

# NON-GOVERNMENTAL ORGANISATION (NGO) POLICY IN THE EUROPEAN UNION AND TURKEY

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## **Introduction**

The twentieth century has been a time of immense social innovation. One example is the non governmental sector (NGO), the plethora of private, nonprofit, and nongovernmental organizations that have emerged in recent decades in virtually every corner of the world to provide citizens with vehicles for the exercise of private initiative in pursuit of public purposes. NGOs are essential for modern democracy. NGOs promote active democracy - the inclusion and participation of people in decisions that affect their lives. The vision of a healthy and sustainable society can be realized only when people who are ordinarily excluded in the developing third sector become active and welcomed participants.

NGOs can contribute their specific expertise to policy discussions. Through their links at local, regional, national and European level, NGOs can provide expert input into EU policy-making. In particular, they can provide feedback on the success or otherwise of specific policies thereby contributing to the Commission's task of defining and implementing policies.

This paper outlines what the NGO sector is, and the role of NGOs in European Union and Turkey.

## **Prevalent Terminology of NGOs**

We start by defining the third sector, composed of non-governmental, or non-profit organisations. These are foundations, associations, cooperatives, civil initiatives etc.

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It is otherwise known as the voluntary sector. “Voluntary initiatives”, “voluntary associations”, “voluntary agencies”, “voluntary organisations” etc. describe a wide array of voluntary actions. Predominantly, this usage describes grass-root level initiatives. It includes community-based organisations and people’s organisations, which may be very micro, and local organisations. It also includes individual initiatives, which may not mature into an organised entity.

Another common phrase used in describing such activities is “charity”. Derived from its British colonial roots, a charity is an organisation, which seems to imply “doing good for the poor and the needy”. Charitable initiatives include provision of welfare and social services; health, education, drinking water, fodder, etc. are more common. Charity also includes provision of institutionalised care - for orphans, street-children, destitute women, the elderly, and other neglected segments of society.

A more common definition today, one that has gained ascendancy in the past three decades, is “non-governmental organisation” (NGO). While the usage of “NGO” was first made in the context of the United Nation system, its usage spread over time.

Another common phrase used in describing such activities is “non-profit” (often called "non-profit org" or simply "non-profit" or "not-for-profit"). The relevant entity may be a formal incorporated not-for-profit corporation that does not have shareholders, though it may have members and issue membership certificates or require member loans. It may also be a trust or association of members. In the United States, the corresponding term for the third sector is in fact “non-profit- sector”. A nonprofit institution (organisation) (NPI - NPO) is defined as an economic unit which, in its own right, conducts economic transactions, owns assets, and incurs liabilities. An NPI can consist of one or more establishments. NPIs are not permitted to be a source of income, profit or other financial gain for persons or entities that establish, control, or finance them. Also the terms 'civil society' and 'welfare mix' have been used to describe this segment of society.

The European Union defines the third sector in terms of economy: 'social economy' encompasses co-operatives, mutual companies, associations and foundations (voluntary organisations). These entities are defined according to the very principles that distinguish them from the private and public sectors: co-operation, solidarity, self-help, voluntarism, independence, democracy and non-profitability.

### **Common Characteristics of Non-governmental Organisations**

NGOs normally share the following characteristics:

- NGOs are not created to generate personal profit and they are Non-profit-distributing systems. Although they may have paid employees and engage in revenue-generating activities they do not distribute profits or surpluses to members or management. They may accumulate profits in a given year, but the profits must be plowed back into the basic mission of the agency, not distributed to the organizations' owners, members, founders or governing board. Nonprofit organisations are private organisations that do not exist primarily to generate profits, either directly or indirectly, and that are not primarily guided by commercial goals and considerations.
- NGOs are voluntary. This means that they are formed voluntarily and that there is usually an element of voluntary participation in the organisation; to be included in the nonprofit sector, organisations must embody the concept of voluntarism to a meaningful extent.
- NGOs are distinguished from informal or ad hoc groups by having some degree of formal or institutional existence. Usually, NGOs have formal statutes or other governing document setting out their mission, objectives and scope. They are organised and accountable to their members and donors; what is important is that the organisations have some institutional reality and internal organisational

structure. A legal charter of incorporation typically signifies this, but it can also be demonstrated in other ways in countries where legal incorporation is neither common nor readily available.

- NGOs are independent and private, in particular of government and other public authorities and of political parties or commercial organisations; they are nongovernmental in the sense of being structurally separate from the instrumentalities of government. This does not mean that they may not receive significant government support or even that government officials cannot sit on their boards.

NGOs are not self-serving (*Self-governing*) in aims and related values. Their aim is to act in the public arena at large, on concerns and issues related to the well-being of people, specific groups of people or society as a whole. They do not pursue the commercial or professional interests of their members. They must be self-governing and in a position to control their own activities through internal governance procedures, and enjoy a meaningful degree of autonomy.

### **Importance of the NGOs**

Why is the third sector so important? The nongovernmental sector is becoming a new global force. The non-profit sector turns out to be a major economic and social force, accounting for a significant share of national employment and an even larger share of recent employment growth, expenditures and social impacts.

### **Employment**

Looking first at employment data in the 22 major countries (Austria, Ireland, Czech Republic, Belgium, Netherlands, Hungary, Finland, Spain, Romania, France, United Kingdom, Slovakia, Germany, Australia, Argentina, Israel, Brazil, Japan, Colombia, United States, Mexico and Peru.), even excluding religious

congregations, the nonprofit sector that Lester M. Salamon and Helmut K. Anheier (1999) examined is a \$1.1 trillion “industry” that employs close to 19 million full-time - equivalent paid workers. Nonprofit expenditures in these countries thus average 4.6 percent of the gross domestic product, and non-profit employment is nearly 5 percent of all non-agricultural employment, 10 percent of all service employment, and 27 percent of all public sector employment.

### **Expenditure**

In addition to a sizable employment base, the nonprofit sector also boasts substantial expenditures. In the 22 countries, the non-profit sector had operating expenditures in 1999 of \$1.1 trillion in expenditures; this is the equivalent of almost 4.6 percent of the combined gross domestic product of these countries.

### **Contribution to Employment Growth**

Not only is the nonprofit sector in these twenty-two countries an immense economic presence, it has, moreover, also been a growing presence, particularly in recent years. In fact, it has been a more potent source of job growth than most other segments of the economy. In Germany, France, and the U.S., for example, the nonprofit sector, with 6 percent of total employment, accounted for nearly 13 percent of the job growth during the decade of the 1980s. Put somewhat differently, one of every 8 new jobs created in these three countries during the 1980s was created within the nonprofit sector.

### **Social Impact**

Reflecting this, nonprofit organizations deliver major portions of the human and other services available in these countries. For example, nonprofit organizations account for:

- four out of every 10 hospital patient days and virtually all sports facilities in *Germany*; one-third of all child day care and 55 percent of all residential care in *France*;
- over half of all hospital beds and half of all universities in *the United States*; over 75 percent of all universities and over 40 percent of all hospital patient days in *Japan*;
- twenty percent of all attendees of orchestra and opera performances in Sweden; over 20 percent of all primary and elementary education in *the U.K.*; and 41 percent of all residential care facilities and 21 percent of all kindergartens in *Italy*.

Beyond this, nonprofit organizations often play a crucial role in policy innovation, policy advocacy, and the representation of minority views, especially in Sweden and France where civic and advocacy associations constitute a relatively large share of the total nonprofit expenditures. They also constitute an immense network of social connections through which individuals pursue their goals and interests. These connections constitute a buffer zone between state and citizens as well as between the corporate sector and the consumer. The number of voluntary associations in the United States is well over 1 million, and associations in the European countries typically number in the hundred of thousands. What is more, the number of associations has increased substantially in recent years.

## **NGOs Policy of the EU**

### *History of the Policy*

Third sector organisations have entered relatively late on the European Union (EU) scene. At the beginning, and in accordance with the spirit of the Treaty of Rome, the third sector remained excluded from the list of EEC/EC competencies, and it was not until the mid-1980s that the third sector per se received first mentions in official documents (with the key exception of overseas

development agencies). In particular, a resolution, commonly known as the Fointaine Report<sup>2</sup>, became influential in putting the possibility of EU policy-making on third sector on the agenda. The report enthusiastically endorsed an important, though largely unspecified, role for the “nonprofit” sector in helping to create the new Europe. In its closing paragraph, the Report calls on the Commission to see the “nonprofit sector” as an important ally in building the new Europe: “Europe needs inspiration to take a further step towards its destiny as a Community. Nonprofit organizations are an opportunity to be taken in this respect”.

The European Institutions have a long history of contacts and informal consultation with the voluntary sector. This is the case with many of the European Commission’s services, such as DG External Affairs; DG Development with Development Agencies and ECHOES, which have achieved an experience of particular interest in their cooperation with humanitarian aid NGOs, DG Social Policy and Employment and the platform of European Social NGOs arising out of the Social Forum; DG Environment and environmental organisations; DG Enterprise and the Consultative Committee for Cooperatives, Mutuals, Associations and Foundations; DG Youth; and DG Culture, Audiovisual in particular looks to the voluntary sector to disseminate information on European issues to the citizens.

Also NGOs perform their role not only in relation to the Commission, but also the European Parliament, the Economic and Social Committee, the Committee of the Regions and the Council. Their involvement in policy shaping and policy implementation helps to win public acceptance for the EU. In some cases, they can

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<sup>2</sup> Mrs. N. Fontaine who served as rapporteur of the European Parliament’s Committee of Legal Affairs wrote the Report on Citizens’ Rights tabled in December 1986. However, for many years the contacts between the European Institutions and the voluntary sector took place on a completely ad hoc basis and it was not until the Treaty of the European Union, in 1992, that the importance of links with this sector was first formally expressed in Declaration 23 which is annexed to the Treaty.

act as a balance to the activities and opinions of other interests in society.

The European Parliament also relies on a large number of voluntary organisations in order to obtain information and views on a wide range of issues. The heterogeneity of the sector is valued, in particular, for its knowledge and experience of social policy, environmental, aid and development issues and for providing a vital link with citizens in their localities, especially to those most vulnerable in society.

The increasingly pivotal role the voluntary sector plays in a wide range of issues central to the construction of Europe, including in particular, in many Member States, in the management and delivery of key aspects of social welfare services, has been acknowledged and reflected in the Commission's main statements on social and employment policy, for instance in the Green and White Papers on Social Policy and the White Paper on Growth, Competitiveness and Employment.

The publication of the Green Paper on European Social Policy in November 1993 was a significant development, as it was an official document which deals explicitly with this matter and which also aims to establish a dialogue with European Social NGOs. A group of concerned NGOs worked together to organise an NGO Forum to discuss the Green Paper in April 1994. This co-operation continued on an informal basis, and gave rise to common positions on the proposal for a European Social Policy Forum, and on the medium-term Social Action Programme 1995-1997.

The European Social NGOs decided to build upon these contacts in order to develop a more permanent framework for co-operation. The main aim was to allow the NGO sector to establish a broader and on-going dialogue with the European institutions on questions of social policy, which would complement the sector specific consultations, which remain essential. It is in this context that the Platform of European Social NGOs was established in 1995 and brings together around forty European non-governmental



organisations, federations and networks which are working to build an inclusive society and promote the social dimension of the European Union.

The members of the Social Platform represent thousands of organisations, associations and voluntary groups at local, regional, national and European level representing the interests of a wide range of civil society.

The Social Platform channels the concerns of European citizens who have come together in these organisations throughout the Union on issues of common interest. It also ensures a wide circulation of information on EU activities and policies to its members at the national level.

The members of the Social Platform insist that NGOs have a key role to play in promoting an equitable society based on the protection and advancement of human rights and the participation of all. NGOs must become legitimate partners in the public debate on the orientation of European society. It is with this in mind that the Social Platform seeks to develop and strengthen a civil dialogue between European Social NGOs and the institutions of the European Union.

Subsequent to Declaration 23 attached to the Maastricht Treaty, a number of developments have taken place which moved forward the process of consolidating co-operation with, and instigating more systematic consultation of, NGOs and other voluntary sector organisations. Key amongst these developments were: · the holding of the first European Social Policy Forum in March 1996, which brought together over 1000 participants mainly from NGOs, on the eve of the beginning of the Intergovernmental Conference (IGC). This saw the launch of a new policy objective: the building over time of a strong civil dialogue at European level to take its place alongside the policy dialogue with the national authorities and the social dialogue with the Social Partners. The Forum was to be held every two years.

In the context of the preparations for the IGC an ongoing dialogue was developed between the sector, the Commission and the European Parliament. Important issues relating to the sector were discussed in the framework of the 1997 IGC. These included:

- a legal base for regulations concerning associations at European level;
- a legal base for incentive measures both in employment and the social field;
- the integration of Declaration 23 into the Treaty and specific provision for the consultation of, and dialogue with charitable associations and foundations on all policy matters which concern them;
- a modification of Article 8a to take (by co-decision) measures to facilitate freedom of circulation.

The Commission undertook to make relevant proposals according to the outcome of the IGC. With regard to future progress, in order to retain the maximum amount of creativity and free expression, it was deemed important not to over-bureaucratise or institutionalise consultation of the voluntary sector and to strive instead for a flexible but systematic approach in developing the civil dialogue and relations between the voluntary sector and the European Institutions which takes full account of the principle of subsidiarity and of the specificities of each Member State.

A high level of political commitment exists at European level to ensuring that more systematic consultation with the voluntary sector is instigated, as regards both the development and implementation of policy, commensurate with their increasingly important role, especially in social policy, in the Member States.

Some significant events in the development of EU policy towards to NGOs are summarised in the below box.

**Box: 1 significant events in the development of EU policy towards NGOs**

1976	NGO-EU liaison committee set up by mutual agreement between DG VIII and European International development and relief organisations
1984	Resolution of European Parliament on the "role and administration of associations and the laws governing them" provides the impetus for the production of the Fontaine Report (published in 1987)
1986	ECOSOC initiates conference making first European attempt to compile statistical inventory of social economy.
1989	"Social economy" unit established at DG XXIII.
1992	Commission published first draft Regulation for European Status for Associations (ESA).
1992	Declaration 23 attached to the Maastricht Treaty calls for "co-operation between the European Community and (social welfare) charitable associations and foundations".
1993	For the European Social NGOs, the publication of the Green Paper on European Social Policy was a significant development, as it was the first official document which dealt explicitly with this matter and which also aims to establish a dialogue with NGOs
1996	Draft ESA regulation referred to COPERER working group and features on Council of Ministers' agenda.
1996	DG V promotes idea of "civil dialogue" with NGOs at Social Policy Forum in run-up to Amsterdam Treaty.
1997	Declaration 38 attached to the Amsterdam Treaty singles out "voluntary service activities" which are Recognized for their important contribution by voluntary service activities to developing social solidarity.
1997	DG XXIII and DG V jointly launch Communication "Promoting the role of voluntary organisations and foundations in Europe".

1998	ECOSOC, COR, and two European Parliament Committees table draft reports in response to the Communication
1998	Forward Studies Unit (reporting directly to the President of the European Commission) invites “national experts” and Commission bureaucrats to seminar on “Economics and the Third Sector”.
2000	The European Commission adopts a Discussion Paper on Building a Stronger Partnership with Non-Governmental Organisations.
2003	CONCORD is the European NGOs Confederation for Relief and Development. Its 18 international networks and 19 national associations from the European Member States and the candidate countries represent more than 1200 European NGOs vis-à-vis the European Institutions
2004	The Laeken declaration, Representatives of some of the EU’s main NGOs, together with the European Trade Union Confederation (ETUC), announce the creation of a “Civil Society Contact Group”

### **The Commission and Non-governmental Organisations: Building a Stronger Partnership**

The Commission adopted the Discussion Paper "The Commission and NGOs: building a stronger partnership" on 18 January 2000 (COM (2000) 11). The purpose of the paper is two-fold. First of all, it aims to give an overview of the existing relationships between the Commission and NGOs including some current problems. Secondly, it aims to suggest possible ways of developing these relationships by considering the measures needed to improve and strengthen the existing relationship between the Commission and the NGOs. Thus, the Discussion Paper suggested ways of providing a more coherent Commission-wide framework for co-operation than had hitherto been organised on a sector-by-sector basis. The introduction also attempts to define the common characteristics of a non-governmental organisation and goes on to

describe in some detail the rationale of cooperation between the Commission and NGOs.

The proposals for improvement are dealt with in the next four chapters of the Discussion Paper. These are measures to improve dialogue and consultation with NGOs, budgetary issues (in particular core-funding), management issues and improving information.

The Commission regarded the Discussion Paper as an important step in a process involving an extensive exchange of views with the NGO community.

In this context the Discussion Paper represents a significant step forward in trying to refine and improve the Commission's relations with the sector. Not least important is the rationale behind the Commission's desire to strengthen existing cooperation. This rationale is based on four main considerations:

- the importance of NGOs in fostering participatory democracy both within and beyond the Union
- their role of interface in representing the views of specific groups of citizens to EU Institutions, their ability to reach the grass-roots and help win public acceptance for the EU
- the specific expertise they can contribute to policy discussions and to managing projects financed by the EU
- the contribution of European NGO networks to European integration, by encouraging national organisations to work together, and their ability to channel and focus the views of national NGOs
- Consultation and EU Funding Issues at Stake

While reviewing existing relations with NGOs and briefly outlining current constraints on cooperation, the Discussion Paper sets out major issues at stake.

The first issue concerns consultation and ways to improve the organisation of regular dialogue and consultation with NGOs. The

Paper also looks at existing consultation procedures and how to improve their transparency. Proposed options include a better recognition of the sector, in particular, by inserting a legal base for cooperation with NGOs in the Treaty of the European Union, and discussions on a consultative status for and accreditation system of NGOs.

The second critical topic relates to EU funding, including the management of project grants and applications, and funding of NGO-led activities. In January 1999 the Commission introduced new rules on EU grant management (Vade mecum on Grant Management) with a view to harmonising and simplifying grant-making procedures and practices. However, the Commission recognises that some aspects of the Vade mecum still need to be clarified and resolved.

As regards EU management practice for NGO funding, two major concerns can be identified. These cover the rules and criteria for core funding, in particular, the demand for greater clarity and coherence from the Commission on core funding for European NGO networks. They also relate to the preservation of small grants, i.e. how to maintain programmes to support small NGO-led projects, despite their high administrative cost in terms of human resources.

In the long term the biggest challenge is to design an effective grant management system which ensures access to EU funds for all NGOs irrespective of size, while taking into account the limited human resources of the Commission to cope with increased demands for quality management.

### **Existing Relationship**

Over 25 years, the partnership between the European Commission and NGOs has expanded on all fronts. This intensification has covered a range of issues, from policy dialogue and policy delivery, to project and programme management, both within the EU and in its partner countries. It results from a number of interwoven factors,

related both to changes and developments within the EU institutions themselves, as well as to developments within the NGO Community. As the European Commission has acquired additional responsibilities in a number of new policy areas, this has been matched by an ever-increasing number of NGOs operating within and outside Europe and a widening in the scope of their work. This trend can be seen in the increasing number of national NGOs creating or joining European associations and networks often based in Brussels. With the further enlargement of the EU and the increased public scrutiny of EU affairs, there is no reason to believe that this process will slow down, rather the contrary.

Although the Commission's current practice clearly proves its willingness to maintain and strengthen its partnership with NGOs, the structures and procedures involved have not kept up with this. At present it is estimated that over 1 .000 billion allocated NGOs projects directly by the Commission, the major part in the field of external relations for development co-operation, human rights, democracy programmes, and, in particular, humanitarian aid. Several hundred NGOs in Europe and worldwide are receiving funds from the EU. The Commission has therefore contributed substantially to matching the support of the members of the European public given to NGOs and thus highlighting the continued importance of high levels of public support for the role of NGOs.

However, the complexity of EC policies as well as the growing number of regulations and funding sources (budget lines) coupled with recent financial security problems have created a great deal of uncertainty for NGOs about co-operation with the Commission. Both the Commission and the NGOs wish to put the relationship on a new footing. The context to this initiative is recognition on the NGO side that many policy areas are now being decided at European level as well as the increase in funding available to NGOs from the European Union.

NGOs are involved in a significant number of research projects funded within the 4<sup>th</sup> Framework Programmes. The Commission

has also attempted to open up a wide range of funding programmes to the sector.

In the area of development policy, Civil Society can play a significant role on two levels: firstly, as regards contributing to the formulation of policy, and secondly as an important actor in implementation. DG Development has recognised these roles, and has taken measures to involve Civil Society accordingly. When preparing Commission Communications DG Development invites NGOs and other Civil Society actors with expertise in the relevant fields to put forward their comments and opinions on particular issues. With the goal of exchanging expertise and opinions on policy priorities, DG Development holds a continuous dialogue with CONCORD the Confederation of European NGOs for Relief and Development. Commissioner Poul Nielson meets them on a regular basis to discuss the Commission's present and future policy priorities and initiatives and an intensive dialogue is conducted between CONCORD and Commission officials.

The Commission has recently launched a far-reaching process of administrative reform, which includes among its aims a more service-oriented behaviour and an improvement in the management culture of the Institution. A greater effort will be made to increase transparency and accountability to principal interlocutors as well as improving efficiency for instance by speeding up payments to all beneficiaries.

The Commission has a long tradition of consulting interested parties from outside when formulating its policies. It incorporates external consultation into the development of almost all its policy areas. The various aspects of the Commission's current relationship with NGOs can be summarised as follows:

- Fostering the development of civil dialogue and civil society at the European level and the strengthening of civil society as an objective in co-operation programmes with non-member countries;



- Dialogue/discussions with and consultation of NGO representatives in the context of policy shaping. Certain NGOs and networks, especially those at European level, have been established or selected in order to provide information, experience and expertise. Some Directorates-General have established specific fora in order to provide a framework for dialogue;
- NGOs as information relays. European NGOs and their networks and national members, can serve as additional channels for the Commission to ensure that information on the European Union and EU policies reaches a wide audience of people concerned by and affected by its policies;
- Funding of NGO-led activities, within the Community and abroad, which are coherent with and contribute to the implementation of EU policies. These programmes are characterised by a high degree of NGO ownership of the actions financed;
- NGOs as actors implementing Community programmes and projects, in particular in the field of non-member countries co-operation. In these cases, NGOs have been chosen as partners because of their specificity coupled with their expertise and technical capacity.

In December 2002, the Commission adopted a Communication "General principles and minimum standards for consultation of interested parties", which sets up a coherent and flexible framework for consultation of stakeholders, including NGOs.

### **Current Problems for Cooperation**

The following problems are listed here as examples of areas where co-operation between the Commission and NGOs could usefully be improved.

Co-operation with NGOs is organised by policy areas (environment, social affairs, humanitarian and development aid, trade etc) implying considerable differences in the relationship

between NGOs and the Commission from one sector to another with regard to access to information, the way dialogue and consultation is organised and the availability of core-funding. While recognising the specificity of different sectors, most NGOs feel that there should be a greater effort at a coherent Commission-wide approach.

There is a lack of sufficient information for NGOs in particular on funding and financial procedures. Better guidance on application procedures and more comprehensible application forms would be much appreciated.

The NGO sector is a dynamic one, which is constantly evolving. Commission departments often find it difficult to follow this evolution. In particular they lack adequate information on the various NGOs with which they come into contact.

Internal Commission procedures are often complex. Although the NGOs have on the whole welcomed the Commission's Vademecum on Grant Management as providing clear rules, they are concerned that emphasis on financial rigour will place an increasing burden on NGOs applying for funding.

As part of its overall policy on transparency, the Commission should provide better information for NGOs and improve communication with them as a means of building a true partnership.

Some of the consequences of the current situation are considerable delays in handling applications, ill-adapted procedures particularly for dealing with small projects and a breakdown in confidence.

### **Cooperation with NGOs**

Whilst for its part the Commission recognises that it must improve and strengthen its relationship with NGOs, the NGOs themselves must also recognise their own responsibilities in making that relationship work. Each side should be able to acknowledge and

take into account the priorities and realities of the other. This does not, of course, exclude frank discussions or even differences of opinion.

In the area of policy dialogue, the Commission has to discharge its inter-institutional responsibilities in this area, as well as offering, within these boundaries, dialogue and consultation to the NGOs as representatives of civil society. The NGO Community must recognise and take into account this formal institutional set-up. Other obligations might relate to representatively, proper communication of information to member organisations and respecting the confidentiality of Community information where required.

Regarding funding, the NGOs must accept, for example, that there will always be a legitimate need for the Commission to impose certain conditions and controls to safeguard community funds. NGOs have a duty to demonstrate that they have the expertise, management systems and internal quality control systems appropriate to the work they are undertaking in behalf of the Commission.

Dialogue and consultation between NGOs and the Commission have to be seen in the framework of the democratic decision-making process of the European institutions. Many European institutions, and in particular the European Parliament, the Economic and Social Committee, and the Committee of the Regions have a strong tradition of close contacts with NGOs. The Commission has been following with great interest recent developments in the Economic and Social Committee aimed at strengthening its links with civil society, including NGOs, in order to provide an improved forum for the dialogue with the European citizens.

The Commission also participated actively at the First Convention of Civil Society Organisations organised by the Economic and Social Committee in October 1999. Against this background, dialogue between the European Commission and NGOs is an

important complement to the institutional process of policy shaping. The specific value of these consultations derives notably from the Commission's right of initiative. Timely consultation with all stakeholders at an early stage of policy shaping is increasingly part of the Commission's practice of consulting widely, in particular before proposing legislation, to improve policy design and to increase efficacy.

## **Turkey**

Turkey and Turks have a rich and significant philanthropy history from Ottoman times, through the formation of the Turkish Republic in 1923, and up to present day. During the Ottoman time, the foundation was the premier institutional mechanism for philanthropic provision of public services. Traditionally, the main function of foundations was to meet basic needs of the public at large. In fact, many services that are now provided by government agencies (roads, schools, hospitals) were originally provided by private initiatives. Together with the establishment of the Republic, newly-formed State agencies were put into effect to assume provision of services to the public, thus "phasing out" the once entirely privately subsidised support.

## **The Foundations**

Foundations have played a vital role in social, economic and cultural life throughout Turkey's history. Foundations developed during the Seljuk period (1078-1293) and they were institutionalised and experienced their heyday during the Ottoman period (1299-1920) in Turkish history. The number of Turkish-Islamic foundations during this period is estimated at hundreds of thousands and covered the summit in art as well and contributed to a great extent to the social, economic and cultural life of the society.

During the republican period, the management and auditing were first given to the Ministry of Shariah and Foundation, abolished during the reforms of Atatürk. The Directorate General of

Foundations (DGF) replaced the ministry. All the responsibilities of foundations have been transferred to the DGF, which was connected to the Prime Minister in the Republic period. The Law 903, of 1967, set out the regulations and principles of organization and the functions of new foundations.

The philanthropic use of foundations is a fact that exists in many societies today. In Turkey, there are many charitable foundations which provide for the utilization of private wealth for the public benefit to support public services and research in fields such as education, science, medicine, public health and social welfare. There has been a significant increase in the number of foundations.

There are approximately 10.500 foundations registered in Turkey. They are pre-Republic (or old) and post republic (or new) foundations. The number of new foundations, which was only 72 in the period between 1926-1967, has reached 4350 as of April 2004.

Old foundations are managed directly by the DGF, which has legal personality, is responsible for the management of the foundation properties, the protection of the foundation works of art, having an architectural and historical value, and the supporting of the foundations for their objectives. 9289 monumental works of art of old foundations and 55,231 foundation properties are under the control of the DGF. Official sources state that between 2001 and 2003 406 foundations were dissolved. The boards of foundations encounter particular problems with respect to elections, which if not held can threaten their existence.

New foundations can be divided into public foundations and private foundations. Public foundations are set up according to a special law and operate as a part of the public administrative system. These are organisations like the Foundation for Strengthening the Turkish Military Forces, Social Help and Solidarity Foundations and the environmental protection foundations.

There are also private foundations, which were set up by individuals to operate in the public sector. In classification they are private, but they operate in the public sector and are controlled by the public authorities. They are government-sponsored or government-created foundations. This kind of foundation fits the definition by Salamon and Anheier but is either created by public charter or enjoys high degrees of public sector support for either endowment or operating expenditures. For example, many universities in Turkey have this kind of foundations to support scientific activities.

Turkish new foundations are purely philanthropic in nature (they do not conduct any external fundraising) and secure their income from the foundations' endowment and holding company revenues. The foundations use this income to fund pre-determined activities, according to their defined missions. Educational institutions, hospitals and arts/ cultural centres are among the most popular traditional objectives. In this sense, holding foundations tend not to be "grant-making" or fund providing bodies. They have set guidelines and operate in a fashion similar to the standard definition of an "operating foundation" (also not a formal definition in Turkish foundation law, which does not distinguish between operating and grant-making foundations). However, together with the recent increase in newly formed NGOs (which focus on issues such as environment, youth, women's rights and poverty, for example), there has been an increase in demands for 'funding' a new set of civic initiatives.

As regards property rights, the Law on Foundations was amended as part of the fourth reform package for the EU and a Regulation was issued in January 2003. The Regulation removed the need for foundations to obtain permission from the Council of Ministers in order to acquire, dispose of and register properties (as required by an earlier regulation issued in October 2002). Permission is now required from the Directorate General of Foundations, though the Regulation also provides for consultation with relevant Ministries and public institutions "when it is deemed necessary". The sixth reform package extends the deadline for the registration of minority

foundations' properties from six to eighteen months. The January Regulation still only refers to non-Moslem foundations. This excludes all religious communities, which are not able to establish foundations, including the Catholic and Protestant communities. In addition, foundations not included in a list of 160 minority foundations annexed to the Regulation are not able to register properties.

In spite of some positive developments on the ground, the reforms have produced limited practical effects. So far, implementation has been slow and uneven.

### **Associations**

The associations, which are considered to be a product of the socio-economic development of the society, were established in the first years of the Turkish Republic. In the beginning, they were encouraged and led by the state particularly. Later, with the increase in the activities of economic life and the developments observed in the social and cultural field, there were significant increases in the number of associations established by voluntary initiatives, as well as in the number of their members. Today, the number of associations engaged in activities in many fields such as sports, culture, health, social assistance, women and artisans associations is around 90.000.

Although the number of association members in large cities such as Istanbul, Ankara and Izmir, are greater, it can be seen that the numbers of small-scale associations in Anatolia has been increasing. A significant portion of the financial resources used by these associations are formed by membership dues and donations and revenues collected from publications, lotteries, concerts, exhibitions, etc.

On July 17, 2004 the Grand National Assembly of Turkey accepted a law that marks an important milestone for the strengthening of the legal framework for NGOs and for the general advancement of civil society in Turkey.

The Department of Associations was formed in 2003 as a special unit of the Ministry of Interior, this department played a key role in promoting reforms and advocating more enabling legislation. This Department will be operationally active with offices in provinces across the country to ensure effective implementation of the new law. Some of the major revisions include:

- Associations are no longer required to obtain prior authorization for foreign funding, partnerships or activities;
- Associations are no longer required to inform local government officials of the day/time/location of general assembly meetings and no longer required to invite a government official/commissary to general assembly meetings;
- Audit officials must give 24-hour prior notice and just cause for random audits;
- NGOs are permitted to open representative offices for federations and confederations - Security forces no longer allowed on premises of association without a court order;
- Specific provisions and restrictions for student associations have been entirely removed; and children from the age of 15 can form associations;
- Internal audit (within the association) standards have been increased to ensure;
- NGOs will be able to form temporary platforms/initiatives to pursue common objectives;
- Government funding for up to 50% of NGO projects will be possible;
- NGOs will be allowed to buy and sell necessary immovable assets.

Though accepted by Parliament, some articles of the Law were vetoed by the President. But it seems the Parliament will enact the law again and the President will sign it.



## **New development on Turkish NGOs Policy**

As Turkey enters 2004, it faces a year of fast-paced economic, social and political reforms. If all goes well, Turkey hopes to enter 2005 with a date from the European Union to start official accession negotiations. Though the pre-accession process and negotiations have undoubtedly created leverage and momentum for many of these reforms, whatever the result, I would argue that Turkey is taking firm steps toward building a stronger and a more participatory democracy.

An important indicator of these steps is the introduction of new principles of good governance (transparency, accountability and effectiveness) in several reform packages, particularly those at the local and central government levels. Whether it be the recent fiscal management reform, the Right to Information Act (scheduled to be fully instituted by mid-2004) or the local government reform package, these and other related reforms have the essence of a citizen-centred approach which aim to develop a new contract between government and citizens.

Although this new approach is much welcomed, each package of reform brings with it its own set of debates and common criticisms: One is that reforms are taking place at an increasingly fast pace, threatening the quality and effectiveness of the law-making process; another is that while law reform packages are abundant, implementation strategies are yet to be disclosed or perhaps even yet to be drafted. Last but not least is the question of to what degree and via which mechanisms consultation and input from civil society will be included in the reform process.

Turkey has great potential for indigenous corporate philanthropy, taking into account the recent increase in philanthropic activity on the part of small, large, local and foreign companies alike. Indeed there is evidence, however informal, that companies are eager to be more involved in supporting civic initiatives, and recognise the value of these investments. Thus, the time is ripe for developing an enabling legal, fiscal and operational structure, which will

encourage companies to adopt organised practices for grant making and funding of NGOs. Without a formal or defined process and criteria to guide the decision-making, allocation and assessment process, the act of institutional giving becomes very risky. At best, it remains at the “one-off” level and is randomly provided; at worst, the donation is misused, and the organisation gives up working with NGOs, having had a negative experience.

Although the concept and practice of philanthropy in Turkey is centuries old, social and economic changes have had a significant impact on the way in which institutions- primarily private sector companies - provide support. It is therefore critical that we examine local funding practices and encourage companies to increase their technical ability in corporate philanthropy practices, while concurrently working with regulatory bodies to make the case for a more enabling legal and fiscal environment. Achieving this will promote increased support by companies to civic initiatives and ensure the development Turkey needs to achieve for future social and economic prosperity.

Turkey is currently in the throes of fundamental social and economic transformation, embracing a vision of a strengthened democracy and inclusion in an enlarged Europe. As a result of rapid reforms - many of which are due to European Union pre-accession criteria - fundamental changes in Turkey’s civil society are taking place. The wave of optimism accompanying these reforms notwithstanding, there is still much to be done to ensure sustainable development and future growth of civil society and philanthropy in Turkey.

The impact of pre-accession criteria has created significant leverage in promoting changes in laws governing NGOs. Although there has definitely been some progress in reforms, for example with regard to freedom of association and expression, fundamental changes in the ‘system’ are still required to promote better state-NGO relations. These changes are not limited to law reforms, but extend toward translating new laws into practice. Due to historically strained relationships between public officials and civil

society, a new contract must be developed, based on mutual trust and cooperation.

Recent reforms have brought much needed momentum to the public, private and third sector. Civil society is increasingly mentioned in the media, corporate and individual donations are on the rise, and voluntarism now features as an important part of leading university curricula and business culture. Public officials are also more aware of the role and value of civic organizations, and citizens are keen to mobilize to address key issues.

However exciting this time may be, it is important to note that major changes will be needed if civil society institutions, NGOs and foundations are to play an increasingly strategic role in Turkey:

- legislative and regulatory reforms, in the context of a new contract between state and civil society;
- changes in the role of foundations, which will need to shift from charity to philanthropy and begin to take on a grant making role;
- nurturing giving by companies, the new actors in Turkish philanthropy.

Following amendments to the Civil Code and the Law on Foundations, Turkish associations and foundations can now open branches abroad and join international or foreign bodies. These are now permitted to operate and to open branches in Turkey after receiving permission from the Ministry of the Interior in consultation with the Ministry of Foreign Affairs.

Of course, NGOs have a critical role to play in developing these new systems. Paradigms are slowly shifting as NGOs and public officials realize that new solutions to old problems will develop through dialogue and joint cooperation. Thus a new mandate for policy analysis and support for regulatory reform has emerged for NGOs, while public officials are learning to clear blocked channels of communication with civic organizations.

## **NGO Law Reform and European Union Progress**

The Turkish government has declared repeatedly that its main objective is to meet the Copenhagen political criteria in time to allow a positive assessment by the Commission next year and thereby pave the way for a decision by the European Council in December 2004 to start accession negotiations with Turkey.

Overall, in the last year Turkey has made further impressive legislative efforts, which constitute significant progress towards achieving compliance with the Copenhagen political criteria. Turkey should ensure full and effective implementation of reforms to ensure that Turkish citizens can enjoy human rights and fundamental freedoms in line with European standards.

On 5 November 2003 the EU disseminated Turkey's annual progress report, providing an assessment on the degree to which required reforms have been made and to what extent they have been implemented.

This report touched on critical political criteria related to the development of a more enabling legal environment for non-governmental organizations (NGOs) in Turkey. The Third Sector Foundation of Turkey (TÜSEV) has extracted these relevant sections and comments from the overall report and prepared a summary for reference purposes. Listed below are some of these issues and other items with the aim of highlighting critical factors, which should be taken into account in addition to EU accession criteria, which will create a more democratic environment and enable a vibrant civil society in Turkey.

- Bureaucracy and regulatory procedures - especially with regards to reporting and oversight - remain significantly cumbersome and costly to NGOs and require further streamlining;
- Foundations are still required to obtain permission to obtain funding from international sources and engage in partnerships;

- Implementation of reforms is slow, un-institutionalized, and significant regional disparities exist- public servants urgently require training on new regulations and changes in laws;
- Despite the recent changes to the Civil Code, there are still significant differences between application of laws (regulations) and actual laws (legislation) for associations and foundations;
- NGOs are experiencing significant difficulties in tracking new regulatory requirements;
- Monetary fines and sanctions for regulatory errors are severe, and do not provide fair warning;
- Frameworks for “public benefit” and relative tax exemptions are extremely restrictive and limited (only 650 have this status). Turkey urgently needs a public benefit law of international standards.

Many of the reforms require the adoption of regulations or other administrative measures, which should be in line with European standards. Some of these measures have already been introduced and others are being drawn up. To be effective, the reforms will need to be implemented in practice by executive and judicial bodies at different levels throughout the country.

As regards freedom of association, restrictions were eased following amendments under the fourth and seventh reform packages. However, significant limitations remain, including in relation to the establishment of associations on the basis of race, ethnicity, religion, sect, region, or any other minority group. Changes did not lead to the adoption of a clear framework addressing the main problems faced by associations.

The Law on Associations has been amended under the fourth reform package, enabling associations to use any language in their non-official correspondence and allowing legal entities (in addition to individuals) to become members of associations. Restrictions on making announcements or distributing publications have been eased. The obligation to forward copies of these documents to the

relevant authorities prior to distribution, including to the public prosecutor, has been removed.

However, associations face problems with respect to closure of offices and branches and suspension of activities. In practice, they still experience considerable difficulties in co-operating with foreign associations and international bodies, including the receipt of funds.

As in other areas, NGO law reform initiatives have also gained much needed momentum, also due in large part to pre-accession requirements. In 2003 alone, changes in articles related to freedom of association, expression and demonstration were made, and a new regulatory department was created to govern associations (previously a responsibility of the national and local police). In addition, a human rights commission was formed, including representatives from all sectors to examine and monitor human rights reforms. These examples signify positive developments. However, additional reforms are required specifically with regards to developing a clear framework for regulations and public benefit provisions (including better tax benefits).

The law of 5072 Regulation on Associations and Foundations at Public Sector was accepted by the Grand National Assembly of Turkey and published the official gazette at on 29<sup>th</sup> January 2004. With the law numbered as 5072, the foundations and associations under the control of the public sector are taken out of the public sector. While this is a significant step for empowering civil community and democracy, it may cause some hitches and difficulties in meeting the needs of educational services.

The fact that several local and central government reform packages allude to increased NGO-government cooperation in the delivery of key services adds to the importance of ensuring the adoption of enabling legal frameworks. Given this overarching relevance, NGO law reform initiatives require a heightened level of attention, input, and monitoring as well as additional examination within the context of ‘secondary’ legislation to ensure alignment. While

principles of good governance abound in other reform packages, it is the laws governing NGOs which will demonstrate the current government's true political will in implementing these principles.

The aim of the law is to regulate the activities of associations and foundations, which were founded according to the Civil Law for supporting of private and the public institutions. It has also arranged the relations between the associations and the foundations and the public institutions. The associations and foundations, which were set up depending on special laws, are not included in this regulation.

In addition, the reform process is, however, incomplete in Turkey. Many civil and human rights NGOs in Turkey are concerned at the failure to implement fully and reliably key reforms. For example, one NGO reports over 1000 cases of torture in 2003 but notes there has been a big fall in the severest forms of torture (to around 20 cases). Police have in a number of cases attacked peaceful demonstrations. And harassment of human rights NGOs is a periodic problem. Yet many Turkish NGOs put great emphasis on the importance of opening negotiations with the EU to ensure political reforms and implementation do continue - in effect, they want a 'yes but' to negotiations, with ongoing monitoring and pressure from the EU to ensure full implementation of reforms.

## **Conclusions**

In this study, NGOs as found in EU and Turkey have been analyzed. As there are policies related to the NGOs in each European country, the EU Commission is working to improve relations with these civil organizations.

Turkey entered a new era seeing the emergence of democracy and a market economy approach in the 1980s. Turkey is now entering the peak of this era characterised by rapid changes in its social and economic systems, especially due to its recently acquired status of being a European Union candidate for accession. As a result of this shift, the State is increasingly calling on NGOs to help in the

provision of public goods to a country which is now home to over 70 million people with significant social and economic disparities. The private and NGOs sectors are working to re-define their role in supporting the provision of basic services in addition to a complex set of new needs brought about by social and economic change. Thus, the premise of philanthropic support of Turkish people and institutions remains intact, whereas the mandate and context within which it is provided is changing significantly.

In recent years, a number of remarkable regulations related to NGOs have been enacted in Turkey within the context of EU. Strengthening NGOs will strengthen democracy in Turkey.

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