

## The Outlook for EU-Turkey Relations

by Nilgün Arısan Eralp

In this brief the author assesses the current state of Turkey – EU relations fifty years after the signing of the Ankara agreement of 1963 which established the legal basis for Turkey’s relations with the EU. In particular, the author analyses the status of Turkey’s EU accession negotiations from both a Turkish and EU perspective. Outlining both positive recent developments and potential stumbling blocks in Turkey’s bid for accession; the author outlines potential paths for more mutually beneficial engagement.

### About the author:

After earning degrees at the Middle East Technical University, Leicester University, and the London School of Economics, Nilgün Arısan Eralp worked from 1987 to 1996 as an advisor to several senior public authorities, including the Ministry of State in charge of EU Affairs, Deputy Prime Ministry, and Prime Ministry of Turkey. Between 1997 and 2000, Eralp served as the Head of Department of Policies and Harmonization in the Directorate General for the EU Affairs, then as Director of National Programme in the Secretariat General for the European Union Affairs (EUSG) until 2009. Eralp has been the Director of the TEPAV - EU Institute since 2009.

Although the fiftieth anniversary of Turkey-EU relations came and went without notice, the end of 2013 appeared to herald glimmers of hope for the relationship between the two parties. Although neither seemed to have made their mind up regarding the outcome of the relationship, they at least wanted to keep the process alive, and the atmosphere had started to be marked by a “cautious optimism.”<sup>1</sup>

After the rather harsh tone adopted in the “Political Criteria” section of the 2012 Progress Report for Turkey prepared by the European Commission – the most critical since the late 1990s and early 2000s – the 2013 Progress Report published on October 16, 2013 assumed a milder tone. Though including rightful criticisms, especially regarding the state of fundamental freedoms and participatory democracy in Turkey, the Report tried to highlight reformist steps, even minor ones, taken by the government.

After three years of a standstill, an important chapter in the accession negotiations (Chapter 22: Regional Policy and Coordination of Structural Instruments) was opened on November 5, 2013. This chapter was among the five previously blocked by France during Nicolas Sarkozy’s presidency. Finally, on December 16, 2013, the parties initiated a visa dialogue, agreeing to a long-awaited roadmap for a visa-free regime following Turkey’s agreement to sign the “Readmission Agreement” (for illegal immigrants), which was a precondition for beginning this process.

The future appears promising. Important high level visits were announced. Prime Minister Tayyip Erdoğan of Turkey will be visiting Brussels

after a hiatus of four years to hold meetings with the top executives of the European Commission, European Council and European Parliament, although their term will be coming to an end in mid-2014. François Hollande will be visiting Turkey for the first time at the end of January 2014. France is still blocking four negotiation chapters because of their direct bearing on membership.

Although the factors that have led to this rapprochement are subject to different interpretations, recent developments in the neighborhood of Turkey emerge as the main catalyst for change. The regional instability and increasing isolation to which Turkey has been exposed necessitated a renewed approach towards the West and the EU. The fragility of the economic situation, namely a declining growth rate, a large and structural current account deficit, heavy reliance on short-term capital inflows, declining foreign direct investment, and a private sector with large foreign currency liabilities, seems to have played a significant role as well. On the other hand, the EU does not want to lose its influence on Turkey, which is situated in a strategic region whose instability has the potential to spread easily to Europe. As a result, there has been a willingness to reengage with Turkey constructively in order to retain leverage on the democratic consolidation process in the country, which has somewhat been diminished. The EU became especially vocal in the aftermath of the Gezi Park protests, which were instrumental in changing the perception of Turkey within the EU. For many Europeans, “they were deeply impressed by the popular upsurge in defense of liberal democratic values,” and for that reason the EU was advised against “running away from Turkey.”<sup>2</sup>

Do all the aforementioned developments signal an irreversible shift in EU-Turkey relations? This is unlikely. Indeed, the unsettled nature of Turkey-EU engagement can be easily exacerbated due to a number of risk factors.

The main risk factor, i.e., the vicious circle that is deeply embedded in relations between the two parties, has not changed significantly. The reluctance of the EU to embrace Turkey, based primarily on “essentialist” reasons related to questioning its Europeanness, has led to a diminished capability for Turkey to control the technical process of EU accession. Ironically, although EU accession has become a state policy in Turkey, it has remained at the rhetorical level and has never been internalized. Over time, the loss of the EU’s leverage over Turkey has played a considerable role in the slowdown of the process of democratic consolidation in Turkey. In the EU this has reinforced the image that Turkey does not appear to be developing into a pluralistic participatory democracy based on the separation of powers and the rule of law. This image further strengthens anti-Turkey sentiments in the EU.

Apart from this “structural risk factor” in Turkey-EU relations, most of the above-mentioned recent developments contain uncertainties which

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can be disruptive for relations and can render the outlook for the future very unpredictable. This risk factor also suggests that if the two sides are serious about reinvigorating the partnership, they would do well to invest more attention and carefully nurture their important yet still fragile relationship.

## The Risk Factors Ahead

In order to gain a better assessment of the evolution of Turkey-EU relations, certain risk factors need to be carefully observed.

### *The Messages of the 2013 Progress Report*

The last Progress Report of the European Commission for Turkey was generally regarded as an indicator of a warming of relations.<sup>3</sup> The main factor that resulted in such an interpretation was the moderate tone of the Progress Report, which was welcomed by the Turkish government. The report should, however, be read very carefully in light of recent developments in Turkey before reaching any definitive conclusions that relations are improving.

Referring to the overall peaceful nature of the Gezi Park protests, the report emphasizes that a real participatory democracy has not yet been consolidated in Turkey. The report evaluates that a benchmark for democratic reforms in Turkey will be the government's capacity to defend fundamental rights such as freedom of expression and freedom of association. The message of these evaluations to Turkey seems to be "there is more to liberal democracy than just the ballot box."<sup>4</sup>

The content of the Progress Report should be taken very seriously for the future of the Turkey-EU relations, given the state of participatory democracy and fundamental freedoms in Turkey. In this context, it was not difficult to surmise that the recently prepared indictment of the prosecutor for the Gezi Park protesters would elicit a negative reaction from the EU. This indictment asserts that terrorist organizations played a significant role in the Gezi Park protests and that the force used against protesters by the police was proportional.

### *Shift of Emphasis in Accession to "the Rule of Law" as declared by the 2012 and 2013 Progress Reports and the recent corruption probe in Turkey*

2012 saw a major shift in emphasis in the "Enlargement Strategy" of the EU. The EU placed the "rule of law" at the heart of the enlargement process, thereby making it a key pillar of the Copenhagen political criteria, particularly important given the challenges faced in this area by the enlargement countries and some relatively new member states, including Bulgaria, Romania, and Hungary. In the 2013 Enlargement Strategy of the EU, it is stated that "countries aspiring to join the Union need to establish and promote [...] the proper functioning of the core institutions necessary for securing the rule of

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law. [...] Fighting organized crime and corruption is fundamental to countering the criminal infiltration of the political, legal and economic systems.”<sup>5</sup>

Given the approach of the EU and the way in which the recent corruption probe – targeting high level bureaucrats, mayors, prominent businessmen, and sons of three ministers – is being handled in Turkey, including via monopolization of institutions of the Turkish state and erosion of the independence of the judiciary,<sup>6</sup> it would not be wrong to assume that Turkey’s performance regarding the “rule of law” may emerge as another stumbling block in its already problematic accession process to the EU.

### Accession Negotiations

The prospects of the accession negotiations will be contingent on several additional considerations.

#### *Continuation of French Blockage: a credibility problem for the EU*

Turkey has had a very politicized, and therefore stalled, accession negotiation process with the EU. In addition to the reflection of the Cyprus problem on the process, the country has had to face a vocal Germany, which has emphasized its special interest in a “privileged partnership” – which has now evolved into a “strategic partnership” – as well as a unilateral French veto on five chapters due to their direct bearing on membership.

The recent opening of an additional chapter after three years is sometimes presented as a breakthrough and/or strategic shift in the accession negotiations. It would, however, be incorrect to present the situation as such, as the unilateral French blockage on remaining chapters continues, with no concrete sign of removal despite the upcoming visit of the French president.

It should be recalled here that the negotiation process of Turkey suffers from a credibility problem. Unfortunately, only a tiny percentage of the Turkish population believes that Turkey will become an EU member state if it fulfils all the membership conditions, while a significant percentage thinks that the country will never become a member, no matter what it does. The unilateral blockage of five chapters – now four – by one member state, for no other reason than that they are directly related with membership, was a key factor in generating this sentiment. The fact that no EU members have taken an official position against this stance has been especially frustrating. This remaining blockage may therefore be a test of the EU’s legitimacy in its stance vis-à-vis Turkey, as it not only contradicts a unanimous decision of the EU, but, furthermore, is not based on any EU decision.

In this context, Chapter 17 on the Economic and Monetary Policy should be singled out from the other four blocked chapters, as all the EU member states, including France, decided unanimously to open this Chapter and invited Turkey, by official letter from the German presidency of EU at

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the beginning of 2007, to submit a document stating its negotiation position. After Turkey submitted its position in March 2007, this Chapter was included among the chapters blocked by France. In effect, this action demonstrated that an EU member state had effectively nullified a unanimous decision of the EU and disregarded an official letter from the EU presidency.

When this action is raised in EU circles, those defending the EU advance an apparently reasonable argument, claiming that the *acquis* in Chapter 17 keep changing due to ongoing measures that aim to remove the causes of the Euro crisis and to alleviate its negative effects. These amendments and additions could, however, be presented as “closing benchmarks” to Turkey, if and when Chapter 17 is opened. As none of the chapters are definitively closed until the entire negotiation process comes to an end, it is possible to change and make additions to the closing benchmarks. Also, one wonders why the problem of the constantly changing *acquis* of the Economic and Monetary Policy Chapter has not been raised in accession negotiations with Iceland, as the EU opened this Chapter with Iceland only at the end of 2012.

The decision of the EU to continue or to stop backing the current stance of France on Chapter 17 will therefore have important implications for future relations.

*Opening Chapters 23 and 24: another credibility issue for the EU*

Chapter 23 on judiciary and fundamental rights and Chapter 24 on justice, freedom, and security, which are very important for the political reform process and for visa liberalization, respectively, are still being blocked by Cyprus, without any EU decision backing this position. Although the European Commission and some EU leaders refer to the necessity of opening these chapters in order to allow progress in the fulfilment of political criteria and for an enhanced cooperation in visa dialogue, the EU’s credibility has suffered from the decision to leave them “hostage” to one member state.

## Visa Liberalization Process

Visa liberalization has significant symbolic importance for reviving the Turkish public’s trust in the EU. Besides its practical importance for businesspeople, students, and tourists, it would greatly alleviate the current negative sentiment of the public at large in Turkey feeling that it is perceived as “the other” when traveling to the EU. The risk in this process lies in the way in which it was presented to the Turkish public, namely that visas will be abolished automatically in three-and-a-half years. In reality, a visa-free regime with the EU is conditional upon some difficult commitments laid out in the roadmap prepared by the Commission and the Readmission Agreement signed by Turkey.

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The Readmission Agreement, which will enter into force in three years' time, calls for burden-sharing between Turkey and the EU, at least for the reception centers and refugee camps to be built until Turkey signs readmission agreements with the host countries of Turkish illegal immigrants. This is to be done with the EU's financial assistance and an extensive cooperation in border management between the parties.

A serious problem in the visa dialogue process seems to be a discrepancy in the way in which these commitments are perceived by the EU and Turkey. In the roadmap prepared by the EU,<sup>7</sup> Turkey appears to have two tough obligations to fulfil, namely:

- removing the geographical limitation in the Geneva Convention of 1951 on refugees in compliance with the EU *acquis*;
- amending the visa-free regime extended to countries in its neighborhood as a means of expanding soft power.

In the explanatory note<sup>8</sup> prepared by the EU Ministry of Turkey, it is argued that these commitments will be fulfilled at the stage of EU membership, although such a reference to membership does not exist in the EU roadmap.

Even if all these difficult commitments are met, the final decision would still be up to the EU Council of Ministers, which would decide by qualified majority, and the European Parliament, by absolute majority. Germany would undoubtedly dominate voting in the Council, where a majority of the remaining member states would follow suit. Furthermore, it should be taken into consideration that xenophobic parties are strengthening in countries like Finland, France, Germany, Netherlands, and the United Kingdom, and that they will have a renewed weight in the European Parliament after the elections in May 2014.

If the above-mentioned commitments cannot be achieved or if the EU refuses to initiate a visa-free regime for Turkey despite fulfilment of all conditions, it would be another serious blow to the trust of the EU in Turkish public opinion, to the EU itself, and most probably to the accession process.

### Prospects for Turkey-EU relations

Despite the emergence towards the end of 2013 of developments that can be regarded as positive, it seems unlikely that Turkey and the EU will resolve the impasse in which they have been for some years.

Some scholars<sup>9</sup> claim that the emerging multi-tier and/or multi-speed structures in the EU resulting from measures adopted to cope with the Euro crisis would pave the way for new and more flexible formulations for the membership of Turkey in a post-crisis Europe. It is argued that Turkey can adopt the EU *acquis* on key policies such as energy, transport, the single market or common security and defense, while remaining outside of the EU framework

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for the social charter or the Schengen regime and the Euro. Although such an approach could indeed be very attractive and comfortable given the current state of relations between the EU and Turkey, it does not seem very plausible. First of all, as one high level EU official said, “you have to be in first, to be out.” Although a multi-tier and/or multi-speed Europe seems to be *de facto* emerging in the EU, such a structure does not for the moment have a legal basis in the Treaties. More importantly, even if such a structure were to become legal and Turkey were offered a place in it, it seems improbable that Turkey would be given the liberty to choose which EU policies it chose to adopt. The key question is whether Turkey would be included in the decision-making mechanisms responsible for designing the policies it would have to adopt.

Although neither of the parties seems to be willing to really work toward accession, neither dares to simply put an end to the relationship. Currently, the tone of the process is one where both parties strive to keep the increasingly difficult negotiation process on track – while trying not to think of the potential ultimate outcome.

Withdrawing from EU negotiations would require a serious policy change in Turkey. The EU accession goal, though it exists mainly on a rhetorical level, has become state policy. Still, nearly half of the Turkish public believes that EU accession, which was the anchor of the political, economic, and social transformation of the country, is a good thing. Turkey’s fading attractiveness in its own region owes a lot to its EU accession process. There are approximately four million Turks living in Europe, the EU is still Turkey’s main trading partner, and two-thirds of Turkey’s foreign investment comes from EU member states.

For the EU, suspending negotiations would require a proposal either from the European Commission or from one third of the member states, and it would need to be approved by a qualified majority from the Council of Ministers. It would be very difficult for the Council to make such a decision given the current distribution of voting power, as this would currently call for at least 255 votes. In addition, given the grave conditions in their own neighborhood, no member states would wish to break with Turkish accession negotiations given the severe conditions.

A real breakthrough in Turkey-EU relations can be achieved via an “active and credible accession process” as stated by the European Commission. In order to attain that objective, the parties must stop pretending and start regarding each other as real partners. This would be the litmus test for both sides. For the EU, this requires dealing with Turkey’s deficits in fulfilling membership conditions rather than with the “Cyprus problem and civilizational compatibility questions.”<sup>10</sup> Turkey, on the other hand, must take the EU accession seriously in order to attain and internalize universal norms and hence stop referring to EU criticisms as interference in its domestic affairs.

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