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**An ambivalent relationship between the European Union and Turkey -  
What role did European values play in accession negotiations and do they still matter in  
times of the refugee crisis?**

*Bachelor Thesis in European Public Administration*

University of Twente, The Netherlands

*Victoria Sophie Crede*

S1420100

First supervisor: Professor Ramses Wessel

Second supervisor: Dr. Shawn Donnelly

Daily supervisor: Dr. Luisa Marin

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<sup>1</sup> O. Schöpf, 'Die Flüchtlingsfrage hat neue EU-Beitrittsverhandlungen mit der Türkei zur Folge', Oliver Schöpf, available at <[http://www.oliverschopf.com/html/d\\_polkar/einzel\\_e/eu\\_tuerkei\\_gipfel.html](http://www.oliverschopf.com/html/d_polkar/einzel_e/eu_tuerkei_gipfel.html)>

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## **Abstract**

This paper aims to assess the relationship of the European Union and Turkey with a special focus on European, normative values laid down in the Treaty of the European Union, the Charter of Fundamental Rights of the European Union and the European Convention on Human Rights. The first section of the paper addresses the methodological approach of this paper. The second of this paper analyses the role of European, normative values and to what extent these values have been respected and adhered to in past and current relations. The findings of the analysis, conducted in the second section, are presented in section three of this paper.

## **Affiliation**

Victoria Sophie Crede is a student at the University of Twente, The Netherlands. Her research interests include European external relation law and the politics of the European Union.

## Abbreviations

AKP	Adalet ve Kalkınma Partisi
CDU	Christlich – Demokratische Union
CFREU	Charter of Fundamental Rights of the European Union
EC	European Community
EEC	European Economic Communities
ECJ	European Court of Justice
EU	European Union
TEEC	Treaty Establishing the European Communities
TEU	Treaty on the European Union
TFEU	Treaty on the Functioning of the European Union
HDP	Halkların Demokratik Partisi

# 1. Chapter 1 – The theoretical basics of an ambivalent relationship

## 1.1 Introduction

*‘The European Union needs Turkey more than Turkey needs the European Union’<sup>2</sup>*

(Recep Tayyip Erdogan, April 19<sup>th</sup>, 2016)

vs.

*‘Turkey and the Turkish government is far away from the European understanding of democracy, human rights, the freedom of religion and fundamental freedoms in general’<sup>3</sup>*

(Gerda Hasselfeldt, June 12<sup>th</sup>, 2013)

The relationship between the European Union and Turkey has always been a very special and distinctive one. The accession negotiations with Turkey might be the most complex ones the European Union ever conducted with a candidate country and today accession negotiations seem to be not only based on the 35 negotiation chapters but also seem to be heavily impacted by the current refugee crisis as well. In order to investigate the accession process and potential impacts on the negotiations, this bachelor thesis will address the relationship of the European Union and Turkey within a time frame of fifteen years with a special focus on European values and their implementation and adherence. In order to be able to do that, the following research question has been formulated:

**“How and to what extent is the European Union able to uphold its distinctive normative values in its relations with Turkey?”**

Next to the overall research question, three sub-questions have been formulated, whereas the answering these sub-questions will contribute to the answer of the overall research question.

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<sup>2</sup> The Economic Times, ‘EU needs Turkey more than Turkey needs EU’: Recep Tayyip Erdogan’, The Economic Times, 19 April 2016, available at <<http://economictimes.indiatimes.com/news/international/world-news/eu-needs-turkey-more-than-turkey-needs-eu-recep-tayyip-erdogan/articleshow/51895430.cms>>

<sup>3</sup> D. Neurer, ‘Die EU ist kein Christenclub’, Handelsblatt, 12 June 2013, available at <<http://www.handelsblatt.com/politik/deutschland/spd-zerreisst-merkels-tuerkei-politik-die-eu-ist-kein-christenclub-/8337592.html>>

Following the introduction of the research question and accompanied by the expectations of the thesis, the case selection (Turkey) and the sampling method will be explained in the methodology part. Turkey has been selected due to several reasons but mainly due to the fact that the Turkey – EU relationship is one of the most ambivalent ones with respect to perceptions and expectations. Today, Turkey is one of the most crucial players in the present refugee crisis, which also explains the relevance of the study – without Turkey the European Union today would face an even bigger challenge and would not be able to handle all migrants coming from the war zones in Syria, Afghanistan or Pakistan. However, Turkey uses this situation for own advantages and tries to intimidate the European Union to compass less visa restrictions for Turkish inhabitants as well as to further expedite the accession negotiations.

With a view to find an answer to the overall research question, also, a theoretical framework has been set up. In this theoretical framework, existing literature will be reviewed as well as important concepts, criteria and legal documents, such as the Copenhagen Criteria or the Treaty of the European Union, will be analysed as the material contributes to the answer of the research question.

For the process of the data analysis, two case studies will be conducted to display the accession process and the current happening: the first case study will cover the accession negotiations from its very beginning in 1959, when Turkey applied for membership to the European Economic Community until today (2016) with a particular spotlight on the question if the European Union was / is able to preserve its distinctive normative values during these negotiations.

Next to this case study and question, the second case study is conducted with the focus on the current refugee crisis and the question if the European Union can remain true to itself. During this process, the sub-questions will be answered as well.

In the last part of this thesis, a conclusion will be drawn, answering the overall research question and further analysing the prospects of the future of the relationship of the European Union and Turkey.

The research design will be an interrupted time series design, whereas the years of 1959, 1999, 2004 and 2015 / 2016 will be studied in depth.

## 1.2 Background of the problem

*'The European Union needs Turkey more than Turkey needs the European Union'*  
(Recep Tayyip Erdogan, April 19<sup>th</sup>, 2016)

The above mentioned quote of the current Turkish president Recep Tayyip Erdogan describes the prevailing relationship of the European Union and Turkey<sup>4</sup> very precisely. In the ongoing refugee crisis, the European Union seem to be more dependent on the benevolence of Turkey and the Turkish government more than the other way around.

However, in order to understand the current relationship of the European Union and Turkey, one must look back in history. The relationship between both parties was not only established in the recent years and under the influence of the refugee crisis but the relationship is already a long lasting one since 1959, when Turkey applied first for accession to the European Economic Community, the former precursor of today's European Union. During these 57 years of ongoing talks, parleys and agreements, the European Union seemed to be the dominant partner in this relationship, closely sticking to the European values and with one little latitude during negotiations.

Yet, the situation and the relationship of the European Union and Turkey has changed over the past year and especially in recent months. In the last two years, the European Union faced various challenges caused by an unexpected high number of prospective refugees and at the same time an inappropriate management of the arising crisis. The European Union not only faced a high number of refugees without necessary, legal documents but the institution as such underdetermined the whole situation in its very beginning. With first recognised refugees being run aground in Lampedusa in 2013<sup>5</sup>, actions should have been taken in order to provide adequate help and first aid in the sending states. However, the situation was not immediately resolved but aggravated over the past months. Syrians, Afghanis and Pakistanis fled from terrorism and war and ended up in one of the refugee camps at the Turkish – Syrian border waiting for their journey to be continued to Europe. Now, the Turkish government has taken up the chance to put the European Union under pressure. The Turkish government is willing to keep refugees within Turkey and to take back refugees arriving in Greece from Turkey but only under certain circumstances. First

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<sup>4</sup> Here, the date of reference is April 2016, the month I started writing this bachelor thesis.

<sup>5</sup> H.J. Schlamp, 'Flüchtlingsdrama vor Lampedusa: Europas Versagen.', Spiegel Online, 03 October 2013, available at: <<http://www.spiegel.de/politik/ausland/lampedusa-mehr-als-hundert-fluechtlinge-sterben-schiffsunglueck-a-925999.html>>

of all, the Turkish government aims at less visa restrictions for their inhabitants when coming to Europe. Further, Ahmet Davutoglu, the Turkish prime minister, demands in total six billion euro in return for helping Europe out in times of need and wants to further discuss the possible accession of Turkey as a member state of the European Union. Over the last couple of months, the European Union has lost its credibility and potentially was not able to uphold its normative values. The European Union was not capable to completely withstand the pressure exercised by the Turkish government but rather gave in and was partly blackmailed. Thus, the question arises, if the European Union still relies on its normative values and if it they are able to uphold them during accession negotiations? This refugee crisis does not only have an impact on Europe in the next couple of months but can be a signpost for the next years. If the European Union continues to wilt under pressure by candidate countries, what does this mean for further accession negotiations?

### 1.3 Research Questions and Expectations

#### 1.3.1 Research Question and Sub Questions

In this chapter, I will shortly introduce the overarching research question as well as the sub-questions, whereas in the following chapter I will outline how I am going to answer the question.

In order to precisely analyse the relationship between the European Union and Turkey and in order to be able to identify the role European values have played so far in both accession negotiations and the current refugee crisis, an overarching research question as well as three sub-questions have been formulated. The three sub-questions are build up on each other and are used to provide structure and guidance throughout the paper. Moreover, the three sub-questions will contribute to answer the overarching research question. The overall research question will be answered within the conclusion.

The overarching hermeneutical – evaluative research question has been formulated as following:

**Q: “How and to what extent is the European Union able to uphold its distinctive normative values in its relations with Turkey?”**



Since the research question is a very complex one aiming at analysing the role of values in the past accession negotiations with Turkey as well in the current refugee crisis, the following sub-questions have been formulated:

SQ1: “What are distinctive normative values of the European Union and how can the European values be determined?”

This first sub-question serves as the basis to answer the overall sub-question. With answering this sub-question, the reader will have a precise definition of what European values actually are, how they are defined by the European Union and where these European values are anchored.

Following the first sub-question, a second sub-question has been drafted, which examines the role of values in past accession negotiations:

SQ2: “What role have these normative, European values played in former accession negotiations of the European Union with Turkey?”

Today, the European Union seems to loosen their principles in order to combat the refugee crisis with the help of Turkey. However, the question arises if this has always been the case? With the help of the second sub-question, I will illustrate what role European values played until the refugee crisis and to what extent the European Union stuck to these principles and values in the former accession negotiations.

The last sub-question that will contribute to answer the overall research question, is the following one:

SQ3: “Does the European Union remain true to itself and uphold its normative values in the current refugee crisis?”

With sub-question one focussing on the definition of the term “Normative, European values” and sub-question two focussing on past accession negotiations and the role of values, the third sub-question thematises the current happenings and analyses the role of values today. In the context of the third sub – question the following underlying hypothesis can be formulated as well: the European Union seems to loosen its principles in its current relations with Turkey. However, additionally to the underlying hypothesis, the question must be raised whether they completely reject their principles and values or if they only partly reject them? Further, one might ask if the European Union takes necessary steps in this difficult time or are they rather intimidated and losing their values? The third sub-question and its underlying hypothesis aims to answer these question and thus to contribute the final piece to the answer of the overall research question.

### **1.3.2 Expectations and Underlying Hypotheses**

The topic of accession negotiations has always been a very complex one and will always remain a complex one. Accession negotiations are not only conducted over a year but they are a continuing process over decades – agreements have to be made, requirements have to be met and finally all chapters of negotiations have to be closed in order for a candidate country to become a full member of the European Union. However, interests needs to be preserved and stances need to be made clear.

I am aware of the fact that I cannot fully capture the whole process of accession negotiations between the European Union and Turkey and that there is a lot more to be taken into account when analysing this process – however, I am very interested in the overall topic and hence expect new insights from this research. I expect to gain insights on the European perspective as well as on the Turkish perspective, even though these perspectives might differ with regard to the general role of values, the importance and the adherence. While answering sub-question two, I expect to detect a strong European influence on Turkey. Normative values such as the respect for human rights, the freedom of press and speech are strongly represented by the European Union and I expect the adherence of these values as a requirement to become a member state. Hence, the following underlying hypothesis has been formulated: In the time span of 1959 until 2005, the European Union is able to uphold and respect its founding values in its relations with Turkey and imposes these values as a requirement for membership on Turkey. However, with regard to sub-question three and

the handlings of the refugee crisis, I believe that there will be a shift from the European Union being the precedent-setting party to Turkey being the precedent-setting party. With all the claims demanded by Turkey and the ever-growing problem of the refugee crisis, the European Union maybe faces their biggest challenge since the Second World War<sup>6</sup> and hence needs to find an ad-hoc solution for this problem. Therefore, the normative values, which are anchored in the Treaty of the European Union might play a less important role and are not as strictly complied to as in past accession negotiations.

With regard to the overall research question, one might think that there might be no “the one and only” – answer. As mentioned above, the topic is a very complex one and there will be different opinions and mechanisms on how to solve and tackle the problem. Hence, I expect that my research and the findings I conclude will display the importance of normative, European roles, today and back then, their adherence and the change of mind both parties have had in the last 57 years of negotiations. However, I believe that my conclusions will be open for discussion depending of the point of view and the focus one takes up on that interesting, diverse topic.

#### 1.4 Research Methodology

As already mentioned in the previous chapter, this chapter thematises the approach I am using to answer my overarching research question. Moreover, in this chapter the reader will be informed about the case selection (Turkey). Further, I will explain why I have decided to conduct two case studies instead of only one. The Data Collection Methods will be outlined in this chapter as well, providing first information on the modus operandi and material that will be continuously used.

In order to answer the overall research question, the focus of the paper will be on two different case studies. The relationship of the European Union and Turkey has changed over the recent years and with the refugee crisis heavily affecting the European Union the point of view, requirements and demands of both parties have also changed. Instead of conducting one large case study, whereas Turkey and the process of accession negotiations would be the centre of attention, I decided to conduct two smaller case studies. In both case studies the role of values and the question to what extent the European Union stuck and still sticks

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<sup>6</sup> P. MacFadden, 'Refugee crisis is greatest challenge to Europe since WW2', Mirror, 15 September 2015, available at: <<http://www.mirror.co.uk/news/uk-news/refugee-crisis-greatest-challenge-europe-6448454>>

to their normative values will be the central issue. With two case studies, I am better able to precisely outline and demonstrate the expected change with regard to the role of values, requirements and demands from both parties.

#### **1.4.1 Case Selection**

In general, Turkey is a very interesting case to focus on due to two several reasons: the accession negotiations and the current refugee crisis. The European Union and Turkey have a long lasting relationship that has been further deepened and developing over the past seventeen years. From the very beginning when accession negotiations to the European Economic Community started until the year of 2016, much has changed but not everything has been tackled, fulfilled or solved. However, even though over the last years, the governmental and state structures in Turkey have improved, there are still violations and discrimination taking place – even though the European Union imposed clear requirements on Turkey. For the sake of studying if the European Union has been able (is able) to uphold its normative values during accession negotiations, a first case study will be conducted. Moreover, as mentioned above, Turkey is one crucial player in the refugee crisis, currently putting the European Union under pressure to acquire more advantages. Turkey is willing to help out but only under certain circumstances, which are not determined by both parties but rather by only one party. Hence, it is important to focus on such a country in today's time and to examine if the European Union can remain true to itself. In order to examine the Status Quo and the role of the European Union and Turkey in the view of the refugee crisis, the second case study will be conducted aiming at analysing the current EU – Turkey relationship and the role of European values played today.

#### **1.4.2 Case Studies**

The first case study will analyse the process of the negotiation accession of Turkey with the European Union from the very first beginning when Turkey became a candidate country until today – here the main focus will be on the question of what role the normative values of the European Union have played in accession negotiations so far and if the European Union was able to uphold these values. In order to do so, four focal phases in the history have been chosen and hence serve as background material for better understanding.

The focus of the second case study will be put on the current refugee crisis and within that framework on the relationship between Turkey and the European Union, as from 2015 on, Turkey was willing to step in and help the European Union out but only the European Union

would fulfil their criteria and requirements. To analyse and answer the question if the European Union was and still is able to uphold its normative values, I will look at four different points in time, which are significant in the EU – Turkey relationship with a special focus the EU's power and its normative values. First of all, I will look at the first phase, in which both parties first had contact, with its beginning in the year of 1959, where Turkey applied for full membership in the European Economic Community. Following that, the phase between 1975 and 1990 will be analysed. Furthermore, a phase in the 1990's will be examined, where Turkey first became a candidate country for the European Union. Back then, what was needed to become a candidate country? What requirements did the European Union impose on Turkey in order to allow them to become a candidate country? Did Turkey completely fulfil the requirements? Moreover, I will also have a look at the year of 2004 / 2005, where first accession negotiations began. Again, I will have a closer look to the requirements imposed on Turkey and if these requirements are fulfilled today.

To develop and analyse the second case study, I will examine the current EU – Turkey relationship. To what extent is the European Union able to withstand the pressure exercised by Turkey? How did this relationship develop into such an ambivalent one? I will address the current refugee crisis as well as I will especially focus on the question, if the European Union can uphold and impose its values during current and possibly further discussions with Turkey. In order to do that, I will strongly examine the current accession negotiations. Furthermore, I will analyse the aforementioned agreement signed by Turkey and the European Union last March and present the main points stated in that agreement.

### **1.4.3 Data collection methods**

For this thesis, only qualitative data will be analysed, meaning that no statistics or any other quantitative data collection methods will be applied.

Moreover, I will use secondary data collected by the European Parliament, the European Commission and the Council. Here, papers covering the accession negotiations and current crisis will be analysed as well as ongoing and past parliament discussions will be taken into account.

Furthermore, scientific articles dealing with the topic will be examined in depth. Here, it needs to be specified that there are not only articles studied that cover the accession negotiations and current refugee crisis but also articles, which focus on the European values and its extensions to possible candidate countries, as for example the article 'Human rights

and democratization in Turkey in the context of EU candidature' written by Chris Rumford in 2010.

Secondary qualitative data will be used for several reasons, including the following: first of all, the data provided by the European Institutions prove excellent material on Turkey due to the fact that all institutions are to somewhat engaged in the accession negotiations from its very beginning. The European Union annually publishes so – called progress reports, in which current status of the candidate country is outlined in detail as well as the political and economic situation is examined. Furthermore, all chapters, which need to be negotiated are analysed and overall summary is presented at the end. These reports provide a detailed overview of the current relationship and the current status of Turkey within the framework of accession and negotiation. Another important tool that will be used are the website of the European Commission, whereas the website of the European Neighbourhood Policy and Enlargement negotiations will be studied in depth. The website not only provides statements about the current negotiations but also background material as well as a historical timeline of the EU – Turkey relationship. In order to understand what is meant with European values, the Treaty of the European Union (TEU) will be studied in depth and articles will be consulted to get a deeper understanding of the definition of European values. Furthermore, policy documents as well as accession agreements will be analysed. Hence, the technique applied during the thesis will be a systematic approach.

## 1.5 Theoretical Framework

- <sup>^</sup> In this section of the paper, literature, terms and criteria, which are relevant for the thesis will be outlined and further reviewed.

### **1.5.1 The European Values**

This sub - chapter, very shortly, gives an overview of literature covering the term “European value”. However, Chapter 6.1 will give a more detailed outline of the three most important values of the European Union: democracy, the rule of law and the respect for human rights and human dignity.

Today, the European Union is understood to be a community of shared values, which perceives the same interests and objectives and follows the same legal rules.

With the foundation of the European Union in 1993, three core values have been formulated and made a prerequisite for becoming a member state to the Union in the political thematic group of the so-called Copenhagen Criteria, which will be discussed in chapter 1.5.2. These three values are the principle of democracy, the rule of law and the respect for human rights and human dignity. All three principles support and build up on each other and are today laid down in the Charter of Fundamental Rights of the European Union. With the introduction of the Lisbon Treaty in 2009, also the Charter of Fundamental Rights entered into force with being legally binding to all member states. Ian Manners, a political scientist from the Copenhagen University further outlines additional values that are perceived to have a special meaning within the European Union. First of all, he outlines that peace is a common European value. He points at the fact, that the European Union pays special attention to sustainable peace, trying to not only settle the conflict as such but also to understand the roots of the conflict to be able to enhance the chance of a peaceful settlement. Further, Manners underlines the importance of (social) liberty within the European Union. In his article, he states that ‘within the EU social liberty is circumscribed by the need to ensure that other values are not compromised by unwarranted freedoms, such as anti-social behaviour, hate crimes, inflammatory speech, and pornography.’<sup>7</sup> As a third value that is understood to be a European value, Ian Manners mentions inclusive equality. According to him, inclusive equality is understood to be the prohibition of any kind of discrimination, such as gender, race or the ethnical and social origin. Manners further states that the European Union has introduced proactive policy reforms in order to enhance equality within the European Union. For him, these actions define equality as a European value. Following the aforementioned values, Ian Manners additionally understands social solidarity as a European value. His understanding of the term goes hand in hand with the definition of the European Union, given by Martin Schulz, the president of the European Parliament. Schulz stressed that the European Union is a community of solidarity, acting fairly and social.<sup>8</sup> Next to the above mentioned values, Manners also proclaims sustainable development and good governance as European values. With regard to the value of good governance he stresses two distinctive features of the European value

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<sup>7</sup> I.Manners, ‘The constitutive nature of values, images and principles in the European Union’, University of Copenhagen, 2006, available at [http://static-curis.ku.dk/portal/files/45209645/Ian\\_Manners\\_Constitutive\\_Nature\\_of\\_Values\\_Images\\_and\\_Principles\\_in\\_the\\_EU\\_Lucarelli\\_and\\_Manners\\_2006.pdf](http://static-curis.ku.dk/portal/files/45209645/Ian_Manners_Constitutive_Nature_of_Values_Images_and_Principles_in_the_EU_Lucarelli_and_Manners_2006.pdf)

<sup>8</sup> Europäisches Parlament, ‘Schulz: Europa ist keine Spargemeinschaft, sondern eine Solidargemeinschaft’, Europäisches Parlament, 29 February 201, available at <http://www.europarl.europa.eu/news/de/news-room/20120223STO39237/Schulz-Europa-ist-keine-Spargemeinschaft-sondern-eine-Solidargemeinschaft>

of good governance, namely the participation of a civil society and the strengthening of multilateral communication and cooperation.<sup>9</sup> In line with the argumentation of Ian Manners is also the statement given by Marinus Ossewaarde ‘the key feature of post-war European identity is enlarged solidarity or interconnectedness, characterized by overarching (European) unity in (national, regional and local) diversity’.<sup>10</sup> This statement again is in line with the slogan of the European Union which is the following ‘*united in diversity*’.<sup>11</sup> Further, Ossewaarde also outlines that importance of the values of democracy and freedom, arguing that without these values European culture and Europe itself would not exist.

Another values that is often referred to when Europe and the European Union are discussed is the value of culture. According to the European Commission<sup>12</sup> the term European culture can be interpreted in different ways. First of all, the term European cultures summarises a history of the European continent with shared heritage, which is based on the values of democracy, the rule of law and a common market. Another understanding of the term is also in line with the slogan of the European Union. European culture is understood to be very diverse but at the same time very united. Every member state of the European Union has unique values, unique traditions and most of them even have their own language, which, en bloc, represent the culture of the European Union, which is thereby multi-faceted and again “*united in diversity*”.

The institutions of the European Union, Ian Manners and partly also Marinus Ossewaarde very precisely defined their understanding of European values, which can also be found in diversified article of the treaty of the European Union, such as article 2 TEU, in which the following is stated: ‘The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail’.<sup>13</sup> Moreover, article 3, 6 and 10 also address the

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<sup>9</sup> I.Manners, ‘The constitutive nature of values, images and principles in the European Union’, University of Copenhagen, 2006, available at [http://static-curis.ku.dk/portal/files/45209645/Ian\\_Manners\\_Constitutive\\_Nature\\_of\\_Values\\_Images\\_and\\_Principles\\_in\\_the\\_EU\\_Lucarelli\\_and\\_Manners\\_2006.pdf](http://static-curis.ku.dk/portal/files/45209645/Ian_Manners_Constitutive_Nature_of_Values_Images_and_Principles_in_the_EU_Lucarelli_and_Manners_2006.pdf)

<sup>10</sup> M. Ossewaarde, ‘Conference – Paper: The Sociologists’ Struggle for European Identity: Western Civilization or European Culture?’, Marinus Ossewaarde, 2015

<sup>11</sup> European union, ‘The EU motto’, European Union, 24 January 2016, available at <[http://europa.eu/about-eu/basic-information/symbols/motto/index\\_en.htm](http://europa.eu/about-eu/basic-information/symbols/motto/index_en.htm)>

<sup>12</sup> <European Commission, ‘European Cultural Values’, European Commission, September 2007, available at [http://ec.europa.eu/public\\_opinion/archives/ebs/ebs\\_278\\_en.pdf](http://ec.europa.eu/public_opinion/archives/ebs/ebs_278_en.pdf)>

<sup>13</sup> OJ [2008] C 115 / 13, 09 May 2008



aforementioned values by outlining their concrete meaning and their scope as well as the values are included in the Charter of Fundamental Rights, which is divided into seven different chapter, each covering one of the values.

A very recent definition of the term “European value” has also been given by the German Justice Minister Heiko Maas in the context of the current relationship of the European Union and Turkey. He outlines that fundamental, European values include freedom of expression or [freedom of] press and that these values will not be relaxed for Turkey – even though Turkey is the most crucial player in the current refugee crisis. Further, Heike Maas also concludes that these fundamental rights are essential elements to a democracy and that this viewpoint has been made clear by various state officials, including the German ambassador to Turkey, Martin Erdmann.<sup>14</sup>

#### *Article 7 TEU – Safeguarding European values*

With the values being laid down in the Treaty of the European Union and in the Charter of Fundamental Rights of the European Union, the European Union also needed to assure that these values are respected and uphold by all its member states. In the mid 1990’s, when the European Union expanded to the East with the intention to incorporate new countries to the European Union, concerns rose that these potential candidate countries, which just transitioned from a dictatorial system into a democracy would fall back into old patterns, again violating European values, such as the respect for human rights. Wojciech Sadurski, a law professor from the University of Sydney outlines that ‘With enlargement, the Union will be importing a new set of unresolved minority issues as well as additional human rights challenges, whose solutions will test the strength of many Community policies.’<sup>15</sup> Therefore, the European Union decided to introduce a mechanism, which would allow to sanction member states if they would violate the fundamental principles of the European Union. With the conclusion of the Treaty of Amsterdam in 1997, Article 7 TEU was added, which states the following: ‘On a reasoned proposal by one third of the Member States, by the European Parliament or by the European Commission, the Council, acting by a majority of four fifths of its members after obtaining the consent of the European Parliament, may

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<sup>14</sup> H. Monath, S.Haselberger, ‘Maas: There will be no relaxation for Turkey’, Euroactiv.com, 11 April 2016, available at <<http://www.euractiv.com/section/europe-s-east/interview/maas-there-will-be-no-relaxation-of-values-for-turkey/>>

<sup>15</sup> W. Sadurski, ‘Adding a Bite to a Bark? A Story of Article 7, the EU Enlargement, and Jörg Haider’, 10/01 Legal Studies Research Paper, The University of Sydney, January 2010, available at <<http://ssrn.com/abstract=1531393>>

determine that there is a clear risk of a serious breach by a Member State of the values referred to in Article 2 [...].'<sup>16</sup>

In the history of the European Union, Article 7 TEU has never been used until today. However, the use of Article 7 TEU has been discussed several times, whereas the most prominent example is the Haider Case in Austria. In 1999, Austria held general elections, in which none of the political parties obtained the absolute majority to govern the country alone. Following the results, a coalition between the People's Party and the right-wing Freedom's party was approved, whereas Jörg Haider, the leader of the Freedom's party stayed out of the government. However, Haider's statement that the admission of Central and Eastern European countries would be an immense threat to Austria in terms of crimes and the integration of foreigners into the labour markets, was perceived as a great threat to the European values. Following Haider's statement that Eastern enlargement 'is a declaration of war on all industrious and other hardworking people in Austria'<sup>17</sup>, some EU leaders decided to impose diplomatic sanctions on Austria in order to figurative support Eastern European countries' way into democratic system and to demonstrate unity against right-wings parties within the European Union. However, sanctions did not derive from Article 7, as no violation of fundamental rights could be detected and none of the two supranational EU institutions had been consulted. Moreover, only shortly after the decision to sanction Austria, sanctions were lifted again. Nevertheless, the Haider case had symbolic character and led to a rethink within the European Union. Many leaders issued statements that European values should be respected and perceived as something fundamental and that right-wings parties do not fit the democratic picture of the Union.<sup>18</sup> Further, the Treaty of Nice, included a revision of Article 7 TEU – a preventing mechanism was added<sup>19</sup> to the article, allowing European Union institutions to first warn the member state and to give them the possibility to be heard on the issues questioned '[...] Before making such a determination, the Council shall hear the Member State in question and may address recommendations to it, acting in accordance with the same procedure'.<sup>20</sup>

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<sup>16</sup> *OJ* [2008] C 115 / 13, 09 May 2008

<sup>17</sup> W. Sadurski, 'Adding a Bite to a Bark? A Story of Article 7, the EU Enlargement, and Jörg Haider', 10/01 Legal Studies Research Paper, The University of Sydney, January 2010, available at <<http://ssrn.com/abstract=1531393>>

<sup>18</sup> W. Sadurski, 'Adding a Bite to a Bark? A Story of Article 7, the EU Enlargement, and Jörg Haider', 10/01 Legal Studies Research Paper, The University of Sydney, January 2010, available at <<http://ssrn.com/abstract=1531393>>

<sup>19</sup> G. Hervey & E. Livingstone, 'What is Article 7?', Politico, 13 January 2016, available at <<http://www.politico.eu/article/hungary-eu-news-article-7-vote-poland-rule-of-law/>>

<sup>20</sup> *OJ* [2008] C 115 / 13, 09 May 2008

In the first development of the European Union, and especially in times of the refugee crisis, Article 7 TEU could again be provoked against countries like Poland, in which a right-wings parties is currently the governing one, and whose (political) situation is currently assessed by the European Commission. However, enforcing Article 7 TEU is rather complicated and should only be used as last means. Already in 2015, a small group of liberal EU leaders suggested to enforce Article 7 TEU against Hungary. However, the proposal was denied by the European Parliament as it was unlikely that a needed two-thirds majority within the European Parliament would be reached – even though the country does not fully follow the general understanding of European values.

### **1.5.2 The Copenhagen Criteria – European Values as a prerequisite for membership**

In this sub – chapter the so-called Copenhagen Criteria, the basic conditions for a membership in the European Union, will be explained in depth.

If a country in Europe wants to become a member of the European Union it firstly needs to fulfil the Copenhagen Criteria. The Copenhagen Criteria was first defined in 1993, during the so-called Copenhagen Summit. Prior the Copenhagen Summit, between the years if 1989 until 1993, after the fall of the Berlin wall, the European Union concluded various so-called Association Agreements with Central and Eastern European States, such as Poland, Hungary and the Czech and Slovak Republic.<sup>21</sup> Although, these Association Agreements did not include a potential accession possibility, the agreements still ‘established a link between European integration and ongoing events: the building of [the] European Union will permit further development of effective and harmonious relations with other countries of Europe’.<sup>22</sup> With more and more countries, such as Estonia, Latvia or Lithuania, concluding those association agreements and hence deepening and strengthening the relationships with the European Union, the head of states and governments then decided at the Copenhagen Summit in 1993, to give Central and Eastern European states the possibility to become a full member of the European Union if they would wish to do so. However, basic conditions needed to be defined in order to assess whether the country is suitable for becoming a potential member state or not as most of these countries were ‘countries

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<sup>21</sup> B. van Vooren and R. Wessel, ‘EU external relations law – Text, Cases and Materials’, (Cambridge University Press 2014), p. 527

<sup>22</sup> B. van Vooren and R. Wessel, ‘EU external relations law – Text, Cases and Materials’, (Cambridge University Press 2014), p. 527

transitioning from non-democratic regimes'<sup>23</sup> and with only being 'fresh post-dictatorial democracies'<sup>24</sup> with little political stability yet. Hence, the Copenhagen Criteria were introduced, which from that point onwards until today, serve as a basis to determine whether a country can become a candidate country of the European Union or not.<sup>25</sup> The Copenhagen Criteria are hereby closely linked to the Treaty of the European Union. The European Commission divides the Copenhagen Criteria into three different thematic groups: the political criteria, the economic criteria and the adoption of the *acquis communautaire*. With regard to the political criteria, the following is stated 'Membership requires that the candidate country has achieved stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities.'<sup>26</sup> According to van Vooren and Wessel, the political requirement is not only a formal one but a practical one. In order to actually assess whether the country meets the set out requirements or not, the European Commission will have a concrete look at the actual exercises, structures and powers of all the branches, namely the judicative, executive and legislative branch. Further, the Commission also critically assesses the proper handling of human rights such as the protection of minorities or the adherence of fundamental freedoms.<sup>27</sup> Here, one can see the direct link to the Treaty of the European Union and especially Article 2 TEU – the European Union relies on its values outlined in the Treaty and expect member states to respect these values. The European Union imposes precise and clear requirements on potential candidate countries and explicitly mention the importance of compliance and adoption of these values. Thus, if a country does not adopt and comply with the political criteria, which is also the most important criteria according to Hochleitner, it will not become a candidate country and hence no accession negotiations will be started.

With regard to the economic criteria, Michael Emmerson<sup>28</sup> outlines that the country applying for candidature must prove that there is an existing and functioning market

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<sup>23</sup> B. van Vooren and R. Wessel, 'EU external relations law – Text, Cases and Materials', (Cambridge University Press 2014), p. 522

<sup>24</sup> G. Toggenburg, 'The Debate on European Values and the Case of Cultural Diversity', 10 *European Diversity and Autonomy Papers* 2004, available at <[http://webfolder.eurac.edu/EURAC/Publications/edap/2004\\_edap01.pdf](http://webfolder.eurac.edu/EURAC/Publications/edap/2004_edap01.pdf)>

<sup>25</sup> European Commission, 'Accession Criteria', European Commission, 07 September 2012, available at <[http://ec.europa.eu/enlargement/policy/glossary/terms/accession-criteria\\_en.htm](http://ec.europa.eu/enlargement/policy/glossary/terms/accession-criteria_en.htm)>

<sup>26</sup> E. Hochleitner, 'The Political Criteria of Copenhagen and their application to Turkey', Österreichisches Institut für europäische Sicherheitspolitik, available at <<http://www.aies.at/download/2005/hochleitner4.pdf>>

<sup>27</sup> B. van Vooren and R. Wessel, 'EU external relations law – Text, Cases and Materials', (Cambridge University Press 2014), p. 522

<sup>28</sup> M. Emerson, 'Has Turkey fulfilled the Copenhagen Criteria?', Centre for European Policy Studies, April 2004, available at <<http://aei.pitt.edu/6575/1/1104.pdf>>

economy as well as that the country is able to deal with competitive pressures and market forces within the European Union. Again, the link to the Treaty of the European Union can be found in Article 3(3) TEU, where the following is stated ‘The Union shall establish an internal market. It shall work for the sustainable development of Europe based on balanced economic growth and price stability, a highly competitive social market economy, aiming at full employment and social progress, and a high level of protection and improvement of the quality of the environment. It shall promote scientific and technological advance.’<sup>29</sup>

As a third criteria, the *acquis communautaire*, was introduced. A country wishing to become a member state of the European Union, must adhere the aims of the European Union with respect to political, economic and monetary aspects and it must prove the ‘ability to take on the obligations of membership.’<sup>30</sup> According to van Vooren and Wessel, the *acquis communautaire* implies that the country also accepts and signs the principles and objective of the treaties, secondary legislation and the European courts jurisprudence as well as soft legal documents, such as the European Convention on Human Rights and international agreements concluded by the European Union and its member states.<sup>31</sup> As these criteria have been established in 1993 and imposed on all potential candidate countries, also Turkey needed to fulfil the criteria before being recognised as a candidate country in 1999.

Additionally to the three criteria defined during the Copenhagen Summit, a fourth criteria was added by the Copenhagen European Council as van Vooren and Wessel outline. The criteria of absorption capacity ‘applies to the [European Union] itself<sup>32</sup> and preserves the general interests of the European Union. Only if the European Union is capable to incorporate another country, this country will become a member state of the European Union. Thereby the European Union ensures the ‘momentum of European Integration’.<sup>33</sup>

As an additional remark, it can be said that for the purpose of this thesis, the focus will be on the normative values of the European Union outlined in Article 2, 3, 6 and 10 and concomitant with this, the focus will be mostly on the political thematic group of the Copenhagen Criteria. However, I am aware of that fact, that the economic and institutional

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<sup>29</sup> OJ [2012] C 326 / 15, 26 October 2012

<sup>30</sup> European Commission, ‘Conditions for membership’, European Commission, 12 October 2015, available at <[http://ec.europa.eu/enlargement/policy/conditions-membership/index\\_en.htm](http://ec.europa.eu/enlargement/policy/conditions-membership/index_en.htm)>

<sup>31</sup> B. van Vooren and R. Wessel, ‘EU external relations law – Text, Cases and Materials’, (Cambridge University Press 2014), p. 523

<sup>32</sup> B. van Vooren and R. Wessel, ‘EU external relations law – Text, Cases and Materials’, (Cambridge University Press 2014), p. 524

<sup>33</sup> B. van Vooren and R. Wessel, ‘EU external relations law – Text, Cases and Materials’, (Cambridge University Press 2014), p. 524

criteria do play very important roles in the EU – Turkey relationship and I will consider them when necessary and needed for the better understanding of the thesis.

Both the Copenhagen Criteria and the term “European value” have been separately dealt with in different situations – in past accession negotiations, in the current refugee crisis and in relations with non-European countries. However, yet, there has been no link established between the Copenhagen Criteria, the term “European value” and the relation of the European Union and Turkey. Therefore, this thesis aims to establish the missing link between the three components and to analyse if the European Union cherishes its values.

## 2. A hypocritical relationship?

An analysis of EU behaviour in past and current relations with Turkey

### 2.1 The role of values and the Treaty of the European Union

In this sub-chapter, the first sub-question, namely “What are distinctive normative values of the European Union and how can the European values be determined?” will be analysed and answered. Here, the focus lies especially on the three most important values of the European Union: democracy, the respect for human rights and human dignity and the rule of law.

Today, the European Union is understood to be a community of shared values. According to the European Union, the most fundamental and most important values that need to be respected and followed are the three founding ones: democracy, the respect for human rights and human dignity and the rule of law.<sup>34</sup> These three values do not only form the basic construct of the European Union but are also explicitly outlined in the Treaty of the European Union. Article 2 TEU states ‘The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities.’<sup>35</sup> Further, in Article 3 TEU it is stated that the European Union stands for tolerance, justice, solidarity and equality between men and women as well as the aim of the European Union is to promote peace: ‘[The European] Union aims to peace, the values of peace and the well-being of its people’<sup>36</sup>.

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<sup>34</sup> European Commission, 'Communication from the Commission to the European Parliament and the Council – A new EU Framework to strengthen the rule of law', The European Commission, 19 March 2014, available at <[http://ec.europa.eu/justice/effective-justice/files/com\\_2014\\_158\\_en.pdf](http://ec.europa.eu/justice/effective-justice/files/com_2014_158_en.pdf)>

<sup>35</sup> *OJ* [2008] C 115 / 13, 09 May 2008

<sup>36</sup> *OJ* [2008] C 115 / 13, 09 May 2008

Here, the link to Article 2 TEU and the respect for human rights and human dignity can be found, as the main goal for the European Union is to protect the well-being of its people.

### *The concept of democracy*

However, in order to understand the importance of these values and to put these values in the context of the relationship between the European Union and Turkey, they need to be clarified more precisely. Abraham Lincoln, a former US-president, gave the following famous definition of democracy: ‘A government for the people, by the people, from the people’.<sup>37</sup> Within this definition, the focus lies especially on people. A more recent definition of democracy has been given by the Friedrich-Ebert-Stiftung, a German political foundation.<sup>38</sup> In their working paper, they define democracy as a special system of government, in which the power to rule stems from the nation. In their working paper, they further distinguish between two forms of democratic governments: the first form of a democracy is understood to be a representative democracy. People, who are eligible to vote, elect a representative, who then represents their wishes, demands and political mind-sets within the different levels of government. This form of democracy is also exercised within the European Union ‘The functioning of the Union shall be founded on representative democracy’.<sup>39</sup> Members of the European Parliament have been elected in their home countries, now pursuing the interests of their constituents on the European level. The second form of democracy is the so-called direct democracy – people are not electing a representative but directly vote on the matter e.g. through a referendum. A prominent European example, even though not being a member of the European Union, for the system of direct democracy is Switzerland.<sup>40</sup> In both forms of democracy, civic and political rights, including fair elections and the right to vote as well as independent courts of law are core elements and ensured and written down in the constitution of each country. On the European Union level, these rights are ensured in the Treaty of Lisbon, as the European Union does not have an own constitution.<sup>41</sup> Furthermore, as already outlined in Chapter 1.5.1, Ian

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<sup>37</sup> Democracy Building, ‘A short definition of democracy’, Democracy Building, 2004, available at <<http://www.democracy-building.info/definition-democracy.html>>

<sup>38</sup> P. Becker & Dr. J.-A. Ravelosson, ‘Was ist Demokratie?’, Friedrich-Ebert-Stiftung, September 2008, available at <<http://library.fes.de/pdf-files/bueros/madagaskar/05859.pdf>>

<sup>39</sup> OJ [2008] C 115 / 13, 09 May 2008

<sup>40</sup> P. Becker & Dr. J.-A. Ravelosson, ‘Was ist Demokratie?’, Friedrich-Ebert-Stiftung, September 2008, available at <<http://library.fes.de/pdf-files/bueros/madagaskar/05859.pdf>>

<sup>41</sup> I. Manners, ‘The constitutive nature of values, images and principles in the European Union’, University of Copenhagen, 2006, available at <[http://static-curis.ku.dk/portal/files/45209645/Ian\\_Manners\\_Constitutive\\_Nature\\_of\\_Values\\_Images\\_and\\_Principles\\_in\\_the\\_EU\\_Lucarelli\\_and\\_Manners\\_2006.pdf](http://static-curis.ku.dk/portal/files/45209645/Ian_Manners_Constitutive_Nature_of_Values_Images_and_Principles_in_the_EU_Lucarelli_and_Manners_2006.pdf)>

Manners<sup>42</sup> defines the values of good governance, sustainable peace, social liberty, inclusive equality, solidarity, sustainable development to be European values as well by seizing the continuation of Article 2 TEU.

### *Human rights*

Accompanied by the principle of democracy and essential for the function of a democracy are human rights, the second founding value of the European Union. According to the United Nations<sup>43</sup> human rights are universal rights and apply to everyone with no exception. Furthermore, human rights are non-discriminating and inalienable. The Council of Europe, the Europe's leading human rights organisation, agreed upon these human rights and drafted the so-called European Convention of Human Rights in 1950. This convention is identified as an international treaty and hence binding to all member states. In this treaty, all fundamental and human rights are outlined and explicitly defined. Accompanied by the adaption of the European Convention of Human Rights, the European Court of Human Rights was established in 1959, serving as a court to solve violations against fundamental freedoms and human rights. Moreover, the European Union itself introduced the Charter of fundamental rights of the European Union in 2000.<sup>44</sup> However, only nine years later and with the introduction of the Lisbon Treaty, the Charter of Fundamental Rights of the European Union obtained a fully legal status. Today, in Article 6 TEU, the European Union bind itself to the Charter of Fundamental Rights of the European Union and gives the charter the same recognition as treaties: 'The Union recognises the rights, freedoms and principles set out in the Charter of Fundamental Rights of the European Union of 7 December 2000, as adapted at Strasbourg, on 12 December 2007, which shall have the same legal value as the Treaties'.<sup>45</sup>

The Charter of Fundamental Rights of the European Union is divided into seven different chapters, whereas Chapter one covers the values of dignity, chapter two the values of freedom, chapter three the values of equality, chapter four the values of solidarity, chapter five the values of civil rights and chapter six the values of justice. Chapter seven provides general provisions, such as the scope of the rights.

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<sup>42</sup> I.Manners, 'The constitutive nature of values, images and principles in the European Union', University of Copenhagen, 2006, available at <[http://static-curis.ku.dk/portal/files/45209645/Ian\\_Manners\\_Constitutive\\_Nature\\_of\\_Values\\_Images\\_and\\_Principles\\_in\\_the\\_EU\\_Lucarelli\\_and\\_Manners\\_2006.pdf](http://static-curis.ku.dk/portal/files/45209645/Ian_Manners_Constitutive_Nature_of_Values_Images_and_Principles_in_the_EU_Lucarelli_and_Manners_2006.pdf)>

<sup>43</sup> *OJ* [2008] C 115 / 13, 09 May 2008

<sup>44</sup> *OJ* [2000] C 364 / 01, 18 December 2000

<sup>45</sup> *OJ* [2012] C 326 / 15, 26 October 2012



In the context of this thesis, next to the general values of democracy, human rights and the rule of law, Article 11 of the Charter of Fundamental Rights of the European Union and Article 10 of the European Convention on Human Rights are from special importance as they cover the freedom of expression. In these articles it is stated that ‘Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers.’<sup>46</sup> Further included in Article 11(2) of the Charter of Fundamental Rights of the European Union is the obligation to respect the value of media pluralism and the freedom of the media, which are accompanying values of the freedom of expression. In today’s society media fulfils the task to independently and inclusively inform the public, allowing them to develop an own, only fact-based opinion without the interaction of state authorities and government officials. Pluralistic media provides different information and varying viewpoints with the clear tasks to ethical correctly provide citizenship services without being channelled by any institution.<sup>47</sup> According to the UNESCO, an international special organisation of the United Nations promoting education, science and culture, media pluralism today is a mean of democracy, contributing to the further development of democratic governance and supporting the transition of traditional societies into modern societies.<sup>48</sup> This argumentation is supported by the Commissioner for Human Rights of the Council of Europe. In a discussion paper on the topic of media pluralism and human rights, he underlines the importance of media pluralism to achieve and maintain a functioning democracy with an ‘informed and diverse society’. He refers to Article 11 of the Charter of Fundamental Rights of the European Union and stresses that today, media pluralism, as a fundamental necessity in a functioning democracy, is threatened.<sup>49</sup> States, both within the European Union and in Europe, are limiting the flow of information and monopolising media for own purposes by banning (social) media tools, supervising and censoring newspapers and imprisoning government-critical journalists for potentially revealing state secrets. Actions like these violate the fundamental principles of human rights

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<sup>46</sup> *OJ* [2000] C 364 / 01, 18 December 2000

<sup>47</sup> UNESCO, ‘Beyond 2015: Media as democracy and development’, UNESCO, 2015, available at <[http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/CI/CI/pdf/official\\_documents/beyond\\_2015\\_media\\_democracy\\_development.pdf](http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/CI/CI/pdf/official_documents/beyond_2015_media_democracy_development.pdf)>

<sup>48</sup> UNESCO, ‘Beyond 2015: Media as democracy and development’, UNESCO, 2015, available at <[http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/CI/CI/pdf/official\\_documents/beyond\\_2015\\_media\\_democracy\\_development.pdf](http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/CI/CI/pdf/official_documents/beyond_2015_media_democracy_development.pdf)>

<sup>49</sup> M. Harasuti, ‘Media Pluralism and Human Rights’, Council of Europe, 6 December 2011, available at <<https://wcd.coe.int/com.instranet.InstraServlet?command=com.instranet.CmdBlobGet&InstranetImage=2831794&SecMode=1&DocId=1831536&Usage=2>>

and to not match with the understanding of the media landscape, which is prescribed to be ‘free, pluralistic and independent’.<sup>50</sup>

### *The rule of law*

As aforementioned, the third founding value of the European value is the rule of law. Without the rule of law, a functioning democracy and the adherence of human rights would be impossible. The United Nations define the rule of law as ‘a principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards. It requires [...] separation of powers’<sup>51</sup> The European Union makes the adherence of the rule of law, next to the principle of democracy and the respect for human rights and dignity, even a prerequisite for becoming a member state. Article 49 of the TEU states ‘Any European State which respects the values referred to in Article 2 and is committed to promoting them may apply to become a member of the Union. [...]’<sup>52</sup> According to Denise Meyerson, the rule of law is an essential part for a functioning democracy. Duties and rights of citizens, governmental officials and state authorities are protected under the rule of law, leading to an organised system of government with little possibility to abuse it: ‘The rule of law is the opposite of the rule of power. It stands for supremacy of law over supremacy of individual will’<sup>53</sup>. Moreover, Meyerson identifies that within the rule of law, the separation of power and independent courts are most crucial. If the executive authority, e.g. the police, would be given a blank cheque, the ideal form of government would be threaten as the executive would have no legislative limits and could exercise their tasks according to their own understanding. Therefore, the legislative authority limits the power of the executive, which then operates on behalf of the legislative without exceeding their competences. However, if limiting the executive authority, also the legislative authority needs to be supervised. Hence, the judicative authority oversees politicians and government officials, giving them no possibility to abuse their power for own advantages. Legislative authorities are bound to the judicative and their decision – they

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<sup>50</sup> UNESCO, ‘Beyond 2015: Media as democracy and development’, UNESCO, 2015, available at [http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/CI/CI/pdf/official\\_documents/beyond\\_2015\\_media\\_democracy\\_development.pdf](http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/CI/CI/pdf/official_documents/beyond_2015_media_democracy_development.pdf)

<sup>51</sup> United Nations, ‘Rule of Law Indicators - The United Nations Implementation Guide and Project Tools’, United Nations, 2011, available at [http://www.un.org/en/events/peacekeepersday/2011/publications/un\\_rule\\_of\\_law\\_indicators.pdf](http://www.un.org/en/events/peacekeepersday/2011/publications/un_rule_of_law_indicators.pdf)

<sup>52</sup> OJ [2012] C 326 / 15, 26 October 2012

<sup>53</sup> D. Meyerson, ‘The rule of law and the separation of powers’, 4 *Macquarie Law Journal* 2004, at 1

are accountable and being held responsible for their decisions and actions. Further, the judicative also oversees the actions of the executive. The power to decide whether an action was unlawful or not only lies within the judicative branch: '[The] rule of law is the principle that disputes should be and only appear to be decided according to the law and nothing but law'.<sup>54</sup> Hence, the executive does not have any legal means to decide whether someone performed an unlawfully act or not. However, in return for the supervision of the legislative and executive branch, also the judicative branch is limited by laws, which are concluded by the legislative branch. Meyerson further stresses, that the actual system of the rule of law can only be completely exercised if the judges in the judicative branch only base their verdict on laws and if courts, deciding about a potentially unlawful act, are independent and not an executive organ of the state. The aspect of independent courts and therefore fair and impartial trials is also drafted in the Charter of Fundamental Rights of the European Union and in the European Convention of Human Rights. Article 47(2) CFREU purports that 'Everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal previously established by law. Everyone shall have the possibility of being advised, defended and represented.'<sup>55</sup>

### Concluding remarks

In the last paragraphs, I gave an outline of the definition of European values concluded by the European Union. As aforementioned, the principle of democracy, human rights and the rule of law form the three founding values and hence are the most important normative values of the European Union. 'These legal principles are today referred to as the constitutional principles of the European Union'<sup>56</sup> laid down in the Treaty of the European Union, which is – in fact – the constitutional basis for the European Institutions and its member states.

Moreover, most of the member states of the European Union also anchored the three founding pillars in its own state constitution, such as Germany in the so-called Grundgesetz, in which, for example, the following is stated concerning human rights: 'The German people therefore acknowledge inviolable and inalienable human rights as the basis of every

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<sup>54</sup> D. Meyerson, 'The rule of law and the separation of powers', 4 *Macquarie Law Journal* 2004, at 3

<sup>55</sup> EUR-Lex, 'Charter of the Fundamental rights of the European Union, Article 47(2), European Parliament, European Commission, European Council, 2003, available at <<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A12012P%2FTXT>>

<sup>56</sup> G. Toggenburg, 'The Debate on European Values and the Case of Cultural Diversity', 10 *European Diversity and Autonomy Papers* 2004, available at <[http://webfolder.eurac.edu/EURAC/Publications/edap/2004\\_edap01.pdf](http://webfolder.eurac.edu/EURAC/Publications/edap/2004_edap01.pdf)>

community, of peace and of justice in the world’.<sup>57</sup> Similar formulations, also covering the rule of law and the principle of democracy, can also be found, for example, in the Dutch “Grondwert” or the French “Loi Fundamentale”. Furthermore, also Turkey anchored these values in its constitution. Article 8, 9 and 10 of the Turkish constitution cover the rule of law and the principle of the separation of power. Further, Article 12 of the constitution states that ‘Everyone possesses inherent fundamental rights and freedoms which are inviolable and inalienable’.<sup>58</sup> The freedom of expression and dissemination of thought as well as the freedom of press are separately outlined in Article 26 and Article 28 of the Turkish constitution. However, Article 13 and 14 limit these fundamental rights and freedoms – they can be restricted and even prohibited if the restriction serves the safeguarding of national sovereignty, the integrity of the state or its territory and the public order. Further, Article 15 suspends fundamental rights and freedoms ‘in times of war, mobilization, martial law, or state of emergency [...]’.<sup>59</sup>

As these values are anchored in the Treaty of the European Union and in most of the (member) states constitutions and (third) state constitutions as well, they must be respected and uphold not only by the member states but by also candidate countries, such as Turkey. However, having the current situation between the European Union and Turkey in mind, one might raise concerns if these European values are still respected and uphold – both within the European Union and during the negotiations with Turkey. Therefore, two case studies are presented in the following sub-chapters aiming to investigate the role and compliance of European values prior the refugee crisis and during the current refugee crisis.

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<sup>57</sup> WorldWide Constitutions, ‘Basic Law of the federal republic of Germany’, WorldWide Constitution, 2002, available at <[http://www.concourt.am/armenian/legal\\_resources/world\\_constitutions/constit/germany/german-e.htm](http://www.concourt.am/armenian/legal_resources/world_constitutions/constit/germany/german-e.htm)>

<sup>58</sup> WorldWide Constitutions, ‘Turkey Constitution’, WorldWide Constitutions, December 2002, available at <[http://www.concourt.am/armenian/legal\\_resources/world\\_constitutions/constit/turkey/turkey-e.htm](http://www.concourt.am/armenian/legal_resources/world_constitutions/constit/turkey/turkey-e.htm)>

<sup>59</sup> WorldWide Constitutions, ‘Turkey Constitution’, WorldWide Constitutions, December 2002, available at <[http://www.concourt.am/armenian/legal\\_resources/world\\_constitutions/constit/turkey/turkey-e.htm](http://www.concourt.am/armenian/legal_resources/world_constitutions/constit/turkey/turkey-e.htm)>

## **2.2 First case study: having the spotlight on the question if the European Union was able to preserve its distinctive normative values during the accession negotiations?**

This sub - chapter outlines the relationship between the European Union and Turkey from its very beginning until today with a special focus on the role normative, European values have played in this relationship. Therefore, the following sub-question has been formulated: “What role have these normative, European values played in former accession negotiations of the European Union with Turkey?”

In total, four focal phases, namely the phase of concur, the phase rupture and embargo, the phase of rapprochement and the phase of challenges have been chosen to demonstrate the development of the relationship.<sup>60</sup> In this chapter, the first three focal phases will be analysed, whereas the last phase will be analysed in the following sub-chapter. The historical dates only function as guiding lights throughout the history – the focus will be on the question to what extent the European Union was able to uphold and impose its values on Turkey during the accession negotiations.

### Phase of Concur

Shortly after the European Economic Community (EEC) was founded in 1958, Turkey applied for accession to the EEC in 1959<sup>61</sup> but the EEC denied full accession. Albeit, the EEC suggested to set up an association after negotiations have been conducted. In order to do that, the “Agreement Creating An Association Between The Republic of Turkey and the European Economic Community”, also known as the Ankara Agreement, was signed on September 12th, 1963 and entered into force on December 1st, 1964. The agreement included a three step process towards full integration of Turkey into the EEC and in 1970, an additional protocol was set up and signed, entering into force in 1973.

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<sup>60</sup> Due to time and resource restrictions, I have only selected four focal points to display the relationship between the European Union and Turkey as this bachelor thesis needed to be written in eight weeks. However, I am aware that the history of the relationship between the European Union and Turkey is much longer and that this thesis only displays parts of it.

<sup>61</sup> Republic of Turkey, Ministry for Foreign Affairs, ‘Turkey – EU relations’, Republic of Turkey, Ministry for Foreign Affairs, Foreign Policy, 2011, available at <<http://www.mfa.gov.tr/relations-between-turkey-and-the-european-union.en.mfa>>

### Phase of embargo

#### Three Turkish coup d'états & the Rupture of the Turkish – European Relations

With the end of the transitional stage (second stage), it was decided upon the creation of a customs union between Turkey and the EEC, which only went into force in 1996. In the meantime between 1960 and 1996, Turkey faced in total three coup d'état as well as Turkey invaded Cyprus in 1974. Both, the invasion of Cyprus as well as the coup d'état had severe repercussions on the Turkish-European relations.

#### *First Turkish coup d'état*

During the first coup d'état in the 1960's, whereas, according to Cemal Gürsel, “[the] purpose and the aim of the coup is to bring the country with all speed to a fair, clean and solid democracy [and] to transfer power and the administration of the nation to the free choice of the people”<sup>62</sup>, little reaction from the EEC-side had been made. The Ankara Agreement was not yet concluded and Turkey only applied for full membership one year before the coup d'état. Hence the relationship between Turkey and the EEC were only very loose and a reaction was not stringently necessary.

#### *Second Turkish coup d'état*

Similar to the first coup d'état in Turkey, also the second one in 1971 only evoked little reaction by the EEC. The EEC noticed the difficult situation in the country but did not see the need to intervene, either by political or military means. This is due to the reason that the Ankara Agreement, which was already concluded by that time, only included financial and economic aspects as the goal between both parties was to establish a customs union. Hence, the EEC also had only limited leeway to intervene during this time and European values did not play such an important role.

#### *Third Turkish coup d'état – the invasion of Cyprus*

However, the situation changed when Turkey invaded to Cyprus in 1974. In July 1974, the Cypriot president Makarios had fallen under the Greek military organisation called Greek Junta. The goal of the Junta was to finally annex Cyprus to Greece. As a response to the Greek actions, the Turkish army invaded Cyprus as well. The Turkish government relied on the Treaty of Guarantee and argued that the main reason for the invasion was to protect

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<sup>62</sup> B. Sansal, 'Military Interventions in Turkey', All about Turkey, 2016, available at <<http://www.allaboutturkey.com/darbe.htm>>

Turkish – Cypriot citizens as well as the independence of the state of Cyprus.<sup>63</sup> In the following days, a truce was negotiated which was finally breached by Turkey by the beginning of August 1974. Cypriot citizens fled from the Turkish-invaded north of Cyprus to the south, whereby around 1500 citizens disappeared without trace. By the beginning of 1975, Turkey finally declared the North of Cyprus as “The federal Turkish state”. In the aftermath of the invasion, the United Nations challenged Article 4 of the Treaty of Guarantee and hence the invasion of Turkey. According to the United Nations, they do not officially accepted the “Turkish Federal State” but still recognises Cyprus as an independent state. Further, the United Nations outlined that severe human rights violations took place during the invasion and especially during the massacre in Maratha. Later on, the massacre in Maratha was also concluded as a crime against humanity.<sup>64</sup> Moreover, not only the United Nations reacted to the actions of Turkey but also the Council of Europe and the European Commission for Human Rights, a special tribunal and a precursor of the European Court of Human Rights.<sup>65</sup> The European Council indeed confirmed the legality of the invasion of Cyprus by Turkey under Article 4 Treaty of Guarantee but at the same time the European Commission for Human Rights in the years of 1976 and 1983 declared the Turkish actions as violations of the European Convention of Human Rights. The European Commission for Human Rights stated the following: ‘Having found violations of a number of Articles of the Convention, the Commission notes that the acts violating the Convention were exclusively directed against members of one of two communities in Cyprus, namely the Greek Cypriot community. It concludes by eleven votes to three that Turkey has thus failed to secure the rights and freedoms set forth in these Articles without discrimination on the grounds of ethnic origin, race and religion as required by Art. 14 of the Convention’.<sup>66</sup> Moreover, Turkey was found guilty for the displacement of Greek refugees, deprivation of liberty, ill treatment, deprivation of life and deprivation of possessions.<sup>67</sup> Further, in the year of 2016, the European Court for Human Rights convicted Turkey to pay

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<sup>63</sup> C. Kassimeris, ‘Greek Response to the Cyprus Invasion’, *Small Wars and Insurgencies* 19.2, 2008, pp. 256–273

<sup>64</sup> United Nations, ‘UN monthly chronicle, Volume 11’ United Nations, Office of Public Information, 1974, p. 98

<sup>65</sup> The UN Refugee Agency, ‘Council of Europe: European Commission on Human Rights’, The UN Refugee Agency, 2016, available at <<http://www.refworld.org/publisher/COECOMMHR.html>>

<sup>66</sup> Kypros, ‘Human Rights violations’ Kypros.org, 1996, available at <[http://www.kypros.org/Cyprus\\_Problem/Turkish-Atrocities.html](http://www.kypros.org/Cyprus_Problem/Turkish-Atrocities.html)>

<sup>67</sup> European Commission of Human Rights, ‘Report of the Commission to Applications 6780/74 and 6950/75’, Council of Europe, 1976, p. 160,161,162,163.

in total €90 million to the government of Cyprus for the killing and expropriation of Greek-Cypriot citizens.<sup>68</sup>

### *The Rupture of the Turkish-European Relations*

Now, one could raise the concern that the European Commission of Human Rights and the European Council reacted but not the EEC as such. This argument might be correct when only looking to the incident that happened in Cyprus 1974 but when looking further into the relationship between the EEC and Turkey, one can detect that the EEC prompted sanctions as well. However, this only happened after the third coup d'état in Turkey in the year of 1980. In 1980, Turkey again faced a coup d'état. Under the command of Kenan Evren, the National Security Council announced the third successful coup d'état in the Turkish media. Following the coup d'état, Evren introduced the material law again, suppressed the parliament as well as the Turkish constitution and prohibited all political parties within the country. Following the coup d'état, over 650.000 people were arrested, whereas many of them died during their imprisonment. Further, around 520 people were sentenced to death, whereas 50 of them were finally executed. Teachers, journalists and government official were no longer able to execute their work but were dismissed, attacked and sentenced to death.<sup>69</sup>

Following the fatal third coup d'état and the invasion of Cyprus six years prior, in 1980 the European Economic Community decided to put all relations with Turkey on ice. In 1982, the EEC also abrogated the Ankara Agreement. From that point on, the European Economic Community denied to hold further talks and, for now, concluded discussions. The EEC and the United Nations recognised, that severe human rights violation had been taken place and in both Cyprus and within Turkey and following these incidents the European Convention of Human Rights, which include also the fundamental values of the European Union, such as freedom of expression or the rule of law, had been disrespected several times within only six years. Here, one can see that the EEC as well as the European Commission of Human Rights and the United Nations together effectively demonstrated its power and its willingness to rely on European values instead of incorporating a country which violates fundamental principles.

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<sup>68</sup> P. Mühlbauer, '90 Millionen Euro für Tötungen und Enteignungen von Griechen', Telepolis, 13 May 2014, available at <<http://www.heise.de/tp/artikel/41/41743/1.html>>

<sup>69</sup> European Commission of Human Rights, 'Report of the Commission to Applications 6780/74 and 6950/75', Council of Europe, 1976, p. 160,161,162,163.



## Phase of rapprochement

### *Turkey walking a path of trial and tribulation*

In the following years, Turkey recovered from the coup d'état and in 1987 the Turkish government under the direction of Özal applied again for full membership to the EEC. In 1988, the Ankara Agreement went into force again, clearing the way for further negotiations again.<sup>70</sup> However, in 1989, the European Commission decided to not sustain the application of full membership and postpone the decision to an unknown date. By the beginning of 1995, the European Union, which substituted the EEC in 1993, and Turkey finally negotiated the customs union, which entered into force in 1996.

In 1993, the founding year of the European Union, Turkey now also faced the so-called Copenhagen Criteria, which have been formulated and agreed upon during the Copenhagen Summit in June 1993. The Copenhagen Criteria were developed in order to analyse whether a country is able to become a potential candidate country of the European Union or not but the criteria did not have an influence on the establishment of the customs union, which was agreed upon in the Ankara Agreement.

However, similar to Turkey's application to the EEC in 1959, again, the – now – European Union refused to acknowledge Turkey as a candidate country because the European Union could not see how Turkey would accomplish the political criteria set out in the Copenhagen Criteria<sup>71</sup> but instead the customs union was finally set up. In 1998, one year before Turkey became a candidate country, the European Commission outlined 'On the political side, the evaluation highlights certain anomalies in the functioning of the public authorities, persistent human rights violations and major shortcomings in the treatment of minorities [...]. The process of democratic reform on which Turkey embarked in 1995 must continue'.<sup>72</sup> The European Commission stated that Turkey yet does not fulfil the Copenhagen Criteria and hence denied the status of a candidate country. The European Commission gave further information on what reforms are needed and how to further develop in the direction of a democratic state.

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<sup>70</sup> E. Franz, 'Chronologie der Beitrittsverhandlungen', Bundeszentrale für politische Bildung', 17 July 2006, available at < <http://www.bpb.de/internationales/europa/tuerkei-und-eu/52365/chronologie> >

<sup>71</sup> European Union Center of North Carolina, 'Turkey's Quest for EU membership', Policy Area: Turkey, March 2008, available at < <http://europe.unc.edu/wp-content/uploads/2013/08/Brief4-0803-turkeys-quest.pdf> >

<sup>72</sup> European Commission, 'Regular Report from the Commission on Turkey's Progress towards accession', European Commission, 1998, available at <[http://ec.europa.eu/enlargement/archives/pdf/key\\_documents/1998/turkey\\_en.pdf](http://ec.europa.eu/enlargement/archives/pdf/key_documents/1998/turkey_en.pdf)>

In the following year of 1999, the European Union finally acknowledged Turkey as a candidate country but only with strict restrictions, which needed to be followed and implemented. The European Commission endorsed the progress Turkey has been made by implementing democratic reforms and amending its constitution but still not all Copenhagen Criteria were met. Hence, the first requirement the European Union set out was the completion of all Copenhagen Criteria. Further, the European Union required the settlement of the territorial dispute with Greece over Cyprus until 2004.<sup>73</sup> However, with the status of a candidate country, Turkey and the European Union could start first discussions of potential negotiation chapters.

In the following years of 2000 until 2004, the European Union further endorsed the progress Turkey has been made and released the so-called progress reports. However, the commission did not recommend to finally start accession negotiations until 2005. In its progress reports, the Commission outlines that Turkey does still not meet all Copenhagen Criteria and that especially in the thematic group of the political criteria further work is needed: ‘Overall, Turkey has made noticeable progress towards meeting the Copenhagen political criteria since the Commission issued its report in 1998 and in particular in the course of the last year. The reforms adopted in August 2002 are particularly far-reaching. Taken together, these reforms provide much of the ground work for strengthening democracy and the protection of human rights in Turkey. They open the way for further changes which should enable Turkish citizens progressively to enjoy rights and freedoms commensurate with those prevailing in the European Union. Nonetheless Turkey does not fully meet the political criteria. First, the reforms contain a number of significant limitations, which are set out in this report, on the full enjoyment of fundamental rights and freedoms. Important restrictions remain, notably, to freedom of expression, including in particular the written press and broadcasting, freedom of peaceful assembly, freedom of association, freedom of religion and the right to legal redress’.<sup>74</sup>

#### *2005 - 35 chapters of negotiation to be opened*

Only with the first negotiations towards being started in October 2005, Turkey finally met the Copenhagen Criteria and hence partly adopted the European values outlined in the

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<sup>73</sup> E. Franz, ‘Chronologie der Beitrittsverhandlungen’, Bundeszentrale für politische Bildung, 17 July 2006, available at <<http://www.bpb.de/internationales/europa/tuerkei-und-eu/52365/chronologie>>

<sup>74</sup> COMMISSION OF THE EUROPEAN COMMUNITIES, ‘2002 REGULAR REPORT ON TURKEY’S PROGRESS TOWARDS ACCESSION {COM(2002) 700 final}, 09 October 2002, European Commission, available at <[http://ec.europa.eu/enlargement/archives/pdf/key\\_documents/2002/tu\\_en.pdf](http://ec.europa.eu/enlargement/archives/pdf/key_documents/2002/tu_en.pdf)>

Treaty of the European Union. Moreover, Turkey amended its constitution, abolished its death penalty and hence showed their willingness to change.<sup>75</sup> With the kick-off, there were 35 chapters of negotiations introduced as well as the Ankara protocol was concluded by the European Union. The Ankara Protocol is an additional protocol to the Ankara Agreement of 1963 and regulates the customs union with Turkey. Since the customs union with Turkey was already concluded in 1996, ten additional new member states of the European Union, including Cyprus, needed to be included in the customs union as well. Therefore, the European Union introduced the Ankara Protocol. However, the Ankara Protocol was not accepted by the Turkish government – President Erdogan did sign the Ankara Protocol but until today<sup>76</sup> the Turkish government never ratified the protocol due to its difficult relations with Cyprus. Turkey still does not recognise Cyprus as under international law and independent state. Thus, in December 2006, only one year after first accession negotiations had been started, the European Council suspended eight chapters of negotiations and did not open them again until today.

Currently, fourteen out of thirty – five chapters are under negotiation with only chapter 25, Science and Research concluded and provisionally closed in 2006.

### Concluding remarks

This sub-chapter aimed to give an answer to the following sub-question: “What role have these normative, European values played in former accession negotiations of the European Union with Turkey?” To sum it up, the analysis of the Turkish-European relations has showed that in past accession negotiations, such as the Ankara Agreement, the establishment of a customs union and lastly the accession negotiations to become a member state of the European Union, European values have played a very important role. In every phase of negotiations, the EEC and the European Union cherished the values that have been outlined in the European Convention of Human Rights, in the Charter of Fundamental Rights of the European Union or in the Treaty of the European Union, and stuck to them very closely. Throughout the development of the relationship, the European Economic Community and the European Union not only demonstrated its bargaining power but they relied on their European values as well. They suspended the Ankara Agreement in order to show that they are not willing to accept the situation within Turkey and that the Turkish values are not in line with European ones. Further, the customs union, which Turkey

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<sup>75</sup> B. Akcay & S. Akipek, ‘Turkey’s Integration into the European Union’, 2003, Lexington Books.

<sup>76</sup> 01.06.2016

urgently needed after the third coup d'état was not immediately established after Turkey gained back a little piece of democracy but the European Union required further reforms before actually establishing the customs union. Moreover, the European Union concluded discussions before the actual end and did not accept Turkey's conducts and Turkey's stance towards Cyprus but closed eight chapters of negotiation instead.

To put it in a nutshell, the incentives for Turkey given by the European Union in the past, such as the establishment of a customs union or the accession to the European Union leading to visa liberalisation or a stronger position within the trade market, have been compelling so that Turkey was willing to accept European demands in return for these benefits. Thus, the European Union was able to uphold and partly impose its values and principles to a large extent. Back in the years of 1959 until 1989, the European Convention of Human Rights have outlined the values and with the foundation of the European Union in 1993, the Treaty of the European Union and the political criteria of the Copenhagen Criteria summarised the founding values of the European Union, namely the principle of democracy, the rule of law and the respect for human rights and human dignity. European normative values have been followed and pursued in all negotiations with Turkey and hence played a very important role – as an orientation for both the European Economic Community / European Union and Turkey.

### **2.3 Second case study: the current EU – Turkey relationship in time of the refugee crisis**

Following case study number one, in this sub-chapter, the third sub-question, namely “Does the European Union remain true to itself and uphold its normative values in the current refugee crisis?” will be answered. In order to do so, a second case study was conducted covering the migrant deal between the European Union and Turkey as well as analysing the position of the European Union with a special view on the commerce of European values displayed in recent happenings.

#### The Beginning of the Refugee Crisis

Following the Arab Spring of 2010 in the Maghreb region, by the beginning of 2011 also Syria faced an upheaval. Motivated by the success of the Maghreb countries, also Syrian

citizens demanded a change in the political system - protests and demonstrations had been organised. However, the situation quickly changed and what has started as a civic war between the Assad-regime and rebels in 2011, rapidly turned into a war with several militias involved. More and more parties, including countries such as the Iran and Russia as Assad-regime supporter, the United States and Turkey as rebel regime-supporter as well as the Islamic State, joined the war with different intents and targets.<sup>77</sup> While the situation further being sharpened and a whole country only being a great war zone anymore, millions of Syrians began to flee the country. According to the United Nations Refugee Agency in 2014, around four million Syrians already sought help in a foreign country, whereas around 7.6 million Syrians being on the run in their country of origin. However, not only Syrian citizens are affected by the civic war, but also Afghanis and Iraqis were forced to flee their country as the Islamic State gained more and more control over the countries in the past years.<sup>78</sup> With worldwide 60 million people being on the run, the topic became more and more relevant until it developed into an actual refugee crisis.

### Reactions to the Refugee Crisis

*“Instead of resisting migration, let’s organize it!”<sup>79</sup>*

(Francois Crépeau, April 22<sup>nd</sup>, 2015))

One April 22<sup>nd</sup>, 2015, the special rapporteur on human rights, Francois Crépeau, gave an interview to an English newspaper on the current refugee crisis. In this interview, Crépeau recalled cooperativeness and openness of (European) countries to host foreign refugees after the Indo-Chinese War and demanded the same solidarity for Syrian refugees today: ‘We should do the same for Syrians what we did 30 years ago for the Indochinese [...]’.<sup>80</sup> Following that statement, Francois Crépeau suggested to set up a comprehensive action plan, with countries worldwide involved. He further developed that idea of a comprehensive

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<sup>77</sup> A. Cieschinger, C.Niesen & R. Salloum, ‘Assad, IS, Rebellen: Die Fakten zum Krieg in Syrien’, SpiegelOnline, 2016, available at <<http://www.spiegel.de/politik/ausland/krieg-in-syrien-alle-wichtigen-fakten-erklaert-endlich-verstaendlich-a-1057039.html#sponfakt=1>>

<sup>78</sup> UNO-Flüchtlingshilfe, ‘UNHCR-Halbjahresbericht 2015’, UNO-Flüchtlingshilfe, 2015, available at <<https://www.uno-fluechtlingshilfe.de/fluechtlinge/zahlen-fakten/halbjahresbericht-2015.html>>

<sup>79</sup> G. Jackson, ‘UN’s François Crépeau on the refugee crisis: ‘Instead of resisting migration, let’s organise it’, TheGuardian, 22 April 2015, available at <<https://www.theguardian.com/world/2015/apr/22/uns-francois-crepeau-on-the-refugee-crisis-instead-of-resisting-migration-lets-organise-it>>

<sup>80</sup> G. Jackson, ‘UN’s François Crépeau on the refugee crisis: ‘Instead of resisting migration, let’s organise it’, TheGuardian, 22 April 2015, available at <<https://www.theguardian.com/world/2015/apr/22/uns-francois-crepeau-on-the-refugee-crisis-instead-of-resisting-migration-lets-organise-it>>

action plan and outlined that refugees could be first resettled in Istanbul, Beirut or Amman, where they would be given a meaningful chance to integrate themselves again. Moreover, Crépeau criticized the cash flow since this would not provide adequate help but would only lead to ‘[Syrians, who] die with their children in the Mediterranean.’<sup>81</sup> In this interview, Crépeau elucidated that a collective solution should be found and that a collective commitment is necessary in order to combat the refugee crisis and, accompanied by the refugee crisis, the death of thousands of people, the system of smuggling and the high costs of asylum applications.

Five months later, in late August of 2015, Crépeau again stressed the need for an effective and collective migration policy. He outlined that migration will not be stopped when European countries isolate themselves and block migration routes: ‘Building fences, using tear gas and other forms of violence against migrants and asylum seekers, detention, withholding access to basics such as shelter, food or water and using threatening language or hateful speech will not stop migrants from coming or trying to come to Europe’ and addressed European citizens to urge their governments to provide adequate help for refugees in order to regain border control.<sup>82</sup>

### The Migrant Deal

As the current refugee crisis became more and more dramatic by the early ends of 2015, the European Union decided to partly take up the suggestion of Francois Crépeau. The European Union approached Turkey again in order to find a solution, which combats the crisis adequately. However, the approach was only a bilateral one and not a worldwide one as Crépeau suggested. During the first substantial meeting, which was held by the end of November, Turkey and the European Union agreed upon nine relevant positions. First of all, the accession negotiations should be reenergized<sup>83</sup> and combatting terrorism remains a high priority within the European Union as well as Turkey. Furthermore, both partners agreed to establish a summit which should take place twice a year as well as a conference

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<sup>81</sup> G. Jackson, ‘UN's François Crépeau on the refugee crisis: 'Instead of resisting migration, let's organise it', TheGuardian, 22 April 2015, available at <<https://www.theguardian.com/world/2015/apr/22/uns-francois-crepeau-on-the-refugee-crisis-instead-of-resisting-migration-lets-organise-it>>

<sup>82</sup> United Nations Human Rights – Office of the High Commissioner, ‘Migrant crisis: “Let’s not pretend Europe’s response is working” – UN rights expert warns’, United Nations Human Rights – Office of the High Commissioner, 25 August 2015, available at <<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16344>>

<sup>83</sup> European Council, ‘Meeting of the EU heads of state or government with Turkey’, 29/11/2015, European Council, available at <<http://www.consilium.europa.eu/en/meetings/international-summit/2015/11/29/>>

was planned for December 2015 to open further negotiation chapters. However, the most important terms, which both partner agreed upon were the following: a EU – Turkey readmission agreement will be ‘fully applicable from June 2016 in order to the Commission to be able to present its third progress report in autumn 2016 with a view to completing the visa liberalization process [...]’<sup>84</sup> Furthermore, the European Union will support Turkey with €3 billion as well as a refugee facility was set up by the European Union in Turkey. Further, it was agreed upon activating the Joint Action Plan, which has already been established in October 2015. In this Joint Action Plan the European Union and Turkey already agreed upon measurements of effectively combat the crisis. The Action Plan included two main parts, namely ‘Supporting the Syrians under temporary protection and their Turkish hosting communities’ and ‘Strengthening cooperation to prevent irregular migration’<sup>85</sup>, whereas in both parts several actions of both parties were outlined to properly address the crisis situation.

However, as the crisis further developed and the situation in e.g. Idomeni in Greece, where an illegal refugee camp was set up and where people did not have access to the very basic needs such as lavatories, electricity or medical assistance<sup>86</sup>, further tapered, the European Union and Turkey met a third time to coordinate any further actions. On March 18<sup>th</sup>, 2016, it was decided that the so-called “Migrant Deal”, which was planned to enter into force by June 2016, immediately enters into force in order to regain control in the refugee crisis. Basically, the migrant deal includes all nine relevant positions listed above, whereas three provisions are from greater importance: firstly, as aforementioned, it was agreed upon that the visa liberalisation process as well as negotiation accessions will be continued and that Turkish habitants will be experiencing less visa requirements by end of June 2016 at the latest. However, in order to guarantee less visa restrictions, Turkey was asked to completely fulfil the so-called visa liberalisation roadmap. This roadmap was already concluded in December 2013<sup>87</sup> and includes 72 requirements, divided into document security, migration management, public order and security, fundamental rights and readmission of irregular

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<sup>84</sup> European Council, ‘Meeting of the EU heads of state or government with Turkey’, 29/11/2015, European Council, available at <<http://www.consilium.europa.eu/en/meetings/international-summit/2015/11/29/>>

<sup>85</sup> European Commission, ‘EU-Turkey joint action plan’, European Commission, 15 October 2015, available at <[http://europa.eu/rapid/press-release\\_MEMO-15-5860\\_de.htm](http://europa.eu/rapid/press-release_MEMO-15-5860_de.htm)>

<sup>86</sup> A. Jabarine, ‘Kaffee, Tee, Kaffee, Tee, Falafel, Friseur’, ZeitOnline, 28 April 2016, available at <<http://www.zeit.de/politik/ausland/2016-04/idomeni-syrische-fluechtlinge-bp-fluechtlingscamp>>

<sup>87</sup> European Commission, ‘Turkey’s progress on the visa liberalisation roadmap’, European Commission, 04 May 2016, available at <[http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/european-agenda-migration/background-information/docs/20160504/turkey\\_progress\\_visa\\_liberalisation\\_roadmap\\_en.pdf](http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/european-agenda-migration/background-information/docs/20160504/turkey_progress_visa_liberalisation_roadmap_en.pdf)>

migrants. According to the paper published by the European Commission on May 4<sup>th</sup>, 2016<sup>88</sup>, Turkey currently fulfils 68 out of 72 requirements, whereas in the thematic groups of document security, migration management and readmission of irregular migrants all requirements have already been met or only minor changes need to be made. Secondly, it was agreed upon the so-called readmission agreement. From March 20<sup>th</sup>, 2016 onwards Turkey will take back every illegal, non-registered refugee entering a Greece island, whereas in turn, the European Union will incorporate a registered refugee. According to the European Council, this whole process is in line with European and international law ‘[and] thus excluding any kind of collective expulsion’.<sup>89</sup> Turkey and the European Union also set the goal to improve the humanitarian situation within Syria and at the Turkish – Syrian borders to ‘allow for the local population and refugees to live in areas which will be more safe’<sup>90</sup> Furthermore, the third provision of greater importance states that the European Union will again provide financial support to Turkey, whereas the amount of financial support is decreed to be €3 billion again so that the European Union provides €6 billion in total. According to the European Council<sup>91</sup>, the funding will be used to once more for the refugee facility, which, as mentioned above, has already been established by the European Union. As aforementioned, the European Union and Turkey set up the so-called migrant deal, which should have entered into force by June 2016. However, due to the urgency and the dramatically developing refugee crisis, representatives of the European Union and Turkey already met in March 2016, and decided that the migrant deal, which includes three striking and rather controversial positions mentioned above, immediately enters into force.

### The phase of ongoing challenges

With the European Union striking a number of compromises with Turkey such as providing a high number of financial aid or presenting the prospect of less visa restrictions in order to be able to combat the refugee crisis with adequate means, one might raise the question if the European Union actually remains true to itself and if the European values, which play a

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<sup>88</sup> European Commission, ‘Turkey’s progress on the visa liberalisation roadmap’, European Commission, 04 May 2016, available at <[http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/european-agenda-migration/background-information/docs/20160504/turkey\\_progress\\_visa\\_liberalisation\\_roadmap\\_en.pdf](http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/european-agenda-migration/background-information/docs/20160504/turkey_progress_visa_liberalisation_roadmap_en.pdf)>

<sup>89</sup> European Council, ‘Statement of the EU heads of state or government’, European Council, 07 March 2016, available at <<http://www.consilium.europa.eu/en/press/press-releases/2016/03/07-eu-turkey-meeting-statement/>>

<sup>90</sup> European Council, ‘Statement of the EU heads of state or government’, European Council, 07 March 2016, available at <<http://www.consilium.europa.eu/en/press/press-releases/2016/03/07-eu-turkey-meeting-statement/>>

<sup>91</sup> European Council, ‘Statement of the EU heads of state or government’, European Council, 07 March 2016, available at <<http://www.consilium.europa.eu/en/press/press-releases/2016/03/07-eu-turkey-meeting-statement/>>



very important role within Europe but also beyond borders are still preserved in the current relations and negotiations with Turkey.

When having a closer look to the current situation within the country of Turkey, one might receive the impression that the assumption that European values are no longer respected and upheld by both the European institutions and Turkey might be correct. As already outlined in Chapter 5.1, the founding European values can be summarised as the principle of democracy, the rule of law and the respect for human rights. However, these three core principles are underlined and supported by various other principles, such as the freedom of expression and information or the freedom of press. According to the European Parliamentary Research Centre “[the] freedom of expression and information, together with freedom of the press, which affords the first two their most powerful platform, contribute significantly to the formation of public opinion, thereby enabling people to make informed choices in their political decisions. Freedom of expression and press freedom are therefore essential for democracy, which is one of the fundamental values common to all Member States, on which the European Union is founded”.<sup>92</sup>As Turkey wants to become a member state of the European Union, the country should follow and respect these principles. However, in contrast to respecting and upholding European normative values, the current situation within the country displays a different understanding of these values. In the past months, Turkey has challenged the European Union and the relationship several times for example by imprisoning government-critical journalists or disrespecting the rights of refugees. Therefore, the following paragraphs will analysis the current EU-Turkey relationship and why this current phase is named the phase of challenge by using four recent examples, which display the dispute between European normative values and the Turkish understanding of these values.

#### *Imprisoned Turkish journalists – still respecting fundamental values?*

A very recent example how the values of freedom or press and expression are respected in Turkey were given by the Turkish government itself. Can Dündar and Erdem Gül, who are both working for the Turkish, government – critical newspaper Cumhuriyet were arrested by the end of 2015 and sentenced to prison by the beginning of May this year. Both have been accused of espionage, divulging state secrets and terrorism charge after revealing that

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<sup>92</sup> European Parliamentary Research Centre, ‘Press freedom in the EU, Legal framework and challenges’, European Parliament, April 2015, available at <<http://www.europarl.europa.eu/EPRS/EPRS-Briefing-554214-Press-freedom-in-the-EU-FINAL.pdf>>

the Turkish government potentially supports the Islamic State in Syria with armament supplies.<sup>93</sup> Many human rights and journalist organisations such as Amnesty International or Reporters without Borders, a French based organisations outline that the lawsuit has been unjustifiably. They further outline that ‘Journalism is considered a crime in Turkey. This shameful verdict sends a clear signal designed to intimidate the whole profession, which is fighting for its survival. We urge the court of appeal to show more independence and to acknowledge that Can Dündar and Erdem Gül were only doing their job.’<sup>94</sup> It is been said that the lawsuit has been initiated by the Turkish government and hence that the courts in Turkey to not comply with the rule of law but seem to be rather manipulated by the Turkish government<sup>95</sup>. Further, it can be questioned if these actions violate Article 28(1) of the Turkish constitutions, in which it is stated that the press should be free and that it should not be censored in any way. Nevertheless, following Article 28(1), Article 28(5) again limits the freedom of press if the security of the state is threaten by it. However, the decision if a press publication is threatening to the security or not can only be made by the judicative authority, which is again independent from any other branch.<sup>96</sup>

In contrast to the reactions made by human rights and journalist organisations, reactions to the case made by the European Union appeared to be very little. The only institution which publically commented on the incident was the Council of Europe in form of the spokesperson of the secretary general of the Council of Europe, who stated the following after the arrest of the journalists in 2015 ‘the council was concerned about yet another issue regarding freedom of expression and media freedom in Turkey which needed to be resolved and protected under Article 10 of the European Convention of Human Rights. Otherwise, more cases might come to the European Court of Human Rights.’<sup>97</sup> However, the Council of Europe is only the leading human rights organisation within Europe but cannot be

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<sup>93</sup> Spiegel Online, ‘Türkei: Erdogan ist Nebenkläger im Prozess gegen "Cumhuriyet"-Journalisten’, Spiegel online, 25 March 2016, available at <<http://www.spiegel.de/politik/ausland/can-duendar-und-erdem-guel-prozess-gegen-tuerkische-journalisten-beginnt-a-1084149.html>>  
<<http://www.spiegel.de/politik/ausland/can-duendar-und-erdem-guel-prozess-gegen-tuerkische-journalisten-beginnt-a-1084149.html>>

<sup>94</sup> Committee to protect Journalists, ‘Prison sentences for leading Turkish journalists’, Committee to protect journalists, 6 may 2016, available at: <<https://cpj.org/2016/05/leading-turkish-journalists-sentenced-to-five-year.php>>

<sup>95</sup> Committee to protect Journalists, ‘Prison sentences for leading Turkish journalists’, Committee to protect journalists, 6 may 2016, available at: <<https://cpj.org/2016/05/leading-turkish-journalists-sentenced-to-five-year.php>>

<sup>96</sup> WorldWide Constitutions, ‘Turkey Constitution’, WorldWide Constitutions, December 2002, available at <[http://www.concourt.am/armenian/legal\\_resources/world\\_constitutions/constit/turkey/turkey-e.htm](http://www.concourt.am/armenian/legal_resources/world_constitutions/constit/turkey/turkey-e.htm)>

<sup>97</sup> I. Yezdani, ‘Council of Europe reacts to Turkish Journalists arrests’, Hurriyet Daily News, 30 November 2015, available at <<http://www.hurriyetdailynews.com/council-of-europe-reacts-to-turkish-journalists-arrests.aspx?PageID=238&NID=91834&NewsCatID=510>>

compared to the governing European institutions, which denied a statement. Now, one might receive the impression that the European Union keeps knowledge close to the vest in order to not jeopardise the so-called migrant deal. Currently, the migrant deal can be seen as rather successful – less refugees are coming to Europe and Turkey is fulfilling its tasks as agreed upon. However, if the European Union mess with internal state matters of Turkey, the Turkish government might not be willing to hold back refugees anymore as members of the Turkish government already stated: ‘[...] if the wrong decision is taken, we will send the refugees [back to Europe].’<sup>98</sup>

*State affair Jan Böhmermann – from an internal matter to a European one*

Another prominent example in dealing with the freedom of expression and freedom of press and Turkey, is the German satirist Jan Böhmermann. Jan Böhmermann published a so-called Schmähedicht (defamatory poem) during his German TV Show “Neo Magazine Royale” which quickly developed to a state affair in Germany. In his poem he criticizes the Turkish president for his attitude and travestied him. Following that, President Erdogan appealed to Article 103 of the German penal code, which prohibits the insult of head of states and member of governments. However, Article 103 can only be activated with the approval of the German government. The German government decided to approve President Erdogan request and further German Chancellor Angela Merkel made a formal apology to the Turkish President. The decision to approve the request and the apology of Chancellor Merkel led to a huge debate about the freedom of press and expression – not only in Germany but also in various European – and non-European countries as well. In this case, many people received the impression that European values, such as the freedom of press, currently do not matter anymore and that it is more important to satisfy the Turkish government and hence the Turkish president in order to not jeopardise the readmission agreement between the European Union and Turkey.

*Refugees in Turkey – well-treated guests or rather troublemakers for the EU?*

However, not only the violations of the freedom of press contravene the European values but also the dealing with refugees in the refugee camps. As already mention, politically seen

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<sup>98</sup> K. Mansfield, ‘TURKEY MIGRANT 'BLACKMAIL': Threat to send refugees BACK to EU if visa deal falls through’, Express, available at <<http://www.express.co.uk/news/world/669446/Turkey-migrant-blackmail-threat-to-send-refugees-back-EU-if-visa-deal-fails>>

the migrant deal seem to be a success. According to the International Organisation<sup>99</sup> for Migration, the number of refugees entering European soil decreased from 26.971 in March to only 3360 in April, which amounts to a percentage of 88% less refugees after the migrant deal became effective by the end of March. Hence, the purpose of the deal, namely that less migrants are entering Europe seems to be suffused and Turkey seems to be reliable partner in times of the refugee crisis – as long as the European Union does not question internal state matters. Nevertheless human rights organisation such as Amnesty International are raising concerns about the migrant deal as such and Turkey being declared a safe country by the European Union. John Dalhuisen, the director of Amnesty International for Europe and Central Asia outlines that the migrant deal might not be in line with international and European law as he says: ‘Guarantees to scrupulously respect international law are incompatible with the touted return to Turkey of all irregular migrants arriving on the Greek islands as of Sunday. Turkey is not a safe country for refugees and migrants, and any return process predicated on its being so will be flawed, illegal and immoral, whatever phantom guarantees precede this pre-declared outcome.’<sup>100</sup> The opinion of Dalhuisen stating that Turkey cannot be declared a safe country is also shared within the European Union – on May 20<sup>th</sup>, 2016, a Greek appeals committee declared that in their view Turkey cannot longer be acknowledged a safe country and further outlined that European – and international law in not respected: ‘the tribunal in Lesbos said Turkey would not give Syrian refugees the rights they were are entitled under international law.’<sup>101</sup> However, in contrast, to the court decision, Margaritis Schinas, spokesmen of the European Commission outlined that every refugee is treated in accordance with European and international law and that every refugee is heard before being returned to Turkey.<sup>102</sup> Now, the question can be raised whether human rights organisations and Greek authorities are misinterpreting the current situation or whether the European Union tries to advocate its migrant deal and hence does not see human rights violation as critical as others do. Furthermore, Amnesty International also detected severe human right violations, as refugees are denied access at the Turkish – Syrian border, shot during their time in refugee camps or forcefully sent back to their country of origin for

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<sup>99</sup> ZeitOnline, ‘Fast 90 Prozent weniger Flüchtlinge in Griechenland nach EU-Deal mit Ankara’, ZeitOnline, 13 May 2016, available at <<http://www.zeit.de/news/2016-05/13/uno-fast-90-prozent-weniger-fluechtlinge-in-griechenland-nach-eu-deal-mit-ankara-13155604>>

<sup>100</sup> Amnesty International, ‘EU-Turkey refugee deal is a historic blow to rights’, Amnesty International Charity Limited, 18 March 2016, available at <<https://www.amnesty.org/en/latest/news/2016/03/eu-turkey-refugee-deal-a-historic-blow-to-rights/>>

<sup>101</sup> E. Zalan, ‘EU defends Turkey deal in light of Greek court ruling’, EUObserver, 23 May 2016, available at <<https://euobserver.com/migration/133515>>

<sup>102</sup> E. Zalan, ‘EU defends Turkey deal in light of Greek court ruling’, EUObserver, 23 May 2016, available at <<https://euobserver.com/migration/133515>>

example, which adds to the picture of Turkey rather being a potential threat to migrants than being a knight in shining armour. Moreover, minority groups experience continuing violence in the refugee camps – exercised by both other refugees and camp guardians. Here, one cannot only detect violations against human rights and hence European values such as the respect for human dignity but also violations against the 72 requirements for less visa restrictions laid down by the European Union. As aforementioned one thematic group within the visa roadmap for Turkey is called Migration Management under which the following requirements are listed: ‘Ensure that border management is carried out in line with international refugee law (14)’, ‘Adopt & implement legislation in line with the EU acquis and the 1951 Refugee Convention and its Protocol without a geographical limitation, to ensure respect for non-refoulement, the ECHR and the possibility to claim asylum and obtain protection, allow UNHCR to fulfil its mandate on Turkish territory unrestricted (24)’ and ‘[...]ensure protection and assistance for asylum seekers and refugees (25).’<sup>103</sup> Having these requirements in mind and having a closer look to the current situation of refugees within the camps in Turkey, one can say that Turkey – unlikely the European Union agreed upon – does not meet these requirements and certainly does not respect International and European values and standards such as Article 2 TEU or Article 6(1) TEU, where the following is stated: ‘The Union recognises the rights, freedoms and principles set out in the Charter of Fundamental Rights of the European Union of 7 December 2000, as adapted at Strasbourg, on 12 December 2007, which shall have the same legal value as the Treaties.’<sup>104</sup> Moreover, also the European Union does not uphold and closely stick its values but rather look over the situation and the treatment of refugees. Even though, Donald Tusk states that ‘Turkey is the best example for the whole world on how we should treat refugees’<sup>105</sup>, requirements listed in the visa liberalisation roadmap are not completely met and European values do not longer matter the great extent they did before. To sum it up, according to Human Rights Watch Turkey is not the best example but more of an unsafe country with the potential risk for refugees to die in that country. Neither the European Union nor Turkey

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<sup>103</sup> European Commission, ‘Turkey’s progress on the visa liberalisation roadmap’, European Commission, 04 May 2016, available at <[http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/european-agenda-migration/background-information/docs/20160504/turkey\\_progress\\_visa\\_liberalisation\\_roadmap\\_en.pdf](http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/european-agenda-migration/background-information/docs/20160504/turkey_progress_visa_liberalisation_roadmap_en.pdf)>

<sup>104</sup> *OJ* [2008] C 115 / 13, 09 May 2008

<sup>105</sup> B. Frelick, ‘Words of Praise, Deadly Deeds: Turkey’s Treatment of Refugees’, Human Rights Watch, 10 May 2016, available at <<https://www.hrw.org/news/2016/05/10/words-praise-deadly-deeds-turkeys-treatment-refugees>>

display a positive example to which it can be referred when looking to find an adequate solution to the refugee problem in general and how to treat refugees.’<sup>106</sup>

*The Rule of Law in Turkey – still valid or rather incommodious?*

The last and most recent example that displays the conflict of European values and the Turkish system is the idea of President Erdogan to establish a so-called presidential system, ‘in which the legislative, executive and judiciary powers are virtually monopolized by the president himself’.<sup>107</sup> On May 20<sup>th</sup>, 2016 the Turkish government voted on an amendment to the Turkish constitution making it possible to repeal the immunity for all those members of parliament, who are currently criminal persecuted. This amendment hits the members of the HDP, a pro-Kurdish party, especially hard as 50 out of 59 members now lost their immunity. As the person concerned now have to face a trial and following that a possible imprisonment, it is likely that the new seats in parliament are now allocated to the AKP, the party of president Erdogan. With the seats allocated to the AKP, it is likely that the parliament will vote on another amendment to the Turkish constitution making it possible for president Erdogan to fully establish his presidential system, without a separation of power. Here, again a conflict with the European values can be detected. Not only that the members of the HDP lost its immunity due to haphazardly accusation by president Erdogan and the following amendment of the constitution but president Erdogan also completely disrespects the rule of law and the principle of democracy. According to many, Turkey does not develop into a more democratic state but rather develops back into an autocratic state without a rule of law and without a separation of power.<sup>108</sup> However, in contrast to the imprisonment of the Turkish journalists and the treatment of refugees, where in both cases the European Union keeps its knowledge to the vest in order to not jeopardise the migrant deal, in the case of the suspension of immunity, the European Union issued various statements. Martin Schulz, president of the European Parliament said that the European Union is not allowed to keep silent anymore. Further he outlined that if the European Union does not take any action today, refugees in the Turkish camps are the ones suffering in the

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<sup>106</sup> B. Frelick, ‘Words of Praise, Deadly Deeds: Turkey’s Treatment of Refugees’, Human Rights Watch, 10 May 2016, available at <<https://www.hrw.org/news/2016/05/10/words-praise-deadly-deeds-turkeys-treatment-refugees>>

<sup>107</sup> C. Yeginsu, ‘Turkish Parliament Approves Stripping Lawmakers of Their Immunity’, The New York Times, 20 May 2016, available at <<http://www.nytimes.com/2016/05/21/world/europe/turkey-parliament-immunity-kurds.html>>

<sup>108</sup> H. Kazim, ‘Türkisches Parlament: Kniefall vor Erdogan’, Spiegel Online, 20 May 2016, available at <<http://www.spiegel.de/politik/ausland/tuerkei-parlament-hebt-immunitaet-auf-kniefall-vor-recep-tayyip-erdogan-a-1093325.html>>

end.<sup>109</sup> He also made the German chancellor Angela Merkel, who always kept herself very silent as she was one of the main drivers behind the migrant deal, discharge her duties during her travels to Turkey. Schulz demanded a very clear statement for European values such as the rule of law and the principle of democracy and against a ‘one-man-state ruled by only one person.’<sup>110</sup> Moreover, Federica Mogherini, high representative of the European External Action Service, and Johannes Hahn, European Commissioner, issued a statement in which they raised serious concerns and in which they called on the Turkish government to outline specific and objective criteria for the suspension of immunity.<sup>111</sup>

### Concluding remarks

*‘There will be no let up for Turkey. We stand by our values. A relaxation of fundamental rights, such as freedom of expression or the press, cannot and will not happen.’<sup>112</sup>*

(Heiko Maas, German Minister of Justice, April 11<sup>th</sup>, 2016)

This statement was given by the German Minister of Justice Heiko Maas in an interview with the Tagesspiegel at the beginning of April and was reiterated by various other head of states and members of national parliaments and the European Parliament, such as Martin Schulz or Francois Hollande. The third sub – question of this bachelor thesis was, among others, designed to analyse this statement by answering the following research question: “Does the European Union remain true to itself and uphold its normative values in the current refugee crisis and its relations to Turkey?” With the rising numbers of refugees trying to enter European soil in order to seek asylum in one of the member states of the European Union and only limited capacities and willingness of the member states to solve the problem by themselves, the European Union was in the desperate need of a partner, who was willing to help out the European Union in these times. Turkey, a potential candidate country for the European Union for years, here seemed to be the best partner – they were willing to help out, they – potentially – had, and, according to the European Union still

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<sup>109</sup> Spiegel Online, ‘EU-Parlamentschef: Schulz sieht Türkei "auf dem Weg in einen Ein-Mann-Staat"’, Spiegel Online, 23 May 2016, available at <<http://www.spiegel.de/politik/ausland/martin-schulz-kritisiert-tuerkei-vor-angela-merkels-reise-nach-istanbul-a-1093565.html>>

<sup>110</sup> Spiegel Online, ‘EU-Parlamentschef: Schulz sieht Türkei "auf dem Weg in einen Ein-Mann-Staat"’, Spiegel Online, 23 May 2016, available at <<http://www.spiegel.de/politik/ausland/martin-schulz-kritisiert-tuerkei-vor-angela-merkels-reise-nach-istanbul-a-1093565.html>>

<sup>111</sup> Press TV, ‘EU voices concern over Turkey’s contentious immunity bill’, Press TV, 22 May 2016, available at <<http://www.presstv.ir/Detail/2016/05/22/466795/Turkey-Federica-Mogherini-Johannes-Hahn>>

<sup>112</sup> H. Monath, S.Haselberger, ‘Maas: There will be no relaxation for Turkey’, Euroactiv.com, 11 April 2016, available at <<http://www.euractiv.com/section/europe-s-east/interview/maas-there-will-be-no-relaxation-of-values-for-turkey/>>

have, the adequate means to treat and gather refugees in refugee camps and they accepted the requirements, which were laid out by the European Union. However, Turkey demanded a fair equivalent for helping out the European Union. Accession negotiations should be revitalised and the visa liberalisation process, which already started in December 2013, should finally come to an end so that Turkish citizens would have the possibility of visa-free travels to the European Union from October 2016 onwards. The migrant deal, which was mainly shaped by the European Union and the former Turkish Prime Minister Ahmet Davutoglu, seemed to be the best solution to finally solve (parts of) the refugee crisis. However, after the analyses of the current relations of the European Union and Turkey, one might receive the impression that the European Union does not stick to its values anymore and that the abovementioned statement by Heiko Maas is obsolete. In 1993, the European Union laid down the so-called Copenhagen Criteria, which needed to be fulfilled by every potential candidate country before actual accession negotiations could have started. In these criteria, the European Union outlines the following: ‘Membership requires that the candidate country has achieved stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities.’<sup>113</sup> However, recent developments in Turkey have shown that the country is not ruled under the principle of democracy and the rule of law anymore but rather turns into an autocratic state with President Erdogan having all the power. These developments have been underlined firstly by the imprisonment of the government – critical journalists Gül and Dündar by the beginning of May. Reporters without Borders outline that Turkey is only ranked 151<sup>st</sup> out of 180 countries with regard to the freedom of the press and that basic fundamental rights are disrespected.<sup>114</sup> Further, also the International Press Institute, together with Reporters without borders issued a statement, published by the United Nations General Assembly, in which they raise concerns about the restrictions of freedom of press and the imprisonment of journalists. In their statement they urge the member of the United Nations, the United Nations Human Rights Council and the special rapporteur for human rights, Francois Crépeau to immediately take actions in order to prevent further restrictions.<sup>115</sup> Secondly, the development into an autocratic state has been displayed by the voting to amend the

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<sup>113</sup> European Commission, ‘Accession Criteria’, European Commission, 07 September 2012, available at <[http://ec.europa.eu/enlargement/policy/glossary/terms/accession-criteria\\_en.htm](http://ec.europa.eu/enlargement/policy/glossary/terms/accession-criteria_en.htm)>

<sup>114</sup> Reporters without borders, ‘2016 World Press Freedom Index’, Reporters without Borders – For Freedom of Information, 2016, available at <<https://rsf.org/en/ranking>>

<sup>115</sup> Human Rights Council, ‘Joint written statement submitted by International PEN, the International Press Institute, Reporters San Frontiers, non-governmental organizations in special consultative status’, United Nations General Assembly, 08 June 2016, available at <<https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/115/43/PDF/G1611543.pdf?OpenElement>>



Turkish constitution and hence to rescind the immunity of 108 members of parliament last Friday. Due to their loss of immunity, 108 members of parliament are now officially subject to prosecution and might face imprisonments. The European institutions, however, have only made very few comments on the first case and also only a couple of comments on the second case –even though these proceedings violate both, the Copenhagen Criteria, which in fact, Turkey does not fulfil anymore as well as various articles of the Treaty of the European Union and hence the founding values of the European Union. Moreover, analysing the incidents from an external perspective, one might also detect violations against the Turkish constitution, as the values of the rule of law and the respect for human rights are also laid down in the constitution of the country itself. Further, the European Commission has published the progress on the requirements for the visa liberalisation. According to the European Commission, Turkey already fulfils 68 out of 72 requirements, whereas in contrary human rights organisations raise the alarm that Turkey does not fulfil the requirements and that the migrant deal is a ‘historic blow to [human] rights.’<sup>116</sup>

To finally answer the third sub-question, the following can be said: in fact, the European Union would have the means to remain true to itself and to still cherish its own founding values. In order to do that, the European Union would need to find a solution within the Union and with the help of all member states. All member states would need to accept the responsibility to host refugees and to support countries like Greece or Italy when dealing with such a high amount of refugees. Thus, the European Union would not be deepened on Turkey anymore and hence Turkey would not have the possibility to put the European Union under pressure by threatening the European Union to send them back all the refugees. However, the European Union currently also have right-wing governed countries such as Poland or Hungary, which are challenging European values and its adherence as well as provoking discussions on the use of Article 7 TEU internally. This leads to the fact, that the European Union cannot clearly stress human right violations in Turkey as own member states contradict these values as well – even though to a different extent. Moreover, the willingness of some member states of the European Union to find an adequate solution to the problem internally is rather low. Hence, the European Union must rely on Turkey and depart from its own values. As aforementioned the European Union keeps their knowledge close to the vest to not jeopardise the migrant deal and thus only few comments on past and

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<sup>116</sup> Amnesty International, ‘EU-Turkey refugee deal is a historic blow to rights’, Amnesty International Charity Limited, 18 March 2016, available at <<https://www.amnesty.org/en/latest/news/2016/03/eu-turkey-refugee-deal-a-historic-blow-to-rights/>>

current happenings have been made. Nevertheless, the deadline for Turkey to finally fulfil all 72 visa requirements listed in the visa roadmap is set for the end of June. With the resignation of the former prime minister Ahmet Davutoglu, who was mainly responsible for shaping the deal, and president Erdogan, who is trying to finally establish a presidential system, not all requirements can be met in time- either because Turkey is not willing to fulfil the requirements anymore or because the European Union realises the difficult situation in the country and does not see the requirements as fulfilled. Albeit, currently the European Union does not remain true to itself and the rule of law, the principle of democracy and the respect for human rights both within the country of Turkey and in the dealing with refugees play a less important role than sticking to the migrant deal and holding on to Turkey as the partner in times of the refugee crisis as Leopold Traugott<sup>117</sup> outlines: ‘The European Union has made many compromises and disregarded many of its own principles in order to find an external solution to cure its own problem’.

### 3 Chapter 3 – Reflection and Prospects of an ambivalent relationship - *What has happened so far and what could happen in the future*

The aim of this bachelor thesis was to analyse the relationship between the European Union and Turkey, whereas a special focus was put on European Normative Values and their meaning for the relationship. In order to be able to analyse the relationship, the following main research question has been formulated: **“How and to what extent is and was the European Union able to uphold its distinctive normative values in its relations with Turkey?”** In order to answer the main research question, three sub-questions have been introduced and answered in Chapter 6, leading now to the answer of the main research question.

During the writing of the bachelor thesis, it became clear that there has been a shift taking place over the last years from European normative values being extremely important to European normative values playing a less important role.

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<sup>117</sup> L. Traugott, ‘Turkey must not be allowed to blackmail EU on migration’, Euractiv.com, 10 November 2015, available at <<http://www.euractiv.com/section/justice-home-affairs/opinion/turkey-must-not-be-allowed-to-blackmail-europe-on-migration/>>

### *1959 until 2005*

From the very beginning of the relationship in 1959 until 2005, when first accession negotiations were started, to a great extent the European Economic Community and the European Union upheld and respected almost all normative values. The European Economic Community cut all its relations to Turkey after the invasion to Cyprus 1974 and the coup d'état in 1980 and thus demonstrated that they are not willing to accept Turkey's actions. The European Economic Community was the dominant partner in that relationship, showing the strength to just put all relations on ice. However, with this sanction, they demonstrated Turkey, that the country needs to change in order to become a full member of the EEC. Further, also the European Union demonstrated that change. In 1998, the European Union denied the status of a candidate country with the rebuke to the Copenhagen Criteria. Moreover, even though, Turkey partly met the Copenhagen Criteria one year later and thus obtained the status of a candidate country, the European Commission did not recommend to start accession negotiations with Turkey until 2005. However, the benefits the European Union held out in prospect for Turkey such as full membership to the European Union appeared to be very attractive to Turkey and one must acknowledge that the country was willing to introduce new reforms and to change its political system – the death penalty was abolished in 2004, reforms to protect minorities were introduced in 2001 and 2003 and amendments to the constitutions have been made in the view of a potential membership to the European Union.

### *Today – midway through the refugee crisis*

However, in times of the refugee crisis, the European Union is no longer able to completely uphold and cherish its values. By March 2016, the so-called migrant deal was concluded - Turkey takes back all migrants illegally entering European soil whereas in turn, the European Union incorporates accession negotiations and accelerate the visa liberalisation process. The migrant deal raised a lot of concern of human rights activists as well as European politicians. Nevertheless, the European Union jettisoned its founding values, such as the principle of democracy, the rule of law and respect for human rights in order to lean backwards in times of the refugee crisis. Even though, many human rights organisations clearly outlined the severe situation in Turkey, the European Union disagreed with the reports and stated that 'Turkey is the best example for the whole world on how we should

treat refugees'.<sup>118</sup> This statement might be primarily attributable to the preservation of the migrant deal but might also have additional objectives, such as the internal challenges mentioned above or the Dublin II regulation. In 2003, the so-called Dublin II regulation was concluded and implemented by all members of the European Union except Denmark, with the main purpose that asylum seekers to not apply for asylum in several countries but only in the member state, where they first set foot on.<sup>119</sup> Through this mechanism, the European Union wanted to bar the risk of asylum abuse and organise a new system to better handle migration flows. However, as the refugee crisis developed further and further, Italy and Greece, the countries, where most of the refugees set foot on first, were not longer capable to regulate the number of asylum seekers themselves. Therefore, the European Union decided to outsource its responsibilities to find an internally appropriate solution to the problem to third states. The European Union concluded several new migration policies in order to be able to transfer their responsibilities. Already in 2013, the Special Rapporteur on the human rights of migrants, François Crépeau criticized these migration policies and outlined that the European Union has a strong focus on 'removing third country nationals from its territories'.<sup>120</sup> Back then, Crépeau already scrupled that these migration policies might violate basic human rights of migrants and suggested that the European Union should develop more extensive migration policies, which do not only take into account the security and deterrence aspects but also ensure that human rights are not violated within third countries, with whom the European Union concluded such polices.<sup>121</sup> Therefore, praising the Turkish handling of refugees, like Tusk did, firstly ensures the preservation of the migrant deal and secondly puts less pressure on the Union itself. Turkey is propitiated and potentially does not challenge the European Union by threatening the migrant deal. In return, the European Union demonstrates how well migration policies and, accompanied by the policies, the migrant deal with Turkey, are working and hence to not have to fear a high amount of refugees entering European soil, who would then force the Union to find an new

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<sup>118</sup> B. Frelick, 'Words of Praise, Deadly Deeds: Turkey's Treatment of Refugees', Human Rights Watch, 10 May 2016, available at <<https://www.hrw.org/news/2016/05/10/words-praise-deadly-deeds-turkeys-treatment-refugees>>

<sup>119</sup> EUR-Lex, 'Dublin-II-Regulation', EUR-Lex, 18 November 2011, available at <<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=URISERV:l33153>>

<sup>120</sup> F. Crépeau, 'Report by the Special Rapporteur on the human rights of migrants, François Crépeau', United Nations General Assembly, 17 April 2013, available at <[http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session23/A.HRC.23.46.Add.2\\_EN.pdf](http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session23/A.HRC.23.46.Add.2_EN.pdf)>

<sup>121</sup> F. Crépeau, 'Report by the Special Rapporteur on the human rights of migrants, François Crépeau', United Nations General Assembly, 17 April 2013, available at <[http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session23/A.HRC.23.46.Add.2\\_EN.pdf](http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session23/A.HRC.23.46.Add.2_EN.pdf)>

internal solution to the Dublin II regulation in order to relieve countries, such like Italy or Greece.

Thus, not once, the actions of Turkey were publicly criticized but the European Union kept their knowledge close to their vest in order to not jeopardise the migrant deal and to get the problems of internal migration policies off their back – the European Union indisputably disrespected its own values.

A shift has taken place, in which the European Union does not remain true to itself anymore but adjusts to Turkey and the Turkish claims. European values are no longer or only to a little extend upheld. Union officials are not criticizing the Turkish government for their actions but accept and even praise the behaviour and their actions – even though human rights organisations are raising the alarm.

*European, normative values – from great importance or bothersome inherited waste?*

To give the final answer to the main research question: **“How and to what extent is and was the European Union able to uphold its distinctive normative values in its relations with Turkey?”**, the following can be said: from the beginning of the relationship in 1959 until first accession negotiations have started in 2005, to a great extent the European Union and the European Economic Community were able to uphold its normative values and to introduce the principle of democracy, the rule of law and the respect for human rights and dignity to Turkey. With Turkey enforcing three coup d'états and the invasion of Cyprus, the European Union demonstrated that they are not accepting these actions and put all its relations with Turkey on ice. The picture of the European Union avowing for their normative values also continued with the foundation of the European Union in 1993 and the introduction of the Copenhagen Criteria in the same year. Even though, the European Union and Turkey had already established a close relationship back then, the European Union denied Turkey full membership to the European Union. Turkey did not meet the Copenhagen Criteria until 1998, when the country was recognised as a candidate country. However, accession negotiations were only started in 2005, after Turkey completely fulfilled the Copenhagen Criteria, further abolished the death penalty and made changes to its constitution. However, even though Turkey has made recognisable progress and accession negotiations had been started in 2005, the European Union it not relax its normative values and did not require less effort from Turkey. In 2006, after the Turkish parliament did not ratify the document stating that Turkey acknowledges Cyprus as an

independent and sovereign state, the European Union closed eight chapters of negotiations, which have not been opened again yet and hence no progress could have been made towards accession.

However, with the refugee crisis developing further and further and the European Union experiencing more and more pressure, the Union decided to conclude the migrant deal with Turkey and thereby relax its founding values – even though many human rights organisations are still raising the alarm. The European Union guaranteed Turkey the renewal of accession negotiations, less visa restrictions and praised the country as an excellent example on how to treat refugees. In this situation, the European Union only little reacted to actions, which violate fundamental human rights and the rule of law, taken by the Turkish government and state officials. Despite the fact that these actions have been widely covered by European media, the European Union restrained clear statements in order to not jeopardise the migrant deal and to be potentially forced to find a solution to the refugee crisis and the Dublin II regulation within the European Union.

Therefore, the question if the European Union still uphold its normative values in its relations today, is more difficult to answer than in past years. To a great extent, the European Union gave up on its values and kept their knowledge close to their vest even though it would have been a responsibility of the European Union to issue clear statements on the current situation and to publicly criticise the actions of Turkish state authorities – also to remain true to itself and to remain a credible partner in accession negotiations.

### *The prospects*

However, the European Union could regain their credibility and could still clarify their position towards European values and their importance in the upcoming weeks and months. In order to do that, one, and the first, solution for the European Union to rely on their own founding values again would be to critically assess if Turkey actually fulfils all 72 requirements laid down in the visa liberalisation roadmap and to have a close eye on the current happenings within the country such as the imprisonment of government-critical journalists or the suspension of immunity of members of parliament. As aforementioned in Chapter 6, human rights organisations such as Amnesty International and Human Rights Watch already outline that Turkey does not fulfil all 72 requirements – therefore, the European Union might conclude the same and hence the migrant deal would be off the table and the European Union would – to a certain extent – again uphold and respect its founding

values. Turkey would then not keep the refugees in Turkey anymore and the European Union would be forced to find an internal situation and a potentially different elaboration on the Dublin II regulation with all 28 member states. Even though, finding an internal solution to the refugee crisis include a lot of bargaining power and the threat of member states leaving the European Union, it might also be a chance for the European Union to return to its founding values: the principle of democracy, the rule of law and the respect for human rights and human dignity. Further, finding an internal situation for the problem also indicates that the European Union would no longer be dependent on Turkey, so that both parties could carry out accession negotiations on a neutral basis anymore. The European Union would have the opportunity to criticize internal as well as external state matters of Turkey without being threatened and without jeopardising any kind of migrant deal.

To finally terminate this thesis, the following must be acknowledged: this thesis analysed the relationship of the European Union and Turkey from a European perspective. The focus has been put on normative, European values and the question if the European Economic Community and the European Union were and are still able to respect and uphold these values. If one would analyse a Turkish perspective on that topic, one would might conclude differently than I did in this thesis. In the past years, Turkey has made significant progress but today this progress is threatened again by a president and state authorities, who do not aim for a democratic system but for an autocratic state, in which the three principles of the rule of law, democracy and the respect for human rights and human dignity are violated and neglected. However, also the European Union might have taken a step backwards in the past year and might be in a discord between its own, founding values and the dealing with a difficult partner, such as Turkey, that is essential in times of the refugee crisis. Both, the European Union and Turkey should focus on the necessities and strengths of the other partner and should further improve their relations in order to say that they are “*united in diversity*” at some point in history.

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