

Evolution of the Institutional Architecture of the Turkey-EU Relations

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Introduction

The new era started in Helsinki after a process covering more than 40 years of Association relations gave hope in many circles in Turkey regarding the future of the relations. It has even been mentioned that first the candidacy status, then the start of negotiations have “clarified” Turkey’s full membership process. Is that really so? Or, despite concrete steps taken, has Turkey’s membership entered into a more ambiguous process? The uncertainty slowly started to be felt at the beginning of 2005 with the “Negotiation Framework Document” debates in Turkish where public opinion, got stronger with the Ankara Declaration regarding the Cyprus in July 2005. After the Brussels Declaration announced by the Heads of State or Government of the Member States of the European Union in reply to this, Turkey-EU relations entered into a highly complicated process which is hard to be returned.

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These declarations made by both Turkey and the EU concerning Cyprus are the first signs of the occasional tensions between both parties in the new era since Helsinki. It is not possible to say that the negotiations, started in October 2005, have made considerable progress so far. Like many other member states, due to changes in political power in France and Germany, new majorities appeared in the EU institutions point out that the problems of Turkey in relations with the Community will continue to increase. German Social Democrats who assumed an important role for revitalizing the EU-Turkey relations and for concretizing Turkey's membership objective with the start of negotiations will have no place in the new government and it cannot be denied that this will have important consequences for Turkey. Currently new challenges are waiting for Turkey with the EU institutions and member states. However, what is the institutional architecture of the EU-Turkey relations that completed nearly half of a century since the start of the Association aiming at full membership?

Not only the functioning of the institutions conducting relations with the EU, but also their structures and tasks assumed are mostly important indicators of the Community policies adopted by political powers as well. Moreover, their emergence or disappearance gives important clues regarding both the feature and the future of the bilateral relations. That is why, in this study, the institutional architecture spreading to different levels of Turkey's relations with the EU will be zoomed in on. Accordingly, the subject-matter of this study is primarily the analysis of national agencies and units responsible for harmonization of Turkey to the EU *acquis* and for implementation of these new arrangements.

In this study, that starts with the assumption that the administrative structuring concerned is directly connected with the policy priorities of the political power, relations with the Community will be examined within the framework of the phases undergone from the Association to the present. Development of the Association or bilateral relations that contains extensive and tough processes with the EU will shed considerable light on understanding institutional structure on the grounds that these relations aim at full membership of Turkey as well as establishing a common market. However, it would be inadequate to explain the dynamic structure of Turkey's EU-driven organization at the central level with only rugged developments of relations with the EU. The change of the national institutions concerned depending on

the real course of relations or political priorities of Turkish governments will be handled in terms of both political leadership responsible for the management of the relations and organization spreading gradually at the central level. After all, the research will touch upon the management of relations at the bilateral level in a limited manner. Details of the administrative structure conducting Turkey's bilateral relations with the EU and functioning mostly according to the provisions adopted with Association Law or bilateral arrangements will be out of the scope of this study since they will be the topic of other research. Nevertheless, it is significant to take a short look at this prolonged EU adventure of Turkey in terms of shedding light on "continuities" or "discontinuities" of the EU-Turkey relations and of indicating the phases of the institutionalization process.

However, it is a known fact that the institutional dimension of the relations with the EU is not a ubiquitous issue in the field literature. Analysis of the institutional structure of Turkey-Community relations which was mostly the issue of academic debates from the perspective of political science or international relations, and discovered recently by the discipline of public administration needs new methods. To this end, there has been benefit from the information gathered from the interviews¹ with the public servants working for the EU units in the ministries, attached or affiliated public organizations. Interviews² with the representatives of the EU institutions and other national institutions and organizations located in Brussels, Bonn, Cologne, Berlin and Nurnberg, have been carried out. As a result of these interviews, in addition to important clues regarding Turkey policies of the EU and some member states, important data concerning the structure and functioning of the institutions and units guiding and coordinating Turkey-EU relations have been gathered. Presentation of the information obtained and the evaluations made to the international scientific meetings

¹ Interviews with senior public servants have been conducted in April and May 2009 in Ankara by an academic group consisting of Assoc. Prof. Dr. Erol Esen, Assist. Prof. Dr. Hasan Engin Şener, Serkan Doru, Ali Erdem, and Esin Kıvrak within the framework of a project (no. 2009.01.0106.001) called "Evolution of the Institutional Architecture of the EU-Turkey Relations: From Association to the Prospective Membership" which was awarded to the European Research Center of Akdeniz University by Akdeniz University Research Fund.

² Studies carried out abroad within the framework of the research conducted by Erol Esen in June-July 2009 with the support of Heinrich-Hertz-Stiftung/Foundation.

has been done with the help of two international workshops and one flagship conference during the research.³ The data on the institutional structure of Turkey-EU relations gathered and shared only in a limited manner here, are also intended to be shared with the public opinion within the framework of other researches.

Domestic Debates on the Community

In order to see stages of the development that have been directly influencing the institutional architecture, a closer look should be taken at the very beginning of the EU-Turkey relations. The first stage of the EU adventure started with the first Association meeting in 1959 after the decision to establish Association relations with the EEC (European Economic Community) of then Adnan Menderes Government. In this period, the Ankara Agreement (AA) was signed and then the first Association institutions, namely the Association Council⁴, the Association Committee⁵ and the Joint Parliamentary Commission (JPC)⁶, were founded. These bilateral institutional arrangements that were completed between 1964-1965 have been preserved during the first stage, that is, the Preparatory Period, of the Association.

A need for new institutions emerged for conducting relations with the Additional Protocol (AP) signed in January 1973 which started the second stage of the Association. The new institutions created, especially at the central level in this period, cover the interministerial organization responsible for transactions actualizing tariff reductions which were started with the Additional Protocol. Efforts for creating better conditions as regards political and economic relations since the Preparatory Period of the Association (Esen, 2009; Tekeli and İlkin, 1993; Karluk, 2007; Bilgin, 1993) continued in the Transition Period

³ In the research, the facilities of the EU Project called Strengthening and Integrating Academic Networks (SINAN) conducted by the Center for European Studies of the Middle East Technical University and Jean Monnet Chair of the Cologne University were benefited.

⁴ Established in accordance with Article 22 of the Association Agreement which came into force in 1964 December. Articles 6, 23, 24, 25 and 27 are related to the Association Council.

⁵ Established in accordance with Article 24 of the Ankara Agreement with the Association Council decision no 3/64. See DPT (2001: 18) for the decision.

⁶ Established with the Association Council decision no. 1 in September 1965. See (DPT, 2001: 22).

as well. Moreover, these efforts sometimes caused harsh debates. One of the most negative debates concerning Community relations in Turkish politics was the overthrowing of Hayrettin Erkmen, then Minister of Foreign Affairs of the 1980 Süleyman Demirel Government. Erkmen, who aimed at acquiring better conditions in the bilateral relations via membership application, had been hindered by the motion of censure initiated by Necmettin Erbakan, leader of National Salvation Party (MSP) and supported by Bülent Ecevit, leader of Republican People's Party (CHP). Indeed, in a short time, "12 September nightmare" would pave the way for the suspension of the relations with the EEC (Esen, 1990) and would bring about the following frequently debated questions. What would have been Turkey's chance of being admitted by then EC (European Community), if Turkey had been applied for the full membership by the then Minister of Foreign Affairs Erkmen in the process of Greece's accession negotiations? Or, would the plot in the military have committed coup d'état against the Demirel Government who was eager to apply for membership to the EC, if then Minister of Foreign Affairs Erkmen had not been or could not have been overthrown? Leaving these questions aside, 12 September *coup d'état* crushed Turkish democracy and brought Turkey into a new era with the bilateral relations.

In this context, two important facts of Turkish political life should be referred to. The first reality is that Western countries have tried to treat both Turkey and Greece equally since the Second World War. So, it should not be denied that the application of Turkey for continuing membership negotiations in the Cold War period, and being at least as important as Greece would have changed the priorities of then Communities' policies. The second reality is that the Turkish army has always given a special importance to cooperation with the West. It is interesting that an initiative which constitutes a significant turning point of the institutionalization with the EU relations was committed by the Military Government on 25 March 1981. Furthermore, it had important implications in terms of the national level organization of the relations. A decision made by the Military Government asked for the full membership application to the EC at the earliest opportunity in the civil democracy. At the same time, in the "Ice Age" (Esen, 1990) period at the beginning of the 1980s, an EEC Department has been established within the State Planning Organization (DPT) (Birand, 2004; Çalış, 2006).

The membership application of Erkmen, which has been left half-done, and the EU-related organizational efforts of the Military Government had been successfully revitalized⁷ by then Prime Minister Turgut Özal who took power in 1983. Özal firstly operated Association Institutions and then re-gathered the Association Council in 1986 for the first time after 12 September. Afterwards, the Supplementary Protocol which could not have been brought to the National Assembly since 1973 and which included Great Britain, Ireland and Denmark that joined the EC with the first enlargement into the Ankara Treaty was passed.⁸ Özal's Government did not only present membership application to the EU Council despite all warnings, but also started a new wave of organization rush with a decree urging all ministries to have the EEC-related units. (Karluk, 2009) Furthermore, Özal did not only introduce the Minister of State position in charge of the Community relations, but also, in 1988, reinitiated tariff reductions, which had been *de facto* suspended since 1977. However, a negative Commission Report in terms of the application of Turkey announced in 1989 retarded and even stopped Community related organizational efforts which had been reinitiated after the coup d'état and accelerated in the civil democracy. After a reluctant "yes, but..." answer which disappointed Turkish public opinion (Tecer, 2007: 175), the Akbulut Government removed the portfolio of Minister of State and Deputy-Prime Minister responsible for EC relations in as such a short time as three months. By leaving the responsibility to conduct relations with the Community to the Ministry of Foreign Affairs, the situation before the application has been reinstated.

Ongoing Institutional Structuring

Another important development that affected institutional architecture before the 1999 Helsinki Summit constituting a turning point

⁷ Like discourses seeking a "secret agenda" behind the rapprochement with the EU of the current Erdoğan Government (Kramer, 2009; Rührup, 2009), it is argued that in fact Özal's initiative was an effort to provide basis for the rapprochement with the Islamic world in the region (Karluk, 2009).

⁸ The current government facing a similar problem adopted the Additional Protocol related to eight Central and Eastern European Countries in addition to the Cyprus and Malta in July 2005 with the decision of the Council of Minister, but has not submitted to the Turkish Grand National Assembly for approval.

for the EU-Turkey relations is the Customs Union (CU) Agreement accepted in 1995 and implemented as of January 1996. After the CU, Association Institutions took its last shape in bilateral relations. The Association Council, Association Committee and the JPC established in 1964-1965 just after Association relations started, later, in 1969 the “Customs Cooperation Committee”⁹ was established for preparing tariff reductions during the Transition Period. In order to prepare CU Agreement a “Steering Committee” was established in March 1993 (Bozkurt, 1994: 3). Institutionalization gained a new *momentum* after the CU agreement. The first institution established after the CU was the “Customs Union Joint Committee”¹⁰ which was responsible for the functioning of the CU between the EU and Turkey. The CU Agreement created a framework for many organizational structuring towards the management of the new process in the following years between two parties.

In the new era started with the EU Helsinki Summit, the scope of the EU and Turkey relations has been extended. A corollary of this organizational structure responsible for the management of the EU-Turkey relations has been changed and extended. Bilateral relations in the post-Helsinki period are divided into three areas. The first one covers the Association relations including the implementation of the Ankara Treaty and the CU by means of the Association institutions mentioned above. These institutions responsible for conducting these efforts have a long history and extensive organization, and function fully in accordance with the Association law.

There are two more areas bringing new legal regulations and institutions in the post-Helsinki period. One of them includes Accession Partnership, and the other area covers processes and mechanisms directed towards conducting negotiations. The content of the Accession Partnership covering especially technical and fiscal support for Turkey’s membership preparation are the Accession Partnership Documents (2001, 2003, 2006, 2008) having also legal attributions presented by the EU to Turkey, and National Programs (2001, 2003, 2008) presented by Turkey to the EU. Conducting these activities did not bring new institutions at the bilateral level.

However, there have been two important institutions established in line with the EU legislation to organize and control activities fore-

⁹ Established with the Association Council decision no 2.

¹⁰ Established with the Association Council decision no 1/95.

seen in the framework in the Accession Partnership: These are the Central Finance and Contracts Unit (MFİB)¹¹ and the Center for European Union Education and Youth Programmes¹² known as National Agency. The MFİB is affiliated to the Undersecretariat of Treasury and is “functionally” autonomously organized at the national level. Together with “National Aid Coordinator”, “Financial Co-operation Committee,” “Joint Monitoring Committee,” “National Fund and National Authorizing Officer,” it is responsible for national level management and audit of the financial resources supplied by the EU. The second institution is affiliated to the State Planning Organization and responsible for the management of education and youth programmes financed by the EU. The establishment and the functioning of both institutions are regulated in line with the EU and national legislation.

When the “Heads of State or Government of the Member States of the European Union” started membership negotiations with the Turkish Prime Minister on 3rd of October 2005 by stopping symbolically the time at 23:58 accompanied with intensive debates, without a doubt Turkey entered a new process. The Intergovernmental Conference (IMC) involved in the negotiation process, which is the last stage of the pre-accession relations, from the very beginning, is the highest common decision making body composed of the Ministers of Foreign Affairs in the member countries and Turkey. Apart from giving a general start for the negotiations, the IMC also has power to close them temporarily after being completed.¹³ The IMC whose task would be ended after the latest chapter related to the negotiations is closed is foreseen in the “Negotiation Framework Document”¹⁴ which defines the EU legislation in 35 chapters. So, the “Negotiation Framework Document” is an important legal document related to the negotiations.

¹¹ Law No 4802; 30.01.2003.

¹² Law No. 4968; 31.07.2003.

¹³ For the IMC taking unanimous decision on political and strategic decision and other actors of the negotiation, see. (İKV [Economic Development Foundation], n.d.).

¹⁴ For the Turkish translation of the Negotiation Framework Document, see (DPT, 2005)

Leadership in the Relations with the EU

The organizational pillar of the EU (then EEC) and Turkey begins with the Ankara Treaty of 1964 (see Table 1). The Inter-Ministerial External Relations Committee was established in 1962 to support information about foreign aid and foreign governments irrespective of the EEC relations. It was not until 1964 that it became an organization that had the power to take decisions beyond coordination and consultancy on EEC relations (Bozkurt, 1994).

Year	No	Type of the Legislation	Organisational Arrangement
1964	6/2802	Council of Ministers Decree	Interministerial External Relations Committee
1968	6/9750	Council of Ministers Decree	European Economic Community and Regional Coordination for Development units were established within DPT; High Planning Council; Coordination Committee
1971	7/1801	Council of Ministers Decree	EEC Coordination Committee
1982	8/3967	Council of Ministers Decree	Department for the EEC was established within DPT
1989	1989/4	Circular of Prime Ministry	Minister without portfolio and Deputy-Prime Minister in charge of relations with EC, Central Boards, Central Committees,
1989	367	Decree-law	EC Coordination Departments were established within ministries
1993	1993/32	Circular of Prime Ministry	Reorganisation of central boards; chief advisor to Prime Minister in charge of coordination and conducting EC related functions

Source: (Bozkurt, 1994: 4)

In 1968, coordination of relations with the EEC was given to the DPT, and an EEC branch was founded. However, there was an anti-EEC lobby in these times in which Turgut Özal, then undersecretary of the DPT, was included. That is why as a counter move, he established the Regional Cooperation for Development (RCD) department and brought in some who were in close relationship with Islam world.

(Kansu, 2004: 416) The same decree made the Higher Planning Council responsible for those issues related to the EEC and the RCD. When these special issues were at the table, the HPC would be gathered with 10 ministers out of 22. Normally, at that time, they gathered with only with three ministers and three bureaucrats from the DPT.

In 1971, the coordination committee established in 1968 took the name of “EEC Coordination Committee,” which became specialized in the EEC removing the RCD issues from its agenda. The right to make decisions was taken from the IERC to this committee (Bozkurt, 1994: 8-9).

In 1982, based on National Security Council’s decision taken on 25 March 1981, with a Council of Minister’s decree, the Department for the EEC was established within the DPT and Rıdvan Karluk became the first head of this new organization until 1985 (Karluk, 2007).

The post-1986 era changed the structure of the Turkish way of dealing with EC relations. Turgut Özal, who was previously critical of the EC, became one of the staunchest proponents of this supranational organization. According to Kansu (2004), Özal accepted that he was wrong when he was against the EC at the end of 1970s. Before the application for full membership to the EU in 1987, towards the end of 1986, a minister without portfolio was appointed to be responsible for EC relations.

With the circular of the Prime Ministry no. 1989/4, a minister of state and deputy-Prime Minister position were created. This situation continued until the Minister of Foreign Affairs held responsibility of the relations with the EC. Despite frequent changes in ministerial position (Deputy Prime Minister post in 1989 and Minister of Foreign Affairs post in 1990), Ali Hüsrev Bozer continued to be responsible for the EC relations until 1990. This shows that in Turkey there was confusion about the “position”, but it was not about the “person.” It should also be underlined that ebbs and flows of the EU-Turkey relations directly affected the leadership and administrative mechanisms in Turkey. After Turkey’s membership was rejected on 17 December 1989, on 21 February 1990, Ali Hüsrev Bozer’s position was shifted from Minister of State and Deputy Prime Minister to the Minister of Foreign Affairs in the New Akbulut Government. As a result of the fact that the expectations regarding the EU membership were low, leadership of the EU relations was reduced to the level of the chief advisor to Prime Minister in charge of coordination and conducting EC related functions

in 1993. When Turkey became hopeful about the EU membership in 1997, the leadership level was increased to the ministerial level with the minister of state. After being given candidacy status in 1999, the relations with the EU and EU-related organization gained a new dimension with the establishment of the ABGS and introduction of the minister of state and deputy Prime Minister position in charge of the EU relations. These explanations support that the “credibility” (Schimmelfenning, Engert and Knobel, 2005: 33-34) does matter in terms of Turkey’s accession process to the EU.

TABLE 2: Leadership of EU Affairs in Turkey

Year	Affiliation	Position
1986	PM	Minister of State
1989	PM	Minister of State and Deputy-Prime Minister
1990	MFA	Minister of Foreign Affairs
1993	PM	Chief Advisor to Prime Minister
1997	PM	Minister of State
1999	MFA	Minister of Foreign Affairs
1999	PM	Minister of State
2000	MFA	Minister of Foreign Affairs
2000	PM	Minister of State and Deputy-Prime Minister
2003	MFA	Minister of Foreign Affairs
2005	PM	Minister of State
2007	MFA	Minister of Foreign Affairs
2009	PM	Minister of State

Source: (Şener, 2009b: 339, 343)

The issue of who would be the minister responsible for the EU has always been an undecided one as shown in Table 2. Even the establishment of the Secretariat General for EU Affairs (ABGS) in 2000 did not solve these ebbs and flows. Asking senior civil servants and EU specialists if they felt any difference between the leadership of the PM and the Ministry of Foreign Affairs (MFA), they replied that they did not since its leadership had, after all, been conducted by a minister backed by the Prime Minister. Besides, since the coordination capacity of the ABGS is getting stronger as time goes by, ministries have found the ABGS more credible regardless of its affiliation. Nevertheless, it should be underlined that the affiliation of the ABGS to the PM is a more plausible option. Although the institutional capacity of the MFA is big enough to cover both the EU and other international issues, assuming the responsibility of the chief negotiator post seems to levy too

much of a burden on the Minister of Foreign Affairs.¹⁵ Furthermore, from the perspective of the ABGS (Eralp, 2009) affiliation to the PM is more convenient for the sake of better functioning of the EU Accession.

The Structure and Functioning of the Relations with the EU

Evaluating the EU-oriented organization in the context of Verheijen's (1998) classification, starts with the "central decision-making structures". In Turkey, within the Council of Ministers, a special committee, namely, the EC Internal Economic and Technical Coordination Board comprising two ministers of state and the minister of foreign affairs under the leadership of the Prime Minister was set up in 2000 with the circular of the prime ministry (PM). However, this model did not function. Instead, in Turkey, the Council of Ministers decides important issues regarding EU affairs as a whole. Nevertheless, as regards the Copenhagen political criteria, Turkey followed a kind of a special cabinet model with the introduction, in 2003, of the Reform Monitoring Group (RİG) consisting of the Minister of State responsible for EU affairs, the Minister of Foreign Affairs, the Minister of Justice, and the Minister of the Interior. (Şener, 2009a) It should be underlined that ministerial committees with limited membership in the Council of Ministers are in the foreground for many new members of the EU such as Czech Republic, Estonia, Hungary, Latvia, Poland (Verheijen, 1998: 18).

In terms of "committees of senior officials", in Turkey, the Internal Coordination and Harmonization Committee (İKUK), bringing together approximately 50 senior civil servants from public institutions, was established in 2000. This committee was first convened on the 8th of September 2000, and at its first meeting, 9 sub-committees in line with the EU *acquis* chapters were created. This committee was active especially during the presidency of Volkan Vural, then secretary general of the ABGS, until 2003. National Program and Progress Reports were the main agenda elements of these meetings. In 2005, a new mechanism, namely the Monitoring and Steering Committee (İYK)

¹⁵ Between 2005 and 2007, the Minister of State Ali Babacan took the responsibility of EU relations and became the Chief Negotiator. After 2007 elections, Ali Babacan became the Minister of Foreign Affairs and continued to be the Chief Negotiator.

was founded with limited membership. There were five permanent members: the Secretary General for EU Affairs, the Deputy Undersecretary of the MFA, the Deputy Undersecretary of the DPT, the Deputy Undersecretary of the Office of the PM and Turkey's permanent representative to the EU. General coordination of the negotiations was handled by this committee. For the negotiation process, "permanent contact points" were determined in public institutions to keep in touch directly with İYK. Furthermore, coordination of each chapter was assigned to one or two public institutions. The most problematic areas were debated in İYK. This committee was functioning during the scanning and at the beginning of the negotiation process between 2005 and 2007 under the leadership of Ali Babacan. However, once these permanent members left their positions, this committee has not been convened again. (Şener, 2009a)

The "permanent secretary of the EU affairs" in Turkey is the ABGS. The ABGS is responsible for the coordination of the internal harmonization of EU affairs including the preparation of the National Program for the Adoption of the *Acquis*. The ABGS also provides secretariat services to the committees such as İKUK, İYK and RİG mentioned above. Furthermore, it is responsible for the coordination of approximation of legislation and its implementation. General coordination of fiscal cooperation is also within the scope of the ABGS's activities. Although the ABGS has always been instrumental regarding EU affairs, especially between 2005 and 2007, when İYK was in charge, the ABGS "relatively" lost its power to the DPT. It was a political choice backed by the then chief negotiator Ali Babacan and Abdüllatif Şener, the then minister of state responsible for the DPT and deputy prime minister. That is why, the DPT took most (9 out of 33) of the chapters' responsibility as a coordinator institution. (Şener, 2009a) Regarding the permanent secretaries of the EU affairs, new member states mainly followed two different models. The first one is the Foreign Ministry-led model which is followed especially by the Czech Republic and Hungary. The second model based on Prime Ministry leadership is in the foreground for the new members, such as Poland, Latvia, Romania and Slovakia. (Verheijen, 1998; Lippert, Umbach and Wessels, 2001). In this context, Turkey has experienced many ebbs and flows between these two models, however, currently it is possible to state that it is following the Prime Ministry leadership model.

Considering “European affairs inside the ministries”, in Turkey all of the ministries have their EU branches, though at different levels. Three ministries out of 15 have EU general directorates, three ministries have EU branch directorates and the rest have EU departments. (Table 3)

As mentioned before, the course of the EU-Turkey relations has directly influenced the EU-related organization in Turkey. Full membership application in 1987, thus, intensification of the EEC related works resulted with the establishment of EC Coordination Departments in 9 ministries on 4 May 1989. Indeed, in some ministries, institutionalization efforts have already started since 1987. The Ministry of Agriculture and Rural Affairs (MARA) and the Ministry of Finance can be given as examples. In the MARA (n.d.) the EC Department was established under the Research Planning Coordination Unit in April 1987. As for the Ministry of Finance (n.d.), in order to help for the establishment of the prospective EU unit, an EC Working Group was established in January 1988.

TABLE 3: The levels of the EU Units in the Ministries	
Levels	Ministries (15)
General Directorate (3)	Ministry of Foreign Affairs (MFA) Ministry of Industry and Trade Ministry of Justice (MoJ)
Department (9)	Ministry of Agriculture and Rural Affairs (MARA) Ministry of Culture and Tourism Ministry of Energy and Natural Resources Ministry of Environment and Forestry Ministry of Finance Ministry of Health Ministry of the Interior Ministry of Labour and Social Security Ministry of Transport
Branch Directorate (3)	Ministry of National Defence Ministry of National Education Ministry of Public Works and Settlement

There are three main problems which should be underlined in terms of ministerial organization of EU affairs. First of all, in Turkey, the levels of the EU units in the ministries are not mostly based on predetermined principles such as workload. Secondly, functions of the EU units are restricted to coordination, instead of decision-making.

Finally, the EU units in the ministries mostly deal with both EU and international affairs.

As for the first point, it should be underlined that restructuring of the EU units should be made in accordance with the workload of the ministries vis-à-vis Turkey's Programme for Alignment with the *Acquis*. In line with this assumption, it should be underscored that most of the ministerial departments' workload is too much to tackle at the departmental level. Interviews conducted in the MARA suggested that restructuring efforts have always been debated, but remained at the level of "intention" rather than "implementation." (interview with İmir, 2009) The need for higher level organizational structure (i.e. general directorate level instead of departmental level) is still one of the primary concerns for this department. Head of a branch directorate in the department, Selma Aytüre (interview, 2009) explicitly argued in the interview that general directorate level of organization would be a solution if a deputy general directorship post was adopted.

Ministerial workload analysis in Table 4 is calculated within the framework of the National Programme of 2008. In this table, necessary regulations (i.e. legislation) which are to be handled by the ministries are calculated and the number of the chapters to be coordinated by the ministries is counted. The type of legislation differs from communications to laws. There is also a different time span for the realization of the legislation such as short run and long run (prospective membership). Although the quantity of the regulations does not give the whole story about the quality of the legislation, it gives important clues about the workload.

Ministries	Number of the Chapters Coordinated	National Programme (Number of the Regulations)	National Programme (Percentage of the Regulations)
Environment and Forestry	1	52	16.61
Agriculture and Rural Affairs	3	48	15.34
Transport	2	39	12.46
Finance	3	29	9.27
Justice	0	27	8.63
Labour and Social	2	27	8.63

Security			
Industry and Trade	2	26	8.31
The Interior	0	19	6.07
Foreign Affairs	5	14	4.47
Health	0	14	4.47
Energy and Natural Resources	1	9	2.88
Culture and Tourism	1	5	1.60
Public Works and Settlements	0	2	0.64
National Education	0	2	0.64
National Defence	0	0	0

A workload analysis confirms that some of the ministries have much more workload than the others regardless of their organizational level. As is seen in Table 4, workload is mostly (53.68%) assumed by four (Environment and Forestry, Agriculture and Rural Affairs, Transport, and Finance) ministries out of fifteen which are not organized at the level of the general directorate. Only three ministries having branch directorate level have no or very low workload, that is, the correlation between the lowest level of organization and lower level workload is significant. However, as far as EU departments are concerned, the levels of the EU units are not determined in accordance with the workload for the alignment with the *acquis*. Nevertheless, it should be noted that although the MFA seems to assume relatively less workload according to the table below, its importance cannot be limited to the alignment with the *acquis* since it coordinates five chapters of the *acquis*. The same point should be stressed for the MoJ. Even its one workload seems too much to cope with: Turkish Commerce Law contains nearly 1500 articles.

The second problematic point regarding the restructuring of the EU units is that the EU departments in the ministries are mostly (7 out of 9) limited with the “coordination” function (Table 6). Actually, this was/is a deliberate choice of the political power. In 1989, with the decree law no. 367, nine “departments of EU coordination” were established in the ministries. The deliberate choice was that they would have “coordination” functions, and their levels would be “departments”.

TABLE 5: Functions and Duties of the EU Units at the Departmental Level in the Ministries			
Ministries Having EU Departments	Name of the EU Department	Functions and Duties	
		Coordination	The EU and Foreign Relations
Agriculture and Rural Affairs	Department of Foreign Relations and EU Coordination	X	X
Culture and Tourism	Department of Foreign Relations and EU Coordination	X	X
Energy and Natural Resources	Department of EU Coordination	X	-
Environment and Forestry	Department of Foreign Relations and EU Coordination	X	X
Finance	Department of the EU and Foreign Relations	-	X
Health	Department of EU Coordination	X	-
The Interior	Department of Foreign Relations and the EU	-	X
Labour and Social Security	Department of EU Coordination	X	-
Transport	Department of EU Coordination	X	-

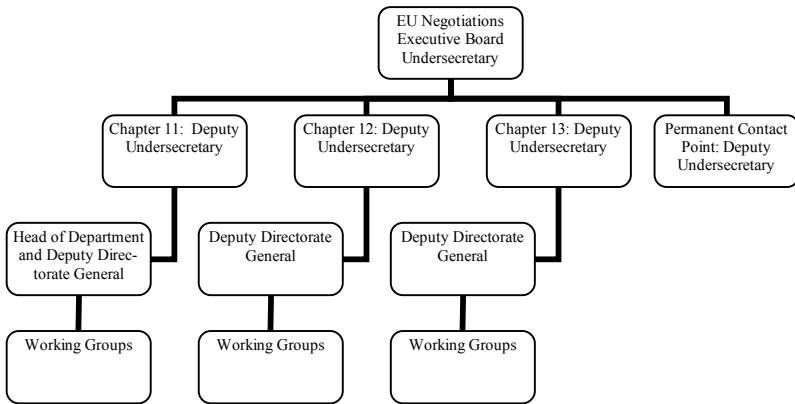
As far as the MoJ is concerned, the problem was solved with the law 4764 on 15 May 2001. The “department of EU coordination” became the “general directorate of the EU”. Another example may be given from the Ministry of the Interior. However, this time, the title of “coordination” has been skipped without the change at the level of the unit. According to Lale Güçlüoğlu (interview, 2009), an EU expert in the department, this paved the way for taking the initiative for the EU affairs for the department. The “coordination” titles remained for the departments except for the Ministry of Finance and the Interior. The Department of Foreign Relations and EU Coordination became the Department of Foreign Relations and the EU. Out of then nine ministries having EU departments in 1989, today, only three of them could

reach level of general directorate: the MFA, MoJ, and Ministry of Trade and Industry.

The third point which should be expressed is that 5 out of 9 ministerial departments, as is shown in Table 5, deal with both EU and foreign affairs. The problematic part of this point was explained by a civil servant of the EU unit in the MARA as follows: “sometimes foreign affairs overshadow the EU affairs” (interview with Aytüre, 2009). That’s why their suggestion is to separate EU affairs from foreign affairs. Unlike the MFA, the institutional capacities of the ministries are not big enough to deal with both foreign relations and EU affairs within the same department of the ministries.

The two cases below exemplify the good coordination practices encountered during the interviews.

Figure 1: Coordination of EU Affairs in the MARA



Source: the MARA

In the Ministry of Agriculture and Rural Affairs the Department of Foreign Relations and EU Coordination is responsible for the coordination of EU affairs and takes an active part in the working groups meetings in the ministry. Three branch directorates of the department related to EU affairs are assigned to three chapters whose responsibilities are assumed by the ministry. In the ministry, EU affairs are evaluated by the EU Negotiations Executive Board (NEB) under the leadership of the PCP (Permanent Contact Point) or the undersecretary himself. Each working groups is presided over with either a head of de-

partment or a deputy directorate general. Conclusions of the chapter evaluation meetings are communicated to the deputy undersecretaries who are responsible for each chapter. Problematic and important areas are debated in the NEB. (Figure 1) Participants of the NEB are the undersecretary, deputy undersecretaries, directorate generals, the first legal adviser, relevant head of departments, and EU specialists. (Interview with Aytüre, 2009)

In the Undersecretariat of the Prime Ministry for Foreign Trade the PCP is the deputy undersecretary who is in direct contact with the chief negotiator. In order to support continuity in the undersecretary in case that deputy undersecretary might be retired or change position, a negotiation working group (NWG) was established. The NWG consists of one or two representatives from every general directorate. Their task is to implement lacking law approximation and to keep in touch with their general directorates. Mostly these people are those who had participated in the screening meetings. Once there is a defect in the law approximation, they report this defect to the PCP. The Secretary function of this coordination is done by the EU general directorate. An “intra net” called EU negotiation area has also been created for the drafts to be considered by all units. (Interview with Baygün, 2009)

Administrative Functioning of the Negotiations

In order to show explicitly the functioning of the EU-driven organization, the functioning of the negotiation process will roughly be touched upon in general terms. The issue of conducting negotiations forms an important case study in terms of showing the contribution of both the functioning of nationally organized EU units and their administrative network, and the bilateral institutions working between Turkey and the EU to the functioning of the relations. Since it is not much debated topic in the field literature, evaluations are intensively based on the face-to-face interviews, and are thus, up-to-date.

The “screening process” is the first stage of the negotiations started on the 3rd of October 2005. It is composed of two parts and occurs in Brussels. The first part is called “explanatory screening” and conducted by the EU Commission which explains the EU legislation to the Turkish delegation in terms of the chapter concerned. The second part of the screening process is called “detailed screening” and con-

ducted by the Turkish delegation who explains the current situation in the Turkish legislation in terms of the chapter concerned to the EU Council officials. However when the screening process related to all of the negotiation chapters was completed in October 2006, a Strategy Paper which had been requested by the EU Commission from candidate countries was missing (interview with Filori, 2009). The Turkish side did not prefer to give this document which had generally been given by all of the candidate countries in the detailed screening process regarding some of the chapters to the EU Commission at this stage.

Irrespective of the Strategy Paper which is not compulsory to be submitted for each negotiation chapter, after both of the screening stages are completed, the EU Commission presents the Council a “Screening Report” (interview with Filori, 2009). With this report, the Commission either informs the Council that Turkey has met sufficient conditions in the respective chapter and suggests a start to the negotiations, or proposes “Opening Benchmarks” in the case of insufficient conditions. It is not the point in question to reject or not to start the negotiations regarding the chapter concerned. The Council sends this report to the “Enlargement Group” (EG) composed of member state representatives and asks for the EG’s opinion. The EG may accept the opening benchmarks as it is or may modify them and send it back to the Presidency of the Council. Positions of the member states represented in the EG within the EU Council, are transmitted beforehand by Head of Departments for the EU working mostly under the Ministry of Foreign Affairs to these representatives (interview with Almer, 2009).

The Presidency of the Council may demand in its letter to the Turkish permanent representation to the EU in Brussels that Turkey present a “Position Paper” in order to start the negotiations as regards the chapter concerned. However, if the Commission’s Screening Report envisages any opening benchmark to start the negotiations, the Presidency Council may demand that Turkey present the relevant Strategy Paper. The Council’s letter is passed by the Permanent Representation¹⁶ who is responsible for conducting negotiations on behalf of Turkey to the Ministry of Foreign Affairs. The Ministry assigns tasks to the relevant specialized institutions (i.e. ministries) in order to pre-

¹⁶ According to the circular of the Prime Ministry on 5th of March 2007, no. 2547; conversation, information/document change and similar bilateral activities with the EU institutions “must” be done through the Ministry of Foreign Affairs.

pare the Strategy Paper regarding the opening benchmarks. Multiple institutions may take charge in the preparations to fulfil opening benchmarks (interview with Arıkan, 2009).

Generally, ministries deal with EU affairs at three levels: 1. The (PCP), 2. related unit, and 3. working groups. The PCP copes with EU affairs via the EU unit as a rule. However, as in the case of the Ministry of Culture and Tourism, the PCP may choose to create his own team. Here, the active coordination unit in the ministry is not the Department of Foreign Relations and EU Coordination, but a 6-member team of the PCP (interview with Yılmaz and Savacı, 2009).

One more level, the fourth, may be added to this general structure: Project unit. This unit may be organized either as a different branch as in the case of the Ministry of the Interior or as an ad hoc committee as in the case of the MoJ. In the MoJ, Project Coordination Unit (PCU) consisting of directorate generals and relevant head of departments such as strategy development and education convenes twice a month. Besides, the Justice Academy of Turkey participates as an observer since it has an autonomous position vis-à-vis the ministry. The basic objective of the PCU is to find and complement the missing points related to negotiation process. In the MoJ, secretariat facilities of the PCU are provided by the deputy directorate general of the general directorate for the EU Affairs (interview with Akkuş, 2009).

The main unit, which is responsible for preparing the document, passes the Draft Strategy Paper to its EU unit. The EU unit of the institution, after initial examinations, asks for other relevant institutions' opinions and sends the final draft to the ABGS. The EU unit may include the ABGS into the studies during the preparation of the draft as well. The ABGS delivers the draft as it is or with necessary modifications to the Ministry of Foreign Affairs.¹⁷ The final version of the Strategy Paper is passed through the Ministry of Foreign Affairs to the Permanent Representation. In this process, Permanent Representation may shorten the preparation period by learning the Union's expectations and other details via informal conversations with the Commission. Another point is that the Strategy Paper presented by Turkey may not correspond with the Opening Benchmarks proposed by the Commission in some cases (interview with Arıkan, 2009). This case does

¹⁷ However, if the Strategy Paper necessitates a new law or any amendments in law, the draft bills are delivered to the Prime Ministry. The Prime Ministry brings the topic to the National Assembly.

not necessarily constitute an obstacle for starting the negotiations in the chapter concerned.

The EU Commission prepares an evaluation report on the opening benchmarks regarding the Strategy Paper submitted by Turkey and presents it to the Council. In this report, the Commission evaluates the road map related to the fulfilment of the opening benchmarks or relevant Strategy Paper and delivers its opinion if the negotiation chapter concerned should be opened or not. After taking the evaluations of the EG concerning the report presented by the Commission, the Presidency of the Council writes to the Permanent Representation and demands that Turkey prepare the Position Paper concerned. At the end of the assignment of the relevant organizations and institutions by means of the Ministry of Foreign Affairs and the similar procedure mentioned above, the Position Paper is presented by the Permanent Representation to the Council.

The Council, on behalf of the EU, demands from the Commission to prepare a Draft Common Position based on Turkey's Position Paper. The document delivered by the Council to the Presidency of the Council also includes the closing benchmarks of the chapter concerned. The Presidency of the Council sends this draft to the EG to be examined by all of the EU countries. This draft may be either changed or accepted as it is. After unanimous consent of the EG, the draft is transformed into European "Common Position." After the finalization of both Position Papers, the Presidency of the Council writes to the Permanent Representation and invites Turkey to the Intergovernmental Conference where the chapter would be opened. Both parties come together at the level of government representatives in a short ceremony and the chapter concerned is formally opened.

Conclusion

Institutional architecture of the EU-Turkey relations has been constantly changed in every stage of the relations until today. Emergent institutional structure today resembles a comprehensive and large network whose pores are getting tighter. Orientation of the institutionalization is a result of multiple variables such as political and economic developments, development of the Association relations, EU policies of the political power in Turkey and attitudes of the senior level man-

agers of the state institutions having a say on the relations with the Community.

It is possible to handle the developments influencing the institutionalization of the EU-Turkey relations at the national and bilateral levels in three stages: First stage covers 40 years of “Association relations” from 1959 when the first conversations concerning the Association application were conducted to 1999 when Turkey was granted a candidacy status. The second stage starting with the candidacy status is called the “Accession Partnership.” The third stage which is important due to new administrative institutionalizations starting with the negotiations in 2005 is still continuing. Today, each of the three stages of the EU-Turkey relations covering association, accession partnership and accession negotiations are overlapped and handled in a parallel manner. The function of most of the central administrative units responsible for the relations with the EU in Turkey, irrespective of the ministries, attached or affiliated public organizations is restricted with the coordination power, and these units lack the decision-making power. Furthermore, these units of the central administration which are also responsible for conducting relations with countries other than that of the EU, sometimes remain insufficient with the topics concerning the EU.

The institutional set-up of the relations was mostly focused at the bilateral level in 1990s. When the EU-Turkey relations entered into an intensive stage in 2000s, national level administrative organization spread over a wide range in 2000s.

Consequently, the institutional architecture of the EU-Turkey relations has developed within the framework of the orientation of the bilateral relations, the EU policies in Turkey and developments of the Turkey policies of the EU.

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