

## Quo vadis Turkey-EU relations?

### I. Introduction

Relations between the EU and Turkey have always been volatile: “trying to get a perspective on Turkey’s relationship with the EU has been a difficult task, somewhat like attempting to paint [the] landscape on a fast moving train: the scenery would change before a particular setting could be captured with its significant detail.”<sup>1</sup> The evolution of the relationship has been affected by the rapidly changing political and economic situation in both the EU and Turkey, and in the international/regional conjuncture. Consequently, the partnership between the parties has become complex, unique, and quite unpredictable.

The volatile nature of the relationship was expected to change after Turkey became an official EU candidate country in December 1999, and especially after the decision by the EU to initiate accession negotiations with the country in December 2004. However, the Turkey-EU relationship has been a unique case in the history of EU enlargement in that a negative turn in the relationship took place after the initiation of the negotiations. In principle, the initiation of accession negotiations marks the beginning of an irreversible process in which the candidate country’s membership prospects gradually become reality.<sup>2</sup> However, the opposite has turned out to be the case for Turkey. Relations between the parties have been almost in constant crisis since 2005, although EU accession has always been – rhetorically at least – a strategic objective of almost all the governments in the last decade. Turkey managed to get rid of its military tutelage mainly via the imperfect and volatile accession process, yet unfortunately the end of tutelary democracy has not resulted in democratic consolidation in the country. This has worsened the relations between the parties.

### II. Recent developments in the relationship between the EU and Turkey

Recently – especially after the coup attempt in Turkey in mid-July 2016, the crackdown that followed it, and the constitutional referendum in mid-April 2017 – relations between the parties seem to be heading towards a rupture, principally a rupture of values where almost all the mutual trust has been lost. If this is the case, what can be done to overcome this impasse?

The EU has long given up regarding Turkey as an accession partner, and the strategic nature of the relationship has been emphasised more and more, particularly after the Gezi Park protests in 2013. The main reason for Turkey’s strategic importance to the EU stems from the country’s position as a buffer between the EU and a region whose instability might easily spread to Europe.

Although the main responsibility for the change of EU’s stance vis-à-vis Turkey lies with Turkey itself because of the serious backtracking in democracy, rule of law and fundamental freedoms in the country, the EU cannot be considered impeccable either.<sup>3</sup> Unfortunately, the EU has not adhered to its own values during the accession negotiations with Turkey, by:

- accepting Cyprus as an EU member without a settlement on the island and hence weakening the motive for Greek Cypriots to seek for a solution, the first time the EU has admitted a country as a member which has ongoing problems internally and with its neighbours;
- some powerful EU politicians allowing for the exclusion of Turkey on a cultural/religious identity basis rather

<sup>1</sup> Evin, *Turkey and the European Community*, 1990, 9.

<sup>2</sup> Arısan and Eralp, *What went Wrong in the Turkey-EU relationship?* 2012, 163.

<sup>3</sup> Ülgen, *How Turkey and Europe lost that loving feeling*, 2017.

than evaluating country's performance regarding membership criteria, making citizens of Turkey feel like the 'other' in the eyes of the EU;

- permitting the unilateral blockage of some important negotiation chapters without an EU decision, even when they contradict the unanimous decisions of the EU member states, resulting in the loss of credibility of the EU and of the accession process in Turkey;

- by turning a blind eye to what is going on inside the country because of realpolitik issues, such as the 2016 refugee deal, which has disappointed many people in Turkey who wanted to believe that EU is mainly a union of universal values.

Consequently, such an unfair negotiation process has led the Turkish public to think 'no matter what we do we can never become an EU member state' and has hence weakened the pro-EU coalition in Turkey and made it politically risky to defend the accession process. Since this process has become ownerless, the essentially universal values of the EU, like democracy, human rights and rule of law, have been presented as 'cultural values of the West' being imposed on Turkey.

This unfortunate state of relations has clearly been aggravated since the failed/averted coup attempt of July 2016. As the EU has shown a belated and muted response to the failed coup, it has been accused of a lack of empathy and solidarity towards Turkey. On the other hand, the EU has blamed Turkey for not using the coup attempt as an opportunity to consolidate democracy and strengthen the rule of law in Turkey, but on the contrary reacting by

suspending the rule of law and restricting fundamental freedoms in Turkey by declaring a state of emergency and renewing it since.

In November 2016, the European Parliament proposed suspending the accession negotiations with Turkey.<sup>4</sup> While it strongly condemned the coup attempt and recognised the legitimate responsibility of the Turkish authorities to prosecute those responsible and involved in this attempt, the Parliament accused them of eroding the rule of law and severely restricting fundamental freedoms before and after the coup attempt and under the subsequently proclaimed state of emergency. In doing so the European Parliament referred to the reported claims of torture and numerous violations of human rights as well as the innumerable cases of lawmakers, representatives, officials, judges, human rights defenders, journalists, academics and civil society activists that have been discharged from office, detained or put on trial.<sup>5</sup>

As a suspension would be very difficult for either side to reverse, EU leaders have not adopted this proposal of the European Parliament, which does not have the official authority to recommend the suspension of the negotiations according to paragraph 5 of the negotiation framework.<sup>6</sup>

The final blow to the accession prospects of Turkey came with the constitutional referendum of mid-April 2017, which replaced the parliamentary system with an executive presidential system by a thin margin. The main aim of the constitutional changes has been to render the de facto situation in the country in the wake of the coup attempt de jure. This means giving enormous centralised power to the President of the Republic without the checks and balances needed to safeguard processes and institutions fundamental to democratic society, although the logic of a separation of powers is

<sup>4</sup> European Parliament resolution on the situation in Turkey (2016/2993(RSP)).

<sup>5</sup> Schulz, *Just a Second Theatre of Conflict?*, 2017, 1.

<sup>6</sup> Paragraph 5 of the Negotiating Framework stipulates that, in the case of a serious and persistent breach in Turkey of the principles of liberty, democracy, respect for human rights and fundamental freedoms and the rule of law on which the Union is founded, the Commission will, on its own initiative or on the request of one third of the Member States, recommend the suspension of negotiations and propose the conditions for eventual resumption.

characteristic of democratic presidential systems. The Council of Europe's Venice Commission already warned Turkey before the referendum that such a system carries the risk of being easily transformed into an authoritarian regime.<sup>7</sup> This critique has not been taken into consideration by the Turkish lawmakers.

The subject matter, the campaign, and the actual referendum process have all been highly contested. The referendum campaign took place in the climate of the state of emergency on an uneven playing field with politicised state institutions, uneven access to media, and uneven access to resources for the opposition camp. Moreover, the referendum process itself was highly contested, especially given the last-minute decision of the Supreme Election Board to accept unsealed ballots, which was a violation of the Election Law.

Subsequently, Turkey's rule of law, referendum procedures, and constitutional reforms have received unanimously negative assessments from all organisations concerned: The Venice Commission and Parliamentary Assembly, the Organization for Security and Cooperation in Europe, the European Parliament, and the European Commission. Finally, at the end of April 2017, Turkey re-entered the monitoring process of the Parliamentary Assembly of the Council of Europe for the first time in 13 years, and has become the first country in respect of which the monitoring procedure was re-opened.

### **III. Future relations: a total break or a transactional relationship?**

Under these circumstances, the EU accession path has become an illusion for Turkey and there is now a serious question mark as to whether Turkish authorities and the EU really want an accession for Turkey. However, both Turkey and the EU obviously refrain from an irrevocable break. There can be five assumptions for the reasons why they do so:<sup>8</sup>

1. Once the negotiation process is officially suspended, it is almost impossible to re-initiate it as this would require unanimity. This brings to mind the foresight of the EU in the negotiation framework document of the EU, where it stated that "if Turkey is not in a position to assume in full all the obligations of membership it must be ensured that Turkey is fully anchored in the European structures through the strongest possible bond."<sup>9</sup>

2. The economic ties between Turkey and EU are quite strong, and the EU remains Turkey's most important economic partner in terms of trade, foreign investment, and tourism. The fragility of the economic situation in the country – 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 – makes the EU indispensable for Turkey.

3. Without strong links with the West, Turkey does not have real leverage and will suffer from a security vacuum in its highly instable and insecure neighbourhood given the situation in Syria, the close threat of ISIS terrorism, and the potential refugees that would flow from the region to Turkey.

4. Although the EU would like to cooperate with Turkey in the areas of anti-terrorism and energy and further the economic integration via a modernised customs union, for the moment the imperfect refugee deal between the parties struck on March 2016 and the fear of a resumption of the refugee inflow seem to be principal factors in the continuation of relations.

<sup>7</sup> European Commission For Democracy Through Law (Venice Commission), *Turkey Opinion, On The Amendments To The Constitution*, 2017.

<sup>8</sup> Kirişçi, *Are Turkey and the West headed for a rupture?*, 2017, 2.

<sup>9</sup> European Commission, *Negotiation Framework*, 2005, 1.

5. The democrats in the EU who do not equate Turkey with its political leadership and who do not want to abandon those citizens in Turkey who demonstrated a significant degree of democratic maturity<sup>10</sup> and who need ever more support wish to continue the relationship with Turkey.

#### IV. Main Constituents of a Transactional Relationship

Under these circumstances the most viable option for both parties – which do not have a clear strategy vis-à-vis each other – is to have a transactional relationship, which has been the case for quite some time. The basic constituents of such a relation seem to be:

- Modernisation of the customs union in such a way as to include agricultural goods, services, and public procurement. This has been on the agenda for some time, yet the Council has not given the mandate to the Commission for the negotiations. It is argued that for this the voting procedure would require unanimity in line with the Singapore decision of the European Court of Justice,<sup>11</sup> which would make things more difficult. It is also in question whether Turkey is ready to make the regulatory changes for modernisation.

- The continuation of the refugee deal, which seems to be on track despite the problems. Turkey insists that the EU has committed to visa liberalisation within the framework of this deal, yet it has not been implemented. The EU, however, stipulated the precondition that freedom of expression cannot be restricted in light of anti-terrorism policies;

- Co-operation on anti-terrorism. Although both parties have suffered serious terrorist attacks, mainly from the same source, IS, they have still not been able to agree on a common strategy to this end as there are deep differences on terrorism.

Hence, one should not forget that even a transactional relationship should be based on mutual trust and mutually agreed values, first and foremost the rule of law, and a certain level of rational thinking in both parties. The basic question that is now being asked is therefore “what can the EU do in the face of politicised justice, human rights violations and disregard for basic principles of the rule of law in Turkey today? What actions might make a difference?”<sup>12</sup>

The answers being given by those who still believe in a value-based EU policy and who are still interested in contributing to building a democratic and stable Turkey is that the rule of law and human rights in Turkey should remain part and parcel of these priority actions,<sup>13</sup> or at least a revised set of good governance conditions should be attached to all the cooperation packages with Turkey. Aside from supporting a value-based policy, these answers point out important necessities for a transactional relationship. There is still some hope among the democratic-minded citizens of Turkey that the EU will not continue its current ‘muddling through’ policy but will adhere to one of the targets of its Global Strategy that was published in 2016, i.e. increasing the resilience of Turkey, where resilience is defined as “a broader concept, encompassing all individuals and the whole of society. A resilient society featuring democracy, trust in institutions, and sustainable development lies at the heart of a resilient state.”<sup>14</sup> We sincerely hope this sentence will not remain yet another hollow statement in another forgotten strategy of the EU.

<sup>10</sup> Dalay, *Turkey after the Referendum*, 2017, 2.

<sup>11</sup> Court of Justice of the European Union, *Advocate General’s Opinion in Opinion procedure 2/15*, 2016.

<sup>12</sup> European Stability Initiative, *The Turkey Chapter Illusion*, 2017, 2.

<sup>13</sup> Pierini, *A Faint Opportunity to Mend EU- Turkey Ties*, 2017, 3.

<sup>14</sup> Ülgen, *Resilience as the Guiding Principle of EU External Action*, 2016, 1.

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