MINUTES
68th meeting of the EU-Turkey Joint Parliamentary Committee
23 - 24 February 2012 in Istanbul

The first session opened on 23 February 2012 at 16.00 and closed at 18:35

Mr Afif DEMIRKIRAN, welcomed all the participants of the JPC and mentioned the importance of the 68th JPC meeting in relation to the fruitful cooperation process between the two parliaments. He noted that relations between the EU and Turkey have had ups and downs but that overall, the European project was taken very seriously in Turkey. He mentioned constitutional changes and various reforms undertaken since 2001 as a way to meet EU targets, but also stressed that they reflected Turkey's general determination to improve the economy, the standards of living, the social situation, democracy and freedom. He mentioned the European Commission's "positive agenda", and underlined the need to make progress on visa issues. He expressed his conviction that various sticky points can be overcome. He recognised the important role played by the European Parliament in helping the process, and underlined that both Turkish and EU needs had to be taken into consideration to lead the process to a positive end.

1. Adoption of the draft agenda

The draft agenda was adopted.

2. Adoption of the draft minutes of the 67th EU-Turkey JPC of 28-29 November 2011, Brussels

Ms Hélène FLAUTRE mentioned that requests had been received to correct the minutes: one purely technical, and another one concerning the use of the expression "Greek Cypriot administration" instead of "Republic of Cyprus" by the Turkish participants. She mentioned that this change had been integrated in the draft to reflect the actual expression used during the meeting.

Mr Barry MADLENER said that while the minutes effectively mention that he offered a cartoon to Mr Egemen Bagis, they do not mention that the latest refused it
and told him to "put it in his appropriate place", which he considered to be an essential part of what happened. He therefore requested to add those details to the minutes. He also mentioned that he had criticized Turkey for having no freedom of expression, no right to criticize Islam and no freedom of speech, and that this should also be added to the minutes.

Ms Antigoni PAPADOPOULOU stated that the wording "Greek Cypriot administration" was wrong and should be corrected.

Ms Eleni THEOCHAROUS reminded that the country's name was Republic of Cyprus and that nothing else existed in Cyprus. She mentioned that the Cypriot members were not representative of the "Greek Cypriot administration" but of the Republic of Cyprus. She stated that it was an issue of national dignity.

Ms Hélène FLAUTRE said that the minutes reflected what was actually said during the meeting, and that the terms used in this case by the Turkish speakers were "Greek Cypriot administration". She stated that the dispute was well known, that it was clear that the expression "Greek Cypriot administration" was not accepted in the EU and that the one used in the EU was "Republic of Cyprus" without any ambiguity, but that minutes had to record what was said with the words actually used by the different speakers. Concerning the points made by Madlener, she proposed to add that Mr Bagis did not, indeed, accept the cartoon.

Ms Anna Maria CORAZZA BILDT said that minutes had to report on points on the agenda, not on side events like what happened between Mr Madlener and Mr Bagis.

Mr Aykan ERDEMIR considered there was a European way of addressing the issues and that European values lead us to respect all views, if need be using quotes. He said that he did not share the extreme views of Mr Madlener, but that he defended his right to express his views.

Ms Hélène FLAUTRE concluded the discussion and said that comments on the minutes should be received beforehand to avoid reopening the debates of the previous meeting during their adoption.

The draft minutes were adopted as amended.

3. Turkey-EU relations: state of play of the accession negotiations

Hélène FLAUTRE mentioned that the JPC was coming close to its 70th meeting, and emphasised the importance of its work. She stated that Turkey and the EU share common interests in various sectors like the energy or the economy, and are interdependent. She referred to a shared responsibility of getting over of the obstacles, be them historical, cultural or political. She mentioned that the choice of agenda items reflected the importance of strengthening democracy, the rule of law, human rights and freedom of expression both in the EU and in Turkey.

Mr Ruben MADSEN, Ambassador of Denmark, underlined the resilience of the EU enlargement policy at a time of great economic uncertainty. He stated that the political drive behind the EU enlargement policy was its transformative power, promoting
positive changes and prosperity in the EU's neighbourhood. He stated that the Danish Presidency would take every opportunity to move the process forward. He mentioned Turkey both as an EU candidate and a key strategic partner as well as an influential regional player. He welcomed Turkey's work on constitutional reform and encouraged the broadest consultation of political parties and civil society, in a spirit of constructiveness and compromise. The reform of the judiciary and the ratification of the additional protocol of the UN Convention against torture were also said to be crucial. He stressed that freedom of expression was of particular concern, referring to judicial cases against journalists and writers.

On Cyprus, Ambassador Madsen mentioned that Turkey's commitment to good neighbourly relations included the avoidance of any kind of threat or action directed against EU Member States, and stressed that all sources of frictions which could damage peace should be avoided. He emphasised the sovereign right of all Member States to enter into bilateral agreements and exploit the natural resources in accordance with the EU acquis and international law. He then turned to the issue of illegal immigration, stating that the Presidency supported to launch of a process of visa mobility and migration with Turkey. He pointed out that the negotiated EU-Turkey readmission agreement must be concluded and implemented. On the negotiation process, Ambassador Madsen ensured that the Danish presidency was committed to achieve progress. He recalled that the Council welcomed the Commission's proposal for a positive agenda with Turkey, as a complement to the negotiations and not a substitute.

Mr Jean-Maurice RIPERT, Head of the EU Delegation to Turkey, gave clarifications on the positive agenda, which aims at making concrete progress where it is needed and feasible, and at involving as many stakeholders as possible. He explained that eight policy areas were identified, including judiciary and fundamental rights, justice, freedom and security, right of establishment and freedom to provide services, company law, information society and media, statistics, consumer and health protection and financial control. Working groups will be established on each of these policy areas. He ensured that the Commission was ready to discuss the establishment of an improved mechanism to address differences under the EU-Turkey Customs Union, while also addressing the concerns of Turkey in the context of the free trade agreements concluded by the EU with third countries.

Regarding visas and migrations, he stated that the Commission was keen to start dialogue on visa mobility and migration as approved by the Council. Concerning the reinforced dialogue with Turkey on foreign policy and crisis management, he explained that close cooperation was in place on Iran and Syria, as both parts shared the same strategic objectives. On the political criteria he considered the cooperation to be good, and stressed that the Commission closely follows developments such as the new Constitution drafting. He expressed the view that some shortcomings had to be tackled, most of all in the field of fundamental rights, freedom of expression, and pre-trial detentions. He finally stressed that the Turkish criminal code, the anti-terror law and the code of criminal procedures needed to be changed to make a clear distinction between the freedom to express an opinion and the incitement to violence.

Mr Egemen BAĞIŞ, Minister for EU Affairs and Chief Negotiator, recalled that the EU construction was first of all a peace project, which is the first reason why Turkey
wishes to integrate it. He regretted that Turkey was treated unfairly when the positive steps it takes are not recognised. He mentioned the Arab Spring, in which Turkey is often seen as an example of democratic force, demonstrating that economic power and universal values can exist in the region. He regretted that Turkey is often negatively perceived and suffers from double standards, even if the country continues its harmonisation with the European acquis. He came to the issue of some chapters being vetoed, stating that the problem had to be openly discussed. He stated that 2012 would be an important year in that respect, with elections in France and the upcoming Presidency of the Council in the second part of the year.

Minister Bağış expressed his support to the positive agenda and called for concerted efforts of the relevant actors, including EU member states and the European Parliament, in moving the enlargement process forward. He then talked about the reform of the Constitution, mentioning an open and participative process where various confessions and faith representatives, journalists and individuals were involved. He expressed the view that this process was linked to the opening of chapters 23 and 24. He mentioned that the 2009 judicial reform strategy was being implemented, and that important steps were notably made to address the issue of freedom of speech and periods of detention. Minister Bağış also raised the issue of visa free regime, and made the point that if Serbia and Bosnia, which are not even candidate countries, had visa-free regimes, then it was not understandable for Turkey not to have it. He finally mentioned steps made in relation to minorities' issues in Turkey.

Ms Eleni KOPPA mentioned her visit to Professor Busra Ersanli in prison and asked Ambassador Jean-Maurice RIPERT whether such a case was followed by the EU in line with the EU guideline for the Human Rights defenders. She then asked Minister Bağış whether Turkey could really be seen as a model for the Middle East with such a deteriorating level of human rights.

Mr. Umut ORAN mentioned that only one chapter had been closed since the beginning of the negotiations, and invited both the EU and the Turkish government to reflect on the reasons for such difficulties. He asked Minister Bağış whether any technical work was carried out with regards to the chapter on social policy; he pointed out that the Economic and Social Council had not met for three years, despite being a constitutional requirement. He finally supported the idea that Turkey should receive fair treatment from the EU side.

Mr Georgios KOUMOUTSAKOS asked whether Minister Bağış' pessimism concerning the year 2012 meant that he excluded any possibility for the Cyprus issue to be solved in 2012. Besides, he mentioned Stephan Füle's answer to his written question on Turkey's bilateral visa agreements with neighbouring countries, according to which Turkey has not aligned with the EU's list of countries whose nationals must be in possession of visas when crossing the EU external borders, thus increasing the risk of Turkey's territory used as a transit country for irregular migration.

Mr Aykan ERDEMIR expressed concerns about whether the current crisis could prevent the EU to keep Turkey on the European track and reciprocally. He referred to the positive agenda as reflecting deadlocks at a time when a choice had to be made.
between strengthening the EU as a rights-based model, and allowing authoritarian regimes to grow as alternative models in the region.

Mr Richard HOWITT deplored that certain phrases from French politicians were disproportionately used in the Turkish media, and invited Minister Bağış, in case the French presidential majority changes, to acknowledge that things can change in the EU. He then addressed the KCK case, referring to the Council of Europe's concerns about mass arbitrary detention. On media freedoms, he reminded that their protection did not require any opening of chapter, and expressed concerns about the blocking of websites in Turkey. On the openness of the constitutional reform, he wondered why the submissions made by the civil society had been taken off from the official website.

Mr. Nazmi GÜR expressed concerns about a number of setbacks in Turkey, notably with regards to freedom of thought and expression, and pointed out that journalists, academics, attorneys and politicians were currently in prison. He therefore called for an in-depth reform of the judiciary.

Mr Egemen BAĞIŞ stated, in reaction to comments, that Turkey had no desire to be a model for the Arab world, but rather a source of inspiration and a proof that Islamic culture and democracy can function together. He mentioned progress in the field of tolerance, freedom of religion, and minorities' issues. On the social chapter, he reminded that matters relating to the Social and Economic Council issue were regularly discussed. On the Cyprus issue, he expressed his will to be pragmatic. On the issue of visa, he mentioned that Turkey was victim of an unfair treatment, which lets little room for criticising its agreement with neighbouring countries. Finally on the Kurdish issue, he considered that one way to enhance cooperation with BDP would be that it accepts to call the PKK a terrorist organisation.

Mr Jean-Maurice RIPERT stressed that the EU had taken a first step on the visa issue by facilitating multiannual, multi-entry visas for certain categories of visitors, getting rid of visa fees for others, increasing the number of visa delivery centres and harmonising the list of required documents. On judicial reform, he stressed the need for further independence of the judiciary, changes in the definition of crimes, and further improving freedom of expression. He added that the fight against terrorism should take place within the framework of human rights.

Ms Niki TZAVELA compared the situation in Cyprus to the Palestinian issue, for which Turkish society usually shows a great sensitivity. She stressed the need to respect the Members from Cyprus, and asked Minister Egeemen BAĞIŞ to comment on previous statements he made according to which if Turkey had to choose between EU accession and Cyprus, it would pull out of the accession process.

Ms Safak PAVEY expressed the view that Turkey and the EU negotiation process continues on mutual accusations rather than mutual gestures since a long time and that something is going wrong in the process. She added that when a caricature of a Turkish caricaturist is used by Turkish government to strengthen the hostility towards the EU in Turkey, their opposition work to strengthen freedom of speech or such values do not find its true place or any response in public opinion. She encouraged both parties to show sincerity as she believes that Turkey and the EU can prevent
many global threats of the future together. She highlighted that in order for the "positive agenda" to come into life functionally, all must re-think "what is going wrong" in this negotiation process.

Ms Antigoni PAPADOPOULOU pointed out that it was senseless from Turkey to ask for the opening of chapters to a country that it does not even recognise. Besides, she regretted the huge gap between the Turkish government and the civil society with regards to issues of concern.

Mr Haluk ÖZDALGA expressed his compassion with displaced Greek Cypriots, and reminded that Turkish Cypriot suffered as well. He considered that Turkey had clearly shown its commitment to solve the issue. He referred to statements and positions expressed by leaders of the Greek Cypriot community and deplored that Greek Cypriots were among the most conservative in their approach in Europe.

Ms Emine BOZKURT asked Ambassador MADSEN about the opening of chapters 24 and 23, and expressed the view that this would give more leverage to push forward women's rights. She reminded that chapter 19 was not blocked, and that social policy was very important for women's rights as well.

Mr. Yıldırım Mehmet RAMAZANOĞLU commented on the visa issue by giving the example of the suppression of visas between Izmir and Chios, which had positive consequences on the Greek islands. Moreover, he stressed that the argument concerning the flow of illegal immigrants was not linked to the visa regime. He pointed out that the visa regime infringed the freedom of movement of Turks, and had negative economic implications and damaging effects on public opinion.

Mr Andrew DUFF approved Minister Bağış' idea of a pragmatic vision of the Cyprus issue, and asked whether this meant a stop to the boycott Turkey had threaten on the forthcoming Cypriot Presidency of the Council. He asked, if that was not the case, about what point Turkey would then be trying to make.

Ms. Aylin NAZLIAKA stressed the importance of seeing the positive agenda as a roadmap, not as a substitute. Besides, she expressed the view that talking about fundamental rights in Turkey when eight members of the Parliament were in jail was impossible.

Ms Eleni THEOCHAROUS stated that Mr Bağış had spoken about Cyprus in a degrading fashion, and recalled that on this island was the recognised Republic of Cyprus. She said that Turkey had the capacity to solve this particular issue, but instead maintains its occupation of an EU territory, which is illogical for a country willing to enter the EU. She finally stated that the Annan plan was not acceptable as it did not imply a pulling out of all Turkish forces.

Hélène FLAUTRE reminded that the EU supported the Annan plan.

Mr. Faruk ISIK asked whether the freedom of expression was so large as to include swearing at religion.
Mr Barry MADLENER, underlined that he refused being called an extreme right-wing, and said that his role was to defend fundamental freedoms. He stated that Islam and freedom were enemies, since the Islamic charia does not accept criticism whereas it is part of freedom to criticise any religion. Therefore, he reiterated that he did not want more Islam in Europe, that Europe had already too much Islam already, and that it was becoming problematic. He warned that too much people who believe in Islam would like to take away the freedom of others and that Turkey should stay outside the EU. He referred to remarks, which he welcomed, of Ambassador Selim Yenel affirming that Turkey was now stopping to lie and stopping to make concessions. He therefore asked Mr Egemen Bağış who was lying.

Mr Afif DEMIRKIRAN told Barry Madlener that if he wanted to criticise a religion, he had to be more documented as he was otherwise only calling for provocation.

Ms Franziska KELLER supported the intervention of Mr Afif Demirkiran. She confirmed the absence of link between visa liberation and readmission agreements. She asked what sort of outcome was expected from the positive agenda and if other chapters could be opened during the Danish presidency.

Mr Takis HADJIJEORGIOU expressed pessimism about the possibility to reach progress in the JPC. He asked whether Turkey excluded the possibility to open any chapter during Cyprus' presidency, which he would see as being in contradiction with Turkish interests. He asked Mr Bağış about what Turkey had to lose in pulling Turkish troops out of Cyprus. He finally reminded that he was, here and in the European Parliament, representing the Republic of Cyprus.

Mr Metin KAZAK asked about the way in which the positive agenda could be used to overcome current obstacles. He asked if progress could made on customs union issues. Finally, he asked about Turkey's relations with Iran and Armenia.

Mr Jean-Maurice RIPERT underlined that the positive agenda had to be positive for both sides and that it was clearly not a substitute to the accession. As regards the customs union, he acknowledged Turkey's legitimate concerns when it comes to trade agreements and called for progress to be made.

Mr Ruben MADSEN gave full support to women's rights and reminded that the enlargement process was based on consensus, which implied that the presidency could not decide alone. On the "openable" chapter 19, he mentioned that the Turkish government had presented new laws which still needed to be screened.

Mr Egemen BAĞIŞ refused the comparison between Palestine and Cyprus, affirming that one country was holding hostage the European Union. He then responded to Barry Madlener advising him to learn what Imam Gazali said about tolerance. On the positive agenda, he said he hoped to unblock some points. As regards the possibility of opening chapters during the second half of 2012, he expressed his pessimism as Turkey would refuse to sit at the same negotiation table with half of a nation. On the customs union, he reiterated Turkey's concerns and expressed his hope to achieve progress.
Ms Hélène FLAUTRE said that freedom of expression should not open the door to incitement to hatred, and that freedom of religion does not mean prohibiting criticism of religions. She regretted the misuse of those concepts during the debates.

The second session opened on 24 February at 9:15 and concluded at 13:00

4. Discussions on drafting a new Constitution

Mr Gianni BUQUICCHIO, President of the Venice Commission, explained that the current Constitution reflects its time of adoption, and the concern which then prevailed: protecting the state and the principle of secularism, if necessary against the people. He acknowledged that all the rights and freedoms were mentioned in the text, but with detailed restrictions to protect the state from the people. If no provision is really contrary to European standards, the overall impression remains that the integrity of the state is more important than fundamental freedoms. This can explain Turkish court rulings and the high number of condemnations by the European Court of Human Rights.

Mr Buquicchio stated that a new Constitution was essential, given the changes in Turkish society. He mentioned the 10% threshold to gain access the parliament as being too high, and recalled that the Venice Commission advised a maximum 5% threshold. He said that Turkey should not move to a presidential regime due to authoritarian risks. On provisions related to the institutions, the same problem occurs: the state is very centralised and the role of local authorities is modest. The National Security Council and military tribunals have important powers which prevent civil courts from playing their full role. He welcomed the Constitutional Conciliation Committee and expressed the view that the new Constitution needed to unite the country, while the political majority had to give assurances that it didn't intend to change the secular character of the state. In conclusion, he advised not to reopen the debate on the three non amendable articles of the current Constitution, but rather to reinterpret them in a compatible way with European standards.

H.E. Mr Cemil ÇİÇEK, Speaker of the Grand National Assembly of Turkey and Chairman of the Constitutional Conciliation Committee, thanked Mr Buquicchio for the work of the Venice commission. He admitted the inadequate character of the current Constitution due to its historicity. He recognised that problems existed in the Constitution and that demands for changes were broadly shared. He explained that the current Constitution did not facilitate smooth institutional functioning and that the need for stability should prevail. He said that that the conciliation committee had developed close contact with the civil society. He mentioned that five topics were agreed upon by the conciliation committee; the need for a new Constitution; its drafting by the Parliament; the involvement of the political parties in the drafting regardless of their proportional seats; the chairing of the committee by the Speaker of the Parliament; and the participation of civil society as part of the drafting.

Mr ÇİÇEK then went through the four stages of the process. He explained that the first step was a consultative process to identify the different needs and demands. He mentioned the openness of the process with the involvement of all stakeholders, the setting up of an internet page, regular meetings, the creation of a sub-committee representing the political parties not present in the committee itself, as well as of six
technical subcommittees. The second stage would consist in the drafting of a report outlining the skeleton of the Constitution, in a reasonable period of time. The third stage would consist in a second reading, with a second wave of consultation. The final stage would finally be the preparation of the Constitution and its submission to the Parliament before its approval by referenda. Mr ÇİÇEK mentioned the importance of fundamental rights, of effective institutions and of the compatibility with the EU acquis and International treaties. Finally, he indicated the end of 2012 at the target for the completion of the four stages.

Mr. Umut ORAN explained that his party, the CHP, had adopted a declaration summing up in ten points their views on the necessary constitutional changes, which include: reducing the parliamentary election threshold to 5%, defining citizenship in legal terms rather than in ethnic terms, adding freedom of belief and religion, abolishing the high education council, reinforcing the role of local authorities, protecting the environment, guaranteeing freedom of internet, among others. Finally, he regretted the negative climate created in Turkey by the imprisonment of five hundreds students, eight members of the parliament and many journalists.

Mr Andrew DUFF made three comments on the Constitution drafting process. His first comment concerned the principles: he said that the current assumption that the military is there to protect the state from its people should be reversed. His second comment was on the process: he underlined that permitting political parties to veto a proposal is a way to achieve the lowest common denominator, and stressed the distinction between unanimity and consensus. Finally, Mr Duff made a remark on the content: he advised that the EU Charter of Fundamental Rights should be considered as a first-class temporary catalogue of rights and principles. In addition, he asked whether the establishment of a second parliamentary chamber, which he deemed appropriate, was envisaged.

Mr Yıldırım Mehmet RAMAZANOĞLU underlined the incoherent definition of the state in the Constitution, where references are made to "the State", "the Republic of Turkey", "the Turkish State" and "the State of Turkey". He pointed out that the Constitution even dealt with notions such as the spiritual "happiness" of Turkey, which makes little sense when referring to a state, and contained logical contradictions and even grammatical mistakes. He informed the Members that he had prepared a full volume of these mistakes, which he would like to share to avoid that they be repeated.

Mr Richard HOWITT emphasised the political dimension of the constitutional process and repeated his question on citizens' submissions having reportedly been deleted from the official website. He pointed out the problem of the definition of minorities and the issues of the rights of LGBT people. Finally, he asked Mr ÇİÇEK to clarify the terms of the debate concerning the institutional form of the regime.

Ms Emine BOZKURT asked whether there was already a general line about how women's rights will be dealt with in the new Constitution.

H.E. Mr. Cemil ÇİÇEK answered to comments and questions by first outlining that he must be impartial as a chairperson and therefore could not give his personal opinion, including on the question of the presidential system. On the question of a
second parliamentary chamber, he explained that there was no consensus on this issue. Replying to Mr Duff, he stated that he knew well the difference between unanimity and consensus, and that the committee was working on the basis of consensus. As regards the 10% parliamentary elections threshold, he considered that this issue had to do with the electoral law rather than with the Constitution. He shared the view that women's rights were a critical issue, and underlined that important steps can already be taken at legislative level to tackle it, in particular in the field of education, which is key to change the mindsets. About the contributions withdrawn from the website, he explained that the four parties agreed on this because they were over-representing a still small amount of views compared to the scale of Turkey on an official website.

Mr Jürgen KLUTE made a remark about the fact that many arrested Kurdish politicians were excluded from the political process. He mentioned Kurdish proposals to move towards a federal system and asked for reactions.

Ms Aylin NAZLIAKA came back to the Cyprus issue and underlined that it constituted a vicious circle in EU-Turkey relations and in Turkey's accession process. She stressed, and regretted, that both sides had suffered a lot.

Mr Aykan ERDEMGIR shared concerns about the lack of positive political climate. He underlined that the Turkish Parliament should take immediate action to amend the penal and criminal procedural codes, the laws on political parties, the electoral law, and the law on association and local government. He stated that freedoms of citizens depended on the revision of those anti-democratic laws and not necessarily on the Constitution.

Mr Takis HADJIGEORGIOU stressed that discussions on the Constitution should not focus too much on details, since a Constitution relates primarily to the fundamental functioning of a state. He therefore underlined that constitutional reform may, for example, provide for a lower parliamentary election threshold, but then leave details to electoral law.

Mr Sait ACBA came back to the political changes that happened in Turkey over the last years and underlined the importance of a full participation of the citizens in decision-making processes.

Ms Antigoni PAPADOPOULOU questioned the participative nature and the real openness of the process when websites were being closed down, freedom of the press is being threatened and rulings of the European Court of Human Rights ignored.

Mr Gianni BUQUICCHIO qualified the constitutional process as an excellent democratic exercise, and underlined the crucial need to deliver good results. He agreed on the necessity for consensus rather than unanimity, and conceded that the end of 2012 was a reasonable timetable. He stated that if a Constitution should not be too detailed, it however needed to prohibit possible abuse of interpretation. Mr Buquicchio also underlined that it should contain a non-ethnically based definition of nationality and citizenship. Furthermore, he reminded that some Turkish legislation needed a new Constitution to be changed, while others can be changed under the current Constitution, and should therefore be modified as soon as possible. On the
10% threshold, he reiterated that even if there was no binding obligation to lower it, the Venice commission recommended a maximum 5% threshold.

5. Discussion and adoption of joint draft recommendations on

a. Customs Union and Free Trade Agreements

The vote was postponed on the request of the co-draftspersons, Mr KAZAK and Mr DEMIRKIRAN.

b. Instrument for Pre-Accession Assistance

The draft recommendation was presented by its co-draftspersons, Mr Andrew DUFF and Mr. Cahit BAĞCI, and submitted to the vote.

The draft recommendation as amended was rejected by a majority of the Members of the European Parliament present.

The third session opened on 24 February at 15:00 and concluded at 17:30

6. Turkey’s Judiciary Reform Strategy, negotiation chapters 23 and 24 and the European Commission’s proposal for a “positive agenda”

Mr Gianni BUQUICCHIO pointed out that no cooperation existed between the Venice Commission and Turkish authorities until recently. He explained that the cooperation started with Minister Sadullah ERGİN, who initiated requests for opinions from the Venice Commission on a number of laws implementing new constitutional provisions. Mr Buquicchio stressed problems linked to the legal framework governing political parties, and said that Turkey was one of the rare countries where it was fairly easy to ban or suppress political parties. He stated that this was not compatible with a real democracy. He explained that the opinions of the Venice Commission on the draft laws were by and large positive, but also suggested room for improvements. He went on to detail the recommendations of the Venice Commission as regards the High Council of Judges and Prosecutors, the Court of Appeal and the Constitutional Court. He concluded by describing other initiatives, such as the creation of a human rights directorate in the Ministry of Justice and the cooperation with the Council of Europe in judges training, as positive steps.

Ms Hélène FLAUTRE asked for further information on the new package of judicial reforms.

Mr Sadullah ERGİN, Minister of Justice, emphasised that the opening of accession chapters 23 and 24 was crucial for pushing forward judicial reforms. He underlined that the various problems the Turkish judiciary was currently facing were not only related to judges and prosecutors, but also to the fact that the Constitution does not facilitate the progression of individuals’ rights. He mentioned the cooperation with different Ombudsmen in Europe and the scrutiny work conducted on every ruling of the European Court of Human Rights. He stated that protocols had been adopted to protect the situation of prisoners. On fundamental rights, Minister Ergin explained that a new draft legislation has been prepared related to the protection of individuals
data. The speeding up of judicial procedures was also addressed through new legislation. Furthermore, he stated that a bankruptcy law had been adopted to help maintain dignity of the people concerned, in particular by imposing fines rather than detention.

On the issue of remand prisoners, Minister Ergin stated that their number had risen from 2004 to 2006 and started to drop afterwards to reach 28.1% in 2011. Moreover, he stressed that their detention duration was fairly low and that the remand prisoners detained for more than 3 years represented only 4% of the total prisoners. He finally mentioned forthcoming projects, including a project carried on with the Council of Europe on the freedom of speech and the media, as well the judicial academy.

Hélène FLAUTRE mentioned different reports on the problem of pre-trial detention, which contain figures that are much higher than those mentioned by Minister Ergin. She also asked about how the process of drafting a new Constitution was articulated with the judicial reform process. Finally she asked for some clarification on the recent report on the trial of Hrant Dink's murderers.

Mr. Umut ORAN commented on the high number of detained journalists, pointing out that Turkey's rank on the press freedom index has dropped to the 148th position (out of 178 countries) while it was at the 99th rank when Minister ERGIN took office. He commented on the prosecution of the National Intelligence Agency (MIT)'s chief of staff, and warned against the judiciary overstepping its boundaries. He said that the judiciary was highly politicised and stated that in 2005, 274 people were detained under the anti-terror law, and that this number had increased to 12000 in 2011. He finally reiterated the idea of opening chapters 23 and 24 to move forward on those issues.

Ms Emine BOZKURT agreed on the idea that for the EU to have some leverage, chapters 23 and 24 should be open. Furthermore, she mentioned the special unit on women's rights established at the prosecutor's office in Ankara and asked whether this kind of initiative would be extended.

Mr. Lütfü TÜRKKAN referred to the recent French law on the prohibition of the negation of the so-called “Armenian genocide”. He stated that this was a matter of freedom of speech and that it was not coherent to criticise Turkey while adopting such laws. Finally he asked whether better diversity in the European Parliament delegation could help counterbalance the racist statements made by several Greeks and Greek Cypriots.

Mr Andrew DUFF asked what would be the reaction of the Turkish government if the Cypriot presidency decided to open the chapters 23 and 24.

Mr. Nazmi GÜR insisted on the necessity, when talking about reforms, to look at what will not change and to be aware that regression can occur. He criticized the temporary transitional provisions and stated that impartiality needed independence which was impossible if the Minister of Justice was heading the High Council of Justice. He then criticized the Courts with special powers stating that they should be eliminated.
Ms Hélène FLAUTRE clarified, in response to Mr Türkkan, that Members of the European Parliament were representative of all EU citizens and that their mandate was not to defend national interests.

Mr. Lütfü TÜRKKAN opposed that the practice does not correspond to this principle.

Ms Niki TZAVELA asked Mr Türkkan to withdraw his comment on racism.

Ms Hélène FLAUTRE noted to the attention of Mr Türkkan that defending national interest could, in any case, not be called racist, and thanked him for the withdrawal of his comment.

Mr Sadullah ERGİN indicated, with regard to coordination of the constitutional and judicial reform processes, that the Constitution drafting was initiated by the Grand National Assembly, and that the Government was only providing expertise when needed. Concerning the Hrant Dink case, he stated that he could not, as Justice Minister, interfere with this process. As regards detained journalists, he indicated that the legislative system and the judiciary system had to be reformed hand in hand. He gave details of the different proposals contained in a document issued after a working session in Izmir. He mentioned tackling the issue of torture and ill treatment in detention, speeding up judicial procedures, providing broader access to courts, enhancing freedom of expression, protecting the right to own property, freedom of association, etc. Concerning the MIT case, he said that the judicial system functioned properly. He further commented on the composition of Turkey's high judicial bodies and stated that pluralism had been greatly improved. In response to a question on immunity, he underlined that members from all political parties, including the Prime Minister, had been subject to requests to lift their immunity. As regards the special bureau on women's rights in the Ankara Court, he said that a circular was made requesting each authority to follow this example. Finally, he answered the question on the eventuality of opening chapters 23 and 24 under the upcoming Presidency of the Council of the EU, stating that the Minister of Foreign Affairs had a clear line from which Turkey will not move.

Mr Sajjad KARIM noted that, since in Turkey the sole responsibility for a decision to detain someone in pre-trial custody lies entirely with the judiciary, it was imperative for the judiciary to operate in a fully independent way. He underlined that unfortunately, the trials he had been able to observe so far pointed to another direction. However, he saw encouragement in the fact that the draft judicial reform package included the obligation to provide motivation for any decision regarding detention. He asked the Minister whether a set of precise criteria would be provided upon which a bail can be refused. He underlined that the reform process should already be at a more advanced stage and such details should have already been made available. Moreover, he expressed his doubt that sufficient attention was given at governmental level with regard to the number of journalists currently being detained. He also expressed concern at the way the definition of terror crime is being applied, resulting in the arrest of thousands of individuals. He finally listed a number of problematic articles of the Penal Code (articles 125, 215, 216, 301 and 318) and asked whether these would be included in the reform package.
Mr Aykan ERDEMIR indicated that pre-trial detention continued to be used as a punishment in Turkey, and that 112% of the prison capacity was currently exploited. Moreover, he stated that the reduction of the overall ratio of detained prisoners versus convicted prisoners was mainly linked to a change in definition, since the Turkish Court of Cassation had decided that those inmates whose case was under review or appeal should no longer be considered as under detention. He concluded his intervention by warning about the dramatic human damages caused by the blocking of chapters 23 and 24.

Ms Antigoni PAPADOPOULOU stated that EU citizens were concerned about human rights violations. She mentioned the Hammarberg report on the administration of justice in Turkey and drew attention to its conclusions.

Mr. Nazmi Haluk ÖZDALGA stated that one of the most challenging tasks was to change mentalities. As regards journalists under detention, he drew attention to Turkey's history of coups d'Etat and terrorism, and stated that numerous detained journalists had indeed represented a serious threat to the state. He therefore said that the situation should be assessed in this light.

Ms Niki TZAVELA emphasised two grey zones in the judiciary: detention periods and accusations of terrorism. She expressed her impression that terrorism accusations were used to condemn any political opponent of the state. Eventually, she welcomed progress in the field of diversity and multiculturalism in Turkey.

Mr Sadullah ERGİN replied to Mr Karim on the issue of the justification of detention decisions by pointing out that the draft reform package included detailed provisions on the criteria to be used by the judges. On the various figures provided during the debate, he regretted that they were unfortunately conflicting. He took the example of the list of detained journalists provided by the journalists association, claiming that fifty of them were accused of crimes associated with weapons, and that a list with all the charges had been published on the Ministry's website.

Ms Hélène FLAUTRE remarked that naming the charges could not guarantee their legitimacy, since the anti-terror law was often used as a net used to catch a diversity of people.

Mr Sadullah ERGİN maintained that various cases of detained journalists had nothing to do with their professional activity. As regards people detained under the anti-terror law, he reiterated that the figure in his possession was 1345, whereas the other cases were linked to other elements. He then added that custody before trial existed everywhere, and that its reduction in Turkey was acknowledged by the European Court of Human Rights. He furthermore stated that correcting data circulated in the press was a major issue and that the Government's right of reply was not respected.

7. Date and place of the next meeting

The next meeting will take place in mid-June in Strasbourg or in Brussels.
PARTICIPANTS FROM THE TURKISH PARLIAMENT

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<tr>
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<th>Name</th>
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<th>Party</th>
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<tr>
<td>1</td>
<td>Mr. Cemil ÇİÇEK</td>
<td>Speaker of the Grand National Assembly of Turkey</td>
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<tr>
<td>2</td>
<td>Mr. Sadullah ERGİN</td>
<td>Minister of Justice</td>
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<td>3</td>
<td>Mr. Egemen BAĞIŞ</td>
<td>Minister for EU Affairs and Chief Negotiator</td>
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<td>4</td>
<td>Mr. Afif DEMİRKIRAN</td>
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<td>6</td>
<td>Mr. Umut ORAN</td>
<td>Vice Co-Chairman</td>
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<td>7</td>
<td>Mr. Nazmi Haluk ÖZDALGA</td>
<td>Member</td>
<td>Ankara</td>
<td>AK Parti (JDP)</td>
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<td>8</td>
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<td>9</td>
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<td>11</td>
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<td>Mr. Faruk IŞIK</td>
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<td>17</td>
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<td>18</td>
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<td>19</td>
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<td>20</td>
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<td>21</td>
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<td>Member</td>
<td>İzmir</td>
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<td>22</td>
<td>Mr. Ahmet Kenan TANRIKULU</td>
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<td>23</td>
<td>Mr. Lütfü TÜRKKAN</td>
<td>Member</td>
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<td>24</td>
<td>Mr. Nazmi GÜR</td>
<td>Member</td>
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<td>BDP (PDP)</td>
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Abreviations:
AK Parti : Justice and Development Party (JDP)
CHP : Republican People’s Party (RPP)
MHP : Nationalist Movement Party (NMP)
BDP : Peace and Democracy Party (PDP)
PARTICIPANTS FROM EUROPEAN PARLIAMENT

Ms Hélène FLAUTRE, Chair
Ms Maria Eleni KOPPA
Mr Georgios KOUMOUTSAKOS

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1st Vice-Chair, S-D, Greece
2nd vice-Chair, EPP, Greece

Mr Philippe BOULLAND
Ms Emine BOZKURT
Ms Anna Maria CORAZZA BILDT
Mr Andrew DUFF
Mr Takis HADJIGEORGIOU
Mr Richard HOWITT
Mr Sajjad KARIM
Mr Metin KAZAK
Ms Franziska KELLER
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Mr Barry MADLENER
Ms Antigoni PAPADOPOULOU
Ms Eleni THEOCHAROUS
Ms Niki TZAVELA
Mr Jan ZAHRADIL

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EPP, Sweden
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NI, Netherlands
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EPP, Cyprus
EFD, Greece
ECR, Czech Republic