

**REFORMS IN TURKEY RELATED TO
PRISONERS AND PRISON SYSTEM
IN THE MEMBERSHIP PROCESS TO THE EU**



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AIM OF THE PRESENTATION

“It aims to discuss the reforms and improvements related to prisoners and prison system in Turkey during its membership process to the European Union (EU)”

RELATED FEATURES OF THE EU

- **A SUPRANATIONAL NATURE**

(It requires transfer of power (authority) by the member states in certain fields to the common decision-making mechanisms of the EU)

- **A SUPERIOR LAW**

(The EU law is above all kinds of the national laws. Therefore, member states have to ensure the compliance of their laws with the EU legislation)

MAIN STAGES IN THE MEMBERSHIP PROCESS and TURKEY

- **ASSOCIATED COUNTRY (Turkey 1963)**
- **CANDIDATE COUNTRY (Turkey 1999)**
- **ACCESSING COUNTRY (Turkey 2005)**
- **MEMBER STATE (Turkey is not expected to be earlier than 2020)**

IMPORTANT DATES IN EU – TURKEY RELATIONS

Country	Partner	Candidate	Accessing	Member	Duration
Turkey	1963	1999	2005	????	52 +
Malta	1970	1997	2000	2004	34
S. Cyprus	1972	1997	1998	2004	32
Hungary	1991	1997	1998	2004	13
Poland	1991	1997	1998	2004	13
Czech Rep.	1993	1997	1998	2004	11
Slovakia	1993	1997	2000	2004	11
Romania	1993	1997	2000	2007	14
Bulgaria	1993	1997	2000	2007	14
Estonia	1995	1997	1998	2004	9
Latonia	1995	1997	2000	2004	9
Lithuania	1995	1997	2000	2004	9
Slovenia	1996	1997	1998	2004	8
Croatia	2001	2004	2005	2013	12

NECESSITY OF REFORMS IN TURKEY

- The recognition of Turkey as a candidate for accession at the Helsinki European Council in 1999 marked the beginning of Turkey – EU relations with a perspective of full membership.
- From that day on, a comprehensive reform process started in Turkey to fulfill the EU's membership criteria, commonly known as Copenhagen Political criteria.

MEMBERSHIP CRITERIA

- **In the political field:**

Stability of institutions guaranteeing;

- Democracy,
- The Rule of Law,
- **Human Rights**
- Respect for and Protection of Minorities

IMPORTANCE OF THE POLITICAL CRITERIA

- Its components are closely inter-connected with each other, requiring a unified reform process rather than partial improvements.
- Owing to these criteria, reform attempts in the applicant countries become more integrated, comprehensive, and coherent, resulting in the achievement of a remarkable transformation

ACHIEVEMENTS IN TURKEY REGARDING HUMAN RIGHTS

- Turkey was one of the first countries that ratified Universal Declaration of Human Rights prepared by the United Nations in 1948.
- In the Preamble of the Constitution, adopted in Turkey in 1982, it is stated that every Turkish citizen has the right to exercise the fundamental rights and freedoms according to requirements of equality and social justice.
- In the subsequent articles of the Constitution, it is stressed that the Republic of Turkey is a state which respects human rights.

ACHIEVEMENTS IN TURKEY REGARDING HUMAN RIGHTS

- However, human rights have always been the hot issues for Turkey's EU membership as the country came under allegations of these rights violations especially after the military intervention in 1980.
- In other words, Turkey's record on human rights has long continued to attract scrutiny by the EU.
- But, considerable achievements and progress has been made since 1999, when Turkey was declared as candidate country to the EU membership.

ACHIEVEMENTS IN TURKEY REGARDING HUMAN RIGHTS

- To this end, 6 Constitutional Amendments (in 2001, 2002, 2004, 2005, 2007 and 2010) were realised, changing nearly one third of the present Constitution.
- Besides adoption of 9 Harmonisation Packages (in 2002, 2003, 2004, 2006), 5 Judicial Reform Packages were adopted, which were prepared to strengthen compliance with EU political criteria.

ACHIEVEMENTS IN TURKEY REGARDING HUMAN RIGHTS

- In addition, some important laws were renewed, including Civil Code and Criminal Code.
- Finally, 187 primary and 147 secondary legislative arrangements have been realised within the scope of the Copenhagen Political Criteria.

SEEKING FOR A NEW CONSTITUTION

- Through these amendments, the judicial and political system of Turkey attained modern standards and became further aligned with universal principles and EU membership criteria.
- However, preparing a new constitution based upon universal norms and social consensus has recently been the main item on Turkey's agenda.

SEEKING FOR A NEW CONSTITUTION

- The drafting of the new constitution started as of May 2012 within the framework of a consultation period with a broad participation
- A Conciliation Committee was founded within the the TGNA based on equal representation of all political parties in the TGNA.
- Unfortunately, the Comittee became unable to complete its task and abolished as of 2014.
- The process is expected to be restarted after the elections in June.

REFORMS IN TURKEY RELATED TO PRISONERS AND PRISON SYSTEM

- A summary of the reforms in Turkey related to the prisoners and prison system since 1999 is provided below:

ABOLISHMENT OF DEATH PENALTY

- Death penalty has been abolished in many steps:
- Although it had existed legally, it was not executed in Turkey since 1987.
- First, it was partially abolished in 2002 in line with Protocol 6 to the European Convention on Human Rights.
- Secondly, it was completely removed from the Constitution in 2004.
- Finally, all references to death penalty in every law was deleted in 2004.

UNIVERSALISATION IN THE FIELD OF HUMAN RIGHTS

- The ratification of international human rights instruments increased significantly,
- The supremacy of the ratified international treaties over domestic legislation was established,
- The amendment to the Article 90 of the Constitution provides for the supremacy of international agreements regarding fundamental rights and freedoms over national legislation.

UNIVERSALISATION IN THE FIELD OF HUMAN RIGHTS

- The execution of the European Court of Human Rights (ECtHR) judgments were accelerated
- The opportunity for the retrial of convictions that are contrary to the European Convention on Human Rights (ECHR) was recognized,
- In case where an ECtHR ruling determines that a decision of non-prosecution has been taken in the absence of an effective investigation, an investigation may be launched again upon request by relevant parties.

FIGHT AGAINST TORTURE AND ILL TREATMENT

- A “zero-tolerance” approach was adopted for the prevention of misconducts, such as torture, ill-treatment, disappearances, extra-judicial executions etc.
- The permission procedure for the prosecution of civil servants and public employees for allegations of torture and ill treatment has been abolished.

FIGHT AGAINST TORTURE AND ILL TREATMENT

- It has been made impossible for sentences for torture and ill treatment to be converted into fines or any other measures or to be suspended.
- In other words, the penalties imposed on civil servants for offences of torture and mistreatment could no longer be delayed or turned into fines.
- The length of time that a convict or detainee may be taken out of prison or a detention house by the security forces has been reduced.

FIGHT AGAINST TORTURE AND ILL TREATMENT

- The investigation and prosecution of cases of torture and ill treatment has been declared as urgent matters and as priority cases to be treated without delay.
- The maximum period allowed for replies to applications to the Human Rights Investigation Commission related to human rights violations has been decreased.

FIGHT AGAINST TORTURE AND ILL TREATMENT

- The compensation paid by the state in compliance with judgements of the European Court of Human Rights (ECHR) has been allowed to be returned to the personnel responsible for cruel, inhuman or degrading treatment.
- The compensation paid in accordance with the ECHR has been exempted from stamp duties.
- Statute of limitations is lifted for crimes of torture.

CONDITIONS IN PRISONS AND DETENTION HOUSES

- The prisons system was reformed through the modernization of the infrastructure and establishment of a new administrative system,
- Legal provisions on the rights of prisoners and detainees has been expanded.

Improving Conditions for Persons in Custody (Suspect's Rights)

- A new “Regulation on Apprehension, Detention and Statement Taking” was issued in 2005 and detailed provisions were made on the mode of implementation and conditions for guarantees envisaged under fundamental rights and freedoms such as the authority of apprehension, informing relatives and detention room procedures.

Improving Conditions for Persons in Custody (Suspect's Rights)

- Moreover, physical conditions in detention rooms were improved and interrogation rooms were made compatible with human rights norms.

Providing Detainees and Convicts the opportunity to Attend their Relatives' Funerals and Visit them in case of a Serious Illness

- In 2012, it was made possible to provide detainees and convicts with 2 days leave excluding for travel time to attend the funerals of a blood relatives including second degree relatives or spouses thereof and to provide them with a 1 day leave excluding travel time to visit first degree relatives in the case of severe illness.

Closure of Prisons that do not meet UN and Council of Europe Standards

- In the past, many prisons were far from meeting standards in terms of physical conditions and personnel levels.
- This situation caused convicts and detainees to lodge complaints and waste the resources and personnel.

Closure of Prisons that do not meet UN and Council of Europe Standards

- In the last decade, 208 penal institutions that did not meet UN and Council of Europe standards were closed down.
- During the same period, 68 penal institutions with a total capacity of about 15,000 people, all in compliance with standards, were opened.

Closure of Prisons that do not meet UN and Council of Europe Standards

- In 2012, a total of 13 new penal institutions were opened and 7 additional buildings were constructed.
- In 2014, the government constructed 10 new prisons; however, overcrowding remained a concern in many of them.

Reporting on Conditions of Prisons

- Besides Prison Monitoring Boards, the National Human Rights Institution visits prisons with the intention of reporting on conditions.
- In a report published in May, it outlined number of recommendations to modify the legal framework and its implementation with regard to ensure improved prison conditions.
- Parliamentary Human Rights Inquiry Committee members also hold inquiries from time to time.

CONCLUDING REMARKS

- In the light of the given explanation, we are in a better position to assess the quality of democracy in Turkey for the time being.
- Turkey is now greatly different when compared to a decade ago, especially in terms of political and judicial system as well as socio-economical standards.
- The achieved reforms are so radical or drastic that they are commonly regarded as “silent revolutions”.

THANK YOU FOR YOUR
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