



Nilgün Arısan Eralp ¹

Foreign Policy Studies, EUI

AN INFORMED AND WISE DEBATE IS NEEDED ON RECENT DEVELOPMENTS IN TURKEY-EU RELATIONS

Recently, there have been some developments in Turkey-European Union (EU) relations which have been interpreted as revitalization of the relations and the accession process. After almost a decade, EU heads of states and governments came together with Turkey on November 29, 2015 at a summit meeting; while a negotiation chapter (Chapter 17: Economic and Monetary Union) was opened on December 14, 2015 after a hiatus of two years.

The main driving force of these developments was the decision by the EU, facing the most serious refugee crisis in its history since World War II, to cooperate with Turkey in its efforts to respond to the crisis. As a response to the refugee influx into its borders, the EU has intended to stem the disorderly flow of migrants to Europe ² and establish a process whereby some legitimate asylum seekers could enter the EU in an orderly manner through resettlement schemes and programs. In order to keep the refugees in the region, EU would provide assistance to the host countries to provide jobs, education, food and healthcare for them. In a sense EU has been trying to engage in a burden sharing process with third countries. However, given the EU's approach to allow access only to qualified refugees from now on and given that this approach is adopted only by a limited number of member states, it does not seem bizarre to observe that this effort is perceived by some as the "burden dumping" ³ instead.

In this context, it is only natural that Turkey is considered to be the key country that the EU seeks urgent cooperation with, considering the fact that the country hosts some 2.3 million Syrian "guests" and more than 350,000 have left Turkey to go to Europe this year.

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

² <http://www.dw.com/en/greece-bound-boat-sinks-leaving-17-dead/a-18744337>

³ Başak KALE, "Kral Çıplak!!! 2.3 milyon Suriyeli Mültecimiz Var", Birgün, 13.12.2015

The EU organized a summit together with Turkey for the first time after several years, in order to address the refugee crisis on 29th of November 2015. The summit adopted a joint action plan including the parameters of the cooperation the parties will engage in for a solution of the refugee crisis and announced the favourable steps to be taken in relations with Turkey in return for its collaboration in this field. Turkey will readmit the irregular migrants who seek to enter the EU through illegal means, improve the socio-economic conditions of the “guests” in the country under “temporary protection,” provide work permits for their access to the labour market, cooperate with the EU to prevent human smuggling, while volunteering member states in the EU will accept a certain number of qualified refugees that entered Turkey prior to November 29, 2015, provided that their entire application process would be handled by the United Nations Refugees Agency (UNHCR) in Turkey. Accordingly, the EU will offer a contribution of € 3 billion for the better integration of Syrian “guests” with Turkey, which will be allocated by a committee of representatives from both sides in line with the objectives of the action plan. Furthermore, the preparations for a visa –free regime towards citizens of Turkey will be accelerated. Regular cooperation in terms of foreign and security policy will prioritize anti-terrorism measures in particular, and the parties will hold joint summits twice a year.

The summit on November 29, 2015 also witnessed an accord on the need to accelerate the accession negotiations. Following this accord, Chapter 17 on Economic and Monetary Union was opened in the Intergovernmental Conference on December 14, 2015.

All these can be considered as positive developments and one may argue that the cooperation on refugees carried out in parallel to a revived negotiation process, may re-establish the waning trust between the two sides and hence contribute to the further development of the relations. Anyone who’d want Turkey to have a respectable position in the civilised world would want such a development. However, the preconditions for an efficient co-operation, as well as the current and potential barriers in the accession process should be addressed and well communicated to the public so that a destructive frustration can be limited, in case things go wrong.

- **WILL THE € 3 BILLION INITIAL AID SUFFICE?**

The EU declared at the summit that it will provide Turkey an initial aid of €3bn, but no consensus has been reached regarding the source of this €3bn. It was declared that the European Commission will provide €1bn of this amount, *(which will be provided from the IPA funds, which in principle have nothing to do with the cooperation on the refugee crisis, and will be spent on the establishment of readmission centers)* but it is not yet certain whether the remainder would come out of individual member state budgets or EU budget and which country will provide what. So far, only the United Kingdom has announced that it will contribute € 400,000.⁴ Germany would presumably cover the lion’s share of the remaining amount.

Although it was implied in the final declaration of the summit on November 29 that further financial assistance would be provided later, there is no certainty. At least two thirds of the figure is expected to be spent for education, vocational training, healthcare, social policy and

⁴ “EU leaders race to secure €3bn migrant deal with Turkish president” , The Guardian, 12 November 2015.

job creation required for the integration ⁵ of the Syrian “guests” under temporary protection in Turkey, out of which just 15% live in the refugee camps. The Syrians do not have work permits for the moment and are bound to work in temporary and informal jobs. This not only exacerbates the shadow economy, something that Turkey has been fighting with for a while, it also prevents the country from making use of the qualified Syrian labour force. Even when work permits can legally be provided, job opportunities will need to be created. Considering the fact that 30% of the Syrians in Turkey are children, in addition to the efforts to prevent child labour, an almost forgotten problem in Turkey, education opportunities must also be provided in a way that would overcome linguistic barriers. All these make one to question whether the aid to be provided by the EU can indeed lessen irregular migration. The Syrian migrants seek a long-term perspective where they can work legally, get retrained if necessary, receive adequate social assistance for a decent life should they fail to find employment right away, and have their children benefit from a good education ⁶. When the rapidly deteriorating atmosphere of security and stability in Turkey is considered, it becomes obvious that EU countries, Germany in particular, will always be more alluring for refugees than Turkey.

- THE EUROPEAN COMMISSION DOUBTS WHETHER THE DEALS WILL KEEP MIGRANTS IN TURKEY: THE PROBLEM OF DISTRUST

The European Commission appears to be concerned about the aforementioned issues, to the extent that it has included the following phrase in its recommendation ⁷ regarding the agreement reached between the parties: *“If the participating States arrive at the common conclusion that there is no substantial reduction in the number of persons irregularly crossing the border from Turkey into the European Union, they could decide to suspend ex nunc the implementation of the scheme or to adapt the numbers accordingly.”* European Stability Institute (ESI) justifiably comments that such a recommendation at the inception phase of the cooperation scheme may be perceived as a distrust against Turkey and in fact prove corrosive for collaboration efforts. ⁸ Another concern of the ESI is that in its recommendation, the Commission limits the number of refugees to be admitted on a voluntary basis by EU member states with the UNHCR resettlement capacity. According to ESI, the reference to the UNHCR capacity in this regard may put a cap on the number of refugees to be received by the EU from Turkey. Another striking aspect meanwhile is that EU countries’ admission of refugees from Turkey will be on a voluntary basis, whereas Turkey faces an obligation to readmit all migrants that depart for the EU from the Turkish territory.

⁵ According to a new poll by the German Marshall Fund, 81% of Turks think that the migrants have failed to integrate well to the society, while 68% believe a more restrictive attitude is warranted against refugees. German Marshall Fund of United States, Turkish Perception Survey, October 2015.

⁶ European Stability Initiative, “The Devil in the Detail : Why the EU-Turkey deal will fail and how to get to a deal that works”, 29 November 2015.

⁷ COMMISSION RECOMMENDATION of 15.12.2015 for a voluntary humanitarian admission scheme with Turkey (http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/securing-eu-borders/legal-documents/docs/commission_recommendation_for_a_voluntary_humanitarian_admission_scheme_with_turkey_en.pdf)

⁸ ESI Newsletter, 14.12.2015

- WILL THE VISAS IMPOSED ON TURKISH CITIZENS BY THE EU BE ABANDONED AUTOMATICALLY AS OF OCTOBER 2016?

The widespread perception in Turkey following the Turkey-EU summit meeting on November 29, 2015 was that the visa requirements imposed on Turkish citizens would be lifted as of October 2016. However, the final statement ⁹ of the summit indicates that the lifting of visa requirements depends on the full implementation of the readmission agreement (effective as of October 1, 2014) by June 2016 and the fulfilment of the benchmarks in the "Visa Roadmap" agreed by parties on December 16, 2013. The European Commission will decide whether the benchmarks of the Roadmap have indeed been fulfilled. The Commission issued its first report on the issue in October 2014 and will issue its consecutive reports on March and October 2016 respectively. Furthermore, following the approval of the European Commission on Turkey's fulfilment of benchmarks, final decisions should be given by the EU Council of Ministers (*with a qualified majority*) and the European Parliament (*with absolute majority*).

A full implementation of the Readmission Agreement will oblige Turkey to readmit migrants that illegally enter the EU from Turkish territory. The requirements under the "Visa Roadmap," which includes some 72 benchmarks, can be classified as follows:

- The security of documentation (passports, visa forms, etc.)
- Immigration management
- Public order and security (Cooperation with Europol, a personal data protection in line with the EU norms, fight against organized crime, anti-corruption measures etc.)
- External relations and fundamental rights (Abidance by European Court of Human Rights (ECHR) jurisprudence in the fields of liberty and security in particular, the right to a fair trial, freedoms of expression, assembly and association)

The problems Turkey experiences in particular are, as stated in Commission reports, are in the field of fundamental rights. Turkey ranked second in 2014 after Russia among the violators of ECHR resolutions. ECHR resolutions breached most frequently pertain to the liberty and security rights of citizens, the right to a fair trial and the freedom of expression. These were also underscored as areas where Turkey regressed in EU's 2015 Progress Report. While we do hope that concrete and substantial progress would be made by October 2016 in these areas, this expectation does not appear to be very realistic.

Furthermore, there are two more requirements included in the "Visa Roadmap" that Turkey will find very hard to fulfil:

- Will Turkey have to abandon the geographical limitation it introduced to the 1951 Geneva Convention on the Legal Status of Refugees, which stipulates that it will not grant refugee status to people from the east?
- Will Turkey be able to maintain the visa exemptions it introduced bilaterally with the countries in its neighbourhood ?

Although Turkey has indicated in its "annotated roadmap" that has been prepared against the mutually agreed roadmap that these challenges would be met at the time of full

⁹ Meeting of heads of state or government with Turkey - EU-Turkey statement, 29/11/2015, European Council, Council of the EU, http://europa.eu/rapid/press-release_STATEMENT-15-6194_en.htm

membership, EU officials state that do not recognize the annotated roadmap of Turkey and there is a single roadmap in question on the issue.

A fair assessment of all these circumstances suggests that the lifting of visa requirements for Turkish citizens in October 2016 appears quite unlikely.

- **WILL TURKEY'S EU ACCESSION PROCESS REVIVE?**

Chapter 17 on Economic and Monetary Union was opened on December 14, 2015 within the framework of Turkey's EU accession negotiations, the first to be opened following a two-year lapse. This chapter has a very important status within Turkey's EU accession negotiations. Before Nicolas Sarkozy came into power in spring 2007, all EU countries, including France, had unanimously approved that Turkey's performance in this field is satisfactory to open the relevant chapter. Germany, as the rotating president of the EU in the first half of 2007, invited Turkey to initiate the negotiations via preparing its "negotiating position document".¹⁰ Turkey formally submitted the required negotiating position document to the EU in March 2007, but the chapter was included among the five chapters blocked by Sarkozy because of its direct bearing on membership. Hence, an EU member disregarded a unanimous decision of the EU with its unilateral decision.

When François Hollande came to power later, his government lifted the blockage on one of the five chapters, paving the way for the opening of Chapter 22 on Regional Policy and Coordination of Structural Instruments in November 2013. Lifting the blockage on Chapter 17 on Economic and Monetary Union had also been considered and opening this chapter was discussed by the EU member states. However, some countries objected to such a move due to precipitating doubts over the independence of the Central Bank of Turkey, as well as the situation regarding the rule of law, anti-corruption measures and the state of affairs in the field of fundamental freedoms in Turkey, while some other countries simply used these as a pretext.

Could we say then that the accession process has been revived following the summit on November 29 and the opening of Chapter 17 on December 14? It rather seems to be the adjustment of a previous violation of a unanimous EU decision. In the statement of the November 29 summit, it is asserted that in the first half of 2016, the European Commission will initiate the preparatory work for the opening of other chapters without prejudice to the position of member states.

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

¹⁰ If the EU decides that a candidate country negotiating for accession can open a particular chapter, the rotating president asks the country in formal letter a letter to prepare a "negotiating position document" regarding the chapter. The candidate country, within this document, officially notifies the EU the current state of adoption of and implementation of the relevant EU acquis, the measures to be taken to complete the adoption process and implementation, transitional measures requested for full adoption if required, and the funding requested in order to realize its commitments.

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.

Despite lifting the blockage on two chapters, France keeps three chapters, i.e. Agriculture and Rural Development, Financial and Budgetary Provisions, and Institutions, blocked. In the same unilateral fashion as France, Cyprus also blocks six chapters: Education and Culture; Freedom of Movement for Workers; Energy, Judiciary and Fundamental Rights; Justice, Freedom and Security; and Foreign, Security and Defense Policy. Although the European Commission, as well as France and Germany, have made the point over the past years that the chapters on Judiciary and Fundamental Rights as well as Justice, Freedom and Security should be opened, Cyprus is far from convinced. Moreover, Cyprus has made a recent statement following the November 29, 2015 summit that it will not change its stance. Meanwhile, with a resolution made at the end of 2006, the EU has suspended eight chapters related with the customs union and refuses to close any chapter even temporarily due to Turkey's failure to implement (despite having signed) the additional protocol that expands the customs union to all new member states, or in other words, its insistence on keeping sea ports and airports closed to Cyprus.

All in all, it does not appear realistic to anticipate any substantial progress in the accession process before the Cyprus issue is resolved and sea ports and airports are opened to Cyprus. The emphasis on "without prejudice to the positions of individual member states" in the quotation from the summit statement above in fact reinforces this unfavourable expectation.

In addition to all these, considering the particular emphasis in the 2015 EU Enlargement Strategy ¹¹ that the rule of law and the status of fundamental freedoms will be prioritized in the enlargement process of the EU with the decisions on enlargement to be based on these values, it is impossible to say that the accession process can be revived, taking into consideration Turkey's situation in these fields as well as the European Commission's reference to a regression in these areas.

CONCLUSION

Consequently, despite their potential to bear positive outcomes, the recent developments in Turkey-EU relations do not seem to foster hopes for a bright future in the short-term.

For the moment Turkey-EU relations seems to be "*a partnership cemented by partly converging interests - not values*". ¹² Both parties appear to be content with this setting which is far away from a real accession process. What needs to be noted, however, is that the mismanagement of expectations, especially in Turkey based on misinformation can turn out to be quite counter-productive.

Furthermore, both in Turkey and the EU, advocates of Turkey's EU membership provided that it fulfils the accession criteria are well aware that Turkey, unless and until it embraces universal

¹¹ EU Enlargement Strategy, Brussels, 10.11.2015 COM(2015) 611 final

¹² Dimitar Bechev and Nathalie Tocci, "What They did not tell you at the EU-Turkey Summit", euobserver.com, 1 December 2015, <https://euobserver.com/opinion/131330>

values, cannot revive the EU accession process regardless of any cooperation schemes it may choose to engage in.

We hope that both parties maintain a sincere attitude vis-à-vis the cooperation process but refrain from misleading the expectations regarding accession via communicating to the public that the parameters of membership are a different issue altogether.