

**AN ASSESSMENT OF PRINCIPLE OF CONDITIONALITY:
THE CASE OF CYPRUS IN THE CONTEXT OF TURKEY-EU RELATIONS**

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ABSTRACT

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This thesis aims to analyze Cyprus issue in the context of the principle of conditionality in Turkey – EU relations. In this regard, the conditionality principle is examined both in international level and in European Union’s approach. The implementation of conditionality by the European Union in relation with the Cyprus question is the second point of analysis. Finally, the evaluation of the conditionality and its implications in Turkey-EU relations regarding the Cyprus issue is overviewed. The assessment is made through historical periods of the relations between Turkey and EU. Finally, the comparison between the theoretical framework and practical application of conditionality in Cyprus issue is done as part of assessment.

Keywords: Conditionality, Cyprus, Turkey, European Union

ÖZ

ŞARTA BAĞLILIK İLKESİNİN BİR DEĞERLENDİRMESİ: TÜRKİYE-AB İLİŞKİLERİ BAĞLAMINDA KIBRIS SORUNU

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Bu tez Türkiye-AB ilişkilerinde şarta bağlılık ilkesi bağlamında Kıbrıs sorununu incelemeyi amaçlamaktadır. Bu çerçevede, şarta bağlılık ilkesi hem uluslararası hem de Avrupa Birliği'nin yaklaşımı yönlerinden ele alınmıştır. Analizin ikinci noktası Avrupa Birliği tarafından şarta bağlılığın Kıbrıs sorunu ile ilişkili olarak uygulanmasıdır. Nihayet, şarta bağlılığın değerlendirilmesi ve Kıbrıs konusu ile ilişkili olarak Türkiye-AB ilişkilerindeki etkileri incelenmektedir. Değerlendirme Türkiye-AB ilişkilerinin tarihi periyotları üzerinden yapılmaktadır. Son olarak, şarta bağlılığın teorik çerçevesi ile Kıbrıs konusundaki pratik uygulamasının karşılaştırması, değerlendirmenin bir parçası olarak yapılmıştır.

Anahtar Kelimeler: Şarta Bağlılık, Kıbrıs, Türkiye, Avrupa Birliği

To my love, Şengül

*And my beloved family,
my mother Yüce,
my father Necati
my brothers Utku and Tarık*

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CHAPTER I

INTRODUCTION

On December 2006, the relations between Turkey and the European Union came to a concrete and crucial hurdle, when Union declared a possibility of suspension of negotiations in certain chapters. The Union's decision was serious and determinant, and expected a politically difficult step from Turkish side. The reason of the potential suspension was Turkey's rejection to implement the Additional Protocol adapted to Ankara Agreement. The Union's expectation for opening the ports of Turkey to the Cyprus-flagged ships or ships coming from the Republic of Cyprus was the vital point of the relations at that time. Depending on the negative response in implementation from the Turkish government, the Union agreed upon a three-year evaluation period on the issue.

Having a critical question between Turkey and the European Union on the Cyprus issue was an unexpected result of the long lasting relations between the Union and Turkey. The Union's economic history had been evolved to have an additional political one, and Cyprus question of the Turkish foreign policy had been attached to the way towards membership in the Union.

In the second half of twentieth century, the Cyprus question has been the leading foreign policy issue of Turkey. Starting from the tensions in early 1950s, the problem has evolved from being a matter of foreign policy to an issue, which the internal politics and the Turkish society significantly interested in. The internal instability on the island in 1950s resulted in the end of the British rule. In 1960, a

new state, composed of Greek and Turkish citizens, was established on the island. The conduct of the state was problematic because of the structure established in the founding treaties, and the result was an ethnic conflict. Turkey, as a guarantor of the system on the island, depending on the founding treaties, intervened in 1974. The intervention created a two-sided situation over the island, the impact of which is still present and has political effects on Turkish politics and foreign policy.

Following the intervention, the Turkish side of the island declared a different entity, "Turkish Federative State of Cyprus", and this had its own different system on the north of the island. In a decade, the entity was converted to Turkish Republic of Northern Cyprus, as an independent state. It was recognized only by the Republic of Turkey.

Turkey's quest for the membership in the European Community (later Union) started in 1959, when it followed Greece for establishing relations with the Community. The relations with the Community were established on economic terms, since the Community was established on main economic idea of cooperation of the European states. However, the evolution of the Community demonstrated that the political side of the Community was open to be developed for enhanced cooperation of the relations among the states. Thus, starting from mid-1980s, the Community began to search for the ways of political cooperation in intense relations.

Having Greece in the Union as a member, the relations depending on political issues between Turkey and the European Community/Union had important implications over the Cyprus issue. The Greece's membership in the organization gave certain advantages to it, while Turkey was only a country requesting to enter the club. In such a position, the Cyprus issue in Turkey-European Union relations had enormous impact on the Republic of Cyprus, Turkish Republic of Northern Cyprus, Turkey, Greece, and lastly the Union itself.

The main discussion point of the present thesis is the impact of Cyprus issue over the relations between Turkey and the European Community/Union. The

approach towards the relations will be based on the conditions put in front of Turkey by the Community/Union, regarding the Cyprus case, and the use of the conditionality principle over Turkey's road to the membership in the Union. The main question is that: To what extent, The European Union's implementation of conditionality for Turkey on Cyprus dispute achieved to convert Turkey's foreign policy and stance in line with expectations of the Union? It is argued that conditionality used by the European Community/Union towards Turkey on Cyprus issue had impact on Turkey's politics and foreign policy in different times; however it did not have certain outcomes as aimed by the Community/Union. To study the conditionality over Turkey, the main conditions for Turkey on Cyprus issue will be analyzed in details. In addition, the responses from Turkish side over the conditions regarding the Cyprus case will be evaluated. The nature of the conditions and the change in their nature, in different periods of time will be another subject to be focused on in the chapters of the thesis.

In Chapter Two, the conditionality of the European Union is the theme of analysis. First the international conditionality is touched upon. Then conditionality of the European Union as set out in the legal documents is elaborated. The main theoretical contributions by different academicians, scholars and intellectuals on the issue of conditionality will be analyzed. The EU conditionality is divided into the time periods. It starts with evaluating the time period before the Copenhagen European Council, held in 1993. The second part deals with the Copenhagen criteria and its structural nature in the legal documents. The last part of the chapter concentrates over the evolution of the principle after the Copenhagen summit in details.

In Chapter Three, the conditions set up by the European Community/Union in front of Turkey on Cyprus case will be analyzed in details. The time period of analyze begins from the year 1987, because of the fact that Turkey's application for full membership in the Community was made in that year. Obviously, the conditions for the negotiations and the membership around Cyprus question began to be put into the documents of the Community from the beginning, the opinion of the Commission

in 1989. The historical complexities of the conditions will be examined in three historical eras. First, the period between the application in 1987 and the Helsinki Summit in 1999, in which Turkey was granted the candidacy status, will be under the light. The second part will have focus on the period between 1999 Helsinki Summit and 2004 Brussels European Council, in which Turkey was promised to start negotiations on 3rd of October 2005. The last part of the chapter will have an analysis on conditions since the 2004 summit.

In Chapter Four, the implications and implementation of the conditionality principle over Turkey regarding the Cyprus issue will be evaluated in different terms. Again, there will be a historical and periodical analysis, and the historical periods will be in parallel with those in Chapter Four. The last part of the Chapter will have a general evaluation of the whole process in terms of conditionality. There is a special part of chapter to have a comparative view of theory and practice of EU conditionality. In the last part of the Chapter, the general overview and final assessments on the issue will be added to the analysis. The present situation will be touched upon with some foreseen expectations from the future.

CHAPTER II

CONDITIONALITY AND THE EUROPEAN UNION

The use of conditions by an international organization in the process of accession of new members was commonly experienced after the Second World War. The international organizations had their own principles, over which the structures of the organizations were established. The rules governing the organization and its policies were usually determined according to the interest of the existing members, and newcomer states were expected to comply with. Therefore, any state, which had intentions to accede in an international organization, was acknowledged about the rules, or the conditions, of the organization.

The European Union had its principles over which the Union, then Community, was founded. In the early years of the Union, the main theme of the organization was the economic cooperation of the member states, which would have positive contributions to the continuity of peaceful environment on the continent. The enlargement of the Union took the attention of the leaders of the Union to the reality of having conditions for achieving successful enlargements. As a result of the enlargement phases of the European Union, the unique conditionality for EU enlargements evolved eventually.

The present chapter of the thesis focuses on the conditionality principle and its characteristics in the European Union case. First, the international conditionality is elaborated, with its basic features. Then the conditionality of the European Union will be analyzed, in line with its historical and theoretical perspectives.

2.1 International Conditionality

The term conditionality has been used in the theoretical literature of the international relations with an increasing number of academic research publications. Mainly, the conditionality can be defined as linking the implementation of a certain policy to another step of policies expected from the other side to be undertaken. That is, if one side of the bargain puts certain conditions and proposes to comply with those conditions in an exchange of implementation of another expectation from the other side, then the implementation of the conditions is conditional to the steps to be taken from the other side.

In most of the times in international politics, the international organizations use the conditionality for pursuing their own goals and to render the implementation of the policies, which are agreed upon by the member states of the relevant organization. The International Monetary Fund and World Bank group does usually expect the conditional steps from the member or outsider states which are on demand of aids, credits from the funds of the organization. The international organization usually acts in a certain position to negotiate the conditions, which would clarify and draw the framework for issuance of the funds.

In the international level, the conditionality is most of the times directly linked to the foreign aid or the assistance for development. The situation of the aid and assistance may be bilateral or multilateral. This kind of conditionality is composed of two sides: the donors and the recipients. Donors would pursue their own interest, while the recipients are in a position of dependency to the donors.¹ The practices of conditionality provide changing interests and grants for both sides, as donors and recipients, which provides the benefits for the both sides of it.

¹ Hughes, J., Sasse, G. and Gordon, C. (2004), *Europeanization and Regionalization in the EU's Enlargement to Central and Eastern Europe: The Myth of Conditionality*, New York: Palgrave Macmillan, p.14

Hughes et al. states that, although there is not an international consensus over the definition of the principle of conditionality, there is a tendency to agree on three main features of it. First, the conditionality is an instrument of international politics, rather than being a target for states and international organizations. Second, the conditionality has passed through a period of evolution since the Second World War, and two types of it emerged: positive conditionality, in a form of rewards for compliance, and negative conditionality, in the form of punitive actions and sanctions to secure the compliance. Third, and last, the leading interests of negotiations are those of the donors, while claims by the recipients are mostly secondary.²

Moreover, Hughes et al. assesses that the historical evolution of the principle created two generations of conditionality in time.³ The first generation was that of the IMF/World Bank, and it mainly focused on the structural adjustments programmes. The development policies for different states following the Second World War were applied, while IMF and World Bank credited the development phases. So, first generation of the conditionality was economics-based with strict budgetary rules and financial concerns. The second generation of conditionality principle was introduced when the democratic concerns were added to the economic ones. Political issues and expectations were attached to the economic conditionality principle and the new form of conditionality was introduced as a compound of both. The promotion of the democracy was linked to the economic interest, which was designed to improve the effectiveness and efficiency of conditionality. The second generation began to evolve in 1980s, in the time zone in which communism was getting weaker. Although fall of communism was not a direct source of evolution of it, 'there is a clear temporal relationship between second generation conditionality and the fall of communism.'⁴

² Ibid.

³ Ibid., p.15

⁴ Ibid., p.16

The applicability of the conditions put in front of a demandeur usually depends on the certain criteria, around which negotiations of two parts –mostly the country and the organization- are held. The expectations of the country and the promises of the international organization have to be fitting with each other as much as possible for the future of the negotiations. How an organization will behave in a case of using the conditionality can usually be built upon the balance between the demands of the state, and the means of proposals by the organization. In the negotiations between the organization and the state, the organization is in a stronger position, because the state that is asking for the organization's promises is the demandeur.

2.2 Conditionality of the European Union

The theoretical discussions over the conditionality are relatively newer than the other approaches on the integration process of the European Community/Union. The integration movement began as a completely economic integration process, while the political issues were introduced into the enlargement agenda starting from the 1980s. Conditionality was on the agenda of the Community starting from the early days of integration; however, the legal and practical evolution of the concept and the extension of it to the political conditions was experienced after, first, the of neo-liberal policies were introduced by different states in early 1980s, second, the fall of the communist system around the Soviet Union.

As in parallel with the international political agenda, the researches and publications on the political conditionality of the European Union came up to the table of discussions. One of the leading parts of theoretical debate is the reasons behind the existence of the conditionality of the European Union. Karen E. Smith argued that the rationale behind the conditions for joining the European Union, and other clubs of states, was to protect the existing structure of the Union, and to use the

conditionality as a foreign policy instrument.⁵ For protection of the Union, there is a historical evolution of the conditionality of the European Union since it was first established in 1950s. It was a customs union at the beginning, with an economics-based reasoning; however, it turned out to be a club of states which deal with a wide range of political issues, e.g. environment, education, foreign and defence policy. Smith states that

There are thus considerable achievements to be protected. It should not be surprising that as the Union has evolved, the conditions for becoming a member have become more demanding. When new members enter the EU, they must accept the changes that have already been made. The hurdle of membership conditions moves higher as the obligations of membership increase.⁶

Regarding the use of the conditionality as a foreign policy instrument, Smith claims that European Union employs the concept as a tool of foreign policy to influence the applicant states in terms of domestic and foreign policies. Because of the weak position of the applicant country, and because of the long queue of states moving for full membership, for the EU, ‘conditionality has become a very powerful, if not most powerful, foreign-policy instrument.’⁷ EU facilitated from the conditionality principle as a foreign policy instrument during the enlargement processes. However, the conditions had a historical evolution, and the largest portion of the conditions was introduced during the enlargement of the Union to the former communist states in the Eastern and Central Europe. The next part pays attention over the historical development of the EU conditions.

⁵ Smith, K.E. (2003), “The Evolution and Application of EU Membership Conditionality” in Cremona M. (ed.) *The Enlargement of the European Union*, New York: Oxford University Press, pp.106-109

⁶ Ibid., p.106

⁷ Ibid., p.108

2.2.1 The Period Before Copenhagen Criteria

The conditions for being a member of the European Community were set from the very beginning of the integration. Article 237 of the Treaty Establishing The European Economic Community (well known as Treaty of Rome), signed on 25 March 1957, proclaimed ‘[A]ny European State may apply to become a member of the Community.’ Moreover, the same article ordered the requirement of unanimous vote of existing members for the accession of a new member.⁸ Therefore, being a European state was the sole condition for applying for the membership of the European Economic Community at the time. The definition of the Europeanness was the issue of an open debate. The vagueness of the meaning of Europeanness allowed the Community to have political decisions on the membership issue.

This definition of the membership eligibility by the establishing treaty was used for the first enlargement of the European Community in 1 January 1973 to let the accession of Denmark, Ireland and Britain. Because of the satisfaction of the existing members in terms of economic and social structure of applicant states, the conditions for membership of Community did not pose critical problems in the process of enlargement. However, the transition of former authoritarian states of Southern Europe -Greece, Portugal, and Spain- to the rule of democracy made pressure on the Community organs to have a revision over the definition eligibility of membership. In the Copenhagen European Council held on 7-8 April 1978, the Council mentioned that ‘respect for and maintenance of representative democracy and human rights in each Member State are essential elements of membership of the European Communities.’⁹ The Council referred its message for the new applicants and those who have a design for application for membership. Yet, the condition for the newcomers set by the Council was a simple and easy one: democracy and human rights. There were not any declarations on the details of these concepts, neither of the implementation in the candidate countries.

⁸ Treaty Establishing The European Economic Community

⁹ European Council (1978), “Declaration on Democracy”, *EC Bulletin*, No.3-1978, p.6

The signal of the conditionality of European Community towards non-member states was seen in the Third ACP-EEC Convention signed at Lome on 8 December 1984. In the preamble of the Convention, the parties reaffirmed ‘their adherence to the principles of the said Charter and their faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small.’¹⁰ The condition was settled in the preamble of the Convention; so, it was not legally binding. The only case of activation of the condition was against Togoland.¹¹

The historical developments on the eastern part of Europe had crucial implications on the Council’s conclusions and declarations. The European Council called for the maintenance of democracy, rule of law, human rights and market economy in the Central and Eastern European countries, which were at the beginning of a vital transition period. The Council’s conclusions and declarations on different summits, such as Madrid and Strasbourg in 1989, Dublin and Rome in 1990, took the notice of the need for the restoration of democracy and rule of law with human rights, under a market economy.¹²

In February 1992, the members of the European Community agreed on signing the Treaty on European Union in Maastricht, and Article O of this treaty replied most of the conditions in settled in Treaty of Rome. The only addition was, by putting ‘the assent of European Parliament’¹³ as a requirement for the Council on deciding the accession of new members, a procedural one. This revision in the conditions in founding articles was made in objective of enhancing the democratic

¹⁰ Third African, Caribbean and Pacific Group of States – European Economic Community Convention, Lome 8 December 1984

¹¹ Hughes, J., Sasse, G. and Gordon, C. (2004), *Europeanization and Regionalization in the EU’s Enlargement to Central and Eastern Europe: The Myth of Conditionality*, New York: Palgrave Macmillan, p.178

¹² The published texts of Presidency Conclusions and Declarations of the European Council held abovementioned summits are available at <http://aei.pitt.edu/> (last accessed 10 November 2009)

¹³ Treaty on European Union

nature, thanks to the democratic elections held for European Parliament, of accepting the new members in the Union.

The Commission of the European Communities issued its opinions on the enlargement and the conditions for the new members as a report submitted to the European Council held in Lisbon in June 1992. The Commission repeated the conditions in Treaties of Rome and Maastricht, by explaining the limits of Europe. Commission stated

The term 'European' has not been officially defined. It combines geographical, historical and cultural elements which all contribute to the European identity. The shared experience of proximity, ideas, values, and historical interaction cannot be condensed into a simple formula, and is subject to review each succeeding generation. The Commission believes that it is neither possible nor opportune to establish now the frontiers of the European Union whose contours will be shaped over many years to come.¹⁴

The Commission's attempt to clarify the limits of Europe to be able to decide the new memberships in the Union was a general social and cultural explanation. Instead of certifying the borders, Commission directed the attention of European people to the values and historical heritage. Instead of technical partitioning, Commission's general explanation prepared grounds for potential political decisions on the membership in the Union.

More important than the limits of Europe was Commission's reference to the conditions and the criteria for candidates in the future. Referring the principles in the Article F of Maastricht Treaty –democracy, and fundamental rights as set out in European Convention for the Protection of the Human Rights and Fundamental Freedoms- three basic conditions for new members were listed as, European identity, democratic status and the respect of human rights by the Commission. The ability of the candidate to implement the Community system, establishment of the functioning

¹⁴ Commission of European Communities, (1992), "Europe and the Challenge of Enlargement", *EC Bulletin*, No.3/92, p.11

and competitive market and also accepting and implementing the common foreign and security policy were the other conditions for the candidate states to be new members in the Union.¹⁵ Commission's insistence on the ability to implement the community system became the essence of the *acquis* conditionality, which was a huge system of legal documents to be transformed into the domestic legal system of the candidate states before being a full member in the Union.

2.2.2 The Copenhagen Criteria

The European Union's conditions for the future membership of the candidate countries were agreed by the leaders of the Union in European Council that met in Copenhagen on 21st and 22nd of June 1993. Following the fall of the Eastern Block – which finalized the Cold War environment, the European integration movement faced off the demands by the Central and Eastern European countries (CEECs), which were willful to be a member of the European Union. To undertake the demands by those former Soviet and Eastern Block states, the Union's decision makers determined the rules of the accession process in general terms in the Copenhagen summit of European Council. The Presidency conclusions of the summit clearly defined the broad terms of the process for the potential membership of the CEECs. The European Council argued that if the associated country¹⁶ would be capable of assuming the obligations of membership by satisfying of the economic and political conditions required, then the accession can take place. The Council went on as follows:

Membership requires that the candidate country has achieved stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and 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. Membership presupposes the candidate's ability to take on the

¹⁵ Ibid.

¹⁶ An 'associated country' was referred as the states which concluded or plans to conclude the Europe Agreements with the Union, by the European Council.

obligations of membership including adherence to the aims of political, economic and monetary union.

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.¹⁷

The conditions set forth in Copenhagen Summit of the European Council can be converted into a list of conditions as follows:

- A functioning market economy, with the capacity to cope with competitive pressures and market forces within the EU;
- Stability of institutions that guarantee democracy, rule of law, human rights, and respect for and protection of minorities
- Ability to undertake the obligations of EU membership including adherence to the aims of economic and political union.

The European Council's conclusions on the conditional situations for potential future members summarized the expectations of the Union clearly. The conditions were in two categories in the conclusions of the Council: the political and the economic ones. The democracy, rule of law, human and minority rights were raised as essential political conditions to be met by those associated partners who demand to be a full member in the Union. In terms of economic conditions, the Council expected the potential members to accept basic rules of the liberal economy: the market economy and the competition. The last of the condition package to which the Council expects compliance was the candidates' ability to undertake the obligations of being a member of the Union. This was a favor for the Union side to have a general tool for deciding upon the future members in general terms. For sustainability of the reforms made by the potential members, the institutional approach for guaranteeing the continuity of legal processes was a basic rule in the Council's conclusions.

¹⁷ European Council (1993), "Conclusions of the Presidency, European Council in Copenhagen"

From its own side, the Union also set the rule to take its own capacity to absorb new members into consideration while performing the political process towards accession of the new members. The Council implied that, even though the candidate would meet each and every criteria put in front of her, the Union still had freedom to decide whether the Union was ready to absorb the new member or not. The scale of integration of the existing members of the Union was another criteria adopted by the Council to be recalled in the future enlargement processes. The European Union saved the final decision in the enlargement attempts and showed the importance of its own will for enlargement instead of those of the candidate states.

The Union's general framework to manage the process of accession of new members in the Union was drawn up by the decisions taken in Copenhagen Summit of 1993. Following these resolutions, the organs of the Union began to deal with the candidate countries' issues of accession process in details under the umbrella of these set of rules. The Copenhagen Criteria was used as a reference point for the states that applied for membership before and after the date of the summit. That is why, the set of conditions in the Copenhagen conclusions had been treated as the milestone in the accession process for new candidates of the Union.

2.2.3 The Period After Copenhagen Criteria

The portions of the legal documents which dealt with the conditionality principle were revised and amended in a decade after establishing the criteria in Copenhagen Summit. The Amsterdam Treaty, a treaty which aimed to amend the founding treaties, inserted certain innovations into the founding treaties. The Amsterdam Treaty amended the first paragraph of Article F, converting it to the Article 6, of the Treaty on European Union as follows:

1. The Union is founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law, principles which are common to the Member States.

2. The Union shall respect fundamental rights, as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms signed in Rome on 4 November 1950 and as they result from the constitutional traditions common to the Member States, as general principles of Community law.¹⁸

The Union clearly embedded the political conditions of the Copenhagen criteria inside the founding treaty of the Union. This was to demonstrate the loyalty to the basic principles in the criteria, and to show determination without any concessions for the new members. Moreover, to strengthen the legal position of the conditions, the first paragraph of the Article O of Treaty on European Union was amended, by converting the Article O to Article 49, in this form:

Any European State which respects the principles set out in Article 6(1) may apply to become a member of the Union. It shall address its application to the Council, which shall act unanimously after consulting the Commission and after receiving the assent of the European Parliament, which shall act by an absolute majority of its component members.¹⁹

In July 1997 the Commission issued the report namely ‘Agenda 2000: For a Stronger and Wider Union’, on the situation in the candidate states and the expectations of the Union during the accession process. The nature of the document was a mixture of depicting the realities and emphasizing the steps to be taken by the candidate states on the right way towards the full membership. The second part of the report dealt with the conditions and classified them as political criteria, economic criteria and other obligations of membership.²⁰ The political criteria were detailed descriptions of the Copenhagen criteria. The assessments were made on the basis of democracy and rule of law, human rights and respect for minorities.

¹⁸ Treaty of Amsterdam Amending the Treaty on European Union, The Treaties Establishing the European Communities and Related Acts

¹⁹ Ibid.

²⁰ Commission of the European Communities (1997), “Agenda 2000: For a Stronger and Wider Union”, *EC Bulletin*, No. 5/97, pp.39-47

The Agenda 2000 report introduced another condition, for the potential members of the Union, to be met before the accession takes place. In ‘the Principal Questions on the Way to Enlargement’, the Commission raised the issue of the border disputes among the candidates and with the third countries. The Commission concluded that

The Commission considers that, before accession applicants should make every effort to resolve any outstanding border dispute among themselves or involving third countries. Failing this, they should agree that the dispute be referred to the International Court of Justice.²¹

The Commission was critical about importing the border disputes and conflictual relations of the candidate states between them, or between any of them and any of other third countries. Because the Union was in a phase of deepening with political issues in addition to the economic ones, Commission reflected the concern of the member states regarding the foreign and security policy of the Union in general. The reference to the International Court of Justice for dispute resolution was both to avoid being a party of a dispute and to enhance the credibility of the Court over the Union’s political issues.

Although crucial for accession process, the issue of good neighborliness introduced in the Agenda 2000 did not have a legally binding status until the European Council agreed upon. In Helsinki Summit of the European Council in December 1999, the European Council clearly mentioned that

The European Council stresses the principle of peaceful settlement of disputes in accordance with the United Nations Charter and urges candidate States to make every effort to resolve any outstanding border disputes and other related issues. Failing this they should within a reasonable time bring the dispute to the International Court of Justice.²²

²¹ Ibid., p.51

²² European Council (1999), “Presidency Conclusions, European Council in Helsinki”

Therefore, after officially approved by the European Council, through the Presidency Conclusions, in the Helsinki Summit, the settlement of disputes before the accession into the Union was set up as a new condition for the candidates on the way to the Union.

The criteria set by the European Union to the candidate states were certain conditions with which the candidates were expected to comply. In the early years of integration of Europe, conditions for being a member were not wide and strict. However, after the collapse of the Soviet Union, the conditions for candidates were highlighted and widened for newcomers. The Eastern enlargement of the Union after Cold War made profound contributions to the theoretical bases of conditionality principle. The theoretical framework of EU's conditionality in the last phase of enlargement will be examined in the next part of chapter.

2.3 An Analysis of the EU Conditionality:

The uniqueness of the European Union conditionality brought about the advent of the literature theoretical analysis of the principle of conditionality in the EU case. The Union itself had genuine characteristics, when compared to the other international organizations. The enlargement process of the Union also provided its own features in time. Therefore, the theoretical framework drawn upon the conditionality of EU had its own essential implications and debates.

One of the leading theoretical analyses covering the conditionality of the European Union was built up by Milada Anna Vachudová. While analyzing the democratization processes of the CEECs, Vachudová concluded that there were two different approaches to manage this process. According to her, some post-communist European states followed an illiberal strategy to establish a democratic structure in internal political environment. These states failed to implement reforms because of the non-competitive political system and elite-based rent-seeking structure. However, the rest of the states preferred the second way as developing the competitive political

system and laying down the foundations of liberal democracy after 1989. Vachudová indicates that EU membership offered tremendous geopolitical, sociocultural and economic benefits for those post-communist states and as a correspondence there emerged an asymmetrical power relationship between the Union and the candidate states. The reason was the definite difference between Union's dependence on these states and their dependence on the EU. Vachudová used two concepts for defining the situation between CEECs and the European Union: Passive Leverage and Active Leverage. She stated that '[B]y passive leverage, I mean the attraction of EU membership, and by active leverage I mean the deliberate conditionality exercised in the EU's pre-accession process.'²³

Vachudová assessed that there was a great convergence of the post-communist states, and the reason behind it was two-fold: quality of political competition and the EU's active leverage. Leaving the political competition as a complement of passive leverage, she pointed two factors influencing the leverage on credible candidates: magnitude of benefits of membership, and magnitude of the entry requirements. 'The greater the benefits of membership, the greater the potential political will in applicant countries to satisfy intrusive political and economic requirements.'²⁴ Vachudová's analysis continues with examining the characteristics, to have a more effective leverage, of the pre-accession process, which is the way that European Union delivers political and economic conditionality. Those characteristics are three: asymmetric interdependence, enforcement and meritocracy.

Asymmetric Interdependence defines how far the candidates and international organizations depend on each other. In case of European Union, 'while EU depended but little on economic and political ties with any particular candidate, East European states depended on integration with the EU for their economic survival and eventual prosperity.'²⁵ There emerges a great imbalance between the bargaining parties in

²³ Vachudová, M.A. (2005), *Europe Undivided: Democracy, Leverage and Integration After Communism*, Oxford: Oxford University Press, p.63

²⁴ Ibid, p.108

²⁵ Ibid, p.109

such a case of international politics. The position of the CEECs in the process of pre-accession and negotiations was very weak against the EU's economic and political power. The Union did not hesitate to use simple threat of excluding any candidate state from the process of accession if the demands by the EU are not responded in political and economic terms. EU's treatment over the candidates did not pose a coercive action, however it certainly made the conditionality much more powerful than it would have been otherwise. The EU's stance on accession conditions were put definitely, certainly and clearly in the Copenhagen summit of the European Council. This certainty and clearness convinced the candidate states that once criteria met, ignoring how harsh they are, membership would be granted by the Union as the reward of reform process.

Enforcement stands for the monitoring of implementation of the rules of the reforms in the reformed areas, and avoiding to progress without the proof of obvious implementation. EU's main position regarding the implementation was hard, and requirements for the accession were nonnegotiable. The power of the enforcement approach was accompanied with the asymmetric interdependence by the EU to manage the accession process of the states. Vachudová mentions that the enforcement in the last enlargement was taken more seriously than the enlargements before because of two reasons: the greatness of the *acquis* which enlarges the candidates' homework, and the interest of EU to be sure that candidates comply with the EU's membership requirements. In this manner, EU differed from the International Financial Institutions (IFI) which asked for compliance after the accession.²⁶ The reason why EU looked for pre-accession enforcement was the reality that candidates of the EU were also candidates to import some seriously problematic issues into the Union, such as ethnic conflicts, weak financial markets, unstable political institutions and international crime. That's why the Union pursued enforcement-before strategy instead of enforcement-after one.

²⁶ Ibid, p.111

Meritocracy, as Vachudová defines, describes a merit-based approach towards the candidates and their accession processes, depending on the correspondence of the candidate country towards the requirements of the membership. That is, the candidates are treated in equality by the Union, and their pace for progress defines their position in the accession period.²⁷ Basically, the EU does not have an intention to exclude any of the candidates. Instead, it offers an eventual membership for the candidate and, instead of losing the state as a partner, it insists on keeping the process going on as much as possible. This approach in the EU created two groups of opinions: supporters of inclusive and supporters of exclusive enlargements. Meritocracy also determines the role of the European Commission in the Union. There are three ways of Commission's using its role to empower its position: to be the agenda setter, to be a powerful broker and to strengthen its own position.²⁸

Vachudová argued that in addition to the characteristics of the active leverage and the conditionality, there are the formal parts of EU's active leverage, which are divided into three groups: Copenhagen political criteria, Copenhagen economic criteria, and the *acquis communautaire*. Although agreed in 1993 Copenhagen Summit, the political criteria was seriously held in the negotiations starting from 1997 when Article 6(1) and Article 7 of Amsterdam Treaty embedded the Copenhagen criteria to the main legal documents of the Union. Article 7 states that any members that fall short of those principles would be excluded from the voting system. Thus, power of the criteria in conditionality was legally enhanced through the Amsterdam Treaty. Economic criteria were developed and described in various documents of the Union, such as Agenda 2000 published in 1997. Existence of functioning market economy and sustainability of the competitiveness in market were main themes to be undertaken by the candidate. In terms of the *acquis*, the candidate states were expected to adopt almost 80.000-pages *acquis* to the internal legal system before accession to the Union. The *acquis* included the treaties,

²⁷ Ibid, p.113

²⁸ Ibid, p.117

directives, decisions, resolutions, and legal outcomes of European Court of Justice etc. The legislation and implementation of the *acquis* is under the straight control of the Union via relevant methods.

Although not mentioned in legal texts, Karen E. Smith argues that another political criteria was put in front of the candidate states for being accepted as a full member of the Union: the good neighborliness.²⁹ Instead of importing border and demographic problems among the newcomers, the Union asked the candidates to overcome the existing problems among themselves and the other states before joining the Union. ‘The EU coordinated a multilateral framework, between May 1994 and March 1995, within which the CEECs were encouraged to conclude agreements with each other on borders and treatment of minorities as well as to use regional roundtables to agree cross-border cooperation projects.’³⁰

Drawing the lines of her descriptive position in theorizing the conditionality of the European Union, Vachudová introduces a list of the tools which are used for managing the conditionality during the enlargement process of the Union. To collect in brief, Vachudová’s list of the tools of pre-accession process is as follows:

- Association Agreements
- Criticism and Démarches in the Light of the Copenhagen Criteria
- Agenda 2000 and the Opinions
- The Regular Reports
- Accession Partnerships and the National Programs for the Adoption
- Negotiations and Screening³¹

²⁹ Smith, K.E. (2003), “The Evolution and Application of EU Membership Conditionality”, in Cremona M. (ed.) *The Enlargement of the European Union*, New York: Oxford University Press, p.118

³⁰ Ibid., p.122

³¹ Vachudová, M.A. (2005), *Europe Undivided: Democracy, Leverage and Integration After Communism*, Oxford: Oxford University Press, pp.125-129

There are two ways in which the tools of the European Union work generally. First, the abovementioned tools allow the European Union

[T]o use the threat of exclusion from the next stage of the process on candidates that are not fulfilling the required reforms. Conversely, it allows the EU to reward states in response to progress in implementing reforms and adopting the EU laws.³²

Having such a threat in hand, the Union used the conditionality principle to sustain the long-term relationship with the candidate states. The states in progressive mood were granted with the intermediate rewards, which gave the candidate state the certain idea that the final stage promises full accession if the conditions are met. On the other hand, the Union created the opportunity for itself to regulate the pace of the different candidates in the accession process. This kind of controlling movement with definite tools contributed to the target of the Union to allow the multi-number candidates to have the membership of the Union at the same date.

Second, the Union benefits from the tools by using them as the way of assistance to the candidate states. The Commission assists the states, which needs reforms to fulfill before acceding in the Union, by using the tools in different ways, e.g. by sharing expertise and information, setting list of priorities and by asking each government to develop a very extensive plan for achieving compliance.³³

The political dimension of the conditionality was overviewed by a number of the academicians and theoreticians since the literature on enlargement began to develop. Geoffrey Pridham claimed that the political conditionality of the European Union was a three-dimensional approach. Essentially, the dimensions did focus on the relationship between the conditionality principle and the notions of democracy, the enlargement and the European Union itself. The level and characteristic of each

³² Ibid, p.126

³³ Ibid.

relationship provides the idea on how the conditionality is used by the parties of the bargaining process.

First, conditionality had an effect of pressure over the democratization process of the former Eastern Block states, which were searching for a membership in the leading European club of states. ‘The relationship between conditionality and post-communist democratization is basically about a potentially reinforcing process so far as the latter is concerned.’³⁴ The will of accession of former communist states was coming from those states, instead of the European Union. Therefore, the candidate states had to undertake the difficult prerequisites of the process of enlargement and principle of conditionality, though they were aware of the wide-range of issues and steps in the process.

However, the idea of conditionality and progress towards democratization did not match completely with each other. This reality resulted in certain limitations on the timing and scope of the conditionality applied by the European Union. First limitation was the fact that ‘conditionality did not address democratic transition; rather it was in effect concerned with furthering democratic consolidation.’³⁵ That is, although the Copenhagen criteria were emphasizing the institutional build-up of democracy, the candidate states were quicker than expected to provide the essential requirements of democratic political systems. So, Union’s conditional approach assisted the candidates to improve, rather than install, the existing political assets.

The second limitation of conditionality on the democratization process originated from the legal texts of the European Union and implementations depending on those texts. Although the criteria settled in the Copenhagen summit of 1993 evolved during the enlargement phase, some of the main complements of democratic life were left out of the scope of conditionality. Pridham refers political parties and the civil society as those essentials of democratic life which ‘remained

³⁴ Pridham, G. (2007), “Change and Continuity in the European Union’s Political Conditionality: Aims Approach, and Priorities”, *Democratization*, Vol.14, No.3, p.449

³⁵ Ibid.

outside' of the Copenhagen criteria from the beginning.³⁶ The exemption of political parties and civil society from the legal texts of conditionality directed the Commission on the official and institutional reforms, without touching upon the systemic questions less than required.

Second dimension on conditionality was pointed out as the relation between conditionality and enlargement, by Pridham. The relationship between conditionality and enlargement was, according to him, a dynamic one.³⁷ Conditionality's features and positions have depended on the prospects of accession and the momentum. That is, the main motivations of conditionality were revised, when needed, depending on the position of the candidate in terms of its accessibility in the Union.

Third of dimensions is the relationship between principle of conditionality and the European Union, regarding the process of enlargement.³⁸ The Union's choice to manage the enlargement and integration (deepening, in other words) together had crucial impacts over the implementation of the conditionality. Union's attempts, starting from the early 1980s, for more internal integration coincided with the movement of enlargement after the fall of Soviet Union in the early 1990s. Institutionally, the Commission was the leading institution to conduct the enlargement of the Union, and conditionality was a part of Commission's duties in the main institutional chart. However, the period of enlargement brought about the inclusion of the Council and European Parliament in the significantly. However, in a way, those complications in the institutional arrangement for enlargement 'were held in check during the 2004 enlargement process because of the momentum this achieved.'³⁹

³⁶ Ibid., p.450

³⁷ Ibid.

³⁸ Ibid.

³⁹ Ibid.

Schimmelfennig and Sedelmeier argued that the principle of conditionality was one of the major parts of European Union's external governance. Extending the 'governance approach' to the external relations in addition to the policy-making within the Union, Schimmelfennig and Sedelmeier defined the dominant logic of EU conditionality as 'a bargaining strategy of reinforcement by reward, under which the EU provides external incentives for a target government to comply with its conditions.'⁴⁰ Conditionality is used for transferring the rules of the Union to the candidate states, to achieve the compliance of the potential member state with the existing situation in the Union. However, there are two mechanisms which override the EU's conditionality in terms of leading the rule transfer. Schimmelfennig and Sedelmeier depict these mechanisms as follows:

First, in the process of systemic political and economic transformation that the CEECs are undergoing, they might consider EU rules as effective solutions to domestic policy challenges and thus adopt these rules independently of EU conditionality and their desire to join. Second, while the EU might provide the incentives for the adoption of its rules, the mechanism through which the CEECs adopt these rules might relate to the processes of persuasion and learning in which EU actors socialize CEEC actors rather than coerce them.⁴¹

The argument of Schimmelfennig and Sedelmeier had a two-sided approach, one from the Union and the other from the candidates. This elaboration of the conditionality was not a one way enforcement from the Union towards the candidates. Depending on this notion of conditionality, they conceptualized the three models of EU external governance: external incentives model, social learning model and lesson-drawing model.

The external incentives model, for Schimmelfennig and Sedelmeier, was a rationalist bargaining model. In this model, the Union's external governance 'follows

⁴⁰ Schimmelfennig F. and Sedelmeier U. (2004), "Governance by Conditionality: EU Rule Transfer to the Candidate Countries of Central and Eastern Europe", *Journal of European Public Policy*, Vol.11, Issue 4, p.662

⁴¹ Ibid.

a strategy of conditionality in which the EU sets its rules as conditions that CEECs have to fulfill in order to receive EU rewards.⁴² The rewards are generally assistance and institutional ties, which are made of different agreements on the road to full membership. The model presumes that the domestic situations in the candidate states are already established, and the EU conditionality introduces incentives for reforming these situations. The conditionality may have impact on the target government, either directly through intergovernmental negotiations or indirectly through empowering the domestic actors. Final decision for rule adoption still remains under the political will of the target government.

The external incentives model had a general proposition which is that: a state adopts EU rules if the benefits of EU rewards exceed the domestic adoption costs. Mainly, it leans on a cost-benefit analysis, and this cost-benefit balance depends on four factors: (i) determinacy of conditions, (ii) the size and speed of rewards, (iii) credibility of threats and promises, (iv) the size of adoption costs.⁴³

The determinacy of the conditions directly refers to the clarity and formality of the rules. The adoption of a rule would be easier if it is obvious and certain while being a part of legal documents. The effectiveness of a rule transfer increase when determinacy of the condition is relatively enhanced. The returning speed of rewards and their sizes has certain impacts over the efficiency of implementation of conditions. Because the final aim is full membership in the Union, the conditions set forth should be emphasizing how much it would contribute towards the membership in the Union.

In terms of the credibility of the conditionality, there are three issues which would be determinant. First is the capabilities and costs of the agency who raises the conditions in front of an undertaker. EU's capabilities to give the rewards when the conditions are obviously adopted by the candidates are vital for the future of the

⁴² Ibid., p.663

⁴³ Ibid., p.664

negotiations between candidate and the Union. EU had an asymmetrical power against the CEECs in terms of economic interdependence, while this interdependence was not an aspect of negotiations in the enlargements towards northern and western Europe. The payable costs, in terms of rewards, increase the power of the Union during the negotiations, because that would demonstrate how certain the Union is in keeping the promises. Second, the credibility of the conditions depends on the consistency of the organization in terms of reward-giving. The Union should be just and modest while rewards for conditions are allocated. This would significantly affect the domestic actors, which would manage the process of negotiations, of a candidate state. Third, cross-conditionality should be avoided to keep credibility strong. The candidate should not be left under the attraction of any other sources offering the rewards expected from the Union.

Last factor that is important for the cost-benefit analysis is the adoption costs for the candidate. The adoption cost of a condition set for the candidate and the distribution of the costs among the actors of a candidate is critical in the point of accepting or rejecting the conditions. The approval of the domestic actors of status quo in a candidate states is needed for the implementation of the conditions. The higher costs decrease the likelihood of the adoption of conditions.⁴⁴

Apart from the external incentives model, Schimmelfennig and Sedelmeier demonstrate two other models of external governance. The social learning model, under tenets of social constructivism, argues that the appropriateness is vital for the adoption of rules and conditions. '[T]he legitimacy of rules and the appropriateness of behavior (rather than bargaining about conditions and rewards), persuasion (rather than coercion), and complex learning (rather than behavioural adaptation) characterizes the process of rule transfer and rule adoption.'⁴⁵ Values and norms are definitive in the progress of reforms expected from the Union, and persuasive ways are more preferable.

⁴⁴ Ibid., p.667

⁴⁵ Ibid.

The lesson-drawing model of external governance defies the incentives and persuasion in the bargaining position of Union and the candidate. The model claims that candidate would decide to adopt or suspend the rule by evaluating the other candidates who adopted them. Others' experience in the rule transfer would have influence on the candidate to decide upon. Expectations via evaluations have great importance in this model.

CHAPTER III

CYPRUS ISSUE AS A PART OF EU – TURKEY RELATIONS

Turkey's relations with the European Community dates back to 1959, the date of application from Turkish side for associate membership of the European Economic Community. In 1963, both sides agreed to conclude the association agreement that aimed to get Turkey into customs union with the Community and to provide accession of Turkey eventually into the Community. However, the development of relations did not have a smooth line for both sides. The customs union was achieved in the beginning of 1996, and the membership of Turkey in the European Union is still a question on the table.

Turkey's application for full membership came in 1987, and Turkey's eligibility for being a candidate of the European Union was repeated in different decisions of EU organs. The candidacy status of Turkey was granted in late 1999, and the negotiations for membership opened in October 2005.

The conditions for Turkey to grant candidacy, to open negotiations and to let for membership has been crucial complements of the process. The Cyprus issue is one of the leading conditions, or criteria, for Turkey to comply with before acceding in the European Union. The present chapter presents a picture of the conditionality of the European Union applied on Turkey around the Cyprus issue. The conditions will be classified in the periods since the application of Turkey for full membership in 1987. The Helsinki Summit in 1999, in which Turkey was declared as candidate, and

the Brussels Summit in 2004, in which the opening of negotiations was agreed, will be the milestones of the categorization.

3.1 From 1987 to 1999

Turkey's application for full membership of the European Community was delivered to the EC on April 14th 1987 by the State Minister Responsible for the Relations with European Community, Ali Bozer. Turkey's membership application was made simultaneously for the three supplementary bodies of the European Community:

- European Coal and Steel Community, under the Article 98 of the Paris Treaty
- European Atomic Energy Community, under the Article 209 of the EURATOM Treaty
- European Economic Community, under the Article 237 of the Rome Treaty

The application of Turkey for the full membership to the European Community was an unexpected and non-welcome attempt in the eyes of the members of the European Community. The reasons for the passive reaction of the member states of the Community for the membership application of Turkey was both the internal deepening process of the Community, which had accelerated after signing and the ratification of the Single European Act, and the bilateral relations of the members of the Community, such as Greece and Federal Republic of Germany. To begin with, after the accession of Greece (1981), Spain (1986) and Portugal (1986) into the Community, the EC members reached a common agreement of the significance of the steps for restructuring the structure for better functioning and efficiency in the future. Moreover, the last three members of the Community were in a lower position than the average and other members in terms of the economic performance and GDP. The financial resources and economic policies of the Community had to be revised for digesting the new poorer members the Community. Under these requirements, the Single European Act, which projected a restructuring of the Community and establishing the "Union" by the end of 1992 without any new

enlargements, was designed and signed by the EC. This process resulted in a reluctant approach to Turkey's membership application in 1987.

Second, Turkey's bilateral relations with some members of the Community brought about negative implications on her application for the full membership. The leading two members in such manner were Greece and the Federal Republic of Germany. The relations between Greece and Turkey had been problematic because of different causes, e.g. the Aegean issue, the rights of minorities in each country, and the Cyprus problem. The Greek side perceived her membership in the EC as an advantage for her arguments against Turkey in these issues. Turkey's relations with the Federal Republic of Germany (FRG) worsened when FRG initiated restrictions on the Turkish worker's migration to FRG because of decreasing needs for the labor force. These problematic relations of Turkey with the members of the EC resulted in the unwillingness of the Community for Turkey's full membership at that time.

The application of Turkey for membership of the EC was sent to the Commission of the EC for an analysis of Turkey's convenience for the conditions of membership. The Commission released the 'Commission Opinion on Turkey's Request for Accession to the Community' on 20 December 1989. The Commission claimed that any enlargements before 1993 would be 'unwise' because of the need for completion of the single market and monetary union, and improvement of the Community itself.⁴⁶ In its opinion, about the Cyprus issue, the Commission of the EC concluded that:

Examination of the political aspects of the accession of Turkey would be incomplete if it did not consider the negative effects of the dispute between Turkey and one Member State of the Community, and also the situation in Cyprus, on which the European Council has just expressed its concern once again. At issue are the unity, independence, sovereignty and territorial integrity of Cyprus, in accordance with the relevant resolutions of the United Nations.⁴⁷

⁴⁶ Commission of the European Communities (1989), "Commission Opinion on Turkey's Request For Accession to the Community", p.3

⁴⁷ Ibid., p.7

The Cyprus issue was evaluated as a political subject by the Commission of the EC. So, it was evaluated under the title of the ‘Political Context’. The Commission argued that the Cyprus is not a part of the dispute between Turkey and a member of the Community, which it refers as Greece, but is a unique political issue to be settled. Moreover, the Commission concluded that United Nations’s resolutions about the issue are the sole reference points for the settlement on the island. The reference of the Commission to the resolutions of the UN for the settlement of the Cyprus problem demonstrates that the EC, as an international organization, was not eager to undertake the responsibility of the settlement of an international dispute. There are two main reasons behind EC’s neutral position. First, the Community was very careful to avoid from creating a huge political reaction from Turkey against the Community. Second, at the time of the Opinion, the Community was on the period of transforming itself from an economic community to a political one.

The vital point in the Commission opinion is that it declared the fact that Cyprus issue has negative effects on the political side of Turkey’s EU membership, and to complete the conditions for the membership of Turkey, Cyprus problem has to be settled. In other words, Cyprus issue was introduced as a precondition for Turkey’s membership in the Community in the future.

The opinion by the Commission for Turkey’s membership request was adopted by the General Affairs and External Relations Council (GAERC) on 5 February 1990 without any amendments.⁴⁸ However, in the GAERC resolution, the decision for Turkey’s membership application was not declared. Instead, GAERC asked Commission to prepare a report on development of partnership with Turkey.⁴⁹

The enlargement process of the EC was re-activated during the Lisbon European Council of 1992. The Council declared that the negotiations on the

⁴⁸ Arat, T., and Erhan, Ç. (2004), “AT’yle İlişkiler” in Oran, Baskın (ed.), *Türk Dış Politikası: Kurtuluş Savaşından Bugüne Olgular, Belgeler, Yorumlar*, İstanbul: İletişim Yayıncılık, V.2, p.101

⁴⁹ Ibid.

accession of different countries to the Union would start after the ratification of the treaty signed in Maastricht. It was agreed, in the Council, that ‘parallel progress is needed as regards the internal development of the Union and in preparation for membership of other countries’.⁵⁰ In terms of the membership process of Turkey and Cyprus, the Council agreed as follows:

In this context the European Council discussed the applications which have been submitted by Turkey, Cyprus and Malta. The European Council agrees that each of these applications must be considered on its merits.⁵¹

The Council’s decision to evaluate each case of candidacy on its own merit shows the Community’s neutral position, which the EC was dedicated to protect. The EC wanted to respect the principle of ‘equality’ among the applicants for the membership.

The European Community established the “European Union” by the first day of 1993. The Union’s characteristic was designed as a political and economic union in all terms. Finishing the presupposed phase of restructuring the functional features of the Community, the Union initiated a new period of enlargement. The Community’s new conditions for the enlargement were reported by the Commission of the EC. The Commission argued that, perceiving the collapse of the Cold War as an historic opportunity for Europe,

The Community has never been a closed club, and cannot now refuse the historic challenge to assume its continental responsibilities and contribute to the development of a political and economic order for the whole of Europe.⁵²

⁵⁰ European Council (1992), “Presidency Conclusions, European Council in Lisbon”

⁵¹ Ibid.

⁵² Commission of European Communities, “Europe and the Challenge of Enlargement”, *EC Bulletin*, No.3/92, p.9

The Commission enlisted Turkey and Cyprus in the countries who were the applicants for the full membership in the Union, and both countries' condition for the progress of application requirements were evaluated. The Commission declared that 'there is inevitably a link between the question of accession and the problem which results from the *de facto* separation of the island into two entities, between which there is no movement of goods persons or services'.⁵³ Moreover, Commission repeated EC's expectation for respect to the UN resolutions for the solution of the problem in the island. However, the Cyprus issue was not mentioned among the problematic issues between Turkey and the EC about her application for the membership. The European Commission emphasized Turkey's role as being a pole of stability in its region.

The European Union began to focus on the enlargement process beginning from 1993. The criteria for the new applicants and potential future members were elaborated in details in the Copenhagen summit of the European Council. However, although Turkey's relations with the Community dated back to 1960s, the Union's special focus for the new enlargement was on the former Eastern Block states in the Central and Eastern Europe. Thus, Turkey's relations with the Union in the new phase were far away from Turkey's expectations.

The most important step in the integration of Turkey with Europe in the relevant period was the establishment of the Customs Union between Turkey and the European Union in the beginning of 1996. Turkey acceded to the Customs Union following the decision of the Association Council, and assent of the European Parliament.

On the side of Cyprus, the European Council in Madrid in 1995 declared that the negotiations of accession with Cyprus would 'commence, on the basis of the Commission proposals, six months after the conclusion of the 1996 Intergovernmental Conference'.⁵⁴ In addition, the Council further mentioned the

⁵³ Ibid., p.17

⁵⁴ European Council (1995), "Presidency Conclusions, European Council in Madrid"

importance which it attaches to a bi-zonal and bi-communal solution for the island under UN auspices.

The decision for Turkey's accession to the Customs Union of Europe was perceived as a great success for Europeanization of the country in Turkey. Therefore, the decision had positive reflections in Turkish media and society.

The term 'Europeanization' is a subject of intense discussions in the theoretical debate. Goetz and Hix argue that Europeanization is 'a process of change in national institutional and policy practices that can be attributed to European integration.'⁵⁵ That is, Europeanization is a reformation inside the country in terms of institutional restructuring and political transformation. On the other hand, Börzel defined Europeanization as 'a process by which domestic policy areas become increasingly subject to European policymaking.'⁵⁶ Börzel interprets the Europeanization as transferring the decision-making task of the governments of candidate and member states to the central bodies of the European Union.

Turkey's inclusion in the Customs Union overlaps with the definition of Börzel, more than that of Goetz and Hix. Because, the decisions of the Customs Union were made by the relevant authorities of the European Union, which Turkey was not a member at the time of establishment of Customs Union. Thus, Turkey accepted to comply with the decisions of an international organization, which Turkey itself was not a member. The Customs Union decision had a binding effect, that meant the decisions in the Customs Union were accepted from the beginning by Turkey, without a say in the decision-making process.

However, following the decision of Customs Union, the support of the EU to the membership of Cyprus resulted in negative reactions in Turkish politics. So, after

⁵⁵ Goetz, K.H. and Hix, S. (2000), "European Integration and National Political Systems", *West European Politics*, Vol.3 Issue 4, p.9

⁵⁶ Börzel, T. (1999), "Towards Convergence in Europe? Institutional Adaptation to Europeanization in German and Spain", *Journal of Common Market Studies*, Vol.4, No.15, p.574

EU's grant for membership negotiations to Cyprus, Turkey's expectations for the candidacy status to the Union rose up. The imbalance between the application and membership processes of Turkey and Cyprus increased the pressure on the Turkish government about the EU policy. Because of the increasing number of oppositions to the EU policy, and the endorsement of the commencement of membership negotiations with Republic of Cyprus in 1998 by the European Council, the Turkish government mentioned its strong expectation that Turkey would be granted the status of candidacy in the European Council in Luxembourg in December 1997.

In June 1997, the European Council adopted the first volume of the 'Agenda 2000', which is a communication by the Commission depending on the Council decisions in the Madrid European Council regarding the enlargement. The Commission mentioned that Agenda 2000 'outlines in a single framework the broad perspectives for the development of the Union and its policies beyond the turn of the century, the horizontal issues related to enlargement, and the future financial framework beyond 2000 taking account of the prospect of an enlarged Union.'⁵⁷ In terms of the Cyprus issue, the Commission asked Turkey to 'contribute to the actively to a just and lasting settlement of the Cyprus question in accordance with the relevant United Nations resolutions.'⁵⁸ Thus, the Commission, who categorized the issue in political terms, drew the way for Turkey for her strong support to solution on the island, if she demands the full membership in the Union.

The more important part of Commission's communication was the argument that the accession process of Cyprus would provide incentive for the political settlement on the island. Repeating the Union's support for UN-based settlement of the Cyprus issue, the European Commission concluded that

The Union is determined to play a positive role in bringing about a just and lasting settlement in accordance with the relevant

⁵⁷ Commission of the European Communities, "Agenda 2000: For a Stronger and Wider Union", *EC Bulletin*, No. 5/97

⁵⁸ Ibid.

United Nations Resolutions. The status quo which is at odds with international law, threatens the stability of the island, the region and has implications for the security of Europe as a whole. The Union cannot, and does not wish to, interfere in the institutional arrangements to be agreed between the parties. But it is available to advise on the compatibility of such arrangements with the *acquis* of the Union. The prospect of accession, whose political and economic advantages are now becoming clear to Turkish Cypriots as well as to Greek Cypriots, can in itself provide such an incentive.⁵⁹

Moreover, the Commission pointed the Association Agreement and the Customs Union as the foundations for ‘the achievement of a just and lasting settlement in Cyprus.’⁶⁰ Establishing the relation between Turkey’s agreements with the EU and the essence of the solution on the island, the Commission supported the opinion that the process of membership of Turkey and Cyprus may enforce the candidate states for a lasting settlement.

The ‘Agenda 2000’ included a change in the policy of the Community towards the Cyprus issue and its solution. In the document and discourse before the ‘Agenda 2000’, the Community always displayed a neutral role and had a position which was exactly out of the issue. The Community always declared that it expected a solution on the principles of independence, sovereignty, territorial integrity and unity. The Community, in the past, mentioned that the dialogue between the parties of Cyprus issue would ‘lead rapidly to a solution of the problem, on the basis of the above principles and the relevant U.N. resolutions.’⁶¹ Moreover, when the dialogues for a solution in the island came to a deadlock, the Council stressed ‘the need for progress in the inter-communal dialogue under the UN auspices and appeals to the parties concerned to cooperate with the UN Secretary General towards this end and to refrain from any action that could jeopardize this dialogue.’⁶² However, the Agenda 2000 demonstrated that the EC wanted to have more active role in the

⁵⁹ Ibid.

⁶⁰ Ibid.

⁶¹ European Council (1988) “Presidency Conclusions, European Council in Rhodes”

⁶² European Council (1989) “Presidency Conclusions, European Council in Madrid”

solution of the Cyprus problem. The Commission indicated its demand to have a positive role for the solution of the issue, although still in accordance with the UN resolutions. This reversion of the role of the EU in the Cyprus problem had significant repercussions for Turkey's relations in the future with the European Union.

Although the Union emphasized its support for and expectations about a solution of the Cyprus issue, and although the deficiencies of Turkey in political and economic terms for the membership in the Union, at the time Turkey's hope for the commencement of the negotiations for full membership was very strong. However, the European Council in Luxembourg did not take Turkey in the list of the countries which would begin negotiations for membership on 30 March 1998. Moreover, Cyprus was enlisted among the countries with which the negotiations would be initiated. Confirming the eligibility of Turkey for accession to the Union, the European Council agreed on a European strategy for Turkey to bring her closer to the Union, and stated that

The European Council recalls that strengthening Turkey's links with the European Union also depends on that country's pursuit of the political and economic reforms on which it has embarked, including the alignment of human rights standards and practices on those in force in the European Union; respect for and protection of minorities; the establishment of satisfactory and stable relations between Greece and Turkey; the settlement of disputes, in particular by legal process, including the International Court of Justice; and support for negotiations under the aegis of the UN on a political settlement in Cyprus on the basis of the relevant UN Security Council Resolutions.⁶³

The wording of the Council resolution proved that the Union attempted to strengthen the Cyprus link for Turkey's potential future negotiations to be a full member in the Union. In addition, The Council endorsed the opinions mentioned in the Agenda 2000 on the future negotiations as appropriate to implement. So, the

⁶³ European Council (1997), "Presidency Conclusions, European Council in Luxembourg"

reviews of the Commission mentioned above on the changing nature towards conditioning the Cyprus issue was emboldened by the Council.

Turkey's harsh reactions and actions against the decisions taken in the Luxembourg European Council resulted in a period of silence on the side of the EU about the link between the Cyprus issue and the application of Turkey for full membership in the Union. The Commission introduced the "European Strategy for Turkey", the guidelines of which was drawn up by the Luxembourg European Council, on 4 March 1998. The European Strategy for Turkey mainly focused on the issues of customs union, approximation of the laws and legislation of Turkey to the *acquis* of the Union, financial cooperation between Turkey and the Union, and the economic issues like the industrial, agricultural and financial ones.⁶⁴ The international political issues that the Strategy touched upon were Turkey's inclusion in the Euro-Mediterranean Partnership and in the Black Sea regional co-operation.⁶⁵

The period of silence was pursued in the European Councils which convened in the year of 1998. Both in the Councils in Cardiff and Vienna, the European Council did not touch upon the Cyprus issue as a part of Turkey's application and potential candidacy for the full membership in the Union. Council's approach to the issue was composed of welcoming⁶⁶ and reaffirming⁶⁷ the European Strategy for Turkey adopted by the European Commission.

Beginning from 1998, the European Commission initiated a new supplement of the accession process of the candidate countries for the membership. The European Council in Luxembourg asked the Commission to 'make regular reports to the Council, together with any necessary recommendation for opening bilateral

⁶⁴ Commission of the European Communities, (1998), "European Strategy for Turkey: The Commission's Initial Operational Proposals"

⁶⁵ Ibid.

⁶⁶ European Council (1998), "Presidency Conclusions, European Council in Cardiff"

⁶⁷ European Council (1998), "Presidency Conclusions, European Council in Vienna"

intergovernmental conferences, reviewing the progress of each central and east European applicant state towards accession in the light of the Copenhagen criteria, in particular the rate at which it is adopting the Union *acquis*.⁶⁸ Cyprus was added to the list of the countries, on which the regular reports were to be made, in the European Council in Cardiff. Also, Commission was asked for a report on Turkey ‘based on the Article 28 of the Association agreement and on the conclusions of the European Council in Luxembourg.’⁶⁹

Depending on these legal bases, the Commission released the “Composite Paper” of 1998, in which the candidate countries’ and Turkey’s conditions in terms of the *acquis* were examined and analyzed in details. Demonstrating the period of the silence about the link between Cyprus issue and Turkey’s application for full membership in the Union, the Commission did not refer to the situation in Cyprus as a part of Turkey’s road to the membership in the European Union. However, Turkey was warned by the Commission that ‘it is up to Turkey to contribute actively to the resolution of its differences with certain neighbouring countries through peaceful means in conformity with international law.’⁷⁰ Although it was not referred directly, the key message in the opinions of the Commission was the request from Turkey about the issues of Aegean dispute and Cyprus problem.

The European Commission released the first regular report in 1998 on Turkey. The report included the most comprehensive analysis and critique of the Cyprus issue linked to Turkey’s application for full membership up to date. The Commission labeled Turkey’s existence on the island as an ‘occupation’ with a strong army, and criticized Turkey’s signing the Association Agreement with the northern Cyprus.⁷¹ According to the Commission,

⁶⁸ European Council (1997), “Presidency Conclusions, European Council in Luxembourg”

⁶⁹ European Council (1998), “Presidency Conclusions, European Council in Cardiff”

⁷⁰ Commission of the European Communities (1998), “Composite Paper: Reports on Progress Towards Accession by Each of the Candidate Countries”, p.20

⁷¹ Commission of the European Communities (1998), “Regular Report From the Commission on Turkey’s Progress Towards Accession”, p.20

The measures taken by Turkey are incompatible with international law as expressed in the relevant UN resolutions, to which the European Union fully subscribes. The Commission continues to believe that the good-offices mission conducted by the UN Secretary-General with the backing of the UN Security Council and the European Union must have the active support of all the interested parties.⁷²

The Commission repeated the Union's classical opinion about Union's expectations for implementation of the relevant UN resolutions to the Cyprus issue, and asked Turkey for using its 'special relationship to bring about a just and fair settlement of the Cyprus issue in accordance with the relevant UN resolutions, which are based notably on the establishment of a bi-zonal and bi-community federation.'⁷³ Thus, the Union reaffirmed the fact that one of Turkey's leading criteria for full membership in the Union was the Cyprus issue, which was analyzed in details in the first regular report made on Turkey.

In addition to the political criteria decided in the Copenhagen European Council, the Commission put the Cyprus issue as a part of another criteria which is 'The Ability to assume the obligations of the membership.' The Commission emphasized that one of the two main concerns related to the maritime transport was 'the treatment in Turkish ports of vessels travelling from ports in Cyprus.'⁷⁴ That is, Turkey's declining the requests of the ships of or coming from the Republic of Cyprus for entry to the ports of Turkey was interpreted as a violation of the freedom in transport and acquis covering the customs union. Thus, the Commission allowed the Cyprus issue to spread from the political criteria to economic ones, which demonstrated that Cyprus issue would be linked to other areas of criteria in front of Turkey for full membership in the Union in the future.

⁷² Ibid., p.21

⁷³ Ibid.

⁷⁴ Ibid., p.42

3.2 From 1999 to 2004

The year of 1999 was a year of re-construction of the relations between Turkey and the European Union. European Union took positive steps for Turkey's application for full membership, and these steps helped for decreasing the frustration of the country on the way to Europe. The European Commission released the annual 'Regular Report on Turkey's Progress towards Accession' on 13 October 1999. As always, the Commission mentioned its expectation about Turkey's implementing the UN Resolutions regarding the Cyprus issue, and the Commission criticized the declaration of Bülent Ecevit and Rauf R. Denktaş on developing the relations for developing further integration.⁷⁵ In 1999's regular report, the Commission had some additional parts to the link between the Cyprus issue and Turkey's candidacy. The Commission referred to one of the decisions of the European Court of Human Rights and declared that

In 1996, the European Court of Human Rights delivered a ruling against Turkey in the case of a Greek-Cypriot woman (Mrs Loizidou) who was deprived of access to her property in northern Cyprus. In a second judgement in July 1998, the Court decided on pecuniary compensation for the claimant and gave Turkey until October 1998 to pay the compensation. Till now, arguing that the land in question is not Turkish but part of the TRNC, Turkey has not complied with the Court judgement. In April 1999, the President of the Committee of Ministers of the Council of Europe recalled the obligation of Turkey to pay the compensation awarded by the Court.⁷⁶

Although the European Court of Human Rights is an organ of the Council of Europe, not the European Union, the Commission pointed out a decision of the Court

⁷⁵ On 20 July 1999, Turkish Prime Minister Mr. Ecevit and TRNC Leader Mr. Denktaş announced a joint declaration on settlement of Cyprus question. In the declaration, both sides agreed that EU should suspend the negotiations with Greek Cypriots. Moreover, the declaration mentioned that if the EU would carry on negotiations with Republic of Cyprus, the relations between Turkey and TRNC shall go on for further integration and common policies. The details of declaration can be found in "Bütünleşmeye Doğru", *Radikal*, 21 July 1999, available at <http://www.radikal.com.tr/1999/07/21/dis/01but.html> (last accessed on 10 November 2009)

⁷⁶ Commission of the European Communities (1999), "Regular Report From the Commission on Turkey's Progress Towards Accession", p.15

regarding the Turkey's existence in the island. Loizidou case was introduced as an integral part of the Cyprus issue, which was one of the criteria that Turkey is expected to meet. Although the Commission did not mention its expectation for the payment of the amount which the Court ordered, the perception of the reference in the report in Turkey was in that way.

In addition to the Loizidou case, the Commission emphasized other cases, 'in particular within the context of the interstate complaint Cyprus against Turkey (application n° 25781/94)',⁷⁷ referred to the ECHR related to Northern Cyprus.

In addition to the ECHR decisions, the Commission referred to the Cyprus issue in elaborating Turkey's coherence to the Common Foreign and Security Policy. Indicating the fact that Turkey does not want to be associated to the positions in the Common Foreign and Security Policy of the EU, the Commission claimed that 'Turkey's stance on the Cyprus question remains at odds both with UN resolutions and with the European Union's position and also has a negative impact on the Euro-Mediterranean Partnership.'⁷⁸ The Commission established the close link between the Cyprus issue and the Common Foreign and Security Policy, which aimed to make up a common policy for the whole Union. In other words, the Cyprus issue was assembled to the security of the European Union by the Commission.

The link between Turkey and the Common Foreign and Security Policy was consolidated in the Composite Paper of 1999 made by the Commission. The Commission emphasized Turkey's eligibility and its wish to be a candidate country for membership of the Union and argued that Turkey should be considered as a candidate by the Union. Following this argument, the Commission asked to take the steps which provide 'the option of association with the common positions and

⁷⁷ Ibid.

⁷⁸ Ibid., p.41

actions taken under the CFSP.’⁷⁹ That is, the Commission invited Turkey and the Union to take necessary steps and make the required reforms for approximation on common positions, including the security area.

One of the most historical points of the Turkey-EU relations was experienced in December 1999 during the European Council in Helsinki. As the Commission proposed Turkey’s candidacy in the Composite Paper of 1999, the European Council endorsed Turkey’s candidacy for membership in the Union with the following part of the Resolution:

The European Council welcomes recent positive developments in Turkey as noted in the Commission's progress report, as well as its intention to continue its reforms towards complying with the Copenhagen criteria. Turkey is a candidate State destined to join the Union on the basis of the same criteria as applied to the other candidate States. Building on the existing European strategy, Turkey, like other candidate States, will benefit from a preaccession strategy to stimulate and support its reforms. This will include enhanced political dialogue, with emphasis on progressing towards fulfilling the political criteria for accession with particular reference to the issue of human rights, as well as on the issues referred to in paragraphs 4 and 9(a).⁸⁰

Council’s endorsement for the candidacy status of Turkey for membership in the Union was the most significant decision of the Council for Turkey’s target towards Europe up to the date. As mentioned earlier, the European Strategy included the economic affairs and issues about the trade and customs union. In addition to the European Strategy for Turkey, the Council emphasized its special care on the criteria, which Turkey was expected to meet. The paragraphs pointed out as the vital concerns in Turkey’s candidacy were those about the international disputes and the Cyprus issue. In the paragraph 4 of the Resolution, the Council concluded that ‘the

⁷⁹ Commission of the European Communities (1999), “Composite Paper: Reports on Progress Towards Accession by Each of the Candidate Countries”, p.35

⁸⁰ European Council (1999), “Presidency Conclusions, European Council in Helsinki”

European Council stresses the principle of peaceful settlement of disputes in accordance with the United Nations Charter and urges candidate States to make every effort to resolve any outstanding border disputes and other related issues. Failing this they should within a reasonable time bring the dispute to the International Court of Justice.⁸¹ Moreover, the Council emphasized that the processes in the International Court of Justice regarding the international disputes of the candidate states should be ended by 2004 to be the latest.

In terms of Turkey's international disputes with its neighbours, the leading problematic issues concerning the candidacy to European Union were the Aegean dispute and the Cyprus issue. That is, the Council demanded Turkey to find the ways for settlement in these leading disputes. Otherwise, the solution for problems would be found by applying to the International Court of Justice, an organ of the United Nations.

The other paragraph singled out by the Council for Turkey's adoption to the criteria mentioned by the EU was more significant in the Cyprus issue. In paragraph 9(a), the Council indicated the Union's support to the UN-led talks which began in December 1999 in New York for the settlement in Cyprus.⁸² The Council implied its expectation from Turkey to support the talks for peaceful settlement on the island. This support was regarded as another internal part of the criteria in front of Turkey for accession to the Union.

Although the Council did not point out among the criteria for Turkey, the most significant decision of the Council regarding the link between Cyprus issue and Turkey's integration to Europe was mentioned in the paragraph 9(b). The paragraph is as follows

The European Council underlines that a political settlement will facilitate the accession of Cyprus to the European Union. If no settlement has been reached by the completion of accession

⁸¹ Ibid.

⁸² Ibid.

negotiations, the Council's decision on accession will be made without the above being a precondition. In this the Council will take account of all relevant factors.⁸³

The Council mentioned its support for the peaceful settlement of the problem on the island once again. However, even though there would not be a solution of the problem under any terms, the Council announced, the Republic of Cyprus would be allowed to accede in the Union. The Council indicated that Cyprus would be a member of the Union in the existing conditions of the time of Council meeting, which was physically divided and the northern part was occupied by Turkey. Even though the settlement of Cyprus issue was put into the criteria for Turkey's membership, it was not put as a precondition in front of the membership of the Republic of Cyprus.

The European Commission's annual regular report for Turkey in the year of 2000 included the similar facts and expectations from Turkey about the Cyprus issue. However, there was a new additional part of the criteria for Turkey considering the Cyprus issue. In the context of the chapter of the 'External Relations', the Commission enlisted the states with which Turkey had signed bilateral agreements in the field of economy and trade. In terms of the bilateral agreements, the Commission concluded that '[N]o negotiations with Cyprus have started.'⁸⁴ Turkey's position in the Customs Union and international trade was questioned by the Commission because of a lack of bilateral agreements with the Republic of Cyprus. The Commission's stress on the bilateral agreements for the Republic of Cyprus indicated the extension of the criteria in economy and customs union towards the problem of Cyprus.

On 8 March 2001, the Council of the European Union agreed on the Council Decision on 'Accession Partnership with the Republic of Turkey'. In the Accession

⁸³ Ibid.

⁸⁴ Commission of the European Communities (2000), "Regular Report From the Commission on Turkey's Progress Towards Accession", p.65

Partnership, the Council has categorized the criteria which were to be met for the accession to the Union in the categories of short-term and medium-term objectives. Regarding the Cyprus problem, the Council asked Turkey to ‘strongly support the UN Secretary General’s efforts to bring to a successful conclusion the process of finding a comprehensive settlement of the Cyprus problem, as referred to in point 9(a) of the Helsinki conclusions.’⁸⁵

The interesting point about the Cyprus issue in the Accession Partnership of 2001 was the fact that Cyprus issue was put in the short-term objectives. Moreover, it was in the leading position among those short-term objectives. The dispute on Cyprus had been on the agenda of the international politics for relatively long time up to the date of the decision on Accession Partnership. The Council’s expectation for settlement of the problem in the short-term of candidacy process, which was designed as the year 2001 only, was not politically possible. A similar part of criteria, the peaceful settlement of the border disputes and other related issues in accordance with the UN Charter, was set in the medium-term objectives of the Accession Partnership.⁸⁶

In addition to the differentiated distribution of the Cyprus problem and border disputes between short-term and medium-term objectives, the Council of the European Union declared the implementation of the principle of ‘conditionality’ in for Turkey in the Accession Partnership document. The Council of the European Union said

Further steps towards satisfying the Copenhagen criteria and in particular progress in meeting the specific priorities of this Accession Partnership in 2001 need to be taken. Failure to respect these general conditions could lead to a decision by the Council on the suspension of financial assistance on the basis of Article 4 of the proposed single-framework Regulation.⁸⁷

⁸⁵ Council of The European Union (2001), “Council Decision on Principles, Priorities, Intermediate Objectives and Conditions Contained in the Accession Partnership with The Republic of Turkey”, *Official Journal of the European Communities*, No. L85, p.16

⁸⁶ Ibid., p.19

⁸⁷ Ibid., p.22

The fact that Cyprus issue was categorized as one of the criteria demonstrated that a failure in the settlement of the Cyprus problem in the short-term would result in the suspension of the financial assistance, which would bring about a political crisis between Turkey and the Union. Moreover, principle of conditionality was obviously settled into the accession process of Turkey before the negotiations started.

The European Commission began to issue the annual Strategy Paper, which mainly focused on the examination of the candidate states and the general overview of the enlargement process, from 2000 onwards. Turkey had been examined as having a candidate status beginning from the first issue in 2000. However, although the Cyprus issue was not indicated as a partial supplement of the criteria for Turkey's membership in the 2000 Strategy Paper, in 2001 the link between Turkey's candidacy and Cyprus issue was clearly established. The Commission argued that Turkey should demonstrate its support for the settlement of the Cyprus problem under UN auspices. According to the Commission, '[T]he support Turkey has expressed in the political dialogue for the UN Secretary General's efforts to find a comprehensive solution of the Cyprus problem should now be followed by concrete steps by Turkey to facilitate a solution.'⁸⁸ Thus, the Commission was recalling the former decisions of the Council, in which the Council asked for the solution under the legal documents and decisions of the United Nations, especially the Security Council of the UN. But, although the concrete steps were signaled in the Paper, the Commission did not give details about what kind of steps Turkey was expected to take.

However, the interesting point of the Strategy Paper was the close bond established between the potential solution of the Cyprus problem and the legal documents of the European Union. Reminding the decision at Helsinki European Council about taking the decision on Cyprus's accession to the Union without a settlement being a precondition, the Commission said that '[T]he provisions of a

⁸⁸ Commission of the European Communities (2001), "Strategy Paper and Report of the European Commission on the Progress Towards Accession by Each of the Candidate Countries", p.26

political settlement can be accommodated within EU accession arrangements for Cyprus in line with the principles on which the EU is founded.’⁸⁹ The Commission pointed that the EU can elaborate the provisions of a potential settlement of the Cyprus problem in the documentation of the accession of the island to the Union. This seemed as stimulation for the parties of the dispute on island in favor of a more positive approach for the solution of the problem. The Commission’s views also complied with the opinion of the Council about the accession negotiations of the Cyprus being a positive contribution to the solution of the problem on the island.

The catalyst impact of the integration with European Union on the disputes between the states (especially the border disputes) has a large ground of discussions. Diez and Hayward argues that the transformation of a border dispute through integration with the Union has ‘pathways of influence.’⁹⁰ These ways of influences were labeled as compulsory, enabling, connective and constructive. The nature of decisions and policies of the Union fitted with one of these classifications in the border disputes issue. In terms of Cyprus, the hope which EU had in settlement of dispute through integration process was shared by the leaders of Republic of Cyprus from the beginning of negotiations.⁹¹ The decision of Council had implications in parallel with these opinions.

The European Council convened in Seville in June 2002. The Council decisions on Turkey asked for implementation of reforms and pursuing the objectives in the Accession Partnership. The important decision of the Council came in favor of the Turkish Cypriots in the northern part of Cyprus. Emphasizing that single voice will be needed to talk on behalf of Cyprus, the Council said ‘[T]he European Union would make a substantial financial contribution in support of the development of the

⁸⁹ Ibid., p.30

⁹⁰ Diez, T. and Hayward, K. (2008), “Reconfiguring Spaces of Conflict: Northern Ireland and Impact of European Integration”, *Space and Polity*, Vol.12, No.1, p.50

⁹¹ Nugent, N. (2006), “Cyprus and the European Union: The Significance of Its Smallness, Both as an Applicant and a Member”, *European Integration*, Vol.28, No.1, p.57

northern part of a reunited island.’⁹² This decision of the Council had significant results between Turkey and the European Union, because, starting from the decisions of Seville summit, Turkish government began to ask the Union to comply with its decision on financial assistance to the development in northern part of the island.

In the second half of the year 2002, the period of the enlargement of the Union to the CEEC countries entered into the final stage. Because of the fact that Cyprus was included in this enlargement phase, the Union’s interest in the peaceful settlement of the Cyprus issue was intensified in this period of time. The Commission stressed the urgency and need for a political settlement on the island by the year 2002. The Strategy Paper for the enlargement in 2002 concluded that

The Commission hopes to see a re-united Cyprus acceding to the European Union on the basis of a comprehensive settlement, as the best outcome for all concerned. As indicated in the conclusions of the Seville European Council, the EU is ready to accommodate the terms of a political settlement in the accession arrangements in line with the principles on which the European Union is founded. The Commission welcomes that substantial UN involvement will continue and urges all parties concerned and, in particular Turkey, to lend full support to efforts to reach a comprehensive settlement this year. Cyprus’ terms of accession can be adapted to reflect the comprehensive settlement as well as its implications for the application of the *acquis* throughout the island.

[The Commission] has proposed that considerable resources should be made available to support the northern part of the island to catch up and to back up a settlement. In the absence of a settlement, the decisions to be taken in December by the Copenhagen European Council will be based on the conclusions of the Helsinki European Council.⁹³

The Commission summarized the potential developments concerning the Cyprus issue. More importantly, the Commission has put a final date to which the Union expected the finalization of a political settlement on the island. On the other side, the Commission demonstrated that the Union was prepared for a failure in the

⁹² European Council (2002), “Presidency Conclusions, European Council in Seville”

⁹³ Commission of the European Communities (2002), “Strategy Paper and Report of the European Commission on the Progress Towards Accession by Each of the Candidate Countries”, p.7

negotiations for peace on the island. It was implied by the Commission that the accession of a divided Cyprus was a possibility lying on the table in case of a negative result of the peace negotiations.

The proposals of the Commission in the Strategy Paper were endorsed by the European Council in Bruxelles in October 2002. In addition, the Council concluded its decision on the financial contribution to the northern Cyprus for the development and ‘catch-up’ of the northern part of the island. The Council, ‘[W]ith a view to the implementation of a political settlement in Cyprus’, decided that ‘a programme will be established by the Council, especially to enable the northern part of the island to catch up. The total commitment appropriations foreseen will be 39 million euros in 2004, 67 million euros in 2005 and 100 million euros in 2006.’⁹⁴ Releasing the financial assistance to the northern part, the Council proposed an economic stimulus to the people in northern Cyprus for an endorsement of a potential settlement of the peace on the island. The relation between the peaceful settlement and the accession to the Union was re-emphasized by the Council in Bruxelles once again.

The European Council in Copenhagen in December 2002 became a ‘milestone’ of the European history, of the Cyprus issue and of the relations between Turkey and the Union. The Council declared its decision for the accession of the CEEC states, Malta and Cyprus to the European Union by 1st of May 2004. Thus, the largest and most complicated enlargement of the European integration movement came to the final stage. In terms of Turkey’s candidature, although there was a strong expectation for the opening of the accession negotiations soon, the Council decided that ‘[I]f the European Council in December 2004, on the basis of a report and a recommendation from the Commission, decides that Turkey fulfils the Copenhagen political criteria, the European Union will open accession negotiations with Turkey without delay.’⁹⁵ The accession negotiations for Turkey were postponed at least for two years by the Council.

⁹⁴ European Council (2002), “Presidency Conclusions, European Council in Brussels”

⁹⁵ European Council (2002), “Presidency Conclusions, European Council in Copenhagen”

Considering the Cyprus issue, the European Council confirmed its preference for a united Cyprus in the Union, and urged the parties for a settlement before the accession date of 1 May 2004. It was mentioned that, in case of a settlement of peace, 'the Council, acting by unanimity on the basis of proposals by the Commission, shall decide upon adaptations of the terms concerning the accession of Cyprus to the EU with regard to the Turkish Cypriot community.'⁹⁶ This part of the conclusions demonstrated how the Union attempted to use the economic carrots for achieving the peace on the island.

The important part of the presidency conclusions of Copenhagen European Council was the part dealing with the absence of a solution to the Cyprus problem before the accession of Cyprus to the Union. The Council announced that in case of a failure in peace negotiations on the island,

[T]he application of the *acquis* to the northern part of the island shall be suspended, until the Council decides unanimously otherwise, on the basis of a proposal by the Commission. Meanwhile, the Council invites the Commission, in consultation with the government of Cyprus, to consider ways of promoting economic development of the northern part of Cyprus and bringing it closer to the Union.⁹⁷

The decisions on the absence of a settlement had two repercussions for the TRNC and Turkey. First, the Council accepted and endorsed the possibility of a divided island in the Union. Moreover, the Union would act in the way of a divided status after the accession of Cyprus to the Union. Second, the future of economic development of the northern part of the island was attributed to the responsibility of the southern part of the island. That is, the government in the southern Cyprus was authorized as an official authority between the Union and the northern part of Cyprus Island. The future of the relations between northern Cyprus and the Union was left to the hands of Greek Cypriots. This decision of the Council was reiterated in the

⁹⁶ Ibid., p.2

⁹⁷ Ibid., p.3

Thessaloniki European Council where the Council looked for 'looks forward to the implementation of these measures in accordance with the Copenhagen European Council Conclusions and in consultation with the Government of Cyprus.'⁹⁸

The Accession Partnership for Turkey was revised and re-adopted by the Council in 19 May 2003. The Cyprus issue, which was in the leading position of the short-term objectives of the Accession Partnership adopted in 2001, was moved from the objectives to the priorities section. The Council demanded Turkey's 'efforts to find a comprehensive settlement of the Cyprus problem, through the continuation of the United Nations Secretary-General's mission of good offices and of negotiations on the basis of his proposals.'⁹⁹ The time period of priorities covered the years 2003 and 2004 only. The conversion of the Cyprus issue from an objective to a priority showed the importance which was put on the desire for a solution of the problem before the accession of Cyprus to the Union.

At this point of analysis, the plan of Kofi Annan, then the Secretart-General of the United Nations, for settlement of Cyprus dispute should be elaborated. Secretary General Annan proposed a plan for settlement of the border dispute and finalizing the divided situation on Cyprus Island. The plan included a detailed study of the problem over the island and the proposals for solution of the problems in different fields. The wide arrangements for solution were negotiated by both sides of the dispute, and there was a significant international support for solution on this plan. The European Union, in line with its former declarations and opinions on the settlement, had positive and constructive support to the plan. In Turkey, the new government of Justice and Development Party declared its support to the settlement of dispute through the Annan Plan. The link between the plan and the membership of the united Cyprus in the European Union was established by European Union and Mr. Annan himself. The intense negotiations over the plan were finalized without consensus of the leaders of TRNC and Republic of Cyprus. The referendum of the

⁹⁸ European Council (2003), "Presidency Conclusions, European Council in Thessaloniki"

⁹⁹ Council of the European Union (2003), "Council Decision on Principles, Priorities, Intermediate Objectives and Conditions Contained in the Accession Partnership with The Republic of Turkey", *Official Journal of the European Communities*, No.L145, p.43

plan on both sides of the island was planned and held on 24th of April 2004, a week before Republic of Cyprus's accession to the European Union. Even this date selection demonstrates how the U.N. Secretary General, with support of U.N. Security Council, established the link between the settlement of dispute via the Annan Plan and the accession of united Cyprus to the European Union.¹⁰⁰

The Strategy Paper for Enlargement of the Union of the year 2003 emphasized the urgency for a solution of the Cyprus problem before the date of accession. Recalling the Communication from Commission to the Council in June 2003 on financial aid to the northern part of Cyprus, the Commission mentioned the decision for release of €206 million for northern Cyprus in case of a solution before accession.¹⁰¹ Moreover, to demonstrate the strong desire and expectation for a peaceful settlement of the problem on the island, the Commission concluded that 'there are favourable conditions for the two communities to reach a comprehensive settlement of the Cyprus problem before Cyprus's accession to the EU on 1 May 2004. The absence of a settlement could become a serious obstacle to Turkey's EU aspirations.'¹⁰² The Cyprus issue was recorded as an obvious 'obstacle', unless a peaceful settlement among the parties can not be reached, by an authorized organ of the EU.

The European Council in December 2003 met in Bruxelles and reiterated 'its preference for a reunited Cyprus to join the Union on 1 May 2004, in order to allow all Cypriots to enjoy a secure and prosperous future and the benefits of the EU accession.'¹⁰³ The Council proposed a future which would be more prosperous and secure for both the southern and northern Cyprus. In this context, the economic attractiveness and the terms of security have been introduced to Turkish Cypriots as

¹⁰⁰ The detailed latest version of the Plan and the report by the Secretary General on the Plan can be found at U.N. Website, available at http://www.unficypr.org/nqcontent.cfm?a_id=1637 (last accessed on 10 November 2009)

¹⁰¹ Commission of the European Communities (2003), "Strategy Paper and Report of the European Commission on the Progress Towards Accession by Each of the Candidate Countries", p.5

¹⁰² Ibid., p.16

¹⁰³ European Council (2003), "Presidency Conclusions, European Council Brussels"

benefits of the reunion with Greek Cypriots before the accession to the Union. In addition, to accelerate the negotiations for peace on the island, the Council concluded that

[T]he European Council welcomes the Commission's willingness to offer assistance for a speedy solution within the framework of the *acquis*. Following a settlement, the Union is ready to provide financial assistance for the development of the northern part of Cyprus and the Commission would be called upon to prepare all necessary steps for lifting the suspension of the *acquis*, in accordance with Protocol 10 to the Act of Accession.¹⁰⁴

The European Council authorized the Commission to prepare offers for quickening the process of the peace negotiations and potential solution of the Cyprus problem before May 1st, 2004. However, the details of such assistance were not mentioned in the presidency conclusions. The only method for the relevant process was a proposal for financial assistance which would be a reward for the north after the settlement of the peace. Following a potential peace settlement in the future, the Council agreed to lift the suspension of the *acquis* in the northern Cyprus, which was decided in the Article 1 of the Protocol 10 to the Act of Accession as follows:

1. The application of the *acquis* shall be suspended in those areas of the Republic of Cyprus in which the Government of the Republic of Cyprus does not exercise effective control.

2. The Council, acting unanimously on the basis of a proposal from the Commission, shall decide on the withdrawal of the suspension referred to in paragraph 1.¹⁰⁵

In addition to the decision of suspending the *acquis* in the northern part of the island, the contracting parties of the Act of Accession also decided on the withdrawal of the suspension in the Article 4 as in the following paragraph:

¹⁰⁴ Ibid.

¹⁰⁵ Protocol 10 of the Treaty of Accession (2003)

In the event of a settlement, the Council, acting unanimously on the basis of a proposal from the Commission, shall decide on the adaptations to the terms concerning the accession of Cyprus to the European Union with regard to the Turkish Cypriot Community.¹⁰⁶

The important point of the decision of European Council regarding the Cyprus issue is the fact that the Council decided that ‘a settlement of the Cyprus problem, based on the principles set out in section IV. below [the section on the Cyprus], would greatly facilitate Turkey's membership aspirations.’¹⁰⁷ Thus, the articles of the Act of Accession for the enlargement to CEEC states, Malta and Cyprus were taken into the process of Turkey’s membership in Union as the assisting factors to Turkey’s membership.

The plan by the U.N. Secretary-General of time, Kofi Annan, for uniting the Cyprus island, was put into a referendum in both sides of the island on 24th of April 2004. The referendum was rejected by the Greek Cypriots, while accepted by the Turkish community. Thus, it could not enter into force, and the unification of the island was not achieved before the full accession of Republic of Cyprus into the Union. Following this reality, the General Affairs Council issued its decision on northern Cyprus. GAC decided to support the Turkish Cypriots’ intention to unite the island, and agreed to channel financial aid, with the amount of 259 million euro, to Northern Cyprus for encouraging them to unite in the future.¹⁰⁸

3.3 The Period After 2004

The accession of the Republic of Cyprus to the European Union was realized on 1st of May 2004. The island became a member of the club with its divided conditions.

¹⁰⁶ Ibid.

¹⁰⁷ European Council (2003), “Presidency Conclusions, European Council in Brussels”

¹⁰⁸ General Affairs Council (2004), “Press Release of 2576th Meeting”

The EU legislation in the northern part of the island was suspended until the unification of both parts of island. The suspension of legislation was leaned on the Protocol 10 of the Act of Accession signed in 2003.

The first European Council meeting after the enlargement of 2004 was held in Bruxelles in June 2004. As the other new members, the president of the Republic of Cyprus attended to the meeting as a new member of the Council. The presidency conclusions of the Council shared a special place for Turkey, in which the process of Turkey's candidacy and membership was evaluated. The Council repeated its support to Turkey's efforts for a durable solution for the Cyprus problem. However, the Council's decisions on Turkey included a new component about the Ankara Agreement and the situation of the new members of the Union.

The Council indicated as follows:

29. The European Council invites Turkey to conclude negotiations with the Commission on behalf of the Community and its 25 Member States on the adaptation of the Ankara Agreement to take account of the accession of the new Member States.¹⁰⁹

The decision on the Ankara Agreement and new members was not directly related to the issue of Cyprus and the Cyprus problem. However, 'the adaptation of Ankara Agreement to take account of the new Member States' meant that Turkey would ratify a protocol to the Ankara Agreement, in which the new members of the European Union would be added into the agreement as the parties of the agreement. Because Turkey did not recognize the Republic of Cyprus officially, the insertion of the Republic of Cyprus as a party to the Ankara Agreement would have meant official recognition of the republic.

On 12th of May 2004, Turkey published an official decree to amend the EC-Turkey Customs Union to cover the new member states of the European Union. Republic of Cyprus was not put into the list of states for new extension. However,

¹⁰⁹ European Council (2004), "Presidency Conclusions, European Council in Brussels"

the second official decree from the Turkish Government was issued on 2 October 2004 to cover 'Cyprus' as a part of the customs union between Turkey and the European Union.

The Commission released the Strategy Paper for enlargement of the year 2004 in October 2004. The Commission introduced a special document, a communication to the Parliament and the Council, for Turkey regarding her candidacy for the membership. Summarizing Council's demand for adaptation of the Ankara Agreement for new members of the Union, including the Republic of Cyprus, the Commission declared that 'any accession negotiations are held in the framework of an Intergovernmental Conference consisting of all Member States of the EU.'¹¹⁰ In this way, the Commission pressed a warning to Turkey for the adaptation of the new draft protocol to Ankara Agreement soon. Otherwise, the negotiations for the membership would be in difficult because of Cyprus's existence as a member of the Union negotiating with Turkey.

The Regular Report for Turkey in 2004 was significant because of being the first regular report after Cyprus's accession to the European Union in May 2004. Considering the Cyprus issue, the Commission has repeated former breaches between Turkey and the obligations of full membership. The expectation for adaptation of the new protocol to the Ankara Agreement was also dictated once more. In addition to the protocol's adaptation, the Commission reminded Turkey that '[P]ending signature [of the draft protocol to the Ankara Agreement], Turkey has not extended the Customs Union to the Republic of Cyprus.'¹¹¹ That is, signing the draft protocol to the Ankara Agreement, Turkey was also going to endorse that Republic of Cyprus was going to be a party to the Customs Union between Turkey and the Union. So, the economic trade relations between Turkey and the Republic of Cyprus were going to enter into effect as a result of adaptation of Ankara Agreement. The

¹¹⁰ Commission of the European Communities (2004), "Communication from the Commission to the Council and the European Parliament: Recommendation of the European Commission on Turkey's Progress Towards Accession", p.4

¹¹¹ Commission of the European Communities (2004), "Regular Report on Turkey's Progress Towards Accession", p.6

union was expecting Turkey to recognize as a member of a Union to which Turkey was a candidate. Moreover, the Commission emphasized that Turkey did not allow trade via the vessels of or coming from the Republic of Cyprus once again. However, this time, the emphasis by the Commission was more meaningful because the Union wanted Turkey to recognize Republic of Cyprus as a party to the Customs Union.

The December Council meeting was very important for Turkey's integration movement with European Union. As agreed in December 2002 by the Council, Turkey was expecting to have a date of opening the membership negotiations. The Council announced that Turkey's declaration mentioning the signing of Protocol on adaptation of the Ankara Agreement 'prior to the 'actual start of accession negotiations' was welcome.¹¹² Emphasizing the resolution by the European Parliament adopted on 15 December 2004, the Council agreed that Turkey fulfilled the Copenhagen political criteria for opening the accession negotiations, and decided the date of opening the negotiations as 3 October 2005.¹¹³

Turkish government signed the Additional Protocol, on 29 July 2005, extending the customs union to the new ten members of the Union. This signature was not adequate for implementation of the additional protocol, because of the necessity of approval of the protocol from the Turkish Grand National Assembly. In parallel with the signature, Turkey announced its declaration on the non-recognition of the Republic of Cyprus as the sole authority on the island. The declaration argued that Turkey's signing the protocol did not mean recognizing the Cyprus as the sole authority on the island. Moreover, it did not mean the recognition of the Republic of Cyprus officially. The declaration of Turkey was responded by the Union on 21 September 2005 with another declaration, arguing that Turkey's declaration was unilateral and will not affect Turkey's legal obligations under the protocol.

¹¹² European Council (2004), "Presidency Conclusions, European Council in Brussels"

¹¹³ Ibid.

In October 2005, the Commission issued the annual Strategy Paper on enlargement policy of the EU and the annual Regular Report on progress of Turkey towards the accession to the Union. Turkey's signing the Additional Protocol for adaptation of Ankara Agreement to the ten new members of the Union, and the declarations from both Turkey and the Union regarding the recognition of Republic of Cyprus through this signature were main subjects of the Strategy Paper and the Regular Report about the Cyprus issue.

In addition to the former emphasis of Cyprus issue in different subjects of the Strategy Paper and the Regular Report, in 2005, the Cyprus problem was stressed concerning the international organizations and the agreements, to which Turkey is a party. The Commission mentioned that 'Turkey has continued to impose its veto on Cyprus' membership to certain international organisations as well as to the Wassenaar Agreement on the Code of Conduct on Arms Exports and on Dual Use Goods.'¹¹⁴

Pointing out the international organizations, the Commission has criticized Turkey's veto for membership of the Republic of Cyprus to international organizations for the first time in its reports. In addition, the Commission stressed a specific international agreement to which Turkey was a party and was blocking Cyprus's membership.

The significant point in the Paper and the Report is that, although the Commission emphasized a special international agreement about Turkey's veto against Cyprus's membership, there was not a specific international organization in which Turkey was blocking Cyprus's membership. However the leading international organization referred by the Commission was North Atlantic Treaty Organization. The Commission's implication on international organizations was a part of the Union's strategy and policy around the European Security and Defense

¹¹⁴ Commission of the European Communities (2005), "Communication From the Commission: 2005 Enlargement Strategy Paper", p.30; and Commission of the European Communities (2005), "Turkey: 2005 Progress Report", p.40

Policy, in which a collaboration of NATO forces and the Union's administrative capacity is on the discussion. In the Regular Report, the Commission said

Turkey's participation in the ESDP continues to present certain difficulties. Indeed, Turkey and the EU have a different interpretation of the "Berlin Plus" agreements between EU and NATO. As a result, Turkey's insistence that Cyprus and Malta be excluded from the EU-NATO strategic co-operation in crisis management has so far hampered such co-operation. Turkey has so far vetoed Cyprus' accession to the Wassenaar agreement concerning the Code of Good Conduct on Arms Export as well as the dual use regulation. This hampers the functioning of the single market in the areas covered by the agreement.¹¹⁵

Turkey, as a member of NATO, refrained from and vetoes this potential cooperation because of the problem on Cyprus and the Aegean Sea. Without Turkey's vote, the cooperation of NATO and the Union would be impossible.

The Cyprus issue was elaborated under the title of the Customs Union in the Regular Report of 2005. The Commission repeated, as did earlier, the existence of the blockage by Turkey against the vessels of or coming from Republic of Cyprus. However, this time, the Commission widened the criticism by referring to the violations of the Customs Union decisions of the Association Council. The Commission stated that

Restrictions to operations of vessels and aircrafts prevent free circulation of goods between Turkey and Cyprus. Turkey should have identified in its legislation all provisions contrary to articles 28 to 30, also mirrored by Articles 5 to 7 of Decision 1/95, but failed to do so.¹¹⁶

Because of full membership of Cyprus in the European Union, the Commission emphasized Turkey's failures in the economic criteria regarding the

¹¹⁵ Commission of the European Communities (2005), "Turkey: 2005 Progress Report", p.128

¹¹⁶ Ibid., p.56

deficiencies about Cyprus more than it did before. In the referred articles of decision on Customs Union, the Association Council had decided the prohibition of quantitative measures against the exports to and imports from the countries of Customs Union. In addition, the Council decided Turkey adopt the regulations on Customs Union, especially those on the free movement and circulation of the goods in the area of Customs Union.¹¹⁷ Thus, the Commission argued that Turkey's preventing the vessels of and coming from the Republic of Cyprus was perceived as violation of the principle of free movement of goods in the Customs Union. In addition to the strong criticisms against Turkey in the area of political criteria, the Commission strengthened its criticisms in economic criteria after Cyprus's accession to the Union.

The Commission also noted that Turkey added 'Cyprus' to the list of countries, in which the countries for 'rule of origin' were enlisted, as an EU member state. The principle of 'rule of origin' was implemented by Turkey in the Customs Union following the decision in favor of commencing the Customs Union.

In addition to the obstacles to the vessels of and from the Republic of Cyprus, the Commission paid attention to the air trafficking in the 2005 Regular Report on Turkey. The Commission concluded that '[N]o progress can be reported with regard to restrictions applied to Cyprus Airways and other Cypriot transport companies to use the Turkish national airspace and the restrictions on communications between the Turkish and Cypriot civil aviation authorities.'¹¹⁸ That is, the air trafficking was defined as an area in deficiency with the Union's *acquis*. Turkey was expected to cooperate with Cypriot authorities, which she did not recognize.

The Cyprus issue was enlisted among the 'requirements' through which Turkey's progress in preparing for accession would be measured. According to the

¹¹⁷ EC-Turkey Association Council (1995), "Decision 1/95 on Implementing the Final Phase of the Customs Union"

¹¹⁸ Commission of the European Communities (2005), "Turkey: 2005 Progress Report", p.184

Commission, as emphasized officially in the Negotiating Framework document, one of the requirements for Turkey's preparing for accession was

Turkey's continued support for efforts to achieve a comprehensive settlement of the Cyprus problem within the UN framework and in line with the principles on which the Union is founded, including steps to contribute to a favourable climate for a comprehensive settlement, and progress in the normalisation of bilateral relations between Turkey and all EU Member States, including the Republic of Cyprus.¹¹⁹

The Negotiating Framework prepared by the Commission for Turkey's accession negotiations approved the importance of the Cyprus issue in front of Turkey's membership in the Union. Moreover, because the process of negotiations are held in the guidance of the Negotiating Framework, the Union's stance about the Cyprus issue for future relations between Turkey and the Union was determined by the framework.

In January 2006, the Council released the third Accession Partnership document for Turkey's membership negotiations. The Cyprus issue was put under the 'short-term priorities' as a separate title in the document, with more details compared to the first two accession partnership documents. In the category of the 'Regional Issues and International Obligations', the Council endorsed the following procedures for Turkey:

— Ensure continued support for efforts to find a comprehensive settlement of the Cyprus problem within the UN framework and in line with the principles on which the Union is founded, whilst contributing to a better climate for a comprehensive settlement.

— Implement fully the Protocol adapting the Ankara Agreement to the accession of the 10 new EU Member States including Cyprus.

¹¹⁹ Commission of the European Communities (2005), "Negotiating Framework: Principles Governing the Negotiations", p.9

— Take concrete steps for the normalisation of bilateral relations between Turkey and all EU Member States, including the Republic of Cyprus, as soon as possible.¹²⁰

For the first time, the Council settled the details for the Cyprus issue in the Accession Partnership documents of Turkey's negotiations for accession. In addition to the regional problems, the Council, for the first time in Accession Partnership document, determined the commercial procedures with which Turkey is expected to comply. The Council asked Turkey to '[R]emove all existing restrictions on Cyprus-flagged vessels and vessels serving the Cyprus trade and the provisions of the aviation agreements that discriminate Member States' carriers on the basis of their nationality.'¹²¹ The emphasize on the trade side of Cyprus issue demonstrated that the European Union was paying more attention to the economic and trade part of Cyprus problem, and was going to act in the same margin of economic and commercial issues in the future of Turkey's accession negotiations.

The year of 2006 was very crucial and critical in terms of the relations between Turkey and the European Union. In addition, it was also significant in the impact of Cyprus issue over the Turkey-EU relations after Cyprus's accession in the Union. In June 2006, the Council reminded Turkey to continue the necessary reforms for accession, and recalling the declaration made by the Union on 21 September 2005, warned Turkey that 2006 was the year for evaluation of Turkey's progress in meeting the criteria. Turkey was expected to fulfill the criteria and fully implement the Ankara Agreement with the Additional Protocol, in which Turkey promised to adopt the Ankara Agreement for inclusion of new members of the Union including the Republic of Cyprus.¹²² The conclusions of the European Council of June 2006 were important cautions for Turkey and her way towards Europe. The language and mood of the Council was getting harder against Turkey's expected reforms and

¹²⁰ Council of The European Union (2006), "Council Decision on Principles, Priorities, Intermediate Objectives and Conditions Contained in the Accession Partnership with The Republic of Turkey", *Official Journal of the European Communities*, No.L22, p.39

¹²¹ Ibid., p.42

¹²² European Council (2006), "Presidency Conclusions, European Council in Brussels"

meeting criteria for full membership. Cyprus's being one of the decisions-makers in the Council was significantly effective in Council's taking such decisions about Turkey's membership negotiations. The resolutions of June 2006 Council were early indicators of the potential crises between Turkey and the Union in the same year.

The Cyprus issue was reviewed by the Commission in the Strategy Paper for Enlargement in 2006. As the conclusions of the June 2006 Council, the Strategy Paper by the Commission included critical notices regarding the Cyprus problem. Repeating the decisions of the Council, related to the link between Cyprus problem and Turkey's accession negotiations, in June 2006, the Commission concluded that

[T]he EU expects Turkey to ensure full, non-discriminatory implementation of the Additional Protocol to the Ankara Agreement and the removal of all obstacles to the free movement of goods, including restrictions on means of transport. Failure to implement its obligations in full will affect the overall progress in the negotiations. The Commission will make relevant recommendations ahead of the December European Council, if Turkey has not fulfilled its obligations. It is also essential that, as stated in the Accession Partnership, Turkey takes concrete steps for the normalisation of bilateral relations with all EU Member States as soon as possible.¹²³

The Commission's views about Turkey's Cyprus issue in the Strategy Paper were quite harsh. Turkey faced with a diplomatic threat from the Commission in exchange for the Cyprus problem. Commission was threatening Turkey with a potential suspension of freezing of the accession negotiations if Turkey would not take steps to recognize Cyprus in the Customs Union and in the European Union. Moreover, Commission demanded Turkey allow Cyprus's inclusion in EU-NATO cooperation and lift opposition against Cyprus's accession to Wassenaar Agreement.¹²⁴

¹²³ Commission of the European Communities (2006), "Communication From the Commission to the European Parliament and the Council: Enlargement Strategy and Main Challenges 2006-2007", p.11

¹²⁴ Ibid., p.58

In the Regular Report on Turkey's progress towards accession of 2006, the Commission re-stated the issues which were part of the former regular reports. In addition to the former reports, the Commission added the missing persons and the case of 'Xenides-Arestis v. Turkey' as problematic areas of human rights. Also, the Commission emphasized Turkey's trade blockages against Cyprus as infringement of the Customs Union agreement.¹²⁵ As the end of 2006 was approaching, the stance of the Union against Turkey related to Cyprus issue was getting harder.

Following Turkey's reluctance for a 'concrete step' for fully implementation of the Ankara Agreement, the Commission released its "recommendation on the continuation of Turkey's accession negotiations". The Commission recommended that

1) The Commission notes that Turkey has not fully implemented the Additional Protocol to the Ankara Agreement, and that restrictions to the free movement of goods, including restrictions on means of transport, remain in force.

2) In these circumstances and with reference to the declaration of 1 September 2005 of the European Community and its Members States, the Commission recommends that the Intergovernmental Conference on Accession with Turkey should not open negotiations on chapters covering policy areas relevant to Turkey's restrictions as regards the Republic of Cyprus until the Commission confirms that Turkey has fulfilled its commitments. These chapters are: Chapter 1 free movement of goods, Chapter 3 Right of establishment and freedom to provide services, Chapter 9 Financial services, Chapter 11 agriculture and rural development, Chapter 13 fisheries, Chapter 14 transport policy, Chapter 29 customs union, and Chapter 30 external relations.¹²⁶

In addition to these recommendations, the Commission demanded that, unless Turkey fully implements the Additional Protocol of Ankara Agreements, none of the chapters would be provisionally closed down. That is, even the still-open chapters

¹²⁵ Commission of the European Communities (2006), "Turkey: 2006 Progress Report"

¹²⁶ Commission of the European Communities (2006), "Commission Presents its Recommendation on Continuation of Turkey's Accession Negotiations"

can not be finished and temporarily closed down until Turkey complies with the Ankara Agreement and its protocols completely.

Before the European Council of December 2006, the General Affairs and External Relations Council convened to elaborate the issue of accession negotiations of Turkey. Taking the recommendations by the Commission about the challenge by Turkey regarding the Additional Protocol to the Ankara Agreement, the GAERC decided to suspend the negotiations on the eight chapters, completely about the implementation of the Customs Union, proposed by the Commission a few weeks ago.¹²⁷ The GAERC especially emphasized the name of Cyprus as one of the ten members that joined the EU in May 2004. In addition to the decision of suspension, the GAERC demanded Commission to report the development on the issues covered by the 21 September 2005 declaration of the EU, in the annual reports of 2007, 2008 and 2009. About the resumption of the negotiations, the GAERC agreed, ‘the Member States within the Intergovernmental Conference will not decide on opening chapters covering policy areas relevant to Turkey's restrictions as regards the Republic of Cyprus until the Commission verifies that Turkey has fulfilled its commitments related to the Additional Protocol.’¹²⁸

The decision on suspension of Turkey’s accession negotiations was to be decided by the December European Council in Bruxelles. The Council declared that it endorsed the conclusions of the GAERC.¹²⁹ The Council’s decision to approve the suspension of the accession negotiations on eight chapters was the last step for implementation of the decision. Starting from the date of Council meeting, the negotiations between Turkey and the EU continued on the basis of GAERC decision in which the GAERC announced ‘that the screening process will now continue and

¹²⁷ General Affairs and External Relations Council (2006), “Press Release of 2770th Meeting General Affairs Council”

¹²⁸ Ibid.

¹²⁹ European Council (2006), “Presidency Conclusions, European Council in Brussels”

chapters for which technical preparations have been completed will be opened in accordance with established procedures, in line with the Negotiating Framework.’¹³⁰

The relations between Turkey and the EU entered into a phase of slow down following the decision of GAERC and Council in favor of suspending the negotiations in eight chapters because of Cyprus issue. In the annual Regular Report of 2007 on Turkey’s progress, the Commission omitted the abovementioned chapters by saying that ‘[A]s long as restrictions remain in place on the free movement of goods carried by vessels and airplanes registered in Cyprus or where the last port of call was Cyprus, Turkey will not be in a position to fully implement the *acquis* relating to’ those chapters.¹³¹ Thus, the economic side of Turkey’s negotiations for accession to the Union was dominated by the obstacle which is the result of Council’s decision to suspend the negotiations in eight chapters.

In terms of political criteria, the Commission mentioned its expectation from Turkey to support the agreement between two parties in Cyprus on 8 July 2006. However, Turkey’s reactions to the agreements between Cyprus and Lebanon on oil drilling and between Cyprus and France on defence issues were noted by the Commission in the Regular Report of 2007.¹³²

The relations between Turkey and the European Union entered into a phase of slow-down after the decision to suspend opening the negotiations in 8 chapters in December 2006. The slow-down was reflected to the official documents of the European Union also. The decisions of the European Council in 2008 and 2009 did not take the Cyprus issue of Turkey as the integral parts of the agenda. The regular progress reports and the enlargement strategy papers summarized the developments in Turkey, without adding new conditions on Turkey’s negotiating position. On 7 December 2009, the General Affairs Council released the results of the Council held.

¹³⁰ General Affairs and External Relations Council (2006), “Press Release of 2770th Meeting General Affairs Council”

¹³¹ Commission of the European Communities (2007), “Turkey: 2007 Progress Report”

¹³² Ibid, p.25

The GAC repeated the expectations of the Union with the strong commitment for Turkey's continuing the negotiations. In terms of the freezing relations, according to the December 2006 Council Conclusions, the GAC did not mention any complete suspensions of the whole negotiation process for the accession of Turkey. Instead, recalling the conditions for accelerating the negotiation process and for re-vitalizing the suspended chapters, the GAC requested Turkey's normalization its relations with Republic of Cyprus soon. The final date for this normalization was referred as the next annual regular report on Turkey. So, in brief, GAC postponed the sanctions agreed in 2006 December Council on freezing negotiation process with Turkey until next October.

CHAPTER IV

IN LIEU OF CONCLUSION: PRINCIPLE OF CONDITIONALITY RE-EXAMINED

The European Union implemented the conditionality principle related to Cyprus issue for Turkey's membership process. The settlement of the dispute on the island was previewed as one of the criteria for Turkey's accession into the Union. That is, without a peaceful solution of the problem on the island, Turkey would not be granted the full membership in the European Union. The practical implementation of the principle, and the parallel lines of the implementation and theoretical approaches are the main themes of this thesis. In this chapter, an analysis of the conditionality on Turkey in general terms will be overviewed. Then, the analogy between the theoretical essentials, as detailed in Chapter Two, and the application of conditionality around Cyprus case will be elaborated.

The main question of the present thesis is that: To what extent, The European Union's implementation of conditionality for Turkey on Cyprus dispute achieved to convert Turkey's foreign policy and stance in line with expectations of the Union? Then, it is argued that conditionality used by the European Community/Union towards Turkey on Cyprus issue had impact on Turkey's politics and foreign policy in different times; however it did not have certain outcomes as aimed by the Community/Union. The main opinions to support the argument will be developed in this chapter.

The conditions set in front of Turkey regarding the Cyprus issue existed from the date of Turkey's application for the full membership in the European Community in 1987. The wave of the conditions had an increasing trend in the historical perspective, and reached to the top, releasing a crisis between the Union and Turkey, in recent years. However, the conditional reality linked to the Cyprus issue, for Turkey on the road to membership in the European Union can be analyzed in different periods. The analysis of the implementation of the conditionality in the case of Turkey regarding Cyprus issue will be held in three periods in the following parts of the study: the first period between application for membership and the Helsinki Summit of 1999; the second period between Helsinki Summit and 2004 Brussels Summit; and the last period starting from the Copenhagen summit up to present date. In the final part, the correspondence of practical implementation of conditionality principle with theoretical framework drawn in Chapter Two will be examined.

4.1 Pre-Helsinki Period: 1987-1999

As mentioned earlier, the application of Turkey for full membership in the European Community (the three communities of Europe) was an unexpected and unpredictable action for the Union at all. Turkey had to wait more than two and a half years for the response to the application. The Commission's response made a condition for Turkey on Cyprus issue in accordance with the conclusions of the Presidency after the Council was held in Strasbourg in December 1989. The signals of Cyprus issue being a condition for Turkey had already been referred before the Commission's opinion, when the European Parliament issued its resolution –on 20 May 1988- declaring Cyprus to be one of the most serious obstacles to the progress of relations between the European Community and Turkey.¹³³ Obviously, the Greek support in the European Community in favor of Greek Cypriots interest was effective for Parliament's, Commission's and Council's decisions. All in all, the condition regarding the Cyprus case was settled into the agenda.

¹³³ Ulusoy, K. (2007), "Turkey's Reform Effort Reconsidered: 1987-2004", *Democratization*, Vol.14 Issue 3, p.481

The use of conditionality during the early years of Turkey's application for membership was not a systematized and legally well-based one for the European Community. The conditionality principle was its initial ages when Turkey applied for the membership. Even, when the Community responded Turkey's application, there was not certain and defined conditionality clause in the documents of the European Community. Therefore, the stance against Turkey's membership application in the European Community was a political decision of the Council and Parliament at the time of application by Turkey.

The reflections of the decision of the Council and the opinion of the Commission had significant impact and hard replies from Turkish side. The speaker of the Ministry of Foreign Affairs of Turkey, Murat Sungar declared that establishing a relationship between Cyprus issue and Turkey's membership in the European Community would make the EC a party to the problem, and this can delay the settlement of the Cyprus problem to an unpredictable future. The speaker continued: 'the peaceful settlement of Cyprus issue in the near future can only be possible if the third parties treat the two nations of the island in a just and equal way.'¹³⁴ These declarations indicated the main lines of the Turkish policy towards the conditionality regarding the Cyprus issue. Turkey's main target was to keep the Cyprus issue and the membership process for the EC separate from each other. On the other hand, Greece, a member of the Community, had a special attention to link both processes.

The conditionality principle for Turkey was not elaborated, except some occasions, so much during the period up to the Helsinki summit in 1999. The Commission and the Council's position referred in the 1989 documents were not promoted and developed in the Union's approach in time. Instead of Turkey's membership in the club, the first half of 1990s witnessed the debates on the progress of Republic of Cyprus towards the membership in the Union. Turkey's reaction against Union's decision to enlarge the enlargement movement towards Cyprus had two-side aspects. First, Turkey did not want to lose the legal existence of a country, Turkish Republic of Northern Cyprus –an entity recognized by only Republic of

¹³⁴ "Ankara'dan Sert Tepki", *Milliyet*, 21 December 1989

Turkey, within the political attempts of a local organization of Europe. The Cyprus issue was a national cause, and the loss of the national cause would deteriorate the foreign policy of the state, as well as the political party which prepared the grounds for it.

Second, Turkey was reactive against Cyprus's membership because of the increasing power of the Greek side in the European Union. Already a member of the Union, Greece was naturally in favor of accession of Cyprus to the Union as soon as possible. This would weaken Turkey's position on the road to the membership in the Union. 'The Greek presence in the EU already prevented the amelioration of relations between Turkey and Europe, and now Greeks would obtain a second veto against Turkey, in addition to their own.'¹³⁵

Viewing the potential danger of a full-member Cyprus in the European Union, Turkey argued that application of Cyprus in, then, existing de facto situation would be unacceptable for the EU, and that the accession of Cyprus in the Union should be delayed until a peaceful solution on the island is settled. However, the Union's reaction towards Turkey's expectations was almost nothing. Moreover, because the date and initial process of Cyprus's application for membership coincided with a period of intensified negotiations for accession of Turkey to the Customs Union of European Union, the EU had the point that granting Turkey a membership in the customs union would decrease the density of opposition for Cyprus's membership. Manisalı stressed that the winners of customs union with Turkey were Brussels and Athens, because 'by using the Greek-veto scenario, they both made Ankara accept the policy they demanded and made the Cyprus issue finish with a victory.'¹³⁶

¹³⁵ Süvarierol, S. (2003), "The Cyprus Obstacle on Turkey's Road to Membership in the European Union", *Turkish Studies*, Vol.4 Issue 1, p.57

¹³⁶ "Kıbrıslı Rumlara Hükümler Tanındı", *Milliyet*, 9 March 1995, p.18

Turkey's ratifying the accession to the Customs Union while Cyprus was in a period of initial steps for negotiations to be opened in near future had certain reactions and repercussions among the Turkish Cypriots. The year 1995 had certain opposition ideas from the island towards the government of Turkey. To have balance of the accounts, and to relief the critical ideas on the island, Turkey's President Demirel and TRNC's President Denktaş issued a joint declaration in which the taxes between two states were stabilized and revised in favor of trade relations. Moreover, Turkey undertook the responsibility to subsidize the economic loss of TRNC under this declaration.¹³⁷

Turkey's joint declaration and steps to have more common economic relations with Turkish Cypriots had negative impacts in the eyes of the members of European Union. Turkey was upholding the embargo rules, which were implemented against the trade originated from TRNC, via this declaration. The joint declaration to establish a kind of trade union between Turkey and the Union was also against the conditions set out by the Union for Turkey regarding the Cyprus case. The economic ties with the Turkish Cypriots would strengthen the northern part of island, and would demonstrate that even though there was not a settled peace, the northern part can sustain itself thanks to Turkey. So, the movements to enhance cooperation with the Turkish Cypriots would not serve for a peaceful settlement, under international law and U.N. resolutions; instead it would delay a possible solution of the problem in the near future.

Following the joint declaration crisis, the decision of the Greek Cypriots and Greeks to purchase S-300 missiles with a range of 150 km increased the tensions in the Cyprus issue once more in January 1997. It was under the umbrella of 'Joint Defence Dogma', a defence and security initiative between Republic of Cyprus and Greece. Obviously, Cyprus's missile purchase plans were signs of a government that is eager to consolidate its military position along with its likely political position

¹³⁷ "KKTC'yle Yeni Dönem", *Milliyet*, 30 December 1995

within EU.’¹³⁸ Cyprus concluded Turkey and TRNC’s opposition to the missiles was not replied by the Greek Cypriots initially. Eventually, Turkey and TRNC issued a common declaration on the issue on 20th of January 1997. Both sides agreed to take all necessary precautions to protect the balances in Cyprus and Eastern Mediterranean and to defeat the policies threatening the peace. Moreover, both sides declared that ‘EU’s green light for Greek Cypriot’s membership under pressure of Greece has been, as seen in the present point, a historical mistake and had destructive effect on the negotiations process for peace in the island. There are no other targets of Greek Cypriots but entering into the European Union, without settlement with Turkish side, as a second Greek state and to render an indirect unification with Greece.’¹³⁹ Viewing the serious reactions in diplomatic ways, the producer of the missiles, Russia, revised its opinion to export the missiles to the Greek Cypriots.

The cooperation between Turkey and TRNC went beyond when the two states signed an agreement on ‘Establishment of an Association Council.’ On 6th of August 1997, Turkish Prime Minister Mesut Yılmaz and TRNC leader Rauf Denktaş concluded the agreement which aimed ‘integration in fiscal and economic, and partial integration based on the partnership in security, defence and foreign policy.’¹⁴⁰ The agreement foresaw of a certain integration of the economic and fiscal issues of Turkey and TRNC, which meant a potential progress on the integration in the other fields.

Turkey’s expectations from the results of Luxembourg Summit of European Council in December 1997 were crucial. However, the results of the Summit did not promise so much for Turkey’s membership in the Union. Turkey was excluded from

¹³⁸ Kurop, M.C. (1998), “Greece and Turkey; Can They Mend Fences?”, *Foreign Affairs*, No.77, p.8; quoted from Aydın, M. (2003), “Crypto-optimism in Turkish-Greek Relations: What is next?”, *Journal of Southern Europe and the Balkans*, Vol.5, No.2, p.233

¹³⁹ Türkiye-KKTC Ortak Deklarasyonu, 20 January 1997, available at <http://www.turkishgreek.org/tr-kktcdoklarasyon.htm> (last accessed 10 November 2009)

¹⁴⁰ Kuzey Kıbrıs Türkiye Cumhuriyeti Hükümeti ile Türkiye Cumhuriyeti Hükümeti Arasında Bir Ortaklık Konseyi Kurulmasına İlişkin Anlaşma, 6 August 1997, available at www.cm.gov.nc.tr/dir_docs/09-1998.doc (last accessed 10 November 2009)

the present list of candidates, opposite to Turkish expectations, and moreover, the decision for starting negotiations with Cyprus was agreed during the summit. On the other hand, a strategy for Turkey, which would mean a membership in the future, was drawn in the Council conclusions. The response from Ankara to the conclusions of the Summit was stronger and harder than expected by the Union. The government in Ankara decided to freeze the political dialogue and relations with the Union, to reject participating in the Intergovernmental Conference to be held for candidate states, to sustain the Customs Union. Moreover, government decided to avoid making the Cyprus and Aegean issues the subjects of relations with the European Union. Government agreed to promote the integration with Cyprus and take the necessary steps on this road.¹⁴¹

The suspension of the relations with the European Union was implemented by the Turkish government in the months following the Luxembourg summit of European Council. Moreover, the relations with TRNC were enhanced, and even the strategy for solution in the island was carried towards a two-sovereign states, instead of a federation of Cyprus. These actions, in a reactive manner, were introduced as a ‘response to positions taken by Greece, the Republic of Cyprus and the EU.’¹⁴²

The period of frozen relations and least diplomatic ties with the European Union continued until the Helsinki Summit of European Council in December 1999. Turkey’s situation was revised in the Helsinki Summit, and candidacy was approved by the Union leaders.

The conditions around Cyprus issue between the application by Turkey and the Helsinki decisions have been shaped around the peaceful settlement of the dispute on the island. The Community, at that time, asked Turkey to contribute to the peaceful settlement process on the island in the norms of international law and the

¹⁴¹ “AB’ye Yanıt”, *Milliyet*, 15 December 1997

¹⁴² Süvarierol, S. (2003), “The Cyprus Obstacle on Turkey’s Road to Membership in the European Union”, *Turkish Studies*, Vol.4 Issue 1, p.60

U.N. resolutions. Conditions set for the membership in Cyprus issue was openly declared in this form, and Union's stance against Turkey in the issue was strict. The membership of Greece had crucial impact on this point of Union. Greeks and Greek Cypriots, according to Müftüler-Bac and Güney, had two motivations in such a situation. First, the accession of Cyprus would 'exert pressure on Turkey to make concessions on the Cyprus conflict in return for Turkey's membership.'¹⁴³ Therefore, European Union would be a catalyst for the unification of the two parts of the island. Second, because of the fact that Turkish forces on the island would be regarded as occupying the territory of a member state in the Union, they would give concession for unification of the island.¹⁴⁴

Undoubtedly, one of the aspects of the EU policy towards Turkey in time was to convert Turkey's foreign policy attitudes towards the interest of the Union. Because the Greek government had a seat in the European Council as a member state, the political decisions on Turkey's attitudes were under impact of Greek foreign policy implications. The European Union addressed its expectations via incentives, like Customs Union, before granting candidacy and opening negotiations; however the power of the incentives were debatable. As Tocci states, 'the incentive of EU membership was unlikely to induce Turkey to reverse its policy towards Cyprus.'¹⁴⁵ Apart from granting further incentives, the European Union hardened its position in the pre-Helsinki era, by excluding Turkey from the next wave of enlargement to CEECs. Moreover, Cyprus's inclusion in the process made negative impacts in Turkey towards the European Union. Turkey began to move against the expectations of the Union and this was 'due to the fundamental lack of credibility of the EU's own conditional incentives to Turkey.'¹⁴⁶

¹⁴³ Müftüler-Bac, M. and Güney, A. (2005), "The European Union and the Cyprus Problem: 1961-2003", *Middle Eastern Studies*, Vol.41, No.2, p.285

¹⁴⁴ Ibid., p.286

¹⁴⁵ Tocci, N. (2002), "Cyprus and the European Union Accession Process: Inspiration for Peace or Incentive for Crisis?", *Turkish Studies*, Vol.3, No.2, p.122

¹⁴⁶ Ibid.

On evaluating the power of the conditionality concerning the Cyprus issue applied on Turkey before the Helsinki Summit, it is obvious that conditions forestalled were not convincing for Turkey in the period. The Cyprus issue had longer history than the membership in the Community. Historically, Cyprus case was previewed as a national case, on which the governments of Turkey had to be sensitive. The change in the foreign policy of Turkey, which was requested by the Community/Union, was fast and great. It was a complete revision of Turkey's stance in the Cyprus issue. The enormous changes in the foreign policy of a state had incredible costs for the governments leading those changes. In terms of cost-benefit analysis, by Schimmelfennig and Sedelmeier as mentioned in the chapter of theoretical discussions, the cost of losing grounds in the Cyprus issue was much more enormous than the benefits of gaining the status of candidacy for full membership in the Union. In addition to emotional feelings of nationality, Turkey also reacted in terms of security concerns, and the reactions to the decisions of the Union were harsher thanks to its security claims.

4.2 The Period Between Helsinki and Brussels: 1999-2004

The two years of the frozen relations between Turkey and the European Union came to an end when the Helsinki European Council agreed on granting the candidacy status to Turkey. The Council convened on 10 and 11 December 1999 and decided upon the milestone decisions for the Union. Those decisions were 'marking a new stage in the enlargement process.'¹⁴⁷ Turkey's expectation for having a status of candidate for membership in the Union was replied positively by the leaders of the European Union. The Council confirmed the candidacy of Turkey with certain conditions put in front it before opening the negotiations. The conditions on Cyprus issue were (i) peaceful settlement of disputes in accordance with U.N. Charter, failing this (ii) bringing the dispute in front of the International Court of Justice, before the review of cases by the European Council at the end of 2004, (iii)

¹⁴⁷ European Council (1999), "Presidency Conclusions, European Council in Helsinki"

compliance of Copenhagen political criteria before opening the negotiations. Moreover, Council stated that, although it supported U.N.-led peace negotiations on the island, the settlement of dispute would not be a precondition in front of Cyprus's full membership when the negotiations are completed.

Turkey's reaction to the decision of the European Council –among politicians, diplomats, economists and the media, in the summit was a great pleasure. The government's argument on winning the candidacy status without concessions in the Cyprus case was questioned by the opposition political parties and intellectuals. Fazilet Partisi (The Virtue Party), then in the opposition, arguing that government gave certain concessions on Cyprus and Aegean disputes, stated that 'the point reached is the start of ENOSIS¹⁴⁸, and losing Cyprus.'¹⁴⁹

The Cyprus issue in the Helsinki European Council became an issue of diplomatic traffic through the letters of politicians. Because the Council was to convene under the Presidency of Finland, the Finnish Prime Minister of time, Paavo Tapio Lipponen, sent a letter to Turkish Prime Minister Bülent Ecevit regarding the critical issues on Turkey's membership perspective. Lipponen's letter, as argued, guaranteed Turkish side on excluding Turkey from the condition of bringing the disputes to before the international courts until the end of 2004. In response, as a letter, Prime Minister Ecevit wrote that he accepted Lipponen's letter as a complementary part of the Helsinki Council decisions. In addition, Ecevit declared that although Turkey's candidacy was granted in Helsinki with the Presidency Conclusions, the government was not going to give any concessions regarding the Cyprus and Aegean issues.¹⁵⁰ In this way, the Turkish government accepted a letter from the Prime Minister of Finland as legal document and compound of the Helsinki Presidency conclusions.

¹⁴⁸ The historical political plan to unite Cyprus and mainland Greece.

¹⁴⁹ "Türkiye Artık Avrupa'dadır", *Hürriyet*, 12 December 1999

¹⁵⁰ "Avrupa Birliği'yle Gizli Mektup Trafığı", *Hürriyet*, 20 March 2000

The interpretations of the conclusions of the Helsinki Summit were different in two sides of the Cyprus problem. In Turkish side, the political authority was pleased with the decision of the Council, it was argued that the decision is not problematic about the Cyprus's accession. The reason is that, according to the conclusions, Cyprus's membership in the future was not linked to an automatic process. Still, the approval of the Council is needed for its accession to the Union.¹⁵¹ On the Greek side, the Cypriots and Greek government were content, because their demands were met in the decisions.¹⁵²

When the Helsinki European Council met, the government in Turkey, in nature, was different than the others in the past. It was a coalition government with three parties, and the parties were a collection of different political views. Democratic Left Party (Demokratik Sol Party – DSP) had social democratic understanding with a clear nationalist approach. Motherland Party (Anavatan Partisi – ANAP) was a party in the central right with liberal understanding of economics. Nationalist Movement Party (Milliyetçi Hareket Partisi – MHP) was a rightist nationalist party with conservative insertions. Following the elections held in May 1999, the new structure of the Turkish Grand National Assembly brought about such a result of political coalition. When the Helsinki Summit held, the coalition did not have any critical voices from inside. However, following the conclusions of Helsinki summit, the opinions of parties in the coalition government released. MHP's opposition in some of the critical issues, especially on political ones, began to shake the government's approach towards the European Union.

After long political debates inside the coalition, the National Programme for the Adoption of the Acquis (NPAA) was declared by the coalition government in March 2001. It included the commitments of the Turkish government to the European Union over the reforms to be done. In the National Program, Turkey promised to support the efforts of the U.N. Secretary General on a peaceful

¹⁵¹ "Helsinki-New York Ekseninde Kıbrıs", *Milliyet*, 13 December 1999

¹⁵² "Türkiye'nin 21. Yüzyıl Misyonu", *Milliyet*, 13 December 1999

settlement, depending on the equality of the sides and the realities of the island, of Cyprus issue. Moreover, the list of the *acquis* to be adopted into Turkish legal system included the agreements made between the Union and the Republic of Cyprus.¹⁵³

The Cyprus issue brought about a contradictory dilemma for Turkish society and political figures in the years post-Helsinki period. The Cyprus issue was seen a national case which was vital for the whole Turkish community and the politicians. On the other hand, Turkey's commitment for the full accession to the European Union required a revision in Turkey's approach towards the island. The definition of the solution of the dispute on the island was different for Turkey than that of the EU. Moreover, EU's pressure for a peaceful settlement in the near future did not seem so possible immediately. In addition to the disagreement over the Cyprus question, the involvement of a nationalist-conservatist party in the government coalition created a deadlock for the future of EU's expectations for a solution soon. Therefore, 'Turkey's aspiration to join the EU and the significance of the Cyprus issue with respect to the accession process created a serious contradiction in Turkish foreign policy between Turkey's uncompromising attitude towards Cyprus and its willingness to become an EU member.'¹⁵⁴

Although the government's reform efforts were continuing in the under the coalition of umbrella, the future of government was not clear in time. Because of the economic crises originated from a political disagreement between the President and the Prime Minister, the economic and political situation in Turkey was under a great shake. To renew the national assembly, the elections were held on 3rd of November 2002, and the majority of the parliament was upheld by Justice and Development Party (Adalet ve Kalkınma Partisi – AKP). Having pro-EU opinions, the AKP's

¹⁵³ Government of Turkey (2001), "Turkish National Programme for Adoption of the Aquis", available at http://ec.europa.eu/enlargement/pdf/turkey/npaa_full_en.pdf (last accessed on 10 November 2009)

¹⁵⁴ Çelenk, A.A. (2007), "The Restructuring of Turkey's Policy Towards Cyprus: The Justice and Development Party's Struggle for Power", *Turkish Studies*, Vol.8, No.3, p.350

policy on the Cyprus issue was more active and open to change, when compared to the former parties in the government.

The new government's idea over the Cyprus issue was to finalize the long lasting divided situation of the island with a peaceful settlement led by the U.N. Secretary-General. The leader of the AKP, Recep Tayyip Erdogan, in the early months of AKP government, declared his opposition to the existing foreign policy arguments of Turkey. He also criticized the Turkish Cypriot leader, Rauf Denktaş, because of his mood on the issue of peaceful settlement. AKP's pro-active and initiative foreign policy for the Cyprus issue created a certain disagreement between the government of Turkey and the leadership of TRNC.¹⁵⁵ Moreover, the AKP leader urged for an entry to the Union together with Cyprus, claiming that this was a condition in 1960 agreements where it was stated that Cyprus can not be member of an organization in which both Turkey and Greece was not member.¹⁵⁶

Ayşe Aslıhan Çelenk argues that the main reason for a change in the Cyprus policy by the AKP government was the prospect membership of Turkey in the European Union.¹⁵⁷ She suggests that the Cyprus question had reached to an impasse when the coalition government had open opposition to the EU existence in the problem. Because the Greek Cypriots had a great opportunity for entrance to the Union in Helsinki European Council, the only side to make the pressure by EU was Turkish Cypriots and Turkey. The AKP government, to provide international support for its government position, reflected positive signals to the European Union. Therefore, 'the one-sided pressure [from EU] that Turkey faced and the desire to get a date for accession negotiations led to the new Cyprus policy initiated by the AKP.'¹⁵⁸

¹⁵⁵ "Erdogan Urges Shift in Cyprus Policy, Comes to Odds With Denktaş", *Hurriyet Daily News*, 3 January 2003

¹⁵⁶ "Cyprus Resolution Requires Mutual Compromise", *Hurriyet Daily News*, 18 November 2002

¹⁵⁷ Çelenk, A.A. (2007), "The Restructuring of Turkey's Policy Towards Cyprus: The Justice and Development Party's Struggle for Power", *Turkish Studies*, Vol.8, No.3, p.354

¹⁵⁸ Ibid., p.355

AKP government's support for the peaceful settlement of the Cyprus issue under the U.N. Secretary-General's plan had positive impact over the Turkish Cypriot's vote in favor of the plan on 24th of April 2004. The majority of the Turkish Cypriots (64.9%) voted in favor of the plan, while 75.8% of the Greek Cypriots defied it. Therefore, AKP government's shift of the Cyprus policy had impacts over the Turkish community of the island; however, the polls showed the reluctance of Greek Cypriots for a unification on the island.

Following the rejection of the Annan Plan by the Greek Cypriots, the accession of the island to the Union was realized with a divided situation on the 1st of May 2004. Starting from the next Council, the Greek Cypriots, as a member of the Union, had impact over the decisions of the European Council. This raised the tensions between Turkey and the European Union in some occasions.

The period between 1999 and 2004 had important repercussions over the conditionality applied by the European Union over Turkey regarding the Cyprus case. The Helsinki Summit had positive interpretations on both sides over the issue of settlement and carrying the disputes to the International Court of Justice. Turkey accepted the conditions in the Helsinki Summit, but interpreted them in favor of its own interests. Moreover, the conditions were weakened, according to the Turkish side, with the letter coming from Lipponen, as the lord of the Presidency of Council.

The conditions over the Cyprus case had certain implications over Turkey's internal politics and the political parties. Thanks to the agreement reached in Helsinki Summit, the European Union had stricter position in the settlement of the dispute before accession of the Republic of Cyprus, if possible. The pressure over Turkey for the solution of the dispute increased, as the parties in coalition government had negative stance over the solution. Making the Cyprus issue a condition for settlement was perceived as an order of the European Union over the Turkish people. Although there were other sensitive issues, like minorities, role of military and economic reforms, it was obvious that 'unless an acceptable compromise is reached among the actors involved, the Cyprus issue will continue to present a major obstacle to

Turkey's prospects for full membership.'¹⁵⁹ The impact of the pressure from the Union was two sided. The nationalist side of the political figures had certain opposition reactions against EU's immediate expectations. This had certain implications over the nationalist party in the government. Moreover, the liberal partner in the government was also under the impact of nationalist political ideas. Therefore, 'when examining the Cyprus issue, there is little difference between MHP and the other parties.'¹⁶⁰ These ideas included the stance against EU's demands over the Cyprus dispute.¹⁶¹ On the other side, the business elite had positive approach towards the criteria of the Union before opening the negotiations. The business elite supported a solution on the island for the favor of Turkey's interests in the European Union.¹⁶²

The European Union's conditionality was used as a strong decisive element in Turkey's membership after the Helsinki summit. All in all, even though the wording of the conclusions was not hard, 'Turkey's candidacy was clearly tied to Cyprus's membership of the EU and with Helsinki decisions, and the EU has committed itself to Cyprus's accession independent of a resolution of the conflict.'¹⁶³ However, most of the pressure from the European Union over the settlement was directed to Turkey, ignoring the Greek side of Cyprus. This reality of one-sided conditionality had negative repercussions in Turkey. Cyprus issue became the source of the biggest anti-EU movement in internal Turkish politics after Helsinki summit. Turkey was in a position of supporting the U.N.-based solution of the problem, and these attempts for solution 'reverberated positively in terms of EU-Turkey relations as shown by the

¹⁵⁹ Öniş, Z. (2003), "Domestic Politics, International Norms, and Challenges to the State: Turkey-EU Relations in the post-Helsinki Era", *Turkish Studies*, Vol.4, No.1, p.14

¹⁶⁰ Avcı, G. (2003), "Turkey's Slow2 EU Candidacy: Insurmountable Hurdles to Membership or Simple Euro-skepticism?", *Turkish Studies*, Vol.4 Issue 1, p.159

¹⁶¹ Ibid., p.18

¹⁶² TÜSİAD (2002), "Kıbrıs Sorunu Avrupa Birliği Genişleme Süreci Bağlamında Ele Alınmalı", *TÜSİAD Basın Bülteni*, available at http://www.tusiad.org.tr/FileArchive/basin_bulteni_2002_03.pdf (last accessed on 10 November 2009)

¹⁶³ Müftüler-Bac, M. and Güney, A. (2005), "The European Union and the Cyprus Problem: 1961-2003", *Middle Eastern Studies*, Vol.41, No.2, p.389

conclusions of the December 2001 Laeken Council and the June 2002 Seville Council, hinting the prospects for accession negotiations with Turkey.’¹⁶⁴

During this period, the EU emphasized the non-EU conditions for Turkey to be able to start negotiations. The leading of these conditions were the respect to the decisions of European Court of Human Rights (ECtHR), on the Cyprus-originated applications. The extension of the conditions outside the EU’s own organs was surprising for EU. Naturally, this inclusion of conditions from the ECtHR had negative sources of concern in Turkey. On the other hand, it raised a question about to what extent the conditions may reach. Also, another question was about what was the real expectation by issuing this condition. Klarevas argued that failure in responding the ECtHR decisions would ‘probably send a negative message that Turkey does not play by European rules and that it is a country not to be trusted when it comes to meeting its obligations in European intergovernmental organizations and under international law.’¹⁶⁵

The Union’s incentives for the relevant period were less while the conditions were getting harder. The strict stance of the Union on the settlement and its making pressure over Turkey without any certain promises resulted in negative responses from nationalist political elites. After the change of the government, the new government did what it can do for the solution on the island; however the Greek Cypriots declined the demand. One of the positive signals for Turkey’s conditions was Turkish Cypriots’ approval for the Annan Plan; however this did not make expected contributions on Turkey’s road towards membership.

This period of conditionality has shown that the Cyprus issue of Turkey was open to be politicized by the European Union. Although there were the objective and legally pointed criteria for membership of Turkey, the Helsinki decisions gave the

¹⁶⁴ Tocci, N. (2003), “Incentives and Disincentives for Reunification and EU Accession in Cyprus”, *Mediterranean Politics*, Vol.8, No.1, p.152

¹⁶⁵ Klarevas, L.J. (1999), “Turkey’s Right-v.-Might Dilemma in Cyprus: Reviewing the Implications of *Loizidou v. Turkey*”, *Mediterranean Quarterly*, Vol.10 Issue 2, p.112

right of a political decision to the Council regarding the Cyprus's accession and Turkey's candidacy. The EU did not mention that settlement of the Cyprus problem would be held as political criteria, added to those agreed in Copenhagen in 1993. However, it was left to political decision of the Council to take Turkey's membership to the issue of Cyprus dispute. Dependency of Turkey's membership in the Union to the Cyprus issue demonstrates the politicization of criteria for Turkey's membership. That is, it was a de facto political criteria for Turkey in the final stage.

4.3 From 2004 Onwards

The period Turkey-EU relations after the December 2004 summit cover another phase of relations with positive and negative incidents on the way. Turkey was granted a date for opening of the negotiations, 3rd of October 2005, with the expectation on Turkey's adaptation of Protocol to Ankara Agreement, that would extend the agreement to the new members of the Union, prior to the start of negotiations. The Union was certain and determinant on the Protocol case, because this was crucial for the requirements of the Customs Union. Moreover, this was the second time that European Council demanded signing the Protocol from Turkey. In the June European Council, right after the enlargement with ten new member states, Turkey was asked to sign the relevant Protocol.

The Council in December 2004 decided that the negotiations with the candidate states would be open ended and might have long lasting transitional periods, permanent safeguards, derogations or specific safeguards. The possibility of having permanent arrangements, like on free movement of people or agricultural issues, was openly declared by the Council in the conclusions. This was added to Turkey's membership perspective as a new aspect of membership process.

Under the conditions to be met before starting the negotiations, Turkey declared that it had signed the Protocol adopting the Ankara Agreement to ten new members. However, the signed Protocol was accompanied by a declaration from

Turkey on Cyprus issue, which mentioned that this signature was not an official recognition of the Republic of Cyprus. Turkey's declaration on recognition of Cyprus was responded by a counter-declaration in 21 September 2005. Commission argued that Turkey's declaration was a unilateral one. So, it was announced that it had no binding status in terms of legal sanctions. Therefore, starting from the date of signature, the Union expected Turkey's opening its ports to the vessels coming from or originated in the Republic of Cyprus. Turkey's negative stance against opening the ports to the vessels coming from the Republic of Cyprus had certain repercussions in the Union's eyes.

In 2006, the conditions for Turkey in terms of the issues around Cyprus hardened more than ever. In the Accession Partnership, the Union wanted Turkey to normalize its relations with the Republic of Cyprus as soon as possible, and demanded the implementation of the Protocol adapted to the Ankara Agreement fully. These were priorities of the Union for immediate action to be done. The European Council also agreed with the Accession Partnership decisions and expected Turkey to take necessary steps for settlement of disputes and opening its ports to the Cyprus-flagged vessels or vessels coming from Cyprus. The Commission's opinion on continuation of negotiations with Turkey demanded a suspension of negotiations on the eight chapters, mainly related to the Customs Union. The General Affairs and External Relations Council agreed to the conditions the European Council implemented the decision. It was decided that Turkey's situation on suspended chapters would be revised in the next three years. This meant a total freezing action in negotiations if the conditions are not met.

The following years witnessed a slow-down in Turkey-EU relations thanks to the decision of suspending the negotiations in eight chapters. Turkey did not give positive response to the Union on opening its ports to the vessels coming from Republic of Cyprus. In terms of the settlement of dispute on the island, Turkey supported the talks between Mehmet Ali Talat, President of TRNC after Denktaş, and Dimitris Christofias, the President of Republic of Cyprus. Moreover, Turkey also ignored the conditions set by the European Council in different meetings.

Starting from 2005, the Union wanted Turkey to allow the Republic of Cyprus to enter into international organizations and membership to Wassenaar Agreement. The Union's special emphasis over international organizations and the Wassenaar Agreement is crucial because this condition has not been determined as criteria in the European Council decisions, or in the founding treaties. In this way, the Union has created one more condition for Turkey (if not more than one) before the membership would be granted in the Union.

The last period of conditionality for Turkey by the European Union has been the peak of the implementation of the conditionality principle. The conditions starting from the December 2004 has been wider and more than they were in the previous periods. The Cyprus issue was mainly one of the criteria which Turkey was supposed to meet before membership. However, after Cyprus's acceding in the Union as a member, the expected conditions from Turkey were extended to the economic part of the Union. Union made pressure on Turkey, first, to sign the Protocol adapting the new members of the Union to the Ankara Agreement. Following Turkey's decision to sign, the next condition was determined as implementation of the Protocol. This meant the inclusion of Republic of Cyprus officially into the customs union. Then the economic and official relations with Republic Cyprus would be established. However, Turkey did not comply with the expectations of the Union.

In addition to the widening of the conditions, in this phase, the central point of the conditions were moved from economic field to political debates. The Cyprus issue, in general, was elaborated in the criteria, as a result of the fact that it was an issue of dispute between two states. Most the demands and expectations of the Union were in the political field, like peaceful settlement of the dispute, complying with ECtHR decisions etc. However, after Cyprus's accession to the Union as a member, the nature of the conditions changed. The pressure on Turkey was made for adaption of the Protocol, which would mean recognizing the Republic of Cyprus. The Protocol was for the customs union and its implementation. This meant that, the issue

of Cyprus question was politicized during the course of time, and the dispute became a tool of policies of the European Union.

In this period, the incentives for Turkey in return for the conditions were greater and more concrete than the previous periods. The Union promised to start the negotiations if Turkey signed the Additional Protocol. Turkey's response was positive, as it was signed before the negotiations started. The next condition was implementation of the Additional Protocol. However, this time Turkey's reaction was negative. The reason behind the reaction was the fact that opening the ports to the vessels of Cyprus would mean the official recognition of the Republic of Cyprus. The government was not able to undertake the responsibility of such a big political decision. The recognition of the Republic of Cyprus would mean a betrayal to the national cause and might result in political catastrophe for the government.

The cost-benefit analysis for the decision of implementation of the protocol was not easy one for the Turkish government. The cost of the decision was creating a great opposition in internal politics. The scheduled elections in Turkey were in late 2007, and the government did not want to take a political risk before near before the elections. The benefits, continuation of the negotiations, did not convince the government adequately.

The time period from Turkey's application to the recent years provided a general spectrum on how the conditionality of the European Union was applied to Turkish case. In the early years of the period, Turkey's policy in this context was to separate the Cyprus issue from its road to membership in the European Union. Turkey asked for EU's retreat from Cyprus case, and have an unbiased approach towards the problem. It was openly declared in the formal speeches and political declarations, as mentioned in the chapters above. The Union's approach to have a positive impact in favor of a peaceful settlement of the dispute had great implications in Turkey's policy. The governments in different times of the period had certain and critical decisions against the Union's intention to affect the process of settlement on the island. However, the policy of Turkey to keep both issues, Cyprus case and

Turkey's membership, separate from each other did not have the expected results in the final part. In November 2006, the minister of Turkey responsible for negotiations with the EU, Ali Babacan, mentioned that the EU attempts to be both the prosecutor and the judge in Cyprus.¹⁶⁶ Obviously, the most pro-EU government of Turkey, AKP government, converted its policies to conservative lines, after EU had strict line in Cyprus issue. Despite Turkey's efforts, Cyprus issue came back to the central position of Turkey-EU relations at the end of the period.

4.4 Conditionality Re-Examined

The implementation of principle of conditionality on Turkey's membership process has similar lines with the theoretical interpretations, while there are breaches in some regards. The analysis of the analogy between theory and practice in Cyprus case of Turkey's membership will be explained in details in this part of the Chapter.

The use of conditionality by the European Union towards Turkey concerning the Cyprus issue had been an exceptional one in both its nature and the implementation. As Karen E. Smith argued (in theoretical Chapter), the conditionality was used by the Union as an instrument of the foreign policy. Although enlargement was perceived as internal part of the Union issues, still it was a part of the foreign policy of the Union until the candidates enter as the members. The Union had a consistent approach in the Cyprus issue and expected the initial steps from Turkey for solution of the dispute. The determinacy in the conditionality contributed to the Union's stance against Turkey's expectations. This stance provided more concrete outcomes in other criteria, like political reforms and minority rights in Turkey. However, in terms of settlement of Cyprus question, the power of the tool of conditionality in foreign policy of European Union is debatable. The main reason for this is the existence of dispute and the lack of settlement in Cyprus up to the date. Therefore, the conditionality was used as a strong tool of the Union in its policies on Turkey, without certain results up to the date.

¹⁶⁶ "AB Kıbrıs'ta Hem Hakim Hem Savcı Gibi", *Anadolu Ajansı*, 26 November 2006

In terms of the three characteristics of the ways, through which the Union delivers its conditionality principle, as argued by Vachudová, there seems differences with theoretical arguments and the practice in Turkish case. Vachudová's first defined way was the asymmetrical interdependence between the candidates and the Union. The argument was based on the CEECs, which were independent right before they applied for full membership, and searched for international political and economic support. However, Turkey's position, on Cyprus issue, in this case was different from the others. First, the Cyprus question was a national cause of Turkey, over which the whole society and politicians had nationalist arguments. Turkish politicians and society did not need an international support for getting success in the Cyprus case, because it was believed that there was even no problem on the island. And, moreover, if there emerges a cost to be paid by the Turkish side, the Turkish society was already prepared to defend northern Cyprus against any other power, regardless of the cost. The implications of such an understanding were seen during the incidents on the island in 1996. Apart from the international issues of other candidates, Cyprus case was much more an internal issue for Turkey. The power of the Union, economic and political, did not have adequate impact to convince the Turkish governments on releasing the Cyprus issue for settlement without any complications. Although the AKP government brought a revised approach in Cyprus case, this time the Greek rejection to Annan Plan embarrassed the expectations of the Union for a peaceful settlement. The AKP government still stands against EU's pressure for settlement in the island, and this demonstrates that asymmetrical power of the Union is questionable in Turkish case related to Cyprus issue.

In terms of the argument of enforcement, by Vachudová, the Union's enforcement on Turkey to let the peaceful settlement of the issue had the power of sanction up to a degree. Turkish governments had to support the U.N.-led talks over the island. The AKP government even supported the plan prepared by U.N. Secretary-General, in return of a date for opening the negotiations. However, the enforcement did not work on the issue of implementation of the Additional Protocol to the Ankara Agreement. The implementation meant the recognition of the Republic of Cyprus with its existing state structure and borders. Even the government was in

the hands of a pro-EU party, AKP, the opening of the ports to the Cyprus-flagged vessels was not implemented. The reasons behind it are two-fold. First, the political discourse of AKP government was returned into a nationalist one from the internationalist grade, following the start of the negotiations. The difficulties of negotiations, at least in terms of Cyprus case, were obviously understood, and AKP tried to have an alternative nationalist approach to the issue. Second, and related to the first, the general elections were to be held in Turkey not much further than the expected date, by the Union, of implementation of the Protocol. AKP had the idea that this would help to the more nationalist parties to gain votes, and may endanger the next term of government.

Regarding the meritocracy, of Vachudová, although EU stressed the equality of the candidates and its approach to them without discrimination, the idea in Turkey was opposite. The society of Turkey, a portion of which had certain support for the membership, had the idea that there was not equality among the candidate states. The Cyprus issue and Cyprus's road to membership were perceived as the indicators of this opinion. On the side of the Union, the two blocks, inclusive and exclusive, inserted their ideas during the candidacy and negotiations process of Turkey. Some rightist politicians asked for suspension of the negotiations, when Turkey failed to implement the Protocol, while the others requested a period of monitoring. Most of the time, the winners were the inclusive side, which defended Turkey's existence on the candidacy and negotiations, even though the Cyprus issue was not overdone. Turkey's continuing negotiations, despite the fact that eight chapters are suspended, demonstrates the precedence of the inclusive bureaucrats.

In terms of the tools of conditionality, most of Vachudová portfolio had consistency with the Turkish case in terms of Cyprus issue. The Regular Reports became the source of conditions for Turkey on the issue of Cyprus case. Also the Accession partnership played a crucial role, to show the determinacy of the Union over the peaceful settlement. The criticisms around the Copenhagen criteria were always on the table for recalling the conditions of Turkey. Every aspect of the tools

were related and linked to the Cyprus issue on the road of Turkey towards the membership.

The conditionality principle on Cyprus issue is in parallel of Geoffrey Pridham's idea that conditionality and enlargement has a dynamic relation (discussed in Chapter II). The conditions for Turkey on the Cyprus case had different additional since the beginning of the process in 1987. The very first condition was a settlement in the island, while it turned out to be a list of conditions after 2004. The enlargement of the conditions depended on the needs and characteristics of the Union at the time of relations. The Union's idea to avoid importing a border dispute at the beginning converted to the idea that Turkey should implement all aspects of the customs union, because of the fact that Cyprus was a member of the club. So, conditions passed through an evolution in time. The membership of Republic of Cyprus and its implications introduced wider and more detailed conditions for Turkey. The expectations of the Union raised, and Turkey's progress towards the membership slowed down. This dynamic convergence increased the tensions between the Union and Turkey recently.

The Cyprus case and the conditions around it have common characteristics with the 'external incentives model' of Schimmelfennig and Sedelmeier (discussed in Chapter II). When analyzed, there were four factors of the power of and possibility to implement conditionality around the cost-benefit analysis. On determinacy of conditions, the Union's conditions were most of the time open and certain. The settlement of disputes, implementation of Protocol, opening of ports, and respecting the decisions of ECtHR were the basic and direct condition during the process. About the size and speed of rewards, the Union's practice did not match with the expected theoretical origins. The best defined and fastest reward for Turkey regarding the Cyprus case was starting the negotiations in return of the signature of the Protocol. Turkey complied with the condition, and was rewarded in a few months. However, the sensitivity of the issue demonstrated how difficult was complying with conditions on Cyprus case. Because of the lack of the rewards as a response to the implementation of the Protocol, the process of candidacy came to a

deadlock in December 2006. The impact of having no rewards for implementation still imposes a crisis in Turkey-EU relations. The credibility of threats and promises has always been under discussion, when Cyprus issue is considered. The historical process of conditionality in Turkish case proved that, whatever the cost would be, most of the Turkish people and politicians are ready to pay. Even the economic and power attractions of the membership in the Union could not persuade the people on the issue. Besides, the credibility of the Union itself is under questioning for a long time in Turkey. The real intents behind the conditions have not been clarified by Turkish media and society. On the size of adoption costs, the Cyprus case has a great one. The cost of adoption of conditions on Cyprus issue for the government can be the loss of the next elections, or even being announced as an enemy to the interest of Turkish people. The benefits of the Union did never have certain power to affect those, who thought that Cyprus issue can not be sacrificed for membership in the Union.

4.5 Conclusion

This study mainly discussed the implementation of the ‘conditionality’ principle of the European Union on Turkey regarding the Cyprus issue. The main argument of the thesis was that conditionality used by the European Community/Union towards Turkey on Cyprus issue had impact on Turkey’s politics and foreign policy in different times; however it did not have certain outcomes as aimed by the Community/Union. The experience in the last two decades of time provided the idea that conditionality on Turkey through the Cyprus issue did not have positive outcomes for the Union, in line with its expectations. The peaceful settlement of dispute around the U.N.-based solutions is still hoped on the island and in the Union. The signature of the Additional Protocol was succeeded, but its implementation is still a big question. The AKP government, which is known to be a pro-EU party, undertook the risk of having a crisis with the Union in favor of not implementing the Protocol. The conditionality of the Union could not convert Turkey’s policy completely, even the solution on the island was very close in 2004.

The conditions set by the Union on this issue did not have a consistency from the beginning. This may be because of the fact that Greece was a member of the Union and had power to influence the final decisions on Turkey. Moreover, starting from the year of 2004, the Greek Cypriots had a membership in the Union, and the conditions of the Union over Turkey hardened starting from the relevant year. The hardening was in both the range of the conditions and the strict stance of the Union for implementation of the conditions. This reality had negative impacts over the aims of the conditionality. Conditionality, in general, is used for transforming the policies of the candidate country in line with the organization's political and economic interests. However, the Cyprus case in Turkey turned out to be a deadlock and impasse over the relations of Turkey and the European Union.

In the first phase of the conditionality period, up to the Helsinki summit, the conditionality was smooth and single. However, the trend of the conditions and use of conditionality had an enlarging nature after the Helsinki European Council. The use of principle made a peak when the possibility of suspension of the negotiations with Turkey came on to the table of discussions.

The decision of the European Union on December 2009 over the future of negotiations with Turkey is critical for the management of the conditionality in Cyprus issue. The decision will have certain implications over the main intentions of the Union over Turkey. The relations and reform process in Turkey has slowed down in period after December 2006. The negative decisions and signals by the Union may have more difficult results for both sides of the negotiations. Turkey's importance for the Union is always accepted by the Union. Regarding the energy issues and the pipeline policies, Turkey's importance for the energy supply of the Union is more obvious than it was in the past. This reality may have influence over the decision of the Union about the Cyprus deadlock. The softening of the conditionality would not be a surprise if the Union could not find a solution to the energy supply as an alternative to pipelines via Turkey.

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