of admitting them—ever. And they are probably right.”).

17. John Barham, Little Anger at EU in Ankara’s Teahouses, FIN. TIMES, Dec. 20, 1999, at 3. Many Turks accuse Germany of “betraying a historic friendship.” Id.; see Unsafe at Many Speeds, ECONOMIST, Dec. 20, 1997, at 73. (“Germany and Greece led the drive to exclude the . . . Turks from even the slow lane to membership.”).

18. Widening the European Union—but Not Too Fast, ECONOMIST, Nov. 7, 1998, at 51. The ancient conflict between Greece and Turkey erupts anew in the controversial circumstances surrounding EU accession: Greece insists on the inclusion of Cyprus in the “first wave, . . . even though the island is, in practical fact, not one country but two.”; Letter from Nicosia, supra note 13, at 99. Cyprus is a divided island with armed camps separated by a U.N. buffer zone. It is hardly ready for accession, and then Greece vetoes Turkey’s application and even blocks delivery of EU aid grants to Turkey.

19. Media coverage has broadcast widely and vividly the school bus killings, subway bombings, ambush assassinations, and other violent acts of vengeance. See, e.g., Deborah Sontag, Israeli jeep Blocks a Bomber from School Bus Carrying 40, N.Y. TIMES, Oct. 30, 1998, at A1. (“A jeep carrying Israeli soldiers intercepted a Palestinian suicide bomber as he was about to ram a car packed with explosives into a school bus carrying children from this Jewish settlement today.”).

20. David Wippman, International Law and Ethnic Conflict in Cyprus, 31 Tex. Int’l L.J. 141, 142 (1996). A “reluctant international community” has been forced to confront again in recent years the inscrutable issue of “how best to accommodate conflicting interests of distinct sub-national communities locked within the boundaries of a
Yet this less-widely publicized Turkish-Greek conflict, as manifested in Cyprus, intensifies today, threatening to slow the expansion of an historic achievement of the late twentieth century: the otherwise peaceful and prosperity-driven integration of Europe.

Today's advancing "European" accretion had regained momentum with the unpredictably smooth launch of the European Monetary Union and the even more unpredictable Luxembourg Summit decision to greet the opening of Eastern Europe with welcome arms and to begin negotiations with all of the Central and Eastern Applicants. But the singular exclusion

21. Wippman, supra note 20, at 142 ("Although it has received little attention of late, the conflict in Cyprus affords an excellent case study of many of the issues to arise in the context of contemporary efforts to settle ethnic conflicts."); Newhouse, supra note 10, at 255 (stating that more broadly and "[c]uriously, the degree of public discussion of Turkey, especially in the media, falls well short of its heavy bearing on the interests of its neighbors and a variety of other nations.").

22. William Pfaff, France and Europe Are Doing Some Things Right, INT'L HERALD TRIB., June 20, 1998, at 6 (quoting Prof. Joseph Weiler). One scholar has compared the evolving integration of Europe with the Roman Empire, except that the current integration is better because it was accomplished with peaceful means. Id. The freely chosen integration of autonomous nations is "an experiment without precedent in the history of ideas." Id.; A Wider European Union, ECONOMIST, Nov. 7, 1998, at 17. The EU "has brought unprecedented neighborliness and prosperity to Western Europe." For more information, please see Prof. J.H.H. Weiler's collection of essays on European integration in J.H.H. Weiler, THE CONSTITUTION OF EUROPE (1999) (advancing discussion of evolving community).

23. Tom Buerkle, The Success of the Euro Tempts the 3 Holdouts; Interest Grows in Sweden, Denmark, and Britain, INT'L HERALD TRIB., Jan. 8, 1999, at 1; see John Schmidt, Euro Posts Biggest Gain Since Debut in January, INT'L HERALD TRIB., July 27, 1999, at 1, 10 (stating that euro's momentum gathered speed in July on indications of European economic recovery).

24. EMERSON, supra note 4, at 213. Termed "The Wild East of Europe" by Michael Emerson, he also observed that in 1999 "the dynamics of European integration are persistent and strong." Id. The success of Europe in fact contributed to the opening of the East. Id.; Bulent Aras, The Importance of Turkey to Relations Between Europe and the Republics of the Former Soviet Union, 2 UCLA J. INT'L L. & FOREIGN AFF. 91, 92 (1997). In the 1980s, efforts at political and economic integration in Western Europe "were highly popular and economically successful, creating a psychological effect in the Eastern block that contributed to the transformation in those countries. It is a widely accepted proposition that this spillover effect played a part in the collapse of the Soviet Union." Aras, supra.

25. The Council of Europe's ("Council") choice of the "regatta option," allowing all applicants to start at the same time, amazed scholars and commentators. Frus, supra note 8, at 1, 4.
of the Republic of Turkey, which was relegated to a special end of the line position among applicants, "behind such paragons of economic and democratic virtue as Slovakia and Bulgaria," has cast a pall on EU-Turkish relations.

In 1999, relations between Turkey and the EU worsened, even described by one commentator as "frigid," due to the controversy surrounding Turkey's handling of the capture of Kurdish terrorist, Abdullah Ocalan. Turkish leaders were offended by Europe's sermonizing about Turkey giving Ocalan a fair trial, while European leaders had harbored him—an admitted terrorist—refusing even to acknowledge that he was a terrorist. Prime Minister Bulent Ecevit reminded observers that Turkey could not even discuss political matters with the EU as long as Turkey's candidacy is not accepted.

Europe's insensitivity or indecisiveness toward Turkey could have enormous costs as the region redefines itself, and especially if the present equilibrium producing relative peace and prosperity begins to disintegrate. Noted European diplomat and scholar Michael Emerson flatly warns of two opposing scenarios for the next twenty years: Europe's rise to a new golden age or

27. See infra Part III. Following the EU's Luxembourg refusal to include Turkey on its short, or even mid-term, list in December 1997, the Turks have refused even to talk to the EU about accession, further stalling progress over the divided Cyprus accession issue. Hans van den Broek, Europe's Expander, ECONOMIST, June 6, 1998, at 54.
29. Id. EU officials call it unrealistic to expect the EU to criticize Greece, one of its own member states. Id.; see Robert L. Pollack, Turkey's Road to Prosperity, WALL ST. J., June 3, 1999, at A26 (stating that Ocalan has "effectively admitted to directing a campaign of terror that has taken well over 30,000 lives."); REDMOND, supra note 7, at 46-47 (holding that hypocrisy recurs as theme in human rights and religious issues).
30. Kinzer, supra note 28, at 7. Meanwhile, the EU wanted full discussion of all issues, including the Ocalan trial, so the dialogue became practically frozen. Id. In contrast to the slavish enthusiasm in the eastern European applicants, the Turkish position seems now to be one of intransigence. Id.
31. Tony Barber, Outlook for Growth in Europe Dented by Double Setback, FIN. TIMES, May 21, 1999, at 14. This is illustrated by the conflict in Kosovo and a slowed economy in Europe. Id. Economic indicators show slowdown in Germany (Ifo index) and the Bundesbank sees no clear signs of expansion in the euro-zone. Id.; see, e.g., Blaine Harden, The Teetering Balkans, N.Y. TIMES, Apr. 15, 1999, at A1. The Kosovo war has been reported widely. Harden, supra.; William Ratcliffe, Conflict in the Balkans, S.F. CHRON., Mar. 29, 1999, at A23. The Kosovo conflict challenges modern national borders, encourages ethnic autonomy, and sent thousands of refugees into other lands. Indecisiveness in European leadership as the continent redefines itself is a key theme of an insightful analysis in NEWHOUSE, supra note 10, at 3-21.
degeneration into savage conflict.\textsuperscript{32} The map of Europe has changed dramatically over the past ten years: twelve new republics have arisen from the demise of the former superpower Soviet Union, Germany has re-united, and Czechoslovakia has split into two parts.\textsuperscript{33} Amid the change, much of the future is unclear, especially in Southeast Europe. East-West fault lines are taking new shape, complicated by Europe's reluctance to accept Turkey and with the rise of Islamic fundamentalism in the region.\textsuperscript{34}

Presently, three mammoth countries must be considered Europe's "big outsiders"—Russia, Turkey, and Ukraine—and it is entirely unclear where their national and societal destinies lie.\textsuperscript{35} Another prominent expert, John Newhouse, ponders whether Russian weakness could pose a more serious threat to peace than former Soviet power.\textsuperscript{36} Russia's current political stalemate and its machinations over Kosovo suggest an unpredictable future.\textsuperscript{37} As these enormous ambiguities threaten European stability, the continent is currently preoccupied with EU concerns largely unrelated to these nations, and the "outsiders" themselves are struggling with their own transitions in this historic period of change.\textsuperscript{38}

\textsuperscript{32} EMERSON, supra note 4, at 1. Emerson is a 58 year old British economist, who worked for many years in the European Commission, authored two influential reports on the single market and monetary union, was the EU's first ambassador to the Union of Soviet Socialist Republics, and is presently in Brussels as a senior research fellow at the Center for Economic Policy Studies. See also Dick Leonard, Eye on the EU, EUR. MAG., Jan. 99, at 4.

\textsuperscript{33} EMERSON, supra note 4, at 213 (remaking of map has been mostly successful—with bloody exception in Yugoslavia.)

\textsuperscript{34} See Graham E. Fuller, Conclusions: The Growing Role of Turkey in the World, in TURKEY'S NEW GEOPOLITICS: FROM THE BALKANS TO WESTERN CHINA 170-71 (1993) ("Islamic fundamentalists favor a shift away from the pro-Western policy, and the spurning by Europe could cause policy shifts toward more dangerous Turkish nationalism.")

\textsuperscript{35} EMERSON, supra note 4, at xix-xx.

\textsuperscript{36} NEWHOUSE, supra note 10, at 6. John Newhouse is currently a guest scholar at the Brookings Institution and a consultant to the U.S. Department of State. See Walter Russell Mead, Europe on the Shoals, N.Y. TIMES, Oct. 5, 1999, at 17.

\textsuperscript{37} Duma's Dilemma, FIN. TIMES, May 13, 1999, at 13. The Russian Parliament's May 1999 failure to impeach Boris Yeltsin left a political stalemate. Id. Russia's mediation leading to the Kosovo peace accord received scalding criticism from Russian legislators and others, calling it a betrayal of Yugoslavia. Michael Wines, Reception in Moscow for Accord Is Scalding, N.Y. TIMES, June 5, 1999, at A7. Subsequently, Washington was startled by Russian troops boldly seizing the Pristina airport. Steven Erlanger, Crisis in the Balkans: The Overview, N.Y. TIMES, June 12, 1999, at 1.

\textsuperscript{38} EMERSON, supra note 4, at xx.
Complicating any analysis of this evolution are the present economic stagnation and resurgence of ethnic and national rivalries in eastern and southeastern Europe, as the Kosovo horrors in early 1999 brutally illustrated. Russia's intense opposition to the North Atlantic Treaty Organization's ("NATO") military action and the surge of anti-Western feeling, amid Russia's own lessened international position and dire economic circumstances, combined to escalate tensions.

This instability magnifies Turkey's value to the West, which causes reconsideration of the European integration paradigm. This Article suggests that the current EU strategy is outdated. Fashioned pragmatically but haphazardly on an arcane post-war model of Europe, the present perspective is too narrow, inclusive, and self-serving. Called a "rich man's club . . . of bankers and busybodies . . . with riot on its borders," the EU should adopt a broader strategy of community building. The better way to secure the successes of the both the EU and any viable, sustainable European order is to embrace the eager people and governments to the East, squarely resolving to forge cohesive cooperation of a "wider European order." Inclusion, though gradual in form and degree, is the key. Europe cannot wait for the 500 million people on its periphery to meet its economic standards before bringing them into the general community; they constitute an inescapable part of Europe. Such a broader

39. Barber, supra note 31; Harden, supra note 31; Ratcliffe, supra note 31.
41. See infra Part I.
42. Jason Goodwin, Learning from the Ottomans, N.Y. TIMES, June 16, 1999, at A31 (recommending that EU advance inclusion of entire Balkan region).
43. EMERSON, supra note 4, at 232. Emerson advocates abandonment of the old European conceptual edifice, constructed from the post World War II mentality, and the adoption of a more pan-European strategy designed to infuse systemic coherence into European economic and political policies, emphasizing inclusiveness rather than exclusiveness. Id. Emerson proposes a wider European Civil Society, a multi-purpose European political entity beyond the EU, yet with the EU as its core, that reaches out to all of Europe, coordinating political, educational, and economic cooperation in various degrees, and stimulating synergy and ultimately prosperity of a golden age. Id. at 202-03, 231. Partially driving the movements across Europe is the post-modern ideal of allowing "the main functions of government to be diffused through the responsibilities and rules of clusters of international networks." Id. at 6. "And while most individuals express loyalty to the nation state, more and more of the governments' functions are devolving both up and down, with supranational and regional devolution seeming both to be profound tendencies at the same time." Id. at 214.
strategy cannot be accomplished effectively without the keystone to the Southeastern arch, the Republic of Turkey.

The EU’s inartful rebuff of Turkey’s application for accession represents more than a missed opportunity to strengthen and deepen the relationship between these two related spheres. Indeed, the lack of finesse—the unnecessarily impolitic form of the rejection—propels Turkey in the opposite direction. The old assumption that relations with Europe were of primary importance is “subject to increasingly critical examination.” Acknowledging that Turkey may not be ready for accession in the next wave, the EU should have pursued some less antagonizing route. The premature decision to begin negotiations with Cyprus only intensifies the conflict.

I. TURKEY’S STRATEGIC VALUE TO THE WEST

Turkey’s strategic importance to Europe and the West can hardly be overstated. A key aspect of its significance lies in its central geographical position and its influence in the developing, volatile crossroads region where Eastern Europe, Central Asia, and the Middle East collide. Any Europe-Asia map and post-1917 history text adequately illustrate the case for the Republic of Turkey’s “undeniable importance.” For years a “front-line NATO state bordering the Soviet Union,” Turkey

44. “[F]rustration with Turkey’s limited role in Europe has encouraged Turks to turn to alternative outlets for international activism in the republics of the former Soviet Union, the Balkans, and . . . the Middle East.” Lesser, supra note 2, at 99; see Stephen Kinzer, Europeans Shut the Door on Turkey’s Membership in Union, N.Y. TIMES, Mar. 27, 1997, at A13 (warning that such rejection would “strengthen anti-Western factions” and have former Prime Minister Erbakkan “[appear] more enthusiastic about improving relations with Libya, Iran, and other Muslim countries.”).

45. Lesser, supra note 2, at 99.

46. See, e.g, Reginald Dale, EU Needs To Make up with Turkey, INT’L HERALD TRIB., May 5, 1998, at 13 (“It is hard to exaggerate the strategic importance of Turkey. A unique secular democracy in the Muslim world, Turkey is the southeast bulwark of Europe and the Atlantic alliance in one of the planet’s most dangerous neighborhoods.”); For a Turkish view of its relationship with Europe, see former President Turgut Özal’s book, GEOFFREY LEWIS, TURKEY IN EUROPE AND EUROPE IN TURKEY ix (Turgut Özal ed., Eng. ed 1991).

47. Fuller, supra note 34, at 163 et seq.; see REDMOND, supra note 7, at 5 (“The Gulf war and the strife in Yugoslavia have shown that the importance of the Mediterranean [region] in strategic and military terms is undiminished.”).

48. Aras, supra note 24, at 92.

occupies the mammoth Asia Minor peninsula that directly buffers Iran, Iraq, Syria, and two former Soviet states. "Only Turkey lies either close to or at the center of most of the gravest threats to Europe’s peace and well-being."50 Furthermore, as the first secular Islamic nation in the region—more democratic, Western-oriented, and industrialized than any of its neighbors—Turkey represents a viable example in the region for modern liberal government.51 Turkey’s broad influence reaches military, economic, religious, as well as political affairs.52

Turkey’s military participation in modern European alliances dates back at least to the nineteenth century, when it was accepted as a European power in the Concert of Europe.53 Better known is Turkey’s pivotal role in Western security through the Cold War,54 during which Turkey served as an essential outpost on the edge of Europe, "a barrier to Soviet ambitions in the Middle East, and a contributor to the security of Europe."55 Turkey boasts a population of sixty-five million people, including 370,000 armed soldiers, more than any other NATO country except the United States.56

Today as this part of the world unfolds new governments

50. Newhouse, supra note 10, at 252; see id. at 253 ("Turkey is directly involved with Israel, Syria, Cyprus, Iraq, the belligerent tribes of the Balkans, . . . the newly independent states of central Asia and the Caucasus and the competition with Russia and Iran for influence in some of them.").

51. Lewis, supra note 46, at 357 ("Turkey is the first country with a Muslim population which has established a republican regime, . . . founded a secular society, become truly democratic, and is industrializing rapidly."); David Barchard, Turkey and the West 1 (1985) ("Turkey is the first Middle Eastern and Islamic country to achieve industrialization within the framework of the nation-state."); see Redmond, supra note 7, at 19-23 (giving summary description of Turkey’s modernization and westernization).

52. Fuller, supra note 34, passim.

53. Lesser, supra note 3, at 99 ("Turkey has been an active participant in European alliance systems: with France in the sixteenth century; with Britain, France and Italy during the Crimean War, and with the central powers during World War I.").

54. Fuller, supra note 34, at 165. It is pivotal because of its strategic location on the southern flank of the Soviet Union, its guardianship of the Bosphorus and Dardanelles straits, which controlled access to the communist-dominated Black sea, . . . its explicit commitment to the Western security cause, demonstrated as early as the Korean War, in which Turkey fought. Thus, geopolitics and Turkey’s pro-Western orientation rapidly won Turkey a prominent role within NATO.

Id.

55. Lesser, supra note 2, at xiii.

and new international and regional coalitions, Turkey’s role has changed in form and context, but not in significance.\textsuperscript{57} “The Gulf War thrust Turkey into the strategic forefront. With the disintegration of the Soviet Union and the turmoil in the Balkans, [Turkey] is now poised to play a leading role across a vast region, from Eastern Europe to western China.”\textsuperscript{58} Turkey’s growing presence is magnified by “its centrality to regions of major instability and conflagration,”\textsuperscript{59} from Iraq in the south to former Soviet republics in the north, and from Kosovo in the west to Armenia in the east. The blossoming of the Turkic world has restored Turkey to a position of foreign policy clout reminiscent of previous centuries.\textsuperscript{60}

As suggested above, stability in the region may be most threatened by the declining former superpower, Russia, whose role outside of the expanding and active NATO alliance is unsettled.\textsuperscript{61} In spite of its cooperation agreement with the NATO alliance, Russia’s continuing nuclear ability and the “superpower mentality of its foreign policy elite” breed tension over the extent of Western influence.\textsuperscript{62} Part of the problem is a Russian leadership vacuum in which political and military leaders have

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\item \textsuperscript{58} Lesser, \textit{supra} note 2, at xiii.
\item \textsuperscript{59} Fuller, \textit{supra} note 34, at 165.
\item \textsuperscript{60} Lesser, \textit{supra} note 2, at 185. Further, Turkey maintains “significant relations with the emerging Turkic Republics . . . [and] is poised to play a vital role in future relations between Europe and these republics . . . of crucial importance to European efforts to develop sustainable economic and political ties.” Aras, \textit{supra} note 24, at 92. Significantly, Turkey’s present government has shown itself unafraid to exercise that clout, as demonstrated in a “newfound assertiveness in foreign policy.” Kinzer, \textit{supra} note 56, at 5.
\item \textsuperscript{61} Russia’s Janus-like role in the Kosovo conflict illustrates its frustration: sending a threatening intelligence ship to the Adriatic one month, then working arduously to negotiate the peace the next month, which in sum suggests its unease about the West and distrust for NATO. David Hoffman, \textit{Russian Dispatch of Ships Reflects a Deep Anxiety}, \textit{Int’l Herald Trib.}, Apr. 2, 1999, at 6.
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difficulty planning effectively. One German foreign policy expert observes that the whole region is unstable because Russia is "in a state of decomposition." The current Russian economic decline, described by experts as a crisis in itself, adds to the uncertainty in the region, especially as it affects the former communist countries. Terrorist bombings, kidnappings, and other forms of violence in the southern states of Chechnya and Georgia reveal Russia's southern borderlands as "exhausted and impoverished by wars and lawlessness since the Soviet Union broke up." The offer by the former Soviet republic Azerbaijan—where "foreign powers [are] competing for influence in the soon-to-be-rich lands surrounding the Caspian Sea"—to forge a military partnership and open a U.S. base, emphasizes the strategic importance of the region both economically and militarily. But it also reveals the volatility of the region: Azerbaijan is motivated by its fear of advanced Russian arms flowing into nearby unfriendly Armenia. The chief foreign affairs minister for Azerbaijan commented recently that Turkish as well as U.S. military bases would be welcome in his central Asian country. Suggestions from Islamic fundamentalist groups that Turkey withdraw from NATO only remind observers of Turkey's strategic importance.

Change appears to be the only constant, as military and se-

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64. Id.
65. Stefan Wagstyl, Outlook Gloomy for Former East Bloc, FIN. TIMES, Apr. 16, 1999, at 2. Economic growth remains slowed, with GDP "languishing at 55% of 1995 levels." Id.
67. Stephen Kinzer, Azerbaijan Asks the U.S. To Establish Military Base, N.Y. TIMES, Jan. 31, 1999, at A9 (stating that U.S. oil companies have invested millions of dollars in Azerbaijan, and this offer could provide United States with its first long term military presence on territory of former Soviet Union).
68. Id. Again illustrating Turkey's centrality to unstable regions: "drawn into the volatile new politics of the Caucasus, where Armenia and Azerbaijan are locked in a seemingly irresolvable and potentially expandable war, where Georgian politics are highly unstable, and where other Muslim peoples agitate to break away from the new Russian federation." Fuller, supra note 34, at 165.
70. Turkey, a Softer Islam?, ECONOMIST, May 30, 1998, at 53. The expansion of fundamentalist influence in the region is exemplified by the 1998 Pakistani law granting the government "powers to impose laws based on its interpretation of the Koran, a big
curity concerns spill over into diplomatic and political issues. This entire part of the world is in flux, as some previously unthought of, seismic shifts steal the headlines from the more subtle, sometimes equally significant realignments. Former Soviet satellites, the Czech Republic, Hungary, and Poland, celebrated new membership in NATO in March 1999,71 while Turkey and Israel collaborated privately to reconstruct the balance of power in the Middle East.72 More broadly, the Western European Union73 (or “WEU”)—Europe’s previously inchoate defense collaboration—has now invited all Central and Eastern European countries to become Associate Members, and EU leaders announced plans to transform it into an EU military force.74 These complex changes leave many neighbors with uncertainties regarding future relationships and alliances.

To the east, more transition unfolds. Uzbekistan announced that it is withdrawing from the mutual cooperation agreement with Russia and the Confederation of Former Soviet States, apparently concerned over Russia’s calls for closer cooperation and the stationing of Russian troops in some countries.75 Later reports suggest that Azerbaijan, Georgia, Moldova, and Ukraine are also contemplating withdrawal from the security alli-

71. NATO welcomed three new members, the Czech Republic, Hungary, and Poland on March 12, 1999, which is its 50th anniversary, even as the prospect of NATO going to war in Kosovo was imminent. Philip Stephens, No Time To Party, FIN. TIMES (U.S.), Mar. 12, 1999, at 12.

72. See supra note 21 and accompanying text.


74. Hartnell, supra note 8, at 226 n.21. At Cologne in June 1999, leaders announced plans to form an EU military capacity to tackle regional crises and coordinate strategic planning and analysis capabilities, by incorporating the crisis-management capabilities of the EU. Defense Co-operation Agreed, FIN. TIMES, June 4, 1999, at 3.

ance, considering it ineffective.\textsuperscript{76} Further reports project instability in giant Ukraine, as its Soviet style economy struggles to replace its former weapons production with modern industry, while its standard of living declines.\textsuperscript{77}

To the south, the Middle East political balance unhinges temporarily with the deaths of King Hussein and King Hassan\textsuperscript{78} and the possibility of a Palestinian resurgence.\textsuperscript{79} Hussein’s passing will “mark the end of an era, but it may also herald the beginning of a traumatic changing of the guard across the Arab world.”\textsuperscript{80} Tensions in Iraq between the Sunni-dominated government and the Shiite majority population could heighten after the 1999 assassination of the leading Shiite cleric and his two sons at a Shiite holy city south of Baghdad.\textsuperscript{81} Subsequently, in a rare official acknowledgment, the Iraqi government admitted that rioting had occurred in March 1999, and accused Iran of instigating the disturbances.\textsuperscript{82} U.S. military planners fear a destabilization in Iraq or a weakening of Turkey, which might strengthen Iran’s position and pose the paramount threat in the Middle East.\textsuperscript{83} Others worry about Russia’s possible sale to Iran of missile technology and scientific knowledge about weapons of mass destruction.\textsuperscript{84}

In and beyond the Middle East, the Kurdish question looms

\begin{itemize}
\item \textsuperscript{76} Georgia: Quitting Defense Pact, \textsc{N.Y. Times}, Feb. 23, 1999, at A6.
\item \textsuperscript{77} Michael Wines, Struggling Ukraine Teeters Between East and West, \textsc{N.Y. Times}, Feb. 26, 1999, at A1, A4. As the economy spirals downward, threats to re-enter the weapons market and to restore economic ties with Mother Russia are heard, as Communist legislators block effective reforms for privatization and overhauling the tax system. \textit{Id.}
\item \textsuperscript{78} Change in Morocco, \textsc{Int’l Herald Trib.}, July 24, 1999, at 6. Further change with the death of Moroccan President Hassan in July, 1999, “who earned a reputation far beyond his region for moderation and reason...[a] longtime behind-the-scenes peace broker.” \textit{Id.}
\item \textsuperscript{79} William Safire, The Phantom Alliance, \textsc{N.Y. Times}, Feb. 4, 1999, at A27.
\item \textsuperscript{80} Douglas Jehl, Old Order Changes, \textsc{N.Y. Times}, Feb. 6, 1999, at A5. “For decades the very durability of Arab leadership has been a steadying force in one of the world’s most volatile regions. Not since 1982, in Saudi Arabia, has power in a major Arab country passed from one leader to another.” \textit{Id.}
\item \textsuperscript{81} Grand Ayatollah Mohammed Mohammed Sadeq al-Sadr was shot to death on February 18, and unconfirmed reports announced clashes in the streets of Bagdad between government security forces and civilians. Douglas Jehl, Assassination of Shiite Cleric Threatens Further Iraqi Unrest, \textsc{N.Y. Times}, Feb. 22, 1999, at A8.
\item \textsuperscript{82} Iraq Admits Rioting Occurred in March and Blames Iran, \textsc{N.Y. Times}, May 15, 1999, at A8.
\item \textsuperscript{83} An Ancient Tragedy, \textsc{Economist}, Feb. 20, 1999, at 50.
\item \textsuperscript{84} William Drozdiak, START-3 Talks in the New Year, \textsc{Int’l Herald Trib.}, Dec. 10, 1998, at 1 (explaining that “U.S. officials expressed concern over reports that Iran has
large, with significant cross-border Kurdish populations—twenty-five million Kurds in Armenia, Iran, Iraq, Syria, and Turkey are "the world's most numerous stateless people"—restless for political status. These large Kurdish populations constitute another destabilizing aspect of the volatile Turkish and Iraqi regions. The widespread Kurdish protests across European capitals after the capture of Ocalan in 1999 demonstrate the Kurdish political determination for change in the European and Central Asian political order.

Turkish domestic stability suffered from Kurdish activity and other conflicts in 1999: "Parliament in open rebellion against the political establishment, murderous terrorist attacks being mounted against civilians and the trial of a hated Kurdish guerrilla leader approaching, Turkey suddenly finds itself facing deep uncertainties." Prime Minister Bulent Ecevit has stated that "[a] chaos is now awaiting Turkey," as the rump Parliament session was simmering against the government, and a third fatal terrorist attack of the month signaled a possible shift of the Kurdish separatist war from the southeast to the urban cities of the west. Later in 1999, the rebel Kurdistan Workers Party (or "PKK") took responsibility for three suicide bomb attacks, one in Istanbul that killed eleven, and another wounding the provincial

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85. Robert D. Kaplan, Redrawing the Mideast Map, N.Y. TIMES, Feb. 21, 1999, at 17; see Gavin A. Symes, Note, Seeking a Legal Justification for the 1996 U.S. Military Intervention in Iraq, 19 MICH. J. INT'L L. 581, 584, n.12 (1998) ("The Kurds are 'a non-Arab people with distinctive linguistic and cultural characteristics and an undimmed national consciousness ... [who] have lived in a territory straddling present-day Iraq, Turkey, and Iran for over 4000 years.'").

86. Fuller, supra note 34, at 172-73.

87. Alessandra Stanley, Top Kurd's Arrest Unleashes Rioting All Across Europe, N.Y. TIMES, Feb. 17, 1999, at A1. Some 850,000 Kurds and 3 million Turks live in the EU, with 500,000 Kurds and 2 million Turks in Germany alone. Turks, Kurds, and the Outside World, N.Y. TIMES, Feb. 20, 1999, at A26; see An Ancient Tragedy, supra note 83, at 50 (reporting that "supporters stormed 21 Greek embassies and consulates, three Kenyan ones and two United Nations buildings.").

88. Stephen Kinzer, Turkey's Political Turmoil Deepens as National Election Nears, N.Y. TIMES, Mar. 15, 1999, at A11. The war "has cost Turkey more than $100 billion and the lives of more than 30,000 people over 15 years, tearing the country apart." Stepehen Kinzer, Turkey's Views on Minority Rights Make a Kurdish Peace Unlikely, INT'L HERALD TRIB. July 6, 1999, at 1.

89. Kinzer, Turkey's Political Turmoil, supra note 88, at A11.
Observers are taking note of a power shift in the politics of the region, a developing but unspoken "phantom alliance" between Israel, Turkey, and the United States. A military cooperation pact signed between Turkey and Israel in 1996 has evolved into "one of the Middle East's most serious geopolitical axes." Both the United States and Israel appreciate Turkey for its military value, and the three-way trading partnership effectively moves raw material to manufacturers and then to market. Indeed, the PKK presence in Syria posed an intractable problem for Turkey until recent military cooperation with Israel changed the entire calculus of the region, squeezing Syria's northern and southern borders. This pressure dislodged Kurdish strongman Ocalan from his secret Damascus headquarters, sending him in flight and, ultimately, in his capture.

The same geography that positions Turkey so strategically for military purposes has long offered superior economic positioning. Turkey controls the vital water passage between the Black and Mediterranean Seas, as well as the land passage between the Middle East and Europe, including valuable avenues

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91. Safire, supra note 79, at A27 ("Turks, unfairly kept out of the European Union by Germany and Greece, see America as making the world go round and Israelis as the key to American support.")
92. The Turkish-Israeli Affair, ECONOMIST, Sept. 19, 1998, at 57 (stating that their navies and air forces engage in joint exercises in the Mediterranean, their intelligence services exchange information, they buy and sell military equipment, and bilateral business agreements nurture trade between both countries).
93. See Safire, supra note 79, at A27 (illustrating that trade "boosts the Turkish economy, which hires Israeli companies to construct power plants, and develop irrigation projects . . . [and] the U.S. leans on oil companies to build a pipeline from the Caspian Sea through Turkey rather than Iran.").
96. Archaeologists report evidence of flourishing trade and technological development in the copper age (circa. 2500-200 B.C.) and onward, with the Troy of Homer's Iliad recognized as having been on the Anatolian side of the Aegean. TURKEY: A COUNTRY STUDY 6-28 (Helen Chapin Metz ed., 1996). For broad treatment of ancient origins in the region, see Lewis, supra note 46, at 1-55.
for oil and gas transportation.\textsuperscript{97} In addition, the headwaters of the historic Tigris River, pouring forth water that Iraq desperately needs, are also within Turkey's borders.\textsuperscript{98} Thus, Turkey's "pivotal resource position, both as a conduit for . . . oil . . . and as a source for water for its Middle East neighbors,"\textsuperscript{99} contributes to its importance. Ultimately, Turkey's size as a market and a producer make it an important member of the global trading system. Ambassador Michael Lake, Head of the Representation of the European Commission to Turkey, noted in 1997 that Turkey was "the sixth biggest trading partner of the EU, worldwide, with a total two-way trade of $35 billion a year."\textsuperscript{100} The Customs Union between Turkey and the EU came into effect in 1996, lowering barriers and promoting the flow of commerce, and the EU became the main supplier of Turkish imports, with fifty-one percent in 1997.\textsuperscript{101} Turkey's overall exports and imports grew to US$74 billion in 1997.\textsuperscript{102} Many observers express confidence that Turkey will become "a major regional and international industrial power."\textsuperscript{103}

Turkey's current Foreign Minister, Ismail Cem, explained his nation's geographic and economic positioning:

We no longer perceive ourselves as a country on the outer

\begin{itemize}
    \item \textsuperscript{97} Today the same geographical-commercial positioning also includes linking the oil rich Caspian Sea region to the Mediterranean, as Turkey may offer the safest route for exploiting these vast oil reserves. \textit{Turkey's President Offers His Support for Caspian Pipeline}, N.Y. TIMES, Oct. 13, 1998, at A9. Negotiations are under way among a 1999 consortium to build a US$2.5 billion gas pipeline from Turkmenistan, through the Caspian Sea, Azerbaijan, and Georgia, to Turkey. \textit{Id.}; see Robert Corzine, \textit{U.S. Is Urged To Step in to Kickstart Caspian Gas Project}, FIN. TIMES, Apr. 15, 1999, at 4 (explaining that "[t]he U.S. favors such an energy export corridor" that bypasses Russia and Iran, which are two dominant powers in region).
    \item \textsuperscript{98} Kaplan, \textit{supra} note 85, at 17.
    \item \textsuperscript{99} Lesser, \textit{supra} note 2, at xiv.
    \item \textsuperscript{101} See \textit{Customs Union with the European Union} (visited April 11, 1999) \texttt{<http://www.foreigntrade.gov.tr/Englishh/EU/customs.htm>} (on file with the \textit{Fordham International Law Journal}) (holding that EU's share in Turkey's overall volume of trade was 49.6% in 1997). Germany was Turkey's most significant trading partner in 1997, with Germany sending US$8 billion in exports to Turkey and US$5.2 billion flowing the other way. \textit{Id.} at 9.
    \item \textsuperscript{102} \textit{Foreign Trade} (visited April 11, 1999) \texttt{<http://www.foreigntrade.gov.tr/English/treconomy/balance/2foreign.htm>} (on file with the \textit{Fordham International Law Journal}).
    \item \textsuperscript{103} \textit{TURKEY, A COUNTRY STUDY}, \textit{supra} note 96, at 230.
\end{itemize}
periphery of Europe. Of course, we are a part of Europe. But now we see ourselves as a pivotal country in the emerging geography of Eurasia. Enormous amounts of oil and gas are beginning to flow out of the Caspian region. China is emerging as an economic giant. Goods will soon be moving in huge volumes around this region. You only have to look at a map, and to understand the size of the Turkish economy, to realize that we are in a very new and very important position.¹⁰⁴

This geographical positioning has long led to other connections. As is often the case, political, cultural, and legal systems develop through commercial interaction, and the resulting historical links to Europe have been no less than epochal;¹⁰⁵ Istanbul, Turkey's leading city, was the capital of the Roman Empire for twelve centuries, previously as Constantinople, later Byzantium, serving as the seat of government for Constantine, Justinian, and the Byzantine rulers that succeeded them.¹⁰⁶ In 324, Constantine first recognized the importance of this area as a means of linking the fragmented Roman Empire.¹⁰⁷ Yet, it was Justinian in the sixth century who would make the more lasting contribution to history, through the compilation of classical Roman law in the Corpus Juris Civilis, "the most influential collection of secular legal materials the world has ever known."¹⁰⁸ This legal masterpiece created a structure and system that would serve as the foundation for the civil law tradition.¹⁰⁹ This histori-

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¹⁰⁵. From the time before Christ was born to the Byzantine Empire, Turkey linked the classical world to the Renaissance and the modern history of Europe, with "much to teach us today about the origins and antecedents of our own world." Glanville Downey, Constantinople in the Age of Justinian v, vi (1960).
¹⁰⁷. Constantinople was founded because of its obvious geographical and military advantages over other possible capitals for the empire. Because it neatly linked the Eastern and Western fringes of the Roman Empire, Constantinople became the true center of the Roman Empire. Downey, supra 105, at 9-10 (1960).
¹⁰⁹. John Henry Merryman, The Civil Law Tradition: An Introduction to the Legal Systems of Western Europe and Latin America 7-10 (2d ed. 1985). It was to rescue the older Roman law, cleanse it of imperfect accretions over time, and organize the result into a useful system. Id. at 7.
cal legacy and cultural connection with Europe should not be lightly dismissed.

In the twentieth century, Turkey's connection with Europe was strengthened with the well-known reforms of Kemal Atatürk in the 1920s, aggressively importing and imposing Western European cultural, economic, legal norms—while vigorously resisting Islamic fundamentalist models. In the 1990s, “Turkey retains a strong interest in the European connection for political, economic, and security reasons . . . [and] the Turkish elite remains firmly committed to the Western-looking Atatürkist tradition in cultural and intellectual terms. Today, the Turkish people display an eagerness for Western ideas as shown by their appetite for U.S. foods, films, and music.

In addition to these connections with Europe, Turkey has special significance because it is the only secular democratic state with a market economy in the vast Islamic region. This fact takes on increasing importance with the current intensification of Islamic politics in key Arab countries. Since its founding as a modern state, Turkey's leaders have embraced principles of republicanism and secularism.

110. More radical legal and cultural changes are rarely found, including proclamation of the Republic, abolition of the Caliphate, introduction of the Latin alphabet, emancipation of women, and other reforms aimed directly at westernizing the society, including even banning the Turkish headgear. See Lord Kinross, Atatürk, The Rebirth of a Nation 1904. Reforms also included enactment of European law codes, counting calendar years from the birth of Christ rather than the flight of Mohammed, and the introduction of Sunday as the day of rest, rather than Friday. Dankwart A. Rustow, Atatürk as an Institution Builder, in ATATÖRK: FOUNDER OF A MODERN STATE 60 (Ali Kazancıgil & Ergun Özbudun eds., 1981). The “reformer, prophet, statesman” would “transform Turkish society . . . sweep away a medieval social system, based on centuries of Islam, and replace it with a new one based on modern, western civilization.” Kinross, supra, at 377.

111. "Turkey continues its evolution toward a legal system modeled largely upon continental European systems." Godeib, supra note 2, at 671-72.

112. Lesser, supra note 2, at 99. Turkish elite take pride in “being part of a broadly European culture and Western political orientation.” Fuller, supra note 34, at 169.


114. Fuller, supra note 34, at 167-68. Turkey is a model in the Islamic world for its “increasingly free market, democratic governance, and secularist outlook.” Id. at 185.

115. Named after its founder, Mustafa Kemal Atatürk, the governmental dogma of Kemalism was founded on the cardinal “principles of republicanism, nationalism, populism, secularism, etatism and revolutionism.” Atatürk, supra note 110, at 16.
country’s political elite, Turkey has experienced several popular movements of Islamic political activism. The most recent . . . began in the mid-1980s and . . . has threatened secularism in ways the republic’s founders could not have imagined . . . .”116 The “most dynamic political movement in Turkey now is the Islamic Fazilet (Virtue) Party, whose appeal to Muslims rather than specifically to ethnic Turks makes it popular among Kurds. So Kurdish nationalism and Muslim fundamentalism are fusing together in Turkey in an anti-military alliance.”117 As Graham Fuller explains, the religious element cannot be ignored, as Turkey’s relative success in integrating Islam with democracy offers a viable example for other emerging Islamic states.118

The Middle East was dominated by the Arab-Israeli conflict in this century, but “[t]he early 21st century may well be dominated by tumultuous change in Turkey, Syria, and Iraq, in which the stateless Kurds will play the pivotal role.”119 Turkey occupies a central position, energized with modern conflicts: Israelis, Jordanians, and Turks on one side, with Armenia, Greeks, the Kurds, Iraq, and Syria on the other.120 From many perspectives, Turkey’s position for leadership amid the moving religious, political, and economic currents renders it too valuable to relegate to some marginal third tier. In every context, volatility and uncertainty are only worsened by Europe’s further isolation of Turkey.121 Ultimately, European and world peace in general are best served by Turkey continuing “as a stable, democratic, secu-

116. TURKEY: A COUNTRY STUDY, supra note 96. The revival of religiously motivated political activity began in the early 1980s, with the organization of the new Welfare Party in 1983, having strong appeal in lower middle class. Id. at xxxi-xxxii.
117. Kaplan, supra note 85, at 17.
118. Fuller, supra note 34, at 168.
119. Kaplan, supra note 85, at 17 (“Act I of the New Middle East ends with a Turkish-Israeli victory over Syria . . . [but] Act II could be more complex, bloody, and unpredictable . . . because Turkey and Syria are each, in their own way, unstable.”).
120. Id. The author explains that

On one side are the Turks, their fellow Azeri Turks in Azerbaijan, the Israelis and the Jordanians (whose ruling Hashemites have had a long and not-altogether-unpleasant relationship with the Ottoman Turkish sultans and their successors). On the other side are those who suffered the most historically from Turkish rule: the Syrian and Iraqi Arabs, the Armenians, the Greeks and the Kurds.

121. Especially in the context of today’s tension between Muslims and Christians—in the Balkans, on Cyprus, Germany, and in Greece. FULLER, supra note 34, at xv. Two million Muslims in Kosovo today and another half million in Macedonia, nine million
lar, and economically dynamic state in a region that will remain turbulent for a long time to come."122

II. CONCENTRIC CONFLICTS

The rapidly changing geopolitics described above naturally reflect many different world influences, working in diverse directions and on multiple levels. The specific scope of this analysis—Turkey's unsettled relationship with Europe—likewise implicates many contributing sources of conflict, some of which are deep and ancient while others are less severe and modern. Two in particular combine to dominate all others. The centuries-old conflict between Europe's Christianity and Asia Minor's Islam123 and the centuries-old conflict between Turkey and Greece,124 especially as manifested today in Cyprus,125 impose concentric pressures, broadly affecting international and domestic interplay in this region. This unusual geographical and religious intersection exerts forces on the political equilibrium in Europe and Turkey, generating a synergistic, heightened volatility that complicates the analysis. These two overarching stresses frame the discussion of Turkey's further integration into Europe.

A. Islam and Christianity

Much of the controversy central to Europe's acceptance of Turkey emanates from Turkey's Islamic religion and culture.126 European resistance to the Islamic culture and the Turkish secu-

122. Lesser, supra note 2, at ix, xv.
123. Islam and Christendom have long been contenders, from the seventh century Islamic conquests, through the Crusades, to the advance of the Ottoman Empire in the 15th century. MOVEMENTS AND ISSUES IN WORLD RELIGIONS 92 (Charles Wei-hsun Fu & Gerhard E. Spiegler, eds., 1987).
124. The troubled relations of Greece and Turkey in recent decades are the legacy of their historical conflicts dating from Byzantine and Ottoman times. Some trace the historical rivalry of Greeks and Turks as far back as 1071 when Turks defeated Byzantine soldiers in the battle of Malazgirt, thus starting the Turkish conquest of Asia Minor. The Ottoman Turks' capture of the Byzantine capital of Constantinople in 1453, however, ushered in four centuries of Turkish rule over Greeks. TOSUN BOHCHELI, GREEK-TURKISH RELATIONS SINCE 1955 5 (1990).
125. "So bitter is the mistrust between Greeks and Turks" over Cyprus that even war cannot be ruled out. The Cyprus Time Bomb, ECONOMIST, Nov. 1, 1997, at 20.
lar government’s struggle against Islamic fundamentalism pose two tensions affecting the EU perception of Turkey.

Turkey’s general Muslim character itself may generate the most pervasive European bias against Turkey. From general uneasiness over cultural differences, to overt xenophobia and religious discrimination, the Muslim and Christian worlds often distrust one another. This broad tension—easier to recognize than to measure or justify—unavoidably instills a heavy inertia against integration between the two spheres. The general European uneasiness about Islam will inevitably generate resistance to the acceptance of Turkey.

Another Islamic tension, more concrete, focused, and intense, causes more measurable and justifiable concerns about Turkey: the increasing conflict inside Turkey between Islam and the national secular government. Any assessment of Turkey’s political functioning will include questions about its ability to maintain a secular government, the fragility of some of its democratic institutions, its checkered human rights record, and the repressive treatment of the Kurds. All of these can be at least partially attributed to Islamic stresses within Turkey’s borders.

The strong government measures often used to safeguard the country’s commitment to secular rule, independent of religious influence, alarm many observers. Four times in its modern history, Turkey’s military elite have judged state security so

127. See id. (explaining that Europe displays “settled bias toward Muslims and Turks in particular”). Cultural and religious concerns loom large in Community perceptions. REDMOND, supra note 7, at 31.

128. Data shows that EU citizens have low opinions of Turks. EMERSON, supra note 4, at 19-21. The EU, Russia, and Turkey “seem still today to be acting out the parody of a Europe divided between Western Christendom, the Orthodox Slavs, and Islam.” Id. at 18.

129. The possibility of an Islamic revival undermining Turkey’s secular government poses an obvious question about its orientation to Europe. REDMOND, supra note 7, at 23, 45-47.


131. Concerns about military interventions into politics, restrictions on freedom of expression, and more can be found in most assessments of Turkey’s modern government. See, e.g., U.S. DEPT. OF STATE, TURKEY COUNTRY REPORT 1998 1-2 (“intense private and public campaign of pressure led by the military and the judiciary, with broad support from several segments of society that view ‘fundamentalism to be a threat to the secular republic.’”).
threatened by Islamic fundamentalism, or Islamic-related threats, that it intervened in various degrees to install new governments able to function effectively and independent of religious dominance. 132 Likewise, the Kurdish terrorist campaign, imbued with Islamic fundamentalism, has prompted government authorities to impose, in endangered regions, martial law and other restrictions on civil rights. 133 Well-reported are the nationwide government efforts to subdue public criticism of its Kurdish policy, further generating human rights complaints. 134 Former Turkish President Turgut Özal warned that the Kurdish problem was "perhaps the most significant problem in the republic's history." 135 In the overall context, the powerful internal conflict among Turkey's own people, pitting the force of religious fundamentalism against protectors of the secular government, has presented Turkey with grave challenges. 136

Rising Islamic fundamentalism has for some time engendered dissension with the independent rule of Turkey's secular governments, causing instability in political leadership. 137 One

132. TURKEY: A COUNTRY STUDY, supra note 96, at 310-12. Playing the role of guardians of Atatfirk's legacy, including the secularist program and national security, top military officers have intervened in what they considered dysfunctioning government to safeguard the integrity of the state, in 1960, 1971, and 1980. Id. at xxxii. The fourth intervention was subtler. In 1997, "the military executed a 'soft coup' as it edged out the Islamist government." Leyla Boulton, Disgust and Apathy, FIN TIMES, Apr. 16, 1999, at 3. Beginning in 1908, an alliance of the military and the civilian government developed to combat absolutism by the clergy and the sultanate, a feature that became part of the modern political culture. BARCHARD, supra note 51, at 16.

133. The Kurdish conflict has evoked deadly terrorism. In 1999, for example, a suicide bomber—explosives strapped to his body—killed a 13 year old girl and seriously wounded a provincial governor in the Kurdish region of Turkey. Turkey: Governor Escapes Bombing, N.Y. TIMES, Apr. 6, 1999, at A13.

134. In addition to the numerous reports, recent examples include: a Turkish court in 1999 sentenced 114 intellectuals and human rights activists to a year in prison for signing a declaration calling for peaceful solution to the Kurdish conflict as "separatist propaganda." Turkey: 114 Jailed Over Peace Plan, N.Y. TIMES, Apr. 10, 1999, at A4. In May 1999, a journalist was sentenced to 13 months in prison for publishing an interview with Ocalan. Turkey: Journalist Sentenced, N.Y. TIMES, May 19, 1999, at A8.


136. "Turkey's diverse ethnic, religious, and social groups" began challenging the Atatfirk precepts of Turkish society in the mid-1990s. TURKEY: A COUNTRY STUDY, supra note 96, at xxvi. The ubiquitous terrorist threat from Kurdish separatists and the transport of illegal drugs through Turkey by organized crime force Turkish officials to balance public safety concerns with civil liberties and human rights. GOTLEIB, supra note 2, at 690.

observer asserts that the emerging Islamic fundamentalism threatens the foundations of the Turkish state.\textsuperscript{138} Atatürk emphasized the secularization of the state in his post-World War I reforms, blaming Islamic and Ottoman institutions for the fall of the Ottoman Empire.\textsuperscript{139} He replaced Islamic law with European codes and the Arabic script with Latin letters, all part of reducing religious power and substituting Islam with Turkish secularism.\textsuperscript{140} The secularist doctrine, as one of the “Six Arrows” of Kemalism, was enshrined in Article 2 of the 1937 Constitution and became entrenched in Turkish law.\textsuperscript{141} Later, the 1982 Constitution amplified Article 2’s explicit insistence on secularism: “there shall be no interference whatsoever of sacred religious feelings in state affairs and politics . . .”\textsuperscript{142}

To ensure compliance with the secularist principle, Atatürk continued the Ottoman tradition of placing an elite-directed military in power.\textsuperscript{143} Thus, in addition to the typical modern democratic institutions, the new republic would have an added safeguard—a military that views itself as guardian of the state and thus authorized to step in to preserve Atatürk’s principles.\textsuperscript{144} Unlike most democracies, Turkey’s military is “perceived to have the legitimate right and even duty to intervene in politics and government in the name of the nation.”\textsuperscript{145} This fundamental Atatürk principle authorizes the military to act as trustee for the

\textsuperscript{138} Id. (combining with costly war against Kurds.)
\textsuperscript{139} See Paul J. Magnarella, The Legal, Political, and Cultural Structures of Human Rights Protections and Abuses in Turkey, 3 D.C. L.J. INT’L L. & PRAC. 439, 442 (1994) (“The principles of Kemalist ideology—republicanism, secularism, statism, populism and reformism.”); see also Walter F. Weiker, The Modernization of Turkey, from Atatürk to the Present Day 2 (arguing that Turkey must be free from some backward looking institutions).
\textsuperscript{140} Magnarella, supra note 139, at 442.
\textsuperscript{141} Weiker, supra note 139, at 222.
\textsuperscript{142} See Magnarella, supra note 139, at 445-47 (giving brief history of Turkish constitutions). To see the original 1982 Constitution, look at 19 CONSTITUTIONS OF THE COUNTRIES OF THE WORLD, Turkey (Albert Blaustein & Gisbert Flanz eds. 1994).
\textsuperscript{143} Magnarella, supra note 139, at 442; see also, William Hale, Turkish Politics and the Military (1994) (giving detailed examination of role of military in Turkey).
\textsuperscript{144} See, e.g., State Elites and Democratic Political Culture in Turkey, in POLITICAL CULTURE AND DEMOCRACY IN DEVELOPING COUNTRIES 261 (Larry Diamond ed. 1993) (“The armed forces should not get involved in partisan politics, but if the country or the Kemalist principles are endangered, it is their duty to intervene.”).
\textsuperscript{145} Magnarella, supra note 139, at 448.
civilian government when parliamentary processes fail. Over the years, through coups and other forms of intervention, this military involvement has become legalized or institutionalized.

This legitimized, public role of the military leadership is distinct to Turkey in Western democracies. While military intervention in civilian governments is generally criticized by Western notions of democracy, the Turkish military has intervened in emergencies to limit political anarchy and economic chaos. Significantly, civilian rule has each time been restored when the needed stability was re-established. The military interventions may be characterized more accurately as "interruptions" to protect and restore a functioning democratic governmental system. Thus, the Turkish public in general welcome the military role, and it has been considered a liberalizing force. 

"[A]mong Turkish institutions, only the military has broad public support, . . . as the public doubts the capacity of politicians of whatever stripe to manage the country's affairs."

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146. Paul B. Henze, Turkey, Toward the Twenty-first Century, in Turkey's New Geopolitics: From the Balkans to Western China 8 (Fuller and Lesser eds. 1993).
147. Magnarella, supra note 139, at 449.
148. Along with the distinctive "cult of the founder of the Turkish Republic." Barchard, supra note 51, at 7.
149. For example, in 1980, law and order problems, an economy in tatters, and a deadlocked political system led to the takeover. Erik J. Zörcher, Turkey, A Modern History 280-83 (1994). In 1971, the paralyzed government and violence in the streets prompted the military to demand an end to the anarchy and call for Kemalist reforms. Id. at 271. In 1960, there was again political dysfunction, economic decline, and civil unrest. Weiker, supra note 139, at 11.
150. The 1980 coup was followed by a return to civilian rule with the elections in 1983. Zörcher, supra note 149, at 296-99. The 1971 coup was followed by the imposition of martial law and the continuance of civilian government. Weiker, supra note 139, at 103. In 1960, the military ruled for only 18 months, "keeping their promise to return the country to democratic politics as soon as possible. Weiker, supra, at 11. The military pressure in 1997 produced no takeover, but after the Prime Minister's resignation, a caretaker government and elections were planned. Creeping Coup, Fin. Times, June 23, 1997, at 15.
152. The military's duty is to prevent fratricide and to extricate the political parties from irreconcilable situations. Zörcher, supra note 149, at 253. The military coup of 1980 was met with explosions of public joy in the cities. Id.; see also Turkey: A Country Study, supra note 96, at 309 ("The army is always praised, never criticized, and in an emergency, it is seen as the nation's savior.").
tors assert that the military in 1998 was "the country's most powerful force."

The military's political strength contrasts with the fragility of Turkey's "weak and fragmented" governments over the last five years. Due again, at least for the most part, to tensions between the rising Islamic political movement and the military's commitment to a secular government, six different administrations have come and gone since the last elections in 1995. The military "orchestrated a campaign" in 1997 that ultimately forced the resignation of the pro-Islamic Prime Minister Necmettin Erbakan. Subsequently, Erbakan, who had led the Islamist Welfare Party until it was banned in January of 1998, was ordered to stand trial in 1998, on charges of insulting the judiciary. Erbakan was banned from politics for five years. The party subsequently regrouped, softened its rhetoric, forming the Virtue Party, and became Parliament's largest party.

Military influence also extends to key security areas, such as the Kurdish and Cyprus conflicts, and reaches into the public prosecutor's office, encouraging prosecution of journalists and politicians who disagree with the accepted policy. Further legal measures to weaken Islamic influences have occurred recently. In 1997 a law restricting religion in schools was passed, and in 1998 the Constitutional Court banned an Islamist political party because it undermined the secularist principle. In January, 1999, a new six-week old political crisis finally abated as a minority government was assembled by a strongly secular

156. Id.
157. Kinzer, supra note 137 at A8. Prime Minister Necmettin Erbakan, the Islamic leader who angered the military commanders for being too close to Islamist interests, resigned under pressure after one year in office. Id.
159. Turkey, A Softer Islam?, supra note 70, at 53. The new Parliament reversed this ban in August 1999. Id.
160. See id. (stating that new Virtue party gained membership of 310,000, 305,000 of whom were not members of more radical Welfare Party).
162. Emerson, supra note 4, at 72 (stating that this held true even though Islamic party was largest in country).
163. See Kinzer, supra note 137, at A8 ("The country ha[d] been without a functioning government since Nov.25 [1998]").
politician, Bulent Ecevit. But the new Ecevit secularist-led government was forced to make concessions to acquire its political coalition support, replacing the strong secularist education minister who had taken a hard line against Islamic schools. Such tension illustrates the volatility of the religious-secular conflict.

Further examples of this conflict abound: The popular mayor of Istanbul from 1994 until 1998, Recep Tayyip Erdogan, faces ten months in jail and a permanent ban on public office, barring further appeal from a recent court decision upholding his conviction for "provoking religious hatred" and encouraging Islamic extremism. Erdogan, seen as a possible future leader of the Islamic political movement, had delivered a speech calling for an end to the Kurdish repression. He was hauled before the National Security Court, "a military-backed tribunal that tries cases related to subversion, and was convicted of having called for religious insurrection." The conviction and its affirmance are a part of the government’s military-backed campaign against religious fundamentalism.

Furthermore, the military officers who hold ultimate power in Turkey believe that religious fundamentalism has become a social and political cancer that must be excised if the secular republic is to survive. They have supported a series of anti-fundamentalist campaigns, including an unpopular ban of women wearing head scarves in state institutions.

164. Kinzer, supra note 137, at A8. Bulent Ecevit, a longtime political leader of the left, is regarded as a steadfast secularist and nationalist, who ordered the Turkish invasion of Cyprus in 1974. Id.
165. Stephen Kinzer, Back to the Center of Turkish Power, N.Y. TIMES, Jan. 15, 1999, at A10. The next election in April 1999, produced stronger support for the Ecevit government, raising hope that a more stable government will emerge from the new coalition.
168. Kinzer, supra note 161, at A4. The article states that Now Mr. Erdogan is Turkey’s newest political martyr, the latest victim of a military-backed campaign against religious fundamentalism. His ostensible crime was making a speech last year in which he read a verse from a nationalist poem written in the 1920s: "The mosques are our barracks, the minarets are our spears, their domes are our helmets and the faithful are our army."
Id. at A4.
169. Kinzer, supra note 161, at A4. Prior to his prosecution, the mayor was expected to step into the leadership gap opened with the forced resignation of Prime Minister Erbakan, pushed from power due to his own pro-Islamic political activity. Id.
170. Id.
The latter reform led to the notorious refusal in 1999 to seat an elected Parliamentary candidate because she appeared for swearing-in wearing a religious scarf.\textsuperscript{171} Therefore, it is clear that the tension between religious fundamentalists, secularist government institutions, and the military merits concern. The potential for instability is implicit, with strident fundamentalists balking at the often repressive regime of the secularists, while military leaders feel "duty-bound to resist what they view as efforts to pull the country back to its theocratic past."\textsuperscript{172}

Islam and the military also play key roles in the Kurdish conflict, and again, democratic principles come into question, especially human and civil rights.\textsuperscript{173} Turkish authorities insist that the Kurdish movement constitutes terrorism that threatens the integrity of the state, and they insist that the fighting is either by Kurdish terrorists or the necessary defense of it.\textsuperscript{174} Heavy-handed resistance to Kurdish separatism, even Kurdish identity, and to free speech on the issue have generated a storm of European discussion.\textsuperscript{175}

Since 1987, a state of emergency has been declared in the southeastern provinces with the highest Kurdish population, triggering restrictive laws in those areas.\textsuperscript{176} Using the authority of the State of Emergency Law, the government rules by decree in those areas, and no judicial review, even by the Constitutional Court, is allowed.\textsuperscript{177} These emergency powers prohibit most forms of assembly and permits broad censorship of the press, while providing fewer procedural safeguards, including longer

\textsuperscript{171} See supra note 93 and accompanying text.

\textsuperscript{172} Kinzer, supra note 161, at A4 (explaining that leaders of Islamic groups insist that they are merely responding to desire of many Turks for stronger religious role in public affairs).

\textsuperscript{173} See supra note 76 and accompanying text for broad discussion of political concerns, especially human rights abuses generated by the Kurdish conflict.


\textsuperscript{175} From human rights groups to the European Parliament. See supra, note 93 et seq. and accompanying text for full discussion of human rights-civil liberties issues in Turkey.

\textsuperscript{176} U.S. DEP’T OF STATE, supra note 131, at 1.

\textsuperscript{177} Magnarella, supra note 139, at 457. The suppressive laws forbidding Kurdish cultural expression have been extreme, e.g., sometimes forbidding Kurdish names for children or using their language in official settings, and the Kurds themselves are taught that they are merely a sect of mountain Turks. Id. Turkish ideology has sought to deny the existence of the Kurdish people. Id. at 460.
detention prior to a hearing. Since the PKK began to use terrorism to create a secessionist state in the 1970s and 1980s, Turkish military forces have initiated mass arrests and martial law, resulting in tens of thousands of deaths on both sides. The military has forcibly displaced noncombatants, failed to resolve extrajudicial killings, tortured civilians, and abused freedom of expression in its resistance to the Kurdish efforts.

Thus, a wide range of European concerns about Turkey's readiness for integration, from allegations of human rights abuses to military domination of democratic institutions, stem from the Islamic pressures innate in Turkey's history and present uneasy religious-secular equilibrium. As is developed in the Resolutions section, the Turkish government's ability to stabilize and effectively cope with this internal conflict will determine its progress toward closer integration with Europe.

B. Greece and the Cyprus Impasse

The second extraordinary influence on Turkish-EU relations is the long-standing conflict with Greece, especially as manifested in Cyprus. Against a backdrop of "nearly a millennium of Greek-Turkish rivalry," the two have fought in the modern era over Cyprus, sovereignty over Aegean islands, minerals, and water, and most recently over closer association with the EU. The two countries were at the edge of war in 1974, when Turkey invaded Northern Cyprus; in 1987, when Turkey threatened to

178. Id. at 458.
179. Id. at 460. Estimates often exceed 30,000. See, e.g., Flora Lewis, Time for the Peace Preachers To Put Words into Action, INT'L HERALD TRIB., July 9, 1999, at 6.
180. U.S. DEP'T OF STATE, supra note 131, § 1; see Lewis, supra note 179, at 6 ("the Turkish military has completely destroyed hundreds of Kurdish villages and murdered many uninvolved civilians.").
181. "Impasse" is term used by the Greek Ambassador to the United States in his description of the modern Greek-Turkish stalemate on the island. Tsilas, supra note 10, at 1601. While that may be the most appropriate term for the current standoff, the longer-standing, deeper-rooted conflict in Cyprus suggests more than a temporary blockage. For more information on the Turkish Ambassador's views, see Nuzhet, supra note 10, at 1851-1852 (stating that religion is fulcrum of conflict—Greece supports Serbian Orthodox aggression and other anti-Turkish efforts in wider region.)
183. Leading up to today's armed standoff in Cyprus, the two have actually engaged in armed conflict several times since the 1950s—"over Cyprus in 1955, 1964, and 1974 and over Aegean issues in 1974 and 1976, and . . . in 1987 they were on a war footing again." REDMOND, supra note 7, at 41.
The Greek government repeatedly has vetoed closer cooperation between Europe and Turkey. Because Article O of the Treaty on European Union requires unanimity of all Member States to permit the entry of any new member, Greece has the ability to veto Turkey's accession. "Greece has adopted a virtually unremittingly hostile approach to Turkish accession[,] . . ." and this Greek attitude has emerged as a dominant factor in developing EU-Turkish relations. The Commission's first Opinion on Turkey's 1987 accession application noted "the negative effects of the dispute between Turkey and one Member State of the Community, and also the situation in Cyprus." The identity of that Member State has never been in doubt.

Antagonism between the two countries escalated in 1999, when it was discovered that Greek officials had harbored the notorious Kurdish terrorist leader, Ocalan. Turks were predict-

185. See also Redmond, supra note 7, at 39 (explaining that Greece voted against Commission even preparing opinion on Turkey's 1987 accession application and more). Greece is still vetoing US$400 million in financial aid promised in the customs union agreement. Leyla Boulton, Turkish Party Warns on Customs Union, Fin. Times, Apr. 22, 1999, at 3.
187. Redmond, supra note 7, at 39. Further, the Greeks have used their power inside the Community to blackmail Turkey over the Cyprus issue. Id.
188. See Newhouse, supra note 10, at 259-68 (listing general discussion of Greek factor in Turkey's relations); see also Redmond, supra note 7, at 40 ("undoubtedly . . . one of the key factors.").
190. Stephen Kinzer, Ocalan Capture Stokes Tensions; Greece and Turkey Trade Barbs, Int'l Herald Trib., Feb. 23, 1999, at 7 (stating that Turkish president calls Greece "outlaw state" that "should be added to the list of countries which support terrorism and harbor terrorists.").
ably outraged that Greece would hide the terrorist, but the Greeks were humiliated by their government's bungling role in sheltering and then being unable to protect Öcalan, as the matter threatened to "worsen already tense relations between Greece and Turkey." 191 One observer claimed that, following this incident, "Greeks have renewed loathing for Turkey . . . ." 192 Meanwhile, Turkish leaders reserved the right to take whatever measures might be necessary for self-defense, and the Greek Foreign Minister feared that the situation was "spiraling into further destabilization." 193

This high-strung tension escalates to concrete confrontation on the island of Cyprus, where the patron countries support their surrogate Turkish Cypriot and Greek Cypriot governments in an armed standoff that has divided the island. 194 The small island is divided into the Greek-run Republic of Cyprus and the Turkish Republic of Northern Cyprus, "a self-styled statelet recognized only by Turkey itself," with Nicosia, the island's capital divided by a U.N. buffer zone separating the two sides. 195 When the Luxembourg Summit included Cyprus in the first group of accession applicants, to the exclusion of Turkey, the politically and militarily divided island became a magnified reflection of the ancient Greek-Turkish conflict.

Cyprus's history has been one of foreign conquest, and its people have never enjoyed a peaceful and stable sovereign state. 196 Because of its superbly strategic location amid the main

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195. See Letter from Nicosia, supra note 18, at 99 (stating that buffer zone offers "a peculiar contrast of barbed wire and beauty . . . [with] Venetian city walls . . . [and] what was once one of the grandest hotels in the Mediterranean . . . now the home to the blue-bereted UN peacekeepers.").
196. See Ehrlich, supra note 9, at 1021 (giving history of Cyprus). Ehrlich notes that Cyprus has always been a bloody battleground. It was conquered by Egypt, colonized by Greece, and annexed by Rome before the first century AD, and for the next two thousand years a succession of absentee landlords ruled its shores. The strength and wisdom of their dominion varied, but not their basic purpose—hegemony over the Eastern Mediterranean by controlling its major island command post.
sailing routes between Europe and Asia, Cyprus has long been the focus of international commerce, cultural interaction, and political conflict. Ancient Cypriot records exist detailing occupations by the Assyrians, Egyptians, Persians, Romans, Venetians, and then the conquest by the Ottoman Turks in 1571. The Ottomans allowed the Greek Cypriots self-government and permitted the Greek Orthodox Church to regulate social and religious affairs, contributing to the cohesion of the ethnic Greek population. As would be expected during the three centuries of Ottoman rule, many Turks settled on the island, sometimes numbering almost as many as the Greeks.

In 1878, Turkey granted administrative control of the island to Great Britain in return for British assistance against Russia. At the start of World War I, Britain abrogated the agreement and assumed full claim to the island when Turkey allied with Germany. After the war, in 1923, both Turkey and Greece recognized British sovereignty over the island under the terms of the Treaty of Lausanne. Two years later, Cyprus became a British Crown Colony and retained that status until independence in 1960.

Under British rule, popular support for Greek unification grew, and in the 1930s and 1940s demonstrations and even riots became commonplace. While “a particularly vocal contingent

Id. Ehrlich recommends the definitive historical source on Cyprus, in Sir George Francis Hill, A History of Cyprus (1949), which is in four volumes. For a more recent, full history of Cyprus, see H.D. Purcell, Cyprus (1968).

197. See Zaim M Negatigil, The Cyprus Question and the Turkish Position in International Law I (2d ed. 1996) (“It has been invaded, bought and sold, and transferred from one ruler to another without the inhabitants ever being consulted. The island has, however, benefitted as a centre for trade and commerce.”).

198. Negatigil, supra note 197, at 1.

199. Id.

200. Id.

201. Wippman, supra note 20, at 144. The Sultan received tribute and The United Kingdom’s alliance against Russia, but Cyprus was assured return to Turkish power after Turkey regained certain territories in Armenia. Id.; see The Convention of Defensive Alliance Between Great Britain and Turkey With Respect to the Asiatic Provinces of Turkey, June 4, 1878, art. 1, in 82 Accounts and Papers 3–4 (1878).

202. Wippman, supra note 20, at 144.


204. Wippman, supra note 20, at 144.

205. Ehrlich, supra note 9, at 1026. Dating even from 1830, support was shown for enosis, and this sentiment enlarged continuously culminating in a 1949 plebiscite revealing 96% of the registered voters favored enosis. Id. at 1025-26.
of Greek Cypriots began demanding enosis, or union with Greece . . . , [s]imultaneously many of the Turkish Cypriots made taksim, or partition, their rallying call.”206 Greece forcefully advocated for unification, and “in the 1950s found a new forum, the United Nations, and a new formula, 'self-determination,' to advocate her Hellenic dream.”207 The question of self-determination and independence was debated in the United Nations extensively but fruitlessly, and attempts to reconcile the British and the Enosists with a new constitution granting some measure of local autonomy failed.208 World opinion and continued fighting pressured the parties to act.209

An agreement was soon reached among all the parties—Britain, Greece, Turkey, and the soon-to-be-created Republic of Cyprus—and the various treaties of Alliance and Guaranty known as the Accords, were signed at Nicosia in August, 1960.210 Unfortunately, the nascent state was not to enjoy the blessings of an effective, unified polity for long.211 The Turkish Cypriot and the Greek Cypriot sides erected high walls, maintaining their separate subnational identities.212 Each community maintained its own educational system, its own language, its own distinct religious culture, and the two sides jealously protected against cultural interchange.213 Post-independence efforts to erect a consti-

206. Schmidt, supra note 11, at 22.
207. Ehrlich, supra note 9, at 1027. The Greek Prime Minister argued in 1954 to the U.N. Secretary-General that “Cyprus is Greece itself.” Id.
208. Ehrlich, supra note 9, at 1026-29.
209. Id. at 1030-31.
210. Negotiations in 1959 opened with the expected polar positions: Greece demanded enosis because the majority of islanders favored it; Turkey would agree to partition, but insisted that it had rights to the whole island, due to its original sovereignty over the island and Cyprus's proximity 40 times closer to Turkey than to Greece. Ehrlich, supra note 9, at 1031-33. The governments of Turkey and Greece negotiated a settlement in the form of three Treaties of Guarantee and Alliance, to construct a constitutional system of balance of power between the communities. Wippman, supra note 20, at 144-45. See generally Basic Structure of the Republic of Cyprus, Feb. 11, 1959, reprinted in ABRAM CHAYES ET AL., INTERNATIONAL LEGAL PROCESS: MATERIALS FOR AN INTRODUCTORY COURSE 559 (1959); Treaty of Guarantee, Aug. 16, 1960, 382 U.N.T.S. 3; Treaty of Alliance Between the Kingdom of Greece, the Republic of Turkey, and the Republic of Cyprus, Aug. 16, 1960, 397 U.N.T.S. 289.
211. The new compromise government worked reasonably well for about two and a half years. Ehrlich, supra note 9, at 1040.
212. Wippman, supra note 20, at 142.
213. NECATIGIL, supra note 197, at 2 (“There is no intermarriage between the two communities, who have maintained and jealously guarded their respective cultural and national heritages over four centuries of coexistence.”).
tutional structure thus were designed to accommodate the different communities intermixed in a single state.\textsuperscript{214} The resulting agreements and, ultimately, the Constitution were intricately designed and incredibly detailed\textsuperscript{215} to balance the power and to manage the ethnic conflict between the two communities.\textsuperscript{216} Greek Cypriots, constituting eighty percent of the population, favored uniting with Greece, while the minority of Turkish Cypriots, fearing domination by the Greeks, advocated partition and unity with Turkey.\textsuperscript{217} The new country adopted a constitution reflecting the agreements' principal purpose to establish a constitutional equilibrium between the Greek and Turkish interests.\textsuperscript{218}

Transposing that equilibrium from paper to practice proved difficult; numerous disputes soon caused governmental gridlock. When Prime Minister Makarios\textsuperscript{219} promoted controversial constitutional revisions, civil disorder broke out at the end of 1963.\textsuperscript{220} A seemingly trivial incident of Greek Cypriot policemen asking for identity cards from reluctant Turkish Cypriot locals exploded into shootings and deaths, and the virtual siege of

\begin{itemize}
  \item \textsuperscript{214} Id. at 17.
  \item \textsuperscript{216} Necatigil, \textit{supra} note 197, at 17; Wippman, \textit{supra} note 20, at 144.
  \item \textsuperscript{217} Wippman, \textit{supra} note 20, at 144. As would be expected, both Greece and Turkey promoted the efforts to protect their constituents. \textit{Id.}
  \item \textsuperscript{218} Ehrlich, \textit{supra} note 9, at 1033. It was designed to prevent the larger Greek component from dominating the smaller Turkish community. \textit{Id.} at 1039-40. At least one Cypriot official complained that the constitution and treaties were imposed on the Cypriots by outside powers, ultimately stifling constitutional and political development of Cyprus as a sovereign state. Palmer, \textit{supra} note 12, at 431 (citing then Foreign Minister of Cyprus).
  \item \textsuperscript{219} Archbishop Makarios, the political and ecclesiastical leader of the Greek Cypriots, supported Cypriot unification with Greece. Palmer, \textit{supra} note 12, at 429.
  \item \textsuperscript{220} Wippman, \textit{supra} note 20, at 146. It has been noted that

\begin{quote}
Unfortunately, the spirit of compromise was clearly missing. Greek Cypriots, convinced that the Constitution conferred disproportionate benefits on the Turkish population, objected to rigid application of the mandatory . . . ratio for filling civil service positions. Turkish Cypriots responded by blocking passage of important legislation . . . . The resulting governmental stalemate prompted prime Minister Makarios to propose substantial revisions to the Constitution that would have diluted the ability of the Turkish community to block action by the majority. Civil disorder erupted shortly thereafter, just before Christmas 1963.
\end{quote}

\textit{Id.} at 146. For further examples of the lack of cooperation, see Necatigil, \textit{supra} note 197, at 20-23.
Turkish parts of the capital city followed. After fighting broke out on the island, . . . act[ing] unilaterally under article IV of the Treaty of Guarantee," Turkey flew warning flights over Greek Cypriot installations, and both sides, including paramilitary groups, prepared for further conflict.

The violence caused many to retreat to areas held by their communities, and partitioning intensified with road blocks, trenches, fortified emplacements, and guards on rooftops. U.N. reports show that hundreds of villages, most of them Turkish, were destroyed or severely damaged. Hundreds of people were killed on both sides, and some 25,000 Turkish Cypriots were made "refugees in their own country." The conflict ensued into early 1964, when Turkey threatened military intervention in order to protect the Turkish Cypriots. Pressure from the United Nations and others restrained the Turks, but the tension remained, as a Greek blockade cut off Turkish Cypriot supplies.

The United States reacted to the unstable situation, actively supporting a British proposal to install a peacekeeping mission to separate the two sides. This measure ultimately was approved by the United Nations Security Council in March, 1964. But the dispute was too entrenched for the peacekeeping efforts

221. NECATIGIL, supra note 197, at 32-33. Heavy firing led to evacuation by the Turkish Cypriots and the area was secured by the Greek Cypriot forces. Id.
222. Palmer, supra note 12, at 434.
223. Id.; see Wippman, supra note 20, at 146; Ehrlich, supra note 9, at 1044-45; NECATIGIL, supra note 197, at 34.
225. NECATIGIL, supra note 197, at 35-37. Anarchy ruled, correspondents witnessed Greeks burning Turkish homes within view of the police, and the terror spread to other villages beyond Nicosia. Id. at 37-39.
226. Id. at 39.
227. Id. at 38-40. U.S. President Lyndon Johnson pressured Turkey in June 1964. Id. at 40.
228. Palmer, supra note 12, at 434-35.
229. Seven thousand peacekeepers established calm on the island, though only in degree. Wrong acts on both sides led to atrocities: 20,000 Turkish Cypriots were allegedly forced out of their homes and into the Turkish side; the Cypriot government then imposed an economic blockade on the refugees’ camps; neither side allowed free movement of people between the two sides, and the constitutional balance disintegrated, as most Turkish Cypriot officials left or were forced from the government; ultimately culminating in Greek Cypriot attacks on several Turkish Cypriot villages, followed by Turkish air force bombing. Ehrlich, supra note 9, at 1051-54.
to resolve, and continuing conflict prompted negotiations among all the major powers, the United Nations, and NATO throughout the next three years. In 1967, Greece precipitated another crisis by "stationing 10,000 Greek troops on the island, far exceeding the number allowed" by treaty. Again, international pressure produced a settlement, reducing troop levels and increasing peacekeeping forces, but the conflict continued to simmer. The conflict erupted a third time in 1974 when Greek officers commanding Greek Cypriot national guardsmen staged a coup, replacing Cypriot President Archbishop Makarios III with enosis Nikos Sampson. The coup alarmed many, and leading powers entered negotiations, searching for a way out. Commentators noted that,

[the situation degenerated when Turkey invaded the island in response. "With the Turkish invasion, 150,000 Greeks fled from their homes and land in the north, while 46,000 Turks fled from the south. The present dividing line, monitored by the UN, amounts to a Berlin wall, with a complete separation of the populations."

Today, Turkey and the Turkish Cypriot government insist that two separate states exist on the island, while the Greeks and Greek Cypriots maintain that present-day Cyprus is one state with two components, a Greek majority and a Turkish minority. This divided, armed island continues today to reflect the hostility between the Turkish and Greek communities, threatening the accession of both Turkey and Cyprus.

230. NECATIGIL, supra note 197, at 49-51. At one point the U.S. Sixth Fleet was positioned between the island and Turkey's mainland to calm the tension, and subsequently the Acheson Plan (after then U.S. Secretary of State Dean Acheson) recommended a compromise enosis with Greece, with concessions to the Turks, but neither side would agree to the concessions included. Id.
231. Palmer, supra note 12, at 436.
232. Id. at 436-37.
233. Schmidt, supra note 11, at 23.
235. EMERSON, supra note 4, at 72. While Greeks and Turkish Cypriots had been interspersed throughout the island, the 1974 invasion "radically transformed" the population distribution, as thousands of Greek Cypriots fled the northern area. Large scale population exchanges occurred, and the island was on its way to partition into two homogeneous ethnic zones. Wippman, supra note 20, at 171. President Richard Nixon's administration denounced the Turkish invasion, but acknowledged the Greek cause of it. Palmer, supra note 12, at 438.
236. NECATIGIL, supra note 197, at 108-10.
237. The situation is anomalous. Greece has made clear that it will not allow Tur-
Major powers share serious concern over Cyprus. Long files of special envoys usually hover around the island, trying to move the immovable. In 1996, for example, London, Paris, Washington, and the United Nations all had special negotiators working away at lessening the threats to peace.\textsuperscript{238} In 1998, talks broke down, as U.S. diplomat Richard Holbrooke complained that he had been unable to make progress in three days of mediating the Cyprus unification issue, observing that Turkish Cypriot demands made “meaningful exchange” impossible.\textsuperscript{239} The Turkish Cypriots had demanded that their country be recognized as an independent state and that EU membership talks with Greek-controlled Cyprus be canceled.\textsuperscript{240} A month later, conflict threatened again as the Turkish government dispatched six strike jets to the Turkish section of Cyprus to match six Greek fighter planes that had arrived.\textsuperscript{241} “The six [Turkish] F-16 fighters roared low over both the Greek and Turkish sectors of the capital . . . as well as the United Nations buffer zone splitting the rest of the island.”\textsuperscript{242}

Later in 1998, Turkey became alarmed about Russian missiles en route to Greek Cyprus.\textsuperscript{243} Turkey threatened to bomb any installation of the missiles, and the Greek Cypriots avoided the conflict by canceling the installation.\textsuperscript{244} The European Commissioner for External Relations, Hans van den Broek, praised key’s accession until the Cyprus conflict is improved, and Turkey threatens to annex Northern Cyprus, among other things, if Cyprus progresses as a candidate. Emerson, \textit{supra} note 4, at 73. Former German Chancellor Helmut Kohl commented privately that a divided Cyprus would not be allowed accession. Newhouse, \textit{supra} note 10, at 258. The division continues to render Cyprus “a difficult case” for accession in 1999. Peter Norman, \textit{Bonn Upbeat About EU enlargement}, FIN. TIMES, June 23, 1999, at 2.

\textsuperscript{238} Newhouse, \textit{supra} note 10, at 252.
\textsuperscript{240} Id.
\textsuperscript{242} Alex Efty, \textit{Turkey Sends Jets over Cyprus in Warning to Rival Government}, ASSOCIATED PR., June 18, 1998.
\textsuperscript{243} Kinzer, \textit{supra} note 194, at 5.
\textsuperscript{244} Kinzer, \textit{supra} note 56, at 5. U.S. and other European countries pressured Cyprus as well. Id. \textit{Even Greece Joined in Criticizing the Greek-Cypriot Decision To Purchase the Missiles, Cyprus Thinks Again}, INT’L HERALD TRIB., Dec. 31, 1998, at 6. The President of Greek Cyprus announced the decision to install the missiles rather on the Greek island of Crete, from which they could not strike Turkey. Joseph Fitchett, \textit{Deployment of Missiles Is Scrapped by Cyprus}, INT’L HERALD TRIB., Dec. 30, 1998, at 1.
the Cypriot decision not to install the missile system, and then urged Turkey to contribute as well to the resolution of the conflict. 245 Van den Broek “expressed satisfaction” on the progress of the Cyprus accession negotiations and “reiterated the offer to the Turkish Cypriot community . . . to join the Cypriot delegation negotiating EU accession.” 246

In that same year, Rauf Denktash, president of the Turkish Republic of Northern Cyprus (“TRNC”), suggested that a confederation of the island’s two parts would end the partition, but both Greek Cyprus and Greece rejected it. 247 Outside observers believe that the best answer for Cyprus is a double rule under one sovereignty. 248 The present U.N. efforts to negotiate a resolution to the impasse involves shuttle diplomacy between the two sides. This freedom of ideas generally promotes a “set of ideas” first promulgated through the U.N. in 1992, which includes a “framework for a bi-zonal, bi-communal federation.” 249

Such cooperation may prove difficult, especially considering the 1997 Turkish-TRNC joint declaration proposing northern Cyprus’ gradual integration into Turkey, rather than into the EU. 250 The joint statement denounced the Cyprus-EU accession negotiations as a “historic mistake” that “will speed up the integration process between the TRNC and Turkey.” 251 Subsequently that year, the two countries signed an Association Agreement establishing a council to frame measures to encourage further integration in economic, defense, and foreign policy. 252 The EU has declared that the proposed integration is “incompat-

246. Id.
248. Even Greece Joined, supra note 244, at 6.
251. Id.
252. Id.
ible with international law as expressed in the relevant UN resolutions.\textsuperscript{253}

The TRNC's refusal to participate in accession negotiations between Cyprus and the EU is also troublesome.\textsuperscript{254} Although Mr. Denktash does not oppose accession involving the Greek Cypriots, he has refused to meet with EU representatives since December 1997, claiming that the issue of accession involves Greek Cypriots only.\textsuperscript{255} The European Commission faults the Turkish Cypriots' intransigence for the continuing delay in Cyprus's accession negotiations, though such a divided polity hardly represents a fertile ground for integration and harmonization of any type.\textsuperscript{256}

Some have taken the position that accession of a divided Cyprus will lead to a resolution of the conflict, but others disagree.\textsuperscript{257} In 1999, the Greek Cypriot government proposed demilitarizing the island with the deployment of an international peace force.\textsuperscript{258} Turkish Cypriots condemned the suggestion as "political hypocrisy" because it is the Greek Cypriots who are militarizing the island.\textsuperscript{259} Subsequently, Greek officials offered to lift objections to Turkey's EU membership if the EU would permit Cyprus's accession without first requiring a settlement of the divided island.\textsuperscript{260} Days later, Turkish Prime Minister Ecevit proclaimed at a rally in northern Cyprus that the island could never

\begin{itemize}
  \item \textsuperscript{253} Id.
  \item \textsuperscript{254} Id.
  \item \textsuperscript{255} Id.
  \item \textsuperscript{256} DIRECTORATE GENERAL 1, EUROPEAN COMMISSION, REGULAR REPORT FROM THE COMMISSION ON CYPRUS' PROGRESS TOWARDS ACCESSION, (visited on Mar. 17, 2000) <http://europa.eu.int/comm> (on file with the Fordham International Law Journal), §§ c.3 & 1.3. The Regular Report on Cyprus noted that "because of the political situation . . . the 'acquis' (screening) could not cover Cyprus as a whole and . . . [i]t regretted that it had not been possible to achieve a political solution to the continuing division of Cyprus in time for the accession negotiations." Id.
  \item \textsuperscript{257} Greek Cypriots should not see EC accession as contributing much to healing the division of their island. REDMOND, supra note 7, at 14.
  \item \textsuperscript{258} Turkish Cypriots Reject Proposal for International Peace Force, AGENCE FRANCE PR., Feb. 5, 1999, available in LEXIS, NEWS Library, Agence France Presse File. Cypriot Foreign Minister Ioannis Kasouides recently repeated the request for a NATO international force, with U.N. Security Council mandate, and the consent of Turkey, to stabilize the island and allow all Greek and Turkish forces to be withdrawn. Cypriot Accession Talks To Proceed as Planned, XINHUA NEWS AGENCY, Feb. 4, 1999 (on file with the author) ("The U.N. has been trying for decades to reunite the island through a bicommmunal federation formula.").
  \item \textsuperscript{259} Id.
  \item \textsuperscript{260} Greece Offers Deal for Turkey in EU, INT'L HERALD TRIB., July 13, 1999, at 7.
\end{itemize}
be reunited. \(^{261}\) Thus, the impasse continues.

### III. EU-TURKISH RELATIONS

#### A. Prelude to Luxembourg

Turkey’s historic connections with the European continent inevitably led to modern cooperation and interchange with the European integration movement. Not long after its formation in 1957, \(^{262}\) negotiations between Turkey and the fledgling European Economic Community (or “EEC”) began in 1959 when the Republic submitted to the European Commission its request for association. \(^{263}\) After lengthy negotiations, the EC-Turkey Association Agreement (or “Agreement”) was signed in 1963 and entered into effect on December 1, 1964. \(^{264}\)

The Agreement articulated the purposes to encourage trade, promote economic development, help Turkey achieve European standards, and ultimately enter the European Community (or “Community” or “EC”). \(^{265}\) The Agreement envisioned the establishment of a customs union between the EU and the Republic, to be implemented in stages, and an Association Council to shape the course of the relations among the countries. \(^{266}\)

While the Agreement served as a model for the Association Agreements later signed with Albania, Bulgaria, the Czech Republic, Hungary, and Poland, \(^{267}\) critics claim that Turkey’s association agreement was hardly a success. \(^{268}\) Although disillusionment was the eventual outcome, Turkey’s reasons for applying for EU membership were clear in the beginning: a desire to

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\(^{261}\) Ecevit Bars a United Cyprus, INT’L HERALD TRIB., July 21, 1999, at 6. Though a loose confederation might be possible, he explained. Id.

\(^{262}\) The now famous Treaty of Rome, initiating the broader European integration project, was signed in 1957 and entered into effect in January, 1958. See EEC Treaty, supra note 186. For discussion of relations between the newly-created EC and Turkey, see generally, REDMOND, supra note 7, at 23-31.

\(^{263}\) REGULAR REPORT ON TURKEY’S PROGRESS, supra note 250, at 5.

\(^{264}\) See EC-Turkey Association Agreement, Council Decision No. 64/372, O.J. 217 at 3987 (1964). For details of the negotiations and signing, see REGULAR REPORT ON TURKEY’S PROGRESS, supra note 250, at 5.

\(^{265}\) REGULAR REPORT ON TURKEY’S PROGRESS, supra note 250, at 5.

\(^{266}\) Id. Financial and technical protocols followed to prepare for the Customs Union over the following 22 years. Id.


\(^{268}\) REDMOND, supra note 7, at 24.
complete Turkey's orientation to the West; a need to avoid discrimination in favor of Greece that had applied for an Association Agreement; a desire to obtain a firm trade agreement that would attract external financial aid, and even provide an external outlet for Turkey's large labor force. Economic difficulties undermined progress toward cooperation in the 1970s, and political upheaval did the same in the 1980s.

In 1980, following the military coup in Turkey, the Community froze relations with Turkey and blocked the Fourth Financial Protocol. Relations were gradually normalized following the return to civilian government after 1983, but the financial protocol was not approved.

In 1987, at a time when the government was optimistic about Turkey's economic development and integration into world trade, Turkey formally applied for accession to the EC. Some twenty months later, the Commission promulgated a tepid opinion, concluding that negotiations should wait due to economic and political reasons, specifically noting the dispute with Greece and the situation in Cyprus. The opinion recommended that the Community continue its cooperation with Turkey, promoting efforts of "economic and political moderniza-

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269. Id.

270. Id. Economic crises, and most notably the twin oil shocks in the 1970s, caused government instability toward the end of the decade. ZORCHER, supra note 149, at 280. In 1980, the political system fell into gridlock, the economy spiraled downward, and law and order were threatened, resulting in the military intervention from 1980-1983. ZORCHER, supra, at 282.

271. REGULAR REPORT ON TURKEY'S PROGRESS, supra note 250, at A(b).

272. Id.


274. The European Commission adopted its opinion on the application on December 18, 1989. It concluded "that it would not be useful to open accession negotiations with Turkey straight away." The European Commission gave both economic and political reasons. It also noted "the negative effects" of the dispute between Greece and Turkey and "the situation in Cyprus." See 1989 Commission Opinion, supra note 189, at 4-8; see also Yesilada, supra note 273, at 178-79 (stating that Turkey's economy lagged behind EC countries' and human rights and unemployment also posed concerns).

275. REGULAR REPORT ON TURKEY'S PROGRESS, supra note 250; see Yesilada, supra note 273, at 179 ("[T]he Greco-Turkish conflict over Cyprus, the Aegean airspace and territorial waters, the continental shelf, and the rights of the Greek and Turkish minorities in the respective countries meant that Greeks would object to Turkey's membership in the EC/EU.").
In February 1990, the Council adopted the Commission opinion and requested the Commission to further propose detailed recommendations for cooperation. The Commission did so in June, suggesting in the "Matutes Package" the completion of the customs union, and further financial, industrial, and technological cooperation. The Council did not adopt the package.

Progress toward the actual creation of the customs union proved difficult. In 1994, as Turkey and the EU were preparing to adopt the customs union, Greece vetoed the plan, thus disrupting the project. Although Greece articulated concern about Turkish human rights abuse, it appeared that Greece wanted concessions from other EU countries in return for approval of the customs union. Subsequently, concessions were granted by the EU, including an expedited timetable to begin negotiations with Cyprus for EU membership, equal participation by Cyprus regarding accessions, and compensation to the Greek textile industry due to increased competition through the customs union from Turkey. After tense negotiations with Greece, the EU belatedly approved the proposal for the establishment of the customs union. In March 1995, the EU-Turkey Association Council finally concurred in the completion of the customs union and intensifying other areas of cooperation. In December 1995, the European Parliament consented, and the final decision on the customs union came into force on December 31, 1995.

In January 1996, just days following the achievement of the historic agreement, Turkey and Greece caused international alarm by stumbling into an embarrassing naval confrontation.
over a tiny uninhabited Aegean islet, that nearly led to war.\footnote{286} Unable to agree on sovereignty over the atoll, Turkish and Greek warships circled, and their diplomats threatened the use of force, as world leaders labored finally to defuse the threatening situation.\footnote{287} In September, the European Parliament slowed cooperation with Turkey, prompted primarily by human rights, passing a resolution to block any EU appropriations to Turkey except for those fostering democracy, human rights, and civil society.\footnote{288}

Yet in April 1997, the EU announced at the Association Council meeting that Turkey would remain eligible for accession to the Community and that it would be considered based on the same criteria as all other applicants.\footnote{289} The Commission was called upon to prepare recommendations for the further development of relations between the parties.\footnote{290} The Association Council confirmed the 1995 customs union financial agreement, and a “Committee of Wisemen” was ordained to discuss problems in the Aegean.\footnote{291} The EU continued to support Turkey’s efforts to resolve its problems and forge closer links with the EU, but unfortunately the “Wisemen” never convened.\footnote{292} In June 1997, the outcome of the Intergovernmental Conference cleared the way for launching further enlargement, and in July, “[c]oncrete preparations for the enlargement process opened with the presentation by the Commission to the Council . . . of the so-called Agenda 2000.”\footnote{293}

\footnote{286} Urgent telephone calls from U.S. President Bill Clinton pulled the two countries back from war over two uninhabited rocks—four hectares of rocky outcroppings whose only inhabitants are 12 goats. \textit{Rocks, Goats, Flags}, \textit{supra} note 182.
\footnote{288} \textit{E.U. BULL.}, \textit{supra} note 130.
\footnote{289} \textit{Id.} at 56.
\footnote{290} \textit{Id.}
\footnote{291} \textit{Id.} Commentators have noted that
The customs union [was] working satisfactorily and provide[d] a sound basis for the further development of relations between the EU and Turkey. However, political circumstances have not so far allowed for the pursuit of financial cooperation and political dialogue, as agreed when the customs union decision was taken on 5 March 1995.
\footnote{292} \textit{Id.}
B. The Luxembourg Exclusion

It has been stated that

If the European summit [at Luxembourg] last weekend ever comes to be regarded as historic, it is likely to be because of a historic mistake. Unless matters are put right, . . . historians may look at the Luxembourg meeting and judge it to be the occasion when Europe needlessly offended Turkey, thus increasing that country's sense of exclusion, its . . . reluctance to reform, its awkwardness over Cyprus and NATO and perhaps its readiness to embrace either Islamic or quasi-military rule. Not bad for two days' work. 294

Resounding reports from Luxembourg repeated the same themes: "exclusion, resentment, defiance, trouble." 295 Critics feared that the summit had done as much to divide Europe as to unite it. Indeed, one commentator added that the meeting had "created a one-country ghetto for Turkey," which had been trying to get closer to Europe for thirty-four years. 296 Turkish leaders cried foul at the discriminatory result, as only Turkey was left out of the announced negotiations. 297 Calling for fair treatment, Prime Minister Mesut Yilmaz and others questioned how Bulgaria and Romania—countries with less developed economies and far shorter histories of democracy—could begin EU negotiations before Turkey. 298 Yilmaz declared that those "who want to change the EU into a Christian Union have won." 299 French President Jacques Chirac admitted that more should have been done for Turkey, 300 and other critics accused EU leaders of mak-

294. The Luxembourg Rebuff, supra note 5, at 17. For official recitation of the Luxembourg decision, see Conclusions of the Presidency, supra note 4.

295. The Luxembourg Rebuff, supra note 5, at 17. See, e.g., Stephen Kinzer, Turkey, Rejected, Will Freeze Ties to European Union, N.Y. TIMES, Dec. 15, 1997, at A3 ("Stung by the European Union's rejection over the weekend."); Barry James, Turkey Is Rejected for EU Membership, INT'L HERALD TRIB., Dec. 15, 1997, at 1 ("Anger boiled up in Ankara . . ."); Turkey and the EU, supra note 3, at 74 ("[I]t would be wrong to underestimate what the rebuff in Luxembourg has done to the Turks.").


298. Id.; see, Emma Tucker, Turkey Dispute Hangs over Expansion Talks, FIN. TIMES, Dec. 15, 1997, at 2; Turkey-EU: No Way Out?, TURKISH DAILY NEWS, available in 1998 WL 959166 (stating discriminatory application of Copenhagen criteria: goals during negotiations for other applicants, but preconditions for Turkish candidacy).

299. John Barham, Turks Threaten To Break Links with EU, FIN. TIMES, Dec. 18, 1997, at 2; see Turkey and the EU, supra note 3, at 74 ("A new cultural Berlin Wall is being erected between Christian Europe and Muslim Turkey.").

300. Unsafe at Many Speeds, supra note 17, at 73.
ing "an unholy mess of relations with . . . longstanding Turkish allies . . . ." "Shameless" and "shortsighted" were some of the kinder words used to describe the EU's approach.\textsuperscript{301} Another critic flatly characterized the selection process as "clumsily handled."\textsuperscript{302}

Exacerbating the decision to exclude Turkey, official EU statements cast the decision in naively benign terms. To read the official Conclusions of the Luxembourg Summit is to see vividly the insensitive treatment of the Turkish application. While the purpose was articulated that the overall enlargement process would be "a comprehensive, inclusive, and ongoing process,"\textsuperscript{303} the plain language of the introductory announcement welcoming the applicants omitted any reference to Turkey:

I.5.10. The European Council has considered the current situation in each of the 11 applicant states on the basis of the Commission's opinions and the Presidency's report to the Council. In light of the discussions, it has decided to launch an accession process comprising the 10 central and east European applicant states and Cyprus.\textsuperscript{304}

Turkey is excluded altogether from the opening statement. Then, in the following subsection, the sanguine plans for the coming accession negotiations are set forth for the ten Central and East European countries and Cyprus—again omitting any reference whatsoever to Turkey.\textsuperscript{305} Some twenty-one further paragraphs of Conclusions detail more aspects of the accession process before the reader finally arrives at the first mention the Republic of Turkey's fate.\textsuperscript{306} There the "special" strategy, in its best light, is unfolded: Turkey requires special assistance from the EU to make more progress toward the accession criteria before negotiations may be seriously contemplated.\textsuperscript{307}

Even after the initial negative reaction to the decision, EU pronouncements continued the euphemistic position, typified by the assertion of Luxembourg's Ambassador to the U.S. that the EU did not flatly reject the Turkish application, but rather

\textsuperscript{301} Dale, \textit{supra} note 46, at 13.
\textsuperscript{302} \textit{A Chilly Wait}, \textit{FIN. TIMES}, Sept. 16, 1997, at 23.
\textsuperscript{303} \textit{CONCLUSIONS OF THE PRESIDENCY, supra} note 3, at 8, pt. 2.
\textsuperscript{304} \textit{Id.} pt. I.5.10
\textsuperscript{305} \textit{Id.} §(a).
\textsuperscript{306} \textit{Id.} pt. I.6.31 at 11.
\textsuperscript{307} \textit{Id.} pts. 31-36.
"did just the opposite."

The Summit, he explained, explicitly confirmed that Turkey was eligible for accession and went so far as to articulate a strategy to prepare Turkey for such an entry, concluding with the parsimonious: "[w]e hope that Turkey will respond positively to this substantial and responsible package."

The Commission's Regular Report on Turkey's progress toward accession maintained the same position:

The Luxembourg European Council of December 1997 confirmed at the highest level Turkey's eligibility for accession to the European Union. The Heads of State and Government also decided to draw up a strategy "to prepare Turkey for accession by bringing it closer to the European Union in every field. This strategy should consist in development of the possibilities afforded by the Ankara Agreement, intensification of the Customs Union, implementation of financial cooperation, approximation of laws and adoption of the Union acquis; participation, to be decided case by case, in certain programmes and certain agencies". The European Council has listed a number of principles which will allow strengthening ties with Turkey. The European Council also indicated that Turkey would be invited to participate in the European Conference on the same basis as the other applicant countries.

The Council's invitation was subject to one exception: Turkey may not join every other applicant actually negotiating for accession. The context framing this nuanced message of eligibility undermined its credibility from the start. Former communist

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309. Id.

310. E.U. Bull., supra note 130, at 4. Another example of the lack of forthright communication that should have preceded any decision was the public statement by Ambassador Michael Lake, the Representative of the European Commission to Turkey, just before the Luxembourg summit. Id. Speaking to a business leaders' group in Turkey, he explained that the Central and Eastern countries emerging from communism needed special programs to help them establish democracy and prepare for accession, while Turkey needed no such special help. Id. He continued that the Commission would propose a special program for Turkey, digressed into an economic pep talk, then concluded with the prediction "I believe that the Luxembourg Summit will produce new gains for Turkey." Id. A few days later, the announcement from Luxembourg was a much different and clearer message. Press Release, 2-4, Representation of the EU to Turkey, No. 5, (last visited Dec. 4, 1997) <http://www.eureptr.org.tr/english/flash/flash5.html> (on file with the Fordham International Law Journal).
dictatorships Bulgaria and Romania would begin accession negotiations before long-time Western ally Turkey?

The discord erupted immediately. As the Summit ended, Turkey reacted strongly, rejecting the rhetoric as discriminatory, declaring that Turkey would "have no political dialogue with the European Union from now on," and that relations with the EU would be based only on existing agreements. The Turkish government then threatened to withdraw its EU application and even to annex northern Cyprus as a part of Turkey itself. Turkish officials also suggested a boycott or a selective tax on EU imports and possible renegotiation of the customs union. Prime Minister Yilmaz made clear his intention to reshape the country's foreign policy, no longer interested in pleasing EU critics. Soon, the government "showed its intention to pursue political and trade ties independently of the EU by receiving Victor Chernomyrdin, the first Russian prime minister to visit Ankara." The meeting produced a US$20 billion gas transmission deal, and one Turkish leader urged retaliation against the EU by establishing a joint market with Russia and other central Asian countries. Yilmaz then traveled to Washington to be assured by President Clinton of the importance to the United States of such a strategic ally.

This anti-European result was especially unfortunate because EU leaders had labored at length to devise a diplomatic strategy for Luxembourg that would best promote the goals of European integration, most notably the major goals of a smooth advance to a monetary union and future enlargement, without creating new divisions within Europe. Unfortunately, the dif-

311. Germany Wins the Day in Luxembourg, FIN. TIMES, Dec. 15, 1997, at 2 (stating that there was discord immediately, but "Luxembourg was, in many ways, a summit that stored up trouble for the future.").
313. E.U. BULL., supra note 130, at 4.
318. Id. at 2 (describing other suggestions of expanded ties with Russia, United States, and Far East countries).
319. Kinzer, supra note 316, at 5.
320. EU Extends Its Embrace, FIN. TIMES, Dec. 15, 1997, at 17. See Friis, supra note 8,
ficulties of bringing so many applicants with such varying characteristics into a uniform plan for accession manifested itself early on. As early as 1993, all of the emerging democracies of Central and Eastern Europe had been offered EU membership, though without specific details about timing or process. In December 1995 at the Madrid European Council Summit, more specific plans emerged, as Chancellor Kohl proposed that only the Czech Republic, Hungary, and Poland be included in the first new accessions, but the majority of member states preferred to delay the decision until after the 1996 IGC. The Council requested an assessment from the Commission of the applicants' suitability for accession, and in July 1997 the Commission published Agenda 2000, "the longest document in EU history." The Commission had approached its task with an objective view, examining the economic and political facts, and then differentiating among the applicants and ranking them as to suitability. The objective data suggested that Cyprus, the Czech Republic, Estonia, Hungary, and Slovenia, adequately satisfied the accession criteria, and this emerged as the Commission 5+1 model. The other new democracies, according to this scenario, would be invited to participate in the coming European Conference on enlargement and offered Accession Partnership.

A different model, proposed by Denmark, Finland, Italy,
and Sweden, was designed more to promote stability in the newly emerging Europe.\textsuperscript{327} Fearing that exclusion could draw
“new dividing lines,” they proposed that all new applicants
should be considered together—the “regatta option.”\textsuperscript{328} As the
leaders prepared for Luxembourg, the agenda had changed
from considering just the Commission’s objective criteria to con-
sidering also the stability and divisiveness issue.\textsuperscript{329} Amid con-
flicting negotiating positions and time limitations, Denmark and
Sweden offered a middle course in which all applicants would be
allowed to participate in the first phase of the new enlargement
process—the screening process—while a later process would de-
termined which of the applicants would begin actual negoti-
ations.\textsuperscript{330} The Luxembourg presidency finally adopted the Dan-
ish-Swedish screening model, at least partially due to time pres-
sure and also because the group “had to sort out a major dispute
between the Member States over Turkey’s position in the en-
largement process.”\textsuperscript{331} In this plan, all applicants would partici-
pate in the screening stage as a preparation for the beginning of
negotiations, with formal negotiations beginning with the Com-
misson’s original 5+1.\textsuperscript{332}

Thus, the summit decided to open formal negotiations with
all of the applicants (except Turkey), but only the 5+1 countries
would be invited to the actual negotiating table.\textsuperscript{333} To assuage
the feelings of those countries not put on the fast track, the Eu-
ropean Council adopted a French suggestion to hold a Euro-
pean Conference for all Member States and all applicants to con-

\textsuperscript{327} Fris, supra note 8, at 6.
\textsuperscript{328} See id. (holding that five countries not in inner circle for accession immediately supported this initiative). Finland defected to the Commission model; Spain, Greece, and Portugal viewed the regatta option favorably, and it was acknowledged by many that the peace and stability concerns were central to the enlargement challenge. Id. at 7.
\textsuperscript{329} Id. “This model was more visionary, legitimate, linking to the core of the EU’s self-image as a club for all Europeans.” Id.
\textsuperscript{330} Id. Actually, it is a re-packaging of an old Franco-German idea. Id.
\textsuperscript{331} Id. at 8. It has also been suggested that Greece, Spain, and Portugal favored the Danish-Swedish approach because it delays accession, safeguarding the Cohesion Funds from dilution by sharing with large, poorer countries, such as, Poland. Id. at 10, n.5.
\textsuperscript{332} Id. at 8.
\textsuperscript{333} Id. The others would continue their negotiating process, mainly centered on screening their adoption of the acquis. Id. As they approached more and more compliance, they would be invited into the circle of more immediate candidates. Id.
ve and discuss accession. As noted above, Turkey was included in this European Conference and promised a "special strategy."

Luxembourg was a "high politics context," and for many reasons the general stability strategy finally adopted after all the negotiation did not apply to Turkey. Germany and Greece were key opponents to Turkey's inclusion in the basic model. EU leaders attempted to ameliorate the insult, creating the March 1998 European Conference in London with the principal goal of assuring Turkey that EU accession plans included Turkey at some point. But the Turks refused to attend, vividly displaying anger over the ill treatment. Turkey complained that the decision to exclude it from accession negotiations was inappropriate for several reasons. First, Turkey was not evaluated on the same criteria as the other countries. Second, many of the steps that the EU demanded of Turkey had not yet been implemented by the other countries. Third, some of the assessments about the Cyprus issue and Turkey's infrastructure were exaggerated and prejudiced. Fourth, many of Turkey's achievements were disregarded, the effect of which ultimately imposed unacceptable political conditions on Turkey. The government would maintain the Association Agreements with the EU, but insisted that this unfair treatment and mentality would not produce constructive dialogue, or a sound and credible basis for future rela-

334. E.U. BULL, supra note 3, at pt. 1.4. This was to be a standing council, meeting at various levels and various frequencies, to give all applicants a feeling of inclusion, whether they be on the fast track or some slower course. Hartnell, supra note 8, at 226 & n.213.

335. Friis, supra note 8, at 8.

336. Greece and other EU countries have taken a hard line on Turkey's demand to be treated on an equal footing with other accession applicants. See Lionel Barber, Inside Europe, EUR. MAG., Aug. 1998 ("Greece was a key force in the European Union's decision . . . not to consider Turkey's application for membership . . . . Meanwhile, Greece continues to block $416 million in financial aid to Turkey."). At the June, 1998 EU Leaders' summit at Cardiff, Wales, Prime Minister Costas Simitis of Greece vetoed plans by Britain and other countries to make a new overture to Turkey. Kinzer, supra note 194, at 5. The Greek Prime Minister blamed the tension in the area on Turkey alone. Kinzer, supra.


338. See id. ("The Turks went into bloody-minded mode. Hence the spurning of the London conference.").

Commentators have noted that many Turks have mixed feelings about Europe. Most middle class Turks feel no gap between themselves and the western world. But the world view of others, not least the peasants of Anatolia, is shaped as much by Turkey’s easterly roots. Most Turks want to be ‘in Europe’ for practical economic reasons; but they do not like the high minded, bossy-sounding declarations of the European Union. Even more importantly, most Turks believe that the EU’s reaction to them is based on their Muslim faith, and that Europe’s tolerance of atrocities to Muslims in Kosovo and Bosnia demonstrates this discriminatory view. History shows that once-great empires, such as the British, French, or Turkish, often have difficulty suffering lessened status:

The sense of being the heirs of a major world empire colours both Turkish official attitudes and, to some extent, public opinion. The question of how a state which in its heyday was more powerful than any kingdom in Christian Europe was eventually reduced to “underdeveloped” status has preoccupied many writers.

In March, the opening meeting of the European Conference was conducted in London, followed later that month by the launch of the actual accession negotiating meetings in Brussels, which set the framework for the process. Delegations from Cyprus, the Czech Republic, Estonia, Hungary, and Slovenia were present in six negotiating intergovernmental conferences between the Member States and the applicants. Turkey could only view from the sideline as the process began in earnest. The Luxembourg exclusion created a “political climate of national resentment” in Turkey, leaving an unstable situation in this important nation.

340. Id.
341. Yilamz, supra note 337, at 60.
342. See id. (including accusations of German condescension and racial arrogance). The EU treatment “has sharpened a Turkish inferiority complex.” Id.
343. BARCHARD, supra note 132, at 11.
344. Maganza, supra note 293, at 186.
345. See id. (stating that conferences at deputy level were begun on April 23-24, 1998, where specific details of negotiations were agreed).
346. EMERSON, supra note 4, at 72.
IV. DECEPTIVE DIALOGUE DISSERVES THE INTEGRATION PROCESS

Many justifications have been proffered for Turkey's "special" treatment in the accession application process: some plainly legitimate and logical, others plainly not; often the dialogue has been enveloped with a shadowed vagueness, generating suspicion and distrust. Veiled motives and whispered fears breed further suspicion and distrust. This contrasts with the goal of today's enlightened European cooperation of transparency and forthrightness, confronting the truth and adapting to accommodate differences.

Justifications for and against Turkey's further integration into Europe encompass the full spectrum, as the debate concerning Turkey's accession has been "more extensive than in any other enlargement discussion, including economic, political, strategic, cultural and religious issues." One commentator has said that:

Turkish candidature for the EC raises very large issues which many in Europe prefer to treat as unrealistic or simply to ignore. Turkey's land area is exactly half that of the old Nine . . . . Its population . . . by the end of the century will be larger than any Community state . . . . There are obvious cultural differences which are far stronger than between, say, Portugal and the Community; moreover, Turkey, apart from its small border with Greece, will never be contiguous with the EC. It is considerably poorer than any of the other Mediterranean countries that [have joined] . . . . The implications for the regional and social funds of the Community are literally unthinkable, unless membership is treated simply in terms of being part of a "political block."  

347 Prof. Weiler refers to the "whispering" and "taboos" surrounding discussion of enlargement. J.H.H. Weiler, Legal Framework: Bread and Circus: The State of European Union, 4 COLUM. J. EUR. L. 223, 225 (1998). Other scholars suggest that the objections to Turkey's accession are "hidden" in religious and cultural issues. Yesilada, supra note 273, at 179. Prime Minister Yilmaz complained after Luxembourg that the reasons posed by the Summit were not the real reasons for Turkey's exclusion, rather that religious discrimination was creating a new, cultural Berlin Wall. Id. In particular, cultural concerns are "frequently unspoken and perhaps rather distasteful but nonetheless are very deeply felt." REDMOND, supra note 7, at 45. As noted in the previous section, the Conclusions of the Luxembourg Summit are notable for the manner by which the exclusion was announced and for what was left unsaid. REDMOND, supra.

348 REDMOND, supra note 7, at 17-18.
Another commentator criticized the "dubious reasons" for the Luxembourg exclusion as "distressingly obvious," including "fears of being swamped by Turkish immigrants, widespread reluctance to accept a Muslim country as 'European,' ill-informed posturing on human rights by the European parliament, and Greek obstructionism."  

This broad range of concerns may be ordered and clarified by classifying them in two abstract categories: first, the more formal, objective standards, such as Agenda 2000 accession criteria and quantifiable economic or demographic data; and second, the less formal, more subjective factors, such as culture and religion, often discussed sotto voce. Public and official dialogue centers foremost on the first group, leaving the latter often for commentary or private discussion.

Problematically, these diverse concerns often intermix, generating entirely new tensions. Thus, the discussion of both formal and informal issues simultaneously can create the danger that emotional fears and prejudices might mask, or even distort reasonable, more objective analysis. One noted scholar has observed the tendency in times of radical change for emphasis on dogma and the passion of the historical moment to create an atmosphere of exaggeration, in which ideology displaces reason and the challenges of reform can be oversimplified. The central tenet of this analysis proposes that Turkey should not be so hastily shunted away from Europe, and especially not in a context of emotional or furtive reasons, such as its Muslim character, its size, or its geopolitical neighborhood. Basing decisions of such import on emotional and nonobjective motivations would violate much of the post-war European cooperation ethos.  

350. MERRYMAN, supra note 109, at 18 (describing intellectual revolution in Western world beginning in 1776).
351. For insightful essays on European citizenship, Enlightenment values, and more, see J.H.H. Weiler, The Transformation of Europe, in THE CONSTITUTION OF EUROPE 90-96 (1999). Weiler holds that

The unique contribution of the European Community to the civilization of international relations . . . derives from the very tensions among the state actors and between each state actor and the Community . . . [and] from each state actors need to reconcile the reflexes and the ethos of the "sovereign" national state with new modes of discourse and a new discipline of solidarity.

*Id.* at 93. Challenging tensions between national consciousness and multicultural sensibility take place not only within classical state but also at transnational level. *Id.* at 324-57.
tionalism, fairness, consistency, and openness are essential elements in the integration deliberations.

A. The “Official” Concerns

The full “official” list of accession criteria is long, developed over the years as the Union evolved. Typically, discussion of Turkey’s inclusion in Europe opens with the two traditional criteria for EU membership: a “European” geographical position and a democratic government. Additional criteria have been formalized since the original treaties elaborated upon the basic qualifications, most famously at the 1993 Copenhagen Summit:

The candidates’ must achieve stability of institutions guaranteeing democracy, the rule of law, human rights, and respect for the protection of minorities; the existence of a functioning market economy as well as the capacity to cope with competitive pressure and market forces within the union; [and finally] the ability to take on the obligations of membership, including adherence to the aims of political, economic and monetary union.

These so-called “Copenhagen guidelines” represent the first time that specific conditions were placed on applicant countries. Further, the newly effective Treaty of Amsterdam “enshrined in Article F a constitutional principle that ‘[t]he Union is founded on principles of liberty, democracy, respect for human rights and fundamental freedoms and rule of law.’”

352. The “European” requirement is directly from the language of the Treaty of Rome, see EEC Treaty, supra note 186, art. 237, 298 U.N.T.S. 11, 92, 1973 Gr. Brit. T.S. No. 1 (Cmd.5179-II), and subsequently brought into the TEU. The term “European” as it applies to merging land and water is not entirely clear, and the requirement has only been tested once when Morocco applied and was refused in the 1970s. Barry James, EU Spectre: New Version of the Old East West Line, INT’L HERALD TRIB., Oct. 28, 1998, at 1.

353. “The effective functioning of democracy is a primordial question in assessing the application of a country for membership of the Union.” E.U. BULL., supra note 130, at 40. Dual European and democracy requirements are frequent starting points for Turkey accession discussion. REDMOND, supra note 7, at 18.


355. Yesilada, supra note 273, at 159.

356. Consolidated TEU, supra note 186, art. 6, O.J. 340/2, at 153 (1997), 37 I.L.M. at 13 (ex Article F). The Treaty of Amsterdam became effective on May 1, 1999. Michael Smith, Amsterdam Treaty Will Come into Force in May, FIN. TIMES, Apr. 1, 1999, at 3. Several assessments of the new treaty have been published. See e.g., Laurens Jan
Accordingly, the Intergovernmental Conference and subsequently the Commission have decided that this formal statement enlarges the Copenhagen requirements to include these principles.\textsuperscript{357} This explicit strengthening in treaty form may serve to impress future members with less democratic histories, and it may also assuage Member State anxieties.

Commentators have explained that the prospective Member State must exhibit "a solid democracy, a proper democracy, a functioning civil service, a real market economy, and a library of EU rules embedded in its own law."\textsuperscript{358} The \textit{acquis} requirement presents a moving target, as new legislation and new agreements, such as the Treaty of Amsterdam, come into force and expand in scope.\textsuperscript{359} Finally, an effective administration to implement the \textit{acquis} and to administer the judicial system are mandatory prerequisites.\textsuperscript{360} Significant to any discussion of Turkey's compliance is the implicit requirement that judicial processes be independent.\textsuperscript{361}

The fitness of applicant countries for accession is but one side of the equation; new members cannot be brought in until the existing Union is willing and able to accept them.\textsuperscript{362} Adding

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Brinkhorst, \textit{An Appraisal of the Treaty of Amsterdam from the Perspective of a Member of the European Parliament}, 22 \textit{Fordham Int'l L.J.} 85.
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\begin{itemize}
\item \textsuperscript{357} E.U. BULL, \textit{supra} note 130, at 40.
\item \textsuperscript{358} Hans van den Broek, \textit{Europe's Expander}, ECONOMIST, June 6, 1998, at 54; Bernhard Schloh, \textit{Implications of Widening the European Union}, 18 \textit{Fordham Int'l L.J.} 1251, 1251-52 (1995). The "\textit{acquis}" translates into the "what the Community has achieved" and thus requires that the body of regulations in the Community must be adopted in the applicant state. Schloh, \textit{supra} at 1252-53. "Hans van den Broek, the European Commissioner for foreign affairs estimated that... the new members must be able and willing to adopt and implement 80,000 pages of laws." Craig Whitney, \textit{Will East Meet West?}, N.Y. TIMES, Mar. 12, 1999, at A10.
\item \textsuperscript{359} See Hartnell \textit{supra} note 8, at 167 ("[A] moving target in the substantive sense, as well as in the temporal sense... including for example new emphasis on the expanding Third Pillar creation of an area for freedom, justice, and security.").
\item \textsuperscript{360} E.U. BULL, \textit{supra} note 130, at at, at 44-46; see also Hartnell, \textit{supra} note 8, at 167-68, n.290 (stating that 30% of Eastern Europe development funds will be reserved for institution building).
\item \textsuperscript{361} Hartnell, \textit{supra} note 8, at 168.
\item \textsuperscript{362} See E.U. BULL., \textit{supra} note 130, at pt. I.13 ("The Union's capacity to absorb new members, while maintaining the momentum of European integration, is also an important consideration in the general interest of both the Union and the candidate countries."); see also id., at 11-15 ("[T]he sheer number of applicants and the very large differences which they will bring with them, will present the Union with institutional and political challenges far greater than ever before."). The Community's internal agenda can dominate over considerations of applicant countries' political and economic development. Kennedy & Webb, \textit{supra} note 267, at 1099.
\end{itemize}
new members implicates existing problems in Europe, representing the "major concerns of the citizens," including high unemployment, social exclusion, environmental harm, drug abuse and organized crime, strain on social protection systems, the structural funds, and the Common Agricultural Policy, many of which need reform before enlargement.\textsuperscript{363} A workable Union with twenty Member States will require consensus on key institutional and constitutional changes.\textsuperscript{364}

1. Political Concerns

Agenda 2000 articulates substantial political concerns over Turkey's readiness for accession, listing first human rights and freedom of expression problems, followed by the need for restraint in the fight against terrorism.\textsuperscript{365} The Commission expresses further concern about the role of the military in Turkish society and the special role of the National Security Council, all posing ambiguities over the civilian control of the military and rule of law.\textsuperscript{366} As discussed previously, Turkey has endured revolving governments over the past four years—with seven different administrations attempting to stabilize leadership since 1995. The military has intervened four times in Turkey's modern history, generally to restore order, raising Western fears about a functioning civilian democracy. Likewise, the military dominance and strong measures in the fight against the Kurds raise concerns about an independent judiciary and protection of fundamental liberties. Finally, the Commission encourages compromise to reduce tensions with the Greeks in the Aegean and on Cyprus.\textsuperscript{367}

Human rights, the Commission's first concern and one of the most frequently cited,\textsuperscript{368} encompasses many of the other issues relating to democratic government. Turkey's human rights

\textsuperscript{363} E.U. Bull., supra note 130, at 4.
\textsuperscript{364} Weiler, supra note 347, at 224.
\textsuperscript{365} E.U. Bull., supra note 130, at 56.
\textsuperscript{366} Id.
\textsuperscript{367} Id.
record has been "fiercely criticized" by the European Commission, the European Court of Human Rights, the United Nations, the U.S. Department of State, and numerous advocacy groups. The situation has been monitored by the Council of Europe since 1996. Hundreds of cases have been brought before the European Human Rights Commission and many before the European Court of Human Rights. In 1999, the Strasbourg court cited Turkey for violations of the Human Rights Convention in fifteen separate cases. The court also agreed to hear a


371. Regular Report on Turkey's Progress, supra note 250, § B.1.2 (giving full exposition of Commission's views on Turkey's progress on all accession criteria, including human rights.)

372. Magnarella, supra note 139, at 465.

373. Elizabeth Olson, Europe Human Rights Court Challenged by Turkish Cases, Int'l Herald Trib., July 22, 1999, at 4. Turkey is by no means the only country to be accused of human rights violations or torture. A balanced analysis must also consider complaints against other European governments, for example the Court's 1999 conviction of France for torturing a Dutch defendant in a drug prosecution. Craig R. Whitney, France Found Guilty of Torture, Int'l Herald Trib., July 29, 1999, at 1. Or the 1999 complaints of gross abuses by the New York City police (including torture, unjustified shootings, and other abuses). See e.g., Bob Herbert, In America; Protesting Police Behavior, N.Y. Times, Mar. 17, 1999, at 21.
suit filed by Denmark, alleging torture of a Danish national in 1996, the first time the Court of Human Rights has taken a suit by a Council of Europe member against another member. In-depth inquiry shows substantial basis for these concerns, as the record reveals an ongoing practice of human rights violations. One international news journalist recently introduced her report with the following recitation: "A politician is in jail for reciting a poem. Trade unionists are detained on their way to court to identify policemen accused of torturing them. A human rights advocate is sent to prison while his would-be assassins roam free." This dramatic depiction reports actual cases and, though such extremes are not common, a general environment tolerating human rights abuse appears to exist in Turkey.

Most of the complaints of abuse emanate from the government's response to the Kurdish threat. Since 1987, a state of emergency has existed in Turkey's six southeast provinces, where the government has engaged in armed combat against the terrorist Kurdistan Workers Party. Estimates of the number of deaths caused by this conflict vary from 20,000 to over 30,000. The PKK had proclaimed its goal as the forcible creation of an independent state, and it has shown its willingness to use extreme terrorism in its efforts to fight the Turkish government:

The PKK committed widespread abuses as part of its terror-

375. The evidence of serious abuse abounds, including reports of extreme cases, e.g., 10 unarmed prisoners bludgeoned to death in 1996 by police; 15 teenagers arrested and tortured for distributing left-wing pamphlets in the same year. *Human Rights in Turkey*, supra note 370 at 46.
376. Gross, supra note 370, at 443, 484-90 (including references to numerous cases and reports involving extensive human rights abuses).
377. Id. "[A] climate of impunity . . . remains the single largest obstacle to reducing human rights abuses." U.S. Dep’t of State, supra note 370, at 2.
378. Id. "[A] climate of impunity . . . remains the single largest obstacle to reducing human rights abuses." U.S. Dep’t of State, supra note 370, at 2.
380. U.S. Dep’t of State, supra note 370, at 1.
381. Gunter, supra note 135, at 19 (holding that another 2,000,000 people have been displaced and 2000 villages destroyed); *The Tragedy of the Kurds*, Economist, Feb. 20, 1999, at 16 (stating that more than 30,000 are dead).
ism against the Government and civilians, mostly Kurds. PKK terrorists frequently killed noncombatants, targeting village officials, village guards, teachers and other perceived representatives of the state. The PKK terrorists also committed random killings, including in tourist areas, in their effort to intimidate the populace. Late in the year (1998), after its leader Abdullah Ocalan was detained in Italy, the PKK intensified its campaign of suicide bombings that caused several deaths and many injuries.382

The Turkish political and military response to this internal security threat has compounded the tragedy due to its overwhelming force: beyond imposition of certain quasi-martial law restrictions on the press and the free movement of people, extreme abuses have been reported, such as torture and incommunicado detention of suspects, and mysterious deaths.383

In 1998, Turkey’s most prominent rights advocate was shot in an obvious assassination attempt, as gunmen walked into his office and shot him in the arms, chest, and legs.384 Many speculated that the gunmen had ties to security agencies and ultranationalist groups; the victim, Akin Birdal, had been prosecuted frequently for outspoken remarks critical of Turkish policies, in particular regarding the Kurdish conflict and in support of the

382. U.S. DEP’T OF STATE, supra note 370, at 1.3. “The PKK has much blood on its hands.” Human Rights in Turkey, supra note 370, at 46. The future course of the PKK struggle is unclear. Id. PKK leaders announced in August 1999 that they would obey Ocalan’s call for a cease fire and would leave the country (though not laying down their arms). Id. The Turkish authorities have typically ignored such cease-fires, considering them “tactical ruses.” Kurd Rebels. Heeding Jailed Chief, Say They’ll Leave Turkey, N.Y. Times, Aug. 6, 1999, at A8.

383. One political leader explained the stance toward the separatist PKK: “We are ready to improve human rights, but not to endanger the unity of the state.” David Buchan, A Cautiously Mainstream Party, Fin. Times, June 15, 1999, at 14. But the line between proper defense of the state and improper abuse is often unclear. Id. For example, some people fear that human rights advocates have been “killed by unknown assailants believed to be working in complicity with Turkish security forces.” Magnarella, supra note 139, at 465. Human rights advocates allege that over 4000 political killings have taken place since 1991, most reportedly Kurdish guerillas and outspoken critics of the state or police. Stephen Kinzer, Fugitive’s Arrest Revives Turkish Crime Inquiry, N.Y. Times, Oct. 15, 1998, at A5. Since 1970, Turkey has repeatedly invoked Article 15 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, Nov. 4, 1950, 213 U.N.T.S. 221 (entered into force Sept. 3, 1953), which authorizes derogations from the convention’s standards. In some circumstances, an “emergency” situation may justify relaxation of legal process. Gross, supra note 376, at 439, 486.

Human Rights Association, which he leads.385

The 1999 U.S. Department of State Country Report describes the government abuses extensively, noting the military's special guardian role of national security and its campaign against the two groups deemed to threaten the state: the "reactionaries" (Islamists) and the "separatists" (the Kurds).386 The principal legal measures authorizing the repressive practices were the 1991 Anti-Terror Law, with broad and ambiguous definitions of terrorism, used to discourage anyone whose acts, words, or ideas could be said to constitute separatist propaganda; Criminal Code Article 312, which punishes incitement to racial or ethnic enmity; and Article 159, which prohibits insults to the army or other organs of the state. These measures, among other provisions, are all used to create the environment of restricted human rights.387

Human Rights Watch reports in its World Report 1999 that laws relating to freedom of expression and assembly were enforced arbitrarily in 1998.388 Examples of abuse include pro-Kurdish and pro-Islamic parties being harassed or disbanded, violent assaults on human rights advocates, abusive police action and legal prosecutions of demonstrators, writers, and journalists.389 Other human rights abuses involve the military's inappropriate influence over politics in the country, the use of torture by police, poor prison conditions, and leniency for those accused of

385. Id. "In the days after the shooting, thousands of demonstrators took to the streets in Ankara and Istanbul to repudiate the attack and show solidarity with the Human Rights Association. They chanted "Murderer State!" and carried banners accusing state-sponsored gangs of involvement." Id. In April 1999, the Turkish Supreme Court affirmed Akin Birdal's conviction for uttering "separatist comments on the Kurdish issue," and he faces three years imprisonment. Boulton, supra note 369, at 3.

386. U.S. DEP'T OF STATE, supra note 370, at 2. You will also find an in-depth, occasionally gruesome, description of each category of human rights concern. The campaign has broadened against mainstream journalists, human rights advocates, politicians, and business leaders. Id.

387. Id. The current situation is best described as

At present the rights of political association are very much more limited than in other European countries, and the Constitutional Court has the right to shut down political parties on a wide range of grounds, some of them simply administrative or procedural. Discussion of a range of topics—seen as critical to the national unity or the survival of the state—is explicitly forbidden by the 1983 Political Parties Law.

BARCHARD, supra note 51, at 15.

388. HUMAN RIGHTS WATCH, supra note 370.

389. Id.
committing these human rights violations.\textsuperscript{390}

The concerns about civilian rule, independent courts, and protecting fundamental liberties center around the special governmental council and courts that deal with matters considered threatening to national security, known as the National Security Council (or "NSC"). In its 1998 Regular Report on Turkey’s progress toward accession, the Commission describes the key role of the NSC in security and political matters:

The NSC is chaired by the president of the Republic and is composed of the Prime Minister, the Chief of the General Staff, the Ministers of National Defence, Internal Affairs and Foreign Affairs, the Commanders of the Army, Navy and Air Force and the general Commander of the gendarmerie. The recommendations of the NSC are not legally binding, but have strong influence on government policy. The existence of this body shows that, despite a basic democratic structure, the Turkish constitution allows the Army to play a civil role and to intervene in every area of political life.\textsuperscript{391}

The problem also involves the special State Security Courts, which adjudicate cases involving subversive activity, especially the dissemination of ideas subversive of the state, such as insulting the president, terrorism, and drug smuggling, for example.\textsuperscript{392} The State Security Courts' special rules of criminal procedure afford less human rights protection: hearings may be closed, counsel denied (in extreme cases), and detention may be twice as long as in normal investigations.\textsuperscript{393} Numerous journalists and political advocates of Kurdish rights have been prosecuted in these special courts in conformity with the broad laws prohibiting any insult against the state or incitement to separatism.\textsuperscript{394}

\textsuperscript{390} Id.; see U.S. DEP’T OF STATE, supra note 370, at 1-18.
\textsuperscript{391} REGULAR REPORT ON TURKEY’S PROGRESS, supra note 250, § B(3). This section is entitled "Criteria for Membership, 1.1 Democracy and the Rule of Law."
\textsuperscript{392} Magnarella, supra note 139, at 454. For a full description of the eight State Security Courts, their jurisdictions, and powers, see GUNTER, supra note 135, at 14.
\textsuperscript{393} Magnarella, supra note 139, at 454.
\textsuperscript{394} Id. at 455-56. Criticizing the Kurdish war has produced “insulting the military or state” and other charges, which has resulted in convictions and imprisonment for hundreds of activists, and detention of many more. Id. at 456. "Turkey routinely jails Kurdish politicians for activities that would be protected speech in democratic countries." Peter W. Galbraith, How the Turks Helped Their Enemies, N.Y. TIMES, Feb. 20, 1999 at A27. "Leyla Zana who was a member of Parliament for a Kurdish party that is now banned, is now serving a 15 year prison sentence for such offenses as appearing before an American congressional panel." Galbraith, supra.
The role of the military, acting powerfully to fight terrorism and what it perceives as seditious speech, naturally calls into question the full applicability of the democratic rule of law and protection of minorities. The special State Security Courts likewise implicate similar issues, including judicial autonomy. The military supervision and potential for political intervention undoubtedly reverses Western notions of civilian control of government. Thus, political concerns comprise a broad range of serious issues.

2. Economic Concerns

Economic concerns focus on Turkey's lesser economic performance, its high population growth, and the potential massive influx of Turkish workers into the European economic system. In fact, that fear and Turkey's high unemployment rate caused EU leaders to default on commitments in previous economic cooperation agreements in 1963 and 1970, especially regarding the free movement of workers. More recently, the Commission's assessment in Agenda 2000 recognized the progress gained in Turkey's developing economy, but it also raised more fully the economic problems inherent in further integration with Europe. Agenda 2000 acknowledges the magnitude of Turkey's trade with the EU, estimated at US$27 billion dollars in 1996, especially following the implementation of the customs union. The Commission concluded that the customs union is "working satisfactorily and provides a sound basis for further development between the EU and Turkey." The report continues that, in spite of political difficulties, the success of the customs union "has demonstrated the Turkish economy's ability to cope with the competitive challenge of free trade in manufactured goods,


397. E.U. BULL., supra note 130, at 56.

398. Id.

399. Id.
as well as the trade, competition, and intellectual property components of the *acquis communaute*.”

Balancing that favorable review is Agenda 2000’s recitation of the needs for further economic development. In particular, "macroeconomic instability continues to give cause for concern." Citing specifically the difficulty Turkey has experienced over the past decade with inflation, public spending deficits, and currency depreciation, the report calls for structural improvements, such as improved tax collection, the restructuring and privatization of public sector enterprises, reform of the social security system, and review of public expenditures. 1999 reports specify pension reform as one of the most important. Further, efforts are needed to improve social cohesion, modernize agriculture, and invest more in infrastructure and human capital.

The Organization of Economic Cooperation and Development’s ("OECD") latest evaluation of the Turkish economy not only validates these conclusions, acknowledging the size and growth of the Turkish economy, but also cites chronic deficits and high inflation, amid growing macroeconomic imbalances. That survey also recommended reforms similar to those in Agenda 2000, including creation of a more effective and equitable tax system, more spending on infrastructure and human capital, improving the social security funding and administration, and finally streamlining state-owned enterprises for efficiency and further privatization of government owned enterprises.

Additional evidence of Turkey’s economic performance was published in the most recent annual report by the International
Monetary Fund (or "IMF"). The IMF cites Turkey's economic accomplishments as a seven percent growth in gross national product (or "GNP") for the years 1995-97, a reduction in inflation to fifty percent in 1998, and substantial wage increases in both the public and the private sectors. Additionally, specific sectors of the Turkish economy experienced significant growth during this same time period: private manufacturing was up by 14.2%, industry by 10.4%, and trade services by 11.1%.

Inflation has presented a major economic problem, since at least the early 1970s, and has for some time tended to increase sharply and then stabilize at high plateaus following economic crises. Inflation increased from 79.8% in 1996 to 99.1% in 1997 due to a 117% increase in food prices. "Persistent public sector deficits, entrenched inflationary expectations, and an accommodating monetary policy are at the heart of the inflationary process" in Turkey.

Another key concern raised by the Union is the potential impact of opening the internal market gates to Turkey's vast agricultural and labor resources. Typical of the fears expressed about the influx is German Foreign Minister Joschka Fischer's recent prediction that the accession of large agricultural-producing countries could cause "the system [to] explode." The movement of workers from Turkey to the EU has also contributed to this concern. Since the 1960s, when large numbers of Turkish guest workers solved Germany's labor shortage, this friction has been exacerbated by high Turkish birth rates—in Tur-
Large numbers of farmers in the applicant countries and continued supportive subsidies for such expansive farming sectors pose serious questions of the feasibility of full integration. This is especially true for Turkey where, "although agriculture's share of GNP fell from 33% in 1968 to 14% in 1996, the sector still accounts for 42% of the active population (of workers)." "Turkey would qualify for 5.4 billion ECU's from the EU budget as regional aid." Similarly, German Chancellor Gerhard Schroeder has expressed concern over the "low-paid labor from the East, and... about how much Germany will have to pay..." toward new additions to the Union. Germany contributes about US$25 billion to the EU annual budget of US$100 billion, of which nearly half is spent on farm programs, "probably [the budget's] most politically sensitive component." And, recent strikes by radical farmers in Poland illustrate the turmoil when increased imports cause agricultural prices to fall below previous low levels. The concern of Turkish workers flooding the European labor market is heightened by the increase in the number of actively employed workers in Turkey. The assimilation of so many poor immigrants traveling into the West seeking jobs that do not exist, and lowering wages beyond sustainable

415. Id. This is particularly true when contrasted with the declining birth rate in Germany and other EU countries. Id.

416. The looming problem, of course, is the integration of so many East European farmers, for example, from Poland where farm workers represent 25% of the population, and still keep the budget intact. Michael Smith, Brussels in Triumphant Mood After Deal on Farm Aid Regime, FIN. TIMES, Mar. 12, 1999, at 2. The costs of integrating so many farmers into the agricultural market—so supported (by US$44 billion in 1998) and protected—are imposing. Whitney, supra note 358, at A10.

417. REGULAR REPORT ON TURKEY'S PROGRESS, supra note 250, at 1, § 2.3. This is because the vast majority of farmers produce only for themselves and not sell at market. Id.

418. Yesilada, supra note 273, at 180. For fuller description of expected economic costs of Turkey joining the EU, see REDMOND, supra note 7, at 88-99.

419. Roy Denman, EU's Journey to the Future Might Take Much Longer, Int'l HERALD TRIB., Nov. 11, 1999, at 8 (reviewing Member States' attitudes about enlargement suggests delay).


421. Poland Opens Talks with Bitter Farmers, N.Y. TIMES, Feb. 3, 1999, at A5. Farmers caused disruption by blocking some 100 roads "to press demands for Government subsidies and an end to cheap imports." Id.

422. REGULAR REPORT ON TURKEY'S PROGRESS, supra note 250, at 2. "Total employment rose from 19.7 million in 1993 to 21.9 million in 1997." Id.
levels, alarms some observers.\textsuperscript{423}

Exacerbating this fear is the expected increase in number of active workers in Turkey over the coming years due to Turkey's high population growth, the young age of the population, and an increase in the number of women in the labor market.\textsuperscript{424} Furthermore, workers in Turkey retire at an early age due to generous social security retirement benefits.\textsuperscript{425} Taken together, these factors imply that the number of active workers in Turkey will increase for the foreseeable future, and coping with that increase would pose a serious challenge for the EU.\textsuperscript{426}

These practical problems relating to agriculture illustrate the need for fundamental reform of the Common Agricultural Policy ("CAP") in the EU to accommodate the reality of markets and the modern abilities of many farmers to produce agricultural products.\textsuperscript{427} Volumes have been printed about the need for institutional reform in the EU, especially including the CAP.\textsuperscript{428} The CAP is described by some as one of "the world's most protectionist farm aid regimes."\textsuperscript{429} In the 1950s, the goal of the CAP was to support the French farmers while opening French markets to German industry.\textsuperscript{430} As envisioned by the EU, the CAP was to be a small subsidy to encourage trade among

\textsuperscript{423} The deaths of three Kurdish protestors in Berlin following the Ocalan capture deepens the "intense debate in Germany over the large number of foreigners" there and feeds the uneasiness. Roger Cohen, \textit{3 Kurds Shot Dead by Israeli Guards at Berlin Protest}, N.Y. TIMES, Feb. 18, 1999, at A8. Approximately two million Turks and one half million Kurds live in Germany in 1999. \textit{Id.}

\textsuperscript{424} \textit{Regular Report on Turkey's Progress}, \textit{supra} note 250, § 2.2, Economic Criteria at 1-2. Turkey has an average 1.6\% annual increase in its population. \textit{Id.} Thirty-three percent of the population is under 14 years of age. \textit{Id.} Additionally, women can be expected to increase in the labor market as they are more able to obtain education. \textit{Id.}

\textsuperscript{425} \textit{Id.} at 2. Just over half the workers in Turkey are covered by the social security system. \textit{Id.}

\textsuperscript{426} \textit{Id.} at 3.


\textsuperscript{428} See E.U. BULL, \textit{supra} note 130, at 28; \textit{Agenda 1999}, ECONOMIST, Dec. 19, 1998, at 16; for the Turkish context, see REDMOND, \textit{supra} note 7, at 34-36 (explaining uncertainties involved with Turkish entrance to Common Agriculture Policy ("CAP") and pressures to reform CAP).

\textsuperscript{429} Smith, \textit{supra} note 415, at 2. U.S. Trade Representative Charlene Barshefsky calls the CAP as an "immense and unfair" subsidy scheme. Dunne, \textit{supra} note 427, at A6.

\textsuperscript{430} Whitney, \textit{supra} note 358, at A10.
partners, but it has, since that time, ballooned into a subsidy that consumes nearly half of the EU budget.\textsuperscript{431} Without reform in CAP, the regional infrastructure funds, and in the cumbersome voting procedures, many EU leaders fear that any future enlargement would lead to disastrous consequences.\textsuperscript{432} The Commission insists that CAP reform is needed prior to the accession of the Czech Republic, Hungary, and Poland—applicant countries in which farm prices are far below those in Western Europe.\textsuperscript{433} Inclusion of those lower priced goods into the free trade zone would produce ‘‘unmanageable imbalances.’’\textsuperscript{434}

Reallocating the agricultural and the structural funds will pose politically sensitive and difficult choices because some eighty to ninety percent of the Community budget is allocated for these projects.\textsuperscript{435} Member States clashed early on over the sacrifices required to absorb the poorer, agricultural applicants in the East, with the Southern Member States, notably Spain and Greece, resisting cuts in their own subsidies to finance assistance for the new neighbor-members in the East.\textsuperscript{436} And two years later, the prospect of cuts to the CAP touched off protests in several EU Member States.\textsuperscript{437}

An additional concern for the EU is the government protection of Turkey’s agricultural sector.\textsuperscript{438} Agricultural prices in Turkey are not set by market forces, and this sector enjoys wide-

\textsuperscript{431} E.U. BULL., supra note 130, at 26.
\textsuperscript{432} Whitney, supra note 358, at A10.
\textsuperscript{433} Andrews, supra note 420, at B1.
\textsuperscript{434} Id.
\textsuperscript{435} Directorate General X cites these as the two major challenges to enlargement. Hartnell, supra note 8. See also Andrews, supra note 420, at B1. Schroeder “is pushing hard to scale back the subsidies and production quotas for milk, beef, and scores of other products that help farmers but keep consumer products artificially high.” Andrews, supra. But France’s President Jacques Chirac, whose country receives the most farm subsidies, and Spain, which receives more than 11 billion euros in regional and cohesion aid (contributes only 5 billion euros to overall EU budget) fight the cutbacks. Id. at B2.
\textsuperscript{436} EU Enlargement Plan Costs Attacked, FIN. TIMES, Sept. 16, 1997, at 2; See A Chilly Wait, supra note 302, at 23 (curbing excesses from existing farm policy and slimming regional and social subsidies is needed to make whole enlargement process financially manageable).
\textsuperscript{437} Belgium deployed thousands of extra police to prepare for massive demonstrations from farmers. Barry James, EU Aims Its Scythe at Farm Subsidies, INT’L HERALD TRIB., Feb. 22, 1999, at 1. Germany argues that enlargement cannot proceed without reform of budget issues. Id.
\textsuperscript{438} REGULAR REPORT ON TURKEY’S PROGRESS, supra note 250, at 1, § 2.3-Turkish Economy in the Perspective of Membership.
spread government intervention and price supports. Tariffs as high as 145% on some products and bans on the importation of live animals and plants illustrate why the EU is alarmed at Turkey’s agricultural policies.

The political and economic concerns noted above, in conjunction with the Greece-Cyprus conflict and the Islamic tensions, dominate the official European Commission concerns.

B. The Sotto Voce Concerns

In contrast to the more formal criteria described above, some of the more potent objections to Turkey’s further integration with Europe are less objective and less easily defined. These concerns focus on religious and cultural considerations, as well as national self-interest. Turkey’s addition to the EU, for example, would alter the existing political and demographic balance substantially, diluting the present power of certain governments and political groups. Likewise, spreading or sharing resources and markets with any new members will generate opposition from those protecting their constituencies. These concerns are aired less comfortably in public in today’s cooperative, community-minded Europe.

Perhaps the most difficult of these concerns to discuss openly is the European perception that Turkey has an alien culture and religious identity, and this fear stands as one of the major barriers to Turkish accession. Some in the EU insist that Turkey “does not share the common European culture” or, even worse, that Turkey’s Islamic heritage would “poison” the Christian European culture. Many observers have noted the bias in Europe against Muslims. In 1997, some Christian Democrats “notoriously declared that the EU was for Christian nations . . . .” Former Prime Minister Yilmaz openly complained that “religious discrimination” was the reason behind the exclusion of Turkey.

439. Id. at 2.
440. Id.
441. REDMOND, supra note 7, at 54; Yesilada, supra note 273.
442. LEWIS, supra note 46, at ix.
443. Yesilada, supra note 273, at 179.
444. Id.
445. EMERSON, supra note 4, at 15.
446. Kinzer, supra note 295, at 3.
As described more fully in the discussion of Islamic influences, the region around Turkey and the Balkans includes a fault line separating people not only by religion, but also by basic assumptions of government and by general distrust. Islam frightens many in Europe because some of its basic principles oppose primary tenets of the Western democratic model, for example, the equal treatment of women, or the separation of church, personal morality, and the state. Some Europeans fear that Turkey’s weak governments may yield to Islamic influences, producing a potentially radical fundamentalist regime—one not in harmony with EU democratic principles. The rise of Islamic fundamentalism and the political successes of Islamic-oriented parties in the mid-1990s feed these fears. European and Western powers can be justifiably uneasy about the threat of Islamic fundamentalism, especially since Islamic fundamentalism was on the rise in the region. The recent notoriety surrounding the defiant Islamic member of Parliament who appeared for swearing-in wearing the forbidden religious headscarf, and the government efforts to prosecute her, illustrate vividly the tension.

447. Emerson, supra note 4, at 15-21, 35. EU citizens record a low trust in the Turkish people. Id. at 21.

448. Id. at 35. Emerson explains
This is why the question of Turkish accession to the EU is so sensitive. From a west European point of view it is an extraordinary chance, and a positive one, that a large Islamic state should have made itself a lay state. It helps break down the risks of a generalized tension or confrontation with Islam. On the other hand it is observed that within Turkey there is a real political struggle over maintenance of the legacy of Atatürk. This is a case where the dynamics of either integration on the one hand, or exclusion or ideological divergence on the other, could be strong."

Id.

449. See Newhouse, supra note 10, at 259-68 (giving detailed discussion of Islamic politics in 1990s).

450. Aras, supra note 24, at 93.

451. Russia felt the sting of “Islamic fanaticism” with the fierce battle in Chechnya in 1995. Emerson, supra note 4, at 16. The tension persists. Id. In February 1999, the president of Chechnya ordered the installation of Islamic law and the adoption of an Islamic constitution. Id.; Russia: Islamic Law in Chechnya, N.Y. Times, Feb. 5, 1999, at A8 (“Chechens have traditionally practiced a moderate version of Islam, but a militant group has grown in influence recently.”).

452. Merve Kavac appeared for the oath-swearing wearing a headscarf, violating a ban on Islamic dress in state offices, and a subsequent government decree has taken away her citizenship, ostensibly because she obtained dual citizenship in the United States and Turkey without prior government approval. Rebel MP Loses Citizenship, Fin. Times, May 17, 1999, at 3.
The second primary concern may be simply Turkey's size. The massive landmass and population may just be too large—and especially with so many poor people, which implicates economic concerns discussed in the previous section. Turkey's area of 301,000 sq. miles, more than doubles Germany's size of 138,000 sq. miles.\(^453\) Turkey's 61,303,000 inhabitants rank it the second most populous country in Europe, only behind Germany's eighty-two million people. This enormous size dwarfs the lesser states, such as Austria with eight million people in 32,400 sq. miles.\(^454\) It may be politically unrealistic to ask the smaller European countries to admit such a large and populous country. When the economic aspects of these numbers are added to the equation, with Turkey's high unemployment and soaring inflation, the acceptance problems become equally apparent and acute.

The potential immigration problems have been publicly discussed, amid fears of new waves of immigrants as key issues in accession.\(^455\) As noted previously, the impact of religious and cultural prejudice may amplify the economic and political concerns immeasurably. The 1990s has witnessed "a rise in anti-immigration feeling . . . against Muslim workers from North Africa and Turkey . . . [and] for the most part, EU governments have not developed policies to combat this resurgence of prejudice."\(^456\) How heavily this prejudice weighs in the judgments of the decision-makers is difficult to discern.

Turkey's proximity to the Arab world, and the as yet less-than-stable emerging Turk republics, may also cause concern. Turkey can be said to live in a rough neighborhood.\(^457\) Turkey's large peninsula provides a generous buffer to the Muslim East.

\(^453\) It is about the size of Montana. Federal Republic of Germany, Questions and Answers 1 (1996).


\(^455\) Turkey would become the second largest country in the EU after Germany, says Ambassador Michael Lake in a speech to Turkish business group. Press Release 2, (December 4, 1997) <http://www.eureptr.org.tr/english/flash/flash5.html> (on file with the Fordham International Law Journal) (explicitly describing EU fears of new wave of Turkish migration as key issue).


\(^457\) This is in "one of the planet's most dangerous neighborhoods." Dale, supra note 46.
The EU may be reluctant to share borders with Armenia, Georgia, Iran, Iraq, and Syria.

The potential for these less tangible, sometimes emotional concerns, cloud the more objective concerns and further complicates any analysis.

C. Testing the Viability of the Concerns

Here lies the central purpose of this analysis: to penetrate the discourse of Turkey's integration with Europe and to evaluate fully the concerns for and against increased integration. As Prof. Joseph Weiler has observed, the laws of different countries can be "embedded in different social and political cultures," rendering their transmutation difficult. Further, the concerns and criteria should be separated from the intense atmosphere of prevailing ideology, and examined in a broad, long-term pragmatic perspective, with a careful view toward the future. Thus, evaluating different political constructs is not easily achieved and must be approached with restraint and respect. Neither cross-cultural comparisons nor integration will typically be neat "plug-in" processes. Common values and principles of government may well be shared between polities, but rarely will they be shaped as mirror images, more often reflecting different forms. The impetus of this analysis is the search for approximation more in substance and spirit, and less in form and appearance. This search will find much common ground, though it will substantially diverge in some crucial aspects.

Assessing the twin fundamentals that Turkey enjoys a democratic government and constitutes a European geographical entity illustrates the less formal, more penetrating approach. In both cases, persuasive arguments can be made that Turkey does or does not satisfy the requirements. Only by searching beyond the forms does one achieve a satisfying resolution. For example, a cursory evaluation of the "European" requirement produces a mixed result. To reach meaningful assessment, upon which to base resolution of an important question, the inquiry must delve deeper into the substance and spirit. Turkey's toehold in Europe at Istanbul gives it an indisputable claim to being a part of Europe. At the same time, this European area represents only a minute percentage of its mammoth landmass, which lies overwhelmingly in Asia Minor. Accordingly, judging this criteria
fully requires deeper inquiry into Turkey's connection to Europe or participation in European endeavors. One author argues that since, in terms of geography, Turkey is already a member of most of the European intergovernmental organizations—from the Council of Europe to associate member status in the WEU—the issue should be settled. 458 This may be the prudent view, especially considering Turkey's quarter century Associate status with the Community, with such visible manifestations as the Agenda 2000 and the Luxembourg Presidency Conclusions explicitly contemplating future EU accession for Turkey. 459 Weighing Turkey's long history of involvement with Europe, its physical connection, and the official positions taken by the EU, the geography considerations appears realistically to balance in favor of Turkey's inclusion.

Beyond this rational assessment, issues of principle suggest the same conclusion: when the analysis includes Turkey's functional and convenient role for European defense over the past fifty years, it would be unseemly to claim now that it is not "European" in sufficient measure and substance to qualify as a member of the general European community. It is surely too late now to assert that geography itself stands in the way of accession. Finally, if geography were to stand truly as a concern, the ongoing accession negotiations with Cyprus would need to be re-evaluated because of its close proximity to Turkey and sizable distance from Greece.

In addition, the social and cultural interchange between Turkey and Western Europe over the years render "bright line" divisions unhelpful. Full analysis demonstrates that, after centuries of varied interaction, no firm wall separates Turkey from Europe. Hence, upon full view, considering the substance and the spirit of the European requirement, this criteria should be deemed sufficiently satisfied.

The primary "European" objection that might remain is the unofficial broad concern about sharing the "European" culture. This non-objective, cultural concern, while understandable in

458. Yesilada, supra note 273, at 179. Turkey joined the OECD in 1948, the Council of Europe in 1949, NATO in 1952, EU associate member status in 1963, and associate member of WEU in 1992. Id.

459. E.U. Bull., supra note 130, at 56; see E.U. Bull., supra note 3, at pt. 31 (including European Commission statements long classifying Turkey as "European country" and explicitly assuring its place in Union).
the context of human relations, should not be accepted as a viable reason to exclude any applicant to the Community. Cultural diversity and pluralism can strengthen a community.

Evaluation of the second fundamental requirement, that of exhibiting a basic democratic government, also yields a mixed result. Turkey has for years enjoyed such a basic democracy—though perhaps at times a "fragile"\textsuperscript{460} one with substantial shortfalls, as more fully developed in the previous discussion of human rights and the special role of the military. Turkey's democratic form of government has been in place far longer than most of the Central and Eastern European countries now negotiating for accession. Yet, certain deficiencies in Turkey's democracy unquestionably reveal both structural and policy flaws that cry out for reform. As the only functioning democratic regime in the midst of the Middle East and Central Asia, its significance as a model of integrating Islam and democracy should not be ignored. Agenda 2000 observes that "Turkey has a government and parliament resulting from multi-party, democratic elections and an administration capable of framing and applying legislation compatible with the \textit{acquis} . . . ."\textsuperscript{461} An operative parliamentary system, with a functioning judiciary and civil service, appears to meet the requirement, yet the military supervisory authority qualifies its democratic quality, as shown by the four interventions in the modern era to stabilize the government.\textsuperscript{462} Turkey's "civilian governments have made significant moves toward democracy," and constitutional reforms have gradually been enacted to strengthen the democratic institutions.\textsuperscript{463} For example, recent reforms include granting trade unions the right to engage in political activity, granting civil servants the right to form unions, lowering the voting age to eighteen, permitting professional organizations, university staff, and students to engage in politics.\textsuperscript{464}

The human rights problem is, as noted above, grievous, but

\textsuperscript{460} \textit{Turkey: Dully-go-round}, ECONOMIST, Jan. 9, 1999, at 47.
\textsuperscript{461} E.U. BULL., supra note 130, at 56.
\textsuperscript{462} While the military has not intervened for the purpose of seizing the government, but rather has intervened to preserve the rule of law amid chaotic, destabilizing political turmoil, such authority raises fundamental questions about the democratic functioning in Turkey.
\textsuperscript{463} Yesilada, supra note 273, at 179-80.
\textsuperscript{464} Id. at 182.
not hopeless as some improvement has occurred, and pressure for reform is growing within Turkey.\textsuperscript{465} In response, the government has increased the human rights training of the military and mandates such training in primary and secondary schools.\textsuperscript{466} The U.N. Special Rapporteur on Torture, who recently visited Turkey, reported that, while abusive practices continue in some parts of the country, the situation "had improved significantly" and did not appear to be widespread and systematic.\textsuperscript{467} In fact, Turkey’s acceptance of the Special Rapporteur’s inquiry suggests some readiness to cooperate with others to improve the human rights situation.

Turkish leaders insist that their human rights record is unfairly represented by those who wish to discredit their country.\textsuperscript{468} The state minister in charge of human rights cites the creation of the Parliamentary Human Rights Commission and the Human Rights Coordinating High Committee that has issued over 100 decisions implementing many regulations to enforce human rights principles.\textsuperscript{469} Additionally, the Turkish Parliament has enacted extraordinary legislation to conform police practices with the European Convention for the Protection of Human Rights and Fundamental Freedoms.\textsuperscript{470}

The Human Rights Watch report also suggests that state officials and judges have begun to raise questions about such concerns.\textsuperscript{471} In fact, reforms in the human rights area rose to the forefront of Turkish political debate in 1998, when then Prime Minister Mesut Yilmaz designated that year as the "year of

\textsuperscript{465} Human Rights Watch, supra note 370, at 1-3 (describing reforms); see Bolton, supra note 369, at 2-3 (stating that there is reduction of human rights violations and growing public pressure for continued reforms).

\textsuperscript{466} Human Rights Watch, supra note 370, at 1.

\textsuperscript{467} UN Press Release HR/CN/904, at 1, 3.


\textsuperscript{469} See United Nations Commission on Human Rights 3, (Mar. 18, 1998), <http://www.unchr.org> (on file with the Fordham International Law Journal) (stating draft legislation that has been submitted to Parliament in several areas and human rights education is being promoted in schools and through media).

\textsuperscript{470} Magnarella, supra note 139, at 450. This includes a Miranda type rule, counsel for indigents, and prohibitions against torture or any form of ill treatment during interrogation. Id. at 451.

\textsuperscript{471} Human Rights Watch, supra note 370, at 1.
law." Other leaders have urged reform as well, most notably in 1999 the president of the Constitutional Court forcefully urged relaxation of rigid anti-terrorist restrictions. Reports suggest that public and political opinion, due in part to more daring debates on private television, has become more sensitive, and legislative changes have contributed too, as new laws have shortened the time allowed for pre-trial detention and have speeded access to a lawyer.

Principles of fairness recommend that past failures of democratic principles should not be held too strongly against an emerging country for too long, as exemplified by the East German experience. Like the former German Democratic Republic, other applicant countries presently ahead of Turkey in accession negotiations, such as Albania, Romania, and Slovakia, endured totalitarian regimes in the not-so-distant past. Further, modern historical experience, from the rise of fascism, to the difficulty of the decolonization period, through the horror of the Holocaust, to the massive-scaled Stalinism and the Cold War totalitarianism recommend a measure of restraint in judging other political regimes too hastily. Ideology must be tempered with both reason and realism.

David Kennedy has argued that the fundamental requirement of "democracy" is disserved by a European inclusion process that is fraught with arbitrariness, secrecy, and unidirectional decision making. He argues that the democratic model is necessary for application, but does not exist in the vaunted internal market, and the EU's rhetoric of democracy and human rights, so essential in the accession criteria, is accompanied by a waning of these values within the Community, as EU legislative competence has migrated from the parliaments to the executives, and

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472. See id. (stating that "the ongoing scandal about the state security forces using ultra-nationalists and members of organized crime—so called 'illegal gangs'—to commit human rights abuses.").

473. Boulton, supra note 369, at 2.


475. This comparison is more fully explored by former President Turgut Özal in his book, see Lewis, supra note 46, at 299 et seq. On a smaller scale is the recent shock of the European Commission's en masse resignation. Id. The EU's accession criteria for efficiently running government may be diluted considering the resignation of all 20 Commissioners on March 15, 1999, and the European Parliament's calls for immediate replacement, following a damning report of mismanagement and cronyism. Id.

476. Kennedy, supra note 1.
the democratic participation demanded of the applicants is lessened in the EU.\footnote{Id. at 394-395, 384-86. Applicants may achieve market democracy just as the EU departs for "the post-industrial society." Id. at 396.} Europe would be better served employing a broader basic view of "functioning democracy."

Full assessment of the political criteria for Turkey is difficult, considering its unique history and all of the relevant factors. Ultimately, as with the other considerations, careful analysis results in a mixed review. A functioning parliament, judiciary, and executive, operating under the rule of law, have been in place for decades. Yet, the special role of the military as guardian of the constitution contravenes Western patterns of democratic structure. Historically, military interventions have brought the country needed stability. This form is different, but—considering the diverse forces opposing stability in this region—the purposes, the substance, and spirit of the military role may be viewed as beneficial, not despotic or otherwise anti-democratic. Indeed, most people in Turkey already view the military role as good.

Yet, this authority must be deemed excessive and threatening to democratic rule, and Turkish leaders would do well to consider moderating this military power. The ongoing military influence on the National Security Council is difficult to measure, but it must be assessed as substantial. This influence appears to jeopardize the military-civilian balance, weighing too heavily toward excessive military authority. The military role and the sometimes repressive function of the NSC further implicate important issues of civil rights and the protection of minority rights. "Security" prosecutions in these special tribunals are often conducted with fewer due process protections than prescribed by most Western norms. Unquestionably, the use of torture and other harsh police tactics, as described above, unacceptably violate democratic standards. Considering the full picture of democratic structures, processes, and practices in Turkey, the conclusion emerges that the democratic basics clearly appear to be present in Turkey, while some basic reforms are essential to bring the overall democratic environment into compatibility with reasonable requirements of a balanced, effective democracy.

Similarly, evaluating the economic concerns produces con-
siderable positive data, though mixed with some negative factors as well. "The Turkish economy is highly developed, and its market is strategic, linking the EU and emerging markets of the Middle East and central Asia." The Turkish economy enjoys one of the highest growth rates in the world. The customs union is generally a success, and the Turkish business community integrates impressively with the European market. Yet, as the Commission reports, economic performance is not at the level of the EU Member States. As detailed previously, chronic deficits and high inflation amid growing macroeconomic imbalances demand remedial action. Thus, Turkey's size, strength, and robust economy are balanced by the considerable need for reform and further economic development in order to prepare it for full accession.

One author has stated that "[u]nlike most emerging markets Turkey successfully withstood the negative effects of the international financial crisis and the flight of capital," yet some economic slowdown is inevitable as the country faces recession. The collapse of the economy in Russia, a major trading partner, marked the end of the Turkish economy's "near-mythical resilience." Even with some slow-down considered, the scale and strategic location of this market requires that it not be excluded from expanding economic planning.

Turkey, as a market, is virtually untapped by the West. The very size of the Turkish economy must be considered when evaluating Turkey's application for membership in the EU.

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478. Yesilada, supra note 273, at 180
479. Pollack, supra note 29, at A26; Metin Munir, Days of Resilience May Be Numbered, FIN. TIMES, June 15, 1999, at 14 (stating that it is one of highest in OECD in recent years—and official numbers ignore strength added by strong black market economy, suggesting much higher per capita GDP than reported). "A large unrecorded economy suggests wealth and financial flexibility in excess of what the various statistics indicate." Munir, supra.
480. EMERSON, supra note 4, at 72.
481. Tax reforms introduced in 1998 resulted in an 81% increase in expenditures, but only a 44% increase in revenue, alluding to the ineffectiveness of the reforms. Munir, supra note 479, at 14.
482. Id.
483. Id.
485. Turkey's gross national product was US$382.5 billion in 1996 and experienced an average annual growth rate of 5.5% since the mid-1980s. Additionally, Tur-
Additionally, Turkish exports have increased dramatically in the past few years. These factors suggest that the current weaknesses in the Turkish economy, while substantial, are surmountable.

Turkey has taken affirmative steps to combat its inflation problem, including the adoption of an anti-inflation program in cooperation with the IMF. The goal is to reduce the inflation rate to less than ten percent by the end of the year 2000. While this may be unrealistic, these measures have reduced inflation in the last two years. Additionally, Turkey, in accordance with IMF recommendations, has passed much needed legislation aimed at regulating the banking sector.

While it is too early to make a final judgment on the inflation stabilization program, early signals from the economy are encouraging. In the first half of 1998, the rate of privatization of industry, tax revenue, and efforts at tax collection all increased substantially. Although these trends slowed somewhat in the second half of 1998, data suggests further increases in economic growth and decreases in inflation for the future.

The fears about a flood of agricultural goods and workers...
into the Community are legitimate. These market factors must be considered and accommodated. As Turkey’s economy develops, the imbalances should lessen to some extent. For example, the shift in emphasis from agriculture to goods and services should alleviate some of the pressure. Agriculture’s share of Gross National Product has fallen from thirty-three percent in 1968 to fourteen percent in 1996, while industry increased its share to 27.7% from 17.1%, and services increased its share to 58.3% from 49.8%. These trends are expected to continue into the foreseeable future. Thus, continued planning and the passage of time should work in favor of gradual integration.

Similarly, the fears regarding immigration of a large labor force are well-founded, but they do not erect an insurmountable barrier to further integration with Europe, in varying stages at later dates. This immigration of workers from all of the accession candidates will likely require special transition periods to allow for manageable integration. Turkey has initiated steps to ameliorate integration problems and to align itself with EU policy, such as increasing the number of years of mandatory basic education, opening the labor market to women, and reducing agriculture’s share of the GNP.

As mentioned above, agriculture remains the principal economic concern about Turkey in the EU. The share of workers employed by agriculture remains disproportionate to agriculture’s share of Turkey’s GNP, evidencing low productivity in the agricultural sector. “The low productivity of farming is mainly attributable to the great number of small holdings using inefficient production techniques,” draining the economy as a whole. These farms would not likely withstand competition from the EU countries. Finally, the Turkish economy would have a difficult time absorbing the displaced farm workers result-

495. REGULAR REPORT ON TURKEY’S PROGRESS, supra note 250, at 1, § 2.2.
496. Id.
497. INTERNATIONAL MONETARY FUND, supra note 395, at 15. As mentioned previously, most farming is for self-consumption, so their true impact on the labor market as a whole is negligible. Id.
498. Id. at 17.
499. REGULAR REPORT ON TURKEY’S PROGRESS, supra note 250, at 4, § 3.2.
500. Id.
501. Id.
502. Id. at 1.
503. Id.
ing from modernizing this sector of the economy.\footnote{504} Also of concern is the interventionist posture of Turkey's agriculture policy, which relies on "massive domestic support in the form of intervention pricing, subsidized inputs, investment credit, special payments and production premiums."\footnote{505} Attempts to reduce agricultural subsidies have met with little success.\footnote{506}

A balanced evaluation of this sector must also note that some of these challenges posed by outdated agriculture policies are shared by many EU countries.\footnote{507} While Turkey's own policies are heavily interventionist, so are those of other EU countries.\footnote{508} Some reform of the CAP was achieved recently, though it was less comprehensive and rigorous than some had hoped.\footnote{509} The reform of the CAP likely will begin seriously before the next wave of accessions and will be further developed by the time Turkey is ready, so the agricultural concerns require further consideration.\footnote{510} The European Commission has already proposed a program similar to the approach used for the central European countries to allow Turkey to bring its agricultural policy into line with the CAP.\footnote{511} Significantly, the EU is Turkey's main partner for agricultural products.\footnote{512} Turkey's exports to EU countries is over 1.5 billion ECUs annually.\footnote{513} Turkey also imports over 500 million ECUs annually of EU agricultural products.\footnote{514} This massive trade and Turkey's strong functioning market economy suggest further cooperation.

Evaluating the \textit{sotto voce} concerns can be more difficult because they are less easily measured. Yet as a matter of principle, some of them may be readily dismissed. For example, few would

\footnotesize{
\begin{itemize}
\item \footnote{504}{Id. at 5.}
\item \footnote{505}{Id.}
\item \footnote{506}{Id.}
\item \footnote{507}{E.U. BULL., supra note 130, at 27-29.}
\item \footnote{508}{Id.}
\item \footnote{509}{Smith, supra note 416, at 2. The reforms lowered guaranteed prices of cereals by 20\%, of milk by 15\%, and beef by 20\%, all over a period of years, and included a spending curb to limit the expansion every year of the CAP budget. Id. The Gang of Four—Denmark, Italy, Sweden, and the United Kingdom—criticized the reforms failure to reduce direct subsidy payments to farmers. Id.}
\item \footnote{510}{E.U. BULL., supra note 130, at 28.}
\item \footnote{511}{REGULAR REPORT ON TURKEY'S PROGRESS, supra note 250, at 5, § 3.2. This program commenced in December 1998. Id.}
\item \footnote{512}{Id.}
\item \footnote{513}{Id.}
\item \footnote{514}{Id.}
\end{itemize}
}
be so bold as to suggest that religion could possibly provide a legitimate basis for any applicant's rejection. No EU legal precept of any type refers to Christianity or any other religion as a condition for inclusion, and it is significant that Turkey is helping its neighbors in central Asia establish secular states. This aspect of the relationship between Turkey and Europe merits emphasis as militant Islamic forces continue to take more forceful roles in this region. In August 1999, another new Russian Prime Minister unveiled plans to bring under control renewed Islamic militants fighting for independence in the Caucasus.

The lesson is plain that Turkey's leadership as a secular Muslim state has immeasurable value, and rejection or disdain from the West likely will offer impetus to those in Turkey who would promote a greater role for Islam in the governments of the region.

The expressed concern that Islam may overcome Turkey's secular government is not realistic at this time. While EU leaders reasonably fear some instability and further change in this region, Turkey has offered a viable example of productive coexistence of Islam and the modern secular state. Secularism is still "the foundation stone of Turkish constitutional theory and political life." The modern Turkish government has long resisted the scope of Islamic influence in the government and state. Though Turkey has become more "overtly" religious over the past two decades, the most recent election weakened the Islamic party's strength. Further, the government has introduced added measures to restrict Islamic political power. In 1999, for example, "Turkish Prime Minister Bulent Ecevit announced a nationwide crackdown on Islamic activity, saying he was instructing the police and judiciary to take legal action against any threats to the secular order." Past crackdowns in Turkey have led to prosecution of politicians and journalists

515. See Yesilada, supra note 273, at 179 (noting that "several European member states have significant Muslim minorities.").

516. The latest crisis has militants crossing the Chechen border into the neighboring state of Dagestan, with the director of the Center for Strategic Studies in Moscow observing that the problem was not a military one, but rather "a political problem, the same one every Muslim state faces with its fundamentalists." Celestine Bohlen, New Russian Premier Has Plan To Quell Rebellion, N.Y. TIMES, Aug. 11, 1999, at A3.


518. Lesser, supra note 2, at 101.
"deemed to have encouraged religious militancy." In 1998, an administrative court raised the age requirement from twelve to fifteen before children could attend religious schools. The Constitutional Court previously had banned the main Islam-based Welfare Party and prohibited its leader, a former Prime Minister, from political leadership for five years. As noted previously, the military stepped in to protect the government from excessive Islamic power in 1997. Thus, Turkey stands as an example—though imperfect to be sure—of the advantages of democracy over theocracy in a changing region.

The argument that Islam or Turkish influences might poison or corrupt European culture reflects multiple forms of vanity, at least, and perhaps racism or xenophobia. Beyond dismissing these inappropriate influences, full analysis must not ignore the interchange and cultural sharing over the years. First, many rich contributions have been imported to Europe through Turkey. Second, the westernization begun by Atatürk, escalating through today's global commerce and communication, has brought Turkey closer to Europe in many cultural ways. Note that Europe no longer shares such a homogeneous culture, and, as has been shown in the United States, diversity can strengthen a culture. This backward-looking bias should yield to the diversifying enrichment of globalization coming in the new century.

Objections to Turkey's further inclusion with Europe that are based on its massive size also seem fundamentally illogical. Out of the context of an objective criteria relating to economic integration, the size alone of a country or its population should be inadequate to justify exclusion. It is understandable that national self-interest would disfavor the potential dilution of polit-

521. Id.
522. "The military, which opposes any increase in the role of religion in public life, orchestrated a campaign that led to the collapse of the last Islamic-led government in 1997." Stephen Kinzer, Turkey's New Leader Vows April Elections, But Delay Is Possible, N.Y. Times, Jan. 18, 1999, at A5. "Ever since they [the military leaders] brought about the fall of Turkey's first Islamist-led government, they have engaged in an unremitting campaign against the Islamists." Turkey. Dully-go-Round, supra note 460, at 47.
523. See Lewis, supra note 46.
524. Id. Turkey's historical culture and originality adds a richly colored strand in the Community tapestry. Id.
ical strength or financial return of other Member States upon Turkey's accession to the community. Such national self-interest may be temporarily protected by refusing entry to new members, but the overall effort to broaden markets and promote harmonization produces greater long term benefits, as the success of the EU demonstrates, and can only be advanced when nations share both resources and power. Finally, if eleven new applicant countries can be accommodated in the Community, it becomes more difficult to justify excluding one larger country based on size alone.

Likewise, objections based on Turkey's geopolitical neighborhood should have little weight. Turkey's buffer for Europe against rough neighbors Armenia, Georgia, Iraq, Iran, and Syria, may be a practical reason to hold Turkey at arms length, but it seems a highly inappropriate and unfair motivation, and in some ways a usurpation of Turkey.

Reflecting the overall tensions of the region, the Greece-Cyprus conflict mixes cultural, religious, military, and political issues, presenting fundamentally intractable problem, as in the Middle East or Ireland. As is discussed in the following Resolution section, the intensity of the conflict and its complexity leave few avenues for successful negotiation out of the present impasse, and new approaches offer the only real chance of improvement. Evaluating the concerns about Turkey's accession that arise from this conflict produces the conclusion that Turkey and Greece, as well as their surrogate governments on Cyprus, must both share the responsibility for this tragic stand-off.

Final synthesis of these assessments reflects foremost the mixed conclusions described above. Many of the objective accession criteria are satisfied, though a few essential requirement must be judged absent. The functioning democracy and functioning market economy are balanced with deficiencies that must be remedied to promote further harmonization. On the other hand, the cultural and religious objections should be recognized as inappropriate bases to hinder Turkey's progressive cooperation with Europe.

Whether Turkey satisfies the EU membership requirements depends on whom one asks and when . . . Often at times of serious security concerns, when Turkey can play a major role in protecting Western interests, the answer is an uncondi-
tional yes. However, when security interests are absent, the Europeans tend to view the Turks as part of the Middle East. 525

At this juncture of political and economic maturity in Europe, the discussion should transcend the old forms and look for new approaches to resolve the issues in a manner promoting further cooperation.

V. RESOLUTION

The keys to a productive resolution of the tensions between Turkey and Europe are the same as the keys to European renewal in general: the planned advancement toward interdependence and cooperation 526 This means exploring new paradigms to match new challenges, translating common core values among diverse cultures, and forsaking "outmoded ideological commitments," as David Kennedy suggests. 527 The vision must focus above specific social and political cultures. Theoretically and pragmatically, a functionalist approach to continued advancement toward prosperity and peace should be the focus. 528

The old "classic" 529 model for European integration and accession decision-making is the product of past nationalistic experiences and, in the unusual circumstances of Turkey's application, has produced a tortured result. As Eastern enlargement requires the EU and all applicant countries to adapt, 530 so too should the approach toward European cooperation adapt. The

525. Yesilada, supra note 273, at 179.
526. This includes "the classical modernist displacement of political struggle by management." Kennedy, supra note 1, at 377. Emerson also recommends "that management efficiency principles developed in the private sector become also a useful paradigm . . . because the costs of malfunctioning institutions may be sufficient to offset the theoretical gains identified in the political and economic theory of government." Emerson, supra note 4, at 185.
527. Kennedy, supra note 1, at 377. "The European Union, Russia, and Turkey . . . seem still today to be acting out a parody of a Europe divided between Western Christendom, the Orthodox Slavs and Islam." Emerson, supra note 4, at 18.
528. "Academics termed those early, successful processes of European integration as pragmatic and neo-functionalist." Jo Shaw, EUROPEAN UNION LAW §1.4 (1996). Could this approach serve the equally difficult accession process to the east and southeast?
530. As is well discussed in current EU literature, the old Community of 9 or 15 is not structurally prepared for 20 members. See, e.g., E.U. Bull, supra note 130, at 24-28, 135-36.
accession process that worked adequately for Austria, Finland, and Sweden works less effectively for more diverse applicants, such as Albania, Poland, or Turkey. A broader and more inclusive European strategy, with the EU at the core and as the long range target, should be adopted to promote its common goals. Such a flexible and variable scheme could serve all nations in the region as they increase cooperation, stressing their strengths and resources while encouraging progress towards harmonization. With the EU as the core, a multi-leveled pan-European cooperative should be established to formalize an overarching community, working together and sharing ultimate aspirations.\footnote{531} Black-white and out-in dividing lines should be reserved for the rarest cases. The continent needs common efforts more than screening and exclusion.

As a member of this broader community, Turkey and other developing countries would not be alienated and could continue their constructive efforts for the future prosperity of the region. Fostering a cooperative spirit with full dialogue, this broader plan with flexible levels of inclusion, and allowing some measure of democratic participation would better conduce stability in the region. Thus, a new structure comprising a pan-European-cooperative could unite a new broader community of aspirants to the common goals of peace and prosperity.

Fortunately, the necessarily gradual pace of such broad integration affords sufficient time for various phases of cooperation, as in concentric circles, in which participants could accommodate the legitimate changes required for advancing harmonization. The broader strategy should place each aspirant solidly on track to full participation, adding the surefootedness that all of the parties, both in and out of the EU, need for planning. The broader plan would also enable all parties to present, in the important fora of international and domestic public relations, their shared status in the Community.

Such gradual steps toward workable interdependence and cooperation would also promote the essential ethos of community. All members of any group are rarely created equal, and everyone must accommodate the reality that different levels of participation are, as a practical matter, inevitable. Preparedness for integration differs among those seeking to join Europe, and

\footnote{531. Perhaps it can be in the form of Emerson's Civil Society.}
economic, political, and social conditions must be steadily improved and stabilized in each of the applicant countries before full accession to the EU is practical. The issue here focuses on how best to foster the progressive, gradual achievement in each individual country to produce the ultimate goal of a cooperative community.

Because of diverse circumstances, this ethos has been absent in Europe's recent dealings with Turkey over accession. At Luxembourg, a less acerbic and exclusionary position toward Turkey's role in Europe would have been more constructive. The rebuff at Luxembourg displayed an insensitivity and destructiveness toward Turkey. Reports of Turkish resistance to European condescension are well-known. Experience has shown that successful advancement toward the harmonizing criteria will be hastened, especially in such vital areas as stabilizing democratic institutions and improving human rights practices, by Western encouragement and assistance in the spirit of colleagues, rather than by moralizing from a distance.

Renewed cooperation implies change in both the Turkish and the European perspectives, again transcending specific social and political cultures. Without concomitant movement toward cooperative attitudes, little progress will be achieved in softening the edgy relationship between Turkey and Europe. Sensitivity over special issues is nothing new to European history, and "there is a political climate of national resentment over [Turkey's] stalled EU application." Commentators relate the obvious effect of this resentment: rejection by Europe will "lead to a strengthening of nationalistic forces." Graham Fuller and Ian Lesser conclude that the potentially and most negative turn in Turkish and Western relations may be "a frustrated Turkey drifting in the direction of more ethnically chauvinistic, adventuristic Turkish nationalism, transforming Turkey into a far less moderate state in the region." And the primary reason they suggest

532. See, e.g., E.U. BULL, supra note 130, at 4, and subsequent European Commission reports assessing each applicant.
533. Consider European history in the first half of the 20th century, and the European disdain for the human rights or democratic records of other countries provokes pause.
534. EMERSON, supra note 4, at 72.
535. TURKEY'S NEW GEOPOLITICS: FROM THE BALKANS TO WESTERN CHINA 170 (Graham Fuller & Ian Lesser eds. 1993).
536. Id.
for such a negative re-orientation is Turkey's spurning by Christian Europe.\textsuperscript{537} Europe's unfriendliness forces Turkey to abandon its traditional foreign policy objective—EU membership—and to focus elsewhere for its security and prosperity.\textsuperscript{538} For example, Turkish politicians have suggested that the country may back away from the customs union with the EU.\textsuperscript{539} Thus, resolution of this unsatisfactory relationship requires a plan for cooperation, including Turkey participating more in Europe gradually and progressively as Turkey further achieves Community standards.

This analysis has shown that much needs to be accomplished in Turkey to advance its harmonization. Specifically, the record amply illustrates that improvement in Turkey is needed in the areas of human rights and strengthening democratic principles, in particular with regard to police tactics and the independence of the political institutions and the judiciary, including those involving alleged sedition or threats to national security. The National Security Court should be abolished or at least modified to provide enhanced protection for civil liberties. But, Europe should judge carefully Turkey's progress toward the accession criteria thoroughly and on multiple levels, as suggested previously, and to use the comparativist's lens, realizing that some things are just different and will not relate or compare well to the political and social experience of others, as Weiler notes in this Article's introduction.\textsuperscript{540} A French proverb warns of the complexity of comparisons: \textit{Comparaison n'est pas raison}—translated literally: "A comparison is not an argument; it proves nothing."\textsuperscript{541} But the proverb also connotes that substantial differences in quality and nature can render comparisons inapposite and fruitless, as suggested by the idiom "apples and oranges."

\begin{itemize}
  \item \textsuperscript{537} Fuller, \textit{supra} note 34, at 170. Also on the list of forces: deteriorating economics in Turkey, increased conflict with Greece, causing estrangement with Europe, deterioration with German relations (due to the Turkish workers there,) and gains by Islamic fundamentalists who favor an anti-Western policy shift. \textit{Id.} at 167. Reinforcing this fear is the coincidence that the visa-free zones for the EU coincide with only Christian countries; the rest of the Balkans, North Africa, the former Soviet Union, and Turkey are excluded. \textit{Emerson}, \textit{supra} note 4, at 17.
  \item \textsuperscript{538} \textit{The Turkish-Israeli Affair}, \textit{supra} note 92, at 57.
  \item \textsuperscript{539} Boulton, \textit{supra} note 185, at 3 (holding that it so far benefits EU more than Turkey if Greece does not lift its veto of promised US$400 million financial aid that is part of customs union agreement).
  \item \textsuperscript{540} \textit{See supra} note 2 and accompanying text.
  \item \textsuperscript{541} \textit{Dictionnaire} (Paul Robert ed., Societe du Nouveau Lettre, 1973).
\end{itemize}
This applies with special force as Europe looks eastward to Turkey. For example, military intervention may connote right-wing totalitarianism to most Westerners, but in Turkey, the military intervention has been seen as a force for liberalism and democracy, preserving liberty and order. This different form of checks and balances should be examined for its substance. In viewing the broad spectrum of official and unofficial criteria for fuller participation in the European cooperative project and ultimately in the EU, this approach will inform the analysis.

In reviewing the criteria, demographic and economic data show that many pragmatic issues of integration must be squarely faced in Turkey. Integrating potentially high numbers of workers unavoidably implicates economics and related issues in the present EU. Social assistance and public health issues cannot be ignored. And, as with Hungary and Poland for example, Turkey's agricultural productivity must be considered in planning the future of the CAP conundrum in the present EU. Unquestionably, the integration of the poorer, more agrarian applicants will require existing Member States' farmers to receive less of a subsidy from the EU. Any reduction of government benefits in any polity raises political issues. Practically, however, these issues must be faced more immediately for Hungary, Poland, and all the other applicants who are closer to core participation than Turkey. Thus, the CAP reform and the many other accommodations for new members should be in place before Turkey advances to this level. Hence, this should pose no special hindrance to increased cooperation and harmonization between Europe and Turkey. Gradualism and careful planning are the keys.

Timing should have only constructive effect in the case of Turkey's integration with Europe, and meaningful, measurable progress may be readily achieved in the near future if the ingredients of cooperation can be produced. Current historical events may now present the optimal time for building such cooperation, fostering economic integration, and improving democratic and human rights structures. Most notably, the 1999 capture of PKK terrorist Ocalan may present a unique opportunity to build a stable government coalition, defuse the Kurdish crisis,

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542. Slicing the EU's Shrinking Cake, ECONOMIST, Mar. 21, 1998, at 57.
and promote various other needed reforms. Following Ocalan's capture, one Kurdish member of Parliament argued for a more inclusive treatment of that large minority, stating that "[t]his is the chance for Turkey to make the transition to full democracy." Some see the event as a possible stimulus "to break the stalemate on human rights [and] ... to push through reforms that the [criminal justice] system has been resisting." Subsequently from prison, Ocalan called for a cease-fire, and the PKK council agreed to "end the armed struggle and withdraw their forces outside the borders of Turkey, for the sake of peace." With three international summits scheduled in Turkey before the end of 1999, the opportunity to demonstrate to world leaders its reasonableness and moderation in its Kurdish policy could earn Turkey respect.

Another event has produced what some term a "golden opportunity" for change: the president of Turkey's Constitutional Court, the country's highest ranking judge, shocked observers with recent comments sharply condemning restrictions on freedom of speech and urging the lifting of Kurdish language restrictions. He further warned the public prosecutor not to attempt to close down political parties—such as the pro-Kurdish Hadep party—without any legal basis. These remarks produced "an almost euphoric response from the media, ... the victims of the restrictions, and from liberal sections of public

543. One leading publication suggests that the capture may be a "turning point" and recommends that both Turkey and the guerrillas seize the opportunity to reassess their positions. The Tragedy of the Kurds, supra note 381, at 16. Turkey should realize that some form of autonomy and fairness must be given the Kurds, and the Kurds must realize that there is little political room in the Middle East right now for an independent state of Kurdistan. Id.


545. Id. But some doubt that the rise of the right-wing Nationalist Action party bodes well for judicial reform during the next Parliamentary term. Boulton, supra note 369, at 2.


547. Id.

548. Boulton, supra note 369, at 2.


opinion."\textsuperscript{551} Subsequently, an appeals court overturned the State Security Court conviction of Murat Bozlak, chairman of Hadep, and released him from jail.\textsuperscript{552}

Ocalan's dramatic capture also produced a political gain for stability in Turkey. In addition to hindering, at least temporarily, the terrorist operation against Turkey, the celebrated capture also assured Prime Minister Ecevit of a solid victory in the April 1999 national elections, which many hoped would enable him to form a government with a more stable political coalition.\textsuperscript{553} Some also hoped that the poorer showing of some of the old-guard politicians may lead to a reshaping of the political parties in Turkey, dislodging the routine cliques of veteran politicians and thereby increasing democracy within the parties.\textsuperscript{554} Financial markets soared after the election, "see[ing] such a coalition as Turkey's best chance for stable government and continued economic reforms . . . ."\textsuperscript{555} Early indications suggested that progress was possible, as one leader from the second-place Nationalist Action party pronounced after the election that his party favored reforms, including completing the privatization of state enterprises within the next five years, strengthening banking legislation, and reforming the social security system.\textsuperscript{556} Commentators also recommended that this political opportunity be used for reform, urging the Prime Minister to go forward with fulfilling IMF conditions of cutting deficits, strengthening the banking system, and pressing forward with privatization.\textsuperscript{557} Subsequently, Ecevit unveiled further reforms, as the coalition sig-

\textsuperscript{551} Id. at 2.
\textsuperscript{552} \textit{Kurdish Leader Released}, \textit{FIN. TIMES}, July 14, 1999, at 2 (following eight months in jail).
\textsuperscript{553} Prime Minister Ecevit polled 21\% of the votes, up from 14\% in the previous election. Boulton, \textit{supra} note 3, at 3. The far-right Nationalist Action Party received 18\% of the vote and is the subject of debate as to its reform intentions. Both of the top parties are hard-line opponents of Kurdish separatism. \textit{Id}. The Islamic Virtue Party slipped unexpectedly to about 16\%. Stephen Kinzer, \textit{Results in Turkish Election Reflect Kurdish War's Fault Line}, \textit{N.Y. TIMES}, Apr. 20, 1999, at A12.
\textsuperscript{554} Stephen Kinzer, \textit{In Light of Turkey's Vote, Party Chiefs Are Pressed To Quit}, \textit{N.Y. TIMES}, Apr. 21, 1999, at A10. Deniz Baykal, leader of the center-left Republican People's party that did poorly in the election, recently did resign becoming "the first party leader in recent Turkish history to resign his post." \textit{Turkish Party Chief Quits After Poor Poll Result}, \textit{FIN. TIMES}, Apr. 23, 1999, at 3.
\textsuperscript{555} Leyla Boulton, \textit{Turks Ponder Coalitions and Headscarves}, \textit{FIN. TIMES}, May 4, 1999, at 2.
\textsuperscript{556} Boulton, \textit{supra} note 369, at 3.
\textsuperscript{557} \textit{Turkish Reform}, \textit{FIN. TIMES}, May 4, 1999, at 13 (quoting Ecevit who said that he
naled that it would adhere to the disinflation package agreed upon with the IMF.  

The election results also showed a reversal of the rising Islamic political influence, as the Islamic-oriented Virtue party drew only sixteen percent.  This pattern suggests that the Islamic political movement may be no more powerful than any other political party, permitting some relaxation for those in Europe who fear fundamentalist religious regimes. Moderation and further reforms were seen in August 1999 when the Turkish Parliament passed legislation restoring the previously banned Islamic leader Necmettin Erbakan's political rights, strengthening the Islamic Virtue party's position against government restriction.  Experts viewed this move as part of a deal to insure passage of another important economic reform in Turkey: a constitutional amendment allowing international arbitration in contracts with foreign investors, unblocking billions of dollars of foreign investment.  Parliament also passed another major constitutional change clearing the way for further privatization, and both of these key legislative changes, seen as essential for new IMF loans, were passed with the participation of the Islamist Virtue party helping muster the two-thirds majority needed for constitutional amendments.

The 1999 election results also underscored the need for Europe and Turkey to begin enhanced cooperation as soon as possible. One commentator observed: "The outcome of Turkey's general election yesterday should give a salutary shock to the outside world, not least to the European Union." First, the EU was responsible, at least in part, for the rise in popularity of the two prevailing nationalist parties, Prime Minister Ecevit's center-left Democratic Left party and the far-right Nationalist

was "[b]uoyed up by his own clean image and the capture of . . . Ocalan," and has chance to provide much-needed stability to his country).

562. *Id.* (explaining that Parliament also began debate on social security reform, which is condition set by IMF for further loans).
563. Funja Guler, *Key Reforms Cleared by Ankara*, FIN. TIMES, Aug. 14, 1999, at 3 (quoting Prime Minister Ecevit that "With these changes, I hope from now on Turkey will be more open to the world.").
Action party. The writer continued that "the upsurge in nationalist sentiment" following the capture of Ocalan in spite of the EU refusal to extradite him, "reinforced a backlash against the EU which started when Turkey was snubbed in its application for membership in 1997." In fact, the rise of nationalism, manifested in the election, was predicted following the EU rejection.

The election underlines how essential it is for the EU to pursue a coherent policy towards Ankara. Turkey is a vital strategic partner for Europe in the Middle East, the Balkans, and in central Asia. Yet the member states have treated it as a second-class neighbor and allowed the relationship to be blocked by the veto of Greece. It is in the vital interests of both Turkey and the EU to put those relations back on a proper footing. The new government in Ankara must not relapse into further isolationism. And the EU must show greater understanding of Turkey's national pride.

Fortunately, some increased inclination to cooperation by certain European leaders has been demonstrated recently. German Foreign Minister Fischer offered in August 1999 to do "everything possible" to help Turkey gain acceptance in the EU, and Turkish Prime Minister Ecevit announced in the same week that Italy was adopting a similarly supportive position. More significantly, Turkish and Greek foreign ministers met in this same period, discussing counter-terrorism cooperative efforts, while other Greek and Turkish diplomats met to discuss other "soft issues," thus marking Greece's reversal of its policy of minimal contacts with Turkey.

Overall, the encouraging recent developments enforce the notion of an unusual opportunity for cooperation. The advancement of political pluralism, human rights, and economic reform appears likely to continue. And timing may be the most effective element in this evolution. Since the decline of the communist, state-dominated economy model, a convergence of political and
economic values appears to pave the path for continued full European integration.\(^570\)

There are additional reasons that suggest this is the time for change. The approaching \textit{fin de siècle} may present the optimum time for redesigning the paradigm of the European order and for redrawing its map: the new European Parliament was elected in 1999, and the broad-based Council of Europe celebrates its fiftieth anniversary, thus offering a fertile time for fresh and creative redesign.\(^571\)

In addition to timing, other practical circumstances contribute to the opportunity for movement toward harmonization at this time. Existing structures and processes lend themselves to relatively painless, yet effective new approaches to bring opposing interests together. For example, rapid reforms relating to improvement in the Kurdish conflict—a major step in answering democratic and human rights objections—could be straightforward and realistic. An immediate, measured response to the PKK cease-fire would send strong, positive signals to both Kurdish and Western leaders. For example, a relaxation of the martial law regulations in southeastern Turkey, a relaxation of laws prohibiting Kurds from using their own language, and a relaxation of laws severely limiting Kurdish political parties—to allow them to participate in a moderate political party—are the more obvious, easy measures. Ocalan's offer to end the war and forge a peaceful political party should be accepted.\(^572\) One commentator recommends opening a dialogue with the Kurds to negotiate peace in exchange for linguistic and cultural rights generally assured other minority groups in Europe.\(^573\) Further, the remnants of the PKK could be sought out with a jobs program, offering a constructive alternative to lying in wait to fight another...

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570. Emerson, \textit{supra} note 4, at 33-34. For example, any debate appears to center less on democracy as a choice in general as on how specifically to install functioning democratic structures in the individual countries. \textit{Id.} at 182.


572. Little would be lost by trying, and substituting negotiation for violence. Lewis, \textit{supra} note 179, at 6. "[M]aking peace isn't ironic bliss or a fine abstraction, it is making difficult decisions, recognizing that some sacrifice is inevitable, though less than in war." \textit{Id.}

573. Galbraith, \textit{supra} note 394, at A15 (including rights to publish, broadcast, and have some schooling in their own language).
day. The rebel group should be given the opportunity to redefine itself into a peaceful political and social contributor. The theme must be the same as for the pan-European cooperation that Turkey seeks from Europe: open-minded, respectful dialogue, and fair treatment. Because such a significant improvement in the Kurdish problem could be achieved with relative ease and expediency, this solution should be considered an area of unusual opportunity.

In addition to pleasing Europe, two additional significant side-benefits would result from improved relations with the Kurds: first, this domestic peace would reduce the principal cause of political tension in the country; and second, the reduction of the military effort would yield enormous economic savings from lower military expenses in fighting the terrorists, which is estimated at US$8 billion a year. Improvement has begun in this area—the killings have subsided and the martial law in several of the provinces has been lifted. Showing respect for the rights of its inhabitants can only bring Turkey closer to Europe. Increased discussion of tolerance of the Kurdish identity points to the growing acceptance of such pluralism.

Likewise, a strategy for defusing the Cyprus conflict could be straightforward and realistic. Centering on the inevitable recognition that the two opposing sides must share the island—though they have been unable in the past to share effectively political power—the most reasonable solution would be to accept the status quo division, demilitarize the island, and begin building a workable basis for the future. The two Cypriot sides in the dispute should be recognized as separate entities, allowed to operate their separate governments, but at the same time cooperating within a loose-fitting, functional, and flexible structure designed to insure peace on the island and to encourage as

574. See id. (stating that it makes no sense to leave veteran guerrillas under influence of hostile neighbors in Iraq, Lebanon, and Syria.)
575. The Tragedy of the Kurds, supra note 381, at 16.
576. GUNTER, supra note 135, at 127. The tourism industry, which has been severely hurt by the terrorist threat, could regain its financial footing. Id.
577. The Tragedy of the Kurds, supra note 381, at 16.
578. Id.
579. Ocalan's offer to lead the Kurds to peace in return for Kurdish cultural tolerance (not to mention sparing his life) has prompted support from the rebels. Stephen Kinzer, Kurdish Rebels Support Leader's Call for Peace, N.Y. TIMES, June 3, 1999, at 4.
much profitable interchange as is realistic. Security could be assured by EU and U.N. efforts. Again, gradualism is essential to gain credibility and to build trust for this modest, though important, cooperative endeavor.

Repeating a theme of flexible redesign to accommodate diverse interests, a new, creative confederation could be formulated respecting the functional independence of both sides. This would guarantee security while drawing the parties together in gradual steps to cooperate progressively on matters of mutual profit first, to be followed later by more substantive governmental matters. While the two sides could primarily retain sovereignty, limited authority would pass to the central cooperative enterprise over a few core matters agreed upon by representatives based on unanimity. Cross-border councils, consultative bodies, and elected assemblies, under the umbrella of a neutral authority with carefully limited powers (perhaps like the original Coal and Steel Community) could regulate and promote cooperation on a few, non-controversial core matters, perhaps such as developing some coordinated infrastructure, improving transportation, and promoting tourism. Economies of scale on the island, as basic as reducing duplicative utilities, could lead to early confidence-building benefits. The mere reduction in military expenditures immediately would benefit the two sides and their patrons. A flexible confederation, with concentric spheres of narrowly prescribed central authority, yielding to areas of purely voluntary cooperation, while preserving to each side its larger, overall autonomy could draw both parties together to begin the process of reconstructing peace.

The forms and the names are less important than the substance of assuring the island’s security, demilitarizing the island, and beginning profitable economic interchange. As with the recommended Kurdish improvements, this attempt at resolution could be initiated with existing institutions (EU, United Nations, and even NATO) and actors (mediators and peacekeepers). The irresistible, visible benefits of some early fundamental im-

580. As with the emerging Communities, the discreet transfer of limited powers viewed a part of a slow but continuing process, with one level of integration, if successful, potentially leading to another. See Shaw, supra note 528, §1.4. Unifying water or electrical systems might present easy and profitable collaborative enterprises. Facilitating the movement of people and goods by improving roads has produced many positive effects in Europe. Missing Links, Fin. Times, Aug. 13, 1999, at 15.
provements in the quality of life on the island should lead gradually to fuller peaceful cooperation.

To ask the deeply antagonistic Cypriot factions, with their fervid promoters in Greece and Turkey, to work closely together on the more sensitive issues of co-government at the present would likely be counter-productive. Thus, a flexible alternative, allowing gradual evolution to cooperation, interchange, and trust is more likely to work. An innovative structure using the early experience and subsequent momentum of evolving European integration could combine elements of security assurance through actors credible to all sides, with elements of economic cooperation.

Recognizing the reality of the partitioned island is the least problematic of the options: unification with their surrogates in Greece and Turkey would likely only magnify the conflict, and simply leaving the status quo with no plan or structure for progress ignores it. Europe has accommodated partitioning previously. Six of the fifteen member states and three (including Cyprus) of the 5+1 candidates have experienced some form of political separation since 1900. But most importantly, Europe has enjoyed the successes of creative, gradual community-building over the past fifty years. It should not hesitate to consider variations of the theme.

The benefits of a solution of the Cyprus stand-off would be manifold. Easing the tension between Turkey and Greece would, of course, serve many purposes of peaceful cooperation,

581 Ireland and England were admitted as separate countries. The union between Sweden and Norway ended in 1905. Edwin D. Williamson, *State Succession and Relations with Federal States*, 86 AM. SOC’Y INT’L L. PROC. 1, 11 (1992). Prior to Russian rule beginning in 1809, Finland had been ruled by Sweden since the 12th Century. *Id.* West Germany’s accession as a divided country was cited by German former Foreign Minister Hans Dietrich Genscher as a precedent for the admission of a divided Cyprus. *Republic of Cyprus: Genscher—There is a German Precedent to Cyprus’s Accession to the EU*, M2 PRESSWIRE, Mar. 12, 1999, available in 1999 WL 14063651. Following World War I, the Austro-Hungarian Empire was divided into Austria, Czechoslovakia, Hungary. Paul R. Williams, *Can International Legal Principles Play a Positive Role in Resolving Central and East European Transboundary Environmental Disputes?*, 7 GEO. INT’L ENVTL. L. REV. 421, 431 n.40 (1995). Czechoslovakia was again divided in 1993 into the Czech Republic and Slovakia. *We Respected the Wish of the Slovaks and the Country Was Split peacefully,* BUSINESS WORLD (PHILIPPINES), May 17, 1999, available in 1999 WL 17714611. In addition, EU Commissioner for Foreign Relations, Hans van den Broek, has stated that Slovakian accession talks could begin as early as the Helsinki Summit in December of 1999. *EU Indicates Slovakia May Be Invited for Talks in ’99*, WORLD NEWS CONNECTION, Apr. 27, 1999, available in 1999 WL 14783503.
and enhanced economic cooperation between all of the parties would yield the natural growth of commerce. As with the Kurdish resolution, the resolution of this costly military conflict would reduce the financial demands on the treasuries of all the countries, releasing significant sums to promote economic prosperity. Recognition of a divided Cyprus would, of course, remove one enormous obstacle to the accession of Turkey, as well as the gradual accession of the Cyprus confederation. Greek and Greek-Cypriot authorities have offered to withdraw their objection to Turkey's EU membership if the Cyprus problem can be resolved. Both Turkey and the new Cyprus confederation could take advantage of the broad, flexible accession approach recommended in this Article. Both could be welcomed into the European "Community," in special categories designed to foster cooperation, leading gradually in steps to full core EU membership. Creating innovative relationships and categories of inclusion should threaten no one—the specific recent histories of Turkey and Cyprus illustrate vividly the costs of exclusion and the potential benefits of inclusion.

**CONCLUSION**

As illustrated in the previous evaluation of accession criteria, the Republic of Turkey is "heading in the right direction" to satisfying legitimate criteria for increased integration with Europe, and this course should be encouraged. The successful customs union forms the basis for continued progress, as Turkey presently enjoys a market economy, with the capacity to cope with competitive pressure and market forces. The reforms recommended by the European Commission, the IMF, and the OECD to improve macroeconomic stability should be promoted, including especially the major initiatives to stabilize the currency, reduce inflation and unemployment, continue privatization, and reform the social security system.

Other primary reform goals under way in Turkey focus on strengthening principles of a fair trial and a free press. Prime

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582. Based on two conditions: (1) that Cyprus be allowed to join the EU, and (2) the EU issue a statement of solidarity on the Aegean. *Cyprus, Greece To Facilitate Turkey's EU Bid, Xinhua News Agency*, July 13, 1999, available in LEXIS, NEWS Library, XNA File.


Minister Ecevit may be well-positioned to help reform human rights abuses, as he helped shorten pre-trial detention times, openly opposes the death penalty, and is reportedly "appalled by Turkey's woeful reputation for tolerating torture." The reforms described above to balance the military's role in the democratic process should also be given priority.

The keys to all these internal and external changes in Turkey are the same open-mindedness, interdependence, and cooperation needed to build the wider European community. At every level, and in every relationship, the benefits of cooperation contrast sharply with the negative results produced by rejection. Thus, for Turkey's reforms, relations with its neighbors, and its integration with Europe, the time for change is at hand.

Fortunately, there is time to find the middle ground on which to build the ethos and structures of cooperation. The next EU accessions are not likely to begin until the year 2005-06 at the earliest, and even then with some restrictions, especially on labor mobility, for new members for another five or ten years. Turkey, and other less developed countries, will enter the EU "with a phased accession to the internal market, long transition arrangements for the free movement of persons and some environmental standards, and no hurry at all over joining the euro." Turkey's economy and economic structures are strengthening, and are likely to generate an improved standard of living and labor market at home. So, over time, the concerns with immigration, labor movement, and other criteria will become manageable. Planning is the key to all levels of harmonization and continued integration.

As pointedly discussed above, the advantages of Turkey's inclusion in a broader European Community compellingly outweigh the disadvantages. One scholar argues that "Turkey can best serve a facilitating role if it is made a member of the EU—a development that would have positive political, economic, and security implications for the entire region." "There is thus an unresolved task still ahead, to fashion a stable place in Europe

586. Widening the European Union supra note 18, at 51 (stating that all Member States have their proteges, their narrow interests, their hang-ups and they must "all agree on everything before anything can be done.").
587. EMERSON, supra note 4, at 230.
588. Aras, supra note 34, at 92.
for this large and fast-growing people." While membership in
the EU itself may wait for continued progress, Turkey's inclusion
in the broader European Community should be recognized
more formally and firmly as soon as possible.

Excluding Turkey from "an effective common structure," as
seems to be the case today with the exclusive EU, leaves the fu-
ture to an unpredictable and hazardous course. The West
needs integration above all to prevent conflict more than to pro-
mote trade—all the profit of free economic trade in the world
will never equal the costs (human and economic) of war. Iron-
ically, Turkey's willingness to contribute to Western secur-
ity—as seen with its openness to U.S. military aircraft and most
recently in its prompt efforts to shelter 20,000 Kosovan refu-
gees—may cut two ways: as Turkey helps Europe reduce its
security needs, perhaps some European leaders may feel less
need to remain close to Turkey. Further, Turkey's willingness
to play an active role in military and political affairs in the region
may also threaten the more traditional European leaders. It
would be unfortunate and unfair for Europe to change course
on such matters of policy and principle just as security needs
decline and costs become more clear.

Encouraging tolerance toward Turkey is key, as one com-
mentator heralded the accomplishment of Turkey in "creating a
democratic space in a part of the world where democracy has
not prospered." Several experts have endorsed the theme
that Turkey offers a viable example for bringing together a secu-
lar system with Islam, an example for the undemocratic states in
the Middle East that should be encouraged. It may be diffi-
cult to overstate the value of such a model of a free market econ-

589. Id. at 72.
590. Emerson, supra note 4, at 227.
591. Id. at 3.
592. Turkey Provides Shelter, Airlift Takes Thousands out of Macedonia, FIN. TIMES, Apr.
593. The Community's early positive response to Turkey's application was politi-
cally motivated out of a concern to keep her in NATO. Redmond, supra note 7, at 25.
594. Fuller, supra note 34, at 169-70.
595. Pfaff, supra note 151, at 8 (quoting Semih Vaner of Center for International
Studies and Research in Paris: "[T]he Turkish republic's 75 years have been a widely
underestimated accomplishment.").
omy, as well as democratic and secularist government.\textsuperscript{597} "[I]t is also important for the West to recognize that a disgruntled Turkey has far greater implications for the region today than ever in the past."\textsuperscript{598}

Membership in the European order would reinforce Turkey's democratic qualities, while adding a "strong context for Turkish foreign and security policy at a time of strategic flux."\textsuperscript{599} It is unfair to expect Turkey to stand firm in the Western camp—taking risks in its own Arab world, without giving Turkey some real status as a significant participant in the construction of a new Europe.\textsuperscript{600}

William Ratliff, senior researcher at Stanford University's Hover Institution, warns that the 1999 Kosovo "war" increases the urgency of resolving the tensions in southeast Europe, especially between Greece and Turkey.\textsuperscript{601} The Kosovo conflict challenges post-World War II assumptions about borders and encourages ethnic autonomy rather than integration, sending thousands of refugees into new lands, and stimulating notions of ethnic autonomy.\textsuperscript{602} But Ratliff focuses particularly on the need to address one of the most serious contributors to the regional volatility (the biggest problem in NATO)—the Turkish-Greek antagonism—and he argues that the EU should concentrate "on bringing Turkey fully into the European community."\textsuperscript{603} Other commentators repeated that theme following the disastrous Turkish earthquake in August 1999, praising the quick Greek assistance to Turkey and urging reconciliation of Turkey to Europe, including among other specifics, by a decision to reverse the Luxembourg Exclusion, possibly as soon as the Helsinki summit at the end of the year.\textsuperscript{604}

\begin{thebibliography}{9}
\bibitem{597} Turkey's New Geopolitics: From the Balkans to Western China 185 (Graham Fuller & Ian Lesser eds, 1993).
\bibitem{598} Fuller, supra note 34, at 172.
\bibitem{599} Lesser, supra note 2, at 106.
\bibitem{600} Id. at 107.
\bibitem{601} William Ratliff, Conflict in the Balkans/Kosovo Fallout Could Spill into Greece and Turkey, S.F. CHRON., Mar. 29, 1999, at A23.
\bibitem{602} Id.
\bibitem{603} Id. As Greece strives to enter "euroland," it fears that the increased influx of Albanians will undermine its economic efforts, and Turkey fears that its 15,000,000 Kurds may seek autonomy. Id.
\bibitem{604} And this partnership with Europe will give impetus to the needed improvements in Turkey's human rights record and its democratic performance. Earthquake Relief, FIN. TIMES, Aug. 23, 1999, at 11.
\end{thebibliography}
In the final analysis, choices—political mostly—must be carefully considered. "The map of Europe begins with geography, later becomes economic geography but in the end is a matter of political philosophy."605 As Emerson urges, the wider Europe should deepen, the deeper Europe should widen.606 The big outsider nations, including especially Turkey, must be involved too, and the width and depth of Europe should begin to converge and disappear.607 The answer lies, as Emerson suggests, in some form of broad, pan-European cooperation, beyond formal and full EU accession, to bring in Turkey to a common scheme of cooperative participation—real cooperation to promote prosperity and peace. Of the two possible scenarios for the next twenty years in Europe—rising to a new golden age or degenerating into savage conflict608—the choice of further inclusion seems compelling.

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605. Emerson, supra note 4, at 2.
606. Id. at 6.
607. Id. at 6.
608. See supra note 7 and accompanying text.