

Chapter 5: Impact of the European Union on Local Governments

5.1. The EU integration process and Local Governments in Turkey

The European Union *acquis communautaire* is one of the fundamental concepts of the European Union, which describes the rights and duties that EU member states share with each other. All of the treaties, European laws, declarations, resolutions, international agreements on European issues, and rulings made by the Court of Justice are part of the *acquis communautaire*. One of the important distinctions of *acquis communautaire* is that candidate states must accept it when they become EU members and incorporate its proceedings into their national legislation. It lays out the roadmap of the transformation process necessary for membership into the EU. The adaptation of the *acquis communautaire* into national legislation does not start after the full membership of a country is granted; rather it is an important part of the pre-accession process instead. This process itself has a strong transformational capacity for pre-accession countries; however it is also time-consuming and requires commitments from both sides – the EU and the pre-accession country in question. The *acquis communautaire* is critically important for a country such as Turkey in taking steps towards EU integration. Over the course of on-going pre-accession processes in Turkey, many reform programs in different areas have come into being, which approximates national legislation as well as implementation in line with the *acquis communautaire*. Structures, functions and responsibilities of local governments are among the main focus areas of this transformation process.

"...upon joining the Community, the applicant state accepts at no reserves the Treaties and their political goals, all decisions as made since their entering into force, and the action, which it has accepted and, which has to do with the development and reinforcement of the Communities". "Whereas the substantial feature of the legal system as established by the founding Treaties of the Communities provides that a number of certain acts of the institutions shall be directly implemented, this Community Law shall prevail over any internal provision that runs against it. There are procedures, which ensure equal interpretation of this law. Meanwhile, the accession right to the communities forces Community's laws; [...]" *The European Commission (European Communities Official Journal (1979) L 291, page 3)*.

The EU integration process in Turkey has generated two different lines of thinking among local government officials: one side was considering that this process will put some burdens on local authorities whereas the other side was arguing that it will generate some benefits and will lead the country to the local government reform process. Since the signing of the Ankara agreement in 1963, there has been continuing doubts and questions about European integration among

intellectual circles and media representatives in Turkey. Even earlier, perspectives had stemmed from more ideological thinking, while other views originated from critical comments and even negative opinions about the self-readiness of Turkey for EU membership. Two decades ago, these negative perceptions started to turn into positive ones within political circles. After Turkey's official application for membership into the EU in 1987, political, intellectual and media circles started to transmit optimistic thoughts about becoming a part of the EU. Yet the main expectations of the public in Turkey, including public officials, have remained focused exclusively on one-way gains that Turkey would benefit from in obtaining EU membership. As the pre-accession process has evolved, both citizens and the bureaucratic establishment have come to realize the requirements and obligations needed for EU membership. With this realization, further objections and complaints have started to appear in national media again.

The harmonization of local government law with EU law demands not only new rules and regulations that must be implemented by local government employees, including mayors and elected members, but also demands a change of thinking from autocratic mentality and manners towards more democratic perspectives and behaviours. Local governments in Turkey need to be ready to take necessary steps for EU integration done mainly through information gathering and familiarization with EU legislation. In order to respect European standards in the area of local public services, local government units need to invest in more advanced operation processes and procedures and work to strengthen capacities in order to cope with these changes. A new local government system requires structural transformation for better and more efficient services for people delivered by local government units. In support of this transformation and adaptation process, the EU system provides certain incentives to various actors in order to better attain the European model of society as outlined in the common provisions of the EU Treaty. Since local authorities provide a level of government administrative services interacting closest to citizens and local businesses, they play a critical role as information providers to the general public about the impact of EU membership and the legal, economic and social changes that come with it. In order to support this role, the EU grants certain programmes and funding opportunities to benefit implementation of local projects.

The gains in this sense are not limited to direct European funding. During the accession process, significant opportunities for cooperating, twinning and exchanging of experience with

local authorities from other countries are augmented. These directly enhance opportunities for developing joint programs and ‘know-how’ exchange with other local governments. Such programs benefit capacity building and as well as smooth adaptation processes. In addition, local governments become a part of common networks of regional/local authorities, which increases their influence on European decision-making. EU requirements ought not been seen as a burden by local government officials, but rather as a necessary transformation of the old system into a more democratic one.

The level of impact of the EU integration period is different in the pre-accession versus the post-accession periods. The pre-accession period begins with the stabilization and association up to the negotiation of the accession agreement. During this process, candidate countries start to incorporate their national legislation to EU legislation and transform the functioning of their local and national institutions accordingly. In the meantime, candidate countries begin to use some European funds and programs, under the Instrument for Pre-Accession Assistance framework. At the end of pre-accession period, by becoming an EU member, countries complete the approximation process and carry on continuous implementation of European law in its entirety. After that point, a country becomes capable of benefiting from full European funds and programs, such as direct payments for agriculture, regional development funds, cohesion funds and special European programs.

It should be mentioned that European law does not have any direct legal regulations and rules on the functioning of local governments. However, there are some regulations, which fall under the responsibility and activity areas of local authorities, thus having direct consequences for their jurisdiction. The legal power to implement the EU’s decisions lies with the Member States, nevertheless in practical terms, the biggest proportion of decisions are implemented by local authorities.

The impact of the EU *acquis communautaire* on Turkish local governments will be taken up in the broader sense in this chapter to contribute to policy makers and interested circles in Turkey rethinking and making an evaluation of the present local government system.

This section of the book aims to present a broad picture of the Turkish Local Government Reform as has been redesigned under the impact of the EU *acquis communautaire*.

5.1.1. Local government tradition in Turkey

Local government tradition in Turkey extends back until the middle of 19th century. The first municipality was established in Istanbul in 1858. This type of administrative unit was very quickly instigated across the Ottoman Empire in the years that followed.

Following the collapse of the Ottoman Empire, the Turkish Republic was established on 29 October 1923. The Republic envisaged a state administration with a unitary structure. Following its establishment, the first constitution of the Republic was accepted in 1924. According to the constitution of 1924, local governments had the authority to implement additions to certain taxes and to establish duties and fees. In a sense, the municipalities were able to determine their own revenues. Local governments took part in the constitution as the administrative wind and a three-tier local government system was foreseen in Turkey:

- Village
- Municipality
- Special Provincial Administration

The Republican administration had inherited the Special Provincial Administration from the Ottoman State (establishment of the special provincial administration is dated 1913) and this legacy had been preserved until recent times without undergoing many changes.

One of the first accomplishments of the Republican administration had been to enact the law on village administration in 1924. Village Law envisaged the establishment of a democratic administration in the villages; nevertheless, a tight administrative tutelage had also been placed on them. Within the modernisation project of the Republic, one of the significant changes was the Law on Municipalities, coming into effect in 1930. The attempt was to create an autonomous form of municipal management under a certain limitation of administrative tutelage. This followed after the laws that provided suffrage and election rights to women and thereby eliminated one of the deficiencies in terms of public participation.

In 1960, as a result of the military coup, the previous constitution was abolished, and a new constitution came into effect (1961). This new constitution was more liberal with regards to democratic rights, but more centralist in terms of state structure. According to this constitution, starting from the elections in 1963, it had been envisaged that the mayors would be directly

elected by the public. This created a presidential system and concentrated the decision making powers to the mayor. This new method had failed to establish a system of checks and balances for municipalities, since elected city councils were not given necessary influence on decision-making and control. The result was that the influence of municipal councils was diminished. On the other hand, a State Planning Organisation had been established in order to administer national development from a single agency and, in accordance with it, new five-year development plans were prepared. With this new development concept, the authority for tax collection and big investment was gathered around central government as a whole due to concerns in effective utilization of resources. In addition, the authority of municipalities in tax collection was also eliminated.

Despite this tendency for centralism, in the democratic atmosphere that had been brought about by the constitution of 1961, previously unspoken Marxist and leftist views started to be revealed in Turkey. In the continuing democratic atmosphere, during the 1973 elections, the “social democratic” movement won a victory over the “conservative” central administration by winning in all of the metropolitan municipalities in municipal elections for the first time. The different political structure in central and local administrations had given birth to the “autonomous municipal management movement”. During this period, serious conflicts surfaced between the central administration and local governments in terms of authority, responsibility and resource sharing. The autonomous municipal management movement had started to develop policies that drew attention to environmental problems, prioritized service provisions for the poor, and emphasized public participation. As a result of this movement, the Ministry of Local Authorities was established in 1978 in order to ensure that municipal management was made autonomous. Unfortunately, the movement concluded with the surprise military coup of 1980 before it had time to mature and be established.

In 1980 democratic life in Turkey was halted by another military coup d'état. Following this assailant on democracy, a new constitution was accepted by popular vote. The constitution of 1981 brought more detailed regulations as regards local authorities. The government that formed through democratic elections in 1983 took critical steps in three areas related to local government. The first of these was the establishment of metropolitan municipalities for big cities. The second was to increase the revenue share that was being transferred to local administrations by rearranging the distribution of public revenues. The third was to accept the

municipalities as the sole and fully authorized authority in the area of land development and city planning.

This new structure to local administrations generated both positive and negative consequences. Establishment of metropolitan municipalities and the transfer of a significant amount of public resources to these administrations had made it possible to take constructive steps towards the resolution of problems accumulated in the metropolitan cities as a result of urbanization. Significant success was achieved in areas such as potable water, sewage and solid waste. Aside from these positive developments, leaving the authority of land development to municipalities had made it difficult to protect historical and cultural environments and significant damage was caused in these areas. Failing to implement effective building laws caused tragic losses in the wake of the 1999 earthquake.

Turkey has experienced a deep transformation to its local government structure in recent years. There have been significant changes to legal regulations and laws regarding the duties and responsibilities of local government units. In the first part of the following sections, the internal and external dynamics triggering local government reform will be examined. The second part explores changes to laws and regulations introduced by these reforms on local governments.

5.1.2. Driving forces leading to local government reform in light of EU accession

Since 1990, internal and external political dynamics have changed the governmental administrative structures in Turkey. Changes caused primarily by internal dynamics can be summarized as rapid urbanization, changing economic structure, the insufficiency of public services undertaken by central government, problems caused by regional disparities, increased demand for democracy and the development of a civil society movement. Naturally these internal changes are not independent from external drivers. The end of the bipolar world (the USA versus the Soviet Union), the Rio and Habitat summits, as well as the EU candidacy of Turkey have been external driving forces of local government reform in Turkey.

Internal dynamics

Rapid urbanization in Turkey altered the needs and expectations of the society and made reforms to local government structures inevitable. With the formation of a government dedicated to a liberal economy after the 1950 elections, Turkey had given up its statist approach. The economic model that was applied thereafter has been named a mixed economy model. The development of private capital accelerated industrialization, especially in the Marmara region and which led to internal migration primarily from Istanbul. In the ensuing years, the liberal economy gave rise to a similar tendency in the Aegean and Mediterranean regions. The trend of rapid urbanization in Turkey still continues to the present day. In view of **rapid urbanization**, services undertaken both by local governments and the central administration became insufficient - another problem making local administration reforms unavoidable.

On the other hand, in the last fifty years, the Turkish economy went through a transformation that was similar to the demographic structure. The transition from a statist economy to a mixed economy and from a mixed economy to a liberal economy led to the development of a services sector while decreasing the share of the agricultural sector in the economic structure. The increase in the services sector gave rise to both the development of the scope and an increase in the quality of urban services. Consequently, a **changing economic structure** made the reform of the local administration structure necessary.

Another internal reason for reform is **the insufficiency of the public services undertaken by the central government** in responding to the needs of society. The centralist structure and traditional way of working in Turkey continues to illustrate its slow-working characteristics despite all the efforts for democratization and efficiency. Many of the services administered by central government, such as education, health, and traffic, cannot be sufficiently provided for due to population growth and rapid urban expansion. Furthermore, an inherent lack of cooperation between central government and local administrative government exacerbates the situation. To give an example, the construction of schools is one of the duties of the central administration, however, the plots of land required on which to construct schools are under the ownership of municipalities in urban areas. Since the municipalities are not obliged to construct schools, they choose to utilize the land for other, more profitable investments.

The liberal economic approach in Turkey increased the already existing **regional disparities** significantly in recent years. All of the economic incentives provided to Eastern and South-eastern Anatolia have not been sufficient to increase the level of investment. The fact that investments are being decided by the centre and the opinion of local administrations has not been sought when making these decisions has caused an increase in the disparities rather than eliminating them. Alongside these economic problems, there are also social, cultural and ethnic problems. It is believed that to eliminate regional disparities, decentralization can play an important role. Such a desire has been echoed from the less developed regions of Turkey in the recent years. Local administration reform is seen as an instrument in eliminating the tension created by regional disparities.

Finally, in the last decade, democratization experienced in Turkey has also increased the **demands for decentralization**. Civil society movements increased their demands for democracy and development, and decentralization seemed to be the enabling force to fulfil this request. Citizens began asking for elected authorities to be accountable for the deficiencies in the provision of public services. Most noticeably, an increase in the number and scale of civil society institutions as well as the diversification of their fields of operation and activities has altogether amplified the demand of civil society to participate in decision-making processes. This demand for participation by civil society institutions was not feasible in the pre-existing system. Therefore, it became necessary to set up a system to ensure participation, especially in the local administrations. One of the reasons perpetrating reforms to the local administration has been the on-going developments surrounding good governance in the civil society arena.

External dynamics

Parallel to the aforementioned internal factors, several international developments also triggered the need for local government reform in Turkey. First of them was **the end of the bipolar world**. The bipolar world of the US and USSR that had come to an end with the collapse of the Berlin Wall in 1989 as well as the wider effects of increasing globalization, significantly impacted Turkey. All of a sudden, Turkey attained a new role, positioned in the middle of the Middle East, Balkans, Black Sea, Caucasus and Central Asia. Amidst such a broad geography, the central administration had to allocate a significant part of its work to international relations instead of domestic problems. This new situation made it necessary to make reforms in the administration, and in fact, starting from 1990, all political parties and governments had placed local administration reform into their programmes as an objective to be realized.

International conferences like the **Rio and Habitat summits** and the policies developed during these conferences also had an influencing effect on local government reforms in Turkey. In the 1992 Rio Summit, it had been agreed that each local unit should determine its own agenda through participatory methods, in order to primarily solve the environmental problems. In this way, a more democratic new government model was introduced and the term ‘governance’ started to be used widely. In the subsequent 1996 Habitat II Istanbul Summit, the solution of urban problems was heavily discussed and the ‘governance’ term had become known to the Turkish public. As a result of this summit, governance had been translated into Turkish as “yönetişim” and thus a new concept was added to Turkish administrative culture. As a result of these two summits, in line with the governance principles, a new concept in local governments had started to appear in Turkey. During this period, the Local Agenda 21 Program supported by the UNDP had started to be implemented in 50 pilot local administrations.

5.2. Impact of the European Union on Local Governments

Turkey's journey towards European integration and attuning to the values and structures of the Union has accelerated the local government reform process. In 1987, Turkey had officially applied to become an EU member however, this application had not been taken very seriously by the EU and had been turned down. Nevertheless, beginning in the 1990s, the eagerness demonstrated by Turkey in becoming an EU member and steps taken in this direction eventually changed the opinion within the EU. During this period, in 1991, Turkey had signed the European Charter of Local Self Government and in 1994, Turkey and the EU had signed the customs union agreement. New steps were taken along the road to democratization and the tender issue of human rights entered into the agenda in Turkey. The municipalities had also started to demand changes to existing legislation in the accession process to the EU. In 1999, the official candidacy of Turkey that had been accepted in Helsinki accelerated this process. Finally, before and after the beginning of the negotiating period, Turkey completed most of the components of its reform program.

As a complementary step of the harmonization process of Turkey with the EU, it is worth mentioning about the annual progress reports by the EU for Turkey. In the last few years, there are some critiques and appraisals on local governments' performances in the annual progress reports. On one hand, the report evaluates local government reform as satisfactory, on the other hand, the weak performance of the implementation of good governance principles such as participation, accountability and transparency related to local governments are broadly criticized.

5.2.1. Criteria of the Council of Europe

There are two treaties, which have particular importance for local self-government:

1. The European Charter on Local Self-Government
2. The Framework Convention on cross-border cooperation between local authorities

The European Charter on Local Self-Government

The European Charter on Local Self Government is the main text for the process of institution building. As stated in the preface of the Charter, “local authorities are one of the foundations of any democratic regime”, “the right of citizens to participate in the conduct of public affairs is one of the democratic principles that are shared by all Member States of the Council of Europe”, and “that is at the local level that these rights can be most directly exercised”.

Turkey ratified the Charter on the 9th of December 1992. The Charter had direct influence as a legal framework of reference on the new legislation of local government in Turkey. However, it only presents basic principles of a democratic local government system rather than imposing a model of local self-government. Within this framework, member countries are free to develop their local government systems. However, member countries have to accept some core provisions in order to lead in the establishment of a democratic local government system. Turkey adopted most of the core provisions that are considered important. The provisions adopted by Turkey are as follows:

- the constitutional and legal foundation of local self-government
- the concept of local self-government
- the scope of local government
- the protection of local authority boundaries
- appropriate administrative structures and resources for the tasks required of local authorities
- the conditions under which responsibilities at local level are exercised
- administrative supervision of local authorities’ activities
- financial resources of local authorities
- local authorities’ right to associate

The Framework Convention on cross-border cooperation between local authorities

Turkey ratified the Framework Convention on cross-border cooperation between local authorities on the 11th of July 2001. After the ratification of the Framework Convention on cross-border cooperation between local authorities, many border cities in Turkey began working with their counterparts in Greece, Bulgaria, Armenia, and Georgia.

5.2.2. EU Law

EU law has quite different implications for local administrations and has not set up specific provisions about the status, the level of decentralization or territorial organizations of local governments. However, the Union, with all of the treaties, decisions, regulations, directives and recommendations, white and green papers as a whole, constitutes conditions for becoming a member. While some of the recommendations generally or partly impact local governments, others place more direct conditions that are to be complied with by the local authorities.

EU law refers to regions only for the purpose of regional development policy, but not as an administrative unit. The NUTS are only statistical units; they are necessary to determine more or less comparable units for the calculation of the indicators upon which the classification of “regions”, in geographical terms, is established, and hence their entitlement to a level of support determined by the regulations on structural funds. Regulation on the NUTS clearly states that “the definition of territorial units” “...is based fundamentally on existing administrative units in member states” and the introduction of the regulation deCLRAE s that the NUTS have “to respect the existing political, administrative and institutional situation”.

The present framework regulation on structural funds refers to a “partnership” for the preparation, programming, funding and monitoring of the interventions for structural funds. This partnership is defined as an understanding between the Commission, the member state and the authorities and bodies nominated by the member state, “within the framework of national rules and present practices”. Local and regional authorities are among these nominated authorities, but there is no prescription regarding the levels and legal nature of these authorities and, in particular, a regional authority is nominated and decided by the member state.

Member states are expected to organise the partnership for the implementation of EC interventions as follows:

- The organisation of the partnership takes place within existing national rules and practices;
- The notion of partnership implies partners distinct from each other, and so far, authorities subordinate to central government cannot be considered as partners;
- The choice of the level, and of its organisation, to carry out interventions with structural funds belongs to member states, although NUTS is used for the programming and

monitoring of such interventions. This system applies even more so for countries those are candidates to the EU.

As a matter of fact, the main concern of the EU regarding public administration in the member states, and even more so in candidate countries, is the public management rules in order to guarantee that the utilisation of EU funds is adequate and efficient, that there is no misuse of funds. For this reason, some requirements are assigned to member states and to candidates who benefit from EU funds. This appears clearly in the regulations applicable to Turkey for the same reasons.

It follows that the assessment of the local government system in Turkey, as it is being reformed, has to be focused with regard to the so called “*acquis Communautaire* ” on management issues rather than on local institutions or local government levels. Therefore, particular attention in this publication will focus on aspects regarding public finance management and control and the public service sectors.

Structural and Sectoral Impact of the EU on Local Governments

In order to understand the real nature and features of the impact of the EU on local government systems in Turkey, this section will focus on the evaluation of local government reform in Turkey under two headings:

1. Structural evaluation of local government reform with respect to the EU acquis with reference to European experiences.
2. Sectoral appraisal of the impact of EU regulations on local governments in Turkey.

5.3. Structural Impact of the EU on Local Governments

When the *acquis communautaire* is discussed in regards to its impact on the local government system, it not only covers EU law but also implies the European Charter of self-local government issued by the Council of Europe. As mentioned earlier, the EU has not set up specific regulations about the structures, functions and operations of local governments. However, the Council of Europe has designed some regulations and rules about the status of local governments. Regarding all candidate countries, compliance with this legal framework set up by the Council of Europe has been a basic condition in order to be considered at a later stage in the application to join the EC and the EU as a member.

The Turkish government that came to power in 2002 decided to undertake a deep-rooted transformation in public administration as a result of the above-mentioned driving forces in order to cooperate with the advice of the EU *acquis*. For this purpose, a series of draft laws were prepared. The draft laws are as follows:

- Public Administration Law
- Municipality Law
- Metropolitan Municipality Law
- Law on Special Provincial Administration
- Law on Local Administration Unions
- Public Finance and Control Law
- Revenue Sharing between Local Government and Central Government Law

The law of 2004 on public administration reform proposed very radical reforms to the entire government system of Turkey. The President of the Republic vetoed this law, as it was too

broadly designed and too vague to be applicable. The new laws of 2005 took part with a more gradual approach to administrative reform. Currently, the strategy of the government is to forgo the project of comprehensive reform and to proceed through successive pieces of legislation that deal with specific sectors. A bill on the transfer of services of social care and of judicial children protection is currently being prepared. Several other bills are also on the agenda of the government concerning village affairs, cultural institutions of local interest, sport infrastructures, and public works. Nevertheless, step-by-step strategy also requires paying attention to financial transfers necessary for local governments to take over these new functions. The laws of 2005 on special provincial administrations and on municipalities represent further steps towards decentralisation.

Although there are different local government entities in Turkey, such as village administrations and special provincial administrations, this section will focus primarily on municipalities as core local government units.

5.3.1. Territorial Organizations

Turkey has been administratively divided into 81 provinces with each province divided into districts. The heads of these administrative units are appointed by the central government. Provinces are the basic subdivisions of the state territory and they hold the seats of branches of the state administration under the authority of the governor.

In addition, according to the Constitution there are three tier local governments in Turkey: special provincial administration, municipalities and villages. Furthermore, with law from development agencies, Turkey is taking the socio-economic trend of regionalisation into account without establishing a new tier of government. Regarding the territorial structure of the local governments, the recent reforms will strengthen their capacity to take necessary steps in transferring tasks upon local self-government bodies.

A. Municipalities

Municipal Units

Municipalities are local self-government bodies, with their independent institutions, budgets and functions. They are established on the basis of settlements with over 5,000 inhabitants. Although they cover a large part of the population, 17% of the population lives outside of these municipal borders. The table below shows the demographic structure of Turkey in terms of the municipal population.

| The share of Municipal population of the Total Population (2009) | | |
|---|------------|--------|
| | Population | % |
| Population within municipal borders | 58.581.515 | 82.99 |
| Population outside of municipal borders | 12.004.741 | 17.01 |
| Total | 70.586.256 | 100.00 |

**According to official data published by TÜİK*

Municipalities do not coincide with urban settlements: in less than thirty years Turkey evolved from a rural society to an urbanised society. The share of rural population drastically decreased against urban population. Thus, part of the rural settlements is integrated within municipal jurisdictions.

In effect, there is no obligation, according to the Charter, to establish self-government bodies at each level of the territorial organisation. According to article 13 of the Charter, the principles of local self-government apply to all categories of local authorities existing within the territory of a country, but the government of this country may specify the categories that it intends to confine the scope of the Charter. For example, the Netherlands has notified that the application of the Charter is confined to municipalities and does not extend to provinces.

Over the last few years, one of the disputed areas for municipalities has been the size of them with concerns to population. The threshold to set up a municipality was originally a minimum of 2,000 inhabitants. This low level threshold requirement to create a new municipality caused an increasing number of municipalities to be formed. In order to prevent the establishment of artificial municipalities the threshold was raised.

In Turkey, the law on municipality formation states a minimum threshold of 5,000 inhabitants to establish a municipality, either on the basis of a settlement or of an initiative of several villages or parts of villages to combine and form a new municipality. Another condition to avoid artificial amalgamation of villages is that a village or part of a village involved in such a procedure has to be within 5,000 meters from the settlement deemed to be the centre of the new municipality.

Metropolitan municipalities

Turkey has at present four different levels of decentralised government, but they do not exist altogether at the same time, and in larger urban areas metropolitan municipalities have also been established. Usually, metropolitan municipalities are not considered as an additional level of local government, but they are gradually becoming so. The new reform law has increased this trend through the establishment of a new type of metropolitan municipalities.

Metropolitan municipalities are created by law in areas within the boundaries of a provincial capital and in settlement areas located no more than 10,000 meters outside these boundaries, where the population is in excess of 750,000 inhabitants. Nowadays, Turkey has 16 metropolitan municipalities, totalizing 26.743 million inhabitants (45.65 % of the total population of Turkey), with the major ones located in Istanbul (12.460 million inhabitants), Ankara (4.127 million) and Izmir (3.140 million). However, a number of metropolitan municipalities created earlier than the new reform laws have a population that is less than 750,000 (3 metropolitan municipalities exist with under 750,000 inhabitants).

Turkey has dealt with the problems of governing big cities with the creation of metropolitan municipalities. Two levels of municipal administration, the upper one - the metropolitan municipality, proceeding from the district municipalities and being vested with the responsibility of coordinating basic functions at the metropolitan level. The mayors of district municipalities are ex officio members of the metropolitan council and each district municipality is represented in the metropolitan council respectively by one fifth of the members.

The new law on local governments strengthens metropolitan municipalities by concentrating key functions on areas such as investment programs, budgets, master plans and land use plans,

public transport planning, organization and monitoring, roads, car parks, permits of workplaces, protection of the environment under various aspects, police services, social amenities, etc. As a result, district municipalities have a residual competence focused on programming specific activities, local land use planning and on the management of service delivery at the local level.

The new law also gives broader supervisory powers to the metropolitan municipality in planning matters. The metropolitan municipality may overrule the local district plan if it does not coincide with the master plan of the metropolitan municipality. The district municipalities have to redress it on the bases of observations communicated by the metropolitan municipality. On the other hand, the direct election of the metropolitan mayor by the citizens confers to him a legitimate leadership power.

Unions of Municipalities

Small municipalities were faced with a number of difficulties to provide proper local services for their inhabitants due to a lack of financial resources and human capacities. The situation created a necessity to deal with these problems and a new and separate regulation had become inevitable and the law on unions of local authorities amended it in order to facilitate functional rationalization in service delivery. According to this law, unions of local authorities are likened to corporate bodies, which are deemed capable of carrying out functions delegated to them by member municipalities. There is no general list of functions, but only some duties of member municipalities may be delegated. Municipalities may be obliged to become members of a union when projects are made mandatory. This is for projects related to water supply, wastewater treatment, solid waste management and services, and other similar services concerning the environmental sector. In that case, the decision belongs to the council of ministers where such a local authority will belong to a union previously set up for this purpose. This provision could be considered as giving too much discretion to the council of ministers.

In the European Union, the Charter provides the right to associate for local authorities, dependant on their free will. However, some countries have legislation in place that makes it possible to make joint authorities compulsory. For instance, in Germany and France, the law provides the principle of voluntary cooperation between municipalities, but the decision may be taken by a qualified majority of municipal councils, with the result to integrate some municipalities against their will. The only limit can be the article 3 of the Charter: compulsory

association should not deprive municipalities of managing a “substantial share” of public affairs under their own responsibility.

Functions and responsibilities of the municipality

At present, the main responsibilities of municipalities are urban planning, public transport and communications including the construction and maintenances of local roads, water supply and sewerage and solid waste management. The transfer of urban planning to municipalities, including the power to deliver building permits, has been the most significant decentralisation measure of the past period. New areas of activities have been given to municipalities by way of the local government reforms. Some important aspects of these new local competences are described below:

The first one is related to the promotion of economy and commerce. This is rather a new concept for municipalities that used to run traditionally local services and utilities. This new task provides an incentive system to municipalities to achieve local economic development. The content of the local economic development plans is defined by the areas of incentives such as tourism, health, social services and educational, industrial and commercial investments. As can be seen, this content covers a very large area, which matches with the targets of EU regional policies. It is deemed quite positive that local authorities feel responsible for the economic development of their territory and try to find instruments for this purpose, but it remains the state’s domain to set the limits and the conditions. The establishment of development agencies as a new instrument is a very positive step for local development. They are providing both expertise and financial resources for local authorities in order to reach their local development plans.

The second area is education. This is strictly the responsibility of the state in Turkey. However, during the last few years, numerous municipalities have involved themselves in the maintenance and equipment of primary and secondary schools within their territories because of the failure of the ministry to meet all the need. However, this was not within the previous laws. The new law for municipalities has allocated this new power to them. In big cities, the classes in schools are usually overcrowded. These new provisions will give the opportunity for municipalities to invest in school buildings and provide them with good premises. Until now, these permissions were only offered to businesses.

The third area is connected with the social protection of women and children. According to this new task, municipalities have to construct and operate shelter houses for women and children subject to violence. In addition to these tasks, supporting amateur sports and the protection of historical and cultural heritage have also become the new responsibility areas for municipalities under the reforms.

Lastly, there is no general competence clause in Turkish law for local government bodies. This situation is not compatible with the commitment of Turkey to the Charter, although Turkey ratified it. This case is not unique to Turkey however. While the overwhelming majority of state parties to the Charter recognise the general competence clause within their legislation, those who deny it have nevertheless recognised this paragraph as binding, such as Portugal and Croatia. Nevertheless, quite often a misunderstanding on the meaning and the scope of the general competence clause ensues. This principle is not a principle on the allocation of tasks among government levels; in all countries the functions performed by local authorities derive from the law, e.g. from special provisions that, at the same time, regulate these functions. The general competence clause is a principle of freedom that is constitutive of local self-government. It gives local self-government bodies a capacity of initiative, and also the legal possibility to address new issues of local significance for which the legislation in force does not provide enough room for manoeuvre.

B. Regionalization without regions, through agencies and cities

Regionalization as a socio-economic and institutional process does not always go through the establishment of an additional government tier, and even less often through the establishment of regional autonomies. Regionalization can be defined as a process that creates a capacity for independent action aimed at developing a specific area (sub-national but supra-local) through the mobilization of its economic fabric, development potential and features of local and regional identity. Regionalization does not mean regionalism, and decentralization may be a way to avoid the latter. As in other countries, the way to avoid institutional regionalism is to strengthen decentralization at the municipal and metropolitan level. This decentralization will give impulse to regional development agencies, because they will support local development projects.

Turkey does not have regions and remains quite sceptic about any regulation that is reminiscent of federalism. In that sense, the recent creation of statistical units according to the requirements of the European Union (NUTS 1, 2 and 3) is by no means a step towards the establishment of new layer of government. According to the geographical analysis, urbanization and differentiated economic dynamics have deeply redesigned Turkish geographical regions, based on an urban network instead of geographically divided regions. Examples of these new designed regions are as follows:

- The fast-growing regions: Istanbul and Marmara region, Mediterranean coast -Adana, Mersin, and Antalya- and the Southeast supported by investment and development programs of central government and urban dynamics.
- Consolidated regions: Ankara and central Anatolia, Izmir and the Aegean region.
- Less-developed regions: the Black sea coast and north-eastern mountains.

Poles measuring urban growth can form the basis of regional development policy aimed at reducing regional disparities. In this regard, the establishment of development agencies were set up in 2006 to support regional development and reduce inter-regional and intra-regional disparities. These regions do not coincide with the seven traditional geographical regions of Turkey. Agencies are created by a decision of the Council of Ministers on the basis of NUTS 2 regions and coordinated by the State Planning Organization. The State Planning Organization determines in particular, the allocation of funds to agencies, approves annual working programs, approves the secretary general of the agency, and determines principles and procedures concerning plans, programs, and the personnel of the agency.

The governor of the province, where the agency has its seat, is the chairman of the administrative board, which is the decision-making body of the agency. Municipalities, as well as business and NGO representatives, hold the majority of seats in the administrative boards of the agency. In an agency covering several provinces, members of the administrative board are: the governors of the respective provinces, the mayors of the metropolitan municipalities or of provincial municipalities if there is none in the province, the chairmen of the provincial councils and the chairmen of the chambers of commerce and industry (one for each province). The administrative board can rely on the development council, a large body that can have up to 100 members, who are representatives of public institutions and organizations and from the private sector and NGOs, according to rules to be adopted by the decree establishing the agency. This forum can elect its chairman from its members, adopt recommendations to the

administrative board, and evaluate the activity of the agency. The agency is a public body outside of public administration and several provisions should favour its responsiveness.

The Development Agency has an independent budget for planning, programming and project building, research and development, promotion and education, administration and personnel, purchasing of movable and immovable properties and services. Agencies are subject to internal and external audit, but not to the law on public finance management and control and the public procurement legislation. The latter exemption would be disputable with respect to EU law, because development agencies are to be considered as “complementary public agencies”, due to their organization and funding.

5.3.2. Local finance

Local finance is the weak side of the administrative reform. In fact, the law on revenue sharing between central and local government is one of the delayed steps of local government reform initiatives. This law as the last component of the reform laws came into force in 2008. At present, the share of revenues in the budgets of municipalities is very low, and they cannot exercise power over local taxation. On the other hand, the decentralisation reform requires the transfer of funds to local budgets of a much higher participation in the whole of tax revenues of the nation. The new revenue sharing law has not been able to improve this situation. However, it has brought a set of criteria regarding the distribution of the fixed share, which is allocated to municipalities from the total national tax revenue.

Local revenues: the nonexistence of local tax power

In terms of revenue, local budgets are highly dependent on central government budgets. The revenue of the municipalities mainly consists of two components: the transfers from the total national tax revenues and local revenues.

The main resource of local governments is the state transfers coming from the total national tax revenues fixed by the law. This is slightly less than 50% of the total municipal revenues. On the other hand, the share of local taxes is also low among their resources, and municipalities have almost no tax power regarding local taxes. There are seven local taxes assigned to municipalities, and they yield around 10 % of the total revenues of municipalities; additionally, municipalities levy various duties and a contribution to the financing of infrastructure, charged to beneficiaries of new infrastructures. The revenue from some local taxes and duties is shared in metropolitan municipalities. There are important disparities in local tax revenues: in big municipalities, local taxes may bring as high as 50% of the revenue, whereas it is insignificant in smaller ones. However, for all the revenue, the local authority has no power. The only exception is for real estate tax, which is the main local tax: the municipality is represented in the valuation commission, in charge of establishing tax bases; but again, municipal councils have no power to set the rates – these are fixed by central government in all cases.

This situation violates article 9, paragraph 3 of the Charter, which is binding for Turkey, according to which “at least the financial resources of local authorities shall derive from local taxes and charges of which, within the limits of statute, they have power to determine the rate”.

It also has a negative impact on the accountability of municipal leaders and councillors facing their citizens. Since they have no decision power in order to levy resources, they are not accountable for the tax burden as a price for the local services delivered; their merit for the voters will be their skill to get money from the centre. Therefore, any progress in decentralisation in Turkey will require a change in the local finance system, in order to give the municipalities more responsibility regarding resources.

Another unfavourable effect of the situation is to encourage municipalities to develop commercial activities, directly or indirectly, in order to levy resources. Municipal run business activities and enterprises have yielded more than 24% of the total revenues of municipalities in the last years. Despite all the negative effects of this situation, at present it seems that this is the only way to get additional resources for municipalities.

Local Budgets

The local government budget in Turkey is around 18-20% of the consolidated total public budget and 4% of GDP. The table below shows the share of the local budget within the total public budget. When compared to other European countries, this is rather low. This percentage has however, been increasing in recent years. In the coming years ahead, the transfer of responsibilities to municipalities will lead to an increase in the expenditure level, at least within the limits of the revenues transferred.

Over the long term, however, it has become clear that local government expenditure has increased remarkably since 1990, and the share of investment expenditure of the total expenditure has increased as well. This dynamic has been accompanied by a permanent deficit of local government budgets as a whole, funded by central government credits that are not paid off.

Local debts and the lack of mechanisms to enforce budgetary discipline

One of the major problems of local finance is the accumulated debt of municipalities. Since local government reforms were implemented, the trend in the level of municipal debt has steadily risen. This can be seen clearly in the below table:

Municipal Debts

2006-2009

| Years | Foreign Debt | Internal Debt | Total (TL) | Annual increase(%) |
|--------------|---------------------|----------------------|-------------------|---------------------------|
| 2006 | 2.298.4 | 28.069.8 | 30.368.2 | - |
| 2007 | 3.602.5 | 35.521.3 | 39.123.8 | 28.8 |
| 2008 | 4.797.1 | 38.839.1 | 43.636.2 | 9.0 |
| 2009 | 5.873.9 | 42.993.5 | 48.867.4 | 12.0 |

**The debts of local corporations included*

When we take the year 2006 as the baseline, the increase of total debts of municipalities is almost 61% between 2006 and 2009.

Unfortunately, there is no serious measure in the new legislation to overcome this situation. Indeed, the laws for municipalities provides structures for clearing part of these debts, but this does not apply to debts held by the Treasury and there is no mechanism to prevent the same situation from reoccurring.

Municipalities are not obliged to have a balanced budget. There is no procedure and no sanctions in case of a budget being voted on or executed with a deficit. There is a consolidated estimate of local budgets in the state budget, but the law does not grant the government the power to modify local budgets. In the law of financial management and control, there is no provision for the balancing of budgets, no warning procedure and no sanctions.

Municipalities logically expect the guarantee of the state to finance their debt if they have insufficient resources. Until now the state has granted the necessary credits, and reimbursement is rather flexible through the Bank of Provinces (İller Bankası) that manages transfers to local budgets and is supposed to compensate the debt by an amount levied on these transfers. However, this clearing practice is not transparent and is affected by political patronage. On the other hand, central government may also use the permanent debt of municipalities as an indirect way to keep control over them.

However, further decentralisation could worsen this situation. Municipalities will likely to be inclined to spend more under the pressure of needs as expressed by voters. This happened in France in the eighties and could happen again now, after the transfer of new functions. Yet in

France, local governments are obliged to vote and execute their budgets in positive balance, and the supervision exercised by the prefects and regional chambers of accounts is able to enforce this rule. Without any barrier, the decentralisation of new functions could become inflationary in Turkey in the next years. The lack of budgetary discipline imposed on local authorities may have negative impacts on macro-economic commitments as far as further decentralisation increases the importance of local expenditure.

5.3.3. Supervision and Control

The current reform has completely redesigned the existing supervision and control system. The major pieces of legislation in this respect are the law on public financial management and control and the new law on municipalities. The purpose of the reform is to remove traditional supervision and put in place a new control system based on modern auditing practices. This is a radical reform regarding the concept of control, audit and supervision, the position of auditors and the new organisation of supervision upon municipalities. In addition to these changes in the system, the audit committees of local councils are a promising innovation. The new concept of supervision and control is explored under the following headings:

- A. Supervision
- B. Control
 - a. Internal Control
 - b. External Control
 - c. Audit Committee

A. Supervision

The basic principles of supervision over local governments are set out by the Constitution. According to the Constitution, the ministry of Interior may remove an elected organ of local administration from office in case of offences related to its duties, where investigations or prosecutions have been initiated. But the new law on municipalities goes much further. According to this new rule, the municipal council may be dissolved by the Council of State on request of the Minister of Interior if it has taken decisions on political issues not related to the functions conferred on the municipality. Although this is not strictly in breach of article 8 of the Charter on supervision, it is clearly not compatible with its spirit, and it is certainly contrary to the guaranty of freedom of expression for the council members according to the European Convention on Human Rights and Fundamental Freedoms.

On the other hand the new organisation of supervision remains unclear, as reflected in the new law on municipalities. First of all, there is confusion over supervision, control and audit functions. Indeed, supervision is not a function related to management; it is a form of control referred to the law or to the adequacy of the activity under supervision. This is why the general trend of supervision in European countries has been to restrict supervision to legality, in order to limit the interference of central government in local self-government affairs. For the same reason, supervision has evolved more towards guidance and advice. This approach has been adopted by new law. As a form of control, supervision is an external control.

Except in case of delegated tasks, supervision should be deemed to ensure the limits of the law are not breached by local authorities. But the new law has put forward a mix of performance and legality control. According to new municipal law, the purpose of supervision is to assist municipalities and guide them. These shall be achieved by impartially analysing, comparing and measuring the processes and results of municipal services in compliance with the laws and regulations, with pre-established objectives and targets and with performance criteria and quality assurance standards. In addition, such supervision shall cover the lawfulness of the tasks performed and the procedures conducted along with financial and performance auditing.

The idea that supervision can include legality control and performance auditing is very dubious. Indeed the supervision exercised until now by the governor was not a legality control; it was much more a control on the merits of the decisions. To implement the new provisions on supervision, the ministry of Interior has already had a control division consisting of higher public servants of the Ministry of Interior selected according to merit to exercise “external supervision” upon local authorities. The mission of these inspectors will take advantage of the wider scope of control resulting from the new legislation, and they will extend their control to performance. It is therefore quite clear that they will not pay attention to legality or to risks of unlawfulness, except in case of gross and evident violation of the law, and they will not be prepared to develop legal grounds that can stand before the judge if it is necessary to claim for judicial review.

It is said that supervision is not trusteeship and that the latter is still exercised by the governors. Yet the governors no longer have powers to suspend or veto decisions of local authorities; they can only defer unlawful decisions to the administrative court.

Another cause for confusion is Article 57 of the law on municipalities. According to this provision, the civil judge is invited by request of the ministry of Interior, not to settle a legal dispute, but to declare if the services of a municipality are “seriously malfunctioning” and if the health, wellbeing and the welfare of the population are affected to a “vital degree”. If this declaration is issued by the judge, the minister can request the mayor to remedy the “malfunction” within a reasonable time limit. If it is not possible to remedy the malfunction, he or she can request the governor of the province to provide the service with the personnel and infrastructures of the municipality under his authority. The municipality may appeal to the district civil court against the decision taken by the judge. This provision could raise enormous difficulties and would probably not be applied.

B. Control

The new control system consists of internal and external controls. The internal control is based on two different types of auditing systems: bureaucratic and democratic auditing. The bureaucratic audit is realized through a special organization set by the law. Democratic control is exercised through an audit committee and is one of the most innovative instruments initiated by the reform.

a. Internal Control

Internal control is divided into two sub-headings; internal audit is exercised by a new bureaucratic mechanism, whereas democratic control is executed by an elected body within the municipal council.

The internal audit is a new organisation established for the execution of the budget. This organisation is established by the law, which is applicable to local administrations as well as to central government and social security institutions. The new rules are deemed to ensure better accountability of all those involved in the financial management of public administrations.

Generally speaking, the new provisions are in line with EC requirements and, on some key points, very close to the French legislation: the unity of the treasury; strategic planning and performance based budgeting; the separation between the functions of the authorizing officer

and the functions of the accounting officer as well as the powers and duties of the accounting officer. The training programme of internal auditors includes EU regulations.

The mayor is the head of administration for the municipality. He or she is responsible for: the preparation and implementation of strategic plans and budgets of his administrations; for the effective and efficient economic utilisation of resources; for the prevention of losses and misuse of resources; and for monitoring the financial management and control under their authority. The mayor is accountable before their local councils for the accomplishment of their duties as heads of public administrations, through authorising officers, financial service units and internal auditors.

The law gives a definition of internal audit as: “an activity providing independent and objective assurance and consultancy, performed in order to improve and add value to the activities of the public administrations by evaluating whether the resources are managed in conformity with principles of economy, effectiveness and efficiency, and providing guidance”. The duties of internal auditors include the evaluation of management and control structures as well as the utilisation of resources and legal compliance. In effect, the audit is a function, and it can apply to various objects such as financial audit as well as social or legal audit. However, this does not mean that an audit can be conducted by the same persons within the unit to be audited.

To sum up, internal auditors help heads of administration to improve the functioning of administrations under their authority and to prevent abuses or misuses. To that extent, they reduce the need for external control. This applies under the condition that the head of the administration himself/herself is not the origin of bad practices. Therefore, new legislation looks to strengthen political control through audit committees of municipal councils.

b. External Audit

The ex-post external audit is performed by the Court of Accounts. Regarding local governments, the question is whether such a central organ is enough or not. The general tendency in European countries has been to develop local audit organs closer to local authorities: regional chamber accounts in France and also in Poland, as well regional court of accounts in Germany and audit commissions in the UK.

Despite a tendency in Europe to develop audit organs closer to local authorities, with the new law on Court of Accounts in Turkey, the central characteristics of auditing of local governments was maintained.

c. Audit Committee

Audit committees have to be elected in January every year by the councils. Their composition has to be in proportion of the party groups in the council. The work of audit committees is much more detailed in the law on municipalities, although basic rules are similar. The municipal councils of municipalities over 10,000 inhabitants, provincial capital municipalities and district municipalities must elect an audit committee from 3 to 5 members (from among the councillors) to audit the revenues and expenditure of the local authority at the beginning of each year.

Mayors are, so far, vested with a comprehensive financial management responsibility, and the role of local councils in this matter is extended to them though clear accountability to the mayor holding this high quality assurance level post. This is made effective by the creation of audit committees of local councils and can be an important step to overcoming the traditional imbalance between the assembly and the executive.

The audit committee of the municipal council works in a municipal building and may request assistance from municipal employees and when necessary from other experts; they may request any information and all documents producing their findings on control are made public by the Committee. The audit report is submitted to the council, which may give rise to questions or to a general debate or a motion of no confidence can be placed on the agenda on request of one third of the councillors. The mayor has to present an activity report, based on the requirements of the law, to report on the realisation of the strategic plan and the performance programme and to explain deviations. The vote of three quarters of the members of the council is required to declare explanations of the mayor as unsatisfactory or to adopt a motion of no confidence. In both cases, the motion and the file are transmitted to the Council of State through the governor.

Some critics find municipal councils rather weak and un-influential. Audit committees, even if they are not promptly able to provide comprehensive internal audit on the finances of the municipality, will nevertheless help opposition members gain leverage vis-à-vis the mayor and

muster skills to exert bigger influence on municipal affairs. The audit committee, through their auditing and reports also provides transparency for municipal revenues, expenditures and tenders. The announcement of fiscal documents to the public leads to increased accountability of elected people in the municipalities.

5.3.4. Enhancing democratic governance

The local government reform is a very comprehensive programme to modernise the local government system and bring it in line with the requirements of the Charter and the EU law. The reform has adequate tools for a democratic local government through its participatory mechanism. Some of them, apart from European concepts and applications, originated from past and recent Turkish experiences.

In this section, the democratic components of the reform process are analysed under the following headings: Mahalle (neighbourhood) and Muhtar (the office of headman), the participation right of citizens, specialist commissions, strategic and emergency plans, citizens' assembly and voluntary participation in municipal services.

a. Mahalle (Neighbourhood) and Muhtar (The office of headman)

The history of the Mahalle (neighbourhood), as the oldest local administrative unit, goes back to the early period of the Ottoman Empire. Mahalle has existed as a place where inhabitants were registered since the beginning of Ottoman history. In the beginning, all registration and issuing documents for local people were made by the local imam. In the early years of the 19th Century, the local people of Fatih District (Istanbul) started to elect muhtars (headmen) to maintain law and order in their mahalles. Muhtars, as traditionally elected headman of mahalles, are still popular and play a very important role in present day urban life. They establish communication between the citizens and the public administration, and act as an intermediary for the participation of their community to all decision-making processes and operations of the local administrations.

Mahalles and muhtars have maintained a place in the administrative structure of municipalities within the local government reform. This has provided muhtars with new opportunities to influence local decision-making processes. The muhtars may attend meetings of the special committees of the municipal council and may express their views and requests, without voting

rights; they also take part in Citizen Assembly. The existence of a muhtar is a genuine local traditional institution that today can support the development of local self-government and local democracy, particularly in urban areas.

The muhtar and the council of elders (5 or 6 members) are elected the same day as the municipal council and the mayor. This is still a rather respected and prestigious function, and candidates are neither presented nor supported by political parties and the electoral participation is high. According to some surveys the credibility of the muhtar is generally higher than the credibility of the mayor.

b. The Participation Right of Citizens

These days, participation is one of the essential rights of citizens to influence decision-making processes in public affairs. It is a rather new concept that came into the international agenda over the past two decades. Due to a drastic drop in the voting ratio, in particular in local elections (in some places less than 50% of the electorate) in the West, legitimacy of elections and democracy has become a contradictory issue and has created some suspicions over the future of democracy. In order to decrease this democratic gap, participation inevitably was put forward as a solution to enhance democracy. The electorate was seen as a homogenous group consisting of socially and politically different individuals. But in the last quarter of the 20th Century, invisible groups such as the handicapped, elderly, young, children, women and poor were recognised as different categories and they began to demand some facilities and social services. Old structures of local governments were far from meeting these new demands in the traditional representative democracy. Participation for these people was the only way to let the public hear their voices. In addition to this participation right, a special article was added to the law to meet these demands.

Participation as a right of people had been taken as a legal provision in the Municipal Code eighty years ago in 1930, long before the West recognised it as a right. However, unfortunately no one headed this article until the Habitat II Conference in 1996. This provision is still in existence in the new Municipal Cod as it was eighty years ago.

c. Specialist Commissions

There are several specialist commissions that operate under the city council's work as preliminary decision making bodies before the city council makes final adjustments to policies. NGO's and muhtars may attend the meetings of special commissions of the city council and may express their views and requests, but without voting rights.

d. Strategic and Emergency Plan

Strategic planning is one of the new techniques that have been introduced by the reforms to the local government management system. This is not only a tool used for better fiscal management; it also creates another opportunity for public participation. A related article in the law strongly underlines the importance of participation. The statement recommends: "Strategic plan shall be prepared **in consultation with** universities (if any) and professional chambers together with the relevant civil society organisations, and shall take effect following adoption at the municipal council."

After the most destructive earthquake occurred in 1999, one of the lessons learned was to take necessary preventive actions within an emergency plan. This plan should also be prepared with the participation of the relevant NGOs, public and private institutions.

e. Citizen's Assembly

Citizens Assemblies have their roots in the Habitat II Conference held in Istanbul in 1996. The Turkish government made a commitment to set up Citizens Assemblies as part of its Local Agenda 21 initiative. These assemblies are forums of civil society organizations, professional associations and public bodies that check the decisions of local governments. The new Local Administration Reform of 2005 envisaged a more institutionalized relationship between local governments and Citizens Assemblies.

Nevertheless, the main novelties of the Citizens Assemblies are the establishment of Children, Youth, Elderly, Handicapped and Women Assemblies. These assemblies, which operate under the auspices of the Citizens Assemblies, give these previously disadvantaged groups in society an opportunity to excel in civic skills and gain experience in public management. These

groups, if organized well and if backed by municipal authorities, act as advocates of these vulnerable groups' rights in their communities.

After the introduction of Citizens Assemblies in the municipal structure, participation became a hot topic in public life. The Ministry of Interior published a by-law to regulate the formation and operation of Citizens Assemblies. After this regulation, complaints and critics on the anti-democratic structure of Citizens Assemblies increased and some member NGOs took the case to court. The Higher Administrative Court annulled some articles of this governmental regulation.

Citizen participation in public decision-making is an area where progress is hard to achieve. Despite the current emphasis on decentralization and the grassroots potential it is intended to galvanize, impediments to citizen participation are great. In fact, the Progress Report on Turkey prepared by the European Commission in 2009 reveals the following observations on participation at the local level:

“No progress has been made on devolution of powers to local governments, especially on establishing operational city councils, which are seen as a platform to enhance public participation in local government, and improving democratic governance mechanisms, again to enhance public participation. Transparency systems, particularly internal and external audits of local governments, are vital for enhanced accountability. Some municipalities are reluctant to grant access for citizens to municipal decisions, in particular concerning development plans. In this context, in December 2008 the Board on Access to Information filed a complaint with the public prosecutor about rejections of requests for information by the Ankara metropolitan municipality.”

f. Voluntary participation to municipal services

There are several examples of Charity foundations, which have played very important roles as providers of different social services in the past. Some of them still continue to function in the same areas, but there were legal difficulties that prevented them from working together with local governments. The local government reform not only removes these barriers to cooperation between voluntary organizations and municipalities, but also enlarges the areas in

health, education, sports, social services and aid, library, parks, traffic and culture for better and more effective cooperation between them.

5.4. Sectoral Impact of the EU on the Local Governments

Experiences show that EU regulations have an impact on a large quantity of the decisions and activities in local and regional authorities. In a highly decentralized country as Sweden it is calculated that around 70% of the municipal activities are, in one way or another, influenced by EU rules. Parallel with this fact, the following sections will focus on some of the topic, where EU regulations have direct impact on the functioning of local authorities. An update on the current legal situation, based on the new EU directives and regulations with requirements of European principles and standards regarding public procurement, state aid, local finances, environmental policy and European labour law, is offered. The sections also cover the evolutions and current status of national legislation in Turkey regarding the adaptation to the *acquis* on the above-mentioned areas.

5.4.1. Public Procurement

The purchase of goods and services and the ordering of works by a public authority such as a national government, a local authority or their dependent bodies, are defined as public contracts by the European Union. The EU has introduced several legislative provisions in order to modernize and facilitate the process of public procurement, aiming to increase transparency, fairness and inter-operational ability. Regulations on public procurement aim to safeguard the free movement of goods, services and persons, as well as support free competition. Directives on public procurement apply if contracts exceed a certain volume. The threshold values are 200.000 Euro for public supply and service contracts, and 5 million for public works. Procurement in the water, energy, transport and telecommunications sectors are regulated by a separate directive, as these facilities are partly subject to public law and partly to private law. The threshold values for these sectors are also different. For service and supply contracts of energy, transport and drinking water networks, the threshold is 400.000 Euro and for the telecommunications sector, 600.000 Euro.

According to EU legislation on public procurement, contracts exceeding these thresholds presuppose a call for tender in the entire EU territory and national authorities need to design specific information procedures for this process. It is worth mentioning that the exclusion of

bidders from outside the country is illegal. Public authorities can no longer apply additional criteria to commission work above other enterprises within their own municipal area or region.

The basic EU legislation on public procurement is known as 2004/18/EC. Besides this, there is the 2004/17/EC Directive on public procurement in the water, energy, transport and postal services sectors. 89/665/EEC and 93/13/EEC Directives have provisions on procurements that are not in the scope of these two Directives. Additionally, the following directives may also be observed regarding public procurement regulations:

- **Council Directive 93/36/EC of 14th June 1993** concerning the co-ordination of procedures for the award of public supply contracts;
- **Council Directive 93/37/EC of 14th June 1993** concerning the co-ordination of procedures for the award of public works contracts;
- **Council Directive 93/38/EC of 14th June 1993** concerning the co-ordination of the procurement procedures of entities operating in the water, energy, transport and telecommunications sectors (all published in the Official Journal L 199 of 9th August 1993);
- **Council Directive 92/50/EC of 18th June 1992** concerning the co-ordination of procedures for the award of public service contracts (published in the Official Journal L 209/1 of 24th July 1992);
- **Council Directive of 21st December 1989** on the co-ordination of the laws, regulations and administrative provisions relating to the application of review procedures to the award of public supply and public works contracts (89/665/EC, published in the Official Journal L 395/33 of 30th December 1989);
- **Council Directive 92/13/EC of 25th February 1992** co-coordinating the laws, regulations and administrative provisions relating to the application of Community rules on the procurement procedures of entities operating in the water, energy, transport and telecommunications sectors (published in the Official Journal L 76/14 of 23rd March 1992);

Two further directives were adopted under the multilateral agreement on public procurement to liberalize and expand world trade, thereby adjusting the prevailing legal system:

- **Directive 97/52/EC** of the European Parliament and the Council of 13th October 1997 amending directives 92/50/EC, 93/36/EC and 93/37/EC, co-coordinating the procurement procedures for the award of public service contracts, public supply contracts and public works contracts (published in the Official Journal L 328 of 28th November 1997);
- **Directive 98/4/EC** of the European Parliament and the Council of 16th February 1998, amending Directive 93/38/EC, co-coordinating the procurement procedures of entities operating in the water, energy, transport and telecommunications sectors (published in the Official Journal L 101 of 1st April 1998).

These public procurement directives closely influence the operations of local authorities. Local government units are expected to act according to these rules and regulations; however, these regulations also cause some problems and add additional costs for local governments. They lose the opportunity to use public contract instruments as a driver to develop local businesses and boost employment within their territory. Another practical problem that local authorities are concerned about is that large-scale public works of a higher value amount than the threshold are not carried out very often; as a result their staff is not familiar with the regulations, which cause practical problems on implementation.

Within the framework of legal and institutional changes due to Turkey's candidacy to the EU, approximation of public procurement law in Turkish legislation with the EU *acquis* was a medium term priority of the country. The reform process started at the beginning of 2000 and the goal of EU integration added speed to the efforts. An inter-ministerial committee prepared a draft public procurement law, by taking EU Directives on public procurement as a basis. After consolidations and debates with other stakeholders within the society, two new laws on public procurement were approved by parliament on January 22, 2002. The twin laws named Public Procurement Law (PPL) No. 4734 and Public Procurement Contract Law (PPCL) No. 4735 were published in *Official Gazette* and the implementation of the laws were started by January 1, 2003. These new regulations have been amended with various Laws on different dates and are effective together with these amendments.

By adaptation of these twin laws, a new framework for public procurement was created in

Turkey. The most significant institutional change introduced by the new law is the establishment of the Public Procurement Authority, which is fully independent in its actions and decisions and is financially autonomous. The PPA is responsible for ensuring the proper implementation of the PPL to support procurement processes and to provide legal resolution of disputes over public procurement. The Authority launched a call centre to provide advisory services for procuring entities, and also published comprehensive guides to supply service and works tenders. The Public Procurement Authority annually updates the threshold values and monetary limits specified in PPL. These are published in the Official Gazette before the 1st of February each year and become effective on the same day.

Despite these new laws on public procurement being adapted, Turkey has not completed the approximation of its legislation to the *acquis*, particularly on utilities, concessions and public-private partnership. Turkey's EU membership candidacy is still continuing and new actions will need to be taken for alignment with the EU Directives. In the short term, the main challenge of the PPA will be the adaptation of e-procurement, which will bring more efficiency and productivity to both buyers and suppliers.

5.4.2. State Aid

In order to ensure fair competition and a single common market, state aid is monitored and controlled by the EU Commission within the European Union. The founding Treaty of the European Community, in Article 87-89, forbids state-funded aid that would favour certain businesses, good production, or distort the normal competitive market and/or hinder the long-term competitiveness of the community.

Although under the Article 87 (1) of the Treaty of Amsterdam, any form of government subsidy that distorts or threatens to distort competition is prohibited, Article 87(2) and 87(3) contains a number of exceptions to this rule. Member States need to notify the Commission in advance when they propose State Aid and any un-notified aid defined as unlawful by the Procedure Regulation (659/99). The Commission has taken the decision that the subsidies not exceeding 100,000 Euro do not have to be notified, which eases the administrative burden in the field of subsidies for SME's.

There is a new draft law in Turkey that aims to align national state aid policies and regulation

with those of the EU. This draft law addresses the exceptional cases where state aid can be given and defines the rules and regulations for implementing this state aid. With this draft law, a new authority to follow and evaluate the state aid will be established.

5.4.3. Local Finances

The public sector is the main source of funding of the EU and is the actual payer of the EU membership/fee. However, the public sector benefits from only a small part of the structural funds and other funding schemes, whereas the agricultural sector and subsidized industries receive most of the structural EU funds. Regional and local authorities need to provide and secure significant funding for modernizing their infrastructure and administration in line with EU law. Moreover, national, regional and local authorities need to supply additional funding to supplement the EU subsidies, which places even more strain on public finance.

For local and regional authorities, two directives, the 6th VAT Directive (91/680/EEC) and the consumer-tax system directive are significantly important for the local tax systems. These instruments prohibit the levying of similar charges or give only narrow leeway for such charges. “It is of great importance, that those municipal charges, where the slightest doubt exists about their compliance with Community Law, must be carefully checked not only with the negotiation representatives of the European Commission but also be incorporated in the Accession Treaty.”

European Monetary Union (EMU)

Member states can become members of the European Monetary Union (EMU) at the earliest after two years of their accession to the EU. This membership requires the fulfilment of the Maastricht Criteria, in order to ensure the stability of the Euro. New member states of the EU need a couple of years after the accession to adopt and fulfil these criteria.

Local and regional governments of those countries who are members of the EMU are also affected by the public deficit criteria and the conditions of the stability pact concerning public debt, also by the requirements for the introduction of the Euro. Budgets of local and regional authorities are compromised within the term “public deficit”, which means if the public deficit is to be reduced, local and regional budgets will be affected as well.

In order to understand the current situation on local finances and national regulations and implementations in Turkey, please refer to “Local Revenues: The inexistence of local tax payer” under the Municipalities section in this publication.

5.4.4. Environmental Policy

Maintaining sustainability, which means taking into account the present needs without jeopardizing the natural resources of future generations and putting together a more sustainable model of economic and social development are the main ambitions that the European Union aims to achieve through its environmental policy. This policy area has been underlined in Article 174 of the Treaty of Amsterdam.

Effective implementation of the policy is the key to maintaining sustainability, although it is one of the most complex and expensive tasks Member states have to face. Regional and local authorities, along with other institutions responsible for monitoring, issuing of permits and inspection, play a key role for the implementation and enforcement of environmental legislation. The work of these bodies is seriously affected when new legislations with additional obligations are issued.

Most of these institutions lack the necessary knowledge surrounding environmental EU legislation, which results mainly from inadequate and weak communication structures and the national governments’ lack of ability to transfer the necessary information to local governments. The Commission’s opinions have stressed the necessity to strengthen the national and local administrative capacity for environmental management, specifically in countries that might be joining the EU in the future. These countries should overcome specific problems like a lack of appropriate resources, lack of staff, poor targeting of information, lack of responsibility of local authorities in these fields and low overall attention to the issue.

As mentioned above, the environment is among the most protected areas by European legislation and regulated by a number of about 200 European laws. During 2005 and 2006 thematic strategies covering seven areas developed and Sixth Environment Action Programme (Decision No 1600/2002/EC) were adopted, targeting the setup of integrated environmental policy. The thematic strategy areas are:

- Air Pollution (adopted 21/09/2005);
- Prevention and Recycling of Waste (adopted 21/12/2005);
- Protection and Conservation of the Marine Environment (adopted 24/10/2005);
- Sustainable use of Pesticides (adopted 12/07/2006);
- Soil (adopted 22/09/2006);
- Sustainable Use of Resources (adopted 21/12/2005);
- Urban Environment (adopted 11/01/2006).

Environmental policy of the European Union is very wide and complex. It regulates all the detailed rules and standards for protection of overall environment components including land, water and air.

In Turkey, the environment was taken into the official agenda of the government in 1978 with the establishment of the Ministry of Environment. The first law, related to the environment was enacted in 1985 and it was amended in 2006 to meet EU requirements and is in line with the *acquis*. After 2004, when Turkey started negotiations for EU membership, the Ministry of Environment adopted several regulations, by-laws and directives on environmental topics, in order to incorporate national law with the *acquis communautaire*. In the meantime, regional environmental laboratories were established and local committees for environmental control were established with the participation of local administrations, the public sector, universities and related NGO representatives. Environmental statistics have been published since 2008, according to EU statistical categorization, both at national and provincial levels.

Although harmonization of Turkish legislation with the EU *acquis* on environmental issues is almost finished, there are some shortcomings on the implementation process that remain. The problems on implementation may be overcome through the active participation of civil society organizations and environmental groups and also by their demands for information. As well, the attention of the media on environmental issues and problems would benefit this process.

Local governments are also focusing on environmental problems and working towards their solutions. Each municipality in Turkey established Environment Departments, responsible for information gathering, monitoring and control of implementations on related topics. Regional municipal unions are implementing constant trainings for municipal personnel and building

capacities on environmental issues.

In the following section, specific areas of environmental protection that are significantly important for the functioning of local authorities are addressed. Each part contains an update on the current status of Turkish legislation on related topics.

Waste Management

As part of the 6th Environmental Action Plan, the European Commission proposed a new strategy on the prevention and recycling of waste. This strategy aims to avoid waste and use it as a resource. The Waste Framework Directive sets the overall structure for an effective waste management together with the Hazardous Waste Directive and Regulation on the shipment of waste.

The following documents of the EU are significantly important for local authorities with respect to waste:

Waste Framework Directive (2006/12/EC)

The directive aims to eliminate the negative effects of the collection, transport, treatment and disposal of waste, in order to protect human health and the environment. It works with a set of principles:

- Prevention: waste production must be reduced and avoided where possible
- Recycling and Re-use should be promoted (as many of the materials as possible should be recovered)
- Polluter pays: those who generate waste pay the full cost of their actions
- Precautionary: rather than waiting for problems to appear, they need to be anticipated
- Proximity: waste should be dealt with as close as possible to where it is produced

Hazardous Waste Directive (91/689/EEC)

This directive lists hazardous wastes, constitutes and properties that render hazardous waste. It also aims to achieve a common definition of hazardous waste and introduce harmonization of its management.

Regulations in Turkey:

Hazardous waste control by-law 28.09.2004

Medical waste control by-law 22.07.2005

Hazardous waste in and around water control by-law 26.11.2005

Waste Shipment Regulation (1013/2006/EC)

Procedures and control systems of waste shipment within, into and out of the EU are established by the Waste Shipment Regulation. EU Members must appoint certain authorities to control the waste movement under the regulation.

Regulation in Turkey:

The control by- law of hazardous material production, marketing and shipment 26.12.2008

Special wastes

Directive on Waste Electrical and Electronic Equipment (2002/96/EC amended by Directive 2003/108/EC)

The first priority of this directive is preventing electrical and electronic waste (WEEE). It also focuses on recycling and recovery of wastes in order to reduce the disposal of waste.

Packaging and Packaging Waste (94/62/EC)

This directive prescribes recycling for packaging waste as well as material recycling quotas (25-45% in weight, at least 15% for each material). This presupposes organizing the separate collection and recycling of this waste, which has to be organized by local authorities. Local governments also need to pay for it.

Regulation in Turkey:

Packing waste control by-law 26.06.2007

Disposal of Waste Oils (75/439/EEC)

This directive aims to harmonize the collection, treatment, storage and disposal of waste oils. Member States are responsible for the safe collection and disposal of waste oils.

Regulation in Turkey:

Waste oils control by-law 25.01.2004

Disposal of waste oil used in ship control by-law 16.12.2004

Vegetable waste oils control by-Law 19.04.2005

Disposal of PCB's and PCT's (96/59/EC)

This directive is aimed at the elimination of PCB's and PCT's and the decontamination of equipment containing them. In order to ensure the enforcement of the requirements of this directive, strict regulations and enforcing instruments have to be created or strengthened.

Batteries and Accumulators and Waste Batteries and Accumulators (Directive 2006/66/EC Repealing Directive 91/157/EEC and amended by Directive 2008/12/EC)

Member States are responsible to ensure that the batteries and accumulators that have been collected are treated and recycled using the best available techniques. Recycling must exclude energy recovery. On the other hand, collection rates of at least 25 per cent and 45 per cent have to be reached by 26th September 2012 and 26th September 2016 respectively.

Regulation in Turkey:

Waste batteries and accumulators control by-law 31.08.2004

Sewage Sludge used in Agriculture (86/278/EEC)

The directive controls the use of sewage sludge in agriculture. It establishes maximum limit values for concentrations of heavy metals in the soil and in the sludge, and maximum quantities of heavy metal (cadmium, copper, nickel, lead, zinc and mercury) which may be added to the soil. In order to achieve the aims of this directive, the authorities responsible for water treatment, waste management, agriculture and enforcement need to work together.

Regulation in Turkey:

Sewage sludge used in agriculture control by-law 04.08.2010

Processing and disposal facilities

Incineration of Waste (2000/76/EC)

This directive aims to prevent or to limit as far as practicable, negative effects on the environment, in particular pollution by emissions into air, soil, surface water and groundwater, and the resulting risks to human health, from the incineration and co-incineration of waste. This aim shall be met by means of stringent operational conditions and technical requirements, through setting emission limit values for waste incineration and co-incineration plants within the Community and also through meeting the requirements of Directive 75/442/EEC.

Directive 89/429/EEC (Emission limit values of existing municipal waste incineration plants) and Directive 89/369/EEC End-of-life Vehicles (2000/53/EC)

This directive lays down measures for the prevention of waste from vehicles and recycling and other forms of recovery of end-of-life vehicles and their components. It aims to reduce the disposal of waste, as well as the improvement in the environmental performance of all the economic operators involved in the life cycle of vehicles.

Landfill Directive (99/31/EC)

The Landfill directive aims to prevent or reduce the adverse effects of the landfill of waste on the environment, in particular on surface water, groundwater, soil, air and human health. It defines the different categories of waste: municipal waste, hazardous waste, non-hazardous waste and inert waste. A standard waste acceptance procedure is laid down in order to avoid any risks:

- waste must be treated before being land-filled
- hazardous waste within the meaning of the directive must be assigned to a hazardous waste landfill
- landfills for non-hazardous waste must be used for municipal waste and for non-hazardous waste
- landfill sites for inert waste must be used only for inert waste

Regulation on Waste Statistics (2150/2002/EC)

This Regulation establishes a framework for the production of community statistics on the generation, recovery and disposal of waste.

Water Quality

EU environmental legislation regulates the field of water policy very comprehensively. The main community legislation regarding water policy are as follows:

Directive 2000/60/EC (framework directive for community action in the field of water policy)

This is a comprehensive framework directive on water management, which combines emission and immission standards with an ecological orientation (biological water quality). This directive provides cost-coverage prices for all forms of water use, including drinking water supply and wastewater.

Member states are responsible for ensuring that services to water users are paid at full cost recovery prices (basically prices for water supply and waste water collection and treatment).

The programme of measures will have to be based on all relevant water-related legislation, be it community, national, regional or local legislation and will have to be legally binding.

Regulation in Turkey:

Water pollution Control by-law 13.02.2008

Groundwater Directive (2006/118/EC)

This directive sets the standards of underwater quality and introduces measures to prevent or limit inputs of pollutants into groundwater to allow environmental goals to be achieved by 2015.

Drinking water Directive (98/83/EC)

The main aim of this directive is to protect the quality of drinking water throughout the EU. Member States are obliged to supervise the quality of water and after a period of three years, to report to the Commission on the quality of drinking water. They are also responsible for informing consumers on the quality as compliant with EU standards.

Regulations in Turkey:

The control by-law of fresh water provided surface waters 20.11.2005

The control by-law of spring waters 10.2.2002

Directive on the quality of fresh waters needing protection or improvement in order to support fish life (2006/44EC) seeks to protect and/or improve those fresh water bodies identified by Member States as waters containing fish.

Regulation in Turkey:

The control by-law on water areas for fish and birds. 17.05.2005

Urban Waste Water Directive (91/271/EEC)

This directive aims to protect surface inland waters and coastal waters by regulating collection and treatment of urban wastewater and discharge of certain biodegradable industrial wastewater (primarily from the agro-food industry).

In cooperation with their national governments, cities and regions need to:

- identify agglomerations, which require a sewerage system and/or a treatment plant or improvement for water
- establish a phased implementation programme for sewerage and treatment systems
- develop detailed capital investment strategies in order to cope with the expenditures needed to construct, improve or replace sewerage and/or treatment systems
- assess costs for users, develop strategies for cost recovery (cf. also Water Framework Directive on full cost recovery)
- develop and implement strategies for the reuse and/or disposal of sewage sludge from waste water treatment, including where necessary the phasing out of discharge or dumping into water bodies
- assess the need for training the necessary staff for maintenance of sewerage systems and treatment plants.

There are exceptions regarding the application of this directive from member states that joined the EU on the 1st of May 2004 and on the 1st of January 2007. There are specific conditions that are addressed by the Union.

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| Regulation in Turkey: |
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| Urban Wastewater control by-law 08.01.2006 |
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Assessment and management of flood risks (Directive 2007/60/EC)

The main aim of this directive is to establish a common framework for assessing and reducing the risk that floods pose to human health, the environment, property and economic activity within the EU. It covers all types of floods, both along rivers and in coastal areas. There are also other risks, such as urban floods and sewer floods, which must also be taken into account.

Member states must carry out a preliminary assessment of risks for each river basin district or part of a district located in their territory by the 22nd December, 2011 at the latest.

Air Quality

Within the Sixth Environmental Action Programme, new efforts regarding air pollution are considered necessary. The main goal is to achieve a level of air quality that does not give rise to unacceptable impacts on/ and risk to human health and the environment.

The “Clean air for Europe” programme was launched by the commission in 2001. This programme aims to develop a long-term strategy to protect human health and the environment from significant negative effects of air pollution. It establishes objectives for air pollution and proposes measures for achieving them by 2020: modernizing the existing legislation, placing the emphasis on the most harmful pollutants

Directive 96/62/EC on ambient air quality assessment and management, known as the Air Quality Framework Directive, aims to set the basic principles of a common strategy.

New Air quality directive (2008/50/EC)

This directive on air quality and cleaner air for Europe is one of the key measures outlined in the 2005 Thematic Strategy on air pollution. It establishes ambitious, cost-effective targets for improving human health and environmental quality up to 2020.

Regulations in Turkey:

Monitoring air quality control bylaw 05.05.2009

The control by-law of emissions from heating 13.1.2005

Directive 2001/81/EC (National emission ceilings)

The aim of this directive is to limit emissions of acidifying and eutrophying pollutants and ozone precursors in order to improve the protection of the environment and human health against risks of adverse effects from acidification, soil eutrophication and ground-level ozone.

It also aims to establish national emission ceilings, taking the years 2010 and 2020 as benchmarks and means of successive reviews for effective protection of all people against recognized health risks from air pollution.

Directive 2001/80/EC (Emissions from large combustion plants)

This directive applies to combustion plants, the rated thermal input of which is equal to or greater than 50 MW, irrespective of the type of fuel used (solid, liquid or gaseous).

Regulation in Turkey:

The control by-law of emissions from large combustion plants 22.07.2006

Environmental Noise

Directive 2002/49/EC (Assessment and management of environmental noise)

Directive 2002/49/EC is focused on environmental noise to which humans are exposed. It applies to areas near schools, hospitals and other noise-sensitive buildings and areas. Member States are responsible to designate competent authorities for assessing environmental noise and approving noise maps and action plans for agglomerations, major roads, major rail-ways and airports.

Soil Protection

The European Commission published a communication named “Towards a thematic strategy for soil protection” [COM (2002) 179 final]. This communication published in response to concerns about the degradation of soil in the EU.

Regulations in Turkey:

The control by law of soil pollution 08.06.2008

Regaining of mine areas for reuse of soil bylaw 23.01.2010

Urban Environment

The Thematic Strategy on the Urban Environment, adapted by the Commission, is one of the seven thematic strategies of the **Sixth Environment Action Programme**.

The main measures proposed in the strategy are as follows:

- publication of guidelines for the integration of environmental issues into urban policies

- publication of guidelines for sustainable urban transport plans
- support for the exchange of best practices, e.g. through the sharing of information, the development of demonstration projects funded by LIFE+, and the establishment of a network of national focal points
- broadening the range of information for local authorities via the Internet and of training on urban management issues for people working in regional and local government
- drawing on community support programmes in the context of cohesion policy or research

5.4.5. European Labour Legislation

The European Union adopts legislation that defines the rights and obligations of workers and employers in the workplace. At the EU level, labour laws outline the minimum requirements in the fields of work and employment conditions and the information and consultation of workers, including in the event of collective redundancies and transfers of undertakings. The member states, as well as candidate countries, incorporate these laws into their national laws and then implement them. They guarantee to secure a similar level of protection of rights and obligations throughout their country.

The EU labour legislation and regulations have a significant impact on local authorities in their function as an employer. Local governments are also important employers in regards to their administration duties and the implementation of services under their responsibility. Hereunder, two directives that are significant for local governments will be addressed, without focusing on the entirety of European labour law.

Directive on working time (Directive 2003/88/EC):

In order to protect workers' health and safety, this Directive regulates, among other items, the annual, daily and weekly rest periods, maximum weekly working time, annual leave and night work. Under the EU's Working Time Directive (2003/88/EC), each Member State must ensure that every worker is entitled to:

- a limit to weekly working time, which must not exceed 48 hours on average, including any overtime

- a minimum daily rest period, of 11 consecutive hours in every 24
- a rest break during working time, if the worker is on duty for longer than six hours
- a minimum weekly rest period of 24 uninterrupted hours for each seven-day period, which is added to the 11 hours daily rest
- paid annual leave of at least four weeks per year
- extra protection in the case of night work (for example, average working hours must not exceed eight hours per 24-hour period; night workers must not perform heavy or dangerous work for longer than eight hours in any 24-hour period; there should be a right to free health assessments and in certain situations, to transfer to day work)

One direct impact with the implementation of this directive may be the need to employ more people in local government entities in order to respect the rules concerning daily or weekly rest periods or maximum weekly working time.

Directive on working conditions (Directive 91/383/EEC):

The European Union defines minimum requirements for working conditions with several directives focused on different subject areas. One of them is the EU Directive (91/383/EEC) on Health and Safety in Fixed-Term and Temporary Employment. This directive ensures that fixed-term and temporary workers, who are more exposed to the risk of accidents at work and occupational diseases than other workers, have the same level of safety and health protection at work as other employees. With regard to local governments, the implementation of these Directives may require investments on enterprises providing public services like water supply, infrastructure, cleaning etc. in order to improve working conditions of the employees.

Unfortunately, Turkey has not shown much progress regarding the transposition of the acquis on labour law. The Turkey 2010 Progress Report states that the labour laws do not apply to certain sectors of the economy and little progress has been made in the area of health and safety at work. In this respect, EU-funded actions have increased the administrative capacity and awareness level on this issue.

5.4.6. Education

Education, training and youth is primarily the responsibility of member states. They organize their own education and training system and have their own programmes and policies. The role of the European Union is to contribute to the development of quality education and implement a vocational training policy that supports and supplements the actions of member states. It aims to expand the European dimension in education and the exchange of information on issues common to education systems in member states. In line with this, the EU implements programmes and activities to promote the cooperation and to stimulate mobility at European and international levels.

The Union has specific tools, which also aim to promote the recognition of skills and qualifications. Lifelong Learning is one of the European programmes for helping to develop the education and training sector across Europe, which aims to foster mutual understanding, the learning of foreign languages and the use of new technologies. The Lifelong Learning programme consists of the following sectoral programmes, which fund projects at different levels of education and training:

- **Comenius:** Pre-school and school education
- **Erasmus:** Higher education, higher vocational education and training
- Leonardo da Vinci: Vocational education and training other than at higher level
- **Grundtvig:** adult education
- **The Transversal programme:** Language learning, information and communication technologies, policy co-operation and dissemination and exploitation of project results are funded through this part
- **The Jean Monnet programme:** European university integration and support for certain key institutions and associations active in education at European level

Turkey is fully participating in the Community's Lifelong Learning and Youth in Action programmes (2007-13). In accordance with the objectives laid down, the programmes have been implemented throughout the country. Turkey established the National Agency (www.ua.gov.tr) with the purpose of familiarizing, coordinating and conducting the nation-wide EU Education and Youth Programmes. Beside selecting and evaluating the project that

will be funded, the agency also establishes cooperation on education and training among member countries and EU Commission.

Since the municipalities have been given some duties related to vocational training by the new Municipal code, they conduct courses for citizens to build their capacities and gain new skills. Accordingly, municipalities also benefit from these funds and some of the municipalities already developed projects through Life Long Learning.

Examples of projects implemented by municipalities under the Leonardo da Vinci Program:

- **LDV Mobility Project, Çorum Municipality:** The name of the project is “Municipality Infrastructure Techniques in EU standards”. This project implemented in coordination of Çorum Municipality and with the partnership of Turkey Technical Workers Foundation and Çorum Area Municipal Union. 12 technical representatives participated in a study visit to Belgium in order to analyse the infrastructure techniques of municipalities within the EU.
- **LDV Transfer of Innovation Project, Istanbul Metropolitan Municipality:** The project aims to develop the capacities of people working in sports, support the mobilization of sports people and create a platform for experience sharing between sportsmen from different countries.
- **LDV Partnership Project, Ordu Municipality:** “Public Administration Lifelong Learning” project aims to develop a common system, methodology and certification structure for trainings on public administration.

An example of a project implemented by municipalities under the Grundtvig Program:

- **Grundtvig Learning Partnership, Alanya Municipality:** This project called “New Approaches to Increase Intercultural Interaction” works in different social areas to enhance the interaction of citizens from eight partner countries.

5.4.7. Public Access and Data Protection

Public access to information, privacy and data protection are among the fundamental rights and the European Union has laid down a wide range of legislations to cover these rights. The rights are also essential elements to achieving good governance. The European Union adopted two regulations in 2001: *Data Protection Regulation* (EC) 45/2001 and *Public Access Regulation*

(EC) 1049/2001. These regulations oblige European institutions to respect the fundamental rights.

The Public Access regulation aims to foster access to all documents and supports the public access for any EU citizen, as well as for natural and legal persons having their registered office in a member state. The Data Protection regulation aims to protect personal data. As some tension can arise in some cases between these two regulations, the European Data Protection Supervisor (EDPS) published a paper to show that the rights must be seen as complementary to each other, rather than contrary. One of the essential parts of this paper relates to privacy and data protection. This Article 4 (1) (b) puts a number of expectations to the right to public access and states that: “The institutions shall refuse access to a document where disclosure would undermine the protection of [...] the privacy and integrity of the individual, in particular in accordance with Community legislation regarding the protection of personal data.”

In practice, the requirements of Article 4 (1) (b) impose three conditions, all of which have to be fulfilled for the exception to public access to apply:

1. The privacy of the data subject must be at stake
2. Public access must substantially affect the data subject
3. Public access is not allowed by the data protection legislation

Turkish Law on the right to information

The law concerning the right to information gives Turkish citizens and legal persons the right to access information from public institutions and professional organizations, which qualify as public institutions. Non-citizens and foreign corporations based in Turkey may also demand information from these institutions if their country allows Turkish citizens to demand information from their authorities. Public institutions are required to provide the information for applicants within 15 working days. This law aims to regulate the basis of the right to information according to the principles of equality, impartiality and openness and to set out the necessary procedures.

Since April 2004, when this law was brought into force, most public institutions established some sort of freedom of information unit and began to accept information requests from the public. They also developed online structures to accept requests through the internet.

Municipalities are among the public institutions that have made special arrangements to accept ‘right to information’ requests. Almost every municipality in Turkey has placed special “information buttons” on their main webpage accepting the requests online.

As mentioned, Turkey already realised the right of access to information, but the area concerning data protection and privacy has not been regulated with a specific law. However in order to prepare a solid foundation for special legal regulation, Turkey has accepted the right to information by adding new amendments to the Constitution. According to the amendment in this area under the heading ‘the right to privacy protection of individuals’, personal data protection is guaranteed by the constitution; all personal information and data may only be obtained with the individual’s permission or in certain legal circumstances.

Chapter 6: Gender Equality

Equality between women and men is recognized as a human right, an important condition for social justice and an indispensable and fundamental precondition for equality, development and peace. It is one of the fundamental principles that the European Union continuously supports. Policies and actions of the Union aim to foster equality between women and men and create a fully gender-equal society. The first European directives on gender equality were adapted in the late 1970s. These directives have encouraged recent trends such as the increased number of women in the labour market and better education and training being secured for women.

Despite positive developments and special efforts taken, gender gaps do remain in many social and economic areas, most prevalently in the labour market. Women continue to be over-represented in lower-paid sectors and are also under-represented in decision-making positions. In all probability, such inequalities cause excessive burdens to economic and social development within the EU. Currently, as a consequence of women's low participation in and/or access to the labour market, the potential in the economic market is under-utilized. The potential and capacity of women's participation ought to remain an essential subject in order to achieve sustainable and inclusive growth.

6.1. Administrative structures supporting gender equality

There are several institutions working with the objective of achieving equality between men and women in all aspects of social and economic life within the EU. Key institutions influencing EU policies are listed as following:

The European Commission:

- ***Equal Opportunities Unit:*** This unit is responsible for ensuring compliance with EU Directives on equal opportunities for women and men, as well as assisting with the implementation of the 'Community Framework Strategy on Gender Equality' policy.
- ***Commissioners Group on Equality:*** This group keeps an overview of equal opportunities shared between women and men at the European Commission level and

in particular, discusses the question of mainstreaming a gender perspective into all services offered and policies created.

- ***The Advisory Committee on Equal Opportunities:*** This committee, which is comprised of Member States' representatives, meets regularly to offer advice to the Commission on major policies that have an effect on women.

The Social Affairs Council of Ministers: This is a key body on the subject of equality. Very often, it has the final word on legislation and programmes related to the equality of women and men. National Ministers of Social Affairs are represented in this council.

European Parliament: The Parliament drafts reports on women's rights, organizes public hearings and defines budget priorities for women's programmes. The Committee on Women's Rights works in advancing gender equality issues within the European Parliament.

The European Women's Lobby: This is the largest umbrella organization of women's associations in the EU, which works on promoting women's rights and gender equality. EWL follows processes for changing EU Treaties, as well as all legislative proposals that have a gender aspect. It also lobbies the Commission and Parliament by taking a gender-related position on different legislative proposals.

The European Institute for Gender Equality: This institute is a European agency that supports Member states and European institutions to promote gender equality, fight discrimination based on sex and raise awareness on gender issues. To this end, the Institute collects and analyses comparable data on gender issues and develops methodological tools, particularly focused on integrating a gender dimension into all policy areas. The Agency also facilitates the exchange of best practices and dialogue among stakeholders and works to implement activities that help raise awareness among EU citizens.

6.2. European Union Legislation on Gender Equality

In the Treaty of Amsterdam, equal opportunities for women and men are set out as a fundamental aim of the European Union. The EU has adopted gender equality into its overall mainstream strategy. EU legislation on this subject has established a requirement that each Member State must have designated bodies for the promotion of gender equality.

In order to supplement the treaties, there are a number of supportive joint directives on gender equality:

- The Equal Treatment Directive establishes a prohibition on direct or indirect discrimination
- The Council Directive on equal pay for equal work and work of equal value
- The Council Directive on the burden of proof, in cases of discrimination based on sex, stipulates who has to prove what evidence in cases involving gender discrimination
- The Council Directive guarantees equal rights to social security
- The Council Directive on parental leave
- The Council Directive on the safety and health of pregnant workers at work, as well as workers who have recently given birth or who are breastfeeding
- The Council Directive on the application of the principle of equal treatment between men and women engaged in an activity. This directive also encompasses those engaged in agriculture, those who are self-employed, and also details on the protection of self-employed women during pregnancy and motherhood

Strategy for equality between women and men, 2010-2015

The new strategy for equality between women and men encompassing 2010-2015, was built on the previous 2006-2010 strategy; it presents the Commission's commitments for the next five years. The priorities are set out in the *Women's Charter* of the European Commission. There are five action areas of the Charter aiming to build a gender perspective into all policies of the Commission and thus promote equality. The five goals of this declaration are:

- equality in the labour market and equal economic independence for women and men, incorporated into the *Europe 2020* strategy
- equal pay for equal work and work of equal value by working with Member States to reduce the gender pay gap significantly over the next five years
- equality in decision-making through EU incentive measures

- dignity, integrity and an end to gender-based violence through a comprehensive policy framework
- gender equality beyond the EU by pursuing the issue in external relations and with international organizations

6.3. The Status of Women in Turkey

6.3.1. The Status of Women - A historical perspective

Towards the end of 19th century, the influence of women movements in the Western world and reform processes within the Ottoman Empire created the impetus for establishing women's organizations in Turkish society. During the later period of the Ottoman Empire, women were given opportunities to work as teachers, clerks and industrial workers. The establishment of the Turkish Republic in 1923 accelerated this change through significant support for the education of women and their participation in the public sphere or society. Several legal regulations and laws also supported women's status as equal partners within society at the onset of the new Republic. During the reform process, significant changes to laws affecting women's status were introduced. The laws were as follows:

- Unification of Education Law (Tevhid-i Tedrisat Kanunu) in 1924
- Civil Code in 1926
- Right to vote and stand for elections in Municipal Elections in 1930
- Right to vote and stand for elections 1934

These new laws provided a legal structure for the mitigation of unequal treatment of women under the law. Women achieved a new status in political life and moved from no political representation or participation to full suffrage and the right to candidacy. The new legal, political and institutional reforms of the republican era espoused the attainment of education, political and labour force participation for women in Turkey. However, despite the efforts and legal changes made in the early 1920's, full gender equality has not yet been attained in social and economic life within Turkey. Formal structures and laws providing the grounds for changes in society are in place, yet their existence and influence are not proving adequate in generating desired lifestyle changes among society. As a result, the participation of women in decision-making as well as in the labour market as equal partners has remained fairly limited. Thankfully, there have been some positive steps that have increased since the 1950s. Positive

psycho-social changes on the view of Turkish women's role in society and their participation in politics and the labour force, including the professions, has increased steadily, but unevenly.

Starting in the 1950s, several efforts were made to reform the Turkish Civil Code of 1926 to bring it up-to-date with modern views on women in Turkish society. The Ministry of Justice formed several commissions that prepared proposals for a comprehensive reform of the Civil Code. New amendments drastically changed the legal status of women in the family and society for their betterment and wellbeing. Aside from legal processes, significant institutional changes also enhanced gender equality in the society. The institutionalization process of equality between men and women within the state began with the establishment of the "Advisory Board on Policies Regarding Women" in 1987. By 2001, intensive lobbying and widespread campaigning of public institutions and civil movements had resulted in major reforms across all spectrums affecting women. In 2002, after several further institutional changes, the General Directorate on the Status of Women became permanently affiliated to the Prime Ministry of the Turkish government.

6.3.2. Legal Rights of Women in Turkey

It is clearly stated in numerous international convention and conferences that governments have a responsibility to incorporate gender equality into mainstream policy and programmes. The Turkish government has signed up to many of these and has a responsible governance role to play in supporting the matter. As previously stated, reform processes beginning in 2001 to improve the Turkish Civil Code allowed for significant steps to be taken in establishing gender equality in Turkey. The amendments made to several articles of the Constitution strengthened the principle of equality between women and men in Turkey.

Article 10 of the current constitution, placed within the section, 'General Provisions', deals with equality before the law. The second paragraph of Article 10, as amended in 2004, reads as follows: **"Men and women shall have equal rights. The State has the duty to ensure that this equality is put into practice."**

This paragraph is complemented with the following sentence in the last 2010 amendment: **"Measures taken for this purpose shall not be interpreted as contrary to the principle of equality."** As well, a new sentence has been added to the Article: "Measures taken for children, the elderly and disabled persons cannot be considered as contrary to the principle of equality"

The 41st article of the Constitution states that: “The family is the foundation of Turkish society and it is based on equality between the spouses.”

A new amendment to Article 90 of the Constitution has added the provision that international agreements shall be predicted in case of contradiction with domestic law. This grants a priority to the United Nations Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) over national regulations.

a. Turkish Civil Code

In 2002, the new Turkish Civil Code abolished the supremacy of men in marriage and thus established full equality of women and men in the family. Since the new Code, women and men now hold joint and equal responsibility for the family, which is defined as a union based on equal partnership. The new legal approach to the family changed the legislatively subordinate position of women in the family to an equal position in the family. Changes to highlight from the new amendments are as follows:

- The husband is no longer the head of the family; spouses are equal partners, jointly running the matrimonial union with equal decision-making powers
- Spouses have equal rights over the family abode
- Spouses have equal rights over property acquired during marriage
- Spouses have equal representative powers
- The concept of “illegitimate children,” which was used for children born out of wedlock, has been abolished; the custody of children born outside of marriage belongs to their mothers

b. Turkish Penal Code

The new Turkish Penal Code (2005) constitutes a major step towards equality between men and women, with a particular focus on protecting the sexual and bodily rights of women in Turkey. The amendments in the new Penal Code are as follows:

- Discrimination previously existing between woman and girls is eliminated
- Defaulting on responsibilities originating from family law is criminalized
- Sexual offences are regulated under the Crimes against Persons and sentences have been aggravated

- Sexual abuse of children and persons is criminalized and considered an aggravated offence in the case where the offence is perpetrated by parents, relatives, stepfathers, legal guardians, caretakers, teachers, and healthcare providers. With the aggravated penalty, guardianship and custody of the victim is revoked from the perpetrator in reference to her/his position
- Marriage of the perpetrator to the one who has been detained or abducted is not a mitigating circumstance and in such cases no postponement, reduction or annulment is possible regarding the punishment
- Perpetrators of custom and honour killings are sentenced to life imprisonment, which is the most severe form of punishment envisaged in the constitution

c. Protection of the Family

Back in January 1998, the Turkish Parliament ratified a new law against domestic violence. The Protection of the Family law was designed to eliminate all forms of violence, including physical, psychological, sexual and economic. The law aims to protect women who suffer from domestic violence by removing the perpetrator from the situation. According to this law:

- If domestic violence occurs, a request can be filed directly with the public prosecutor for a protection order against the offender
- The victim of violence does not have to file this request in person; a family member, a friend or a neighbour may file for her
- There is no need to go to the police or to police stations; the request is filed directly with the office of the public prosecutor
- This is not an application to prosecute the offender, but the lodging of a complaint and a request for protection
- Upon receiving the application, the judge immediately issues a protection order that removes the offender from the woman's vicinity (the home, workplace, etc.) for a period of six months. The offender is banned from approaching the woman's vicinity

6.3.3. Administrative structures for Women’s Rights

a. General Directorate on the Status of Women

Institutionalizing equality between men and women in Turkey began with the establishment of the “Advisory Board on Policies Regarding Women” under the State Planning Organization in 1987. Institutional structures have taken on several forms since 1987 with the General Directorate on the Status and Problems of Women being established in 1990. The Directorate develops policies and strategies and cooperates with all stakeholders to strengthen the position of women in all fields of social, economic, cultural and political life. The overall goal of the Directorate is to eliminate any forms of discrimination against women in Turkey. In order to work towards this, the Directorate implements various projects, such as:

- Combating Domestic Violence Against Women Project
- Promoting Gender Equality Twinning Project
- National Research on Domestic Violence against Women in Turkey

Established as a national mechanism in this field, the General Directorate attaches great importance to actions ensuring that the concept of gender equality is taken into consideration in the development of public policies and that the equal utilization of rights, opportunities and capacities have been provided.

b. The Committee on Equality of Opportunity for Women and Men in the Parliament

The Committee on Equality of Opportunity for Women and Men of the Grand National Assembly of Turkey was established in 2009. The main roles of the Committee to ensure equal opportunities for women and men are as follows:

- monitoring developments in Turkey and in the international arena concerning the protection and improvement of women’s rights
- informing the Grand National Assembly of Turkey about any developments
- debating issues referred to the Committee on promoting equality between women and men
- if asked for, submitting opinions to main committees on bills and decrees having the force of law, submitted to the Grand National Assembly of Turkey

After the establishment of this commission within the Grand National Assembly of Turkey, some municipalities established their own gender equality commissions at the local level.

Following that development, a draft law on the establishment of local gender equality commissions was prepared by the Prime Ministry and sent to the parliament for ratification. This draft law is currently under discussion in the Grand National Assembly.

c. Turkey's National Action Plan for 2008-2013

The General Directorate on the Status of Women prepared “The National Action Plan for Gender Equality,” covering the 2008-2013 period, with the aim of mainstreaming gender equality into public policies and strengthening the socio-economic status of women in Turkey. The document defines objectives and implementation strategies to promote equality between men and women in all aspects of their lives. It forms a base for development and implementation of public policies regarding gender equality. This document has many parallel objectives with the EU’s “Strategy for equality between women and men 2010-2015” policy document.

Strategy topics covered in the National Plan are: Women and Education, Women and Economy, Women and Poverty, Women and Health, Women and Power and Decision-making Processes, Women and Environment, Women and Media, and Institutional Mechanisms for the Advancement of Women.

The document determines which institutions and agencies are to be responsible for implementing each strategy. This National plan is expected to be an important instrument for the elimination of gender inequalities within Turkey.

6.3.4. Women in Local Government

There are two problem areas with respect to the position of women in the local government system. One is the problem of political participation; the other is the lack of gender perspectives in municipal management. However, there have been some positive developments in solving these problem areas in the last decade with the help of the on-going EU harmonization process.

Firstly, a new amendment to the constitution related to gender equality, adopted in November 2010, has ushered in a new concept of positive discrimination for women. The issue of

increasing political representation of women at the local level has been put in the agenda of constitutional debates. Civil society, women groups and academics conducted activities and discuss the topic.

The second positive development related to promotion of gender considerations in decision-making process at the city level, so that local governments are gaining a better gender perspective in their functions, programmes and work. In this area, women assemblies have already begun to play very promising, positive roles.

Women's Assemblies

After the Second Habitat Conference was held in Istanbul in 1996, and the following initial years of implementing LA-21 in Turkey, a considerable debate was taken up in many cities as to whether the establishment of separate platforms for women would be necessary or appropriate. In parallel with the progress and advancements of LA-21 processes, the need for a separate organisational setup for women also started to emerge, particularly for promoting the active participation of women in decision-making processes and in all aspects of urban life. Women's platforms rapidly began to be sporadically established in LA-21 cities. After the establishment of the Citizens Assemblies, which became compulsory for all the municipalities through the local government reform, these women's platforms evolved into Women's Assemblies that sought to reach out to all organized and unaffiliated women in the cities.

The rather limited representation of women in the elected city councils had a significant impact in accelerating this transformation. Mirroring the feeble representation base of women at the national level, the number of women amongst members of city councils was notably low. Women's Assemblies, having a significant function in bridging this gap, not only enabled a strong representation of women within the Citizens' Assemblies, but also served as a continuous force in bringing priority gender issues to the agenda in the management of the city.

Functions of the Women's Assembly

The Women's Assemblies, while focusing on active participation of women in decision-making processes and in all aspects of urban life, also seek to establish a collaborative network amongst organized as well as unorganized women to strengthen communication and interactions, while sharing information and experiences. As a general framework, the Women's Assembly has multi-faceted objectives and pertinent functions, such as the enablement of women's participation in all aspects of local governance, awareness-raising on gender issues, and integrating gender perspectives into policy-making. It strives for developing women's sense of participation and ownership in local affairs, as well as building solidarity against all forms of discrimination and violence encountered by women. The Assembly looks for solutions to the problems and supports proposals and projects directed at this aim, with a focus on the needs and aspirations of women. It actively promotes the participation of women in the realization of these proposals and projects.

Who are the members of the Women's Assembly?

In general, a very simple answer is that all women in the city may become a member of a Women's Assembly. Affiliated and non-affiliated women in the city have the right to participate in these Assemblies, either individually or through institutional representation. Some examples of institutions that participate are, relevant Professional Chambers, public institutions concerned with women-related issues, women-related cooperatives, clubs, foundations, associations and women centres at universities.

Collaboration and Solidarity Networks of Women's Assemblies

At the turn of the century, Women's Assemblies have taken significant steps toward the establishment of a nation-wide network to augment collaboration and solidarity, and exchange information and experiences amongst themselves.

The joint committee established by representatives of the Women's Assemblies has decided to organize a nation-wide "Women's Activities Festival" each year, to serve as a springboard for strengthening their network. In subsequent years, the festivals were transformed into summits to enable the women's movement to focus more on pressing issues, rather than an over-

emphasis on festival events and social programs. In this context, the first “Women’s Summit” was held in Ürgüp in 2006, with the theme, “Women and Politics”.

Built upon local networks constituted by the Women’s Assemblies, the nation-wide collaboration and solidarity networks can be seen as playing a crucial role in the development of local capacity building and in this respect, the ‘enablement’ of women for strengthening democratic local governance.

The Influence of Women Assemblies

The Women Assemblies accelerated the women’s movement all across Turkey, both at the national and local levels. Both the functions and strategies of municipalities have been significantly affected by this movement, including the following key areas:

- A woman’s perspective has been introduced to municipal policies throughout Turkey
- Gender equality has become a part of local and national policy agendas
- The issues faced by women have started to influence municipal strategic plans
- Gender-equality units and gender-equality commissions have been established in some municipalities
- In some pilot municipalities, a gender budgeting concept has been introduced within the budgeting process

Parallel to these developments in municipalities, the Union of Municipalities in Turkey and many regional municipal unions have also started to take action on gender issues. UMT started to develop programs on gender equality in 2007 and conducted several meetings with relevant stakeholders on gender issues. UMT gives significant importance to develop partnerships with specialized agencies and institutions in order to implement quality programs on that topic. The Union of Municipalities mainly focuses on three areas of gender issues and implements activities regarding women’s shelters, the 3R method and training programs for supporting local female politicians. Parallel to these areas, UMT currently implements a project called TUSENET in partnership with the Swedish Association of Local Authorities and Regions (SALAR).

Chapter 7: Directory

Contact information of relevant EU institutions and useful web sites is provided below for further reading and reference.

7.1. Policy Areas of the European Union

The EU is active in a wide range of policy areas, from human rights to transport and trade. By visiting the following link you can find a summary of what the EU does in each area and find useful links to relevant EU bodies, laws and documents.

http://europa.eu/pol/index_en.htm

The main policy areas of the EU are listed under the following headings:

Agriculture; Audiovisual and media; Budget; Competition; Consumers; Culture Customs; Development; Economic and monetary affairs; Education, training, youth; Employment and social affairs; Energy; Enlargement; Enterprise; Environment; External relations; External trade; Fight against fraud; Food safety; Foreign and security policy; Humanitarian aid; Human rights; Information society; Institutional affairs; Internal market; Justice, freedom and security; Maritime affairs and fisheries; Public health; Regional policy; Research and innovation; Taxation; Transport

7.2. Agencies of the European Union

- Agency for the Cooperation of Energy Regulators (at planning stage) (ACER)
 - http://ec.europa.eu/energy/gas_electricity/acer/acer_en.htm
- Community Fisheries Control Agency (CFCA)
 - http://europa.eu/agencies/community_agencies/cfca/index_en.htm
- Community Plant Variety Office (CPVO)
 - http://europa.eu/agencies/community_agencies/cpvo/index_en.htm
- European Agency for Safety and Health at Work (EU-OSHA)
 - http://europa.eu/agencies/community_agencies/osha/index_en.htm

- European Agency for the Management of Operational Cooperation at the External Borders (FRONTEX)
 - http://europa.eu/agencies/community_agencies/frontex/index_en.htm
- European Aviation Safety Agency (EASA)
 - http://europa.eu/agencies/community_agencies/easa/index_en.htm
- European Centre for Disease Prevention and Control (ECDC)
 - http://europa.eu/agencies/community_agencies/ecdc/index_en.htm
- European Centre for the Development of Vocational Training (Cedefop)
 - http://europa.eu/agencies/community_agencies/cedefop/index_en.htm
- European Chemicals Agency (ECHA)
 - http://europa.eu/agencies/community_agencies/echa/index_en.htm
- European Environment Agency (EEA)
 - http://europa.eu/agencies/community_agencies/eea/index_en.htm
- European Food Safety Authority (EFSA)
 - http://europa.eu/agencies/community_agencies/efsa/index_en.htm
- European Foundation for the Improvement of Living and Working Conditions (EUROFOUND)
 - http://europa.eu/agencies/community_agencies/eurofound/index_en.htm
- European Institute for Gender Equality (EIGE)
 - http://europa.eu/agencies/community_agencies/eige/index_en.htm
- European Maritime Safety Agency (EMSA)
 - http://europa.eu/agencies/community_agencies/emsas/index_en.htm
- European Medicines Agency (EMA)
 - http://europa.eu/agencies/community_agencies/ema/index_en.htm
- European Monitoring Centre for Drugs and Drug Addiction (EMCDDA)
 - http://europa.eu/agencies/community_agencies/emcdda/index_en.htm
- European Network and Information Security Agency (ENISA)
 - http://europa.eu/agencies/community_agencies/enisa/index_en.htm
- European Railway Agency – promoting safe and compatible rail systems (ERA)
 - http://europa.eu/agencies/community_agencies/era/index_en.htm
- European Training Foundation (ETF)
 - http://europa.eu/agencies/community_agencies/etf/index_en.htm
- European Union Agency for Fundamental Rights (FRA)

- http://europa.eu/agencies/community_agencies/fra/index_en.htm
- Office for Harmonization in the Internal Market (OHIM)
 - http://europa.eu/agencies/community_agencies/ohim/index_en.htm
- The European GNSS Supervisory Authority (GSA)
 - http://europa.eu/agencies/community_agencies/egsa/index_en.htm
- Translation Centre for the Bodies of the European Union (CDT)
 - http://europa.eu/agencies/community_agencies/cdt/index_en.htm

7.3. The European Union Grants

The Commission makes direct financial contributions in the form of grants in support of projects or organisations which further the interests of the EU or contribute to the implementation of an EU programme or policy. Interested parties can apply by responding to calls for proposals. For detailed information about different funding opportunities please visit the following web site:

http://ec.europa.eu/contracts_grants/grants_en.htm

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Online Resources

- CLRAE: http://www.coe.int/t/congress/presentation/default_en.asp?mytabsmenu=1
- CEMR: http://www.ccre.org/presentation_en.htm
- Committee of Regions: <http://www.cor.europa.eu>
- Delegation of European Union to Turkey:
http://www.avrupa.info.tr/AB_Mali_Destegi/2007_Sonrasi.html?LanguageID=2
- Directorate General on the Status of Woman in Turkey:
<http://www.ksgm.gov.tr/en/legalrights.php>
- Economic Development Foundation in Turkey: <http://www.ikv.org.tr>
- ENTO: <http://www.ento.org/portal/index.php/en/network-presentation-whatisento-27>
- EU Institutional Reform: http://europa.eu/institutional_reform/index_en.htm
- EU Progress Reports on Turkey1998–2008:
http://ec.europa.eu/enlargement/candidate-countries/turkey/key_documents_en.htm

- EU Regional Policy:
http://ec.europa.eu/dgs/regional_policy/index_en.htm
- EU White Paper on Governance:
http://ec.europa.eu/governance/white_paper/index_en.htm
- Eurocities- <http://www.eurocities.eu/main.php>
- Instrument for Pre-Accession Assistance:
http://ec.europa.eu/regional_policy/funds/ipa/index_en.htm
- Public Procurement:
http://europa.eu/legislation_summaries/internal_market/businesses/public_procurement/index_en.htm
- Secretariat General for EU Affairs in Turkey: <http://www.abgs.gov.tr>
- State Aid Rules:
<http://webarchive.nationalarchives.gov.uk/+/berr.gov.uk/whatwedo/businesslaw/state-aid/rules/index.html>
- Structural Fund Regulations 2007-2013:
http://ec.europa.eu/regional_policy/sources/docoffic/official/regulation/newregl0713_en.htm
- The Committee on Equality of Opportunity for Women and Men of the Grand National Assembly of Turkey: <http://www.tbmm.gov.tr/komisyon/kefe/index.htm>
- The Congress of Local and Regional Authorities of the Council of Europe:
<http://ec.europa.eu/social/main.jsp?catId=706&langId=en&intPageId=205>
- The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW):<http://www.un.org/womenwatch/daw/cedaw/>
- Turkey Financial Assistance:
http://ec.europa.eu/enlargement/candidate-countries/turkey/financial-assistance/index_en.htm

- Women for Women's Human Rights: http://www.wwhr.org/law_no_4320.php

Annex 1: Notes for Turkish Reader

In this section some critical concepts of EU from accession criteria to screening process have been given as additional information for Turkish leaders.

Accession criteria (Copenhagen criteria)

Any country seeking membership of the European Union (EU) must conform to the conditions set out by Article 49 and the principles laid down in Article 6(1) of the Treaty on European Union. Relevant criteria were established by the Copenhagen European Council in 1993 and strengthened by the Madrid European Council in 1995.

To join the EU, a new Member State must meet three criteria:

- political: stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities;
- economic: existence of a functioning market economy and the capacity to cope with competitive pressure and market forces within the Union;
- acceptance of the Community *acquis*: ability to take on the obligations of membership, including adherence to the aims of political, economic and monetary union.

For the European Council to decide to open negotiations, the political criterion must be satisfied.

Any country that wishes to join the Union must meet the accession criteria. The pre-accession strategy and accession negotiations provide the necessary framework and instruments

Accession negotiations

Accession negotiations are vital for monitoring and helping candidate countries to prepare for accession and for assessing how ready they are. Each country is judged on its own merits from the point of view of compliance with the accession criteria. Negotiations help candidate countries to prepare to fulfil the obligations of European Union membership. They also allow the Union to prepare itself for enlargement in terms of absorption capacity.

Negotiations relate to the adoption and implementation of the Community acquis, which is monitored by the Commission. The acquis is divided into chapters, and there are as many chapters as areas in which progress must be made. These areas are identified by screening the acquis. The Technical Assistance and Information Exchange programme (TAIEX) plays a part here. Each chapter is negotiated individually, and measurable reference criteria are defined for the opening and closing of each chapter.

Negotiations take place at bilateral intergovernmental conferences between the Member States and the candidate country. Common negotiating positions are defined for each of the chapters relating to matters of Community competence.

The results of the negotiations (with the outcome of political and economic dialogues) are incorporated into a draft accession treaty, once the negotiations on all chapters are closed. Where appropriate, the system of transitional measures allows negotiations to be concluded even if transposal of the acquis has not been completed

Accession partnership

Accession partnerships are a pre-accession strategy instrument which determines the candidate countries' particular needs on which pre-accession assistance should be targeted and provides a framework for:

- the short and medium-term priorities, objectives and conditions determined for each candidate country on the basis of the accession criteria (Copenhagen criteria) in accordance with the Commission's opinion on its membership application;
- pre-accession assistance.

An accession partnership is established for each candidate country to provide guidance and encouragement during preparations for membership. To this end, each candidate country draws up a National Programme for the Adoption of the Acquis (NPAA), which sets out a timetable for putting the partnership into effect. Each candidate country also draws up an action plan for strengthening its administrative and judicial capacities.

The accession partnership may also be revised in the light of new developments, especially any new priorities identified during the pre-accession process.

Candidate countries

Candidate country status is conferred by the European Council on the basis of an opinion from the European Commission, drawn up following an application for membership by the country concerned.

However, candidate country status does not give a right to join the Union automatically. The Commission scrutinises the application in the light of the accession criteria (Copenhagen

criteria), while the accession process starts with the European Council decision to open accession negotiations.

Depending on their circumstances, candidate countries may be required to institute a reform process in order to bring their legislation into line with the Community *acquis* and to strengthen their infrastructure and administration if necessary. The accession process is based on the pre-accession strategy, which provides instruments such as financial aid.

Accession depends on the progress made by the candidate countries, which is regularly assessed and monitored by the Commission.

Community acquis

The Community *acquis* is the body of common rights and obligations which bind all the Member States together within the European Union. It is constantly evolving and comprises:

- the content, principles and political objectives of the Treaties;
- the legislation adopted in application of the treaties and the case law of the Court of Justice;
- the declarations and resolutions adopted by the Union;
- measures relating to the common foreign and security policy;
- measures relating to justice and home affairs;
- international agreements concluded by the Community and those concluded by the Member States between themselves in the field of the Union's activities.

Thus the Community *acquis* comprises not only Community law in the strict sense, but also all acts adopted under the second and third pillars of the European Union and the common objectives laid down in the Treaties. The Union has committed itself to maintaining the Community *acquis* in its entirety and developing it further. Applicant countries have to accept the Community *acquis* before they can join the Union. Derogations from the *acquis* are granted only in exceptional circumstances and are limited in scope. To integrate into the European Union, applicant countries will have to transpose the *acquis* into their national legislation and implement it from the moment of their accession.

Community law

Strictly speaking, Community law consists of the founding Treaties (primary legislation) and the provisions of instruments enacted by the Community institutions by virtue of them (secondary legislation - regulations, directives, etc.). Once the European Constitution has been adopted, it will replace the current set of founding Treaties. Primary Community law will consist of the Constitution and its Protocols - including the Charter of Fundamental Rights, which is incorporated in it - and the Euratom Treaty.

In a broader sense, Community law encompasses all the rules of the Community legal order, including general principles of law, the case law of the Court of Justice, law flowing from the Community's external relations and supplementary law contained in conventions and similar agreements concluded between the Member States to give effect to Treaty provisions.

All these rules of law form part of what is known as the Community *acquis*.

Community legal instruments

The term Community legal instruments refers to the instruments available to the Community institutions to carry out their tasks under the Treaty establishing the European Community with due respect for the subsidiarity principle. They are:

- regulations: these are binding in their entirety and directly applicable in all Member States;
- directives: these bind the Member States as to the results to be achieved; they have to be transposed into the national legal framework and thus leave margin for manoeuvre as to the form and means of implementation;
- decisions: these are fully binding on those to whom they are addressed;
- recommendations and opinions: these are non-binding, declaratory instruments.

In addition to these instruments listed in Article 249 of the EC Treaty, practice has led to the development of a whole series of *sui generis* documents: interinstitutional agreements, resolutions, conclusions, communications, green papers and white papers.

Moreover, under the second and third pillars, specific legal instruments are used, such as strategies, joint action and common positions in the area of the CFSP, and decisions, framework decisions, joint positions and conventions in the area of JHA.

Hierarchy of Community acts (hierarchy of norms)

A declaration annexed to the Treaty on European Union states that it might be possible to review the classification of Community acts with a view to establishing an appropriate hierarchy between the different categories of act.

The main purpose of such a hierarchy would be to enable the law-making authority to concentrate on policy aspects of particular issues rather than on questions of detail. It would dictate the shape of the Community decision-making process by ensuring that instruments of constitutional status were subject to more restrictive procedures (such as adoption by unanimous vote, reinforced qualified majority, and assent) than legislative instruments, which are themselves subject to less flexible procedures (for example, the co-decision procedure) than implementing instruments (for instance, the institutionalised delegation of powers to the Commission).

The subject was addressed in 1990 in the early discussions on the possibility of incorporating the co-decision procedure into the Treaty. The underlying idea was to avoid an over-rigorous procedure being applied to certain acts of secondary importance and thereby prevent the legislative machinery becoming congested. In 1991, during the negotiations on the Treaty of Maastricht, the Commission proposed introducing a hierarchy of norms and a new system for classifying Community instruments (treaties, laws, secondary or implementing acts), but failed to overcome the problems posed by the different national legal traditions.

Democratic deficit

The democratic deficit is a concept invoked principally in the argument that the European Union and its various bodies suffer from a lack of democracy and seem inaccessible to the ordinary citizen because their method of operating is so complex. The view is that the Community institutional set-up is dominated by an institution combining legislative and government powers (the Council of the European Union) and an institution that lacks democratic legitimacy (the European Commission).

At every stage of the European integration process, the question of democratic legitimacy has become increasingly sensitive. The Maastricht, Amsterdam and Nice Treaties have triggered the inclusion of the principle of democratic legitimacy within the institutional system by reinforcing the powers of Parliament with regard to the appointment and control of the Commission and successively extending the scope of the co-decision procedure.

Following the Nice European Council (December 2000), a broad public debate on the future of the Union started, in which citizens could take part, and a European Convention was asked to examine various ways of improving democratic legitimacy.

Debate on the future of the European Union

Having given the green light to enlargement, the 2000 Intergovernmental Conference (IGC 2000) called for a broader and deeper debate on the future of the European Union. To this end, the Nice Declaration, annexed to the Treaty of Nice, called for the initiation of a broad debate associating all the interested parties: the representatives of the national parliaments, as well as a wide range of public opinion, i.e. political and commercial organisations, universities and representatives of civil society, in both the Member States and the candidate countries.

This debate on the future of the Union continued until mid-2003, via discussions and the Internet, so as to gather together as many opinions as possible on the key issues relating to the future of Europe. It was encouraged by the Commission, which hoped the debate would be held both at European level, with contributions and discussion forums involving personalities from the Community, and at national level, with national debates on the future of the Union that involve a wide range of citizens.

The exchanges which took place in the context of this debate were conducted in parallel with the work of the preparatory Convention for the IGC 2004.

On 18 June 2004 the heads of state or government meeting as an IGC agreed, with some compromises, on the draft European Constitution prepared by the Convention.

The European Union currently has 27 Member States. In addition to the first six Member States — Belgium, France, Germany, Italy, Luxembourg and the Netherlands — 21 countries have acceded to the Union. These are:

- 1973: Denmark, Ireland and the United Kingdom;
- 1981: Greece;
- 1986: Spain and Portugal;
- 1995: Austria, Finland and Sweden;
- the fifth enlargement of 2004 and 2007: Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia, then Bulgaria and Romania.

Croatia, the Former Yugoslav Republic of Macedonia and Turkey have the status of candidate countries. Accession negotiations with Croatia and Turkey opened on 3 October 2005.

The countries of the Western Balkans which are engaged in the stabilisation and association process have the status of potential candidate countries. Apart from Croatia and the Former Yugoslav Republic of Macedonia, which are candidate countries, these are Albania, Bosnia-Herzegovina, Montenegro and Serbia, including Kosovo, as defined by UN Security Council Resolution 1244.

Pre-accession assistance

Pre-accession assistance helps the countries that are candidates for membership of the European Union to satisfy the accession conditions (the Copenhagen criteria). Considerable investment is required if the candidate countries are to bring their institutions and standards in line with the Community acquis and to be able to meet their obligations as Member States.

Pre-accession assistance to the candidate countries is a key factor in the Union's pre-accession strategy and is determined by the accession partnerships.

For the period 2007 – 2013, the Instrument for Pre-accession Assistance (IPA) will be the sole funding vehicle, replacing the pre-accession instruments from the period 2000 – 2006 (Phare, Sapard for structural measures in agriculture, Ispa for infrastructure development in the fields of the environment and transport, the special pre-accession instrument for Turkey), as well as the CARDS programme for the Western Balkan countries.

The IPA is made up of five components: support for transition and institution-building, cross-border cooperation, regional development, human resources development and rural development. The first three components concern the candidate countries and the potential candidate countries. However, the last three components concern the candidate countries only, with the aim of preparing them for adopting and implementing the cohesion policy and managing the Structural Funds.

The European Investment Bank (EIB) and the International Financial Institutions (IFIs) also provide co-funding for the candidate countries.

Once they join the Union, the new Member States, which are no longer entitled to pre-accession assistance, receive temporary financial assistance, the Transitional Facility, provided for by the treaty of accession.

Pre-accession strategy

The pre-accession strategy offers a "structured dialogue" between the candidate countries and the EU institutions throughout the accession process, providing all the parties with a framework and the necessary instruments. It is laid down for each candidate country individually.

The pre-accession strategy follows on from the European Council of Luxembourg (December 1997) during which a reinforced pre-accession strategy for the ten Central and Eastern European candidate countries was launched. It is essentially based on:

- the bilateral agreements;
- the accession partnerships and the national programmes for the adoption of the acquis;
- participation in Community programmes, agencies and committees;
- political dialogue;
- the evaluation of the Commission ("monitoring");
- pre-accession assistance;
- co-financing by international financial institutions (IFI).

In addition to these main instruments, the pre-accession strategy may include others for individual candidates, depending on their particular circumstances.

Screening

Screening, or analytical examination of the *acquis*, is the stage preparatory to accession negotiations. It is vital since it forms the basis for the bilateral negotiations between the European Union and the various candidate countries.

The screening process is carried out jointly by the Commission and each of the candidate countries, allowing the latter to familiarise themselves with the *acquis* and demonstrate their capacity to put it into effect.

A further purpose of screening is to identify those areas of the *acquis* in which progress is needed if the candidate countries' legislation is to be compatible with the Community rules. These areas are divided into chapters, which are negotiated individually.

A screening exercise may be carried out during the accession negotiations if the *acquis* has to be updated.

**The Annex 1 have been taken from the EU Glossary-*

http://europa.eu/legislation_summaries/glossary/