

Trade unions in Turkey: past, present and future developments

Abstract

This article presents an analysis of the development of trade unions in Turkey with particular reference to the Europeanisation of Turkish industrial relations against the backdrop of the EU accession process – an issue which has encouraged considerable debate and which will require Turkey to introduce core labour standards as a prerequisite. Taking a historical perspective, and working through the development both of Turkey itself and its modern trade union movement, it seeks to answer a number of specific questions in relation to the context in which trade union organisations now find themselves. The author concludes that trade union influence is currently very limited as a result the constraints of the prevailing Turkish trade union law, passed in one of the country's periods of military intervention. Nevertheless, the need to adapt the labour legislation to suit EU norms offers some possibilities for the introduction of core labour standards. Commitments have been made but progress so far remains slow and unions have an important role to play.

Keywords: EU accession, industrial relations, ILO Conventions, transition, trade union legislation; collective bargaining, union organisations, social dialogue, union density, employment rate, informal economy

Introduction

This article is intended to present a survey of the historical evolution and the current situation of trade unions in Turkey against the background of the Europeanisation of industrial relations.

After autumn 2005, when the European Union initiated accession negotiations with Turkey, there has been considerable debate about entry, addressing the economic, social and political issues which are still relevant to the process of accession. One of the most frequently-cited arguments that complicate the entry of Turkey to the EU is the handling of human rights. This relates strongly to social appreciation, and the formal political status, of the labour movement and trade union organisations in particular since these organisations are seen as:

The immediate protagonists pressing for the implementation of human rights (Caba: 7).

*The third criterion of the Copenhagen criteria is the *acquis communautaire*, which means the ability to take on the obligations of membership, including adherence to the aims of political, economic and monetary union. This criterion is one of the milestones of the requirements and obligations of being a member of the EU. (Aklar: 107-108)*

The rules on social policy and employment are laid down in chapter 19 of the *acquis communautaire*. The bases of these rules are the core labour standards of the International Labour Organization (ILO). The eight core labour standards are:

- freedom of association and protection of the right to organise (No. 87)
- the right to organise and to collective bargaining (No. 98)
- the convention on forced labour (No. 29)
- the abolition of forced labour (No. 105)
- equal pay (No. 100)
- actions to abolish discrimination in employment and business (No. 111)
- minimum age of employment (No. 138)
- and the prohibition, and direct action to eliminate the worst forms, of child labour (No. 182).

The European Commission demands:

Turkey needs to ensure that trade union rights are fully respected in line with EU standards and the relevant International Labour Organisation (ILO) conventions, in particular the rights to organise, to strike and to bargain collectively. This is a priority of the Accession Partnership. (Turkey 2008 Progress Report: 23)

That clearly means that Turkey has to introduce core labour standards before it can become a member state of the EU. According to the ILO, Turkey ratified the last labour convention in 2001, with regard to the abolition of the worst forms of child labour. In recent years, Turkey has certainly embarked on a strategy of restructuring, public sector reform, privatisation and post-crisis economic adjustment in order to meet the demands of the European Union and its labour standards. However, it is not only the ongoing war in neighbouring Iraq that is aggravating pre-existing problems in the labour market, such as the relatively high levels of under-employment, the low and steadily declining workforce participation or the lack of social dialogue. The institutional framework of social protection in the country has clearly been insufficient. A new law which is supposed to define the role of the Turkish Employment Association (ISKUR), the only public agency in charge of employment services, is currently under consideration and is geared towards a more committed inclination towards common EU standards and practices.

With particular regard to this article, the main problem to be discussed is the extent to which trade union rights and political and collective bargaining in Turkey accord with the requirements of the European Union. The leading questions that this article seeks to address are:

1. What is the historical and political background of Turkey?
2. How did the main trade union federations develop and how and on which legal basis do they act today?
3. To what extent does the development of the economy and the labour market influence trade union development?
4. What are the positions of the main trade union federations on accession to the EU?

The article is organised as follows: The first part gives a brief overview of the history of Turkey since the revolution of 1908. Afterwards, a summary of the current legal

rights of trade unions – which, for the most part, date back to the military dictatorship of 1980 – and of the evolution and structure of the main trade union federations in Turkey are presented. To characterise the development of the rate of unionisation of employees in Turkey, the development of the economy and of the labour market is described. The article concludes with a discussion on how, and with what transnational strategies, core labour standards can gain recognition in Turkey.

Historical and political evolution of Turkey

Modern Turkey emerged from the Ottoman Empire. The Ottoman State:

Did not accept anyone as equal and did not know anything about peaceful co-existence (Anderson: 13).

The first period of systematic modernisation took place between 1839 and 1876; while modernising tendencies became more radical in the revolution of 1908. This coincided with the first major wave of labour movements and of strikes which, however, were quickly brought to an end by the strike law of 1909.

Around the turn of the century, opposition to the tyranny of the sultan had become widespread among young people. Rumours of an imminent division of Rumelia, the former heartland of the Empire, between Russia and Great Britain prompted a military uprising which spread rapidly. The forces behind the uprising founded the Committee of Union and Progress (CUP). In the elections to which the sultan felt impelled, the Committee received a large majority. The ultimate goal of the CUP was the preservation of the Empire. The population was divided along language lines, as well as on religion and ethnic group affiliation, so the CUP pursued a double-track strategy.

Publicly it advocated civic nationalism, which included all inhabitants of the country, whatever their religion or origin [...] However, in secret assembly it paved the way for a stronger religious or ethnic nationalism which was confined to Muslims and Turks. (ibid: 20)

At the end of the First World War, the CUP had to step down from the government, leaving behind the

Post-war hardships of a conquered society, which were much worse than in Germany or Austria. (ibid: 31)

The core of the problem can be found within the dichotomy of production relations, as well as within the incongruence of urban and rural structures. All this built up to a non-uniform societal structure that respectively influenced the forthcoming trade union federations in the country (Gümrukçi: 1).

The first legally legitimate labour organisations in Turkey were founded in the years after the First World War, i.e. between 1919 and 1922. The nature of these organisations was partly political and partly trade union (Baydar: 7).

The first trade union activity had been visible at the end of the 19th century, but the country's feudal order prevented its further proliferation. In 1908, after the shift from an absolutist democracy to a parliamentary one, efforts were taken up again but the

prohibition on freedom of assembly, as well as on freedom of organisation, remained in place (Gümrükçü: 1), even after the Treaty of Lausanne introduced the Turkish Republic in 1923, with its first President, Mustafa Kemal 'Atatürk', a former member of the CUP. Three years later, Islamic law was abolished and civil law adopted.

With the extensive changes during the period of Atatürk, laicism became the objective of the state. Laicism is today still enshrined in the Turkish constitution. In fact, the state usurped (Islamic) religion and tried to domesticate it by means of a federal religious authority.

After the foundation of the Turkish Republic, membership of the labour movement increased (*Länderprofil Türkei*: 9). Starting in 1923, efforts were made to pass a first general labour law, but this only met with success in 1936. Law No. 3008 included regulations on working conditions and employment, but expressly forbade the establishment of trade unions and the organisation of strikes. Moreover, the Law on Association of 1938 forbade the foundation of associations and alliances based on social classes.

The second President after Atatürk, İsmet İnönü (1938-1950), kept Turkey out of the Second World War, but the Kemalist policy of modernisation stalled during this period. In 1945, İnönü signed the UN Charter and allowed the creation of political parties. Thereupon, the Democratic Party (demokrat Parti, DP) was founded in 1946 and a multi-party system, under democratic conditions, was introduced (Caba: 57-58). This accommodation of Turkey to national and international developments led to a liberalisation of the Law on Association, and the prohibition of associations and alliances based on social classes was revoked. Subsequently, hundreds of trade unions, with an increasing radius of action, were founded (Baydar: 8). However, in December 1946 the government proclaimed a state of emergency and banned the newly-founded trade unions.

In 1947, the Republican People's Party (Cumhuriyet Halk Partisi, CHP), and later also the DP, tried to found party-affiliated trade unions by establishing and financing employee agencies. In this way, the unionisation of the workforce was actively supported. In the February of the same year (1946), the first Law on Trade Unions was finally adopted; however, it did not include the right to strike.

A workers' union was formally defined as an association of workers that aimed at protecting and representing the common interests of and providing assistance to its members. (Önder: 83)

According to information from 1948, there were already seventy trade unions and trade union federations at that time.

As early as 1949, Turkey became a member of the European Council. After the elections in 1950, the DP assumed government and Adnan Menderes became Prime Minister. In 1952, Turkey joined NATO and, in 1959, Ankara applied for associate membership of the European Economic Community (Aklar: 107). Menderes tried to expedite industrialisation and impede the opposition. The military brought down the government in 1960 and took over power for the first time. The Democratic Party was proscribed and Menderes and two of his ministers were executed. In 1961, a plebiscite

was held on a new constitution, followed by elections, and Turkey became a member of the OECD. It has aspired to join the former EEC since 1961.

Up to that time, the trade unions and the Confederation of Turkish Workers' Unions, Türk-İs, which was founded in 1952, were closely controlled by government policy. In 1963, the Law on Trade Unions No. 274 and the Law on Wage Agreements, Strikes and Lockouts were adopted. Consequently, a modern labour movement developed in 1965, which frequently used the newly-established right to strike and abandoned the union policy of Türk-İs. The result was that a number of trade unions left the federation in 1967 and founded an alternative federation, the Confederation of Revolutionary Workers' Unions, DISK (Devrimci İsci Dendikalari Konfederasyonu).

Owing to the competition between individual trade unions and the trade union federations, the number of strikes increased significantly. Moreover, trade union campaigns became more and more radical between 1967 and 1970. On 15-16 July, demonstrations took place in Istanbul, attended by hundreds of thousands of employees, of whom hundreds were arrested and thousands lost their jobs. The ten-year period of liberty and democracy ended in 1971 following political riots between left-wing extremist groups: the government did not react and so the military intervened for the second time (12 March 1971) by prohibiting left-wing organisations and controlling politics for the next two years.

Between 1973 and 1980, Turkey saw changing coalition governments and, again, riots which culminated in civil war-like situations. However, the labour movement gained new momentum between 1975 and 1980, fighting for new rights and becoming more and more political and militant.

The third intervention of the military occurred in 1980 (on 12 September), leading to a military dictatorship that lasted nine years. During this time, parties, organisations and the Federation of Revolutionary Trade Unions (DISK) were suppressed. The liberal constitution of 1961 was replaced by a new constitution granting extensive power to the military and in pursuit of a liberal economic policy. In 1983, a new Law on Trade Unions (No. 2821; No. 2822) was adopted.

This law is still largely in effect today and seriously constrains the rights and freedoms of trade unionists and employees. Hundreds of democratic trade unionists have been arrested and tortured in prison; while a large number of DISK-union members died under the military dictatorship in the 1980s. In contrast, members of state-controlled Türk-İs were not persecuted. The different treatment of trade unionists in membership of Türk-İs and DISK strains the relationship between members of the two federations up to the present day. The DISK ban, which was not repealed until 1992, saw the number of individual trade unions decline under the new Law on Trade Unions.

During the government of President Turgut Özal from 1989 to 1993, a free market economy and formal political democracy were established. In the period from the 1990s, therefore, Turkey has been in a double transition phase: on the one hand, it has had to deal with the transformation of the political system from military dictatorship to formal political democracy; while, on the other, it has been exposed to the need to adapt to a European legal and administrative system.

At the beginning of the 1990s, the EU rejected Turkey's application to become a full member. Customs union between Turkey and the EU took effect in 1996 but, one

year later, it was again rejected as a candidate for membership of the EU and it was not until 1999 that Turkey reached candidate status. The prospect of membership triggered political reforms in order to bring the legislature, the executive and the judiciary in Turkey up to EU standards and to harmonise law and regulations.

When the economy had just started to recover, tax evasion and speculation on a large scale led to a stock market crash in 2001, which caused hyperinflation and resulted in financial crisis.

The moderate Islamic Party for Justice and Development (AKP) has been in government, under Prime Minister Erdogan, since 2002. Despite the current economic prosperity and political stability, there are still conflicts, especially in the fields of labour regulation and trade unions (*Länderprofil Türkei*: 9-14).

Turkish constitution and the Law on Trade Unions

The legal bases for the activities of trade unions in the private sector were established in the Law on Trade Unions of 1983 under the military dictatorship.

Freedom of association is governed by Article 51 of the Turkish constitution, according to which every employer and employee is granted the right to establish associations and umbrella associations, without prior notice, in order to fulfil their duty to protect the economic and social rights and interests of their members. However, not all employees are permitted to join trade unions. Thus, certain civil servants and public employees, specifically those working with the police, are not permitted to unionise at all. Other groups, by contrast, are organised in trade unions but do not have collective bargaining rights or the right to strike, e.g. teachers. Those who are permitted to unionise are confronted with further problems, such as dismissal. Free choice of trade unions is prevented by employers in that employees are obliged to join a trade union that is 'suitable' to the employer. Thus, it can be seen that freedom of association is not implemented in practice.

Article 52 of the Turkish constitution stipulates that trade unions must not pursue political goals, support or be supported by political parties. Moreover, those who hold trade union office must not be a member of the executive committee of a political party.

Under the terms of the Law on Trade Unions, trade unions can be organised according to the principle of industry associations (Law on Trade Unions, No. 2821). The Law predefines, as mandatory organs of a trade union, the congress (the meeting of members); the executive committee; the directorate; and the disciplinary committee. Other organs are optional. Workers must be registered by a public notary if they want to become a member of a trade union; and the same applies when leaving a trade union. Moreover, only employees with social insurance are permitted to become a member of a trade union. This requirement severely limits the pool of potential trade union members because of the labour market structure in Turkey. Civil servants are permitted to form trade unions, but they have no right to negotiate collective agreements. Members of the military, the police and private security personnel are not permitted to become members of a trade union (Caba: 65). The activities of trade unions are limited to the problems that can result from the formulation and the practice of wage agreements. After every business quarter, they are required to write a balance sheet and a work report for the Minister for Labour and Social Security (*ibid*: 66).

The second law (No. 2822), governing wage agreements, strikes and lockouts, contains detailed regulations on the conclusion and the term of wage agreements, the responsibilities of trade unions with regard to wage agreements, the process of wage negotiations and the legal arbitration procedure. In order to be able to sign a company wage agreement, the trade union must represent at least 51 % of the employees of the company in question, or 10 % of the employees of the sector concerned. The right to strike prescribes that strikes are prohibited in the fields of public supply and health services. Even if the right to strike is recognised, it is subject to restrictions. If a trade union calls a strike, the Cabinet can suspend the strike for sixty days on the basis of the applicable legal provisions, which means nothing less than bringing the strike to an end. The main reasons for strikes are: the struggle to preserve jobs; wages; social security; and to obtain redundancy pay. The right to free education and health care are also among the reasons.

The instructions and restrictions of the Law on Trade Unions evoke severe criticism from national and international union organisations and from the ILO (DGB Bildungswerk: 30).

Collective bargaining

According to law, a distinction is made between three kinds of collective agreement negotiated and signed in Turkey by the parties to a contract – the trade union and the employer federation or an individual employer:

1. an operational unit wage agreement: applies only to a single operational unit
2. a company wage agreement: applies to all employees in a sector who work in different operational units for the same employer, where at least 51 % of the employees of the entire company are organised within a union
3. a collective agreement: applies if one trade union and one employer federation are authorised to negotiate wages for several operational units in a sector.

However, there are no wage agreements which are obligatory for an entire sector.

Collective agreements apply for at least one year and for a maximum of three. The trade union Bırslesik Metal-Is – for example – conducts wage negotiations every second year for those companies in the metalworking industry in which it is organised, although the wage agreement which is currently in place runs from 2006 to 2010. Under pressure from the metalworking employer federation, MESS, and with the consent of the trade union Türk Metal, it was collectively agreed that salaried employees (white-collar workers) cannot be organised in a union, so that wage agreements apply only to wage-earning employees (blue-collar workers). Nevertheless, employers currently grant salaried employees the same conditions.

On 22 March 2011, Bırslesik Metal-IS declared strike action at 21 companies, some of them multinational corporations, as they complained about inadequate wages and working conditions. The collective agreement, which affects around 80 000 employees, was rejected on the grounds of an increase in minimum wages that does not properly reflect the increase in production and profits of MESS-affiliated companies.

In terms of content, the provisions of collective bargaining agreements can be subdivided into: general terms and conditions; wage increases and other financial bonus

payments and allowances; regulations concerning working hours and leave; payments that the employer has to deduct; incentive bonuses; special bonuses on wages and salaries; protection against dismissal; and trade union rights in companies. Employees who are not organised can take advantage of the payments agreed under a collective bargaining agreement on payment of a solidarity fee.

The statutory provisions applicable to trade unions in order to be able to conclude collective agreements result in only very few collective agreements being signed for a single company. Thus, most employees are not covered by collective agreements (Kramer, Le and Wannöffel, 2007b: 37).

History and structure of the main trade union federations

Currently, three umbrella organisations exist in the private sector, the Federation of Turkish Trade Unions, Türk-Is; the Federation of Revolutionary Trade Unions, DISK; and the Trade Union Federation, Hak-Is.

Table 1 – Structure of trade union organisation in Turkey

	Federation of Turkish Trade Unions (Türk-Is)	Federation of Revolutionary Trade Unions (DISK)	Trade Union Federation (Hak-Is)
Model of trade union affiliation	'Pluralist' system – affiliation according to political or religious convictions		
Orientation	Government-oriented; pro-capitalist	Left-wing oriented	Islamic-oriented
Member trade unions	35	21	9
Members (2011)	2.1m	407 648	350 000
International memberships	ETUC, ITUC	ETUC, ITUC	ETUC, ITUC

(<http://www.disk.org.tr/default.asp?Page=Content&ContentId=699> (last checked August 5th 2011))

(<http://www.turkis.org.tr/index.snet?wapp=D68F7408-BCB7-41EF-9862-5BC0FBFC9D0E>) (last checked August 5th 2011)

Türk-Is

The Federation of Turkish Trade Unions (Türk-Is) is the largest and oldest trade union federation, with approximately 2.1 million members divided into 35 member trade unions. Its head office is in Ankara. It was founded during the Cold War in 1952 under US supervision. For that reason, it was geared to the ideology of American trade unions and was subordinated to US foreign policy in the context of the east-west conflict (Caba: 73). During the Cold War, it had instructions to maintain a pro-state attitude and:

To form a front against progressive[-democratic] trends. (Länderprofil Türkei: 32)

It depended completely on the Turkish government. Its top officials ran as delegates for the DP and the AP. At first, it regarded its role as that of a non-partisan trade union federation but, during the times of political unrest and change, it took a position on the side of the government and even the military, which is opposed to the labour movement. This, on the one hand, saved it from being banned in Turkey but, on the other, it led to its suspension from the ICFTU. Türk-Is is perceived as pro-state and pro-capitalist. The demonstration in Ankara in 1962 is an example of this: during this demonstration, the founders and officials of the socialist Workers' Party of Turkey (TIP) were denounced as communists. Moreover, in elections to the executive, Türk-Is officials avoided the nomination of candidates from the progressive and critical wing. It became more and more clear that Türk-Is was a federation directed by the Turkish government and US organisations, so opposition unionists left in February 1967 to found DISK. The result was that Türk-Is grew to be even more geared to state politics. Between 1973 and 1977, all social democratic-oriented members were excluded from the executive. These members joined DISK.

After the military coup in 1980, Türk-Is approved the intervention, with its executive explaining that it was its 'patriotic obligation' (*ibid*: 33) to support the National Security Council.

Today, Türk-Is adheres to the Turkish constitution of 1982 and to the 1983 Law on Trade Unions, but it has had to disengage itself from its rigid dependence on the state, which takes a pro-European stance.

Nevertheless, Türk-Is does not defend the democratisation of trade unions and fights only for its own interests rather than for those of employees (DGB Bildungswerk: 32-33).

The official comments of Türk-Is are signs of [...] discontent with the current trade union law. Moreover [Türk-Is] accentuate[s] that the law with its serious restriction is not enforced. It points to the large numbers of dismissals of unionised employees. It demands more stability and security of the workplace to avoid these situations. A possible solution could be a strengthening of protection against dismissal. This is the responsibility of the government. However, the resistance [of Türk-Is] remains within limits. (Caba: 87)

DISK

The left-wing oriented Federation of Revolutionary Trade Unions (DISK) was founded in 1967 as a product of the labour movement. It aimed at becoming a mass movement in terms of the class struggle and the political participation of the working class. Its union position is closely connected with its political demands, which has always caused severe friction between the union and the corporatist bloc (Gümrükçü: 6). The founders of DISK were also among the founders of the socialist Workers' Party of Turkey (TIP) in 1962. (FES Trade Unions in Turkey: 1980). Due to this political attitude, DISK was disbanded after the military came to power in 1980 and it was not until 1992 that the trade union federation could resume its operation. Owing to the new trade union law of 1983, it has, to this day, not regained the influence that it had prior to 1980 (DGB Bildungswerk: 34).

Today, DISK has approximately 400 000 members divided among 21 member trade unions. Its head office is in Istanbul. It has eleven regional offices, of which one is in Belgium. In accordance with its principles, it strives for radical land reform:

To better the conditions of peasants and provide a basis and support for industry, as well as to reduce unemployment. (www.disk.org)

Moreover, it is of the opinion that:

A rapid industrialisation under state control is the only way of attaining and maintaining higher living standards for working people. (ibid.)

DISK is not only for the enhancement of the social and economic rights of workers, but also declares peace, democracy and freedom to be its overall aim and principle. It also aims to co-operate with other trade unions to strengthen the rights of workers.

DISK is the most active of all the confederations.

DISK has played an important role in everything that has been won by the Turkish trade union movement for the working class... [It] defends the interests of the working class on all platforms and struggles for new gains under the guidance of the principles gained from history. (ibid.)

Hak-Is

The Islamic-oriented Trade Union Federation (HAK-Is) has approximately 350 000 members divided into nine member trade unions. Its head office is in Ankara. It was founded on a permanent basis in 1976 and arose from a merger among the Islamist movement within the workforce. Hak-Is believes in the fraternity of employees and employers because they belong to the same religion, and struggles against communism, Zionism and fascism. Like DISK, it was disbanded in 1980 but was able to resume its activities a few months later in 1981. Many members of DISK joined the Islamic HAK-Is during the ban as a result of disappointment with the passive Türk-Is. Moreover, it was able to disseminate its Islamist policies and to place its organisation on a broader basis at a time when the rights of employees were severely restricted under the military government. After initial reservations, Hak-Is was accepted for membership of the International Confederation of Free Trade Unions and of the European Trade Union Confederation (Caba: 84). Its friendly relations with the AKP government (the leader of Hak-Is is also an adviser to the Prime Minister), have led many public sector employees into membership (DGB Bildungswerk: 35).

Representatives of Hak-Is are critical of the current trade union law:

According to Hak-Is freedom of unionisation has a decisive influence on the economic and social problems of the country. (Caba: 88)

It demands a reform of the trade union law:

So that the trade unions can take a stand on the other social problems of the country. Trade unions must support the work of the government. (ibid.)

In summary, Caba reports that, concerning the current trade union law, the various trade union federations do not have a common (political) argumentation. Therefore, they are not able to pressure the government efficiently. They do not co-operate and each federation strives only for self-preservation (Caba: 89).

Public services federations

The trade union umbrella organisations in the public services are KESK (Federation of Employees in Public Services); Memur-Sen (Alliance of Civil Servant Trade Unions); and Türkiye Kamu-Sen (Alliance of Turkish Civil Servants). Trade union federations in public services were only made possible by the constitutional amendment of 1995, after which time numerous civil service trade unions have been founded. However, these have no freedom to strike and do not have the right to negotiate wage agreements. KESK was founded in December 1995, with a head office in Istanbul; it consists of 28 trade unions with a total of 400 000 members (1999).

It concentrates its main actions on the negotiation of wage agreements, the struggle for the right to strike and the increase of low wages. (Baydar: 29)

Memur-Sen was also founded in 1995, with a head office in Ankara. It consists of nine trade unions with a total of 140 000 members (1997). It constitutes the:

Long arm of the Hak-Is federation in the public sector. (ibid.)

Türkiye Kamu-Sen was founded in 1992 in Ankara and has 11 affiliates with a total of 190 000 members (1999).

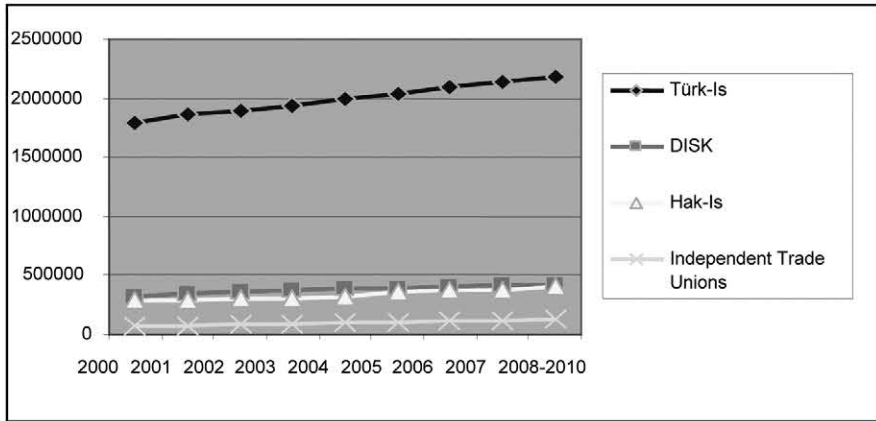
Its founding members and all its officials are from the right wing of the political spectrum. (ibid: 30).

In addition to the unions which have joined one of the federations, there are still a number of independent trade unions in Turkey. However, the trade union law of 1983 made the foundation of independent trade unions complicated, and their right to conclude wage agreements is limited because of the ten per cent criterion.

Trade unions that were founded in accord with the employers are [...] almost without exception independent trade unions. (ibid.)

The official number of trade union members of the confederations and the independent trade unions varies sharply. By a healthy margin, Türk-Is is the confederation with the most members.

Figure 1 – Distribution of trade union members among the confederations and independent trade unions, 2000-2010



Source: Aklar: 84.

However:

The number of trade union members is a debatable issue since the data of the Ministry relative to this issue is claimed to be wrong and to demonstrate higher numbers than reality. (Aklar: 84)

Trade unions in the metalworking industry

There are three trade unions that are entitled to negotiate wage agreements in the metalworking industry. They are only permitted to operate in the metal and electrical sectors and may not organise in other sectors.

Birlesik Metal-Is is active in all areas (basic metal production, metals processing and mechanical and electrical engineering, as well as automotive (parts) manufacture), mainly in the private sector, and is organised independently of political parties. It is a member of the umbrella organisation DISK.

The second trade union in the metalworking sector, Celik-Is, is active in the former state steelworks but is relatively unimportant in the private sector. It has close ties to the government and is a member of the pro-Islamist umbrella organisation HAK-Is.

The trade union Türk Metal, in contrast, is supported by the employer federation, MESS. It is active in the large important companies in the metalworking industry. There, even today, employees are required to register with a public notary to join this trade union. Türk Metal is also, to a smaller extent, organised among state-owned companies and is a member of the umbrella organisation Türk-Is.

Workers in the shipbuilding industry in Turkey are organised separately in the sector trade union Limter-Is (Kramer, Le and Wannöffel, 2007b: 36).

The representation of interests at workplace level

The representation of interests at workplace level in Turkey is regulated via trade union representations in a so-called monistic system. There are, however, other forms of the representation of interests, although these are not in general application.

These include the works committee, the establishment of which has been possible again since 1990 with the consent of the employers. In several companies where they exist, they work together with the trade unions; in others, they avoid contact with the unions. Works committees gained in importance in the 1970s with the increasingly militant labour movement but, after 1980, their influence declined sharply after the establishment of the military dictatorship. Today, they have practically ceased to exist in any company.

In order to mediate disputes between employees and employers and to promote their mutual interests, there are also committees at workplace level on which sit representatives of employees and employers. The establishment of such committees is not obligatory. It has become more difficult, especially since 1990, to demand the inception or foundation of such committees under collective bargaining law.

On a national level, today it is, above all, the sector trade unions and, at workplace level, trade union representatives who campaign for the rights of employees.

The establishment of organs for the representation of interests at workplace level is not legally stipulated. This arrangement can, however, be implemented via wage agreements. Implementation has proved to be difficult and can be found in only a few companies. Trade unions organised at company level function as an interface between trade unions and employees, on the one hand, and employers on the other. Trade union representatives in the company are appointed by law by the trade union, although some trade unions allow their representatives to be elected by the members of a company and then appoint them. The duration of their term of office is, as a rule, two years since wage agreements also predominantly have a two-year term; trade union representatives are appointed on the same timeframe. The task of trade union representatives lies in resolving problems at the workplace and positioning themselves as a link between the company and the trade union. They have no effective protection against dismissal, so this task can only be performed under difficult conditions. Labour law provides that the employer can only discontinue the employment relationship for a 'justifiable cause'. This 'justifiable cause', however, is based on a subjective evaluation.

A striking feature of the system of the representation of interests at workplace level in Turkey is the lack of a joint body of the representatives of the various umbrella organisations and trade unions. In addition, there are no co-determination mechanisms within companies. There are no information and consultation rights for employees in Turkey; while there is no legal framework for the regulation of employee participation whatsoever. Company representatives need not give employees and trade union representatives information on the development of the finances of the company, the order situation, etc., nor about the future plans of the company (Kramer, Le and Wannöf, 2007b: 37).

Social dialogue

The Economic and Social Council has offered the possibility of tripartite co-operation between representatives of government, employers and trade unions since 1995. Nevertheless, the social dialogue has proven to be very difficult in Turkey. One reason for this can be found in the Turkish legislation. Thus, at the sectoral level, social dialogue has still not been legally institutionalised.

Furthermore, the legal licensing restrictions and the major requirements which are made of the representatives of the trade unions are proving to be a problem for the social partners. In addition, the informal sector is particularly strong in Turkey: employees who are working in this area are not officially registered and, therefore, cannot be represented by trade unions. If the structures of industrial relations are not extended to the informal sector, the trade unions will continue to represent only a minority of the actual number of the country's workforce. In addition to this institutionally-weakened position, unions also have to contend in their work with restrictions on their rights. The *EU Progress Report* of 2006 points out that there are still considerable deficits with respect to trade union freedoms (the right to strike; freedom of association). The fundamental problem, however, is not the adoption of the laws, but rather their implementation. The trade unions see themselves in this form as not fully capable of action. This is a problem that indubitably exists also in the metal industry.

The trade unions are in a weak position in their dealings with employers or employer associations. According to their own information, there is no possibility of a bipartite social dialogue; contact with employers takes place only during wage negotiations (*ibid*: 36).

Structure of the economy and labour market

The structural development of Turkish trade unions can best be understood against the background of the economic structure and the labour market of Turkey.

Table 2 – Economic power and the labour market, 2010-2011

	Turkey	EU 27
GDP (€bn)	approx. 515	12 703
GDP per capita (PPP) in \$	13 463.66	30 388.02
Population (mill.)	73.72	502.5
Employed people (million)	23.95	322.6
Employment rate (%)	49.9	64.2
Unemployment rate (%)	9.9	9.9

Source: TURKSTAT; EUROSTAT; Sengenberger, 2006; SDA/EGA, 2004

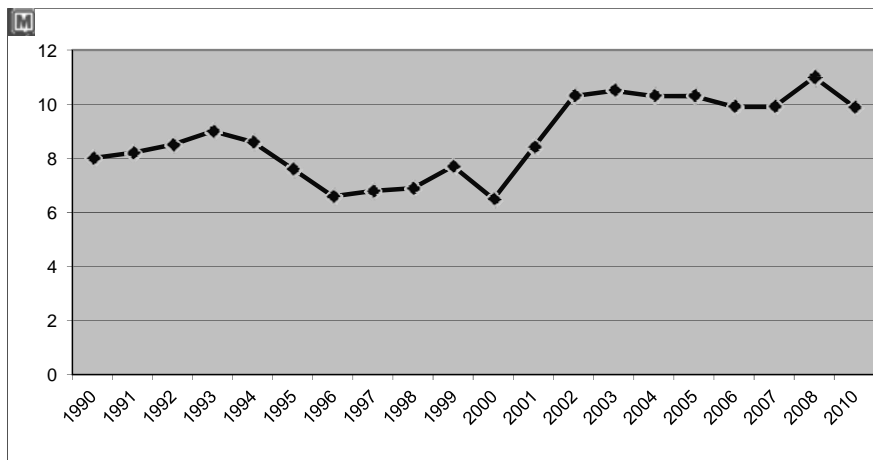
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<http://epp.eurostat.ec.europa.eu/portal/page/portal/eurostat/home/>

http://www.turkstat.gov.tr/PreTablo.do?tb_id=27&ust_id=8

Compared to other European countries, Turkey today retains a growing and young population. In 2011, there were 73.72 million people living in Turkey of whom, however, only 26.5 million were registered officially on the job market (49.9 %). (Of these, approximately 22.8 million people between the ages of 15 and 65 were in formal employment relationships (an employment rate of 43.9 %)).

Figure 2 – Unemployment rate in Turkey (%), 1990-2010



Source: Turkstat; wiiv

Between 1990 and 2001, the unemployment rate was below the corresponding long-term EU average of approximately 9 % but, between 2002 and 2008, it rose to a level above the EU average (11 % in 2008).

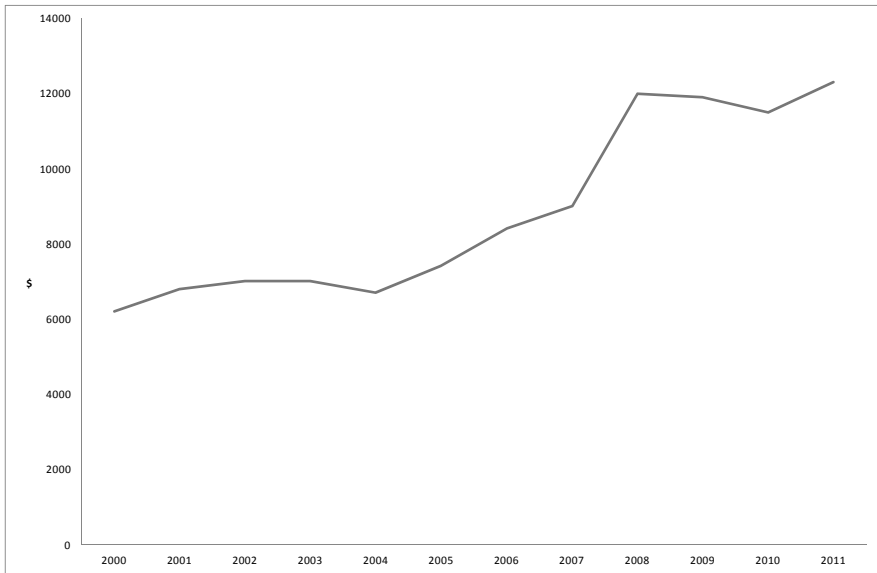
In 2006, of those people who are formally employed in Turkey, 26.1 % were working in agriculture, a slight decrease of 0.7 % compared to the previous year. At the same time, 20.3 % of employees were working in industry, 6.2 % in construction and 46.9 % in the service sector. Increases can be observed, compared to the previous year, in both the construction industry, at 0.6 %, and the service industries sector, at 0.3 %.

Even though the proportion has decreased in recent years, in Turkey:

Around one-third of employed people are still involved in agriculture. (Kramer, Le and Wannöf, 2007a: 9)

In terms of the extent of employment, agriculture still plays a disproportionately large role in Turkey. (Länderprofil Türkei: 18)

Figure 3 – Gross national product, per capita (\$), 2000-2011



Source: Turkstat (<http://www.indexmundi.com/g/g.aspx?v=67&c=tu&l=de>) [last checked 5 August 2011]

Gross national product nearly doubled from 2001 to 2011 which:

Indicates fast economic growth and an increased standard of prosperity. (Kramer, Le and Wannöffle, 2007a: 10)

This period was, furthermore:

Characterized by a notable average annual GDP growth of 7.2 %, declining inflation (from 70 % to 10 %) and relative economic and political stability under single party government [...] Turkey became an EU member candidate in 2005, further contributing to the positive outlook of the country. During the years 2007 to 2009, however, trends in growth dynamics and the international environment changed, leading to an increasingly pessimistic outlook for Turkey's economy. [...] Turkey's brilliant growth performance began to stagger as early as the second quarter of 2007 for two reasons: firstly, because of local political debacles, and secondly, because of the forthcoming global economic turmoil, which surfaced in the US mortgage business in the second half of the year. (Yücel: 1).

In the subsequent years (2008-2009), production and employment declined. The high unemployment rate resulted in depressed domestic demand. Unemployment, which soared to record levels in the first quarter of 2009, is one of the major perils

ahead of Turkey. In 2011, however, GDP per capita recovered tremendously from the economic crisis of the preceding years and reached a high of over \$12 000.

Development of employment relations

The commission responsible in Turkey for stipulating the minimum wage is comprised of representatives of employers, trade unions and the government. On 1 July 2007, it raised the monthly gross minimum wage by 4 % to YTL 585 (c. €311),¹ or YTL 419.15 net; and for employees under 16 years of age to YTL 491.40 gross (YTL 352.09 net). This means that the statutory gross minimum wage in Turkey has more than doubled in the last six years (from €139 in 2001).

If we look at the average gross wage for industry as a whole within Turkey, the development is not linear. In 2000, it was approximately €700. One year later, there was a sharp cut in the average monthly gross wage, to €520, due to the country's financial crises. However, wages, like the rest of the economy, recovered. In 2005, the average gross industrial wage was again up to €632, which was more than twice the statutory minimum wage of €291.

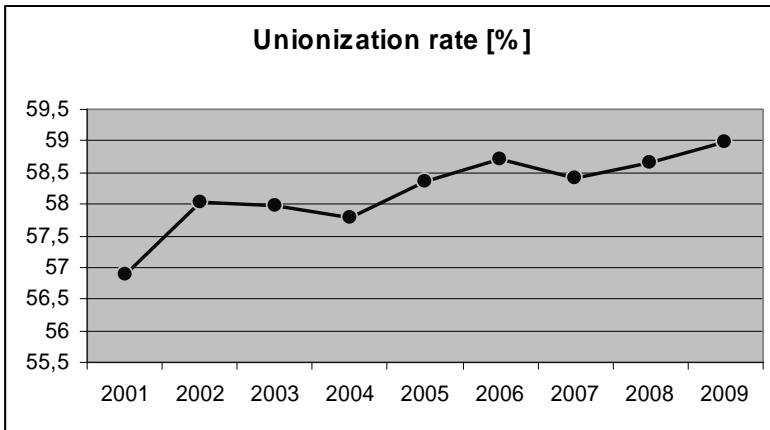
The employer associations and the representatives of the government consider the new minimum wage to be reasonable but, from the point of view of the trade unions, the rise is inadequate and does not make up for the rise in the cost of living. Thus the employee side voted against the resolution on the mixed commission.

Weekly working time in Turkey is 45 hours. In companies that operate from Monday to Saturday, the daily maximum working time is 7.5 hours while, in companies with a five-day week, it is 9 hours. The 45-hour working week applies equally to all industrial sectors. Thus, weekly working time is also set at 45 hours in the collective wage bargaining agreement within the metalworking industry.

Unionisation rate in Turkey

The unionisation rate has, since 2001, increased from 56.88 % to 58.98 % (as at January 2009). However, this figure relies on information from the trade unions.

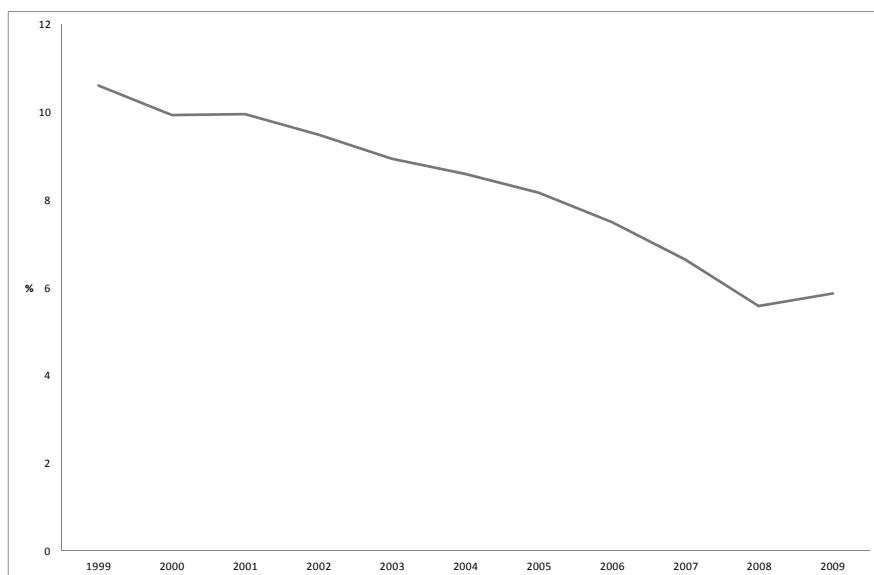
1 At an exchange rate of €1 = YTL 1.88.

Figure 4 – Official unionisation rate, 2001-2009

Source: Turkstat

The trade unions try to state as high a number of members as possible, since it is only the union with the most members that is permitted to negotiate a collective agreement. Therefore, it may be assumed that the unionisation rate is actually much lower (Baydar: 32).

An important feature of the Turkish labour market is the high proportion of informal and precarious employment that does not meet minimum standards of social security. According to information from the Department for Employment and Social Security, of the 22.8 million people in formal employment only around five million are registered in employment relationships that fall within the scope of national social insurance (22 %). This, in turn, has a direct impact on the level of trade union organisation in Turkey since – as we have pointed out already – only the minority of employees who come within the scope of the national insurance system can become members of a trade union.

Figure 5 – Real unionisation rate, 1999-2009

According to OECD statistics concerning union density in Turkey, the real unionisation rate was 9.95 % in 2001. In the following years, it decreased steadily and in 2009 it was only 5.86 %.

Therefore, the official unionisation rate applies only to an absolute minority of five million employees who fall within the scope of the national insurance system and, therefore, reflect only a small proportion of the labour and employment reality in Turkey. The majority of Turkish employees is still working under unknown labour conditions.

Trade unions and European integration

Negotiations and conditions for joining the EU

In 2005, negotiations on Turkish entry to the European Union finally began, after Turkey had been ‘in the waiting room’ of the EU for four decades. The start of negotiations had been controversial for a long period because Turkey had not instituted the legal changes that had been demanded. Accession negotiations are referred to as:

An open process, the results of which cannot be guaranteed in advance. (Europäischer Rat (2004): 6).

In order to enter the EU, Turkey has to meet the Copenhagen Criteria, which were enunciated by the European Council in 1993 (Europäischer Rat, 1993):

- the political criterion: institutional stability; democratic and legal order; and the protection of human rights; as well as respect for and the protection of minorities
- the economic criterion: a functioning market economy and the ability to compete on the EU single market
- the legal criterion (*acquis communautaire*): acceptance of the commitments accruing from EU membership and adoption of the aims of political union, as well as economic and monetary union.

The European Council emphasises that candidate countries have to be able to implement and apply the *acquis communautaire* and that, for this purpose, they have to undertake considerable efforts. The adoption and implementation of EU statutory provisions is the main goal of negotiations in order to ensure a smooth accession (Europäische Kommission: 7). Candidate status has encouraged Turkey to enforce fundamental reforms since 1999 (Europäischer Rat, 1999). The passage of these reforms is an important sign of a determination to adapt to the values and norms of the European Union. However, the discrepancy between the Copenhagen Criteria and the *status quo* of their implementation in Turkey is still very wide. Progress in negotiations will depend on the advances made in compliance with the demands. On the side of the European Union, the focus of enquiry regarding the EU maturity of Turkey lies, as aforementioned, in the political, economic and social area.

The field of industrial relations in Turkey encompasses, against the background of the adjustment process to the *acquis communautaire* (chapter 19), all three areas and can therefore be seen as central.

The role of international labour standards in the process of Europeanisation

Turkey has been a member of the ILO, which takes a great share in the field of industrial relations, since 1932. The implementation of international labour standards would, in general, lead to improved working and living conditions for the people of Turkey. Despite ratification, implementation of standards takes place only very slowly. In addition to employer representatives and the government, trade unions are considered to be part of the mechanism for the enforcement of international labour standards. In all the bodies of the ILO, the member states are represented by these protagonists.

It is of the duty of the trade unions, as representatives of the interests of employees, to improve the economic and social situation of their members. However, trade union rights are seriously restricted in Turkey, which has led to a reduction of activity. In particular, freedom of association and the right to collective bargaining (ILO Conventions No. 87 and No. 98) are not satisfactorily regulated, which is also stressed in the EU progress reports. Here, there is an urgent need for action.

Trade unions contribute to the process of the country's adaptation to European rules, norms and standards, among other things through the adoption of international labour standards, but one cannot speak of a Europeanisation of national trade unions. If European legislation were to be implemented on a national level in Turkey, it could influence trade union rights and policies. In their structures, however, trade unions and industrial relations are clearly affected by national history, culture and tradition.

Although Turkey signed the ILO Conventions No. 87 'Freedom of Association and Protection of the Right to Organize', No. 98 'Right to Organize and Collective Bargaining' and No. 151 'Labour Relations', some contradictions between national laws and the international conventions still exist. [...] Moreover, besides ILO Conventions, Turkey also ratified the European Social Charter in 1989. However, Turkey put reservations on Article 5 'All workers and employers have the right to freedom of association in national or international organizations for the protection of their economic and social interests' and Article 6 'All workers and employers have the right to bargain collectively' that regulate relations between employees and employers. The reservations on Article 5 and 6 were not removed when the Revised European Social Charter was approved by the Turkish Parliament in 2006. In this respect, the government is still far away from implementing all the requirements of international conventions (ILO, European Social Charter, etc.) ratified by Turkey and instituting respect for freedom of association and trade union rights. (Aklar: 75)

Every year, the EU publishes a *Progress Report* in order to evaluate, criticise and examine developments in Turkey.

Besides the Progress Reports, during the screening process in 2006, answers from the Turkish Government to the questions of the European Commission about the current situation of social dialogue reflect the unwillingness and insincerity and incapability of the government in the improvement of social dialogue. (Aklar: 109)

However, as observed in the Regular Reports, the development of social dialogue is progressing very slowly. (Aklar: 112)

The report of 2008 also shows no progress:

There is no progress to report in the area of labour law. (Progress Report: 60)

and:

On labour rights and trade unions, the pending legislation amending the Trade Unions and Collective Bargaining, Strike and Lockout Laws has not moved forward substantially. (Progress Report: 23)

Position of Turkish trade union federations in the process of Europeanisation

All three trade union federations in the private sector (Türk-Is, DISK, HAK-Is) and the Federation of Employees in Public Services (KESK) are members of the European trade union organisation, the ETUC, as well as the ITUC, the international body. Prior to dealing with other European political topics, they are interested in promoting basic European and international labour standards and trade union rights on behalf of their organisation. It was mentioned above that considerable obstacles have to be overcome in this area at national level. Despite their different political orientations, the trade union federations Türk-Is, DISK and HAK-Is do not differ significantly in their position concerning trade union rights: they all criticise the present trade union law in Turkey and agree on the necessity of change. What sets them apart is a matter of the details, i.e. the reasons for criticism or demands and in the ways these are backed-up.

DISK is the only trade union federation that really offers great resistance to the legislation which, in their view, is undemocratic. It consistently criticises the government and leads large protests and industrial action with the aim of implementing ILO Conventions No. 87 and No. 98. Due to the lack of trade union freedom, trade unions are largely restricted in their work at company level. However, DISK also criticises the EU. Its opinion is that elimination of the limitations of trade union law is not a precondition for Turkey to become an EU member, so it might not be an aim of the EU to raise standards in new member states.

The public statements of Türk-Is also show dissatisfaction with the trade union law. It emphasises that even the existing legislation, with its considerable restrictions, is not being implemented. The main problem that trade unions are confronted with is that employees who are unionised can be fired. Therefore, Türk-Is demands greater job stability and an enhancement of protection against dismissal. The level of opposition that this federation provokes, however, is consistently small: the other trade union federations criticise it on the basis that, despite its size, Türk-Is has so far never taken any measures against the Turkish government or the employer organisations. Concerning the EU, Türk-Is is in favour of Turkey becoming a member, but it wants the country's interests to be better protected. Türk-Metal, a member of the trade union federation, however, is of the opinion that Turkey should co-operate more closely with other Islamic republics than with the EU.

The pro-Islamic trade union federation HAK-Is acts on the principles of its faith. Therefore, it criticises the current trade union law for different reasons. It claims that freedom of association and the right to collective bargaining have to be improved so that trade unions can also lobby on other social problems in the country. Trade unions should support the work of the government. HAK-Is is officially in favour of EU membership but, like Türk-Metal, thinks it would be better for an Islamic Turkey to co-operate more intensively with Islamic countries. The trade union federation also points out that EU criticism of labour standards and trade union rights in Turkey is unfair; the progress that has already been made should be emphasised.

In summary, it should be apparent that the trade unions are in a passive position. Even though they are in favour of European integration, not least to enhance their own rights, their scope of action at national level is very limited. On top of that, the discrete trade union federations have no common line of argumentation and do not work together in support of a common goal.

Table 3 – Position of trade union federations

	Türk-İs	DISK	HAK-İs
Problems	1. Discrepancy between legislation and its implementation 2. Lack of trade union freedom 3. Violations of ILO Conventions No. 87 and No. 98		
Position and action	Passive	Active: criticism, protests and industrial action	Passive
Demands	Implementation of existing legislation Intensification of protection against dismissal Better protection of Turkey's interests within the EU	Implementation of ILO Conventions 87 and 98 Elimination of the limitations of trade union law as a precondition for EU membership	Implementation of ILO Conventions 87 and 98 as a means of resolving other social problems Trade unions should support the government Greater co-operation with other Islamic countries instead of with the EU

Results and prospects for the future

The history of Turkish trade unions and trade union federations is characterised by severe rupture. Under the military dictatorship, their freedom to act was severely restricted. Today, these restrictions still exist: the trade union law of 1983 is still in operation. The implementation of trade union rights and freedoms in Turkey is consequently proving to be a very slow and difficult process. The Turkish legislation demonstrates one reason for this: social dialogue at the sectoral level has still not been legally institutionalised. Furthermore, the strict legal preconditions for admission to trade union membership are proving to be a problem for Turkish employees and provide a significant obstacle to the development of genuine employee participation and an authentic trade union movement in Turkey.

Pressure from the trade unions at national and international level, as well as from the ILO and, in particular, as a consequence of the accession negotiations, from the EU, has led to the situation that the Turkish government has had to promise to amend the legislation. The intention is:

To protect all trade union rights according to EU standards and to the relevant ILO agreements, especially freedom of association, the right to strike and to collective bargaining, as well as the strengthening of social dialogue in order to ease and encourage co-operation with EU partners. (European Council, 2006)

Finally, looking at industrial relations in Turkey, the large informal segment of the labour market must be emphasised as a structural characteristic. Only 22 % of those in formal employment (five million people) are registered in employment relationships that come within the scope of national social insurance. And only this minority is covered by the collective regulation of industrial relations in Turkey.

For these reasons, it can be claimed that trade union power and influence is thus very limited. In this sense, this article comes to the following conclusions:

- trade unions are not well rooted in Turkish society due to the enormous share of informal employment
- Turkish trade union law constrains union power
- the national labour legislation of 1983 has to be adapted to EU standards
- ILO norms have to be implemented to strengthen trade union rights
- trade unions could play an important role in the process of Europeanisation.

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