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How Do EU Decisions of December 2009 Summit Affect Turkey-EU Negotiation Process?

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The EU General Affairs Council (Foreign Ministers) meeting, whose prospect as an unpleasant turning point in Turkey's relations with the EU and particularly in the negotiation process had aroused anxiety since 2006, was held quietly on 7-8 December 2009, almost without any resonance either at the EU Leaders Summit on 10-11 December 2009 or in Turkey. Apart from the fact that Turkey's agenda for the week of the summit was occupied with a series of important and nasty developments, the reasons why the meeting did not create a much of storm can be summarized as follows:

In order to assess the outcomes of the EU Foreign Ministers meeting in terms of their implications for Turkey, it is necessary to analyze the repercussions of the "Cyprus question" on Turkey-EU relations. The Cypriot question started to take its toll on Turkey-EU relations particularly in 1995 when Greek Cyprus was granted the "candidate country" status and became prominent along with the initiation of membership process for Turkey in 1999. In the negotiations launched in 2005, this problem was reflected under a "technical guise" as "the problems resulting from the fact that Turkey signed the supplementary protocol that expands the scope of the customs union to cover all new countries but not ratified it; i.e. from the closure of Turkey's air and sea ports to Greek Cyprus".

Readers will remember the conclusions of the 17-18 December 2004 EU summit deciding on the initiation of negotiations with Turkey, which said that the EU was happy to witness Turkey's intention to sign the supplementary protocol (supplementary protocol to the Ankara agreement establishing a partnership between Turkey and the EU). The motive behind EU's call for the signing and implementation of this protocol was that though goods from Greek Cyprus within the scope of the Customs Union could enter Turkey without being subject to any customs duties or quantitative limitations; these goods could not enter the country directly as Turkey's ports were closed to Greek Cyprus since 1987. Turkey signed the protocol in 29 July 2009; but also stated "that the signing, ratification and implementation of this protocol by no means implies the recognition of a 'Cyprus Republic' as referred to in the text of the protocol and defects the rights and obligations of Turkey stemming from 1960 Guarantee, Alliance and Establishment Agreements." In response to this statement, EU declared and emphasized on 21 September 2005 that Turkey's reluctance in implementing the relevant supplementary protocol would have an impact on the negotiation process as a whole. At the end of the EU Foreign Ministers meeting held on 11 December 2006; EU "kept the promise" made in its counter-declaration; suspending 8 negotiation chapters which it argued were related to the Customs Union¹ (and judged that these chapters should not be opened for negotiations

¹ Free Movement of Commodities; Right to Establish a Business and Freedom of Service Provision; Financial Services; Agriculture and Rural Development; Fishery; Transportation Policy; Customs Union; Foreign Relations

until the supplementary protocol is implemented) and stipulating that none of the chapters can be closed even temporarily unless the supplementary protocol/ports problem is solved. EU Foreign Ministers who made these decisions also approved by EU leaders in 15-16 December 2006 also stated that European Commission would monitor Turkey's performance with regard to the implementation of the supplementary protocol for three years and report the results to the Council in 2009. Hence, an impression was created that the 2009 summit of EU leaders would be of great importance in terms of the negotiation process between Turkey and EU.

What was the attitude of Turkey during this process? In order to figure out Turkey's attitude, one should go back to April 2004. The "Annan Plan," which aimed to offer a solution for the Cyprus problem, was brought on to a referendum in both sides of the island on April 2004 and rejected by Greek Cyprus. Two days later, EU Council of Ministers asked the European Commission to draft a regulation to "terminate the isolation of Cypriot Turks" (to initiate direct trade with Northern Cyprus and provide EU financial aid). The section on direct trade was then removed from the draft prepared by the Commission and the section on financial aid alone was ratified on February 2006. Despite these developments, Turkey declared the Cyprus action plan calling for a preparation stipulating the "mutual abolition of all limitations on the free movement of commodities, persons, and services, including those related to transportation, in the framework of a schedule to be agreed on." In short, the action plan implied that in order for Turkey to take a step with respect to the supplementary protocol/ports, EU Council of Ministers should bring into effect the decisions made on 26 April 2004 and remove the isolation in Northern Cyprus.

Between 2006 and 2009, the negotiation process was affected by adverse developments other than the suspension and non-closure of certain chapters due to the Cyprus problem. After his election as President in 2007, Nicolas Sarkozy declared that France would block 5 chapters² due to their direct relation with full membership and this decision was first applied in June for the Economic and Monetary Policy chapter, for which Turkey had fulfilled all requirements. Along with these, the negotiation process was brought to a deadlock when other member countries did not explicitly object to this imposition which violates the negotiation framework approved unanimously by the EU³ and when a couple of other countries, particularly Southern Cyprus, blocked more chapters with political obstacles (for instance; energy, education and culture chapters by Southern Cyprus and free movement of workers by Germany etc).

² Agriculture and rural development, economic and monetary policy, regional policy and the coordination of structural instruments, financial and budgetary issues, institutions.

³ The mentioned decision states that "the agreed common goal of the negotiations is accession".

Apart from the Environment chapter decided to be opened on 8 December 2009, there are 4 chapters that can technically be opened in the coming period: public procurement, competition policy; food security, veterinary medicine and phytosanitary; and social policy and employment. Thanks to the effects of the financial crisis, it does not seem possible to launch efforts for the opening of the chapters except food security, veterinary medicine, and phytosanitary, which reduces the number of chapters that can be opened to one and one only.

The understanding that a negative outcome from the EU Council meeting on 7-8 December 2009 could not wreak any further or greater havoc on the negotiation process substantially reduced the interest of Turkey and the EU Summit in the issue. Southern Cyprus, upon the state of mind stemming from the fact that it failed to prevent the opening of the environment chapter, owing to the efforts made particularly by Sweden and UK, declared that it will prevent the opening of five more chapters⁴, which it had already blocked unofficially anyway, in order to improve its negotiation margin vis-à-vis other EU members. Nonetheless, EU Foreign Ministers, despite making a reference to the adverse situation created by the failure of Turkey to implement the supplementary protocol and open ports to Southern Cyprus, postponed the decision in this regard to 2010, and underlined the importance of the contribution of Turkey to the resolution of problems in Cyprus. The EU leaders in turn have deemed it adequate to endorse the decision at the 10 - 11 December Summit.

The pivotal determinant of this attitude of the EU leaders was in fact that they are, too, well aware that the “supplementary protocol/ports” problem is the reflection of the Cyprus problem on the negotiation process and that no steps can be taken in this respect unless the reconciliation efforts carried out in Cyprus bear fruit. What is more, they know that a decision to suspend officially the negotiations between Turkey and EU, which are already at a point of impasse, would have a very detrimental impact on the Cyprus reconciliation.

In sum, it can be concluded that Turkey did not pay much heed to the long-awaited EU decisions owing to the creed that it lacked the potential to have any further adverse effect on the negotiation process, which appears to be at a standstill in any case. On the EU side, member countries, those supporting and those rejecting Turkey’s membership alike, abstain from making a critical decision about negotiations and postponing the decision until next year, in order not to upset the Cyprus reconciliation process, which is hoped to produce favourable outcome. In this context, the revival of the Turkey-EU negotiation process depends on the successful reconciliation in Cyprus as much as it depends on the presidential change in France. Nevertheless, after the elimination of these problems, the course of negotiations will be determined by comprehensive and multi-faceted efforts that Turkey should pursue, as also stated in the negotiation framework document.

⁴ Free movement of workers; judiciary and fundamental rights; justice, freedom and security; education and culture; joint foreign and security policy