

ACCESSION IN ABEYANCE: FINDING A WAY FORWARD FOR ANKARA AND BRUSSELS

Prospects for a positive outcome in EU-Turkey relations appear slim: Membership negotiations are de facto on hold and some member states and the European Parliament have suggested a suspension given the deterioration in the area of human rights and the rule of law after the 2016 coup attempt. The EU-Turkey refugee deal of March 2016 generated optimism for a relationship reset, the intensification of accession talks, and a clear path to visa liberalization. However, none of this is happening and as such, the “muddle through” scenario remains the most likely one. Before progress can be made on issues such as the upgrading of the Customs Union, EU member states would want to see some positive developments in the area of fundamental rights.

Jan Marinus Wiersma*



TURKISH POLICY
QUARTERLY

Spring 2018

* Jan Marinus Wiersma is a Senior Visiting Fellow at the Clingendael Institute and a former Member of the European Parliament and its Committee for Foreign Affairs.

Seen through the lens of Brussels, 2017 was a difficult year for Turkey-EU relations. Many EU capitals expressed concern about the deterioration of human rights in Turkey, citing the detention of parliamentarians and journalists, military operations in Kurdish areas, and the mass arrests and dismissals of civil servants accused of being Gülen followers responsible for the failed coup attempt of 2016. Many Turkish politicians accused the EU of supporting the Gülen movement and for playing into the hands of terrorists. They have complained about a lack of understanding and solidarity from EU member states.

In April 2017 a narrow majority of the Turkish electorate voted in favor of constitutional amendments that proposed to transform the country's parliamentary democracy into a presidential system. Inside the EU, many politicians and observers saw these changes as a step towards an autocratic system. The European Parliament warned that the full implementation of the new system in 2019 would lead to the official end of the accession negotiations.¹

In the run-up to the plebiscite, some Turkish politicians campaigned for a “yes” vote for the referendum in EU countries with large Turkish minorities. The media and EU politicians heavily criticized this as an unacceptable attempt to persuade European communities to vote in favor of constitutional changes. In response, the Dutch government blocked a Turkish minister from giving a public speech in Rotterdam. Ankara reacted immediately by barring the Dutch ambassador to Turkey from entering the country. President Erdoğan went so far as to accuse the German and Dutch governments of Nazi practices. This did not help improve the already strained relations between Ankara and Berlin.² President Erdoğan continued his barrage of criticism of EU leaders throughout the year despite deteriorating relations with Brussels. Naturally, the Council of Ministers discussed the situation but proposals to suspend or end the accession negotiations altogether or halt the pre-accession funds did not get sufficient support as it takes a majority of member states to suspend accession talks and unanimity to wholly end them.

A Change of Tone

Ultimately, by the end of the year, President Erdoğan had changed his tone. He suddenly spoke of his good friends in the German, Dutch, and Belgian governments. He officially visited France and the Turkish Minister of Foreign Affairs met his German counterpart in a friendly atmosphere. In an attempt to explain this unexpected turn, commentators pointed to the fact that the Turkish president wanted to avoid further

¹ European Parliament Resolution on the 2016 Commission Report on Turkey, 6 July 2017. P8TA(2017)0306

² Amanda Paul and Juliane Schmidt, “Turkey’s relations with Germany and the EU: Breaking the vicious circle,” *EPC*, Policy Brief, 2 October 2017.

isolation now that his relationship with Trump has soured over contentious issues including Trump’s decision to move the US embassy to Jerusalem, US support for the Kurds in Syria, the issue of extraditing Fethullah Gülen to Turkey, and the possible implications of several Turkish banks’ involvement in evading Iran sanctions. Erdoğan’s friendlier attitude towards Europe and his insistence on the continuation of the accession process have also been linked to pressure from economic interest groups, and the EU’s stance on the Jerusalem controversy.³

“Erdoğan’s friendlier attitude towards Europe has been linked to pressure from economic interest groups.”

The charm offensive, however, got off to a bad start. The German-Turkish meeting was heavily criticized as being superficial and not substantive. Erdoğan’s meeting with French President Emmanuel Macron was disastrous. Macron publicly criticized the human rights situation in Turkey, the detention of a French journalist and a human rights defender, and reiterated the French proposal of a “partenariat” instead of EU membership.⁴ At the official start of the Bulgarian EU presidency in Sophia, EU Commission President Jean-Claude Juncker said there could be no progress at the negotiation table as long as journalists were being detained in Turkey.⁵ In the conclusion of the preparatory coalition talks, the Christian Democratic Union of Germany (CDU), Christian Social Union in Bavaria (CSU), and Social Democratic Party of Germany (SPD) highlighted that the situation in Turkey had worsened and that without improvements, visa liberalization or an expansion of the Customs Union would not have the support of Berlin. The final coalition agreement also stated that Germany will not agree to the opening or closing of negotiating chapters.⁶ The question remains: Will President Erdoğan change his tone again? In Paris, he declared that Turkey cannot keep knocking on the door of the EU forever. However, at the beginning of 2018, he kept insisting—at a summit with EU leaders in Bulgaria—that his country still wants to join the EU.

Positive Steps

The European Commission presented its regular report on Turkey in April 2018. An important question was whether there would be a proposition to reset relations with

³ Matthew Karnitschnig and Zia Weise, “Beginnings of a Turkish-German Bromance,” *Politico*, 11 January 2018.

⁴ “Face à Erdogan, Macron propose un ‘partenariat’ plutôt que l’intégration de la Turquie à l’UE,” [Faced with Erdoğan, Macron proposes a ‘partnership’ instead of Turkey’s integration into the EU] *Le Monde*, 6 January 2018.

⁵ “EU’s Juncker sees no progress on Turkey ties while journalists jailed,” *Channel New Asia*, 12 January 2018

⁶ Ergebnisse der Sondierungsgespräche von CDU, CSU und SPD, Finale Fassung [Results of the Exploratory Talks by the CDU, CSU and SPD, Final Version], 12 January 2018, https://www.cdu.de/system/tdf/media/dokumente/koalitionsvertrag_2018.pdf?file=1

Turkey.⁷ An earlier attempt to energize the accession process was through the launch of a so-called Positive Agenda engineered by the then Enlargement Commissioner Štefan Füle in 2012. Under the agenda, Turkish-EU officials agreed to set up working groups to accelerate the process of aligning Turkey with EU policies under eight chapters, starting with the Judiciary and Fundamental Rights. Unfortunately, the Agenda did not produce positive results.⁸ The 2018 report confirmed that Turkey remains a key partner for the EU and underlined the importance of continuing high-level dialogue and cooperation in areas of joint interest. However, the report also stated: “Turkey has been significantly moving away from the European Union, in particular in the areas of the rule of law and fundamental rights and through the weakening of effective checks and balances in the political system.”⁹

Another question is whether the EU will be in favor of resetting its relationship with Turkey given its busy agenda dominated by other complex issues such as Brexit, the future of the Eurozone, institutional reforms, and the initial debates on the multiannual financial framework.

The European Council will meet this year in Bulgaria—Turkey’s EU neighbor—for the Balkan Summit. Supported by a number of member states, the European Commission will demand stronger EU engagement with the Balkans and commit to helping accelerate membership negotiations with countries of the region. What about Bulgaria’s neighbor Turkey? Can we expect positive steps towards improving relations between Turkey and the EU with an eventual move to integration or enhanced cooperation? What are the EU’s options in these areas?

Aiming at Integration

Signals of goodwill from Ankara such as the release of political prisoners, proper judiciary procedures for those arrested, steps towards a more democratic government might convince some in Brussels to give new impetus to accession talks such as opening the chapters 23 and 24 on the Rule of Law and Fundamental Rights. However, would President Erdoğan take such steps without the guarantee of France and Cyprus lifting existing blockades or Germany withdrawing its veto on the opening and closing of new chapters? As the suspension or end to the negotiations is unlikely to happen, relations will most likely remain as they are with perhaps one difference: a future reorientation of the Instrument for Pre-Accession funds towards reforms concerning the rule of law and human rights.

⁷ Marc Pierini, “Four Steps to an EU Turkey Reset,” *Carnegie Europe*, 29 June 2017.

⁸ “Positive EU-Turkey agenda launched in Ankara,” Memo EU Commission Brussels, 17 May 2012.

⁹ 2018 Communication on EU Enlargement Policy, https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20180417_strategy_paper_en.pdf

Lately, there has been much talk about the expansion and modernization of the 1995 Turkey-EU Customs Union as a means to bypass the stalemate facing the accession talks.¹⁰ The European Commission has already asked the Council for a mandate to start negotiations¹¹ as agricultural products, services, and public procurement in the customs arrangement would stimulate growth on both sides. However, political considerations seem to outweigh economic ones. Introducing rules-based and transparent systems for procurement, state aid, and state companies would diminish opportunities for political patronage. Inside the EU, some member states and the European Parliament would not accept a circumvention of the stalled negotiations without the inclusion of political conditions in the area of human rights. Nevertheless, an area of compromise could be found to at least kick off proposed talks on the basis of the existing Commission document. Objections against such a step might dissipate if Turkey makes a positive gesture such as releasing detained journalists. Further political conditions could then be linked to the eventual conclusion of the negotiations.

“Will the EU be in favor of resetting its relationship with Turkey?”

Scope for Cooperation

Though a lot has already been accomplished in meeting the technical requirements for visa liberalization, there is still the unresolved issue of amending the anti-terrorist legislation—the introduction of a narrower definition—which is a highly sensitive issue in the current political climate in Turkey. Although the number of Turkish citizens with biometric passports is limited, EU fears of a massive influx of Turkish migrants continue to be exploited by anti-Turkish political forces within the Union. However, before any development on such issues, some member states want to see an improvement of the political situation in Turkey. Yet, all things considered, a positive outcome is not expected anytime soon.

Turkey and EU countries are part of the international coalition that supports the Syrian opposition against President Assad, who is supported by Russia and Iran. Moreover, Putin and Erdoğan have been involved in arranging a ceasefire and subsequent talks between Assad and his opponents. The primary objective of Turkey seems to be to block the Kurds in Syria from establishing a territorial power base at

¹⁰ Sinan Ülgen, “Trade As Turkey’s EU Anchor,” *Carnegie Europe*, 13 December 2017.

¹¹ Recommendation for a Council Decision authorizing the opening of negotiations with Turkey on an Agreement on the extension of the scope of the bilateral preferential trade relationship and on the modernization of the Customs Union, COM (2016) p. 830.

its border. Ankara has clashed with Washington over its support of Kurdish forces in the fight against ISIS. Most recently, Turkish military forces began a military incursion in northern Syria and occupied Afrin. Regardless, Turkey is needed as a partner to find a more permanent political settlement in Syria that would allow for a return of refugees. This is an interest it strongly shares with the EU.

The EU-Turkey March 2016 refugee deal is still valid although it has not been fully implemented by the EU. The main goal of stemming the flow of Syrian refugees to Greece has been achieved but the element of resettlement within the EU is not functioning. The EU has honored its commitment to making large funds available for supporting refugees that remain in the region. However, EU pledges to accelerate the visa liberalization process and to intensify the accession negotiations have not been fulfilled. Turkey has made multiple threats to allow refugees to re-enter Greece but so far has not followed through. On the other hand, there are internal disagreements within the EU as some member states refuse to accept the obligatory quota of refugees. In the meantime, the EU is trying to use the example of the Turkey deal to make similar arrangements with African countries in an effort to block economic migrants from illegally entering the EU. It seems evident that both Turkey and the EU have an interest in continuing cooperation in this area. However, before any further deals, Brussels will have to arrange the disbursement of another three billion euros to Ankara for hosting Syrian refugees.

The strategic importance of Turkey as an energy hub has been highlighted in the past yet plans such as the Nabucco and South Stream pipeline projects, linking Europe to natural gas and oil in the Caspian region and Russia via Turkey, have not been implemented. The two actualized projects are the Southern Gas Corridor, linking the Caspian Sea Deniz gas field via Georgia and Turkey to the Adriatic region but this project represents less than 2.5 percent of EU's gas needs, and the Turk Stream project, a new pipeline linking Russia and Turkey with no plans of expanding to Bulgaria and beyond. Some have suggested that the EU should set different priorities for its energy relations with Turkey and prioritize transition into renewable energy that is necessitated by the international climate agreements and particularly the reduction of CO₂ emissions. Turkey continues to be and plans on remaining highly dependent on coal for its energy production; therefore, the EU could support Turkey in developing alternatives such as renewable energy.¹²

Turkey and the EU obviously have a strong shared interest in tackling terrorist threats but for further cooperation to be successful, both sides will have to agree

¹² Simone Tagliapietra, "We need a broader, greener EU-Turkey energy partnership," 19 October 2017, <http://bruegel.org/2017/10/we-need-a-broader-greener-eu-turkey-energy-partnership/>

on what constitutes a terrorist threat and a joint approach to terrorists regardless of their background.

According to the 2016 EU Commission's report, Turkey was moderately prepared for the alignment on Common Foreign and Security Policy and the Common Security and Defence Policy.¹³ Alignment has not been easy and, most remarkably, Turkey does not support EU sanctions against Russia. It is evident that Turkey prizes its sovereignty in these areas.

“Turkey is needed as a partner to find a more permanent political settlement for the return of refugees.”

Ambiguous Relations

EU-Turkey relations have always been ambiguous. Almost 25 years after the conclusion of an association treaty in 1963, Turkey asked for membership from the then European Community. This request was denied by the European Community. Instead, the two worked out a trade deal that became the 1995 Turkey-EU Customs Union. In the meantime, after the collapse of the communist regimes in Central and Eastern Europe, the EU formulated conditions of membership for these emerging democracies. In 1997, negotiations began, with other countries to follow suit in 1999. Turkey felt left out and demanded to be legitimately considered as a candidate. Thus, the EU decided to officially declare Turkey a candidate member and outlined preparatory steps in order to start negotiations. Following this, in December 2004, the European Council came to the conclusion that Turkey had sufficiently fulfilled the political requirements of Copenhagen criteria and asked the European Commission to initiate negotiations. Although Ankara's reaction to this news was enthusiastic, a number of EU countries were less than thrilled. Many EU politicians expressed doubts about the possibility of integrating a large Muslim country. For instance, victory of the “no” campaign in the French and Dutch referendums on the Constitutional Treaty was partly blamed on anti-enlargement sentiments. Additionally, EU governments expressed reservation on the Turkish candidacy which affected the formulation of the mandate for the negotiations that was settled in October 2005. The talks were declared open-ended, a suspension clause was included, and an additional clause was added stating that at the end of talks the absorption capacity of the EU would have to be reviewed. In the years that followed, the accession talks became further

¹³ “Commission Staff Working Document: Turkey 2016 Report,” European Commission, 9 November 2016, https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2016/20161109_report_turkey.pdf

complicated due to the Cypriot and French governments blocking the opening of important negotiating chapters. All in all, 16 chapters have been opened and only one closed. After a deal between the two communities in Cyprus fell through, Turkey refused to legally recognize the Republic of Cyprus. In response, Cyprus limited the scope of the negotiations. Then French President Nicolas Sarkozy made clear that his decision was made to underline his objections against Turkish membership. With growing dissent, the EU lost leverage and credibility; more and more Turks became convinced that they were never really welcome in the EU community. The accession process began to lack incentive, which was used as a justification to end reforms by some politicians in Turkey.

“Turkey and the EU have a strong shared interest in tackling terrorist threats.”

Many view the response of the government to the Gezi Park protests of 2013 as a turning point in EU-Turkey relations, followed by the attempted coup and its aftermath, as well as the constitutional referendum. However, as indicated above, Turkey and the EU have had a checkered past.

Blame It All on Erdoğan

It is too easy to blame it all on President Erdoğan. The EU has been an unreliable partner and remains internally divided about how to deal with Erdoğan's Turkey and on how much emphasis to put on human rights and respect for the rule of law. Most member states do not want to formally suspend the negotiations with Turkey to avoid a political crisis. They are pragmatic as far as democratic values are concerned. Some EU member states are under internal scrutiny for violating the independence of the judiciary themselves which has been used as an argument to say that the EU first has to get its own house in order, so that it may regain credibility in the outside world.¹⁴ There is also an imbalance of tasks within the EU: While the European Commission puts “fundamentals first” and declares that it will “prosecute” member states that violate democratic principles, the EU governments often seem happy to delegate this role to Brussels while they themselves look the other way.

If current negative trends regarding human rights continue and the June 2018 presidential elections lead to the full implementation of constitutional changes, keeping

¹⁴ “Common Action: A Stronger Europe. A Global Strategy for the European Union's Foreign and Security Policy,” *Shared Vision*, June 2018.

the EU-Turkey relationship stable while the accession process continues in name only should be considered as a valid approach. There are two other scenarios for the future of EU-Turkey relations: The notion of integration is dropped in favor of a more transactional relationship or talks are suspended for as long as the political situation in Turkey remains the same. Between the two options, the second one is preferable because elected governments change and President Erdoğan does not represent a large majority. Despite the strained relations between Turkey and the EU, support for EU membership in the country has gone up according to recent polls.¹⁵ In the meantime, nothing should stop the EU and Turkey from continuing cooperation in certain areas of common interest such as an eventual upgrade of the Customs Union, while key issues like visa liberalization and the accession negotiations remain on hold. The 26 March 2018 EU Turkey Leaders Meeting in Varna did not produce any results. The European Council will address later in this year the conclusions of the Commission's regular report. The EU as such will probably take a backseat awaiting the outcome of the June elections in Turkey.

¹⁵ "Turkish citizens' support for EU membership on the rise: Poll," *Hürriyet Daily News*, 9 January 2018, <http://www.hurriyetdailynews.com/turkish-citizens-support-for-eu-membership-on-the-rise-poll-125402>