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WEST MEETS EAST: A DISCUSSION OF EUROPEAN UNION ENLARGEMENT AND HUMAN RIGHTS

Jill Parker

I. INTRODUCTION

The current enlargement of the European Union (EU) is a major historical event. The expansion to include the eastern European block requires immense financial resources, cooperation from leaders, and time. It will offer new opportunities for businesses and trade. The expanded European Union will be the world’s largest “frontier-free market” economy. More importantly, it will improve the fundamental aspects of civilized societies: respect for basic human rights, protection for the ethnic minorities in the region, and a real democracy that applies the rule of law to all citizens. The various historical backgrounds and traditions of the candidate countries have influenced how quickly and effectively they have been able to meet the human rights conditions the EU requires for membership.

This comment will discuss the detailed process of becoming a member state, focusing on the human rights challenges faced by accepted candidate countries like Hungary, countries that have yet to complete the negotiation process like Romania, and countries that...
have yet to begin negotiations like Turkey.\textsuperscript{3} Part II will discuss the European Union accession requirements that every candidate country must meet in order to join. This includes the “Copenhagen criteria” and the \textit{acquis communautaire} in relation to “human rights, non-discrimination, and the social and political integration of ethnic and linguistic minorities.” Part III will address the challenges and problems faced by the EU and candidate countries on the path to accession. Part IV will outline the legislative measures and programs designed to remedy expected problems in the accession process. Part V will examine Hungary’s history regarding fundamental rights and its specific progress toward accession. Using the same framework, Part VI will analyze Romania and Part VII will examine Turkey. The comment will conclude with public opinion statistics on the success of the current enlargement and a comparison of the human rights development of the three countries previously analyzed.

The European Union began in the late 1950s with six member countries signing the Treaty of Rome: Belgium, Germany, France, Italy, Luxembourg and the Netherlands.\textsuperscript{5} The goals of the EU are to promote prosperity, peace, stability, and democracy throughout the region.\textsuperscript{6} To obtain these goals, the EU has gone through four enlargements to expand its influence and assist in improving neighboring countries.\textsuperscript{7} Denmark, the United Kingdom, and Ireland joined in 1973, and Greece joined in 1981.\textsuperscript{8} Portugal and Spain joined in 1986, and Austria, Finland, and Sweden joined in 1995.\textsuperscript{9}

The fifth or current enlargement is the largest to date.\textsuperscript{10} It will increase the European Union’s membership from fifteen to twenty-five member states on May 1, 2004.\textsuperscript{11} Eight central/eastern European countries (Estonia, Hungary, Latvia, Lithuania, Poland, the Czech Republic, Slovak Republic, and Slovenia) and two Mediterranean countries (Cyprus and Malta) have all completed their accession

\begin{itemize}
\item[4.] \textit{Id.} at 4, 6.
\item[5.] \textit{EUR. COMM’N, ENLARGEMENT OF THE EUROPEAN UNION, AN HISTORIC OPPORTUNITY} 4 (2003) [hereinafter \textit{Historic Opportunity}].
\item[6.] \textit{Id.}
\item[7.] \textit{STILL ENLARGING, supra} note 1, at 3.
\item[8.] \textit{Europe Reborn, supra} note 3, at 5.
\item[9.] \textit{Id.}
\item[10.] \textit{Id.} at 6.
\item[11.] \textit{Id.} at 4.
\end{itemize}
negotiations with the EU.\textsuperscript{12} The enlargement will also continue with the proposed accession of Bulgaria and Romania on January 1, 2007.\textsuperscript{13} Turkey has yet to begin negotiations with the EU, but also wishes to eventually join.\textsuperscript{14} Norway and Switzerland applied previously, but their applications are not active at this time.\textsuperscript{15} Since the formal decision to add ten new countries was made in early 2003, there has been much discussion about the consequences and challenges the EU will encounter in the future.\textsuperscript{16} In order to meet these challenges, the EU faces the daunting task of evaluating the needs of candidate countries, offering assistance, and predicting how the enlargement will affect the current EU member states and the rest of the world.\textsuperscript{17}

The current enlargement process began with the fall of the Iron Curtain and the end of the Cold War.\textsuperscript{18} The Eastern European countries on the Communist side of the Iron Curtain had traditionally been isolated from the rest of the European Community.\textsuperscript{19} Tired of a war-torn Europe, the supporters of enlargement felt the advantages of a united and stable Europe were worth the risk.\textsuperscript{20} In order to restructure and build the struggling economies in Eastern Europe, the Western European Community established the Phare Programme to offer financial support with its 1,500,000,000 Euro annual budget.\textsuperscript{21} The countries also signed Europe Agreements, which were a step towards free trade and customs unions between the various countries of the European Union.\textsuperscript{22}

II. THE EUROPEAN UNION ACCESSION REQUIREMENTS

As their economies improved, the individual countries confirmed their desire to become official members of the EU when they submitted their membership applications at various dates in the mid
1990s. However, in order for the accession process to occur, the candidate countries had to accept and conform to all the treaties and legislation of the EU, the *acquis communautaire*. Even before *acquis* negotiations begin, the potential accession countries must adhere to the "Copenhagen criteria," which specifies prerequisites to accession laid down by the Copenhagen Summit in 1993. The Copenhagen criteria are the most important for accession. Accepting the *acquis* is impossible if the candidate countries do not have the foundation of the Copenhagen criteria. The requirements are:

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

"Article 49 of the Treaty on European Union says that any European State which respects the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law may apply to become a member of the Union." This indicates the European Union is open to all European countries that are willing to put forth the effort and accept the criteria.

In December of 1995, the Madrid European Council specifically required candidate countries to implement the legislation of the *acquis communautaire* by modifying their administrative agencies and judicial structure. The countries must show not only that the legislation passed, but also that it will be enforced by the administrative and judicial system. The real challenge is not ratifying human rights laws for the countries that wish to join, but

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23. *Id.* at 7.
25. *Id.* at 4.
26. *Id.* at 6.
28. *STILL ENLARGING*, *supra* note 1, at 3.
29. *See id.*
30. *HISTORIC OPPORTUNITY*, *supra* note 5, at 8.
31. *STILL ENLARGING*, *supra* note 1, at 8.
rather changing the actions of the citizens on a large-scale basis to
conform to the new legislation. After the countries made satisfactory
progress in this area, the European Commission issued its official
opinions in 1997. The opinions were compiled from various sources
that evaluated the improvements that each of the candidate countries
had made since applying for membership. The reports discuss how
far each country has come financially, how well it is complying with
the European Agreements, and how the Commission anticipates the
country will progress in the years to come based on indications of past
performance.

Finally, the Commission made a recommendation to the
European Council to formally open accession negotiations. In 1998,
negotiations were opened with Cyprus, Estonia, Poland, Slovenia, the
Czech Republic, and Hungary. Following the official opinions, the
Commission submits regular reports to the council, which give
updates and progress reports on each candidate country. The
Council uses these reports to decide when a candidate country is
ready for formal negotiations. In 1999, the Council granted approval
for negotiations with Bulgaria, Malta, Romania, Latvia, Lithuania,
and Slovakia.

Although these countries have exhibited their willingness to
achieve the membership criteria and have made significant
improvements, many still struggle with the implementation of certain
requirements. The Commission develops pre-accession strategies to
help the countries follow the European Agreements on trade and
provides financial support to establish agencies and programs in the
candidate countries for implementing accession criteria. The process
of negotiation can be somewhat complicated. The legislation and
existing rules of the acquis itself are not negotiable. Every
candidate country must accept the entire acquis communautaire to
become a member state. During the negotiations the Commission

32. Id. at 9.
33. Id.
34. Id.
35. Europe Reborn, supra note 3, at 6.
36. Id.
37. HISTORIC OPPORTUNITY, supra note 5, at 9.
38. Europe Reborn, supra note 3, at 6.
39. Id.
40. HISTORIC OPPORTUNITY, supra note 5, at 10.
41. STILL ENLARGING, supra note 1, at 10.
42. Id.
meets individually with representatives from each candidate country to mutually agree on the specifics of how and when the *acquis* will be adopted, implemented, and enforced.\(^ {43}\) If the candidate country cannot completely meet a certain condition by the accession date, they can make a petition for transitional measures to meet the condition.\(^ {44}\)

There are thirty-one chapters in the *acquis*, and the amount of time spent in the negotiations varies with each country.\(^ {45}\) Each candidate country is faced with issues that require specific attention and preparation to negotiate. At least five countries struggle with human rights issues such as “non-discrimination and the social and political integration of ethnic and linguistic minorities (Roma in the Czech Republic, Slovakia and Hungary, Hungarian minorities in Slovakia and Romania, and Russian-speaking minorities in Latvia).”\(^ {46}\) Additionally, Hungary and Poland are working to institute freedom and pluralism in the media, which are essential to democracy.\(^ {47}\)

The negotiation meetings are conducted between permanent officials or representatives from the member states and negotiators from the candidate countries.\(^ {48}\) Each chapter of the *acquis* is discussed separately, and may be renegotiated if the Union makes changes to the *acquis*.\(^ {49}\) The Commission’s role is to suggest a common position for the European Union, which the Council approves.\(^ {50}\) The candidate country must then accept the position and the *acquis* process ends.\(^ {51}\)

To ensure that negotiations continue at a desirable pace, the 2000 Council issued the requirement of a “roadmap.”\(^ {52}\) The “roadmap” is a framework for the negotiations.\(^ {53}\) Its purpose is to keep negotiations moving along, while creating a reasonable timetable for each country.\(^ {54}\) The roadmap is credited with improving negotiations with many issues including budgets and institutions.\(^ {55}\) In December of

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44. Still Enlarging, *supra* note 1, at 11.
45. *Id.* at 10; see also Historic Opportunity, *supra* note 5, at 27.
47. *Id.*
49. *Id.*
50. *Id.*
51. *Id.*
52. *Id.* at 26.
53. *Id.*
55. *Id.* at 27.
2002, negotiations with the candidate countries of the fifth enlargement closed, while Bulgaria and Romania continue the process. The European Council continues to support Bulgaria and Romania in their efforts to finish negotiating the acquis, and the goal is for accession to take place at the end of 2007. Turkey will also continue to receive support from the Council despite its need to further comply with human rights accession requirements. The Commission will issue a progress report on Turkey at the end of 2004. It will recommend whether Turkey is ready to begin negotiations in early 2005 or needs to take further steps before beginning negotiations.

Although negotiations have concluded with the ten candidate countries, there is much to be done before the enlargement process is complete. To make the transition smooth and to guarantee the candidate countries are ready to assume the duties of member states, the Commission continues to monitor them closely. The Commission keeps a watchful eye on the candidate countries, through a series of safety mechanisms and regular reviews, as they continue to implement the acquis. The Commission will inform the candidates and assist them with any problems that may arise. This process helps to assure that the enlargement will be successful.

The Commission will issue another report from information received during the monitoring period. This monitoring report will be issued to the European Council and the entire Parliament six months before the accession date. It will describe improvements that need to occur to implement and enforce the acquis, and inform the bodies of whether the candidate countries are conforming to the commitments they have previously made in negotiations.

57. Id.
58. STILL ENLARGING, supra note 1, at 3.
60. Id.
61. HISTORIC OPPORTUNITY, supra note 5, at 28.
63. Id.
64. HISTORIC OPPORTUNITY, supra note 5, at 29.
65. Id.
66. Europe Reborn, supra note 3, at 7.
67. Id.
68. HISTORIC OPPORTUNITY, supra note 5, at 28.
The Accession Treaty will also contain a number of safeguards that will apply for a three-year period after the accession in May of 2004. There is a general economic clause that applies to any member state and specific clauses for the new member states. The draft treaty states the conclusions and agreements made by the candidate countries during the acquis negotiations. When the Council and the candidate countries have approved the Treaty, the Commission will issue an opinion to the European Parliament for approval. Finally, each of the twenty-five member states must sign and ratify the Treaty before it will take effect.

III. CHALLENGES FOR THE EU AND CANDIDATE COUNTRIES

The Enlargement process is complex and it is bound to face challenges. The current member states fear the new members may apply lower social standards in the workplace. Furthermore, if these lower standards exist, companies will relocate to the new member states to profit from the low wages and minimal safety standards resulting in "social dumping." The EU insists candidates must comply with EU laws that require work time limits, safety standards, gender equality and anti-discrimination in the workplace. The EU claims "[t]he arrival of new members will enrich the EU through increased cultural diversity, interchange of ideas, and better understanding of other peoples." However, cultural diversity may also be problematic for the enlarged Union. Diversity among the member states may complicate the decision-making process. 

"The area of freedom, justice and security is a relatively new area of the EU's activity, and there remains a considerable gap between ambition and reality." Freedom, justice, and security are politically

69. Europe Reborn, supra note 3, at 7.
70. Id.
71. Historic Opportunity, supra note 5, at 29.
72. Id.
73. Id.
75. Id.
76. Id.
79. Id. at 53.
charged issues, and individual governments are often unwilling to
give up the power to make policy changes.\textsuperscript{80} Many of the candidate
countries have "Roma" which are ethnic and linguistic minorities that
have previously been denied human rights and also face employment
discrimination.\textsuperscript{81} With guidance from the Council, candidate
countries have adopted EU anti-discrimination legislation, created
programs to protect their minorities and are now in the process of
implementing the changes.\textsuperscript{82} The Phare Programme has assisted this
transition by giving money for projects to implement related
legislation.

Similarly, the European Union supports women in rural
Lithuania by training them and contacting employers to fill jobs.\textsuperscript{83}
The EU has also facilitated "integration projects, publications,
training, and social assistance to street children" in the Roma
communities.\textsuperscript{84} This aspect of enlargement has reduced hostility in
the candidate countries, soothed problems between countries, and
increased security in the region.\textsuperscript{85} The EU contends that the benefits
of these programs can be seen in the stable democracies recently
formed in Central and Eastern Europe, and in the various
associations that have improved minority rights.\textsuperscript{86} However, "[t]here
are no simple solutions to these problems, which involve questions of
law, social policy and human rights."

In May 2004, there will be a new challenge to face when five
Western Balkan countries (Croatia, Belarus, Romania, Serbia, and
Ukraine) will border the newly restructured EU.\textsuperscript{88} Many of these
countries have unstable democracies and market economies resulting
from wars following the disintegration of Yugoslavia.\textsuperscript{89} They also face
similar human rights challenges that candidate countries have
encountered on their path to accession. These Western Balkan
countries' desire to join the European Union may prompt them to

\textsuperscript{80} Id.
\textsuperscript{81} Id. at 55.
\textsuperscript{82} Id.
\textsuperscript{83} Still Enlarging, supra note 1, at 14.
\textsuperscript{84} Id.
\textsuperscript{85} Kok, supra note 78, at 55.
\textsuperscript{86} Id.
\textsuperscript{87} Id. at 53.
\textsuperscript{88} Id. at 63.
\textsuperscript{89} Id. at 65.
make reforms necessary to stabilize domestic conditions which will adhere to the Copenhagen criteria.90

IV. LEGISLATIVE MEASURES AND REMEDIES FOR PROPOSED CHALLENGES

To improve internal security when EU borders change in May, the EU has created two policies to improve the judicial systems and police departments of member states.91 First, Europol will help police and customs departments throughout Europe collaborate with each other by trading intelligence information and conducting cooperative investigations.92 Second, Eurojust will give prosecutors in all European countries a collective set of laws and punishments for offenses like "trafficking in human beings and drugs, terrorist offences, cybercrime, racism and xenophobia, so that there are no ‘safe havens’ for these criminal activities."93

A. Charter of Fundamental Rights of the European Union

There must be uniformity of European law and enforcement of that law so that candidate countries can effectively maintain the human rights requirements. In December of 2000, the European Parliament, Council, and Commission proclaimed the Charter of Fundamental Rights of the European Union.94 The Charter was an effort to make the essential rights more visible and to consolidate the rights set forth in the treaties, conventions, and case law of the European Union.95 Chapter I, Dignity, includes provisions for human dignity, right to life, and prohibition of slavery and torture.96 Chapter II, Freedoms, includes the right to liberty, the right to marry and found a family, freedom of religion, expression, and assembly, the right to education and property, and freedom to choose an occupation and conduct business.97 Chapter III, Equality, ensures equal treatment for men and women, the rights to children, the elderly, and

90. Id.
91. KOK, supra note 78, at 52.
92. Id.
93. Id.
94. See generally Charter of Fundamental Rights of the European Union, 2000 O.J. (C 364) 1 [hereinafter Fundamental Rights].
95. Id. at 8.
96. Id. at 9.
97. Id. at 10-12.
persons with disabilities by prohibiting such discrimination.\footnote{98} Chapter IV deals with solidarity, and Chapter V deals with citizens' rights. Chapter VI contains provisions regarding justice, and Chapter VII consists of general provisions.\footnote{99}

The language in the Charter is broad and appears to offer many of the same rights and freedoms Americans enjoy.\footnote{100} However, as stated in Chapter VII, the "Charter does not establish any new power or task for the Community or the Union, or modify powers and tasks defined by the Treaties."\footnote{101} It is a manuscript for citizens of the EU and candidate countries to reference so they are aware of their rights.\footnote{102} The document is not legally binding, but the next Intergovernmental Conference in 2004 will discuss ways to integrate the Charter provisions into EU treaties.\footnote{103} The Advocate-General and other attorneys have already used Charter language in their legal arguments, and in 2002, the Court of First Instance referenced the Charter in two decisions.\footnote{104}

\textbf{B. Annual Report of Human Rights}

In October of 2002, the Council adopted the Annual Report of Human Rights.\footnote{105} This report gives a summary of the current efforts and progress the Union has made on specific human rights issues. The Report indicates there is still a need to mainstream human rights.\footnote{106} It defines mainstreaming as "the process of integrating human rights... into all aspects of policy decision-making and implementation."\footnote{107} Following the example of the United Nations (UN), member states have made considerable progress towards mainstreaming.

Just as the UN used human rights language in its initiatives, the EU has added similar language to its policy discussions with other nations.\footnote{108} Trade agreements contain "essential elements" of human

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98. Id. at 13-14.
99. Id. at 15-22.
100. See generally Fundamental Rights, supra note 94.
101. Id. at 12.
103. Id. at 21.
104. Id. at 22.
105. Id. at 2.
106. Id. at 18.
107. Id. at 19.
108. ANNUAL REPORT, supra note 102, at 19.
rights, which if violated, can delay the agreement regardless of whether punishment is the goal. 109 The Union also seeks to improve staff members' handling of human rights issues by implementing programs that offer guidance on these issues. 110

Other report topics that have significant importance to candidate countries are racism and xenophobia, asylum and migration, and trafficking in human beings. 111 The Treaty that established the European Community in 1997 prohibits racism and discrimination, and the Charter takes an even tougher stance on these controversial issues. 112 The Council issued two directives based on the Charter that must be added to the legislation of all member states. 113 The legislation will apply to direct and indirect discrimination in the public and private sectors, and gives particular attention to women, who may become victims of multiple types of discrimination. 114

With a 14,150,000 Euro budget, the Council adopted the Community Action Programme to Combat Discrimination until resources are exhausted in 2006. 115 The Programme is designed to fight discrimination with campaigns to raise awareness and professional groups and networks that will issue progress reports. 116 Member states that allow citizens to commit racism and xenophobia based crimes and allow post racist or pornographic material of children on the Internet will be uniformly punished under the proposed legislation. 117 The final two plans mentioned in the fight against racism are EQUAL and DAPHNE. EQUAL is an initiative that targets inequality in employment by improving “[e]mployability, [e]ntrepreneurship, [a]daptability and [e]qual opportunities for women and men.” 118 DAPHNE funds activities that prevent and protect women and children from being victims of racial violence. 119

The Report next addresses asylum and immigration. 120 Although progress is slow, the EU is still seeking to establish a common asylum

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109. See id.
110. Id. at 20.
111. Id. at 23.
112. Id; see generally Fundamental Rights, supra note 94.
113. ANNUAL REPORT, supra note 102, at 23-24.
114. Id.
115. Id.
116. Id. at 24.
117. Id. at 25-26.
118. Id. at 26.
119. ANNUAL REPORT, supra note 102, at 26.
120. Id. at 27.
system that conforms to goals set forth in the Convention on Human Rights, and the EU Charter on Fundamental Rights. The Council focused on childcare and gender-based persecution, and accepted minimum standards for receiving persons who seek asylum.

Finally, with respect to human rights, the Council targeted the trafficking of human beings for labor or sexual abuse. The fifteen member states and ten candidate countries will implement legislation with common penalties for, and definitions of, trafficking. "[I]f the offence [sic] is committed in circumstances endangering the life of the victim, against a victim who was particularly vulnerable, by the use of serious violence or has caused particularly serious harm, or within the context of criminal organisation [sic]" the penalty "must not be less than eight years by terms of imprisonment."

On February 4, 2003, the Working Group XI, "Social Europe," submitted a report to the members of the Convention on how to implement the Charter of Fundamental Rights of the European Union into the new Treaty Establishing a Constitution for Europe (TEC). The group conducted five meetings in a non-partisan manner and heard from various scholars on the seven topics discussed above. Additional working groups met to review other topics for the Constitution. This draft for the TEC was adopted by the European Convention, and later submitted to the President of the Council on July 18, 2003. The new constitution adopts virtually all the basic human rights provisions outlined in the Charter of Fundamental Rights of the European Union. If the Treaty is adopted by the member states, including the candidate countries that will become member states in May 2004, the Charter will bind the "Court of Justice of the European Court."

121. Id.
122. Id. at 28.
123. Id. at 31.
124. Id.
125. Annual Report, supra note 102, at 31.
127. Id. at 5, at 29.
129. See generally id.
130. Id. at 47.
A. Hungary's History Regarding Fundamental Rights

Hungary, which has been accepted for accession to the European Union in May 2004, has already negotiated all the chapters of the acquis. Hungary has successfully made the change from a Communist form of government to a democratic state, and it holds free elections every four years. “Hungary has absorbed a more sizable chunk of Western investment than any other formerly Communist country of Central Europe.” Since Hungary is stable and functions similarly to other western European countries, the media has given it very little attention. However, the transformation of this country from a “law of the State” to a “State of law” has attracted the attention of scholars.

The 1949 Hungarian Constitution attempted rule of law by giving an elected Parliament the power to legislate. This was ineffective because the Communist Party continued to enact the majority of law. The Parliament passed very few laws, and only met 8.5 days per year on average. The 1989 revision to Section 2 of the Constitution finally established the basic elements for the rule of law in Hungary. Section 7 went on to acknowledge a desire to become part of the European Union, to accept the doctrine of international law, and to synchronize domestic and international commitments. Section 8 includes a declaration that recognized “inviolable and inalienable human rights.” Section 29 changed the Head of State position to a solitary president who supervises state institutions and ensures they act democratically. Unlike the previous Parliament,
this Parliament is the center of Hungarian power and has elected the president and judges for the Constitutional Court since 1990.\footnote{Id.}

The Hungarians have successfully implemented a self-governing democratic system with a Parliament that represents their interests.\footnote{Tardi, supra note 132, at 405.} This new democracy will continue to strengthen the connection between Hungary and the other member states of the EU despite Hungary's Communist history.\footnote{Id.} Hungary's character has changed "from 'state-centric' to 'man-centric', with the section on human and citizen rights shifted into focus and with legal guarantees incorporated to protect them."\footnote{Id.} Important liberties are no longer restricted and the power of the State is equalized between the various branches of government.\footnote{See id.}

B. Specific Progress of Hungary

Although Hungary has undergone major changes, the EU continues to work with the Hungarian government to ensure that progress continues and that human rights and non-discrimination issues improve before May 2004.\footnote{See generally 2002 Regular Report on Hungary's Progress Towards Accession, COM(02)700 final [hereinafter 2002 Report on Hungary].} The 2002 Regular Report on Hungary's Progress towards accession describes Hungary's status regarding the implementation of the \textit{acquis} (2002 Report on Hungary).\footnote{See generally id.} The Report outlines the specific priorities and complications Hungary has faced in the past year on its journey to accession.\footnote{See generally id.} Hungary has remained committed to improving human rights for all citizens.\footnote{See id.} It has agreed to eliminate the death penalty in all cases, which is called for in Protocol 13 of the European Convention on Human Rights.\footnote{Id. at 27.} However, Hungary does not have a cohesive anti-discrimination law or a means to enforce its anti-discrimination measures.\footnote{Id.} Hungary recognizes thirteen minorities, but the Roma still endure the most inequalities in employment,

\begin{flushright}
143. \textit{Id.} \\
144. Tardi, \textit{supra} note 132, at 405. \hfill \textit{\textcopyright}\hfill \textit{2004}\hfill \textit{EUROPEAN UNION ENLARGEMENT} 617
\end{flushright}
education, criminal justice, and health care.\textsuperscript{154} Progress was made, however, in January of 2002 when a radio station was fined for broadcasting insulting language towards the Roma and Jews.\textsuperscript{155} Recently, courts have taken a favorable stance towards the Roma by sentencing those who commit racially-violent acts, awarding compensation for injuries to the Roma, and even requiring statements of confession and regret.\textsuperscript{156} The Hungarian government still needs to modify its course of action regarding the Roma and adopt legislation to further improve their situation.\textsuperscript{157} The government will continue to allocate funds for programs evidenced by budget increases of nine percent this year over the previous year's allocations.\textsuperscript{158}

There have been some recent improvements. The number of grievances over constitutional rights has decreased from 599 in 2000 to 210 in 2001, and degrading treatment by police officers has also improved slightly.\textsuperscript{159} Though Hungary faces problems with trafficking of human beings, the new human rights legislation will apply to those who are caught and offenders will be expelled from the country.\textsuperscript{160} In addition to being the subject of trafficking, women also face challenges in the workplace.\textsuperscript{161} Although Hungary adopted the Labour Code, Hungary lacks affirmative action programs and supervising institutions to enforce the new law.\textsuperscript{162}

The 2002 Report on Hungary states that women make up forty-five percent of the economically active inhabitants that participate in politics on both the local and national levels, including being elected to positions in Parliament.\textsuperscript{163} Women may be contributing to political life, but they receive less compensation than men, which violates the "equal pay for equal work" provision of Article 142/A of the Labour Code.\textsuperscript{164} In 1999, the National Research and Methodological Centre for Labour Relations published a study that found females in

\begin{thebibliography}{99}
\bibitem{155}\textit{Id.} at 29.
\bibitem{156}\textit{Id.} at 32.
\bibitem{157}\textit{Id.} at 33.
\bibitem{158}\textit{Id.} at 31.
\bibitem{159}\textit{Id.} at 27.
\bibitem{161}\textit{Id.}
\bibitem{162}EU ACCESSION MONITORING PROGRAM, \textit{MONITORING THE EU ACCESSION PROCESS: EQUAL OPPORTUNITIES FOR WOMEN AND MEN 237 (2002)} (hereinafter \textit{OPEN SOCIETY INST.}).
\bibitem{164}\textit{OPEN SOCIETY INST.}, \textit{supra} note 162, at 248.
\end{thebibliography}
Hungary earned 79.04 percent of the national average for male wages.\textsuperscript{165} Women can also experience indirect discrimination by working part-time.\textsuperscript{166} Although there is no difference between minimum wage for women and men in the Labour Code, women compose the majority of the part-time workforce and consequently receive less pay.\textsuperscript{167} The 2002 Report states that "Hungary has continued to make progress in this area, notably as regards equal opportunities."\textsuperscript{168}

Hungary has had no difficulties enforcing freedom of religion, but has struggled to respect freedom of expression, especially in printed media.\textsuperscript{169} The last election's campaign coverage by the private media, however, was mostly impartial.\textsuperscript{170} In the general evaluation section of the 2002 Report on Hungary, the Commission states the Hungarian government must persist in the struggle against corruption.\textsuperscript{171} The Report calls for quick execution of the new strategy to fight the problem.\textsuperscript{172} The Report's overall view of progress is positive.\textsuperscript{173} Hungary still meets the Copenhagen requirements.\textsuperscript{174} It is maintaining stability of governmental institutions, and taking the necessary steps to increase rule of law and human rights for minorities.\textsuperscript{175}

VI. COUNTRY ANALYSIS: ROMANIA

A. Romania's History Regarding Fundamental Rights

Hungary's neighbor Romania continues to work toward accession into the EU.\textsuperscript{176} Unlike Hungary, Romania is still in negotiations to implement the \textit{acquis}.\textsuperscript{177} As of March 30, 2002, Romania had approved all but one of the legal means to improve human rights set

\textsuperscript{165} Id. at 251.
\textsuperscript{166} Id. at 250.
\textsuperscript{167} Id.
\textsuperscript{169} Id.
\textsuperscript{170} Id.
\textsuperscript{171} Id. at 33.
\textsuperscript{172} Id.
\textsuperscript{173} \textit{See generally id.}
\textsuperscript{175} Id.
\textsuperscript{176} \textit{Frequently Asked Questions, supra} note 15.
\textsuperscript{177} Id.
forth by the European Convention. The requirement pertaining to
the individual protection for automatic processing of personal data
was still not ratified. Although most of the necessary laws have
been adopted, Romania still struggles with implementing the laws
that are crucial for protection of human rights and minorities.

Romania underwent a revolution in December 1989, and has
been seeking international approval and guidance in changing from a
Communist state to a democratic state. Romania repealed laws
originating in its Communist period, and has since subscribed to
current European Union and United Nations international
conventions on human rights. Romania's new Constitution was
adopted in December of 1991. Prior to the revolution but after
Communism, political leaders survived by promoting strong
nationalism. This created a much different setting for democracy in
Romania than in Hungary.

Romania's Constitution has five articles that indicate it respects
minority rights. "Article 1 (1) defined the state as follows: 'Romania is
a sovereign, independent, unitary and indivisible national state.'
Article 4 (1) says: 'The state foundation is laid on the unity of the
Romanian people.'"

For example, Article 6 (1) states that: "The State recognises and
guarantees the right of persons belonging to national minorities to
the preservation, development and expression of their ethnic,
cultural, linguistic and religious identity'. Article 15 (1) says that:
'All citizens enjoy the rights and freedoms granted to them by the
Constitution and other laws and have the duties laid down
thereby'. Article 59 (2) states that: 'Organizations of citizens
belonging to national minorities, which fail to obtain the number of

178. Justice and Home Affairs/Romania – Adoption of the Community Acquis, at
http://europa.eu.int/scadplus/printversion/en/lvb/e22108.htm (last visited Nov. 22,
2003) [hereinafter Justice and Home Affairs/Romania].
179. Id.
181. OPEN SOCIETY INST., supra note 162, at 433.
182. Id.
183. Gabriel Andreescu, Universal Thought, Eastern Facts: Scrutinizing National
Minority Rights in Romania, in CAN LIBERAL PLURALISM BE EXPORTED? 270, 272-73
(Will Kymlicka & Magdo Opalski eds., 2001).
184. Id.
185. Id.
186. Id. at 281 n.7.
votes for representation in Parliament, have the right to one Deputy seat each, under the terms of the electoral law.\textsuperscript{187}

Even with its pro-rights Constitution, nationalist political parties in Romania crippled minority rights.\textsuperscript{188} Prior to the elections in October 1992, extreme nationalist parties began a destructive mass media campaign.\textsuperscript{189} The campaign targeted the Roma community and the Hungarians, who represent the country's two largest minorities.\textsuperscript{190} They spread xenophobic, racially prejudiced, and anti-European propaganda throughout the country.\textsuperscript{191} Facing pressure from the political extremist parties, the Romanian Parliament, Supreme Council of National Defense, and the Intelligence Service all discriminated while performing regular governmental duties.\textsuperscript{192} The atrocious conditions forced the Hungarian minority to initiate a reform movement, which lead to the creation of the Democratic Union of Hungarians in Romania.\textsuperscript{193} This group attempted to pass laws promoting self-government and autonomy in order to improve the Hungarian identity in Romania, but the Parliament refused to consider their proposals.\textsuperscript{194}

The worst of the ethnic problems ended in 1996 with another round of elections.\textsuperscript{195} In 1997, the new democratic party improved minority rights by signing international treaties for human rights and passing laws allowing the "use of the mother tongue in administration and education."\textsuperscript{196} Still, many of the new politicians did not support the passage of any human rights proposals.\textsuperscript{197} Legal changes were needed for the democracy to function as directed by the Constitution and to keep stability in the region.\textsuperscript{198} Due to political pressure from the European Union and NATO, Romanian leaders were forced to act if the country was going to begin accession into the EU.\textsuperscript{199} While

\begin{itemize}
\item 187. Id. at 281 n.8.
\item 188. Id. at 274.
\item 189. Andreescu, \textit{supra} note 183, at 274.
\item 190. Id.
\item 191. Id.
\item 192. Id.
\item 193. Id.
\item 194. Id.
\item 195. Andreescu, \textit{supra} note 183, at 275.
\item 196. Id.
\item 197. Id.
\item 198. Id.
\item 199. Id.
\end{itemize}
relations with the Hungarian minority improved, the Roma community continued to suffer from several severe attacks.\textsuperscript{200}

The Hungarian minority continued its pursuit of a Hungarian state university offering classes taught in the "mother tongue."\textsuperscript{201} They looked to other European countries for examples of how those nation states treated their minorities.\textsuperscript{202} Several models looked to for guidance included Finland where there are about 285,000 Swedes that make up 5.8 percent of the population and Italy whose population consists of approximately 303,000 German-speaking citizens.\textsuperscript{203} Both countries have well-developed higher education systems and universities geared toward educating their minorities and mechanisms assuring basic rights to all of their citizens.\textsuperscript{204} Finally, "Sapientia" the first private Hungarian university, opened in the 2001-2002 academic year with 450 students in attendance.\textsuperscript{205}

\textbf{B. Specific Progress of Romania}

Although Romania has made significant strides in education, it still has a long road ahead to implement other basic human rights and to accede into the EU.\textsuperscript{206} In March of 2002, the government passed an emergency ordinance that "banned fascist, racist or xenophobic organizations as well as symbols relating to individuals guilty of crimes against humanity."\textsuperscript{207} Also, in 2002, the Romanian Parliament formed a committee to facilitate constitutional reform vital to the EU's accession process, which will enable the government to function more efficiently.\textsuperscript{208} Romania has a working Parliament, executive branch, and judicial system with four levels of courts, but corruption in these branches is a major concern.\textsuperscript{209} A "National Plan and Programme for the Prevention of Corruption" has been adopted, but is not completely ready to begin operating.\textsuperscript{210} To carry out the goals of the Program, the National Anti-Corruption Prosecutor's

\begin{itemize}
\item \textsuperscript{200} Id.
\item \textsuperscript{201} Id. supra note 183, at 276.
\item \textsuperscript{202} Id. at 277.
\item \textsuperscript{203} Id.
\item \textsuperscript{204} Id.
\item \textsuperscript{205} 2002 Regular Report on Romania's Progress Towards Accession, COM(02)700 final at 36 [hereinafter 2002 Report on Romania].
\item \textsuperscript{206} See generally id.
\item \textsuperscript{207} Id. at 32.
\item \textsuperscript{208} Id. at 21.
\item \textsuperscript{209} Id. at 26.
\item \textsuperscript{210} Id.
\end{itemize}
Office was created to investigate and prosecute cases involving large sums of money and prominent governmental officials to rid the country of corruption at its core.\textsuperscript{211}

Technically, the "European Convention for the Protection of Human Rights and Fundamental Freedoms has direct effect on Romania," but the beginning of the human rights update of the regular Report states that, "[i]n practice this remains to be convincingly established."\textsuperscript{212} In 2001, there were 7,412 reports made by people whose civil rights have been violated by the government; this was a sixty-three percent increase from 2000.\textsuperscript{213}

While the overall progress varies, significant improvements have been made in childcare.\textsuperscript{214} The Council Decision of December 1999 set forth the treatment of children and adults with handicaps and chronic diseases and an overhaul of the childcare system as short-term priorities for 2000.\textsuperscript{215} Over the past year, the number of children in care has been reduced by 7,000, and 40,000 children are now in foster family settings.\textsuperscript{216} Thirty-one old-fashioned orphanages were closed, and another thirty-four will close in the near future.\textsuperscript{217} The agency responsible for the changes is the National Authority for Child Protection and Adoption, and according to the Report, the agency has properly-trained management and staff.\textsuperscript{216} The agency will continue to work to increase benefits for handicapped children, to improve the adoption process, and to resolve the implementation program goals in the different regions so that all children are supported.\textsuperscript{219} Finally, in 2001 Romania also ratified "the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography ... the Optional Protocol on the Convention on the Rights of the Child on the involvement of children in armed conflict."\textsuperscript{220}

\begin{thebibliography}{99}

\bibitem{211} 2002 Report on Romania, \textit{supra} note 205, at 27.
\bibitem{212} 2002 Report on Romania, \textit{supra} note 205, at 28.
\bibitem{213} 2002 Report on Romania, \textit{supra} note 205, at 29.
\bibitem{214} 2002 Report on Romania, \textit{supra} note 205, at 29.
\bibitem{216} 2002 Report on Romania, \textit{supra} note 205, at 29.
\bibitem{217} 2002 Report on Romania, \textit{supra} note 205, at 29.
\end{thebibliography}
The human rights short-term priority set forth for Romania has had less success. The Council ordered Romania to "strengthen dialogue between the Government and the Roma community with a view to elaborating and implementing a strategy to improve economic and social conditions of the Roma and provide adequate financial support to minority programmes [sic]." Although there has been much improvement for Hungarian minorities, the Roma face rampant discrimination. There are between 1,800,000 and 2,500,000 Roma living in extremely poor conditions, and they continue to be victims of harassment by the Romanian police. Detailed plans have been made to improve the Roma's standard of living, but there is a substantial shortage of financial support to fund these plans. The socio-economic discrepancy between members of the Roma community and the rest of the Romanian population, coupled with mistreatment by government officials, has made the integration of Roma into mainstream society difficult. Despite the lack of implementation by agencies, in an unprecedented move, courts recently ruled against newspaper publishers and employers for advertising employment positions that discriminated against Romanian minorities.

Another area of focus for Romania is furthering rights for women, and stopping the trafficking of women. In 2001 alone, the Romanian Border Police discovered 269 cases of trafficking, but an estimated 20,000 women are still smuggled from Romania every year. The Romanian government is taking steps to ensure the problem is addressed, but it is not yet clear if the measures will be effective. Romanian women also experience discrimination in the workplace. The Constitution, the Labour Code, and the Act on Remuneration all have provisions that imply equal pay for equal work. In addition, the Act on Equal Opportunities for Women and Men explicitly states the standards and expectations for businesses to maintain a work environment free of sexual harassment, and without direct or indirect

222. Id. at 17.
223. 2002 Report on Romania, supra note 205, at 35.
224. Id.
225. Id. at 36.
226. Id. at 37.
227. Id. at 36.
228. Id. at 31.
230. See generally OPEN SOCIETY INST., supra note 162.
231. Id. at 425.
discrimination. Traditionally, Romanian women raise and educate the children of the family, which is a religiously supported social norm.

"Women only represent 45.15 percent of the employed population and work primarily in agriculture, the processing industry, commerce, health, and education . . . . The number of female managers and high-position public officials in public administration and economic units is about one-fourth of the number of men." Women are under-represented in the Romanian political environment, making up only 17.9% of the cabinet ministers, only 9% of the senators, and only 11% of the deputies. This professional partition between the sexes makes it difficult for women in Romania to earn a sizable income. Even with the "National Action Plan for Equal Opportunities for Women and Men," the programs thus far have had little measurable effect, if any at all. There is no inclusive plan of attack to resolve the unequal opportunities for women in the workplace.

Romania has a few human rights issues that have improved over the past year. Although prison conditions are still not acceptable with respect to overcrowding and nutrition, there have been improvements in staff training, inmate treatment, and most importantly, a probation program has been established. The new probation system is staffed with 210 people that run twenty-eight new services. However, those who have been accused of a crime in which the sentence is less than five years in prison still do not receive legal aid. Limiting the availability of legal representation is a violation of a basic human right. Romania will need to assume responsibility for increasing legal aid and improving the quality of aid provided for defendants who cannot afford their own legal representation.

232. Id.
233. Id. at 427.
234. Id. at 434.
235. 2002 Report on Romania, supra note 205, at 34.
236. OPEN SOCIETY INST., supra note 162, at 434.
237. Id. at 425.
238. Id.
239. 2002 Report on Romania, supra note 205, at 32.
240. Id.
241. Id.
242. Id.
243. Id.
There are four freedoms that are more often than not accepted and practiced in Romania. The Constitution guarantees freedom of expression in written materials and electronic media, yet some violations were still reported. The Penal Code was changed in 2002 to comply with the European Convention on Human Rights. "The crime of 'offense to authorities' was repealed, the crime of 'insult' will no longer be punishable with a prison sentence, and the maximum prison terms for 'calumny against private persons' and 'calumny against officials' were reduced."

However, the Romanian government still exercises control over the radio and the major private television company. The freedom of association, freedom of assembly, and freedom of religion are inherent in the Constitution and honored by both the citizens and the government. Currently, Romania identifies fifteen major religions. In theory it is possible to register more religions, but this does not occur. Although the government does not limit religious practice, Orthodox clergy members have conspired with local bureaucrats to hinder the practices of other religious groups according to reports from human rights organizations.

In July 1997, an opinion from the European Commission noted that Romania still struggled with justice and home affairs. The 2002 Report's general evaluation indicates that corruption is still a major concern, and that progress is needed in the legislative procedures and the decision-making process. The legislature should not rely on "emergency ordinances" for progress; they must thoroughly inspect legislation and independently pass better law. "The November 1998 Report noted the lack of any real progress in the fight against corruption and organized crime." However, the October 1999 Report was more positive and improvements to the management

244. Id. at 32-33.
245. 2002 Report on Romania, supra note 205, at 32.
246. Id. at 33.
247. Id.
248. Id.
249. Id.
250. Id.
252. Id.
255. Id.
256. Justice and Home Affairs/Romania, supra note 178.
of police was recognized as an achievement.257 Unfortunately, in 2000, "less progress had been made than in the previous year."258 The 2001 Report again calls for more positive movement "as regards police cooperation and the fight against fraud and corruption."259

The reports from year to year indicate similar and lingering problems that have yet to be solved, namely that "Romania has been slow to initiate reforms."260 To better fight corruption, the European Commission suggested Romania begin working with Europol.261 "Since the November 1998 Report the Commission has ascertained in its annual reports that the general pace of reform remains sluggish and that only modest progress has been made."262

VII. COUNTRY ANALYSIS: TURKEY

A. Turkey’s History Regarding Fundamental Rights

Another country that is struggling with change is Turkey. Turkey is technically in the Middle East, and has a mostly Muslim population.263 It is a democratic state with a Western European type of republic.264 As a member of the North Atlantic Treaty Organization (NATO), the Council for Europe, and the Conference on Security and Cooperation in Europe, Turkey has a pro-Western foreign policy and a constitution that mandates an elected parliament and independent judiciary.265 Turkey is the only member state of NATO to border Iraq, Iran, Syria and two former Soviet Union states.266 Due to Turkey’s location in the region, it is an important ally of the United States and it is the third largest recipient of U.S. monetary support.267

257. Id.
258. Id.
259. Id.
264. Id.
265. Id.
267. See Magnarella, supra note 263, at 439.
When the Ottoman Empire collapsed after World War I, Mustafa Kemal Atatürk, who was known for his charisma and strong political supervision, formed the Turkish Republic. The country had a one-party system with Atatürk's Republican Peoples Party (RPP) in control. This party classified all Muslims as ethnic Turks in order to build a strong nation state; consequently, it did not allow non-Turkish cultural expression. The Muslim ethnic minorities were deprived of their traditions, including language, educational institutions, and publications, all of which were outlawed. Only the Christian Armenians, Christian Greeks, and Jews were given recognition as separate ethnic groups due to Turkey's signature to the Treaty of Lausanne in 1923.

Although mostly Muslim, Turkey is “ethnically diverse, consisting of such peoples as Abkhasians, Albanians, Arabs, Armenians, Assyrians, Azeris, Bosnians, Chechens, Circassians, Georgians, Greeks, Gypsies, Kurds, Laz, Turks, and others.” The Kurds, an ethnic minority prominent in southeast Turkey, refused to accept the cultural restrictions mandated by the government. Some Kurds living in the central and western regions of Turkey have been integrated into society, but the remaining large group in the southeast has not. Separatist Kurdish movements in this region have triggered a response from the Turkish military. The Turkish military has tried to maintain national unity by suppressing legal rights of the Kurds and has justified its actions by declaring that Turkey is in a “state of emergency” due to terrorist activity.

The treatment of the Kurds has drawn much criticism from the United States, Europe, and other international organizations. Turkey has officially been accused of the following:

1) torture and the suspicious deaths of prisoners while in detention;
2) disappearances and extra-judicial killings of opposition

268. Id. at 440.
269. Id.
270. Id. at 441.
271. Id.
272. Id.
274. Id. at 441.
275. Id.
276. Banani, supra note 266, at 115.
277. Id.
278. See Magnarella, supra note 263, at 439.
politicians, human rights activists, journalists, and Kurdish nationalists; 3) government infringements on the freedoms of speech, press and association; 4) denial of due process to persons under the jurisdiction of state security courts and in the state of emergency region; 5) the murder of Kurdish civilians and the destruction of Kurdish villages in the Southeast by the Turkish military; and, 6) suppression of Kurdish cultural expression.  

In 1934, women were given the right to vote and run for office.  

Shortly after, in 1938, Turkey's long time leader Ataturk died and General Ismets Inonu succeeded to power. During the 1950s, the Republican Peoples Party was replaced with the Democrat Party (DP) after the first multi-party election. However, a coup in the spring of 1960 drove the DP out of office and the National Unity Committee (NUC) took control of the government. The NUC chose a commission of professors to write a constitution to prevent political abuse and to ensure the military's participation in politics and government. This was Turkey's most liberal constitution, guaranteeing Turkish citizens' freedom of press, assembly, conscience, political belief, and the right to form political parties. The new constitution went into effect in 1961 after a nationwide vote of approval. 

Throughout the 1960s and until 1980, a chain of regimes attempted to gain strength and promote economic reform in Turkey, but political intimidation made this impossible. The military again took control of the government in 1980 with the intention "to bring about stability, protect Ataturk's heritage and safeguard its own economic interests." The repressive National Security Council (NSC) ruled for three years. They broke up the Parliament, forbade all political activity, and regulated higher education, radio, and

279. Id. at 439-40.  
280. Id. at 442.  
281. Id.  
282. Id. at 442-43.  
283. Id. at 443.  
284. Magnarella, supra note 263, at 443.  
285. Id.  
286. Id.  
287. Id. at 444.  
288. Id. at 445.  
289. Id.
television stations to inhibit freedom of press.\textsuperscript{290} In 1982, the NSC replaced the liberal 1961 constitution with a new constitution, still in use today, which calls for a strong presidency and less influential unicameral parliament.\textsuperscript{291}

Although Turkey is a democracy, the Constitution is based on Atatürk’s principle of an “indivisible, unified state that stresses a nationalist notion of Turkishness above any other ethnic or religious identity.”\textsuperscript{292} This is affirmed in the Preamble of the Constitution.\textsuperscript{293} However, Articles 24 through 28 in the constitution appear to give citizens guaranteed rights to freedom of religion, freedom of thought, freedom of speech, and of the press:

Article 24. Everyone has the right to freedom of conscience, religious belief and conviction .... Education and instruction in religion and ethics shall be conducted under state supervision and control. Instruction in religious culture and moral education shall be compulsory in the curricula of primary and secondary schools.

Article 25. Everyone has the right to freedom of thought and opinion. No one shall be compelled to reveal his thoughts or opinions for any reason or purpose; nor shall anyone be blamed or accused on account of this thoughts and opinions.

Article 26. Everyone has the right to express and disseminate his thoughts and opinion by speech, in writing or in pictures or through other media, individually or collectively. This right includes the freedom to receive and impart information and ideas without interference from official authorities .... The exercise of these freedoms may be restricted for the purposes of preventing crime, punishing offenders, withholding information duly classified as a state secret, protecting the reputation and rights and the private family life of others, or protecting professional secrets as prescribed by law, or ensuring the proper functioning of the judiciary ....

Article 28. The press is free and shall not be censored. The establishment of a printing house shall not be subject to prior permission and to the deposit of a financial guarantee .... Anyone who writes or prints any news or articles which threaten the internal and external security of the State or the indivisible

\textsuperscript{290} Magnarella, supra note 263, at 445.
\textsuperscript{291} Id.
\textsuperscript{292} Banani, supra note 266, at 120.
\textsuperscript{293} Id.
integrity of the State with its territory and nation, . . . shall be held responsible under the law relevant to these offenses. 294

Upon closer inspection, it is evident that each article has an exception which allows the Turkish government to arrest and punish anyone it believes is questioning the state’s secularist and nationalist doctrines. 295 Article 13 enables "the judiciary to restrict the basic rights and liberties of Turkish citizens in a manner that would be unacceptable in most liberal democratic regimes." 296 To make matters worse, Article 118 of the Constitution allows the military to enforce the rule of law and Turkish nationalism, while suppressing freedom of expression, movement, and association. 297 The structure of the Turkish Constitution and the foundation for governmental action is mainly based on statism and authoritarianism, a militaristic government, Ataturk's principal of populism, and legalism. 298

294. Magnarella, supra note 263, at 447.
295. Banani, supra note 266, at 120.
296. Id.
297. Id. at 121.
298. Magnarella, supra note 263, at 447-448. Magnarella explains:

1) Statism and authoritarianism. The state, through the government in power, closely directs the country's economy, society and culture . . . . In Turkey there is no room for an 'opposition group.' . . . The ruling elites have also shown little tolerance for criticism. For example, in her statement to the U.S. Commission on Security and Cooperation in Europe, Lois Whitman, Deputy Director of Helsinki Watch, said police had harassed, detained, interrogated, and beaten scores of journalists for their writings. Some have been tried and sentenced, having been convicted under the very broad anti-terror law of such offenses as criticizing or insulting the president, public officials, Ataturk, or the military, or of printing anti-military propaganda.

2) Military involvement in government, the economy and society. The military elite, seeing themselves as the guardians of the state and Ataturk's heritage, intervene frequently in the economy and government, either through authoritarian advice or coups. The noted Turkish political journalist, Mehmet Ali Birand, has written that the Turkish armed forces are perceived to have the legitimate right and duty to intervene in politics and government in the name of the nation. He adds that through coups and military rule, the generals 'have stamped their imprint on every aspect of Turkish society for the foreseeable future.'

3) Ataturk's principle of populism. Populism stands against class-based politics and for an indivisible, unified state based on one people and one language. A component of populism is Turkification; the
The Turkish Constitution has always leaned toward nationalism as opposed to individual human rights. The structure of the 1982 Constitution has allowed the Turkish government to commit human rights violations, especially against the Kurds, that have drawn criticism from the international community and, more specifically, the European Union. Turkey is trying to merge two conflicting objectives: acceptance of a working liberal democracy and the continuation of Turkish nationalism as directed by the Constitution.

Turkey first affiliated with the European integration movement in 1963, with the signature of the Turkey-European Community Association Agreement. Turkey formally applied for accession in 1987. Although Turkey has a lengthy history of involvement with Europe, the accession process has been hindered by Turkey's treatment of the Kurds and the conflict with Greece over Cyprus. To begin negotiations for accession, Turkey must "sufficiently address these human rights problems to the satisfaction of the EU and the international community in general."

B. Turkey's Accession Progress

Turkey was separated from ten other central and eastern European countries in 1997, when most began negotiations. However, the EU announced that Turkey was still "eligible for accession on the same political criteria as other applicant states, through ruling governments from Ataturk to the present, has tried to convert ethnically heterogeneous peoples into a homogenous population of Turks. The process has involved rewriting history (e.g., the sun-language theory, which maintains that Turkish is the origin of all other languages) and suppressing the cultural identity and expression of non-Turkish peoples within Turkey."

4) Legalism. The practice by both civilian and military governments to legalize all the above, so as to legitimize the state's often intimate involvement in the economy, society and culture; the political and legal consequences of military intervention; and the related processes of Turkification and suppression of non-Turkish culture.

Id.
299. Banani, supra note 266, at 121.
300. Id.
301. Magnarella, supra note 263, at 464.
303. Id.
304. Id. at 117.
305. Id. at 113.
306. Id. at 117.
countries.\textsuperscript{307} Short-term objectives to satisfy the Copenhagen criteria were outlined in the annual progress reports.\textsuperscript{308} Recently, progress has been made in the enforcement of rule of law and human rights.\textsuperscript{309} Concluding a visit to Turkey, the UN Special Rapporteur recognized that, "while abusive practices continue to occur in some parts of Turkey, the situation had improved significantly and did not appear to be widespread and systemic."\textsuperscript{310}

The Turkish government passed thirty-four amendments in 2001 to remedy constitutional barriers to freedom of expression and association, gender discrimination, torture, and to increase civilian influence in government.\textsuperscript{311} In the 2001 Regular Report, the European Commission commended Turkey's efforts to meet the Copenhagen criteria and improve fundamental rights.\textsuperscript{312} The Commission also asked the Turkish government to further reforms by passing implementation legislation abolishing the death penalty, meeting the pre-trial detention standards of the European Court of Human Rights, and improving freedom of expression through amendments to Articles 13 and 14 of the Constitution.\textsuperscript{313}

Turkey passed three different reform packages in February, March, and August of 2002.\textsuperscript{314} In August of 2002, the death penalty was eliminated during peacetime.\textsuperscript{315} The Report describes the measures as far-reaching. "Taken together these reforms provide much of the ground work for strengthening democracy and the protection of human rights in Turkey."\textsuperscript{316}

The most recent Regular Report is the 2003 Report on Turkey's progress towards accession.\textsuperscript{317} The Union agreed to boost financial
support to Turkey to help with pre-accession measures. Since the last Report, four additional reform packages were approved in January, February, July, and August 2003. This most recent action brings the total to seven major reforms since 2001. Additionally, the government has circulated implementation regulations to accomplish the reforms in the 2002 and 2003 legislation.

To encourage enforcement at the local level, Turkey added twenty-eight new district human rights boards increasing the total to 859 boards in 2003, up from 831 in 2002. Turkey has also adopted a “zero tolerance” policy to prevent torture and ill treatment of ethnic minorities and defendants by ensuring that sentences for torture crimes are not merely suspended sentences or monetary fines. The penal system has improved, but some prisoners still face a lack of legal assistance and proper medical attention. Prison monitoring boards regularly inspect facilities and issue orders to improve living conditions, nutrition, and rehabilitation or education of prisoners.

With the passage of the reform packages, restrictions on freedoms of expression, press, and association have diminished; however, there is still much room for improvement. Cultural languages, publications, and association of groups based on ethnicity, race, and religion are still facing significant difficulties. The laws lifting restrictions on the freedom of religion for non-Muslims have had little impact.

Conditions for women in Turkey are still poor. Violent behavior towards women, especially domestic violence, is still prevalent. Various reports indicate that over half of the female population in Turkey have been victims of physical or psychological domestic abuse. Turkey adopted new labor laws in May of 2003, but the

318. Id. at 6.
319. Id. at 23.
320. Id.
321. Id.
322. Id. at 25.
324. Id. at 28-29.
325. Id. at 29.
326. See id. at 29-32.
327. Id.
328. Id. at 34.
330. Id.
331. Id.
legislation still does not meet EU standards for equality in the workplace. The number of women in leadership roles remains small and only twenty-four of the 550 Parliament representatives are women.

Children and disabled people also face discrimination in the workplace. The minimum age limit for child labor increased from twelve to fifteen years of age since 1971, however, many children under the age of fifteen still work in agricultural fields and small businesses.

Regarding the Cyprus question, Turkey is still willing to negotiate, although there was a collapse in discussions in the spring of 2003. The Turkish government wishes to reach a settlement agreement before May of 2004 when Cyprus is scheduled for accession to the European Union. Turkey is also continuing to improve relations with Greece, and both countries appear to be cooperating. Greece, who is already a member state of the EU, employs a task force to give advice and expertise concerning Turkey's adoption and implementation of the acquis.

The 2003 Report indicates that Turkey's government has taken significant steps forward to improve freedoms and human rights for its citizens. Turkey is resolute in making reforms even on issues that are politically sensitive. Turkey ratified the Civil Law Convention on Corruption in January 2004 and became a member of the Council of Europe's Group of States against Corruption. In addition to the problems previously discussed, Turkey will have to work to improve its judicial system. Military courts are no longer competent to try civilians, but improvements are needed in State Security Courts to ensure that defendants receive a fair trial and full vindication of their rights.

332. Id.
333. Id. at 36-37.
334. See id. at 37.
335. 2003 REPORT ON TURKEY, supra note 317, at 37.
336. Id. at 41.
337. Id.; see also HISTORIC OPPORTUNITY, supra note 5, at 34.
338. 2003 REPORT ON TURKEY, supra note 317, at 41.
339. Id. at 42.
340. Id. at 43.
341. Id.
342. Id.
343. Id. at 43.
344. 2003 REPORT ON TURKEY, supra note 317, at 43.
In December of 2002, the European Council stated that "if the European Council in December 2004, on the basis of a report and a recommendation from the Commission, decides that Turkey fulfils the Copenhagen political criteria, the European Union will open accession negotiations with Turkey without delay."\(^{345}\) A recommendation from the EU Commission should be announced before the end of October 2004.\(^{346}\) This will allow the European Council some time to determine if negotiations should be opened with Turkey.\(^3\)\(^4\) Dinesh D. Banani reports that "[d]espite the recent reforms, Turkey's short-term prospects for EU accession still appear unlikely."\(^{348}\) However, all reports from the EU indicate that notwithstanding the need for further reform, they are impressed with the efforts and momentum of Turkey's actions over the past few years.\(^{349}\) If negotiations with Turkey are opened next December, accession is likely to take several years, possibly a decade to complete judging from the annual regular reports.

Romania is not scheduled for accession until sometime in 2007 despite a lengthy accession process.\(^{350}\) "In order for accession to take place in 2007, a Common Accession Treaty for Bulgaria and Romania should be signed at the latest towards the end of 2005."\(^{351}\) It seems unlikely that Turkey would complete the negotiation process more quickly than Romania, considering its unique geographical placement and situation.

VIII. CONCLUSION

In March of 2002, the first "Eurobarometer" reports came out.\(^{352}\) The Eurobarometer was a set of surveys conducted to find out the

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345. 2003 REPORT ON TURKEY, supra note 317, at 6 (emphasis omitted).
347. Id.
348. Banani, supra note 266, at 126.
349. EU Institutions Bulgaria, supra note 346.
350. Id.
351. Id.
success of the accession process. Approximately fifty questions were asked on a wide variety of subjects concerning the European Union. According to EU Enlargement Commissioner Gunter Verheugen, the survey showed positive results, stating that "the citizens of the candidate countries, in their overwhelming majority, are looking forward to their country joining the EU and to enjoying the benefits membership can bring to their daily lives." The surveys were conducted in October of 2001 in each of thirteen candidate countries, with 1,000 people interviewed in all but two of the countries.

Eighty percent of those interviewed in Romania thought that accession to the European Union would be beneficial to them, and seventy-one percent of those interviewed in Hungary felt the same way. However, the elderly citizens and those living in rural parts of their respective countries were more pessimistic about the improvements in their living situation over the past ten years.

The Eurobarometer study from 2002 indicates that Romania, Bulgaria, Hungary, and Turkey represent countries with the most people in favor of joining the EU. Romania shows a 78% approval rate, while there is a 67% approval rate in Hungary, and a 65% approval rate in Turkey. Despite a lack of knowledge regarding the EU, many people in these candidate countries expressed trust in the European Union. Among the countries that are most in favor of joining the EU, the survey revealed that 75% of Romania’s population expressed trust in the EU and of those questioned in Hungary, 76% are seemingly trusting. We can probably expect these numbers to keep climbing as more EU funds come into the countries and more legislation is passed and implemented into the respective systems. As conditions in the candidate countries improve, more citizens are likely

353. Id.
354. Id.
355. Id.
356. Id.
357. Id.
358. First Eurobarometer, supra note 352.
360. Id.
361. Id.
362. Id.
to vote and express favorable views on the European Union and accession. It appears from the survey that the less information the citizens receive, the more skeptical they are about the Union.  

All three of the countries discussed have notable similarities that set them apart from other western European countries in the Union. They all recently endured various changes in the structure of their respective governments and experienced drastic and sometimes violent takeovers by fundamentalists or the military. They all have ethnic minorities that suffer from severe discrimination: the Roma community in Hungary and Romania, the Hungarian minority in Romania, and the Kurds in Turkey. The aforementioned minorities all struggle with sub-par living standards, police or military brutality, and inequalities in the workplace. Many are also seeking to practice cultural expression, attend their own universities, and speak their “mother tongue” or unique dialect. Romania and Turkey are less inclined to allow these changes apparently due to the level of implementation of reforms by their governments. All three countries need to improve the ability of citizens to practice freedom of expression, and Romania and Turkey must relinquish control of most media sources to enhance this freedom. Trafficking of women and children is less of an issue in Turkey than Romania and Hungary, due to the predominately Muslim populous. However, domestic abuse in Turkey is more widespread than was noted in the other two countries. Women in Turkey are mistreated much like the ethnic minorities and Kurds. 

Analysis of the three countries reveals the progression of the human rights standards. Hungary, who will join the EU next spring, has the best human rights standards of the three. However, Romania is close behind, having negotiated many of the chapters of the acquis. Romania’s implementation has been hindered by government corruption, and the pace is much slower than desired by

363. Id.
364. See infra Parts V, VII, IX.
365. See infra Parts V—IX.
366. See id.
367. See infra p. 23.
369. See generally id.
370. See infra Parts V—IX.
372. See generally 2002 Report on Romania, supra note 205.
Turkey is the only country of the three that has not fully complied with the "Copenhagen criteria"; however, Turkey's recent progress has been far superior to Romania's. Turkey's government appears more determined to make fast track reform, but this could be because they have yet to be accepted to begin negotiations and their fate with the EU must still be determined.

It is obvious that each country's involvement with the European Union has been significantly beneficial to human rights and fundamental freedoms, not only for the ethnic and linguistic minorities, but also for citizens in general. The EU has provided much needed guidance and structure to the process of improving human rights in eastern European countries and Turkey. The prospect of accession to the EU provides an incentive for countries to progress in the area of human rights. Many of the changes would not have been possible without the continued financial support from the European Union that funds most of the programs and committees that focus on the improvement of human rights. The countries have relinquished some control of their government to the EU in order to facilitate the needed reforms, but once the enlargement is complete, human rights in Europe will surpass those of any other multi nation-state organization in the world.

373. See generally id.