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EVALUATION NOTE

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## HAS THE NEGOTIATION PROCESS BECOME CREDIBLE NOW?

The negotiation process of Turkey with the EU has been stalling since June 2010. There has not been any single chapter that has been opened since then. However the positive expectations started to emerge both in the EU and Turkish circles with the start of the Irish presidency following the presidency of Cyprus. Ireland, also officially declared before it assumed the presidency that it would do its utmost to open at least one chapter in Turkey's negotiation process with the EU.

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<sup>1</sup> <http://www.tepav.org.tr/en/ekibimiz/s/1139/Nilgun+Arisan+Eralp>

The accession negotiations are on the bases of 33 *acquis* chapters. Nearly half of these chapters are politically blocked because of the reflection of the Cyprus problem on negotiations and the categorical opposition of France to Turkey's membership during Sarkozy's presidential term. Under current conditions, there are only three chapters which can be opened without being subject to any political obstacle: Public Procurement, Competition and Social Policy and Employment. However Turkey has not yet fulfilled all the opening benchmarks of these chapters. Turkey keeps reminding to the EU via different means that it would not take a significant step in opening these chapters when its membership perspective is in such a blurred state.

In such an environment, in mid-February, France announced that it would remove the blockage on one chapter (*Chapter 22 : Regional Policy and Coordination of Structural Instruments*) out of five which were blocked during Nicholas Sarkozy's term of presidency, based on their direct bearing on membership. France stated that this would be the first step, implying that the remaining four chapters (*Economic and Monetary Policy, Agriculture and Rural Development, Financial and Budgetary Provisions and Institutions*) can also be relieved from the obstruction.

This decision of France has been understandably welcomed, as no chapter has been opened in Turkey's accession negotiation process for almost three years. The official screening report of Chapter 22 has not been submitted to Turkey since the completion of its screening in July 2006. However, as it is known that its only opening benchmark is "presenting to the European Commission an action plan setting up clear objectives and related timetable in order to meet regulatory and operational requirements deriving from Community cohesion policy" and the fact that despite the French blockage Turkey had taken some steps in the area of regional policy in line with its own requirements, expectations are rather high for the opening of this chapter during Irish presidency.

The necessary work to be accomplished in the Regional Policy Chapter essentially consists of administrative and legal arrangements ensuring the effective use of structural instruments and create the structure for the use of EU funds in line with the principles and mechanisms given in the regulations on structural instruments (Structural Funds and Cohesion Fund). The *acquis* under this chapter does not require transposition into national legislation, however work on regional development and investments made in this context are also evaluated under this chapter and this inevitably establishes a link between this chapter and public procurement, competition and financial control chapters of the negotiation process.

The steps taken by Turkey regarding the content of this chapter can be summarised as the following:

- "regional development" has consolidated its place among the economic policies of Turkey on a conceptual and practical bases;
- Nomenclature of Territorial Units for Statistics (NUTS) Regions were determined in line with EU Regional Statistical System both to comply with EU Regional Policies and to use the pre-accession financial funds of the EU for regional development;
- Regional Development Agencies were established;
- Various legal arrangements have been made in the areas of programming, administrative structuring, capacity building at central and local level and financial management and control to establish institutional structure and strengthen the administrative capacity to implement Structural Instruments (Structural Funds and Cohesion Fund) which would be functional with membership. Although, the capacity improvement has not yet reached to desired level particularly at local and regional level, the management and implementation structure for four operational programmes (Environment, Transportation, Regional Competitiveness and Human Resources Development) under the framework of IPA has reached to a significant level.

Therefore, it can be stated that the expectations regarding the opening of Chapter 22 after the removal of French blockage are based on sound grounds. Most probably France has contacted the EU officials and gotten in touch with at least some of the other EU member states while deciding to remove the blockage on one chapter out of five. Naturally the aforementioned steps taken by Turkey and closely monitored by the European Commission played a decisive role in this decision. However it is also appealing to think that the link of chapter 22 with public procurement, competition (state aids) and financial control might also have played a part in the decision of France, as Turkey refrains to fulfill the benchmarks in these chapters, mainly because of the blurred membership perspective. In the "action plan" that needs to be submitted to the European Commission to fulfill the single opening benchmark of this chapter, especially while referring to the steps needed to benefit from EU funds allocated to regional development, Turkey would require to include legal and administrative measures related with public procurement, competition (state aids) and financial control chapters. Hence, while removing the blockage and hopefully opening this chapter, France and EU would not only bring some vitality to the stalling negotiation process but also would at least guarantee that Turkey would respect the transparent and non-exceptional EU norms in public procurement , state aids and financial control while making use of EU funds geared towards regional development.

Although it is easy to understand this approach, it is not that easy to understand why France has not removed the blockage from five chapters, especially given the fact

that removing the blockage does not necessarily mean that chapters would be opened automatically. In any case, the "Institutions" chapters would have to be dealt with at a very high political level and at the very end of the negotiation process as it is about how Turkey would be represented in EU institutions. There are very important technical opening benchmarks in the Agriculture and Rural Development that are yet to be fulfilled. Although the European Commission did not envisage any opening benchmark for the Financial and Budgetary Provisions chapter, the final decision would be given by the EU Council of Ministers. The case of the Economic and Monetary Policy chapter is of significant importance for the credibility of the accession negotiations.

The blockage imposed by Sarkozy's France on five negotiation chapters for Turkey in Spring 2007, as they are related with membership perspective, contradicts with the "Negotiation Framework Document" for Turkey unanimously agreed by all EU member states including France on 3<sup>rd</sup> of October 2005. In the second paragraph of the so called document that lays down the modalities of the negotiations, it was stated that "*the shared objective of the negotiations is accession*". "*The open-ended nature*" of the process that is referred to in the same document is about the success or the failure of the negotiating country in fulfilling the membership conditions. Therefore the French blockage during Sarkozy's term of Presidency does not only contradict with a unanimous decision of the EU, but also, naturally is not based on any EU decision .

In this context, we have to differentiate chapter 17; the Economic and Monetary Policy chapter from the other four blocked chapters as, all the EU member states including France decided unanimously to open this chapter and invited Turkey to submit its negotiation position document with an official letter of German presidency of EU at the beginning of 2007. After Turkey submitted its negotiation position in March 2007, this chapter was included among the chapters blocked by France via an initiative of Sarkozy who was elected as French president. Consequently an EU member state nullified a unanimous decision of EU and disregarded an official letter of EU presidency.

Let alone removing the inertia in the negotiation process, as one of the most important founding member state of EU, France should have started removing the blockage *-if a gradual removal of the blockage of the five chapters is chosen as a method, though it is hard to understand the rationale behind it-* initially from the Economic and Monetary Policy chapter, to ensure a credible negotiation process. Furthermore, EU should have opened it to respect the "pacta sunt servanda" principle and comply with a unanimous decision of itself taken in 2007.

When this issue is raised in EU circles, they come up with an apparently reasonable argument: claiming that the *acquis* in Chapter 17 keeps changing due to the ongoing measures (*in the areas of fiscal supervision, banking union etc.*) which aim to remove the factors that caused the Eurocrisis and alleviate its negative effects. However, these

amendments and additions could be presented as “closing benchmarks” to Turkey, if and when chapter 17 is opened. As none of the chapters would be finally closed until all the 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 constantly changing acquis of Economic and Monetary Policy chapter has not been raised in the accession negotiations of Iceland, as the EU has opened this chapter with Iceland only at the end of 2012.

We all witness that negotiation process of Turkey suffers from a credibility problem. Unfortunately, only a tiny percentage of the population of Turkey believes that Turkey would be an EU member state if it fulfils all the membership conditions. A significant percentage thinks that no matter what the country does, Turkey would never become a member. The most important development that resulted in this sentiment is the unilateral blockage of five chapters by one member state referring to the direct bearing of these chapters on membership and that none of the EU members have taken an official position against this stance.

In its last Progress Report for Turkey, the European Commission states that “the potential of the EU-Turkey relationship can be fully tapped only within the framework of an active and credible accession process”. There are a lot Turkey has to do in this context especially in the areas of fundamental freedoms, trade union rights, public procurement, state aids etc. However there is a need to restore the “pacta sunt servanda” principle in the negotiations in order to strengthen the status of pro-reform segments of the society.

Consequently, although the removal of the blockage on chapter 22 is a very promising development, it is definitely not adequate. If and only if the whole blockage on the remaining chapters is removed, than the accession negotiations of Turkey with the EU would have taken a significant step towards credibility.