

GLOBAL TURKEY IN EUROPE

**POLITICAL, ECONOMIC, AND FOREIGN POLICY
DIMENSIONS OF TURKEY'S EVOLVING
RELATIONSHIP WITH THE EU**

IAI RESEARCH PAPERS

Edited by
Senem Aydın-Düzgit, Anne Duncker,
Daniela Huber, E. Fuat Keyman
and Nathalie Tocci



Edizioni Nuova Cultura



IAI

Istituto Affari Internazionali

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List of Abbreviations

AKP	Adalet ve Kalkınma Partisi (Justice and Development Party)
ANAP	Anavatan Partisi (Motherland Party)
BDP	Barış ve Demokrasi Partisi (Peace and Democracy Party)
BMENA	Broader Middle East and North Africa Initiative
CDU	Christlich Demokratische Union Deutschlands (Christian Democratic Union)
CEPEJ	European Commission for the Efficiency of Justice
CEPS	Centre for European Policy Studies
CHP	Cumhuriyet Halk Partisi (Republican People's Party)
CoE	Council of Europe
CSU	Christlich-Soziale Union in Bayern (Christian Social Union in Bavaria)
DAD	Democracy Assistance Dialogue
DEIK	Dış Ekonomik İlişkiler Kurulu (Turkish Foreign Economic Relations Board)
DEPA	Greek Public Gas Corporation
DTU	Deutsch-Türkische Universität (German Turkish University)
ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights
EEZ	Exclusive Economic Zone
EMFTA	Euro-Mediterranean Free Trade Area
EMP	Euro-Mediterranean Partnership
ENP	European Neighbourhood Policy
EU	European Union
FDI	Foreign Direct Investment

LIST OF ABBREVIATIONS

FLNG	Floating Liquefied Natural Gas
FTA	Free Trade Agreement
HSYK	Hâkimler ve Savcılar Yüksek Kurulu (High Council of Judges and Prosecutors)
ICJ	International Court of Justice
IPC	Immovable Property Commission
ITLOS	International Tribunal for the Law of the Sea
KCK	Koma Civakên Kurdistan (Union of Kurdistan Communities)
KRG	Kurdistan Regional Government
LNG	Liquefied Natural Gas
MENA	Middle East and North Africa
MHP	Milliyetçi Hareket Partisi (Nationalist Movement Party)
MPF	Mouvement Pour la France (Movement for France)
NATO	North Atlantic Treaty Organization
NSC	National Security Council
OECD	Organisation for Economic Co-operation and Development
OIC	Organisation of the Islamic Conference
OPCAT	Optional Protocol to UN Convention Against Torture
PKK	Kurdistan Workers' Party
PLO	Palestine Liberation Organization
PPP	Purchasing Power Parity
PYD	Partiya Yekîtiya Demokrat (Democratic Union Party)
RCA	Revealed Comparative Advantage
SMC	Supreme Military Council
SPD	Sozialdemokratische Partei Deutschlands (Social Democrat Party of Germany)
TCM	Trillion Cubic Meters
THY	Türk Hava Yolları (Turkish Airlines)
TOBB	Türkiye Odalar ve Borsalar Birliği (Turkish Union of Chambers)
TPA	Turkish Publishers' Association
TPAO	Türkiye Petrolleri Anonim Ortaklığı (Turkish Petroleum Company)

LIST OF ABBREVIATIONS

TRT	Türkiye Radyo Televizyon Kurumu (Turkish Radio and Television Corporation)
TUIK	Türkiye İstatistik Kurumu (Turkish Statistical Institute)
UAR	United Arab Republic
UDF	Union pour la Démocratie Française (Union for French Democracy)
UfM	Union for the Mediterranean
UMP	Union pour un Mouvement Populaire (Union for a Popular Movement)
UNCLOS	United Nations Convention on the Law of the Sea
UNHCR	United Nations High Commissioner for Refugees
UNIFIL	United Nations Interim Forces In Lebanon
US	United States
YÖK	Yükseköğretim Kurulu (Board of Higher Education)

Introduction

More than seven years have passed since the EU opened accession talks with Turkey; seven years in which the accession process has been maneuvered into a *cul-de-sac*. This has not only been reflected in the process itself - Turkey has so far opened thirteen out of thirty-five chapters and provisionally closed only one (science and research) - but also in the tendentious parting of ways of the two actors in the domestic and foreign policy domains.

Two developments inside of the EU were central in stalling this process. Firstly, while the recognition of the Turkish candidacy in the late 1990s had been driven by a favorable Franco-German position, this changed in the mid-2000s, when both governments shifted towards the conservative right and Turkish accession was politicized in the election campaigns in 2005 and 2007 respectively. Thus, a coordinated Franco-German position emerged again, but this time unfavourable for Turkey's European future. However, not all hopes are lost. With the election of François Hollande in 2012 and German parliamentary elections upcoming in the autumn of 2013, the Franco-German tide might turn again in Turkey's favour. Secondly the Cyprus conflict has hampered the accession process, specifically since the Republic of Cyprus entered the EU in 2004 and subsequently used its membership to keep the Turkish accession process hostage to the Cyprus conflict. In connection to the conflict, eight chapters were frozen by the European Council and six additional ones vetoed by Cyprus. Here too the situation may change now with newly elected President Nicos Anastasiades who had been a supporter of the Annan Plan for Cyprus, although long-time observers of the protracted conflict are certainly not holding their breath. The feeling of being rejected by the EU and of the EU's double standards on Cyprus has, in turn, alienated Turkish public opinion. Support for EU membership in Turkey dropped from the high 70 percent area in the

early 2000s to the 30-40 percent area in the last few years according to Eurobarometer data.

Turkey's lacklustre accession process has fit into the broader re-orientation of Turkish foreign policy. Under the AKP governments in the 2000s, Turkey gave renewed impetus to its neighbourhood policies, engaging notably to its south through the full panoply of its soft power tools, in a manner reminiscent of the EU's own neighbourhood policy at its best. Paradoxically however, all this took place while Turkish foreign policy grew increasingly independent of the West, reaching a climax in the summer of 2010 with the Gaza Flotilla crisis between Turkey and Israel alongside the Turkish-Brazilian effort to negotiate a nuclear swap deal with Iran. In those years, many in the West attributed Turkey's "bowling alone" in the Middle East to the removal of the EU anchor.

In fact, the removal of the EU anchor is making itself felt especially in the domestic domain, where - current work on a new constitution notwithstanding - the process of democratic consolidation has stalled, often even reversed, notably in the areas of freedom of expression, the judiciary, and the Kurdish question. The latter - a key issue for democratic consolidation in Turkey - has deteriorated again after the failure of the 2009 Kurdish (later: Democratic) Opening. With the intensification of the low-intensity war between the Turkish military and the PKK on the Iraqi and Syrian borders, the Kurdish question has been shifted again from the democratic to the security domain, but it has recently also led the AKP government to start historic peace talks with the PKK. More broadly, democratic consolidation suffers from various problems in the judiciary, related not only to its lack of capacity, but also to flaws in the institution's independence and impartiality. Most international attention, however, has concerned the deterioration of freedom of speech, since Turkey has earned the unflattering global gold medal for the greatest number of journalists in jail as of late. The EU's 2012 progress report on Turkey noted that concerns "regarding Turkey's lack of substantial progress towards fully meeting the political criteria" - specifically regarding the respect for fundamental rights - are growing.

Thus, with the stalled accession process a vicious cycle was initiated with the EU and Turkey increasingly parting ways in the domestic and foreign policy domains. This road seemed almost destined to lead to a divorce, when two systemic shocks—the Eurozone crisis and the Arab uprisings—emerged which are changing the equation in Europe, between Europe and Turkey, as well as between Europe, Turkey and their

shared neighborhood, and could well trigger a watershed in EU–Turkey relations. These shocks do not only open new possibilities for Turkey’s accession, but could also make enhanced cooperation in the domestic and foreign policy domains a necessity for both sides.

The Eurozone crisis is currently shaking the “European contract” at its core, with key states like the UK having ignited a debate over diverse forms of membership. Voices in Turkey and the EU are increasingly calling for a Turkish involvement in this Europe-wide conversation in a manner that could breathe new life into accession talks. Alongside, the fact that Turkey continues its impressive growth performance despite its deep economic interdependence with a crisis-shaken EU, while its beleaguered political reform process needs the EU anchor more than ever reinforce this potential window of opportunity. The “positive agenda” initiated in late 2011 between Turkey and the EU in areas such as political reform, visa, trade, energy, counter-terrorism and foreign policy dialogue was a first step in this direction. First and important steps regarding visa liberalization were reached. But the positive agenda cannot substitute for concrete political steps such as France’s promise to lift its veto on five chapters of the accession process.

The Arab Spring has made foreign policy cooperation a necessity for both sides. Turkey’s regional policy has been shattered in the Middle East with the deterioration of its strategic environment. The Syrian crisis is spilling over into Turkey and Ankara’s relationship with Iran has also been strained, bringing Turkey solidly back into the NATO framework. At the same time, Turkey’s relationship with Egypt has improved and Turkey could play an anchoring role for transitions in the region so long as it vies away from playing into the sectarian dynamics in the region. It is precisely in view of this both that Turkey has become an increasingly valuable partner for the EU in the neighbourhood, but also that Turkey’s full potential to act as a constructive anchor in the region’s tormented political transitions is most likely to materialize if Turkey itself is re-anchored to Europe.

In view of these issues, the project “Global Turkey in Europe” was initiated by the Mercator Foundation, the Istituto Affari Internazionali (IAI), and the Istanbul Policy Center (IPC) to explore the prospects for Turkey’s accession process in the context of the broader political, economic, and foreign policy dimensions of Turkey’s evolving relationship with Europe. Preliminary findings of this project were presented in two conferences held in Brussels on 05 December 2012 and in Berlin on 18

March 2013 which gathered academics, experts, policy makers and civil society representatives from Europe and Turkey. Collecting all studies published in the Global Turkey in Europe project, this volume is meant to contribute to the European-Turkish discussion on shaping a common future in an environment characterized by crisis.

Daniela Huber and Nathalie Tocci

Executive Summary

This study is comprised of three main sections. The first chapter deals with the **Eurozone crisis and new dynamics in the accession process**. It is kicked off by two contributions that outline visions for Turkey's accession in a post-crisis Europe. In *Turkey and Europe, a New Perspective* Kemal Derviş analyses Turkey's economic development since the accession process has been started and shows that Turkey is getting much closer to being an "average" European country in economic terms. Since the EU must re-invent itself in light of the Eurozone crisis, Turkey as an accession country must be involved in this process and both sides could take advantage of institutional flexibilities or diverse types of memberships that are arising in the Union. Nathalie Tocci and Dimitar Bechev pick up on this analysis in *Will Turkey Find its Place in Post-Crisis Europe?* and argue that the Eurozone crisis could indeed present a unique opportunity to revitalize the moribund EU-Turkey relationship. They present diverse models of a future Europe and Turkey's place in it: concentric circles, daisies and spaghetti bowls. The first chapter then moves from the projection of future dynamics triggered by the Eurozone crisis to present dynamics in Turkish relations with European key states in the accession process, that is France, Germany, and the Republic of Cyprus. Dimitar Bechev finds a *Glimmer of Hope in EU-Turkey Relations* in improvements in Franco-Turkish ties, as well as in the "Positive Agenda" initiated between the EU and Turkey in May 2012. In *Boosting Negotiations with Turkey – What Can France Do?* Ahmet Insel suggests that presidential and legislative elections in France have opened a window of opportunity to re-dynamize accession negotiations and do away with the image of France in Turkey as the anti-Turkish shield of Europe. In *The Pivotal Relationship. German Doubts and the Turkish-EU Accession Process* Gerald Knaus and Christian Altfuldich highlight that Turkey-EU relations were stuck whenever Germany was opposed to accession, and have moved forward

quickly whenever German governments were supportive. The current German position, however, leaves Turkey-EU relations in limbo. Finally, Michael Emerson in *Fishing for Gas and More in Cypriot Waters* analyzes the current escalation over Cypriot gas in the Eastern Mediterranean and discusses the possibility of transforming this into a turning point towards a resolution of the Cyprus conflict.

The second chapter deals with **the domestic reform process in Turkey and three central issue areas in the accession process**, that is the economy, democracy, and – related to the latter issue - the Kurdish question. In *The Changing Structure of Turkey's Trade and Industrial Competitiveness: Implications for the EU* Daniel Gros and Can Selçuki show that Turkish trade has expanded considerably over the last decades, but highlight fault lines that need to be corrected and the role which trade with the EU can play so that Turkey's international trade will stay on a sustainable growth track. The chapter then turns to questions surrounding the stagnation of Turkish democracy. Senem Aydın-Düzgit and Emin Fuat Keyman argue in *EU-Turkey Relations and the Stagnation of Turkish Democracy* that the democratic setback goes hand in hand with the current impasse in EU-Turkey relations, before they discuss the state of reform and the remaining problems in four key areas of democratic consolidation, that is the military, human rights, the protection of minorities, and the judicial system. The current constitution-making process is expected to raise democratic standards, but much of the public debate has centered on a switch from a parliamentary to a presidential or semi-presidential system. Ergun Özbudun in *Presidentialism versus Parliamentarism in Turkey* cautions against such a change since Turkey's system is already close to a semi-presidential one and since such systems are prone to crises and deadlocks. Besides the constitutional debate, the issue of civil rights has been closely observed by the EU. In *Does the EU Still Have Leverage on Questions of Freedom of Expression in Turkey?* Michael Leigh zooms in on this issue and argues that it has increasingly become difficult for the Commission to conclude that Turkey sufficiently fulfills the Copenhagen political criteria for membership. He suggests that the setback is not a result of the slowdown of the accession process, but homegrown. The last part of this section focuses on the Kurdish question. In *To Europe and Back: The Three Decades of Kurdish Struggle in Turkey* Dilek Kurban observes that the role of Europe in the Kurdish struggle has diminished, forcing the Turkish state and the Kurds to develop a "home grown" solution to the conflict. The current "peace pro-

cess” raises hopes for a peaceful settlement, but the mismatch between the parties’ expectations render it extremely fragile. In *Turkey, Syria and the Kurds: There Goes the Neighborhood* Piotr Zalewski investigates the effects of the Syrian civil war on the Kurdish question in Turkey.

The third chapter deals with the **Arab Spring and foreign policy cooperation** between the EU and Turkey. It starts with three in-depth studies on the impact of the Arab Spring on Turkish and EU foreign policy in the region and on potential areas of cooperation. In *The EU, Turkey, and the Arab Spring: Challenges and Opportunities for Regional Integration* Kemal Kirişçi focuses on the diverse approaches of the EU and Turkey towards regional integration, i.e. an institutional versus an economic approach, and their revisions in the wake of the Arab Spring. Kirişçi finds that cooperation between the EU and Turkey is still inadequate and should not only be institutionalized, but the EU and Turkey should also develop a joint strategy towards the neighborhood. Emiliano Alessandri and Meliha Benli Altunışık in *Unfinished Transitions: Challenges and Opportunities of the EU’s and Turkey’s Responses to the “Arab Spring”* examine the strategic rationales of Turkey’s and the EU’s response to the Arab uprisings and argue that both should come forward with a more explicitly political response which could also offer the basis for joint initiatives and so bear positive implications for the bilateral relationship between the two actors. This is also supported by Bülent Aras in *Making Sense of Turkish-EU Relations in the Aftermath of the Arab Spring*. He points out that Turkey’s active response has once again shifted the balance to the Western component of its foreign policy identity and so represents a strong complementary position to the EU’s. There is thus a chance of re-energizing Turkish-EU relations in face of shared challenges arising from the Arab Spring. After this overview on the neighborhood policies in general, the chapter moves to potential EU-Turkish foreign policy cooperation regarding three strategic key states in the region, that is Syria, Israel, and Iran. In *Turkey, Syria, and the Western Strategic Imperative* Ian O. Lesser points out that the Syrian crisis underscores the deterioration of the strategic environment in Turkey’s neighborhood and makes the repair of the Turkish-Western strategic relationship essential for both sides. In *Turkish-Israeli Relations in a Changing Strategic Environment* Daniela Huber argues that two major developments have emerged in the Middle East in the past years which are decisively changing the region’s strategic landscape: the Arab uprisings and the discovery of gas revenues in the Eastern Mediterranean. Both events have driven Turkey and

Israel to mending fences. Finally, Riccardo Alcaro in *A Tale of Wasted Opportunities: The EU, Turkey, and Iran's Nuclear Issue* suggests that EU-Turkish non-cooperation on Iran's nuclear issue is one of the most negative side-effects of Turkey's stalled accession process. Turkey's good offices in Iran could have been key to preserving the credibility of the diplomacy 'track' of the West's dual approach to Iran's nuclear file. Even though Turkey has lost Iranian trust in face of now diverging interests in Syria, Alcaro maintains that Turkey could still play the role of a facilitator.

In their conclusions – *Transforming Turkey-EU Relations: Ground for Hope* – Emin Fuat Keyman and Senem Aydın-Düzgit argue that both the EU and Turkey have followed a flawed, populist and identity-based policy towards each other since accession negotiations began as a result of which relations have reached a stalemate. Nonetheless and as highlighted in the contributions to this research paper, Turkey and the EU are still crucial to one another as well as to global peace and stability on a wide scale, ranging from economics to politics, culture and foreign policy.

1.

Turkey and Europe, a New Perspective

Kemal Derviř

THE PAST DECADE

Ten years have passed since December 12-13, 2002, when the European Council took what then appeared the momentous decision to commit itself to starting membership negotiations with Turkey. The actual negotiations started in October 2005.

At the end of 2002, Turkey had just overcome a deep financial and economic crisis. GDP had contracted by 5.7 percent in 2001¹ and inflation stood at 68 percent, after a decade of averaging over 60 percent. The recovery started in the spring of 2002, with GDP growth reaching 6.2 percent that year, a rapid rebound after the steep contraction during the crisis triggered by the exchange rate collapse of February 22, 2001. The road to lower inflation also began in 2002, with inflation cut by more than half compared to 2001. While the recovery was rapid, the crisis took a serious toll. GDP per capita in USD (market prices) stood at 3,519 in 2002, compared to 4,147 in 2000, reflecting a significant real devaluation of the Turkish Lira (TL). Many wondered whether the recovery of 2002, resulting from the “Transition to a Strong Economy” programme launched in April of 2001, would last.

At the time, the Euro was completing its third year after a successful launch in 1999. After initially losing value with respect to the US dollar, it had appreciated by almost 6 percent by 2002 – a trend that would continue for many years. Growth in the EU as a whole was slow, averaging about 1.7 percent in 2001 and 2002, but there was no crisis in the EU or in the Euro-zone. Growth averaged 3.2 percent in Spain and 3.8 percent in Greece over the 2001-2002 period.

¹ According to the new GDP series of the Turkish Statistical Institute (TUIK), revised in July 2012.

Ten years have passed since December 2002. The average annual growth rate of the Turkish economy in constant domestic prices in the decade starting in January 2003,² the first year of the Justice and Development Party government, which took office in November of 2002, has been 5.1 percent. During the same decade, GDP has grown at an average annual rate of 1.2 percent in the EU. Thus Turkey has grown almost 5 times as fast as the EU in terms of total GDP and 3.5 times as fast in per capita terms. Tables 1 and 2 below provide some key comparisons.

Table 1* | Overview of GDP growth and inflation in selected EU countries and Turkey, 2003-2012

		10-year change (%)	Annual average rate (%)
Real GDP Growth	Turkey	64.80	5.10
	EU	12.50	1.20
	Germany	12.70	1.20
	Italy	0.40	0.04
	Spain	14.10	1.30
	Greece	1.50	0.15
	Poland	52.00	4.30
	Bulgaria	39.00	3.40
	Romania	39.82	3.41
Price level change	Turkey	143.80	9.30
	Euro-zone	20.30	1.90
Appreciation of Euro/TL Real Exchange Rate		22.87	2.08

* Based on 2012 forecasts and author's calculations

Source: EUROSTAT and TUIK

² Assuming a 4 percent growth rate for 2012, which was the official forecast until early Fall 2012. It now seems that the growth rate may be around 3 percent only, but this does not significantly affect the 10-year averages.

Table 2* | Total and per capita nominal GDP levels in selected EU countries and Turkey

		2003	2012
Total Nominal GDP in billions of Euros	Turkey	268	615
	EU	10,104	12,864
	Germany	2,148	2,652
	Italy	1,342	1,590
	Spain	783	1,064
	Greece	172	204
	Poland	192	379
	Bulgaria	18	40
	Romania	53	137
Nominal GDP per capita (in Euros)	Turkey	4,000	8,225
	EU	20,700	25,549
	Germany	26,000	32,406
	Italy	23,300	26,136
	Spain	18,600	23,039
	Greece	15,600	18,024
	Poland	5,000	9,906
	Bulgaria	2,400	5,403
	Romania	2,415	6,436

* Based on 2012 forecasts and author's calculations

Source: EUROSTAT and TUIK

As can be seen from these tables, Turkish per capita income at market prices was about 20 percent of the EU average in 2003 and has grown to more than 30 percent of the EU average, not only because of a significantly more rapid GDP growth rate, but also because of a very significant real appreciation of the TL with respect to the Euro. This appreciation, which was very rapid in the first years of the ten-year period, reversed between 2009 and 2011, and then reasserted itself due to the impact of the Eurozone crisis in 2012. It accounts for roughly one third of the “catch up” of Turkish GDP per capita with respect to the EU average.

Moreover, compared to individual countries, it is interesting to note that Turkish per capita income at market prices in 2012 is close to that of

Poland (about 83 percent), 28 percent higher than that of Romania and 52 percent higher than that of Bulgaria. In terms of overall GDP, Turkey is now the sixth largest economy in the EU 27+Turkey group of countries, after Germany, France, the UK, Italy, and Spain, having just moved ahead of the Netherlands. Using purchasing power parity prices, Turkey now has about the same economic size as Spain.

Within the European context, Turkey's growth performance over the last ten years has been very strong, and in terms of other criteria, such as fiscal space and debt-to-GDP ratios, Turkey has some of the most favourable indicators in Europe. This does not mean that the Turkish economy has no vulnerabilities. External shocks can have a major impact on the Turkish economy, as became evident in 2009 when, due to the world financial crisis, Turkish GDP contracted by 4.7 percent. Indeed had it not been for the contraction in 2009, overall Turkish growth performance would have come close to the best "Asian" performance over the last decade. But Turkey unfortunately still suffers from a major weakness, which is a low domestic savings rate in the 13-15 percent range. To finance a moderately high investment rate in the range of 21-23 percent, Turkey needs net capital inflows, i.e. a current account deficit, in the 6-10 percent of GDP range. In the absence of higher domestic savings, a lower current account deficit means less investment and slower growth. But keeping the current account deficit at levels above 6 percent is risky. A reversal of the capital inflows that finance the current account deficit would create an immediate problem for Turkey.

There is, therefore, vulnerability, but it is mitigated by attractive investment opportunities for foreign capital, a geographically diversified composition of foreign savings flowing to Turkey and, both, a low public debt-to-GDP ratio, well below 40 percent in 2012, and low leverage of the private sector with the sum of household and enterprise debt below 80 percent of GDP, compared to multiples of GDP prevalent in much of Europe.

The attractiveness of an investment destination is always relative to that of alternatives. Short of a major political crisis, not foreseen by most observers, Turkey is likely to remain quite an attractive destination over the coming years. This creates the opportunity for Turkey to gradually increase the savings rate and reduce its current account vulnerability, while maintaining the kind of investment rate required by a 5 to 6 percent GDP growth rate and continued employment creation in excess of new entries into the labour force. Table 3 below assumes a 5.5 percent

GDP growth rate in Turkey and 1.8 percent annual GDP growth in the EU from 2013 to 2023, with 0.2 percent annual population growth in the EU and 1.1 percent in Turkey.³ It also assumes a modest one percent real annual appreciation of the exchange rate on average over the period. This would allow Turkey to reach close to half of EU per capita income by the 100th anniversary of the Republic, at market prices, and close to two-thirds at purchasing power parity (PPP). Turkey would become the fifth largest economy in the EU at market prices and the fourth largest at PPP prices.

Table 3 * | Total and per capita nominal GDP levels in selected EU countries and Turkey

	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
Per capita GDP of Turkey**	32.1	33.4	34.6	35.9	37.3	38.7	40.1	41.6	43.2	44.8	46.5	48.2

* Based on author’s forecasts and calculations

**Per capita GDP of the EU = 100

Source: TUIK

A NEW DYNAMIC WITH EUROPE

Given the economic developments of the last ten years in both Europe and Turkey, and the prospects for the next decade, the economic dimension of the EU-Turkey relationship has changed in a fundamental way. Turkey is getting much closer to being an “average” European country, in terms of a set of relevant economic indicators. Were it a member of the EU, it would no longer be among the poorest in per capita terms and could come close to half the EU average by 2023. Moreover, in terms of

³ A 1.8 percent GDP growth in the EU implicitly assumes that the difficulties of 2011-2012 can be overcome by 2014 or 2015. If the crisis lasts, it would be hard for the EU to attain a 1.8 percent average growth over the coming decade. Note that while the “crisis” is often viewed as a Eurozone crisis, the UK’s growth performance has been no better than the Eurozone’s performance.

macro-economic and debt sustainability indicators, it would have been one of the healthier countries in Euro-space over the last few years. If the strong fiscal policies of the last decade continue to be pursued in conjunction with real growth in the 5 to 6 percent range, the public debt-to-GDP ratio will fall well below 30 percent, one of the lowest among major countries, not only in Europe, but in the world.

Of course, very disruptive political developments could threaten this scenario. By “disruptive”, I don’t mean the unfortunately harsh political language used by competing groups and political actors, or the “normal” difficulties of the political process in a country which, like others, has serious political and cultural fault lines. The economy can handle the everyday roughness of politics provided that there is basic rule of law, basic public order, and that political competition remains within the bounds of a basically democratic and peaceful system. What would be truly disruptive and could halt Turkey’s impressive economic progress would be a breakdown or generalized lack of respect for the rule of law, further escalation of violence linked to acts of terror, failure to advance towards a comprehensive new framework for maintaining fundamental national unity, while ensuring the human and cultural rights and freedoms of all citizens and groups with particular ethnic or religious identities within an overall sense of belonging to a democratic and secular republic. There are also dangers of spillovers from the conflicts in the Middle East coming from the south and east of Turkey’s borders. The dangers mentioned above are real and must be taken seriously.

However, while there have been ups and downs in the development of democracy in Turkey, and while very serious challenges remain, with some recent events having caused renewed and entirely justified concern, the direction of long-term political development over the last 20 years has been positive, and political disruptions have not been strong enough to seriously impair economic progress. For the purposes of the argument outlined below, I will assume that despite the current difficulties, political and democratic progress will eventually continue and that the deep common sense and aversion to extreme behaviour that the people of Turkey have again and again demonstrated over the last decades will ensure basic stability in the country. I will also assume perhaps slow, but real progress on the Kurdish issue, fully democratic elections and an improved functioning of the legal system. Furthermore, I assume that Turkey’s armed forces will remain fully capable of protecting the territory of the Republic from any significant spillovers of foreign con-

flicts and that Turkey's foreign policy will pursue a basically peace-oriented and stabilizing role in the region and the world.

If the assumptions described above can be fulfilled, the dynamic of Turkey's relationship with Europe could change very fundamentally in the next ten years. In 2002, Turkey was emerging from a deep economic crisis and its performance in the 1990s had created a perception of a highly indebted country with high inflation, high public deficit, mediocre growth performance, frequent and abrupt devaluations and a fragile economy. In 2012, Turkey is perceived as a country with solid growth performance, moderate inflation, low indebtedness and prudent fiscal and monetary policies. In contrast, the Eurozone is going through a crisis the depth and virulence of which nobody predicted ten years ago. Both the Eurozone and the wider European Union are in, or close to, recession. Germany, as well as a few Nordic countries such as Sweden, seem to be exceptions, but while Germany has been quite successful in keeping unemployment low, recent German growth performance has not been impressive. The average annual German growth rate over the last 5 years has been 0.7 percent.⁴ The economic difficulties in Europe have raised truly existential questions, not only for the Eurozone, but for the EU as a whole.

In 2002, when membership negotiations were in principle agreed, the EU and the Eurozone seemed to face fairly stable conditions, enlargement to the formerly communist Eastern European countries was about to be accomplished and while the governance issues in such an enlarged Union were subject to intense debate around the plans for a new European "Constitution", the future of Europe seemed fairly predictable. The economic discussions with Turkey were entirely one-sided, and were on how Turkey would adopt the EU *acquis*, accept the rules of the Union, agree to eventually adopt the Euro like all candidate countries, and simply become part of existing European institutions. Turkey would also be a recipient of EU structural and agricultural support funds, although the amounts would reflect new, less generous formulas than previously in force for earlier accession countries; nonetheless, these funds would be substantial. Many European leaders were far from sincere in their approach to these negotiations, but formally at least, the path that needed to be travelled seemed fairly clear.

⁴ Assuming 2012 ends with 0.4 percent GDP growth in Germany.

At the end of 2012 the future of Europe is far from clear. Survival of the Euro clearly requires much closer political integration of Eurozone countries, a strong common framework on fiscal policy that is adhered to by all members, a banking union in which bank supervision and deposit insurance would be to a large extent centralized, and a stronger role for the European Parliament without which the democratic legitimacy of greater political integration cannot be achieved. These new directions were not present when the EU started negotiations with Turkey. The debate on membership did not include a debate on such possible institutional changes, on either the Turkish or the EU side. Moreover, whether such deeper integration will actually be achieved remains an open question. There is serious opposition to it in Eurozone countries, and the debate has not even started on these issues in Turkey, because membership seems a remote prospect now. Were it to start, there would most likely be serious concern in parts of Turkish society about the degree of sovereignty-sharing that the plans for the Euro-zone contain. Another dimension of the difference with 2002, is that it is now very clear that the United Kingdom, and perhaps some other EU countries, will not adopt the Euro in the near or even more distant future.

If Turkey is to move towards membership in a more flexible European Union that will have to substantially re-invent itself over the coming years around at least two, but perhaps more, sub-areas with varying degrees of political integration, several conditions will have to be met.

First, the EU must abandon the totally one-sided approach to discussions with Turkey and treat Turkey as an “equal”. Yes, Turkey must continue to accept much of the EU *acquis* and continue to adopt many of the European standards and rules. But it is no longer just a large but lower middle-income country without possible alternatives. Turkey has developed a much more dynamic economy, new self-confidence, and much wider global economic and political relations. This must be reflected in the nature of EU-Turkey interactions, both in terms of style and substance.

Second, as said above, the EU must re-invent itself, and, therefore, Turkey must be associated with that process of re-invention. A country cannot advance towards joining a political and economic “construct” that is as ill-defined in terms of its immediate future, as today’s EU, without participating in the reflections and debates on the re-invention of Europe. Turkey itself must develop ideas and make proposals on what kind of Europe it would like to see in the future, and how it sees its role in it, and the EU must be willing to listen to those ideas.

Third, both sides must take advantage of new institutional flexibilities that are likely to arise in the process of setting the rules for countries inside and outside the Eurozone. In the foreseeable future, Turkey would be a country outside the Eurozone and, in that sense, similar to the United Kingdom. There will definitely be an even more “differentiated” or what is sometimes called “two-speed” Europe, perhaps even “three- or four-speed” Europe. In fact it may be better not to refer to “speeds” at all, because the end destinations themselves may remain permanently different. European institutions will have to adapt, if the EU is to survive. There may be a “core” European Commission and an “enlarged” European Commission. Turkey and the UK may have commissioners in the enlarged commission, but not in the core one. Or there may be several overlapping commission-type organs, each with a different function, such as economic governance and Eurozone management, foreign policy and defence, foreign trade and environmental negotiations, and labour, migration and social policies. Again, not all countries would be represented in all these sub-commissions. There may be one large European Parliament, with increased powers, but not all Euro-parliamentarians would have voting rights on all matters. For example, on matters that concerned the Eurozone only, British members would not have voting rights, the same would apply to Turkish members.

Such a more “made to measure” Europe may rescue the EU-Turkey relationship from its present impasse. It may suit both those in the EU who are afraid of simply integrating Turkey into a more unified “core EU”, and it may suit many in Turkey who are not ready for the type of deep sovereignty sharing that would exist inside such a “core”. And yet it would open the way for Turkish membership, a membership that may end up resembling the membership of the UK more than the membership of, say, Italy.

Finally, while Turkey will of course continue to negotiate for its fair share of various EU funds, it should be clear that for the Turkey of the coming decade, these funds will not have the importance and weight they appeared to have in 2002. It should be easier to agree on compromise formulas that recognize the fiscal difficulties of the EU and at the same time acknowledge the still lower income of Turkey and therefore its legitimate claim to some funding from the EU, but also the relatively minor importance of this funding for the Turkish economy.

CONCLUSION

For those who still view Turkey in Europe as producing (i) important mutual benefits in terms of a much stronger joint influence on world affairs, (ii) a larger zone of peace and stable democracy with the powerful “example” of a large majority Muslim country inside that zone, projecting ideas and economic strength far into the Middle East, Africa and Central Asia, (iii) an even larger single market encompassing a dynamic economy with stronger positive spillover effects on the troubled southern European economies, and, (iv) potentially deeper cooperation on defence and security issues, it is now time to make a new start. The EU and Turkey must look ahead with the realistic and updated perspectives described above.

I believe Turkey would still benefit enormously from EU membership: it would help correct the remaining and, sadly, at times serious weaknesses in the democratic process, it would strengthen Turkey’s influence in the region and the world, because it would make Turkey a real decision-maker in many of the dimensions of EU policy, and through this anchoring, it would also add to the long-term vigour and stability of the Turkish economy. The EU would benefit from Turkey’s dynamism and it too would become a more powerful global player. Turkey in Europe would ensure that a religious fault line will not develop in the Mediterranean region, threatening peace and stability in the EU itself. Turkey in Europe would be able to help its southern neighbours more effectively in their quest for freedom and prosperity than Turkey on its own.

The economic basis for successful Turkish membership in the EU has developed very significantly over the last decade. It is now time for politics to catch up with economics, exactly when Europe as a whole is searching to define its own future. If the EU countries and Turkey have the courage to join forces in this search and build a common future within very flexible European institutions, a great historic opportunity will have been seized.

2.

Will Turkey Find its Place in Post-Crisis Europe?

Nathalie Tocci and Dimitar Bechev

TURKEY, EUROPE AND THE WRITING ON THE WALL

In the early years of the 21st century, the magic of EU-Turkey relations had mutually reinforcing policy and political dimensions. At the policy level, the EU represented the external anchor for Turkey's domestic reform, inspiring a set of constitutional, legislative and administrative reforms to harmonize Turkey's polity and economy with those of the EU. At the political level, the EU acted as the glue between a disparate set of actors in Turkey, ranging from the conservative Justice and Development Party (AKP) to factions in the secularist Republican People's Party (CHP), passing through democratic Kemalists, Kurdish nationalists, industrialists and urbane liberals of all shapes and forms. These intertwined political and policy processes led to what many had defined as a "silent revolution". Today this magic is gone.

The truth of the matter is that the government, while remaining rhetorically committed to the accession process, has in practice attached far less importance to it since its second term in office in 2007 (less still its third). Ominous sign of this is the absence of any reference to the EU in Prime Minister Erdoğan's 2012 vision speech at the 2012 AKP congress. The opposition CHP, an uneasy coalition between hardened Kemalists and Europhile social democrats, has also failed to genuinely put the EU back on the domestic political agenda. Underpinning this lukewarm neglect at elite level is the Turkish public's turn away from the EU, a trend particularly striking amongst the youth. In 2004, a high 73 percent favoured Turkey's EU membership. This figure has dropped dramatically since 2007, hovering between 38 percent and 48 percent over the last four years.¹ The

¹ GMF (2011), *Transatlantic Trends 2011*, <http://trends.gmfus.org/archives/transatlantic-trends/transatlantic-trends-2011>.

Eurozone crisis is reducing further the appeal of the EU in Turkish eyes. A self-confident Turkey, which for the time being remains economically strong and politically stable, no longer views the European Union as its only magnet and source of inspiration but increasingly buys into “the lonely wolf” fallacy: that it can prosper on its own.

The stalling of the accession process and the waning appeal of the EU amongst the Turkish public has also implied a reduced willingness of authorities in Ankara to pursue those reforms repeatedly called for by the Union. As a consequence, Turkey has witnessed at times a reform inertia and at other times a visible backsliding on democratization. Setting aside the areas where reforms remain insufficient, there are at least three areas in which there has been a visible step back on democratization.²

First on the Kurdish question, there has been an intensification of arrests of Kurdish activists involving alleged members of the Union of Kurdistan Communities (KCK). Thousands of people, including politicians, mayors, journalists, publishers, writers and academics were arrested, despite the lack of evidence of their involvement in acts of violence. The security situation has also aggravated, with over 700 deaths in the last year, the highest number of casualties since the PKK’s ceasefire in 1999. Making matters worse is the conflict in Syria, where the Syrian Kurdish Democratic Union Party (PYD) has taken control of an area bordering Turkey, emboldening the PKK and fueling Ankara’s false belief that military force could be solution, with no political process to go along.³ Ankara’s regional activism has backfired: from zero-problems with neighbours we see neighbours’ problems spilling over into Turkey at an alarming rate. It is not surprising, therefore, that Ankara is reinvesting in its long-standing links with the US and NATO, an indispensable insurance policy in tough times. Sadly, a similar U-turn has not happened in relations with the EU and the blame, in large part, is at the Union’s door.

Second, there has been a visible worsening of the freedom of expression, linked – inter alia – to the excessively broad definition of terrorism that has allowed for the pre-trial detention of hundreds of individuals against whom there is hardly any evidence of support for or involvement in acts of political violence. In recent years there has also been a serious deterioration of media freedom in Turkey. Today there are more journalists – close to 100 – in jail than in any other country in the world, and over

² See chapter 8 by Senem Aydin-Düzgit and E. Fuat Keyman in this book.

³ See chapter 12 by Piotr Zalewski in this book.

4,000 lawsuits against members of the press, again mostly on suspicion of ties to the outlawed PKK.

Third, problems related to the Turkish judiciary have worsened. In the past, the judiciary had been a bastion of the secular establishment, acting as a political – and politicized – force against all non-establishment forces including the ruling AKP. Since the 2010 constitutional referendum the risk has become that of replacing one set of politicized prosecutors and judges with another, instead of creating a truly independent, effective and impartial judiciary. This risk is emerging in full light in the Ergenekon and Balyoz cases.⁴ Added to this, Turkish law allows for abnormally long pretrial detention periods, and indictments are often made on the basis of flimsy evidence as well as evidence obtained through opaque and at times unlawful means.

The effects of the faded magic of enlargement are felt not only in policy-making but in Turkish domestic politics too. The EU no longer represents the umbrella under which diverse political animals find joint refuge. Even Kurdish activists, formerly the most ardent supporters of Brussels, are disappointed. They see political conditionality as too feeble an anchor as Europe has no common standards on issues they hold dear such as cultural rights and linguistic autonomy. As a consequence, Turkey is living through times of acute political polarization. Nowhere is this clearer than in the search for a new constitution. The new constitution is currently being discussed by a Constitutional Conciliation Commission including three members from each of the four political parties represented in parliament. They are supposed to agree on a draft by consensus. But in view of the current climate of polarization, the prospects of reaching an agreement are close to nil. Neither is it likely that the four parties will reach agreement by consensus, nor is it reasonable to expect that two parties – the AKP and the CHP – will agree on a text to be put to referendum.⁵

Turkish reformers still remember vividly that it was under the EU's impulse that Turkey engaged in the most radical and at the same time

⁴ The former being an alleged clandestine ultranationalist group that aims to overthrow the AKP government, and the latter a military-inspired coup plot against the government.

⁵ The two parties would have a sufficient number of parliamentary seats to put a draft constitution to referendum and could conceivably also agree on a joint text. But the climate of distrust and polarization in Turkey is such that this is generally viewed as highly unlikely.

consensual reform of its political system, including, among others, the abolishment of the death penalty, the eradication of torture, the expansion of the freedoms of expression and association, and the legalization of the use, broadcasting, and private education in Kurdish. Liberal reformers watch Turkey's political evolution with concern, fearing that the culminating moment of Turkey's democratization – the new civilian constitution – will end up in a flop. While recognizing that the principal impulse in Turkey's political reform process is domestic, many yearn for the long-lost EU political anchor.

For its part the EU, at least institutionally, remains committed to the process, if not the goal, of enlargement to Turkey. Members that oppose Turkey's membership are in minority; for every sceptic in the Council there's a pro-Turkish country. And with Hollande's election last May, France has moved from being the staunchest of opponents, to a neutral position. The problem is that opposition is firmly rooted in broad-based public scepticism. Since the launch of Turkey's accession process, many Europeans have raised concerns about Turkey's EU membership in relation to a wide range of issues, from immigration, budget and agriculture, to institutions, borders and identity. Hence, the worries that Turkey's membership would give way to a new influx of Turkish immigrants into the EU, would strain the EU budget and agricultural policy, and would alter beyond recognition the EU's institutional balance, borders and identity. Lately, sceptics have pointed at Turkey's lackluster democratic performance, conveniently forgetting the fact that the EU might be complicit in this story. Many, including ourselves, have contested these arguments, believing that Turkey's membership could strengthen the EU economically, strategically as well as politically and ideationally. But the persisting diffuse scepticism of Turkey's EU membership goes far in explaining why the majority of EU member states that officially support Turkey's EU membership have been less active than the vociferous minority against it.

Making matters worse, opposition to Turkey's EU membership risks aggravating as crisis-ridden Europe is cast into the throes of populism, nationalism and euroscepticism. Currently, the Turkey question has dropped off the public agenda. With the stalling of the accession process and the EU absorbed in its internal battle for survival, Turkey is rarely discussed in the context of enlargement. These days pundits talk of Turkey in relation to its Middle East neighborhood, with Syria's civil war topping the list and Iran occasionally making rounds, not EU

accession. As the Eurozone crisis gives way to a period of political uncertainty in which mainstream parties are weakened – and at times swept away – by political extremes, were Turkey’s accession process to regain momentum, it could easily fall prey to a reenergized tide of populist opposition. More generally, a crisis-stricken Europe has an even lower appetite for enlargement.

A EUROPEAN TURKEY RISES FROM ITS ASHES

Yet this is all yesterday’s news. Truth is that both Turkey and the EU might in fact be entering a whole new phase. Scratching beneath the surface, the Eurozone crisis could present a unique opportunity to revitalize the moribund EU-Turkey relationship. The crisis has brought about an unprecedented acceleration in European integration, which would have been unthinkable just a few years ago. While lagging behind the curve, a long list of stabilization measures – the European semester, the six-pack, two-pack, fiscal compact and the European Stability Mechanism Treaty – all aim at curing the vices of the monetary union, ensuring that no crisis of today’s magnitude will hit the European continent again. The Union is left struggling with the current crisis. To exit from it, it is now bargaining about a banking union which is an important step towards sharing liabilities and therefore merging political authority. Yet all parties involved seem well aware that this must lead also to a genuine fiscal union, that is the issuance of common debt and the eventual establishment of an EU treasury, with the ability – however limited – to tax and spend. One step further, German Chancellor Merkel tirelessly reminds that a banking and fiscal union, lying at the very heart of democratic government – can only be possible with the construction of a political union.⁶ Moving towards joint decision-making on issues lying at the core of sovereign democracies presupposes that EU institutions become genuinely legitimate, accountable and participatory. In short, the Eurozone, with all the stops and starts endemic to EU politics, is slowly moving towards a federal union or at the very least an increased federalization of its policies. If the Union is to exit the crisis, it can only do so in a federalist direction.

⁶ Dullien, Sebastian, and Torreblanca, José Ignacio (2012), “What is a Political Union?”, *ECFR Policy Brief*, No. 70, December, http://ecfr.eu/content/entry/what_is_political_union

The snag is that not all are onboard the federalist bandwagon. Question marks hang over Sweden and the Czech Republic. Most seriously, it is the United Kingdom that represents the major fly in the ointment of a Union that monolithically moves towards a federal end-point. It is in fact next to impossible to imagine Great Britain entering a banking, fiscal and political union in the foreseeable future. Alas, far more likely, is the UK's withdrawal from the European Union altogether, despite Prime Minister David Cameron's intention to keep the country in but wrestle back a range of concessions from Brussels. The "Catch 22" posed by the unavoidable move towards a federal Eurozone, alongside the lack of EU-wide consensus over precisely that end point and the desirability of keeping the naysayers in the EU club, opens a long, complex but quintessentially necessary debate on the future of the Union. That debate has only just begun and can be reasonably expected to last for the best part of the decade to come.

That very debate and the future European Union that will emerge from it will have critical implications not only for current members, but for those on the membership queue, including Turkey.⁷ Unlike the case of the Western Balkans, the Turkish question in Europe is one of whether, not of when Turkey will accede. As such, the future shape of the EU may end up tilting the balance one way or another. The future Union may become more accommodating of Turkey in its fold.⁸ The prospects of a post-crisis Europe may offer that glimmer of light at the end of the tunnel of Turkey's beleaguered accession process. Below we outline some of the major variables that will determine whether and how the future Union could become a more hospitable home for Turkey.

The model: concentric circles, daisies and spaghetti bowls

One key variable is what kind of model the future EU will follow. Three stylized alternatives are a concentric circle, daisy-shaped or spaghetti

⁷ Becher, Dimitar (2012), "The Periphery of the Periphery: The Western Balkans and the Euro Crisis", *ECFR Policy Brief*, No. 60, August, http://ecfr.eu/content/entry/the_periphery_of_the_periphery_the_western_balkans_and_the_euro_crisis.

⁸ See chapter 1 by Kemal Derviş in this book. For a similar argument see Aktar, Cengiz (2012), "Turkey's Place in a Multi-speed Europe", *Today's Zaman*, 31 October, <http://www.todayszaman.com/columnist-296748-turkeys-place-in-a-multi-speed-europe.html>; and Lagendijk, Joost (2012), "Which EU to Join?", *Today's Zaman*, 6 November, <http://www.todayszaman.com/columnist-297324-which-eu-to-join.html>.

bowl EU. A first and most frequently discussed model is that of concentric circles. The idea is not new, but has been revived and given concrete meaning by the Eurozone crisis. In this scenario, while the Eurozone moves in a federalist direction, the outer circle of non-Eurozone members would continue to participate in the single market. Taken to its natural conclusion, the federal core would integrate not only in the economic realm, but also in other areas, namely, justice and home affairs and possibly foreign and security policy (though, in all fairness, it will be a weakened version thereof in Britain's absence). Ideally all members of the Eurozone would also be members of Schengen, and the same group would federalize their foreign and security policies along the lines proposed by eleven member state foreign ministers in September 2012.⁹

In this scenario, enlargement to Turkey, whereby Turkey would participate in the Union's outer circle in the company of current members such as the United Kingdom, the Czech Republic, Poland and Sweden, as well as future members from the Western Balkans may become easier. Insofar as today's opponents of Turkey's accession would most likely fall predominantly within tomorrow's core, opposition to Turkey's membership of the outer rim would likely reduce significantly. However, this scenario also risks meeting severe resistance both from other members of the outer circle and from Turkey itself. Fellow outer circle members, from Poland through Romania and Bulgaria all the way to the Western Balkans, may consider Turkey as deadweight in the club, permanently relegating them to the outer rim and curbing their aspirations to converge with the prosperous and well-governed countries in the core. Not to mention Poland's ambition to be in the first-class carriage and even be equal to senior stakeholders as France and Germany. Turkey, for its part, while more comfortable in retaining many of its sovereign prerogatives in the outer circle, may also resent not sitting at the top table. The day Turkey discovers that it is handed down decisions on, say, the Single Market taken by the Eurozone it may well regret the bargain it opted for. The fact that top EU posts would most likely be reserved to members of the core won't make things better. Membership of the outer rim may be viewed as the realization of the much despised "privileged partnership". Pro-reform constituencies in Turkey (or in the Western Balkans, for that

⁹ Rettman, Andrew (2012), "Ministers call for stronger EU foreign policy chief", *EUobserver*, 18 September, <http://euobserver.com/institutional/117581>.

matter) might be equally let down: semi-detached membership could mean that Brussels institutions' transformative power is diluted.

A second option is that of a Union developing as an integrated core with hub-and-spoke relationships with a number of countries on the periphery: a daisy-shaped EU. Designed as a parking place to keep the ever-drifting United Kingdom linked to the Union, MEP Andrew Duff has recently put forward the concept of associate membership.¹⁰ The proposal is that at the next general revision of the EU treaties a clause would be inserted to current Article 49 on accession. Article 49 a would foresee associate membership, which in turn would imply full compliance with the norms and values of the EU (Article 2) but not full adherence to its policy objectives, activities and institutions. Participation in institutions would reflect the actual policy areas in which the associate member would buy into. Hence, for instance, participation in EU trade policies and the single market would come with representation in the European Court of Justice but not necessarily in the Commission or the European Parliament, where instead national-EU level regular dialogues would be institutionalized. Within this category of associate members, Duff foresees, alongside the United Kingdom, countries such as Norway and Switzerland, and, unsurprisingly, Turkey. A related idea is that of "virtual membership", a notion proposed in the 1990s for the Western Balkans,¹¹ revived, but never realized, in the early discussions over the European Neighbourhood Policy,¹² and recently put forth as a means of avoiding a hard landing in EU-Turkey relations.¹³ As per an associate member, a virtual member would adopt only part of the *acquis*. In other areas of the single market there would be a process of *acquis* approximation, whereas on external and internal security policies, intergovernmental cooperation would prevail. Mirroring this arrangement, a virtual member, while participating in a number of EU

¹⁰ Duff, Andrew (2012), *On Governing Europe*, London, Policy Network, September, p. 68-70, <http://www.policy-network.net/publications/4257/On-Governing-Europe>.

¹¹ Emerson, Michael, and Gros, Daniel, eds. (1999), "The CEPS Plan for the Balkans", *CEPS Paperbacks*, July, <http://www.ceps.be/node/4230>.

¹² Prodi, Romano (1999), *Speech by the President of the European Commission to the European Institute*, Washington, SPEECH/99/220, 27 October, http://europa.eu/rapid/press-release_SPEECH-99-220_en.htm.

¹³ Ülgen, Sinan (2012), *Avoiding a Divorce. A Virtual EU Membership for Turkey*, Brussels, Carnegie Europe, December, <http://www.carnegieendowment.org/2012/12/05/avoiding-divorce-virtual-eu-membership-for-turkey/eqcm>.

programmes and agencies, would be granted only observer status in most EU institutions.

A daisy-shaped Europe featuring an integrated core alongside a number of associate or virtual members may end up being a more accurate description of the concentric-circle model described above. Members of the outer rim, precisely in view of their looser integration and more jealously guarded sovereignty, would probably not form a cohesive bloc. Much like the UK is currently attempting to do through its somewhat fanciful ‘balance of competences’, each member of the outer rim would strive to pick and choose (and then of course negotiate with the core) which elements of the EU they would partake in. Depending on their different contexts, demands and bargaining powers, their relationship with the EU would differ. Even more so than the model of a concentric circle Europe, an associate or virtual Turkish membership would in all likelihood eliminate any source of Turco-scepticism within the Union. Turkey’s associate membership would become infinitely easier institutionally, economically, socially and above all politically.

The snag is that even more than membership of an EU outer-rim, an associate or virtual membership would in effect give content to the “privileged partnership”, an idea whose merits could have been hypothetically discussed were it not for the fact that it is completely tainted politically by now. Precisely for this reason, the idea of associate membership has recently been rejected by the European Parliament plenary. Another disadvantage would be that associate membership would probably not suffice for the EU anchoring Turkey so badly needs. True, an associate member would be called upon to fully espouse the norms and values of the Union, and thus to comply with the Copenhagen political criteria. True also, in the Turkish case, full anchorage today may no longer be an option calling for second best instead. But the very fact that the associate member would adopt only a specific portion of the *acquis* could end up meaning that also its adherence with the EU’s underlying values would be partial. Pick-and-choose rather than full anchorage with the end result of Turkey’s reform process possibly remaining largely off-track.

A third stylized model is that of a multiple cluster “spaghetti bowl” EU. As recently argued by Timothy Garton Ash,¹⁴ it is unrealistic to

¹⁴ Garton Ash, Timothy (2012), “Britain is standing on a ledge, while Europe screams, ‘Don’t do it!’”, *The Guardian*, 21 November, <http://www.guardian.co.uk/com->

imagine a neat single core EU. Echoing the world of IT, he pushed forward a dual-core concept: the Eurozone as the first core would proceed along federalist lines while the second core consisting of foreign and security policy. In this second core, Garton Ash, a rare Europhile in today's British commentariat, sees a role for the United Kingdom and not, for instance, necessarily one for Germany. Following the same reasoning as applied to the UK, Turkey too, while not entering the federal Eurozone, could participate as a valued member of the foreign and security policy core. Extrapolating this dual core model one step further one could picture an EU of multiple and only partly overlapping clusters of which the Eurozone, the Schengen area and the foreign policy core would be the three prime ones.

From a Turkish perspective, this model is probably preferable than the alternatives delineated above. The absence of a single core from which Turkey would be excluded would dissipate any suspicion that Ankara is being relegated to a second-class membership. At the same time, Turkey, which would stay clear of the federal core, would revel in retaining many of its sovereign competences. Yet at the current juncture, this model appears least likely. For a start, it would represent the most complex solution to the future of Europe. Particularly thorny would be the settlement of institutional questions. In this scenario, ideally member states would have a voice and a vote in those communities and areas of EU policy in which they belong. But precisely which core/s would be represented in which EU institutions? If all member states were represented, would they have a voice and a vote also on EU policies in which they do not participate? If not, who would participate and on what basis? Furthermore, regardless of the logic of having the United Kingdom and Turkey in the foreign policy core, it is by no means self-evident that this would be the case. If the Eurozone core federalizes into an economic and political union, it would seem logical that such a political union would also integrate further in the foreign policy realm. Indeed nine of the eleven foreign ministers calling for such deeper integration are currently in the Eurozone, with only Denmark and Poland falling outside. Conspicuously, the United Kingdom refrained from signing the September 2012 Foreign Ministers' letter.¹⁵ And if indeed the United Kingdom were to be excluded from the foreign policy cluster, wouldn't its intrinsic value dramatically

mentisfree/2012/nov/21/budget-summit-dual-core-europe.

¹⁵ Rettman (2012), "Ministers call for stronger EU foreign policy chief", cit.

reduce? Last but not least, the Union's prime asset in foreign policy is the enormity of its Single Market with many third countries, lately the almighty US too, coveting privileged access. Decoupling economic governance (Core 1) from foreign policy (Core 2) is good in theory but makes little sense for "civilian power Europe".

The membership: contingency and value

The future model of the European Union will emerge as a result of a complex, protracted and highly contested debate. Many of the answers will be determined by contingency and the actual shape the Union will go about taking in the period ahead. Pivotal in this respect is the question of membership. Depending on which member states will participate where, the EU is more likely to edge towards one model or another. If, for instance, Poland eventually enters the Eurozone in the next couple of years, following the example of Slovenia, Slovakia, Estonia and perhaps Latvia too, then the likelihood of a concentric circle Europe would probably increase.

The way in which member states will relate to the Eurozone in the years ahead will also determine the actual value of various models for future members, *in primis*, Turkey. If, for instance, Poland, the Czech Republic and Sweden were to eventually enter the Eurozone, then the outer circle would be left with the United Kingdom as the only country of significant weight. Would membership of an outer-rim in which there would be only two major states – the United Kingdom and Turkey – be an appealing prospect for Turkey? And what if the United Kingdom were to leave the European Union altogether, a prospect which, irrational as it may seem in a twenty-first century multipolar world, risks becoming reality were the UK to proceed with a referendum on the outcome of the next constitutional convention? Membership or associate membership of an outer rim that excludes the United Kingdom would most likely be snubbed by Turkey reinforcing the parallelism between associate membership/outer-rim and privileged partnership.

The method: choice or imposition?

A final variable regards the method through which the EU would develop into one model or another. The key question here is whether membership of the outer-rim, associate membership or membership of particular clusters (and not others) would be the result of choice or of imposition. Who would determine in which precise configuration any

particular member state would belong? In the case of a multiple cluster Union, member state choice rather than other members' imposition is likely to prevail. Given the absence of a single centre, it would be up to each individual member state to choose to belong to a given slice of the EU, and their membership would be result of successful negotiations over accession to that chosen slice.

Were instead the EU to develop into a concentric circle or daisy-shaped Union, would the core have ultimate say over who's in and who's out? Were an integrated core the final arbiter over future enlargements (of the core itself) which would keep Turkey out regardless of the latter's willingness and ability to enter, then membership of anything but the core would be snubbed by Turkey as yet another instance of EU discrimination. If instead membership of the core were genuinely open to all EU members able and willing to accept, adopt and implement the core's norms and rules, then Ankara, jealously guarding its sovereignty, would probably opt out, even if this were to mean abdicating on sitting at the top tables.

A third option lying in between choice and imposition is that of dynamic negotiation between core and periphery, associate members or clusters as may be. Indeed such a dynamic process would capture what in all likelihood would not be fixed models set in stone. A virtual or associate member could hypothetically move into a cluster and perhaps even into the core. As and when it does, the overall shape of the Union could change as a consequence. If the method is one of dynamic negotiation, models would be permeable, with countries such as the United Kingdom or Turkey shifting from one category to another.

MAKING IT HAPPEN

All this talk about EU variable geometries and their implications for Turkey may appear fanciful at best. At the end of the day, while the most acute phase of the Eurozone crisis is (hopefully) over, exiting the crisis altogether and doing so with a wholesale new Union is the project of the next decade. And no Turkey-watcher believes that the current stalemate in EU-Turkey relations can linger for the next ten years without risking a bitter divorce. Many in and out of the Turkish government now openly say that we have no more than a three-to-four year horizon before Turkey walks out on the Union, unless something dramatic happens in

the meantime. The “positive agenda” launched by the Commission last year is simply not thick enough to alter the cost-benefit calculus at the heart of Turkish domestic and foreign policy making. Some even say that opening one or two accession chapters, while crucially important, will no longer do the trick to reenergize Turkey’s membership bid.

Is there simply an unbridgeable time gap? A post crisis Europe may end up being a more hospitable place for Turkey, but will it come about too late? We believe not. What Turkey needs today is a European vision. An organic and active participation in the European-wide conversation over the future of the Union can provide just that. As outlined above, different models, memberships and methods of the future EU will have different implications for Turkey, some of which would be preferable to others from Ankara’s vantage point. In view of this, it is in Turkey’s interest to participate actively in this debate now that it’s in the offing, rather than sulking passively at the margins. As Kemal Derviş suggested in a recent meeting, the symbolic impact of the Turkish government inviting its British and Swedish counterparts to Istanbul to discuss the future of Europe would be infinitely higher than the opening of a single accession chapter.¹⁶ Important as the latter may be, it simply does not grab headlines anymore. For Turkish elites to take the initiative and in so doing being actively part of the European family is of the essence. True, it is unlikely that the government will take up the initiative as it would view this as a step backwards from the position that full membership on the basis of equal treatment and a fair accession process is the only politically acceptable goal. Rightly so. But it is up to think tanks, academics, civil society, and public intellectuals to pay much closer attention to the EU’s internal transformation and try to work out implications for Turkey. The intellectual debate in Turkey on the EU has become sclerotic with the waning of the accession perspective and public priorities shifting elsewhere. It is time for the pendulum to swing back, through rethinking afresh opportunities and threats arising from what the EU is going through at the moment.

It is equally important for the EU, meaning not just political elites and formal institutions but also all diverse constituencies who have a stake in the transformation, to bring in Turkey fully into the debate were this

¹⁶ Global Turkey in Europe Conference, Brussels, 5 December 2012, organised by Istituto Affari Internazionali (IAI), Istanbul Policy Center (IPC), Mercator Foundation and German Marshall Fund of the United States (GMF).

to be institutionalized in the coming years through a new constitutional convention ultimately leading to treaty changes and ratifications. Doing so would create a genuinely political process and contribute to a pan-European public space, which the accession process – less still the “positive agenda” – so badly lacks. Above all, engaging Turkey in the conversation on the future of Europe could provide a vision to reignite momentum in Turkish-European ties and re-anchor Turkey to the Union.

3.

EU-Turkey Relations: A Glimmer of Hope?

Dimitar Bechev

Ties between the EU and Turkey have hit such lows over the past few years that even marginal improvements now almost carry a whiff of a breakthrough. As Cyprus takes up the Council presidency we are, rather paradoxically, on an upward trajectory.

The reason is fairly straightforward: it has to do with the arrival of François Hollande at the Elysée. Under Nicolas Sarkozy, France was the undisputed leader of the Turkey sceptics in Brussels; it unilaterally froze as many as five chapters in the accession talks with Ankara. Sarkozy captured the centre-right sentiment in France, Germany and elsewhere on the continent, by famously stating that Turkey was a great country, but not a European one. The volume of bad blood flowing between Paris and Ankara peaked last December when the French National Assembly passed a law criminalizing the denial of the 1915 Armenian genocide. What ensued was an outpour of anger in Turkey. Ankara threatened sanctions, though in reality it did little to act upon its threats, its hands tied by the commitments undertaken in the 1996 Customs Union with the EU. Such tensions explain why Turks applauded Hollande as he emerged victorious in the presidential race. The past months have seen frictions subsiding. Even without a single French veto lifted in the membership negotiations, official rhetoric has changed. France's socialist leader diplomatically points out that the question of whether Turkey joins the EU or not will not be solved within his term – and that, when the moment comes, it will be up to French citizens to decide in a referendum. Luckily for him, even prior to the presidential vote, the French Constitutional Court overruled the genocide criminalization act as infringing on the right of free speech. Hollande did promise to introduce fresh legislation on the Armenian issue in response to pressure from the 500,000 strong Armenian community, but has been vague on the details. In reality, the Constitutional Court's judgment provided both sides with cover to reach out to one another. Foreign Minister Ahmet Davutoğlu's trip to Paris in

July 2012 was cheered as a success, not least because of the meeting of minds over Syria.

The improvement in Franco-Turkish ties coincided with a push from Brussels to step up beleaguered EU-Turkey relations. On 17 May, Enlargement Commissioner Stefan Füle inaugurated in Ankara, together with Turkey's Europe Minister and Chief Negotiator Egemen Bağış, a "Positive Agenda". This new Commission initiative is meant to assist harmonization of Turkish legislation in policy-areas where negotiations are frozen. The Positive Agenda is essentially an institutional trick intended to circumvent the Cyprus issue, the paramount obstacle on Turkey's enlargement track. The Commission's entrepreneurship would not have been possible without critical support from the EU Council. German Foreign Minister Guido Westerwelle, one of the pro-membership voices in the Council, called on Turkey not to suspend ties with the Union during the six months of the Cypriot Council presidency. "We should be rational, not emotional. We should not miss our goal", he said. On 28 June, he co-wrote along with 15 EU foreign ministers (excluding Laurent Fabius of France, but predictably including all the usual suspects like UK, Italy, Spain, Sweden and the Central and East European countries) a joint op-ed calling for reigniting the accession process.

The positive momentum goes beyond symbolism. In July, Turkey and the EU initialled a readmission agreement, a long-standing demand from Brussels, given the scores of illegal migrants pouring daily into the Schengen area across the Turkish-Greek border. Turkey has been conditioning its acquiescence on an EU roadmap specifying steps and conditions towards the lifting of visas, as was done for the Western Balkans. Almost unnoticed, the EU Council took a crucial step forward on 21 June by mandating the Commission to kick off work on such a roadmap. Even Cyprus, which had formerly expressed reservations, supported the motion. A grand bargain in which Turkey strengthens its border controls, undertakes institutional reforms in line with the *acquis* and starts accepting the return of third-country nationals in exchange for visa-free travel is certainly a win-win scenario for both parties. For all its newly found confidence and assertions that it no longer needs the EU, Turkey is still a demandeur in the area of free movement of people. The Union has a collective interest in obtaining Ankara's cooperation on curbing illegal flows, but also in overhauling Turkish policies on borders, migration and asylum. Clearly this is an opportunity worth taking up, even if it will take years before the process is completed.

Where this upturn in bilateral relations will lead is far from certain however. At the very least, the chances for a major crisis under the Cyprus presidency are diminishing. Initialling the deal on readmission was also a positive step. But there are still several open questions to consider. Firstly, will Turkey embrace the conditionalities embedded in the roadmap once the Commission delivers on its commitments? Will it put its final signature on the readmission agreement, the text of which has been ready for quite some time? What sort of a deal will the EU offer Ankara via the roadmap? Secondly, how realistic is it to expect the EU to unfreeze some of the negotiation chapters? The prospects of Turkey making the first move and allowing Cypriot aircraft and ships into its ports are as negligible as ever. With the Eurozone crisis in full swing, the French leadership has plenty on its plate and is unlikely to unblock negotiation chapters, risking a right-wing backlash. The worst deadlock might be over, but the real breakthrough is not yet in sight. Much depends, no doubt, on the outcome of the general elections in Germany in 2013 and whether a prospective SPD-dominated coalition, in cooperation with Hollande, steers EU-Turkey relations in a positive direction.

This brings up the less than comfortable truth that Turkey and the EU have simply less time for one another these days. Turkey is concerned with issues like the political demands of the Kurdish community and the civil war in neighbouring Syria, on which the EU is of little relevance (unlike individual member states, of course). The EU, for its part, faces the most profound and debilitating challenge to its existence since the inception of European integration in the 1950s. Enlargement is not a top agenda item, to put it mildly. Even without Cyprus stirring up trouble, it will take a lot to restart EU-Turkey relations and recover at least some of the upbeat mood of the mid-2000s.

4.

Boosting Negotiations with Turkey: What Can France Do?

Ahmet Insel

THE STALLED STATE OF TURKEY'S ACCESSION PROCESS

Negotiations with a view to Turkish accession to the European Union officially began in October 2005, at the same time as negotiations with Croatia. With the 35 chapters of the Union *acquis* having been closed in June 2011, Croatia's Accession Treaty was signed six months later in Brussels in December 2011. Croatians voted in favour of accession by two to one in the referendum in January 2012. Croatia will become the 28th member state of the European Union in July 2013.

The picture is very different as far as the Turkish accession negotiations are concerned. In autumn 2012, just 13 chapters had been opened, and only one provisionally closed. The last chapter was opened in July 2010. Since then, negotiations with Turkey have been stalled.

Several factors have contributed to blocking the negotiations. The most important from a procedural point of view is the Cyprus conflict. In July 2005, at the time of the signature of the Additional Protocol to the 1963 Ankara Agreement, Turkey made a unilateral declaration of non-recognition of the Republic of Cyprus. In response to this declaration, the EU adopted a declaration recalling the principle of recognition by all member states. In December 2006, Turkey maintained its refusal to open its ports and airports to ships and aircraft carrying the Cypriot flag. In the face of this refusal to grant benefit to a country which is part of the EU-Turkey customs union, the European Council decided to freeze eight negotiation chapters and no longer to close any open chapters. There has been no significant change in this position for six years.

During the Cypriot EU Presidency in the second half of 2012, Turkish relations with the European Council have been officially frozen by Ankara. In the context of the Positive Agenda launched by the European

Council in December 2011, it has been possible to maintain contacts in the mixed EU-Turkey working groups also during the Cypriot Presidency. Nonetheless, as long as it does not lead to a solution recognized by the three parties (Cyprus, Turkey and Greece), the Cyprus problem is capable of definitively blocking the process of Turkish accession. But this problem is not the only obstacle to the pursuit of negotiations.

Ten other chapters are currently blocked for political reasons by four countries, namely Cyprus, France, Germany and Austria. Of these four, the latter two member states have clearly announced their refusal to open the chapter on free movement. France, on the other hand, refuses to open five chapters, for the reason that the opening of these chapters would amount to a commitment to accession. With this line of argument, France has unilaterally and *de facto* created a new procedure for accession negotiations without any prospect of accession.

For its part, Cyprus officially announced in 2009 that it would oppose the opening of six chapters, of which two are also blocked by other member states. Officially Cyprus is not opposed to Turkey's accession *tout court*, unlike France. At the moment, no member state of the EU, with the exception of France, has pronounced itself against Turkish accession for reasons of the non-European nature of that country.

In conclusion, only three chapters in the negotiation basket are today capable of being opened. They concern public procurement, social policy and employment. Three chapters which the Turkish Government is not keen to open, given that, isolated from the blocked chapters, their opening would lead to a weakening of the competitiveness of the Turkish economy. Hence, no chapter has been opened since that on food safety, which was opened during the Spanish Presidency in 2010, see table 4 below.

**Table 4 | Summarizing negotiation chapters with Turkey
as of October 2012**

Chapter open and provisionally closed	Science and research
Chapters open for negotiation	Free movement of capital; Company law; Intellectual property law; Information society and media; Food safety, veterinary and phytosanitary policy; Energy; Statistics; Enterprise and industrial policy; Trans European Networks; Environment and climate change; Consumer and health protection; Financial control.
Chapters whose opening is opposed by one or more Member State	Freedom of movement for workers; (Agriculture); Economic and monetary policy; Regional policy and coordination of structural instruments; (Justice, freedom and security); Financial and budgetary provisions; Institutions.
Chapters blocked at the European Council in 2006	Free movement of goods; Right of establishment and freedom to provide services; Financial services; Agriculture; Fisheries; Transport policy; Customs Union; External relations.
Chapters blocked by Cyprus	(Freedom of movement for workers); Energy; (Regional policy and coordination of structural instruments); Judiciary and fundamental rights; Justice, freedom and security; Education and culture; Foreign, Security and Defence Policy.
Chapters capable of being opened	Public procurement; Competition policy; Social policy and employment.

Note: Chapters in brackets indicate the existence of several decisions of blocking.

The lifting of the blockage on the opening of the eight chapters by the European Council is conditional on a softening of the Turkish position regarding the closure of its ports and airports to the Republic of Cyprus. By now, however, the opening of Turkish ports and airports may not be sufficient to bring about a change in the Cypriot position. Without a definitive agreement between the Greek Cypriot and Turkish Cypriot communities, the Cypriot Government would demand as a preliminary condition the recognition by Turkey of their state as it is recognized by the international community, i.e. with sovereignty over the northern part of the island. Given the stalled state of negotiations between the two communities, it is not possible to hope for a rapid solution to this problem, which has lasted for what will soon be 40 years.

In the face of such a pessimistic state of affairs, one could effectively come to the conclusion that the debate on the pursuit of accession negotiations is vain, insofar as around 12 chapters are prisoner to the Cypriot conflict, a solution to which cannot be seen within a foreseeable timeframe. This argument encapsulates, without overly caricaturing, the position of those who are opposed to the very idea of Turkish accession for existential reasons and playing to populist tendencies. But it can also be argued that progress in negotiations with Turkey is perhaps the last chance for a breakthrough on the Cypriot conflict. If this hypothesis is correct, then the opening of those chapters which are blocked for reasons having nothing to do with the conflict could be beneficial in more than one way. Seen in this way, it becomes necessary to address the motivations which have led certain European states to oppose unilaterally the opening of certain chapters with Turkey. The position of France, particularly during the presidency of Nicolas Sarkozy, is, for reasons of its scope, the arguments used to support it and its explicit nature, the most interesting to study.

FRANCE AS THE LITMUS TEST FOR TURKEY'S EUROPEAN FUTURE

The French case illustrates perfectly the process of deliberate politicization of the issue of Turkish accession, which has over the long term the effect of a self-fulfilling prophecy. Understanding this process seems important to us in order to better grasp the possibilities available to the new French President and the socialist/green coa-

lition government to work towards the unblocking of the Turkish accession process.

The politicization of the Turkish question in France

In an article published in 2009, Claire Visier showed how in France the process of the politicization of a communitarian problem – such as Turkish accession – was transformed into a European problem.¹ The debate started in November 2002 with the publication in *Le Monde* of an interview with Valérie Giscard d’Estaing, at the time President of the Convention on the Future of Europe. In this interview, Giscard d’Estaing stated unequivocally that “Turkey is not a European country”. This was not at that time the official position of France, but quite the contrary. The interview was published at a crucial juncture, ten days after the presentation to the Convention of a framework text trying to reconcile federalist positions with positions supporting an intergovernmental union. Moreover, the entry of ten new member states was due to be confirmed by the European Council and to take place one month later. By raising the Turkey question, Giscard d’Estaing fueled a debate on the EU’s constitutional treaty that had hitherto been confined to rather technical and institutional questions and that did not have the popular support necessary for its eventual acceptance. That is why, since 2001, he tried to push the debate on the “European project”, its identity, its leadership, its roots and so on, by provoking and organizing debates on such themes.

It should also be noted that the interview with *Le Monde* took place days after the announcement of the results of the legislative elections in Turkey (3 November 2002), which had, to general surprise, given the Justice and Development Party (AKP), whose leadership emerged from the political Islam movement, a two-thirds majority in Parliament. In such a context, according to Claire Visier, “it could be argued that, through recourse to the Turkish question, V. Giscard d’Estaing was trying to (re-) anchor the European Union in a purely political dimension, and thus to regain a legitimacy proper to the political realm.”² Abandoning the technical discourse of Brussels and adopting a simple style of argument appealing to good common sense, he predicted the “end of the European Union” with Turkey having the largest parliamen-

¹ Visier, Claire (2009), “La Turquie: objet de politisation, instrument de politisation”, *European Journal of Turkish Studies*, No. 9, <http://ejts.revues.org/index3709.html>

² Ibidem, p. 5.

tary delegation to the European Parliament and “Morocco knocking legitimately on the door” behind her. The geographical argument completed the demographic one.

Giscard d’Estaing’s attempt succeeded perfectly. European media reacted immediately to this unconventional position, and politicians realized the issue’s potential to mobilize and provoke conflict. The Turkish question gradually emerged as decisive in terms of European issues in the national competition.³ Not only in France. In Austria, Holland, and, to a lesser extent, Germany, the issue of Turkish accession inspired electoral mobilization. Nevertheless, it was in France that the Turkey debate triggered significant institutional consequences. The ability of the issue to mobilize was quickly shown first of all by the competition which emerged between right-wing parties. *L’Union pour la Démocratie Française* (UDF, Christian Democrat) and Philippe de Villiers’ small nationalist radical right movement *Mouvement pour la France* (MPF) found in this issue a rich political vein to distinguish themselves from the party in power, *L’Union pour un Mouvement Populaire* (UMP). The extreme right party, *Le Front national*, would join this competition later when it had understood the political value of the issue in the growing climate of islamophobia. Under this pressure and with a view not only to the European Parliament elections of June 2004, but also to the preparations for the French presidential elections of 2007, in April and May 2004, the leadership of the UMP brought about an extreme change of position regarding Turkey’s candidacy. In April 2004, the idea of privileged partnership was articulated by the President of the UMP, Alain Juppé, who previously had been an active supporter of Turkish accession. President Chirac, almost alone among his party, stuck to the French course of pro-Turkish accession. To satisfy his party, he was nevertheless obliged to adopt, on 1 March 2005, an ad hoc referendum clause in the French constitution for any new member state to be accepted to the European Union. The governmental majority of the time was hoping to reduce the impact of the campaign against the European constitutional treaty, which was put to a referendum in France in May 2005. It should be noted that Article 88(5), introduced into the French constitution, was drafted in such a way as to avoid a referendum for the ratification of Croatia’s accession. Nevertheless, this

³ Ibidem, p. 7.

last-minute constitutional measure, intended to obtain a majority in favour in the referendum, did not produce the desired result.

Two years were sufficient for the emergence of a political majority in France supportive of the idea that “Turkey is not European”. At the same time, the question of Turkish accession gradually grew independent of those who constructed it as a means of political mobilization. In the face of the success of this effort at politicization, argued Claire Visier, from 2004 onwards the question has established itself as a lasting issue in French politics. One would find, for example, at the time of the referendum campaign on the European constitution in 2005, supporters of the “double no” – no to Turkey and no to ratification – in the camp of both the right and the left. “From accession to privileged partnership, leaving all options open” would be the leitmotiv of the majority of the political class, including François Hollande, then Secretary-General of the Socialist Party. Other socialist grandees, such as Laurent Fabius, would be supporters of the “double no”.

It is in this period that talk about a privileged partnership, as a substitute to full membership, was first proposed by Angela Merkel, during the future German chancellor’s visit to Turkey in 2004, and was immediately backed by V. Giscard d’Estaing and Nicolas Sarkozy. The precise content of such a proposal was however never spelled out.⁴

The question of the place of Turkey was an important political issue for Nicolas Sarkozy’s candidacy at the time of the presidential campaign of 2007. Once elected, he declared that Turkey’s entry would be “the end of political Europe”, and unilaterally decided to block five negotiation chapters which would commit, in his view, to accession. Among these five chapters, Chapter 11 on agriculture and rural development figured on the list of chapters whose opening was blocked by the decision of the European Council. The French position on this issue did not evolve during the presidency of Nicolas Sarkozy, and helped to cause the marked deterioration in bilateral relations between France and Turkey.

A second factor contributed to the degradation of bilateral relations, namely the two attempts at a law criminalizing denial of the Armenian genocide. On the first occasion, although passed in 2006 by the lower house

⁴ For a critical analysis of the “privileged partnership” see Gürsel, Seyfettin, and Dedeoğlu, Beril (2010), *Türkiye-Avrupa Birliği Sarmalında Ayrıcalıklı Ortaklık Eleştirisi*, [The European Union and Turkey: Criticism of the Privileged Partnership], Istanbul, Hoşgörü Yayınları.

of Parliament (*l'Assemblée nationale*), the law was not adopted because it was not submitted in time to the Senate. On the eve of the presidential elections in 2012, a parliamentary initiative launched by a member from the presidential majority placed the draft law, in slightly modified form, once again on the agenda of Parliament. Passed by the two chambers with unusual speed, the law was invalidated by the Constitutional Court (*Conseil constitutionnel*) this time despite the support of a long list of members of both houses across the political spectrum. Despite its failure, this second attempt was perceived by Turkey as an excessive instrumentalization of the Turkish question in Europe for electoral purposes, and as proof of an almost personal hostility on the part of the French President. Both the invalidation of the law by the Constitutional Court on 28 February 2012 and the defeat of Nicolas Sarkozy in the presidential elections of May 2012 have allowed for a slight improvement in Franco-Turkish relations since the summer of 2012.

How to boost negotiations with Turkey?

The question of whether or not Turkey has by now turned its back on Europe is a source of worry for some and satisfaction for others on the old Continent. It is true that for a few years now the gust of the wind of democratic reform, the heavy presence of authoritarian reflexes in the action of the Turkish government, the persistent human rights violations and the twists and turns of Turkish foreign policy, as well as recent speeches of Tayyip Erdoğan that signal a return to Islamo-nationalist politics, have given the impression of Turkey's turn to the East. It also seems that the AKP government and the prime minister himself are displaying a behavior towards Europe which is rather reactive than indicative of rejection. The almost infantile reactions of rejection which certain leaders of the AKP showed towards the latest progress report of the European Commission on Turkey seem to confirm this hypothesis of reactive bitterness. With the crisis in the eurozone, the questioning over the future of the Union on the one hand and the recent economic successes of Turkey on the other, the Turkish government is showing signs of abundant self-confidence.

In such a context, post-Sarkozy France can play a leading role in the resumption of accession negotiations with Turkey, and bring about a lasting normalization of bilateral relations between the two countries. For some years now, and particularly since the successive crises in the eurozone, the question of Turkey in Europe has lost a great deal of its

capacity for political mobilization. It should be noted that, at the time of the French presidential campaign of 2012, the issue was not one of great importance. Turkey was raised mainly in connection with the debate on the law on the criminalization of genocide denial. Even in this case, the debate centered much more on internal French politics than on Turkey.

François Hollande and the new government can today seize the window of opportunity opened in France by the presidential and legislative elections, which have showed a noticeable weakening of the capacity for mobilization of the Turkish issue. They can thus decisively contribute to re-dynamize accession negotiations with Turkey, and do away with the image of France in Turkey as the anti-Turkish shield of Europe.

In order to do this, François Hollande could announce an end to France's refusal to open the four chapters whose current blockage is entirely due to France (given that the fifth falls within the chapters blocked by the European Council as a whole). These are the chapters on economic and monetary policy (in relation to which, according to the Commission, very little remains to be done); agriculture; regional policy and the coordination of structural instruments (it is necessary to convince the Cypriot government to open this chapter); and financial and budgetary provisions. The opening of the chapter on institutions is in any case foreseen for the end of the negotiation process. The forthcoming Irish and Lithuanian Presidencies could provide a good opportunity to give a forceful signal of the resumption of the accession dynamic. If today within the member states of the EU dissonant voices questioning their country's membership of the Union and appealing for a distancing from it are gaining ground, the re-dynamization of Turkey's European perspective could bring a breath of fresh air to the composition of Europe. Turkey could be as European as the United Kingdom or Sweden, for example.⁵

The announcement of a change in France's position of principle would certainly act as a beneficial accelerator as much on the process of democratization in Turkey by means of the restarting of accession negotiations, as on bilateral relations between the two countries. The problem of the law on the criminalization of the denial of the Armenian genocide remains, however, unsolved. François Hollande announced after his election that he would ask the government to present once more a draft law on this issue. But the arguments relied on by the Constitutional Court

⁵ See chapter 1 by Kemal Derviş in this book.

to reject the previous law strongly reduce the chances of such a law being adopted. Instead of attempting the same thing for the n-th time, which would give an impression of paranoia capable even of harming the Armenian cause in the long term, a strengthening of the measure against hate speech could be more effective. It would also encourage Turkey, which is in even greater need of such a measure, to follow the example.

By getting rid of the dominant perception among Turks of France as the anti-Turkish shield of Europe, François Hollande and the new French government can produce a positive outcome simultaneously for Turkey, Europe and, of course, France.

5.

The Pivotal Relationship. German Doubts and the Turkish-EU Accession Process

Gerald Knaus and Christian Altfuldisch

Germany and Turkey have seen economic, cultural, and social ties grow ever closer throughout the 20th century. Given Germany's position within the EU, and in particular on all issues related with EU enlargement, as well as its large Turkish diaspora (the largest in the world), it is *the* central actor when it comes to Turkey-EU relations. During the past two decades a clear pattern has also emerged in which Turkey-EU relations are stuck whenever Germany was opposed to accession, and have moved forward quickly whenever German governments were supportive, not least since Germany has also influenced the French position on enlargement in the past.

Before 1998, the coalition of the Christian Democrat CDU/CSU and the liberal FDP under Chancellor Helmut Kohl opposed Turkey's EU aspirations, leading to a serious diplomatic fall out in 1997. The Social Democrat SPD/Green coalition under Chancellor Gerhard Schröder made it clear from the beginning that it would enthusiastically support a Turkish membership bid, encouraging the government in Ankara to push for candidate status in 1998 already under the German EU presidency (it then worked in Helsinki in 1999). It emerged as the driving force behind the EU's decision to start accession negotiations with Turkey in 2005. Between 2005 and today Germany was first governed by a Grand Coalition of the Christian Democratic Union (CDU/CSU) and the Social Democratic Party (SPD) under the leadership of Chancellor Angela Merkel, and then by another Merkel-led coalition of CDU/CSU and FDP. All enthusiasm was gone, but there was no crisis as in 1997 either.

Angela Merkel's position on Turkey – and on enlargement in general – has been a commitment to *pacta sunt servanda*. Thus, in September 2006 she noted:

“Turkey has been promised EU accession negotiations by a former German government, and that is why these accession negotiations are now being continued. [...] Negotiations are open-ended, but are being led in a fair manner. While the CDU and I personally prefer a privileged partnership of Turkey to membership, we are still reliable partners.”¹

Since 2005 official Germany has thus been lukewarm, in favour of the status quo of an increasingly slow-moving accession process, unwilling to use its weight in either Brussels, Paris or Ankara to help broker a breakthrough.

And yet, while the mood has soured, and mutual distrust has increased among senior leaders, the German-Turkish relationship has never been more central for both countries – nor more intense. By the end of 2012 an estimated 3 million people with a Turkish background permanently lived in Germany; half of those are German citizens, constituting an increasingly important electorate in a number of German cities.² Turkey’s tourism has been breaking records almost every year: here Germany is again the most important country, with 5 million German tourists flocking to Turkey in 2012.

As Turkey has seen its economy develop strongly, Germany has emerged as Turkey’s largest goods export market. In 2011, Turkish export of goods to Germany amounted to 14 billion USD. In the same year, Turkish import of goods from Germany amounted to 23 billion USD, making Germany Turkey’s 2nd largest supplier of goods. Turkish foreign direct investment (FDI) in Germany stood at 91 million USD while German FDI in Turkey was at 605 million USD (2011).³ In Germany itself, 75,000 ethnic Turkish entrepreneurs employ 370,000 people and generate an annual turnover of 35 billion Euros.⁴ Recently, European Energy

¹ Angela Merkel on ZDF TV, 28 September 2006. See ESI (2006), “The German Turkey Debate Under the Grand Coalition”, *ESI Discussion Paper*, October, http://www.esiweb.org/index.php?id=156&document_ID=94.

² German Ministry of Foreign Affairs website: *Foreign & European Policy-Bilateral relations-Turkey*, http://www.auswaertiges-amt.de/EN/Aussenpolitik/Laender/Laenderinfos/01-Nodes/Tuerkei_node.html.

³ Turkish Ministry of Economy website: *Countries & Regions-EU27-Germany*, <http://www.economy.gov.tr/index.cfm?sayfa=countriesandregions&country=DE®ion=8>.

⁴ German Ministry of Foreign Affairs website: *Foreign & European Policy-Bilateral relations-Turkey*, http://www.auswaertiges-amt.de/EN/Aussenpolitik/Laender/Laenderinfos/01-Nodes/Tuerkei_node.html

Commissioner Günther Ottinger, a German CDU member said that he “would like to bet that one day in the next decade a German chancellor and his or her counterpart in Paris will have to crawl to Ankara on their knees to beg the Turks, ‘Friends, come to us’”.⁵ So far few of his political colleagues in power in Germany agree. And yet, few people doubt that this is even today a central relationship for both countries, and one that is only going to become ever more important.

In October 2010 then Federal President Christian Wulff and President Abdullah Gül jointly laid the foundation stone for the new University, the German-Turkish University (DTU) in Istanbul, which in the medium term is expected to cater for up to 5000 students. It was just one in a series of regular high-level meetings. In 2006 Chancellor Merkel visited Prime Minister Erdoğan in Ankara. In 2008, Prime Minister Erdoğan visited Chancellor Merkel in Berlin and also visited Munich. In 2011, he made another visit to Germany. In the same year, President Gül visited Germany. In October 2012, Prime Minister Erdoğan came to Berlin again, to open the new Turkish Embassy building. It is in fact his country’s biggest embassy worldwide.

For now there are no signs that the German government’s stance on Turkish EU accession is likely to change. Angela Merkel is still speaking out against Turkey’s full membership. Before she left for Turkey in February 2013 she declared in her weekly video podcast:

“I believe that we still have a long way to go. We are negotiating without fixed expectations regarding the results. Although I am sceptical I have agreed to continue the accession negotiations. They have become somewhat bogged down recently, and I would be in favour of opening a new chapter now in these negotiations so that we can move forward. I think that I will also discuss this with the Turkish government during my visit.”⁶

Merkel confirmed during her visit her backing for the opening of one new chapter (on regional aid) in what have become extremely slow-moving EU membership talks. This is useful, but will not change the

⁵ Gottschlich, Jürgen (2013), “‘They Will Give In’: Turkey Pressures Germany on EU Accession”, *Spiegel Online*, 21 February, <http://www.spiegel.de/international/world/turkey-pressures-germany-to-accept-eu-accession-a-884824.html>.

⁶ German Government (2013), *EU/Türkei: Neues Verhandlungskapitel eröffnen*, 23 February, <http://www.bundesregierung.de/Content/DE/Podcast/2013/2013-02-23-Video-Podcast/2013-02-23-Video-Podcast.html>.

overall mood of distrust and disappointment. The current German position thus leaves Turkey-EU relations in limbo.⁷

What could change this mood – either for good or bad – are upcoming decisions concerning the EU visa regime for Turkey. Turkey is the only EU candidate country without a visa-free travel regime with the EU. This is a source of huge and legitimate frustration for Turks, officials and citizens alike.⁸ Any real prospect of visa liberalization would be an extremely important step. It would transform EU-Turkey relations at a time of stagnation. But is it realistic at a time like this?

The countries of the Western Balkans have been through such a visa liberalization process recently, with German support. There a visa obligation was introduced in the 1990s when war ravaged former Yugoslavia and Albania was mired in chaos. It took five years for serious discussions to begin. In 2008 the EU defined “visa liberalisation roadmaps” for each country, setting out close to 50 concrete benchmarks that each country had to reach. In December 2009, the EU lifted the Schengen visa requirement for Serbia, Macedonia and Montenegro, and one year later, in December 2010, for Albania and Bosnia.

During this visa liberalization process all five countries had to implement far-reaching reforms in the areas of document security, border control and migration management, the fight against organized crime, as well as corruption and illegal migration. These requirements are in any case part of the “Justice and Home Affairs *acquis*”, which candidate countries have to implement before they join the EU. In addition, Balkan countries had to be willing to implement readmission agreements and help the EU deal with irregular migration flows across their borders.

A similar process could begin with Turkey in the coming weeks. In June 2012 the Council of the EU issued conclusions offering a visa liberaliza-

⁷ As a result of the stalemates over Cyprus and the openly expressed scepticism of France and other EU members, the formal accession process has run into difficulties. The EU froze eight chapters of the *acquis* in 2006 and no chapter can be closed due to the non-ratification of the 2005 Ankara Agreement under which Turkey would have to open its ports to Cypriot ships and airplanes; the French government blocked an additional four chapters in 2007, and the Cypriot government blocked an additional six chapters in 2009.

⁸ Every year more than 600,000 Turks apply for a Schengen visa. However, most EU member states introduced the visa requirement only in 1980, like Germany, or even later (like Italy).

tion process for Turkey.⁹ Both sides initialed an EU-Turkey readmission agreement. The roadmap lists the conditions that Turkey needs to meet to qualify for visa-free travel with the EU. They touch upon document security, border control and the fight against irregular migration, organized crime and corruption. The Commission has prepared a roadmap for visa liberalization for Turkey and is now waiting for both sides to sign the readmission agreement.

In substance the visa roadmap process would be similar to opening the Justice and Home Affairs chapter. Conducted with a similar “strict but fair” approach as the one that guided the process for the Western Balkans, this would help to restore trust between the EU and Turkey and thus pave the way for ending the current stalemate in the Turkish accession process. The key to restoring trust however would be in concrete results: for Turkey to stop irregular migration (almost exclusively of non-Turks) into the Schengen area via Greece, and for the EU to lift the visa requirement at the end of the process. Preserving Schengen while being able to control irregular migration across its external borders is a central concern of policy makers (not only) in Berlin. Since decisions are going to be taken in the EU by qualified majority voting, and there is thus no national veto of any EU member state, the key position is going to be the one held in Berlin ... in this case by the next incoming German government after elections this autumn.

⁹ Council of the European Union (2012), *3177th Employment, Social Policy, Health and Consumer Affairs Council meeting: Council conclusions on developing cooperation with Turkey in the areas of Justice and Home Affairs*, Luxembourg, 21 June, http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/lisa/131103.pdf.

6.

Fishing for Gas and More in Cypriot Waters

Michael Emerson

Prologue: The leader from the island of Kypros goes to Delphi and asks: What can be done about the dreadful blows that have hit our land? The Oracle replies: Fear not, the Gods will bring to you a great gift, as and when you and your neighbours are able to make peace together.

The economy of Cyprus has been hit by two very serious and successive blows: the accidental explosion of a military ammunition depot in July 2011, which knocked out the island's nearby main electricity generating power station; and the Greek part of the Eurozone crisis, which has ominous implications for Greek Cypriot banks. Cyprus has now requested a Eurozone bailout, becoming a further victim of the seemingly uncontrollable financial contagion from Greece, Ireland, Portugal, Spain and Italy; and it has also requested a fresh loan from Russia.

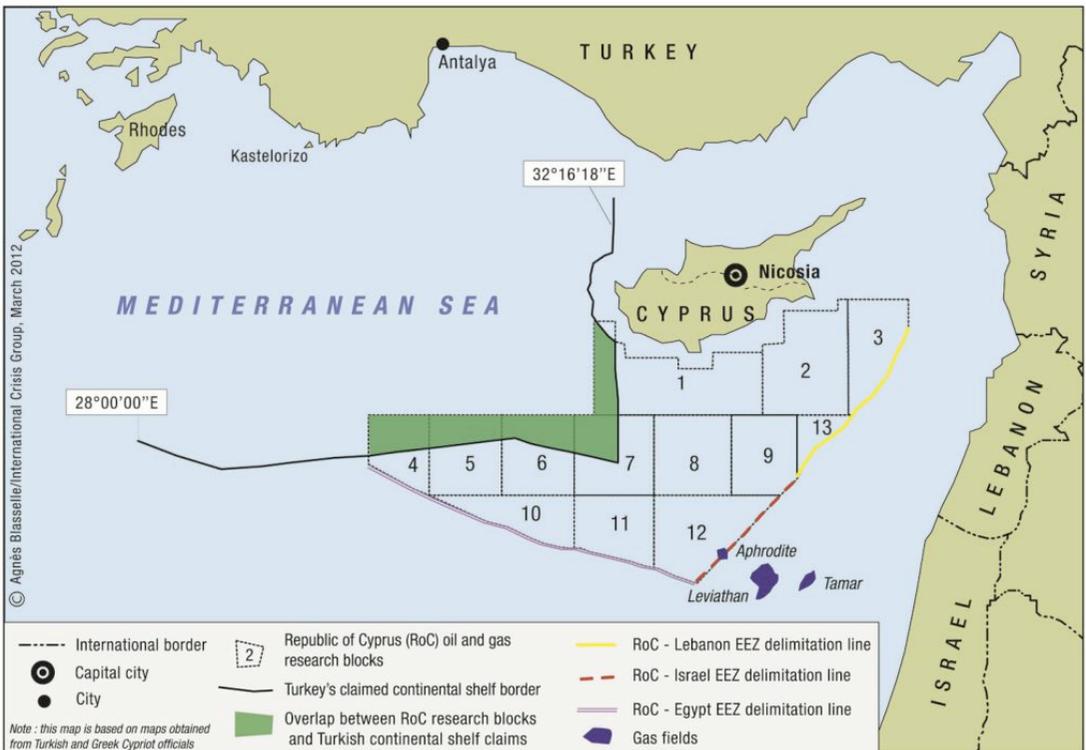
Meanwhile the UN-sponsored peace talks are still manifestly stuck. These negotiations were restarted in September 2008, four years after the Greek Cypriots' rejection by referendum of the Annan Plan. The renewed negotiations have been continuing now for a further four years, and are nowhere near a resolution point, with the UN openly discussing whether there is any point in its continuing to invest in the process.

The beginning of the Cypriot Presidency of the EU's Council of Ministers in July 2012 sees Cypriot-Turkish relations descending to a new low point. Turkey announced suspension of contacts with the EU Presidency during the six months of Cyprus's tenure, although it remains ready to work with the Commission. However this political statement does not change much, if anything, at the operational level, since Turkey's accession negotiations are stalled

in any case, for reasons that go way beyond the Cyprus problem, with France among the member states that most explicitly oppose Turkish accession.¹

As if all this were not bad enough, Cypriot-Turkish relations have been further aggravated by escalating tensions over the decision by Cyprus to begin drilling for offshore gas at the south-east extremity of its maritime Exclusive Economic Zone (EEZ). The find is on the border with Israel's EEZ and not far from that of Egypt, and thus at its most distant possible point from Turkey as can be seen in figure 1 below.

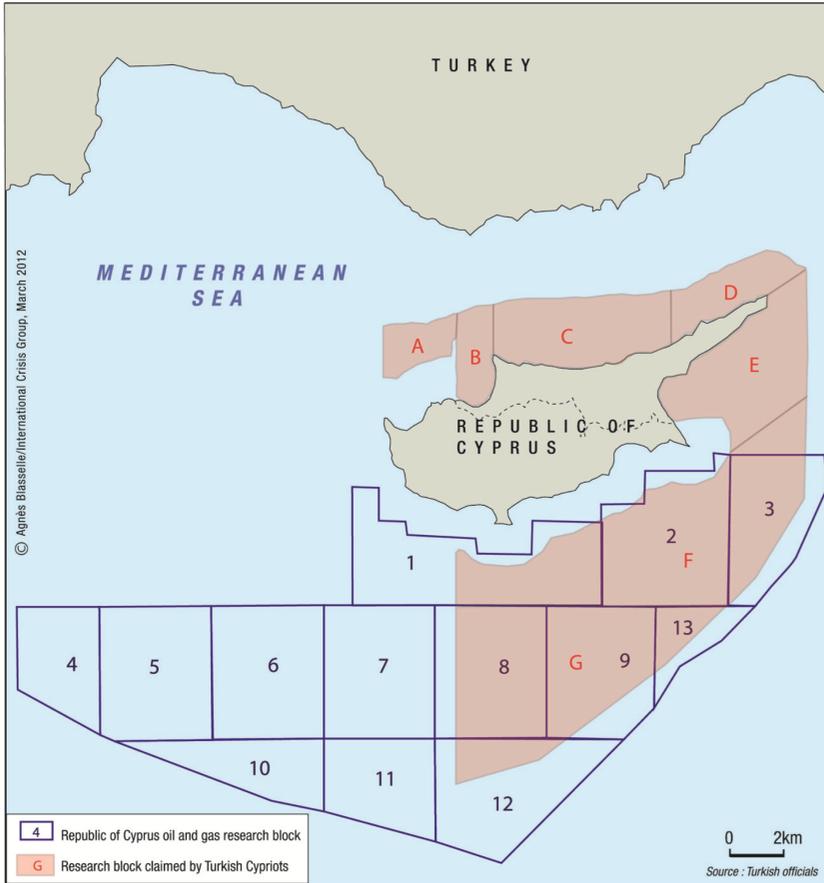
Figure 1 | Exclusive Economic Zones in the Eastern Mediterranean Sea



Source: International Crisis Group ICG (2012a), "Aphrodite's Gift", cit.

¹ Although this may soften under François Hollande's presidency. See chapter 3 by Dimitar Bechev in this book.

Figure 2 | Cyprus Research Blocks



Source: International Crisis Group ICG (2012a), "Aphrodite's Gift", cit.

The gas finds could be of significant benefit to the Cypriot economy in the medium and long run. Since financial markets, and long-term government bond markets in particular, are reputed to take rational long-term views, Cyprus has an urgent interest in upgrading this investment prospect into a credible and tangible reality.

So then, why not make of this the turning point to trigger a transformation of this grimmest of economic and political situations for Cyprus, as for Cypriot-Turkish and EU-Turkish relations? Could today's multiple rock bottom point be transformed into the moment when political leaders see the need and opportunity to reverse the course of the

region's history?² Cyprus has made an offer to share future gas revenues with Northern Cyprus, and this could be a starting point.

This study starts with a summary of the economics of the recent gas offshore finds in Cypriot waters, what international law has to say on maritime boundaries, what Turkey says on its own maritime boundary claims and those of Greek and Turkish Cyprus, and on the options for transporting the gas to markets. It then goes on to review the present stalled state of the Cyprus peace negotiations, and why the gas finds point to the case now for a Plan B to give these fresh momentum. Finally there is a summary of how the cost-benefit calculus looks for all parties for a combined strategy to resolve at last the Cyprus conflict at least on an interim basis alongside heavy investments to exploit the gas discoveries.

THE WINDFALL GAIN OF OFFSHORE GAS

On 28 December 2011, Republic of Cyprus President Christofias declared that the offshore find of gas in Block 12 by the Noble Energy company was estimated to amount to 7 trillion cubic feet (tcf, within a range of 5-8 tcf) in volume, or 198 billion cubic metres (bcm). Industry sources consider that this estimate could well turn out to be conservative, especially considering the interest shown by international oil companies in Cyprus's second upstream licensing round in May. Cyprus's own gas consumption is about 1 bcm per annum. At a notional low price estimate of \$200 dollars per 1000 cubic metres, the value of the find would be \$39.6 billion (€31 billion). This compares with the current GDP of Cyprus of €18 billion, Cypriot public debt of €13.8 billion and the reported possible Eurozone bailout sum for Cyprus of €25 billion.

² For detailed accounts see: International Crisis Group ICG (2012a), "Aphrodite's Gift: Can Cypriot Gas Power a new Dialogue?", *ICG Europe Report*, No. 216, 2 April, <http://www.crisisgroup.org/en/regions/europe/turkey-cyprus/cyprus/216-aphrodites-gift-can-cypriot-gas-power-a-new-dialogue.aspx>; Giamouridis, Anastasios (2012), "The Offshore Discovery in the Republic of Cyprus. Monetisation Prospects and Challenges", *Oxford Institute for Energy Studies Working Papers*, July, http://www.oxfordenergy.org/wpcms/wp-content/uploads/2012/07/NG_65.pdf; Faustmann, Hubert, Gürel, Ayla, and Reichberg, Gregory M., eds. (2012), "Cyprus Offshore Hydrocarbons: Regional Politics and Wealth Distribution", *PRIO Cyprus Centre Report*, No. 1/2012, July, [http://www.prio.no/upload/cyprus offshore hydrocarbons.pdf](http://www.prio.no/upload/cyprus%20offshore%20hydrocarbons.pdf).

The exposure of Cypriot banks to Greek banks is estimated to be in the range of €7-10 billion. Thus the value of the gas finds could add up to around three times the amount of Cyprus's current public debt, and exceed the possible bailout amount. Of course the government revenue take from gas sales would be only a fraction of total sales revenues, albeit a substantial one, and spread out over the period of exploitation, which would be at least 20 years.

Estimation of the possible government revenue take is really not possible at this stage. No-one can forecast how future gas prices in targeted export markets as well as on the domestic market might behave in the longer term (i.e. until end of the field's commercial life), or how the costs of exploiting the gas finds develop. The production sharing agreement between Cyprus and Noble Energy for the Aphrodite field makes a 65/35 split in favour of Cyprus, but since this is based on profits the government's revenue take would be much less. So as not to evade the question entirely, if the total value of the present find in the Aphrodite field were around \$40 billion, then annual average gross sales revenues over 20 years would be \$2 billion per annum. If the government revenue take were a hypothetical 50 percent, the annual revenue would amount to around \$1 billion, or around €800 million, which compares with Cyprus's current tax revenues of about €8 billion. This would be a highly useful amount, but it would need major further finds along the lines of the speculative amounts quoted below to transform the Cypriot budget to the point that 'Dutch disease' problems would arise.

If 25 percent of these revenues were transferred to Northern Cyprus, this would be proportionately more significant for its current budget. Turkey has been supporting the Northern Cyprus budget with an annual grant of about \$400 million (€325 million),³ which happens to be in the region of the hypothetical amount of revenues indicated above.

The proven quantities of Cypriot gas would be multiplied five times if added to Israeli offshore gas. Israel's gas finds close to the Israeli-Cypriot EEZ frontiers are currently estimated to amount to 26 tcf for the Tamar and Leviathan fields.⁴ If even a part of these Israeli resources were to be

³ Hurriyet Daily News (2007), "Turkey, Northern Cyprus sign economic development deal", 5 April (more recent data sought).

⁴ Shaffer, Brenda (2012), "Energy Resources and Markets in the Eastern Mediterranean Region", *GMF Policy Briefs*, June, <http://www.gmfus.org/archives/energy-resources-and-markets-in-the-eastern-mediterranean-region>.

piped to Cyprus, this would certainly enhance the economics of monetizing these resources through investments in liquefied natural gas (LNG) facilities located in Cyprus.

Cyprus has very recently announced the results of its invitation for bids for exploration licenses for a second round of exploration blocks – all of blocks 1 to 13, except for block 12 are already licensed, see figure 1 and 2 above. The list of fifteen applications was announced on 11 May 2012, see table 5 below. While several major international oil companies are absent, Total, ENI and Gazprom interests are represented. The Oxford Institute study comments that this group of companies has a wide range of business, financial and technical capabilities, with ‘probably sufficient skills and financial strength in aggregate to realize the upstream and monetization/export potential of Cyprus’.⁵

Table 5 | Applicants for the second round of Cypriot gas exploration licenses

1.	Petra Petroleum
2.	ATP East Med – Naphtha Israel Petroleum - DOR Chemicals - Modiin Energy
3.	Total
4.	Total – Novatek – Gazprom Bank
5.	Premier Oil – Vitol
6.	Premier Oil – Vitol – Petronas
7.	Edison – Delek Drilling – Avner Oil – Enel – Woodside Energy
8.	ENI – Kogas
9.	C.O. Cyprus Opportunity Energy – AGR Energy
10.	OAK Delta NG Exploration
11.	Capricorn Oil (Cairn) – Marathon Oil – Oranje Nassau – CC Energy (CCC)
12.	Winevia Holdings
13.	RX-Drill Energy Cyprus
14.	PT Energi Mega Persada – Frastico Holdings
15.	Emmanuelle Geo Global Rosario

Source: Giamouridis (2012), “The Offshore Discovery in the Republic of Cyprus”, cit.

⁵ Giamouridis (2012), “The Offshore Discovery in the Republic of Cyprus”, cit.

The gas discovery has to be kept in perspective, though. While there has been some mention by Cypriot officials that its gas reserves might amount to 80 to 100 tcf, thus many times the discoveries so far, Cyprus is not about to become another Qatar, see table 6 below. The US Geological Survey has produced an estimate of 122 tcf for the entire Levant Basin, which includes the territorial waters of Israel, Lebanon, Palestine (Gaza) as well as Cyprus, without however allocating this total among the several countries. These amounts of around 100 tcf, which are still of a speculative nature, would approximate the reserves of Azerbaijan and Egypt together, and so enter the league of significant world production sites.

Table 6 | Estimated natural gas reserves

	Trillion cubic feet (tcf)	Trillion cubic metres (tcm)
Russia	1,580	44
Iran	1,045	29
Qatar	894	25
Turkmenistan	283	8
Algeria	159	4
Egypt	78	2
Azerbaijan	44	1
Cyprus - discovery	7	0.2
Cyprus – speculative assessment	80-100	2-3
Israel	26	0.7
East Med Levant Basin	122	3

Sources: BP Statistical Review of World Energy, June 2011, for all except Cyprus, Israel, Levant.⁶

⁶ *Cyprus*: Announcement of a find of 5 to 8 tcf, with mean of 7tcf, by Noble Energy in December 2011. The director of the Cyprus Energy Service, S. Kassinis, has said that total gas reserves in all off-shore blocks could amount to 80-100 tcf. -- *Israel*: Shaffer (2012), "Energy Resources and Markets in the Eastern Mediterranean Region", cit.--

WHAT DOES THE LAW OF THE SEA HAVE TO SAY?

There is a well developed body of international law governing maritime boundaries and rights to undersea resources. The basic rules are set out in the 1982 UN Convention on the Law of the Sea (UNCLOS), with arbitration and judicial facilities available to resolve disputes, notably through the International Court of Justice (ICJ) and the International Tribunal for the Law of the Sea (ITLOS). In outline, UNCLOS provides that (coastal) states are entitled to an EEZ and continental shelf of up to 200 nautical miles, provided there are no overlapping claims from other states (in some circumstances a state can claim an extended continental shelf beyond 200 nautical miles, but there is not enough 'sea room' in the Mediterranean for such claims). Where there are overlapping claims, which is clearly the case between Cyprus and Turkey, UNCLOS calls for an 'equitable solution'. The 'delimitation methodology' developed by the ICJ comprises a three stage process beginning with a provisional delimitation based on the median line. The next stage is to consider whether there are any factors that call for an adjustment of the provisional line in order to achieve an equitable result. The third and final stage is to verify that the adjusted provisional line does not lead to an inequitable result 'by reason of any marked disproportion between the ratio of the respective coastal lengths and the ratio between the relevant maritime area of each State by reference to the delimitation line'.⁷ There is clearly much scope for endless legal and political exchanges here.⁸ A particular problem is that while Cyprus has acceded to UNCLOS, Turkey has not, mainly because of implications for its highly complex and unresolved disputes with Greece over Aegean waters. However UNCLOS has secured sufficiently widespread global recognition that most lawyers consider its provisions on maritime

Levant basin: US Geological Survey (2010), "Assessment of Undiscovered Oil and gas resources of the Levant basin Province, Eastern Mediterranean", *Fact Sheet 2010*, No. 3014, March, <http://pubs.usgs.gov/fs/2010/3014>. The "Levant Basin" includes territorial waters of Israel, Lebanon, Palestine (Gaza) and Cyprus, without the source giving separate estimates for each.

⁷ ICJ (2009), *Judgement on Maritime Delimitation in the Black Sea* (Romania v. Ukraine), 3 February, p. 122, <http://www.icj-cij.org/docket/files/132/14987.pdf>.

⁸ Antunes, Nuno Sergio Marques (2003), *Towards the Conceptualisation of Maritime Delimitation. Legal and Technical Aspects of a Political Process*, Leiden, Martinus Nijhoff.

boundaries and undersea resources as part of customary international law, which means that they are binding on all states whether they have acceded to UNCLOS or not. It is also of note that Turkey has concluded continental shelf and EEZ boundary agreements in the Black Sea with Bulgaria and Ukraine, as well as a continental shelf agreement with Northern Cyprus, which reinforces the relevance of UNCLOS for Turkey. Both the EU and US have recognized Cyprus' EEZ.

WHAT DOES TURKEY SAY?

Turkey's position is that it does not recognize the legitimacy of the EEZ agreements that Cyprus has signed with Egypt, Lebanon and Israel because Cyprus remains a divided island and cannot represent the interests of Northern Cyprus in a hypothetically reunited island, which would have a single EEZ. Turkey also makes claims to a continental shelf, delimited to the west of Cyprus by a median line between Turkey and Egypt, and partly overlapping with blocks 1, 4, 6, and 7 of Cyprus' EEZ (see figure 1), ignoring Cyprus on the grounds that it is an island. Such an argument has some validity when it concerns small uninhabited islands or rocks. However this hardly applies to Cyprus.

Turkey has followed this up by agreeing with Northern Cyprus not only to a continental shelf delimitation boundary between Northern Cyprus and itself, but also to Northern Cyprus's claims to rights in waters extending to the south and southeast of Cyprus through to blocks 1, 2, 3, 8, 9, 13, and above all block 12, within a few kilometres from where the Aphrodite gas find has been made. Figure 2 shows that this is a highly implausible claim for Northern Cyprus and is manifestly a tactical political move to question Cyprus' s own EEZ maritime boundaries with Israel and Egypt. It is as if Northern Cyprus were allocating to itself the continental shelf of almost the entire island of Cyprus, except for its western offshore zone, which Turkey claims as part of its own continental shelf.

This has been followed by Northern Cyprus giving exploration licenses to the Turkish state oil company TPAO to research blocks not only in the waters between Turkey and Northern Cyprus, but also in the southeastern sector of Cyprus' EEZ (again blocks 1, 2, 3, 8, 9, 12 and 13 as outlined in figure 2 above). Turkey has further sent seismic research vessels to the area, and threatened to drill there. The Turkish Minister

for EU Affairs, Egemen Bağış, was reported as saying in September 2011 that Turkey will defend its rights in the area since ‘this is what we have a navy for’.⁹ This is reciprocated by Israel, which discusses ideas for naval and air force defence cooperation with Cyprus, notably for defending drilling activities and even for possibly granting Israel’s air force access to air base facilities in Cyprus.

Note that Turkey’s continental shelf claims do not extend the median line with Egypt all the way to the south and southeast of Cyprus, which would be redoubling the implication that Cyprus does not exist for the purpose of EEZ delimitation. Even if UNCLOS leaves the field open for possible adjustments to a theoretical median line between Turkish, Cypriot and Egyptian EEZs, it seems highly unlikely that a Turkish EEZ claim to the waters of the extreme southeast corner of Cyprus’ EEZ (adjacent to the Egyptian and Israeli EEZs) would be upheld at the ICJ if the case were presented there. Instead, its continental shelf agreement with Northern Cyprus serves the purpose of confusing the status of these waters, which fits with the explicit Turkish warnings to international oil companies not to invest there, under threat of excluding themselves from commercial or investment opportunities in Turkey itself. All in all, the scene is set for escalating conflict, with dark threats of the use of force.

On the other hand, as suggested by Mehmet Oğütçü, an obvious route for de-escalation would be to take the EEZ and continental shelf disputes between Cyprus and Turkey to the International Court of Justice for judgement, or to the International Tribunal for the Law of the Sea for arbitration.¹⁰ Romania and Ukraine resolved their Black Sea dispute at the ICJ in 2009, and Croatia and Slovenia are currently pursuing the route of binding arbitration for their Adriatic Sea dispute.

TRANSPORT AND COMMERCIALIZATION OPTIONS

Beyond developing the production site lies the question how Cyprus’ s export capacities would be transported to European or world markets.

⁹ Zaman (2011), “Donanmalar bunun için var”, 2 September.

¹⁰ Oğütçü, Mehmet (2012), “Rivalry in the Eastern Mediterranean: The Turkish Dimension”, *GMF Policy Briefs*, June, <http://www.gmfus.org/archives/rivalry-in-the-eastern-mediterranean-the-turkish-dimension>.

The conceivable options have been thoroughly analysed in a recent report of the Oxford Institute for Energy Studies.¹¹

The first is a pipeline from Cyprus to Greece, which is advocated by the Greek public gas corporation DEPA. However, this would be a very long pipeline, 700 km undersea to Crete, 200 km on land in Crete, and another 200 km to the Greek mainland. While offering obvious political attractions as well as the direct linkage to EU networks, this sea route would be very deep as well as long, and the Cyprus authorities do not seem to be backing the idea.¹²

The second pipeline idea would see a pipeline from the Aphrodite field landing on southern Cyprus, traversing the island to the north, then going undersea again to Turkey, linking up with the trans-Anatolian network that will carry Caspian gas to Europe. This would involve less costly infrastructural investments. Ankara has suggested that this could be negotiated following a settlement of the Cyprus conflict. However this scenario would depend on a huge and rapid build-up of political trust between all parties, which stretches the imagination of even the most optimistic peace advocates. A much more limited variant for land pipelines would be a gas connection from southern to northern Cyprus, which would be of limited economic significance but still of considerable symbolic political appeal in the context of reunification and reconciliation. But this could be included as a secondary feature of the other options.

There is the economic argument that better commercial terms might be obtained through a third, Liquefied Natural Gas (LNG) option. This would certainly require very expensive investments, with sub-options here for either an investment to handle just Cypriot gas, or a joint venture with Israel, whose offshore fields would be connected to Cyprus by pipeline. This option would bring the advantage of flexibility to export by LNG tanker to anywhere in the world, and profit from opportunities where spot prices in world markets are higher than long-term contract prices for pipeline supplies to Europe. In particular, Cyprus would not be locked into a monopolistic pipeline situation through Turkey, where its bargaining position over transit costs and contract prices would be limited. The Oxford Institute study presents detailed information and calculations on how the commercial terms for LNG could be supe-

¹¹ Giamouridis (2012), "The Offshore Discovery in the Republic of Cyprus", cit.

¹² Ibidem.

rior to the pipeline options.¹³ The Cyprus authorities are discussing a proposed LNG investment with Noble Energy at a site in the Vasilikos industrial area on the south coast.

A fourth option would be to employ completely new technologies for Floating liquefaction plants (FLNG). This is a new technological development, not yet operational, although a first major investment is being contracted by Shell for a location offshore Australia, and it is under consideration elsewhere. While Cyprus does not seem to be interested in this option, it is being considered by Israel, which would of course then have implications for a possible LNG joint venture under the third option. Overall the LNG option appears to be in the lead, albeit with planning still at an early stage. Environmental considerations will also have to be brought into account, and at first sight these would seem to weigh in favour of the shortest sub-sea pipelines, reinforcing the case for LNG.

NEED FOR A PLAN B FOR CONFLICT RESOLUTION

How does the prospect of the gas investments affect the Cyprus peace process? Clearly there is a need for avoidance of major political risks for multi-billion euro investments to be made. Could there be an adjustment of negotiating parameters to facilitate this? So far the approach of both the Annan Plan and the current negotiations has been comprehensive with the dominant mantra being ‘nothing is agreed until everything is agreed’. Multiple complex chapters are to be brought into line together: for a federal constitution, property settlements, territorial adjustments, security arrangements, citizenship rights, and economic matters. But this approach has manifestly failed.

Could there now be a different approach, consisting of making the simplest steps rapidly so as to achieve a significant interim agreement in the interest of all parties, the two Cyprus communities as well as Turkey and the EU? Could such an agreement be envisaged along the following lines, capable of settlement within a year? The frontiers between Northern and Southern Cyprus have already been largely opened with various crossing points, building on the only real achievement of the

¹³ Giamouridis (2012), “The Offshore Discovery in the Republic of Cyprus”, cit.

Annan Plan period, and legally defined by the EU in the so-called Green Line Regulation of 2004. Goods of Cypriot origin already now pass the Green Line in either direction without payment of customs duties. Turkish Cypriot citizens already are, or are able to become citizens of the Republic of Cyprus and thus also of the European Union, which is a further invaluable starting point.

Northern Cyprus would remain essentially self-governing, as would Greek Cyprus, with both constituting a single Republic of Cyprus. Northern Cyprus would not become a second state in international law, but would have direct relations with the European Union for the operation of relevant EU policies, as is now the case with numerous sub-state authorities in decentralised member states. Northern Cyprus would come fully under the jurisdiction of European Union law, and would benefit from all EU policies, such as structural funds, as would any normal region of the EU in line with its income per capita ranking. Northern Cyprus already moves autonomously in adopting various EU standards with the help and encouragement of the European Commission. The two constituent states would have official representations in Brussels in addition to the accredited Permanent Representation of the Republic of Cyprus. There would not be a heavy federal constitutional structure for Cyprus. The present Greek and Turkish parts would remain largely self-governing, subject mainly otherwise to European Union law, with very limited federal competences.

Although Greek Cyprus (including President Christofias in the current negotiations) has tended to push for a relatively strong federal structure in official bilateral negotiations, there is support on both sides of the island for maximum self-governance for both communities, and minimal complications through shared competences and power-sharing. A prominent candidate expected to stand in the forthcoming presidential election in February 2013, the leader of the DISY Party, Nicos Anastasiadis, appears to be of this view, proposing 'a strong but devolved (decentralized) Federation, with a single international personality, single sovereignty and a single foreign policy. But a federation where the decisions affecting the everyday life of our people will be taken at the level of the constituent state, in the spirit of the EU principle of Subsidiarity'.¹⁴ A simplified constitutional arrange-

¹⁴ Speech of Mr Anastasiadis, 'The Present Stalemate in the negotiations and the way forward', 30 May 2012.

ment along these lines should be welcomed by the Turkish Cypriot side, since it comes closer to their long held views regarding a loose federal arrangement.

A minimal regime could be regarded as an interim step, leaving open the possibility of a more elaborate federal structure later on, as and when there is a deepening of renewed functional integration and political trust. However that need not be fought over now. On the contrary, what the long-run constitution should look like should be left open, bearing in mind that a federation which is a member of the EU is a radically different proposition from the standard federal textbook case outside the EU. For example, the case of the Belgian federation reveals a continuing hollowing out of the competences of the federal government, without implying the disintegration of the Belgian state, widely viewed as impossible. Belgium has devised special procedures for its participation in EU affairs, of potential interest to Cyprus. Before each EU Council session, the entities meet to decide common positions with the federal authorities, and if the entities do not agree there is no Belgian position. Further, where a specialised Council deals with competences for which there is no federal minister, the minister of one of the entities represents Belgium, under an arrangement provided for by the Belgian constitution, in accordance with EU law (e.g. the Flemish minister for the environment recently even chaired the environment Council).

The remaining trade and transport restrictions between Northern Cyprus and Turkey and the rest of the European Union would of course be scrapped. These minor port and airport restrictions are not life or death issues for the economies of either Northern Cyprus or Turkey, since they are largely circumvented in practice (e.g. flying from anywhere to Northern Cyprus via Istanbul). Goods can currently also be exported by sea from the EU to the northern port of Famagusta, subject however to the risk that if the ship were later to carry goods to the southern port of Limassol it could be arrested there. Nor are these anomalous limitations of any material benefit to Greek Cyprus, and are only retained as bargaining chips for wider objectives.

The Immovable Property Commission (IPC) has moved into higher gear following a ruling of the European Court of Human Rights in 2006 that cases should go through the IPC before being referred to Strasbourg. So far, it has seen 221 cases resolved out of 3,174 cases presented to it, costing UK£ 70 million so far in compensation paid

by the Turkish side. The majority of the cases have been concluded through ‘friendly settlements’.¹⁵ In addition to settlements by financial compensation, increasing possibilities for settlement by property exchange are developing. While it would be good to find ways to accelerate the rate of settlement, it is already a positive point that there is an ongoing ‘micro-settlement’ process, independently of the ‘macro-settlement’ process which remains stuck.

There will have to be some territorial adjustments, minimally handing back to Greek Cyprus the ghost-town and former seaside resort of Varosha on the present borderline near Famagusta. How much further to go in territorial adjustment would remain a variable for negotiation. Yet the question of who controls small borderline localities should very gradually fade away into political obsolescence. Who is worried these days about the tortuous geography of the Belgian-Dutch and Belgian-French frontiers, or the Spanish town of Llívia, which is an enclave in the French department of Pyrénées Orientales? No-one. Could not civil society organisations and political parties on both sides of the island become promoters of such features of post-modern Europe, as models of conflict resolution? The role of Turkey as security guarantor would not need to be touched at the treaty level, but Turkey would make an immediate, significant reduction in its current hugely oversized military presence, together with a declaration of its intention to make further progressive reductions in line with improved relations between all parties. Formal changes to the guarantee treaty, under which the UK as well as Turkey is a guarantor party with two British sovereign bases remaining as enclaves within Greek Cyprus, could await a later date, as and when the political context is transformed for the better. Compared with the myriad problems of its Middle Eastern neighbours, the security aspects of the Cyprus problem have already faded in intensity with near-zero expectations of renewed military conflict on the island, except in the musings of old-fashioned security folk. At the very least, this is a security question ripe for ‘de-securitization’ and definitive resolution.

¹⁵ Evripidou, Stefanos (2012), “Only seven per cent of 3,000 IPC cases settled” *Cyprus Mail*, 21 April.

WHY A BREAKTHROUGH NOW?

The various foregoing elements have long featured in the negotiation process, which however has failed to translate into an overall agreement, first because of the 2004 rejection of the Annan Plan, and since 2008 due to the inconclusiveness of renewed peace talks. Why could there be a breakthrough now, along the lines postulated?

The gas is the reason. Exploitation of the gas finds will require major investments by the corporate and financial sectors. Investors may be hesitant to make these investments in the prevailing climate of political uncertainties and tensions between Cyprus and Turkey over the EEZs and continental shelves, and over the exploration blocks in particular. Turkish threats to exclude international oil companies that invest in Cypriot water from investment opportunities on its own territory already seem to have deterred many major companies from bidding in the second round of licensing (Total, ENI and Gazprom interests are exceptions). But even the middle-sized companies that have advanced their bids may hesitate about investing in a climate of political risk, and their insurers may take the same view.

COST-BENEFIT CALCULATIONS

How would the cost-benefit calculus of the postulated settlement look for the four interested parties, the two Cyprus communities, Turkey and the EU? For Greek Cyprus, the crucial advantage would be the possibility to exploit the gas finds in an economically beneficial way, and as fast as possible. Since in the best case the required investments would take several years to be realised, speed in achieving a political breakthrough is all the more important for the Cypriot economy. There would be some further advantages in terms of territorial gains and progressive demilitarisation of the north. There would be no need for cumbersome federal powersharing institutions.

For Turkish Cyprus, there would be normalization of trading arrangements, full participation in EU policies and a share of the gas revenues, and above all normalisation of the status of its citizens, administration and businesses in international affairs and the EU. There would hardly be any loss of freedom of self-govern-

ment beyond accepting EU law and policies which are to some extent being adopted unilaterally in any case. There would be cession of some territory, of which uninhabited and decayed Varosha is currently of no value.

For Turkey, the reasoning is more complex. Of course Turkey would welcome the improved status quo for Northern Cyprus and removal of trading, port and airport discriminations. It could welcome the new political context to diminish its costly military occupation, and possibly its subsidies to Northern Cyprus as a result of the gas revenue sharing, although these costs have always been of secondary concern compared to the political issues. It would welcome the improvement of its relations with the EU, which could advance through the opening of additional accession negotiation chapters.

There would be a reversal of the present risk of a further escalation of tensions between Turkey and all its western partners. The US as well as the EU recognize Cyprus's EEZ. Israel is cooperating with Cyprus over gas and security. Russia is helping Cyprus financially, and has serious interests in Israel, including its gas fields, and potentially in Cypriot gas fields too. If tensions over Cypriot gas fields were further heightened along the lines of some political rhetoric, Turkey could find itself extremely badly positioned diplomatically in opposition to a remarkable coincidence of the interests of the EU, US, Cyprus, Israel and Russia on the point of maritime boundaries.¹⁶ Turkey has real strategic security concerns almost everywhere to its east – Syria, Iran, Iraq, Afghanistan, Israel-Palestine, etc. There are thus high stakes involved for its foreign policy. At risk would be its image as a peaceful modern democracy, as a reference for its Arab neighbours, many of whom are in a state of turmoil, with abundant instances or threats of civil wars, state failure, radicalisation and safe havens for terrorists. Turkey's foreign policy of 'zero problems with its neighbours' has been overtaken by events, and is now accompanied by (in the words of one Turkish commentator) 'mul-

¹⁶ For a more detailed review of the regional context and interests of all parties, see Leigh, Michael, and Brandsma, Charlotte (2012), "Energy Resources in the Eastern Mediterranean: Source for Cooperation or Fuel for Tension", *Brussels Forum Paper Series*, March, <http://www.gmfus.org/archives/energy-resources-in-the-eastern-mediterranean-source-for-cooperation-or-fuel-for-tension>.

multiple problems with its allies', making a case for recalibration.¹⁷ The argument for reversing the recent escalating tensions over Cypriot gas would seem to be strikingly in Turkish interests.

The European Union would of course welcome this major step towards conflict resolution between the Cypriot communities and willingly exploit its institutional and legal capacity to deploy its policies fully in Northern Cyprus as part of the solution. It would further welcome the opportunity to put its relations with Turkey on a less problematic footing, and this should lead at least to the opening of further accession negotiation chapters, and perhaps a more fundamental reappraisal of the Turkish accession process in various capitals.

IS RECONCILIATION BETWEEN CYPRUS AND TURKEY CONCEIVABLE?

It would require big changes in attitude at the top political level to switch into a mode of constructive negotiation with a genuine will to succeed and overcome present obstacles. Is this politically conceivable? One might recall the example of Greece and Turkey, which in the years around the turn of the century achieved a huge improvement in their relations which had, in 1996, deteriorated to the verge of military conflict over some tiny uninhabited Aegean islands (Imia-Kardak). George Papandreou, then Greek foreign minister, and his Turkish counterpart, Ismail Cem, triggered the improvement with spontaneous mutual assistance after the earthquakes that hit Turkey in August 1999 and Greece the month after. This 'seismic diplomacy' was followed with more durable initiatives, including unequivocal support by Greece for Turkey's EU accession ambitions. The two foreign ministers championed their breakthrough with the argument that the two peoples wanted just this, rather than the old story of geopolitical antagonism.

Opinion polls of Greek and Turkish Cypriots conducted in 2008 gave their leaders an analogous story in relation to the stalled peace process.

¹⁷ For an assessment of the case for a recalibration of Turkish foreign policy, see: Soler i Lecha, Eduard (2012), "The Conceptual Architecture of Turkish Foreign Policy: An update in the light of regional turbulence", *Documentos CIDOB Mediterráneo y Oriente Medio*, No. 18, July, http://www.cidob.org/en/content/download/32360/522105/file/documentos_web_mediterraneo_18.pdf.

In response to the question ‘to what extent do you wish – and expect from the leaders – that they reach a mutually acceptable settlement through the peace process’, the answers were decidedly positive and identical, with two thirds answering positively and only one quarter negatively in both cases.¹⁸ Cyprus has now been hit by its own ‘seismic’ economic shocks. At present the options are wide open between a new gas peace or a gas war, or just smouldering tensions and flare-ups benefiting nobody and detrimental to all.

¹⁸ The figures were 64 %, positive, 25% negative, and 11% ambivalent among Greek Cypriots, and 65% positive, 24% negative, and 11% ambivalent among Turkish Cypriots. See Lordos, Alexandros, Kaymak, Erol, and Tocci, Nathalie (2008), “A People’s Peace in Cyprus. Testing Public Opinion on the Options for a Comprehensive Settlement”, *CEPS Paperbacks*, (April), <http://www.ceps.eu/node/1646>.

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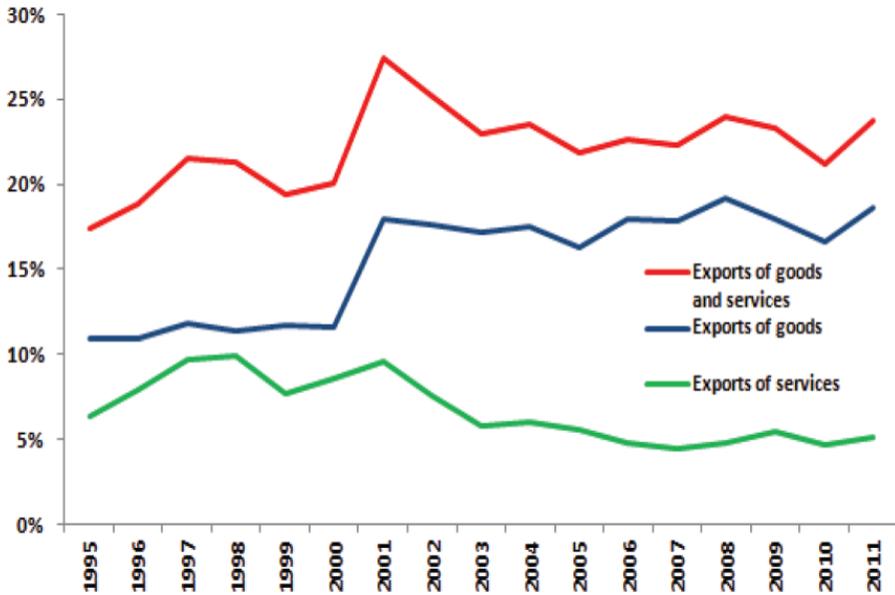
The Changing Structure of Turkey's Trade and Industrial Competitiveness: Implications for the EU

Daniel Gros and Can Selçuki

INTRODUCTION

In the last three decades, Turkey has undergone major changes in many areas. Despite a number of economic crises and political instability, it has managed to grow over the years and is now often cited as one of the best-performing emerging economies in the world. To commemorate the centennial of the founding of the Republic, the current government set the goal of being among the 10 largest economies of the world by 2023. Indeed this ambitious goal implies that Turkey needs to outperform countries like the Netherlands, South Korea, Russia, Indonesia and Canada. Therefore, its trade and industrial structures need to evolve in order to resemble those of richer countries, both in terms of technological composition and value-added. On the other hand, Turkey needs to be able to accommodate competitive pressures brought on by the Customs Union with the EU and the free trade agreements (FTAs) the EU has with third countries. This essay aims to evaluate the changing structure of Turkish trade over the recent years and to highlight some fault lines that need to be corrected if Turkey's international trade is to stay on a sustainable growth path.

From a political perspective, the 1990s were a turbulent decade for Turkey. After ten years of political turmoil and macroeconomic instability triggered by recurring structural problems, in 2001 Turkey suffered the most severe economic crisis in its history in which its GDP shrunk by 5.7 percent. Immediately following the crisis, however, the banking and finance sectors were reformed, creating the basis for a swift recovery. Since 2002, Turkey has enjoyed political and macroeconomic stability that has allowed continuous growth.

Graph 1 | Evolution of total exports as a share of GDP (current prices)

Source: OECD.

From an economic and trade perspective, the early 1980s can be considered as a critical period. Following a long period under an import substitution regime and protectionist policies, Turkey switched to an export-led growth model in the early 1980s that was followed by trade liberalisation. Since then, the country's volume of trade has steadily increased. In the last decade, its international trade has increased considerably.

However, the growth has become unbalanced with the boom in domestic demand in recent years. With domestic demand remaining strong imports have outpaced exports – reaching \$240 billion in 2011, compared to exports of \$134 billion. This trend did not change in the first six months of 2012.

The official *Turkish Exports Strategy for 2023* aims to reverse this trend and envisages an export volume of \$500 billion, roughly quadrupling the 2011 volume, in the next 10 years.¹ Achieving this goal

¹ Turkish Ministry of Economy (2012), *The Export Strategy of Turkey for 2023*, <http://www.economy.gov.tr/upload/strategy/strategy2023.pdf>.

would require a growth rate of 8 percent per annum,² much higher than the average achieved over the last decade.

Graph 1 above shows that, particularly after 2000, the export of goods was the main driver behind total exports. This contradicts the widely held view that it was Turkey's booming tourism sector, which contributed most to its recovery. In reality the share of export of services in GDP declined in the last decade. Most of Turkish services exports are in traditional industries such as tourism, travel and construction. Turkey still lags behind in the export of high value-added services such as ICT, financial, business and legal services. For the long-term performance of its overall exports, the export of services in high value-added sectors that depend on high rates of tertiary education and thus skilled human capital, needs to be enhanced.

Looking at the evolution of the share of exports in GDP from another perspective, it would be fair to say that over the years Turkey has managed to maintain and stabilise the openness of its economy, despite the global crises. However, this stabilisation has occurred at a relatively low level in comparison with some emerging and developed economies, as represented by Germany where 50 percent of its GDP is accounted for by exports, 31 percent for China, 29 percent for Italy and 52 percent for South Korea in 2011. The ratio of exports to GDP for Turkey is around 25 percent lower than for all these countries, which are all much larger than Turkey.

Assessing competitiveness by the performance of exports, it would be fair to say that Turkish exports have performed well on average over the last decade. However, the dynamism seems to have fallen. According to OECD projections,³ Turkey's export growth rate for goods and services trails behind other emerging economies such as Brazil, Korea, China and Russia in 2012 and 2013 as Table 7 shows.

² Lehmann, Jean-Pierre (2011), "Turkey's 2023 Economic Goal in Global Perspective", *EDAM Discussion Paper Series*, No. 2011/1, <http://www.imd.org/research/centers/eviangroup/upload/Turkey-s-2023-Eco-Goal-in-global-perspective.pdf>.

³ OECD (2012), *OECD Economic Outlook*, Vol. 2012, No. 1, http://dx.doi.org/10.1787/eco_outlook-v2012-1-en.

**Table 7* | Export market growth in goods and services
(volume, percentage change on preceding year)**

	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
Czech Republic	1.5	5.2	8.7	7.6	11.4	7.6	3.1	-11.9	11.6	6.0	3.6	6.0
Estonia	3.0	4.7	9.2	9.2	10.3	9.4	5.6	-14.3	10.9	5.7	3.7	5.7
Greece	3.4	5.7	10.0	8.6	9.2	9.0	4.3	-11.5	10.7	6.0	3.8	6.3
Hungary	1.8	5.2	8.8	7.5	10.4	8.1	3.1	-11.7	11.0	5.9	3.4	6.0
Slovak Republic	2.0	5.6	9.2	6.9	10.8	8.7	2.8	-11.6	11.9	6.3	3.1	6.1
Turkey	3.1	5.0	9.4	9.1	10.0	10.3	4.9	-11.0	9.1	5.2	4.3	6.9
China	3.8	5.9	11.3	7.9	8.3	7.0	3.2	-12.3	13.1	6.0	4.8	7.1
Russia	3.5	6.4	9.9	8.4	10.0	9.2	4.1	-10.1	11.4	5.6	3.5	6.4
Brazil	-1.2	8.4	13.4	10.4	10.4	10.5	5.5	-11.7	14.8	7.8	5.3	7.2
Korea	7.0	10.6	14.4	9.8	10.5	9.3	4.2	-8.0	15.5	7.2	5.4	8.7
Mexico	3.1	4.7	11.1	6.6	6.6	3.6	-1.3	-13.1	12.6	5.2	4.0	6.4

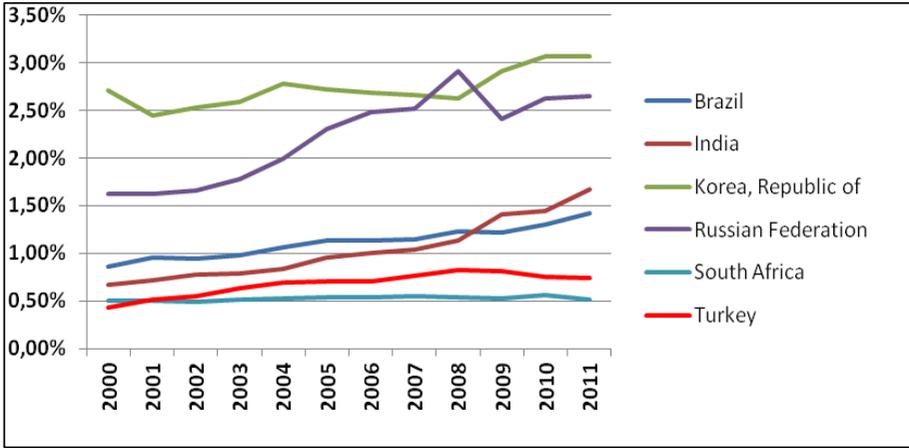
* percentage change on preceding year

Source: OECD.⁴

CHANGE IN COMPETITIVENESS OF TURKISH EXPORTS

As the Turkish economy became more integrated with the EU and with the rest of the world, Turkey's share in global exports first increased rapidly, but more recently it has declined.

⁴ For more details on the methodology, see Brézillon, Jérôme, Guichard, Stéphanie, and Turner, Dave (2010), "Trade Linkages in the OECD Trade System", *OECD Economics Department Working Papers*, No. 811 (October), <http://dx.doi.org/10.1787/5km-4t0fj2p6l-en>.

Graph 2 | Selected country export shares in total world exports (value)

Source: UNCTAD Database and authors' own calculations.

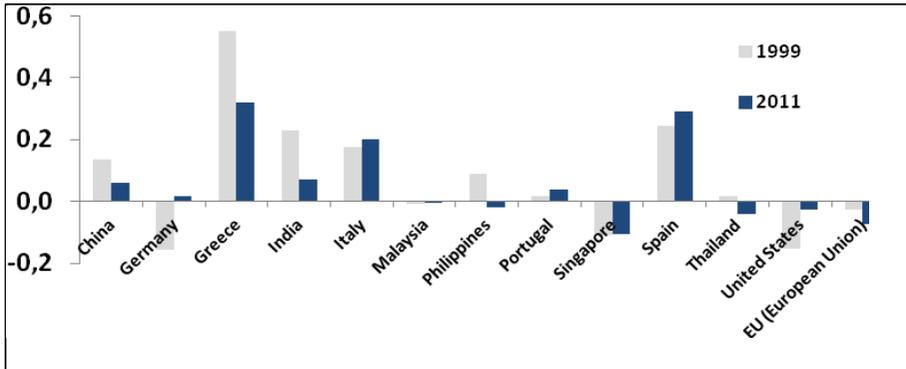
In this section, we analyse briefly the evolution of the structure of Turkish trade using the Revealed Comparative Advantage (RCA) index which was calculated for 255 SITC 3-digit product categories for Turkey and its trading partners in order to make a comparison between Turkey and other countries/regions of the world. The correlation coefficient between RCA vectors (over all the 255 product groups) of Turkey and the selected countries/regions allows one to see how similar the structure of Turkish trade was to other countries. Graph 3 below illustrates the correlation coefficient between the RCA index for all products for Turkey and selected countries/regions for 1999 and 2011.

It is apparent that Turkey's RCA became more similar to strong manufacturing countries like Germany and the United States. However, it has grown less similar to countries such as China, the European Union as a whole, India and Thailand. Finally, the revealed comparative advantage of Turkey continues to resemble that of southern European countries like Greece, Italy, Spain and to a lesser extent Portugal. This should be a cause for concern given that recent research suggests⁵ that part of the

⁵ Chen, Ruo, Milesi-Feretti, Gian Maria, and Tressel, Thierry (2012), "External Imbalances in the Euro Area", *IMF Working Paper*, No. 12/236, September, <http://www.imf.org/external/pubs/cat/longres.aspx?sk=40027>.

problem of these countries stems from a loss of market shares due to the increased competition from China and other emerging markets.

Graph 3 | RCA vector correlation coefficient between Turkey and selected countries/regions



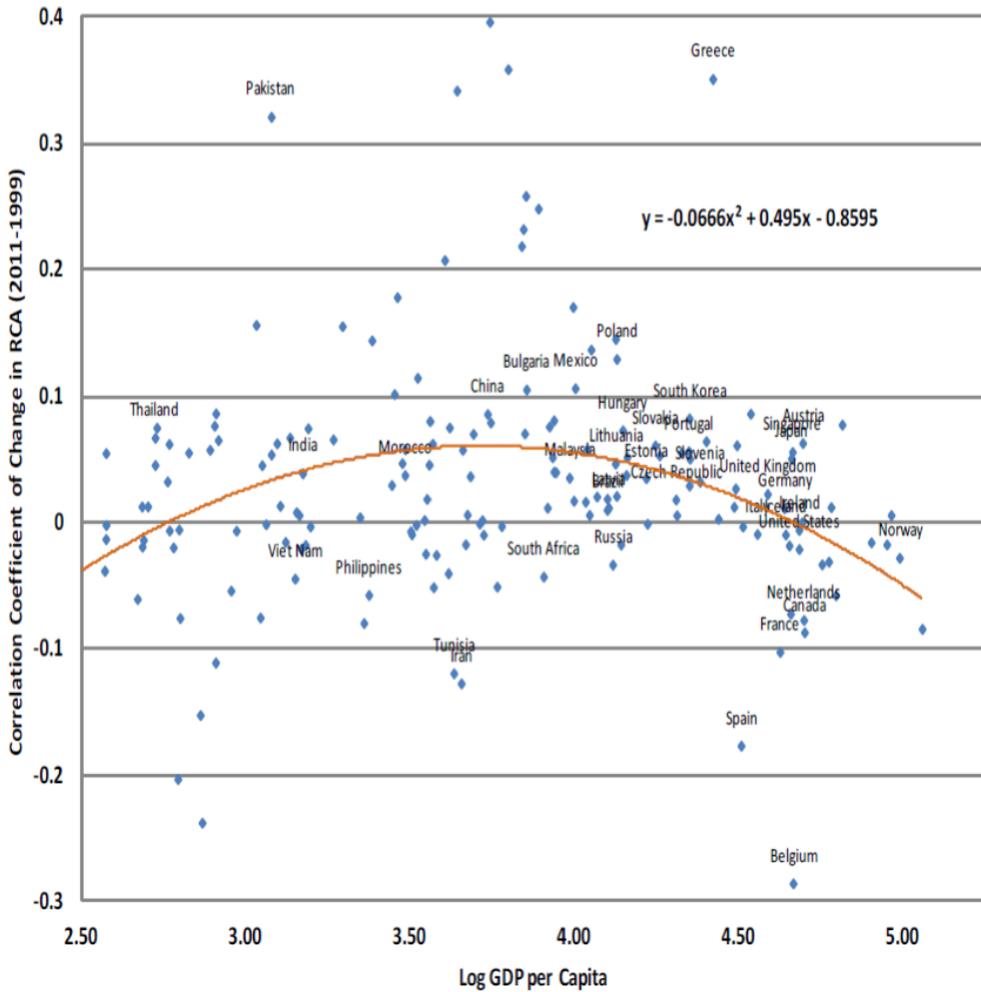
Source: UNCTAD database and authors' own calculations.

Has the structure of Turkish trade evolved in a similar direction as these and other countries? In order to present a more systematic picture, we also present the correlation coefficient of the changes in the RCA for each product group between 1999 and 2011. Graph 4 illustrates the scatter plot of the correlation coefficient⁶ between the changes in RCA (vertical axis) and the respective country's GDP per capita in 2011 (horizontal axis).

The change vector of Turkey's RCA between 1999 and 2011 is more positively correlated with low and medium GDP per capita countries, whereas it is more negatively correlated with very high GDP per capita countries. The revealed competitive advantage of Turkey in various products has thus evolved to resemble lower-income countries.

⁶ It should be noted that most correlation coefficients did not show statistical significance at $\alpha=.05$.

Graph 4 | RCA change vector (RCA2011-RCA1999) correlation coefficient between Turkey and selected countries vs. GDP per capita

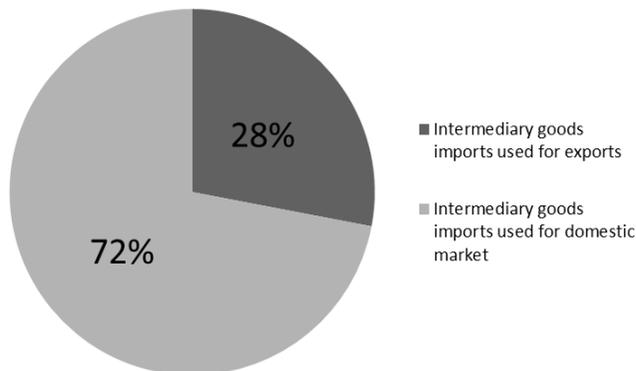


Sources: UNCTAD database, World Bank Development Indicators, and authors' own calculations.

GEOGRAPHICAL AND SECTORAL COMPOSITION OF TURKISH EXPORTS

Most of Turkey's exports are manufactured goods. Although its share is declining, with 79 percent of total exports in 2011 it is second to only China among the BRIC countries. With such a large share of exports, the characteristics of manufacturing industry play an important determinant of Turkish export performance. One of the most significant characteristics of the manufacturing industry is its dependence on imported intermediary goods. According to the *Import Map of Turkey* prepared by the Ministry of Economy⁷ the imported component of Turkish manufacturing industry was 43 percent for 2011 (up from 40 percent in 2010). The most dependent sectors are fertilizers (72 percent), iron and steel (69 percent), chemicals (56 percent), other metals and products (51 percent) and motor vehicles (51 percent). Furthermore, in 2010 the growth of imports for manufacturing has surpassed the growth rate of manufacturing itself, implying that the dependency of the manufacturing industry on imports has increased. Sectors that grow above the average industry growth of Turkey typically have larger share of import component. Finally, the share of domestic value-added of those industries that generate value added above 1 billion TRL in 2011 GDP was 5.5 percent.

Graph 5 | Share of imports in domestic market and exports



Source: *Import Map of Turkey*.

⁷ See <http://www.ekonomi.gov.tr/index.cfm?sayfa=ithharita>.

In the last decade, Turkey's manufacturing industry has catered more to the domestic market than it did to international markets. For one unit increase in domestic sale of industrial goods, imports increase .38 units, which make the domestic demand the main driver of import of intermediary goods for industrial production. These figures signal that exports are less dependent on imported intermediaries. However these figures do not include energy imports, which was almost 21 percent of total imports in Turkey and cost \$54 billion. In total, as Graph 5 shows, the import map study reported that imported intermediary goods content of Turkish exports in 2011 was 28 percent. The high dependency of exports on intermediate goods and the low domestic value added of exports signal that whilst growing its exports Turkey has become a "bazaar economy".⁸ This point is supported by the various efforts run by the Ministry of Economy in order to decrease the foreign dependency of most competitive export sectors. This strategy is also designed as a long-term plan to remedy the current account deficit mostly caused by trade imbalances.

The high dependence of exports on imported intermediate inputs implies that exchange rate movements might have less of an impact on the trade deficit than before because depreciation will also increase the cost of imported intermediate inputs. Another illustration of the same phenomenon is found by simply subtracting intermediate inputs from both exports and imports. If the import content of exports is 40 percent this implies that the value added in exports is only 0.6 times \$130 billion or \$78 billion (with \$52 billion of imported intermediate inputs). The imports actually consumed within Turkey would then be equal to \$240 billion – \$52 billion, or \$188 billion. This implies that the import cover in value-added terms is only 78/188, or about 42 percent, much lower than the import cover on the gross figures, which is 130/240, or about 54 percent.

EU-TURKEY TRADE

The EU has remained Turkey's most important trading partner, even if its share in Turkey's exports has fallen from 56 percent in 2000 to 47 percent in 2011. The decline in the EU's share is probably mostly due to the relative

⁸ Sinn, Hans-Werner (2006), "The Pathological Export Boom and the Bazaar Effect - How to Solve the German Puzzle", *CESifo Working Papers*, No. 1708, April, http://www.cesifo-group.de/DocDL/cesifo1_wp1708.pdf.

decline of the EU economy compared especially to the more dynamic markets in the Middle East and other natural resource-rich countries.

In part, a large share of the EU in exports is not only a natural consequence of the EU-Turkey Customs Union formed in 1996 and increased transposition of the EU *acquis* into Turkish legislation both through the Annexes of the Customs Union and, since 2005, through the accession talks. A number of studies have shown that the intensity of the bilateral trade relationship can be explained mostly by the size of the EU market. The EU-TK customs union seems to have had only a small impact on bilateral trade volumes.⁹ At first sight, this result is surprising, even though it has been reached by a number of other studies as well.¹⁰ In general it should be taken as a positive sign since it implies that the customs union has not led to significant trade diversion, but rather to a general opening of the Turkish economy.

In accordance with the Customs Union, Turkey is obliged to enforce a common tariff regime in its external trade. Therefore, Turkey has concluded many Free Trade Agreements (FTAs) over the years basically following the EU's path, the most recent one being with South Korea, which has yet to be ratified¹¹ (see Table 8 and 9 below for the status of the EU FTA agreements and the export-import shares of countries with or forthcoming FTA agreements in the total TK values). Unfortunately the EU negotiates its bilateral FTAs without consulting Turkey or taking Turkish interests into account. Following the FTA between EU and South Korea, both sides issued a joint declaration where South Korea was invited to enter into negotiations with Turkey for an agreement "on a mutually advantageous basis".¹² However, the so-called "Turkey clause" is not binding. This is polit-

⁹ Bilici, Özgül, Erdil, Erkan, and Yetkiner, I. Hakan (2008), "The Determining Role of EU in Turkey's Trade Flows: A Gravity Model Approach", *Izmir University of Economics Working Papers*, No. 0806, October, <http://eco.ieu.edu.tr/wp-content/wp0806.pdf>.

¹⁰ E.g. Jiménez, Noelia, and Martín, Esther (2010), "A constant market share analysis of the euro area in the period 1994-2007", *Banco de España Economic Bulletin*, No. 1, January, p. 105-120, http://www.bde.es/bde/en/secciones/informes/boletines/Boletin_economic/2010; Antonucci, Daniele, and Manzocchi, Stefano (2005), "Does Turkey Have a Special Trade Relation with the EU? A Gravity Model Approach", *LLEE Working Document*, No. 35, November, <http://ricerca.economiaefinanza.luiss.it/dptea/files/llwp35.pdf>.

¹¹ Turkish Ministry of Economy, *Turkey's Free Trade Agreements*, <http://www.economy.gov.tr/index.cfm?sayfa=tradeagreements&bolum=fta>.

¹² *EU-Korea Free trade agreement: Joint declaration on Turkey*, 19 October 2009, <http://trade.ec.europa.eu/doclib/html/145195.htm>.

ically not sustainable, but Turkey might actually benefit from these FTAs if it can obtain similar reciprocal market opening with these countries on a bilateral basis. Indeed, Table 3 suggests a potential for increasing trade with countries that have or will conclude an FTA with the EU. The countries listed in the table account for about 16 percent of Turkish imports and about 11 percent of Turkish exports.

Liberalizing imports from such an important group of countries should erode the margin of preference enjoyed by EU goods on the market of Turkey and should thus make the Turkish economy more productive. Being able to import cheaper intermediate inputs from these countries could become an important competitive advantage for Turkish exporters.

Table 8 | State of FTA agreements

Concluded FTAs	FTAs currently negotiated	Association agreements with FDA Component
South Africa	ASEAN	Central America
Chile	Canada	Andean Community
Korea	Gulf Cooperation Council (GCC)	Mercosur
Mexico	India	
	Malaysia	
	Ukraine	
	Singapore	

Source: European Commission.¹³

Table 9 | Export-import shares in total TK values (%)

	Imports from/Share of Total Imports			Exports to/Share of Total Imports		
	2009	2010	2011	2009	2010	2011
Canada	0.67	0.49	0.54	0.33	0.42	0.65
Chile	0.14	0.17	0.20	0.04	0.07	0.10
India	1.34	1.84	2.70	0.40	0.53	0.56

¹³ See http://ec.europa.eu/enterprise/policies/international/facilitating-trade/free-trade/index_en.htm#h2-1.

	Imports from/Share of Total Imports			Exports to/Share of Total Imports		
Korea	2.21	2.57	2.62	0.23	0.27	0.39
Malaysia	0.68	0.61	0.65	0.14	0.20	0.14
Mexico	0.24	0.27	0.29	0.09	0.13	0.11
Singapore	0.14	0.11	0.15	0.34	0.53	0.62
South Africa	0.78	0.48	0.81	0.85	0.32	0.38
Ukraine	2.24	2.07	2.00	1.01	1.11	1.28
Central America	0.29	0.32	0.35	0.20	0.28	0.31
ANCOM	0.38	0.25	0.35	0.12	0.22	0.34
ASEAN	2.65	2.70	2.76	1.14	1.31	1.25
GCC	1.90	1.96	1.90	5.28	5.63	5.43
MERCOSUR	1.02	1.09	1.26	0.47	0.75	0.86

Note: Central America: Panama, Guatemala, Costa Rica, El Salvador, Honduras, Nicaragua. GCC: Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, United Arab Emirates.

Mercosur: Argentina, Brazil, Paraguay, Uruguay, Venezuela.

ASEAN: Brunei Darussalam, Cambodia, Indonesia, Laos, Malaysia, Myanmar, Philippines, Singapore, Thailand and Vietnam.

Source: UNCTAD database

Consequently, the international exposure of the Turkish economy has forced Turkish firms to adjust by increasing efficiency. Finally, increased FDI (above 80 percent of total inward FDI originates from the EU) has contributed to competitiveness in goods.¹⁴

In recent years, Turkey has diversified the geographical composition of its export destinations. Although exports shares of destinations other than the EU have increased, the EU still remains the main export destination. Despite a downwards trend in the last decade, Turkish exports to the EU in 2011 constituted 47 percent of total exports. More importantly, almost 38 percent of these exports were of medium- and high-technology goods, which Turkey increasingly needs in its export basket due to international competitive pressures coming from countries with lower cost structures for manufacturing of low-technology goods.

¹⁴ Böhler, Philipp Pelkmans, Jacques, and Selcuki, Can (2012), "Who remembers Turkey's pre-accession?", *CEPS Special Reports*, No. 74, December, <http://www.ceps.eu/node/7539>.

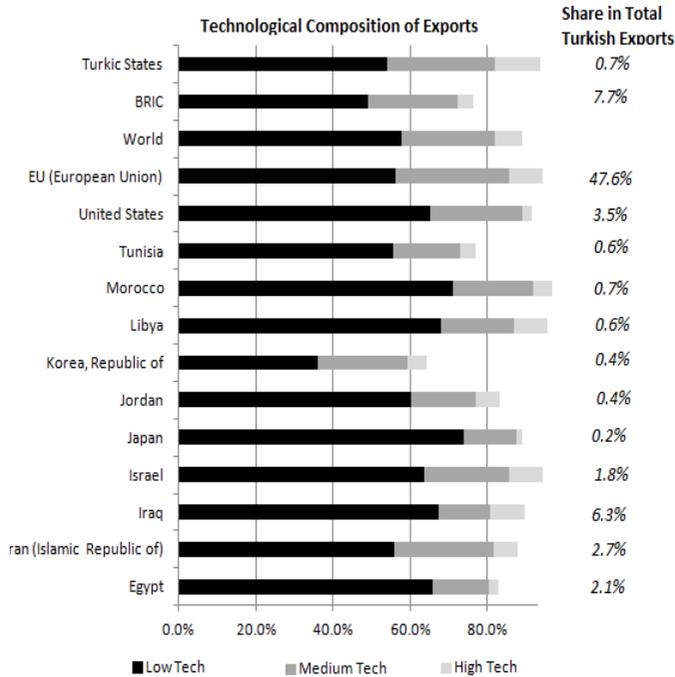
Table 10 | Technological Classification of Goods

Product group	SITC code	Technology Group
Food, beverages and tobacco	0+1	Low tech
Textiles, wearing apparel and leather industry	61+65+83+84+85	Low tech
Paper and paper products, printing and publishing	64	Low tech
Wood and wood products, including furniture	63+83	Low tech
Non-metal mineral products	66	Low tech
Basic metal industries	67+68	Low tech
Metallic products, except machinery and transport equipment	69	Low tech
Other	81+62+89	Low tech
Manufacture of agricultural and industrial machinery, except electrical machinery	71+72+73+74	Medium Tech
Manufacture of transport equipment	78+79	Medium Tech
Chemicals, rubber and plastic products	51+52+53+55 +56+57+58+59	Medium Tech
Manufacture of electrical machinery, appliances and accessories	76+77	High Tech
Pharmaceutical products	54	High Tech
Professional and scientific services, measuring checking and precision instruments, photographic and optical appliances, office machinery and computers	75+87+88	High Tech

Currently 58 percent of Turkish exports are low-technology goods. The addition of new export markets contributes more to the increase of exports in low technology goods than medium and high technology goods. In rare examples where the contribution of high-technology goods exceeds 10 percent (e.g. the Turkic States), the very small value of

exports (0.7 percent of all exports) renders this contribution insignificant. In short, although market diversification helps, Turkey is better off continuing to export medium- and high-tech goods to the EU countries.¹⁵

Graph 6 | Technological composition of TK exports and share in total TK exports



Source: UNCTAD Database, authors' own calculations.

In order to see in greater detail how specific sectors and regions contribute to the export performance of Turkey, a Constant Market Shares analysis¹⁶ was conducted for the period 2006-11. The constant share

¹⁵ Taglioni, Daniela (2012), *Trade competitiveness in Turkey, presentation at the European Central Bank CompNet Workshop*, Frankfurt am Main, http://www.ecb.int/home/pdf/research/compnet/World_Bank-TradeCompetitiveness_ECB_March2012.pdf.

¹⁶ Jiménez and Martín (2010), "A constant market share analysis of the euro area in the period 1994-2007", cit.

analysis is a method to decompose the export performance of a country or a region into two main drivers of export growth: competitiveness effect and structural effect. The competitiveness effect tries to capture the performance of the exports that are independent of structural effects, such as product composition and export destination composition. The formulae used to calculate these two effects are the following:

$$gX^P - gX^* = \underbrace{\sum_k \sum_j (a_{kj}^P - a_{kj}^*) gX_{kj}^*}_{\text{Structural Effect}} + \underbrace{\sum_k \sum_j a_{kj}^P (gX_{kj}^P - gX_{kj}^*)}_{\text{Competitiveness Effect}}$$

The breakdown of the structural effect:

$$\underbrace{\sum_k (a_k^P - a_k^*) gX_k^*}_{\text{Product Effect}} + \underbrace{\sum_j (a_j^P - a_j^*) gX_k^*}_{\text{Market Effect}} + \underbrace{\sum_k \sum_j [(a_{kj}^P - a_{kj}^*) - (a_k^P - a_k^*) \frac{a_{kj}^*}{a_k^*} - (a_j^P - a_j^*) \frac{a_{kj}^*}{a_j^*}] gX_{kj}^*}_{\text{Structural Mixed Effect}}$$

Accordingly, Turkish export growth outperformed that of the world in these periods. This performance is mainly due to product composition of the exports and to a much smaller extent to the increase in competitiveness. Although Turkey has diversified its export destinations over the years, market specialisation had a negative effect on the export growth. The main findings of the analysis are presented in Table 11 below.

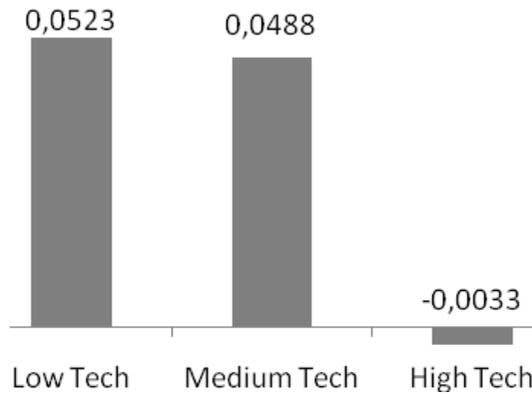
Table 11 | Results of CMS for 2006-11

Total	Competitiveness Effect	Product Effect	Market effect	Mixed Effect
0.188	0.0980	0.42	0.11	-0.22

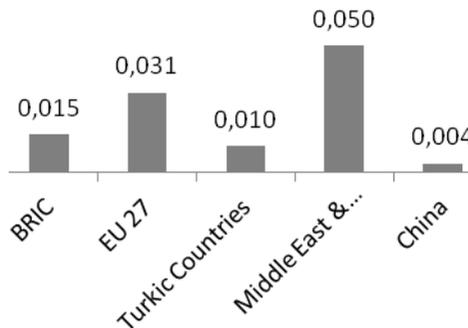
As Graph 7 shows, the sectors contributing to the competitiveness effect are low-technology goods and medium technology. Although some

high-technology goods had a positive, yet small, contribution to the competitiveness effect, the aggregate contribution of high technology goods to the competitiveness effect was negative. This finding is in accordance with the results shown in Graph 8, where the Middle East and North Africa (MENA) region as well as EU 27 seem to have contributed the most to the competitiveness effect in the reference period.

Graph 7 | Technology group contribution to competitiveness effect



Graph 8 | Regional contribution to competitiveness effect



Source: Authors' own calculations based on Constant Market Shares analysis.

CONCLUSION

Turkey's external trade has been quite dynamic, but the specialisation seems to remain in low- to medium-tech products. Moreover, the value added contained in Turkish merchandise exports is quite low, which implies that the export sector is not as important for GDP and employment, as often assumed. But the high-import content of exports also implies that the exchange rate becomes a less effective means to correct a trade imbalance. A large devaluation would also increase the cost of the intermediate goods incorporated in exports. This should be a cause for concern as the current account deficits continues at a high level despite the recent cooling of domestic demand.

On the other hand Turkish exports need to cope with increasing international competitiveness. One constant irritant in Turkish-EU relations has been the fact that the EU has tended to negotiate free trade agreements with third countries.

Given the Customs Union, Turkey has little choice but to negotiate free trade agreements with these countries as well. This pattern is of course politically difficult to sustain. However, the beneficial effect of the increasing number of FTAs should allow a further opening of the Turkish economy. In the short run, there will be increased competitive pressures from other emerging industries, but in the medium to long run, Turkey should benefit from less distortionary trade. The extension of free trade to more and more third countries also leads to a de facto erosion of the preference for EU products on the Turkish market. This effect is too little recognised in Turkey as it should be unambiguously beneficial for Turkey, given that reduced trade diversion (which constitutes the main negative effect of a customs union) should always bring welfare benefits. The EU's policy of concluding more and more bilateral FTAs could thus lead to a strengthening of the Turkish economy, while weakening the bilateral economic ties at the same time.

8.

EU-Turkey Relations and the Stagnation of Turkish Democracy

Senem Aydın-Düzgit and E. Fuat Keyman

INTRODUCTION

Back in August 2004, we published a working paper on the role of Turkey's relations with the EU in transforming Turkish democracy as part of a larger project on EU-Turkey relations conducted by the Centre for European Policy Studies (CEPS) and the Economics and Foreign Policy Forum. The central argument of the paper was that the strengthening credibility of EU conditionality towards Turkey, coupled with favourable domestic and international dynamics resulted in substantial reforms towards the consolidation of Turkish democracy. The paper, written prior to the EU's decision to open accession negotiations with Turkey, concluded that the opening of accession talks with the country on the basis of a fair decision that rests on Turkey's achievements in its modernity and democracy would constitute a crucial step in remedying the remaining problematic aspects of Turkish democracy.

Almost eight years after writing that paper, a lot has changed in EU-Turkey relations as well as in the state of Turkish democracy. The EU opened accession negotiations with Turkey on 3 October 2005 upon the Commission's assessment that Turkey sufficiently fulfils the Copenhagen political criteria, but since then progress has been very slow. By the end of August 2012, Turkey had provisionally closed only one negotiating chapter (science and research) and opened 12 more out of a total of 35 chapters. As for the consolidation of Turkish democracy, there is general agreement that the reform process has substantially slowed down since 2005, with acute problems remaining in various areas such as minority rights, fundamental freedoms (in particular the freedom of expression) and the judicial system. In fact, as Turkey came closer to the EU with the accession talks, the Progress Reports paradoxically became longer and more critical. Even when reforms are undertaken, such as in the case of the rights of non-

Muslim minorities, civil-military relations or the judicial system, they are not carried out with a view to acceding to the EU. If any external factor is mentioned in justifying reform, it is the global environment and globalisation that are viewed as the drivers of reform, not the EU.

While the Turkish economy has tripled its size over the decade and grew close to 10 percent last year, with a corresponding rise in activism in its foreign policy, a mismatch has begun to be seen between its economic and foreign policy performance and the state of Turkish democracy. At the end of two more consecutive victories at the polls by the Justice and Development Party (AKP), in 2007 and 2011, attempts to consolidate Turkish democracy have begun to be replaced by steps towards a highly centralised executive democracy in which the state still holds primacy over society. It is true that the AKP took important steps in democratic reform primarily in its first term in office, moving the country towards starting accession negotiations with the EU. While some progress was achieved in areas such as civil-military relations, the AKP's second term in government also started to bear witness to growing authoritarian tendencies on the part of the governing party, resulting in restrictions on fundamental freedoms such as the freedom of expression. Questions continued on the issue of judicial independence, even among those who advocated for the "yes" campaign during the constitutional referendum that aimed to restructure the judicial system (see the section on the judicial system). Attempts to resolve the Kurdish issue were halted and replaced by Turkish nationalism, resulting in the escalation of the conflict in the southeast. To borrow Steven Cook's phrase, while the AKP was trying to "govern" through reform rather than rule in its early years in government, it is currently "ruling" but not "governing", whereby its dominance of the political system does not translate into good governance as required in a consolidated democracy.

This chapter first outlines the general background of the stagnation in Turkish democracy in the post-2005 period, with a particular focus on the credibility of EU conditionality and the domestic factors that hinder political reform. It then focuses on the problems and prospects that exist in consolidating Turkish democracy by paying particular attention to the role of the military, the state of human rights, the protection of minorities and the judicial system. The essay concludes that despite the currently troubled relationship between Turkey and the EU, the post-2005 trajectory of democratic reform in Turkey demonstrates that the EU remains a much needed fundamental anchor in the consolidation of Turkish democracy.

EXTERNAL CONSTRAINTS AND DOMESTIC FACTORS: THE TRAJECTORY OF POST-2005 DEMOCRATIC REFORM IN TURKEY

The Europeanization literature identifies two EU-level factors as critical for successful EU conditionality in democratic consolidation - sizable and credible incentives. The EU has offered Turkey the maximum stimulus it is able to offer - full EU membership upon meeting accession requirements. Indeed, as elaborated in depth in our 2004 paper, EU incentives played an important role in Turkey's democratic reform when the credibility of conditionality was relatively high between 1999 and 2005 - a time period spanning the granting of candidacy status in 1999, followed by the promise of launching accession negotiations in 2002 (on condition that Turkey fulfils the Copenhagen political criteria) and the opening of accession negotiations in 2005. For instance, more than half of all the constitutional amendments in judicial reform undertaken since the adoption of the 1982 Constitution took place between 1999 and 2005. Yet, the credibility of the EU's offer has been questioned heavily after the opening of accession negotiations with Turkey in 2005.

Triggered by the rejection of the proposed Constitutional Treaty in France and the Netherlands, the EU's "absorption capacity" quickly became a key element of the debate on Turkey's accession in 2005. This concept has, in fact, been on the table since the 1993 Copenhagen Summit, which stated in its conclusions that "the Union's capacity to absorb new members, while maintaining the momentum of European integration, is [...] *an important consideration* in the general interest of both the Union and the candidate countries". In the previous enlargement round, it was actually treated as a "consideration" that calls upon the EU itself to reform rather than a formal criterion of accession. Applied to Turkey, however, the debate focused upon Turkey itself, and particularly its unchanging and unchangeable features: its size, population, culture, and unpopularity with the EU citizens, conveying the message that, unlike the Eastern enlargement, complying with the formal criteria alone may not be sufficient for Turkey's full accession to the Union. The concept was subsequently incorporated into the Negotiating Framework for Turkey which stated that "while having full regard to all Copenhagen criteria, including the absorption capacity of the Union, 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".

This phrase invited a reflection on alternative scenarios to membership such as a “privileged partnership” proposed by German Chancellor Angela Merkel and resulted in the addition of the “absorption capacity” to the Copenhagen criteria. Furthermore, the Negotiating Framework for Croatia, adopted on the same day and drafted in almost identical language, omitted this phrase while only referring to “absorption capacity” as “*an important consideration* in the general interest of both the Union and Croatia”.

In the same way, the Negotiating Framework for Turkey included other provisions that were absent from the text on Croatia, such as “permanent safeguard clauses, i.e. clauses which are permanently available as a basis for safeguard measures [...] in areas such as freedom of movement of persons, structural policies or agriculture”. This was the first time that permanent derogations were being introduced in the EU’s enlargement policy, suggesting to the Turkish elite and public that a “second-class membership” was being envisaged for Turkey. It also coincided with the election of Nicolas Sarkozy and Angela Merkel and their wide-reaching statements on the undesirability of Turkish accession. In fact, upon Sarkozy’s coming to power in 2007, the French government blocked negotiations on five chapters of the *acquis* on the grounds that the chapters were directly linked to full membership.

Another crucial factor that has hampered conditionality in the case of Turkey is the Cyprus conflict. Upon the approval of the UN sponsored Annan Plan by the Turkish Cypriots and its rejection by the Greek Cypriots in the April 2004 referenda, the Council declared that it was “determined to put an end to the isolation of the Turkish Cypriot community”.

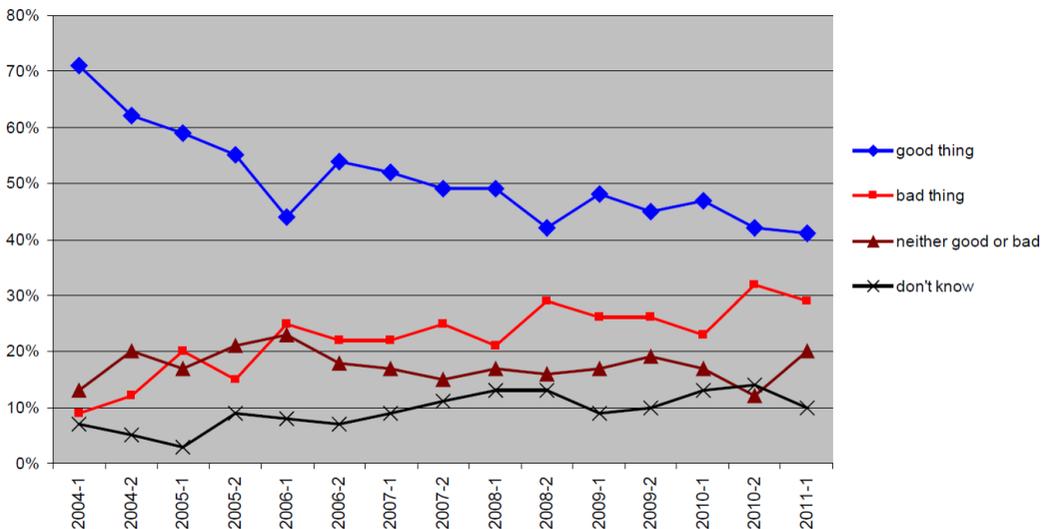
The comprehensive package of aid and trade measures proposed by the Commission in July 2004 was however left largely unimplemented due to strong Greek Cypriot resistance in the Council.

Nevertheless, the EU continued to pressure Turkey to open its sea-ports and airspace to Greek Cyprus as required by Turkey’s customs union agreement with the EU. Turkey, in turn, refused to comply on the grounds that no steps had been taken to end the isolation of the Turkish Cypriots. In December 2006, the Council decided not to open negotiations on eight chapters of the *acquis* relevant to the issue and not to close any of the chapters provisionally until Turkey met its obligations towards Cyprus. This has, to a large extent, served to block progress in accession negotiations and substantially fed into the perceptions in Turkey that the country is being treated unfairly, with the EU using Cyprus as a tool to block Turkey’s accession.

This was clearly reflected in the surveys designed to gauge the attitudes of the Turkish public towards the EU and the accession process. These suggest that public support for Turkey’s EU accession remained considerably high until the second half of 2005. Support for EU membership rose significantly after the Helsinki Summit from 62 percent in 1998 to 74 percent in 1999 and to 75 percent in 2001. Support levels stabilised at around 70 percent between 2002 and the second half of 2004, a period that coincided with the ascendancy of the AKP into power and the relative strengthening of the credibility of EU conditionality. Graph 9 below summarises the *Eurobarometer* data from 2004 to 2011.

The data suggests that from the second half of 2004 onwards (with slight exceptions in 2006, 2009 and 2010), the Turkish public increasingly found EU membership as not necessarily a good thing. By the first half of 2011, support levels fell to 41 percent. The most rapid decline was from 55 percent in the second half of 2005 to 44 percent in the first half of 2006. This coincided with the period in which the absorption capacity debates became popular in Europe, the negotiating framework with its emphasis on “open ended negotiations” and “permanent derogations” was drafted and the first concrete signs that the Cyprus issue would have a substantial impact on accession negotiations appeared.

Graph 9 | Public support for EU accession in Turkey (2004-2011)



Source: European Commission, Standard Eurobarometer, 2004-2011

Previous research found that attitudes towards EU membership in Turkish society are largely dependent on individuals' utilitarian evaluations (hence the expected impact of EU membership on their lives) and the likelihood of Turkey becoming a member of the EU.¹ In relation to that, the Turkish public ranks economic welfare and the freedom to travel, work and study in the EU among the top two signifiers of EU accession.² Furthermore, in a national survey conducted in 2006, two thirds of the respondents expressed disbelief in Turkey ever becoming a member of the EU.³ Hence it can be argued that the strong possibility of imposing permanent limits on the free movement of people and on the full enjoyment of EU funds, coupled with the decreasing expectation of full membership, had a significant negative impact on levels of Turkish support for EU accession. This in turn implies that EU conditionality has for some time now been facing a lack of societal legitimacy in Turkey, whereby Turkish citizens are becoming increasingly estranged from the European project. The danger that this holds for democratic reform is that it reduces the incentive for the adoption of costly reforms to attain EU accession, ties down the hands of domestic reformers and thus also undermines the power of the Union as an effective external anchor for democratic reform in Turkey.

In the case of Turkey, the low degree of societal legitimacy also affects the democratic norms promoted through EU conditionality. The popular legitimacy of externally promoted democratic norms has been found in the past to be one of the key ingredients of successful democratic conditionality by the EU.⁴ Nonetheless, societal attitudes towards democracy in Turkey tend to display a mixed picture in terms of their conducive-

¹ Kentmen, Çiğdem (2008), "Determinants of Support for EU Membership in Turkey. Islamic Attachments, Utilitarian Considerations and National Identity", *European Union Politics*, Vol. 9, No. 4, December, p. 487-510; Çarkoğlu, Ali (2003), "Who Wants Full Membership? Characteristics of Turkish Public Support for EU Membership", *Turkish Studies*, Vol. 4, No. 1, Autumn, p. 171-194.

² European Commission (2009a), *Standard Eurobarometer No. 71*, Spring - Turkey's National Report (in Turkish), http://ec.europa.eu/public_opinion/archives/eb/eb71/eb71_en.htm.

³ Çarkoğlu, Ali, and Kalaycıoğlu, Ersin (2009), *The Rising Tide of Conservatism in Turkey*, New York, Palgrave Macmillan.

⁴ Schimmelfennig, Frank, and Sedelmeier, Ulrich (2004), "Governance by Conditionality: EU Rule Transfer to the Candidate Countries of Central and Eastern Europe", *Journal of European Public Policy*, Vol. 11, No. 4, August, p. 661-679.

ness to democratic consolidation. On the one hand, a large majority of the public seems to support democracy as a regime type. A study published in 2007 found that 77 percent of those surveyed indicated democracy as the best regime type.⁵ However, a more recent study conducted in 2011 also found that those who agree or strongly agree with the assertion that “democracy can sometimes be compromised to restore order and security” amount in total to 44.8 percent of those surveyed.⁶ The latter study also puts forward other indicators which point out that order and stability is generally valued highly, often more so than fundamental rights and freedoms or the right of representation among Turkish public opinion. For instance, 41.9 percent of those surveyed agree with the assertion that political parties can be shut down while 48.5 percent stated their preference to retain the exceptionally high 10 percent electoral threshold for political parties to enter into Parliament.⁷

Equally problematic is the level of tolerance in Turkish society, as a key element of democratic consolidation that cross-cuts almost all sub-areas of democratic reform. For instance, the same study found that 17.8 percent of those surveyed asserted that they would feel uncomfortable living with Kurds.⁸ Other studies reached similar conclusions. In their study on conservatism in Turkey, Çarkoğlu and Kalaycıoğlu found that 68 percent of the Turkish population rank higher than 50 (where the scale runs from 0 intolerance to 100) in their political intolerance scale.⁹ Around 62 percent of respondents argued that minority views should not be tolerated, a similar majority supported the view that freedom of speech could be curtailed for certain political groups, an even higher majority (64 percent) did not tolerate peaceful demonstrations by extremist groups and 57 percent believed that newspapers did not have the right to publish articles that are “against national interests”.¹⁰ On

⁵ Çarkoğlu, Ali, and Toprak, Binnaz (2007), *Religion, Society and Politics in a Changing Turkey*, Istanbul, TESEV, <http://www.tesev.org.tr/Upload/Publication/b1d06f12-4c13-4e18-a3b3-8c1555d915d7/RSP%20-%20Turkey%2011%202006.pdf>.

⁶ Kemahlioğlu, Özge, and Keyman, E. Fuat (2011), *Türkiye’de Demokrasi Algısı* (Democracy Perception in Turkey), İstanbul, İstanbul Politikalar Merkezi, <http://ipc.sabanciuniv.edu/publication/turkiyede-demokrasi-algisi>.

⁷ Ibidem.

⁸ Ibidem, p. 20.

⁹ Çarkoğlu and Kalaycıoğlu (2009), *The Rising Tide of Conservatism in Turkey*, cit., p. 50-54.

¹⁰ Ibidem, p. 51.

specific liberties, another study found that while 43 percent are in favour of the abolition of the headscarf ban in universities, only 11.4 percent of the public seem to support the right to education in Kurdish.¹¹ Read together, these and other data point at the prevailing existence of a “sectarian” understanding of democracy in Turkish society, where the rights of those that are perceived as one of “us” are upheld while the rights of those denoted as “others” are disregarded. Needless to say, this runs counter to the nature of the democratic reforms that the EU demands from Turkey, which first and foremost require the country to undertake a substantial shift from a monolithic conception of the “nation” to one that is inclusive of diversity.

One can argue that these societal trends are not new. Yet, they have recently been compounded by an increasing degree of political and societal polarisation along the axis of the Islamist-secularist divide as well as that of Turkish-Kurdish nationalism, which makes it exceedingly difficult to undertake democratic reform through societal deliberation.¹² This polarisation is acutely visible at both the public and the elite level. For instance both the 2007 and 2011 elections as well as the Constitutional Referendum in 2010 were fought in highly polarised (and personalised) political contexts.¹³ At the societal level, public views on key issues of democratic consolidation are now largely divided along and determined by partisan lines. For instance, on a 1 to 10 scale that measures satisfaction with the functioning of democracy in Turkey, those who have voted for the AKP were found to score on average 6.6 whereas the degree of satisfaction with democracy among those who voted for the main opposition party, the Republican People’s Party (CHP) was found to be on average 2.9.¹⁴ The

¹¹ Çarkoğlu and Toprak (2007), *Religion, Society and Politics in a Changing Turkey*, cit., p. 27.

¹² Çarkoğlu and Kalaycıoğlu (2009), *The Rising Tide of Conservatism in Turkey*, cit.

¹³ Aydın-Düzgıt, Senem (2012), “No Crisis, No Change: The Third AKP Victory in the June 2011 Parliamentary Elections in Turkey”, *South European Society and Politics*, Vol. 17, No. 2, June, p. 329-346; Çarkoğlu, Ali (2007), “A New Electoral Victory for the ‘Pro-Islamists’ or the ‘New Centre-Right’? The Justice and Development Party Phenomenon in the July 2007 Parliamentary Elections in Turkey”, *South European Society and Politics*, Vol. 12, No. 4, December, p. 501-519; Kalaycıoğlu, Ersin (2011), “Kulturkampf in Turkey: The Constitutional Referendum of 12 September 2010”, *South European Society and Politics*, Vol. 17, No. 1, March, p. 1-22.

¹⁴ Kemahlıoğlu and Keyman (2011), *Türkiye’de Demokrasi Algısı (Democracy Perception in Turkey)*, cit., p. 14.

same study found that among those who stated that freedom of expression exists for writers and journalists, 55.6 percent had voted for the AKP while only 19.6 percent were reported to be CHP voters.¹⁵

These societal trends became more forceful hindrances to democratic consolidation when combined with another key domestic variable: the differential empowerment of political actors. The differential empowerment of political elites through EU accession incentives can account for the pace and direction of political reform in candidate countries.¹⁶ In other words, where and when domestic political actors seize the opportunities arising from the EU's conditional offer of membership in line with the predictions of rational choice institutionalism, democratic institutional change occurs. This has also been the case in the Turkish context, where the AKP, upon coming to power in 2002, successfully promoted EU accession and its democratic reform agenda to widen its support base towards the centre. The party attempted to preserve its core constituency through promise of extended religious freedoms and to guarantee its survival vis-à-vis the secularist state establishment in the judiciary and the military.¹⁷

Especially after its second electoral victory in 2007, the AKP became much stronger both in society and against the secularist establishment, and thus became less dependent on the EU and its democratisation agenda.¹⁸ The reactions of the government to the recently intensified EU criticisms of the state of democracy in Turkey are indicative of the weakened reliance on the EU. In response to the critical report of the European Parliament on Turkey published in March 2011, Prime Minister Erdoğan stated that the "Parliament is entrusted to draft the Report and we are entrusted to do as we see fit".¹⁹ In addition to

¹⁵ Ibidem, p. 15.

¹⁶ Schimmelfennig and Sedelmeier (2004), "Governance by Conditionality", cit.; Vachudová, Milada Anna (2005), *Europe Undivided. Democracy, Leverage and Integration after Communism*, Oxford, Oxford University Press.

¹⁷ Özel, Soli (2003), "After the Tsunami", *Journal of Democracy*, Vol. 14, No. 2, April, p. 80-94.

¹⁸ Öniş, Ziya (2009), "Contesting for the 'Center': Domestic Politics, Identity Conflicts and the Controversy over EU Membership in Turkey", *Istanbul Bilgi University European Institute Working Papers*, No. 2, August, p. 9, http://eu.bilgi.edu.tr/docs/working%20paper2_101209.pdf.

¹⁹ Milliyet Daily (2011), "Bildiğimizi Okuruz" (We Will Do as We See Fit), 11 March, <http://www.milliyet.com.tr/bildigimiziokuruz/siyaset/haberdetay/11.03.2011/1362801/>

the increased strength and confidence of the government, the EU's decreasing societal legitimacy as an external actor has contributed to this indifference. To a question on why the 2010 constitutional referendum was not justified in terms of Turkey's EU accession, the Minister of EU Affairs and the Chief Negotiator Egemen Bağış replied that "the EU does not make the news anymore, the EU does not sell".²⁰

This has had two main implications for democratic change in Turkey. First, despite the weakening EU anchor, the relative strength of the government has facilitated the pursuit of further reform in some areas, most notably in strengthening civilian control over the military, which largely stood in opposition to the government. However, the relative weakness of the opposition, the dwindling of the EU anchor and the sectarian views on democracy among the public have also made it easier to undertake more selective democratic reforms according to the government's interests. For example, while civil-military relations are being reformed (see below), the government still chooses to retain some of the infamous remnants of the 1980 coup (and ensuing constitution), such as the High Education Board (YÖK) through which it exercises significant control over universities. A similar situation can also be found in the more specific area of judicial reform. The government, especially during its second term, has had conflictual relations with the largely oppositional Kemalist judiciary, culminating in the closure case against the AKP in March 2008. In August 2009, the government announced the Judicial Reform Strategy and put its main provisions to referendum in 2010. The amendments aimed to democratise the judiciary and make it more responsive to the demands of society by diversifying the background of the members of the Constitutional Court and widening the composition of the High Council that determines the career paths of judges and prosecutors. But the amendments were criticised mainly for retaining substantial provisions that compromise judicial independence, and a number of incidents in the years that have followed suggest that these fears were not completely unfounded (see also below).

Another domestic constraint on the post-2005 period concerns the rise of PKK violence. It is well known that the lower the political costs

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²⁰ Bağış, Egemen (2010), *Speech delivered at the annual EDAM-Radikal Journalists' Meeting*, Istanbul, 7 May.

that are associated with compliance/rule adoption, the easier it is for EU conditionality to bear full fruit.²¹ The political cost of compliance with democratic reforms, particularly regarding the Kurdish issue, was lowered at the end of the 1990s with the capture of PKK leader Abdullah Öcalan and the military defeat of the PKK. The window of opportunity that opened then allowed for significant reforms that directly aimed at improving the lives of Kurds in the country, such as the granting of the right to broadcast in Kurdish, to learn the Kurdish language and use Kurdish names. Nonetheless, largely thanks to political instability in Iraq, the PKK renewed its terrorist activities in 2005, intensifying in 2007 and pushing the government into taking military action against the PKK bases in Northern Iraq in February 2008. Violence continued up until the 2011 general elections and has been compounded since then with developments in Turkey's southern neighbourhood, where the PKK has recently found refuge in the political vacuum opened by the Syrian civil war.

The renewal and rise of PKK terrorism enhances the nationalist fervour among the public and political parties, hindering substantial reform particularly in the field of minority rights (see also the section on minority rights). It also demonstrates the close interconnectedness between Turkish foreign policy and the state of its democracy. As its ties with the EU have weakened, Turkey's links with the Middle East have grown. This has generally been welcomed as a positive step that could result in Turkey acting as a European power promoting democracy in its neighbourhood. However it has also displayed the limits of Turkey's "demonstrative effect",²² given the resilience of Turkey's Kurdish issue and the need for Turkey to practice what it preaches in order to remain a credible actor and to prevent the escalation of its own ethnic conflict to the intensity of those in its immediate neighbourhood.

²¹ Schimmelfennig, Frank, et al. (2003), "Costs, Commitment and Compliance: The Impact of EU Democratic Conditionality on Latvia, Slovakia and Turkey", *Journal of Common Market Studies*, Vol. 41, No. 3, June, p. 495-518, http://www.eup.ethz.ch/people/schimmelfennig/publications/03_JCMS_CostsCommitment.pdf.

²² Kirişçi, Kemal (2011b), "Turkey's 'Demonstrative Effect' and the Transformation of the Middle East", *Insight Turkey*, Vol. 13, No. 2, April, p. 33-55, http://file.insightturkey.com/Files/Pdf/insight_turkey_vol_13_no_2_2011_kirischi.pdf.

Against this background, the next section discusses the state of reform and the remaining problems in four key areas of democratic consolidation: the military, human rights, the protection of minorities and the judicial system.

CIVIL-MILITARY RELATIONS

Substantial steps were undertaken to realign civil-military relations in Turkey between 1999 and 2005 when reform zeal was at its peak. As outlined in further detail in our previous paper, reforms in this period particularly concerned those areas that were specified clearly by the EU, such as the powers of the National Security Council (NSC), the presence of military representatives on public bodies, and the transparency and control of the military budget. With the 2001 constitutional amendments, the sixth and seventh harmonisation packages, and the May 2004 constitutional amendments, a number of fundamental changes were made to the duties, functioning and composition of the NSC, as well as to the conditions relating to the monitoring of military spending.

The pace of reform declined after 2005, only to pick up after 2010 following key domestic developments. As the country approached the presidential and general elections in 2007, the military became increasingly willing to step out in protest against several EU officials' statements and the overall policy drive to establish complete civilian control over the military. This reached a peak after the last-minute nomination of Abdullah Gül as the AKP's candidate for the presidency. The main critique directed at the AKP and Prime Minister Erdoğan in the run-up to the presidential elections was the way in which no consensual agreement mechanisms were sought with the opposition and civil society, with the aim of selecting a candidate accepted by a large segment of Turkish society. The fact that Gül himself was a major figure of the National Outlook movement from the days of the Welfare Party and that his election would introduce the headscarf in the top public office in Turkey, via his wife, aggravated the controversy mainly among the secular elite, including the military and certain segments of civil society. On the eve of the first round of votes for election of the president held in the Turkish Grand National Assembly, the military issued a statement on its official website, highlighting the threat to secularism and hinting at a possible intervention if deemed necessary.

The statement demonstrated that despite the legal amendments and institutional reforms undertaken thus far, the military still perceived itself as the guarantor of secularism as well as the territorial integrity of Turkey. The AKP responded that this was unacceptable in a democracy where the military should be subordinate to the government and proceeded with the election of Gül as the president, leading to a considerable loss of power on the part of the military vis-à-vis the civilian authority.²³

The reforms that followed cannot be attributed solely to the incident of the military memorandum alone. In addition to the expanding confidence and legitimacy of the AKP after the 2007 general elections, two other crucial developments triggered further reform in this area.²⁴ One concerns the split within the military on their role in politics, where there was rising disagreement on the strategies to be deployed in dealing with the government.²⁵ The second, and possibly more influential development was the launch of a comprehensive investigation into a neo-nationalist gang named *Ergenekon* in 2008, on the grounds that it was engaging in plans to stage a violent uprising against the government. The *Ergenekon* case was soon to be followed by the *Balyoz* (Sledgehammer) case that was initiated in December 2010 against around 200 officers in the Turkish military with the accusation of engaging in coup plots against the government.

The *Ergenekon* and *Balyoz* cases led to the arrest and trial of hundreds of active and retired military officers of all ranks, the most notable of which was the arrest of the former Chief of Staff İlker Başbuğ, hence fuelling the public debate on the role of the military in politics, contributing to the declining levels of societal trust toward the military and increasing the impetus for further reform in this area.²⁶ The first

²³ Aydın-Düzgit, Senem, and Çarkoğlu, Ali (2009), "Turkey: Reforms for a Consolidated Democracy", in Amichai Magen and Leonardo Morlino, eds., *International Actors, Democratization and the Rule of Law. Anchoring Democracy?*, London, Routledge, p. 120-155.

²⁴ Gürsoy, Yaprak (2011), "The Impact of EU-Driven Reforms on the Political Autonomy of the Turkish Military", *South European Society and Politics*, Vol. 16, No. 2, June, p. 297.

²⁵ *Ibidem*, p. 297.

²⁶ *Ibidem*, p. 298. In September 2005, just before the launch of the accession negotiations, the Council issued a declaration reminding Turkey that the EU and its member states "expect full, non-discriminatory implementation of the Additional Protocol"

notable sign of reform after the long pause came in June 2009 when the Parliament passed legislation that allowed civilian courts to try military officers in peacetime, including in the event of attempted coups, and lifted the remaining powers of military courts to try civilians in peacetime. This was followed in January 2010 by the abolition of the Protocol on Cooperation for Security and Public Order (EMASYA), which granted the military the right to carry out operations against internal security threats without the consent of the civilian authority.²⁷

These reforms were followed by a series of constitutional amendments introduced by the constitutional referendum of September 2010 which addressed, above all, a long debated legislative/institutional issue concerning the decisions of the Supreme Military Council (SMC) that were until then immune from judicial oversight. The constitutional amendments opened dismissals of military personnel by the SMC to judicial review. Concerning judicial matters regarding the military, the 2010 constitutional amendments introduced further reforms such as lifting the constitutional restrictions on the trial of the perpetrators of the 1980 coup, allowing for the trial of the Chief of Staff and the commanders of the army, navy, the air force and the gendarmerie before a high tribunal for any offences committed during their official duties; and limiting the jurisdiction of military courts to military service and military duties. These legislative/institutional reforms on judicial matters concerning the military were combined after the constitutional referendum with those reforms that targeted the military's autonomy in the economic sphere. Although reforms carried out in the 1999-2005 period had tackled the military's economic power mainly by enhancing the transparency of defence expenditures by expanding the remit of the Court of Auditors to the military budget, there remained significant problems regarding the audit of extra budgetary resources as well as the actual implementation of the Court of Auditors' new powers due to the lack of

to all EU member states and that "[f]ailure to implement its obligations in full will affect the overall progress in the negotiations". Council of the European Union (2005), *Enlargement: Turkey, Declaration by the European Community and its Member States*, Brussels, 21 September, para. 3, http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/misc/86300.pdf.

²⁷ CNNTurk (2010), "Emasya Protokolü Kaldırıldı" (Emasya Protocol is Abolished), 4 February, <http://www.cnnurk.com/2010/turkiye/02/04/emasya.protokolu.kaldirildi/562324.0/index.html>.

the necessary amendments to the Law on the Court of Auditors.²⁸ This was remedied through the adoption of the Law on the Court of Auditors in December 2010 that allowed for the external ex-post audits of military expenditure and for the audits of extra budgetary resources that belong to the defence sector, including the Defence Industry Support Fund that covers military procurement.²⁹

The empowerment of civilian authority vis-à-vis the military has gone beyond legislative and constitutional changes and has been reflected in actual policy practices. For instance, the military's autonomy in taking decisions on matters related to the promotion and retirement of military personnel in the SMC has started to erode. This was first demonstrated in August 2010 when the government intervened in the decisions concerning the appointment and promotion of senior level military officials.³⁰ In July 2011, this loss of autonomy reached its peak publicly when the chief of staff and the commanders of the army, navy and the air forces requested their retirement prior to the annual SMC meeting in response to the government's insistence on the retirement of the military officers who were imprisoned as suspects during the Balyoz trials. Contrary to the SMC tradition where the civilians merely rubberstamped the military's decisions on their officers' careers, the government had not taken up the military's suggestion to postpone the decisions on the suspects' appointments and promotions until the case was resolved and presided over the SMC in which it swiftly filled the new posts, thus demonstrating its acquired control over the career decisions of top military personnel.³¹ The policy of retiring military

²⁸ Gürsoy, Yaprak (2011), "The Impact of EU-Driven Reforms on the Political Autonomy of the Turkish Military", *South European Society and Politics*, Vol. 16, No. 2, June, p. 303.

²⁹ European Commission (2011), *Turkey 2011 Progress Report*, Brussels, 12 October, p. 13, http://ec.europa.eu/enlargement/pdf/key_documents/2011/package/tr_rapport_2011_en.pdf.

³⁰ Despite the wish of the military, civilians prevented the appointment of a four-star general, Hasan Iğsız, as the commander of the army because of allegations that he was involved in coup plots against the government. See Radikal (2010), "Yüksek Askeri Şura'da Iğsız'a Veto" (Veto to Iğsız at the Supreme Military Council), 4 August, <http://www.radikal.com.tr/Radikal.aspx?aType=RadikalDetayV3&ArticleID=1011787&CategoryID=78>.

³¹ Hürriyet (2011), "Lüzum'dan Emeklilik" (Retirement out of Necessity), 29 July, <http://hurarsiv.hurriyet.com.tr/goster/haber.aspx?id=18372169>.

officers detained under the ongoing cases was continued in the SMC meeting of August 2012.

A similar case in which civilian empowerment is evident concerns the drafting of the National Security Policy Document (*Milli Güvenlik Siyaset Belgesi*), a classified state document which lists the internal and external threats to national security. While the document was in the past prepared exclusively by the military, the government took an active part in changing the document in 2010, reportedly removing Russia, Iran, Iraq and Greece from the list of potential security threats in line with the government's "zero problems with neighbours" foreign policy maxim.³²

There are also certain changes in symbolic practices which suggest realignment in Turkish civil-military relations.³³ For instance, while the Prime Minister and the Chief of Staff traditionally sat together at the head of the table in SMC meetings, this changed for the first time in August 2011 when the Prime Minister chaired the meeting alone. In a similar vein, while civilians and military officers in the past sat separately on each side of the table in NSC meetings, there has been mixed seating on both sides of the table since August 2011. Another symbolic change has been the decision taken in 2011 to remove from the parliament's premises the military unit entrusted with protecting the parliament.

Box 1. Post-2005 reforms in civil-military relations

- With the amendments to the Military Criminal Code in June 2006, civilians will not be tried in military courts in peacetime unless military personnel and civilians commit an offence together. The amendments also introduced the right of retrial in military courts in accordance with the decisions of the European Court of Human Rights (ECtHR).
- In January 2010, the Protocol on Cooperation for Security and Public Order (EMASYA), which granted the military the right to carry out operations against internal security threats without the approval of civilian authority, was abolished.
- With the constitutional amendments of September 2010, the expulsions of military staff by the SMC were made subject to judicial review.

³² Hürriyet Daily (2010), "Revised National Security Council Document Approved by Turkish Cabinet", 23 November, <http://www.hurriyetdailynews.com/default.aspx?pageid=438&n=new-edition-of-turkish-red-book-approved-in-cabinet-2010-11-23>.

³³ Sarıgil, Zeki (2012), "The Turkish Military: Principal or Agent?", *Armed Forces and Society*, 9 April (online), p. 10-11.

- The constitutional amendments of September 2010 lifted the constitutional immunity of the perpetrators of the 1980 coup.
- The September 2010 constitutional amendments limited the jurisdiction of military courts to “military service and military duties”, and allowed civilian courts to try military officials accused of crimes against state security, the constitutional order and its functioning.
- The Law on the Court of Auditors adopted in December 2010 allowed for external ex-post audits of armed forces’ expenditure and audits of extra budgetary resources in the defence sector.

The legislative/constitutional amendments, the ongoing trials on coup allegations, actual changes in internalised traditional practices and even changes in symbolic practices have played a considerable role in moving the 1999-2005 reforms in civil-military relations forward by substantially reducing the prerogatives of the military (most notably in the judicial and economic spheres) and empowering the civilian authority. Having said that, there are still remaining problems concerning the full civilianisation of Turkish politics.

The organisation of the defence sector remains problematic with the Chief of Staff still reporting to the Prime Minister rather than the Minister of Defence, and with the Gendarmerie - responsible for ensuring security and public order in areas that are outside the jurisdiction of the police - reporting to the Chief of Staff rather than the Minister of the Interior. Although civilians are now much more active in SMC decisions, career management decisions taken in the SMC meetings are exempt from judicial review, with the exception of those that relate to the expulsion of military personnel. Reforms enacted with a view to eroding the economic prerogatives of the military face difficulties in implementation due to the unwillingness in practice of civilian actors to use their new powers. For instance, parliamentary oversight of military expenditure remains very limited in practice, whereby ministers from both the government and the opposition parties in the Planning and Budgeting Commission barely deliberate on the military budget or the projects of the Ministry of Defence. The military continues to retain its autonomy in intelligence-gathering, where there is still a lack of transparency and accountability regarding the powers of the gendarmerie. The Internal Service Law of the armed forces is untouched in the sense that it allows substantial military intervention in politics through Article 35 and Article 85/1, which define the duties of the Turkish

armed forces in protecting and preserving the Turkish Republic on the basis of the principles referred to in the preamble of the Constitution, including territorial integrity, secularism and republicanism. In a similar vein, while the functioning and organisation of the NSC have largely been changed with the first wave of EU led reforms, the Law on the National Security Council still retains a broad definition of security, which covers both domestic and foreign threats to national existence and unity.

It is important that these issues be addressed so that the military, having largely lost its Kemalist guardianship role, does not continue to be involved in politics as “a tool of a new set of elites” through old instruments.

This is particularly pertinent in the current political environment in which the rising violence by the PKK heightens societal insecurity and threatens civilianisation efforts. This was recently visible in the Uludere incident of December 2011, in which the Turkish military launched a botched air raid killing 34 villagers along the Iraqi border. The incident still lacks a thorough investigation as to who initiated it and how the military mistakenly concluded that the villagers were in fact a group of PKK militants. Furthermore, the government actually expressed its support for the military in response to public outcry by claiming that the “region is a terror region” and the military did what needed to be done.

Members of the opposition parties in the Uludere Commission, established in Parliament in January 2012 to investigate the incident, have repeatedly complained about the covert alliance between the office of the Chief of Staff, the Ministry of Defence and the Prosecutor’s Office in Diyarbakır in withholding key information from the Commission and thus hampering the parliamentary investigation.

Nevertheless, reform in civil-military relations is expected to continue, with the main opposition party, the CHP, also displaying a progressive attitude on the matter. Yet, it is also important that this transformation does not fuel the existing dividing lines within society so as to hamper democratic consolidation. This is particularly the case for the handling of the *Balyoz* and *Ergenekon* trials, where claims of sustained misconduct are found to feed into the existing polarisation along the pro-Islamist and secularist divide in Turkish society.

In its March 2012 report, the European Parliament also made mention of these trials, expressing concern “about the allegations regarding the use of inconsistent evidence against the defendants in these cases” and called on the Commission to look into these cases in

more depth and report its findings with the 2012 Progress Report.

The *Balyoz* verdict delivered in September 2012, which resulted in the conviction of 325 defendants, met with criticism in both the media and society regarding the heavy prison sentences delivered, as well as the violations of the right to fair trial. Allegations that the government is working in tandem with the network of the Islamic Fethullah Gülen movement in the security establishment in reorganising the army through these cases shed further doubt on the adherence to the rule of law in the thorny road towards civilianisation, bolstering the mistrust primarily among the secularist segments in society. It is thus imperative for democratic consolidation that the government allows for an “honourable exit” for the military, whereby these trials (and their appeals) are conducted more rapidly, with due respect for defendants’ rights, without prolonged detention periods and with the possibility of an amnesty for those who are charged.

HUMAN RIGHTS

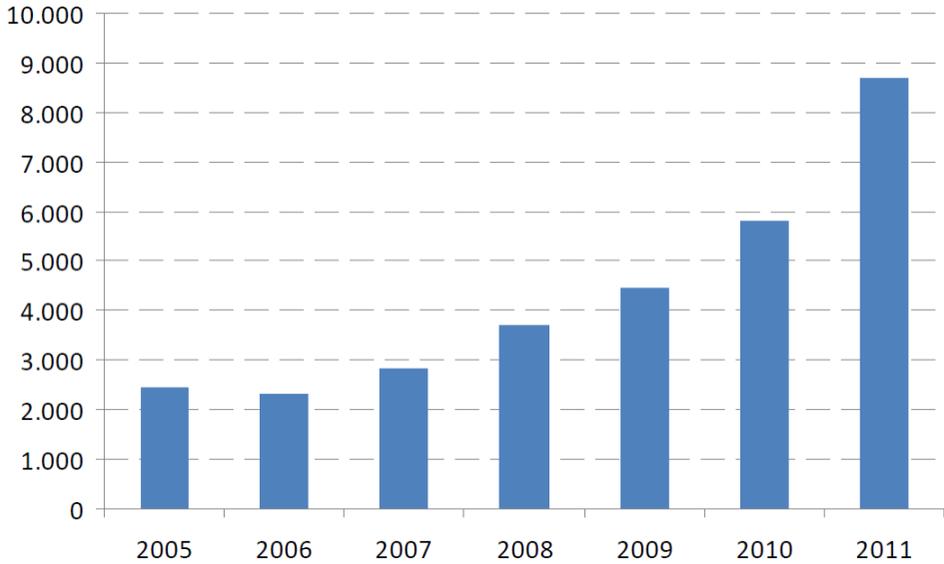
In the 1999-2005 period, important steps were taken to strengthen fundamental rights and freedoms, such as the lifting of the state of emergency and the death penalty, introduction of a new Penal Code with articles broadening the freedom of expression and association, stronger protection of detainee rights along with a significant decrease in pre-trial detention periods, abolition of Art. 8 of the (previous) Anti-Terror Law (propaganda against the indivisibility of the state) and the introduction of the right to learn and broadcast in languages other than Turkish, namely Kurdish. In addition to these legislative reforms, specific measures were enacted to ensure implementation, such as intensive human rights training for public officials and the establishment of Human Rights Boards, a Human Rights Presidency and a parliamentary Human Rights Inquiry Commission.

Although human rights reforms were not entirely abandoned in the post-2005 period, they slowed down considerably, leaving problems with the legal framework as well as the implementation of the already reformed laws in the areas of the fight against torture, freedom of expression, freedom of association and minority rights.

As can be seen in graph 10, applications (allocated to a decision-making body) to the ECtHR have increased progressively since

2005, reaching a record high 8702 applications in 2011, more than double the average annual number of applications filed in 2005-2010. Most of these applications concerned the right to a fair trial and property rights, followed by freedom of expression and torture/ill-treatment.

Graph 10 | Number of applications from Turkey to the ECtHR* (2005-2011)



* allocated to a decision-making body

Source: ECtHR annual statistics.

The state of progress in the area of fundamental rights seems to be mixed, for instance with certain advances being made in the fight against torture while even some steps back seem to have been made with regard to freedom of expression. Overall, there has been limited *legal reform* with the exception of the new law on Foundations passed in February 2008, the (albeit insufficient) amendments to the infamous Article 301 (insulting Turkish identity and state institutions), the ratification of OPCAT (Optional Protocol to UN Convention against Torture) in September 2011 and three constitutional amendments passed with the 2010 constitutional referendum, namely the right of

petition as a constitutional right which establishes an Ombudsman (Art. 74), the right to appeal to the Constitutional Court with regard to fundamental rights and freedoms (Art. 148) and the guarantee that civilians will not be tried before military courts except in times of war (Arts. 145).

Problems of institutional and administrative capacity continued, concerning for instance the functioning of new institutions such as the Human Rights Boards, established to ensure compliance on the ground, which remain dependent on the Prime Ministry and lack the necessary resources.³⁴ The new law establishing a Human Rights Institution finally passed in June 2012, having been on the government's agenda since 2004. This came as a major disappointment, given its limited capabilities and its high degree of dependence on the executive.³⁵ Normative constraints among the state bureaucracy and the political elite, where "state sensitivities" are internalised to the extent that they exceed the interests of society, seem to provide the biggest obstacle to the reform process, continuing to create a climate of impunity for the perpetrators of human rights violations (see also the judicial system) and preventing the emergence of a sustainable human rights regime and culture from taking root in the country.

The fight against torture and ill-treatment

It is difficult to assess the extent of progress in the field of fighting torture and ill-treatment due to a dearth of reliable official statistical data on the matter. Nonetheless, a recent Council of Europe (CoE) report recorded a downward trend in recent years in both the incidence and severity of torture and ill-treatment cases, in line with the government's zero tolerance policy against torture announced in 2003.³⁶ Legislation in this area was already considerably strength-

³⁴ European Commission (2011), *Turkey 2011 Progress Report*, cit., p. 21.

³⁵ The Institution consists of 11 members of whom 7 are appointed by the Council of Ministers, 2 by the President, 1 by the High Education Council (YÖK) and 1 by the bar associations. See Ergin, Sedat (2012a), "Bağımsız İnsan Hakları Kurumu Bir Hayalmiş" (An Independent Human Rights Institution was a Dream), *Hürriyet*, 23 June, <http://www.hurriyet.com.tr/yazarlar/20825701.asp>.

³⁶ Council of Europe (2011b), *Report to the Turkish Government on the Visit to Turkey Carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 4 to 17 June 2009*, Strasbourg, 31 March, p. 14, <http://www.cpt.coe.int/documents/tur/2011-13-inf-eng.pdf>.

ened with the 1999-2005 reforms, coupled with the implementation of various projects to raise awareness in society and intensive training provided to public officials about the changes made to the legislation and regulations governing law enforcement agencies.³⁷ Additional steps have been taken since 2005, the most notable of which are the ratification of OPCAT, providing for the establishment of one or several independent monitoring bodies entrusted with inspecting places of detention; continued training and awareness-raising for judges, prosecutors and forensic experts on the Istanbul Protocol³⁸ and the setting up of video and audio recording systems at police quarters with the aid of EU-funded projects.³⁹ Unlike the 1990s, torture is no longer being used as a widespread measure to obtain confessions.⁴⁰

³⁷ Aydın and Keyman (2004), "European Integration and the Transformation of Turkish Democracy", cit., p. 23-27.

³⁸ The Istanbul Protocol is a set of "international guidelines for the assessment of persons who allege torture and ill-treatment, for investigating cases of alleged torture and for reporting findings to the judiciary or any other investigative body". UNHCHR (2004), *Istanbul Protocol. Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, New York and Geneva, United Nations, <http://www.ohchr.org/Documents/Publications/training8Rev1en.pdf>.

³⁹ The most comprehensive EU-funded training project in this field was entitled "Training Programme on the Istanbul Protocol: Enhancing the Knowledge Level of Non-Forensic Expert Physicians, Judges and Prosecutors" whereas the project on "Purchase of Machinery and Equipment for Detention and Statement Taking Rooms" set up video and audio recording systems across the country. Council of Europe (2011c), *Response of the Turkish Government to the Report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its Visit to Turkey from 4 to 17 June 2009*, Strasbourg, 31 March, p. 16-17, <http://www.cpt.coe.int/documents/tur/2011-14-inf-eng.pdf>.

⁴⁰ Dođru, Osman (2012), "Mills that Grind Defendants: Criminal Justice System in Turkey from a Human Rights Perspective", *TESEV Democratization Program Policy Report Series, Judicial Reform*, No. 3, March, p. 28, http://www.tesev.org.tr/Upload/Publication/8ff9dcc5-e2bb-404b-a1c0-8997639f405b/11703ENGYargi3_06_03_12onay.pdf.

Box 2. Post-2005 reforms undertaken to strengthen the fight against torture

- OPCAT, which requests Turkey to establish one or more independent monitoring bodies called National Preventive Mechanisms (NPMs), was ratified in September 2011.
- Article 145 of the Constitution was amended with the 2010 Constitutional Referendum to prevent the trial of civilians by military courts except in times of war.
- Training for judges, prosecutors and forensic experts in line with a better implementation of the Istanbul Protocol has continued.
- Audio- and video-recording systems continue to be set up in police and gendarmerie statement taking rooms.

Despite considerable progress, the fight against torture and ill treatment is not over. First of all, some of the current legal measures introduced by the 2006 amendments to the Anti-Terror Law have the propensity to create an environment more conducive to torture and ill-treatment, particularly in the current political environment in which rising violence and the “fight against terror” threatens individual liberties. The article which raises the risk the most is Section 10 (e) of the Anti-Terror Law, which stipulates that upon the order of a public prosecutor, a detainee may be denied access to a lawyer during the initial 24 hours of custody if suspected of committing a terrorism-related offence, even though it is mostly in the immediate aftermath of being taken into custody that torture and ill-treatment occurs. This exception needs to be revoked. In fact, the original justification for introducing the requirement of immediate access to a lawyer for all detained persons was precisely to create an effective measure to fight torture and ill-treatment in Turkey.⁴¹

There are also other legislative obstacles raised in our earlier paper that remain untouched by the 1999-2005 reforms. For instance, forensic medical doctors, with the exception of those that operate under the Forensic Medicine Council, and thus the Ministry of Justice, are still not recognised by the courts, leading to a lack of independent forensic services and allegations of partiality in the delivery of medical reports.

⁴¹ Council of Europe (2011b), *Report to the Turkish Government on the Visit to Turkey*, cit., p. 18.

Similarly, in the absence of an independent judicial police, investigations into torture and ill-treatment continue to be commonly conducted by law enforcement officers, and in many cases by the superiors of the perpetrators, while the perpetrators commonly remain in office, thus undermining the independence, impartiality and effectiveness of the process.⁴² Another legal impediment to a more effective fight against torture and ill-treatment concerns the statute of limitations. Although the statute of limitations was increased to 15 years for torture and 40 years for death caused by torture with the 2005 Penal Code, torture cases are still being dropped because of the huge backlog of cases in the Turkish judiciary (see the section on the judicial system). Thus the state of limitations needs to be unlimited altogether for all cases that concern torture and ill-treatment.⁴³ It has been reported that the draft (fourth) judicial reform package that is currently under preparation proposes to lift the statute of limitations for all torture cases.⁴⁴

Nonetheless, more than these new and remaining legislative provisions, it is the “culture of impunity” that allows the police and the gendarmerie to escape accountability for torture which continues to represent the main hindrance to further progress in this area. For instance, a report by the Human Rights Investigation Commission Report found that, between 2003 and 2008, only 2 percent of the 2140 personnel who were investigated on accusations of torture and ill-treatment were given disciplinary sentences.⁴⁵ In some cases, it is the lack of a normative shift among public officials and the political elite towards the unacceptability of torture, even in cases where the interests of the “state” are perceived to be at stake, which provides the main hindrance to the eradication of

⁴² UN (2011), *Report of the Committee against Torture (A/66/44)*, p. 63, <http://www2.ohchr.org/english/bodies/cat/docs/A.66.44.pdf>.

⁴³ In fact, approximately 20 percent of all the cases in the Turkish justice system are dropped every year due to the statute of limitations. Atılgan, Mehmet, and Işık, Serap (2012), *Disrupting the Shield of Impunity: Security Officials and Rights Violations in Turkey*, Istanbul, TESEV, p. 31-31, <http://www.tesev.org.tr/en/publication/disrupting-the-shield-of-impunity-security-official>.

⁴⁴ Milliyet (2012b), “İşkencede Zamanaşımı Kalkıyor” (Statute of Limitations are Being Lifted in Torture Cases), 19 August, <http://www.milliyet.com.tr/Yazdir.aspx?aType=HaberDetayPrint&ArticleID=1583198>.

⁴⁵ US Department of State (2009), *2008 Human Rights Report: Turkey*, Washington, Bureau of Democracy, Human Rights and Labor, 25 February, <http://www.state.gov/j/drl/rls/hrrpt/2008/eur/119109.htm>.

torture. The presence of law enforcement officers during medical examinations even though the legal reforms forbid this or the hasty and superficial examinations and reports of medical doctors who are not willing to deliver detailed evaluations attest to this.⁴⁶

In most cases, however, this problem of normative internalisation combines with legal loopholes to provide full effect to impunity for perpetrators of torture and ill-treatment despite the undertaken reforms. For instance in some cases, the public prosecutors choose to bring charges of torture and ill-treatment under those articles of the Turkish Penal Code (such as Article 256 - "excessive use of force" or Article 86 - "intentional injury" - rather than Article 94 - "torture" - or Article 95 - "aggravated torture due to circumstances") where relatively lighter sentences can be delivered and/or where there is an obligation to obtain prior administrative authorisation for an investigation. This is, despite the fact that the sentences for torture cases have been increased and the requirement for prior administrative authorisation for torture and ill-treatment cases has been lifted by the earlier legislative reforms.⁴⁷ This was most recently demonstrated in the *Engin Çeber* case which attracted large media attention, where a political activist arrested for distributing a legal journal in September 2008 died of torture in October 2008. In the initial indictment, the public prosecutor brought charges under Article 96 ("maltreatment conducted by ordinary citizens") and Article 257 ("misconduct in public office") rather than Articles 94 and 95.⁴⁸

The dovetailing of normative constraints with the legal loopholes is also demonstrated in the practice of the police officers who, accused of torture and ill-treatment, bring counter charges against the plaintiffs on the basis of (most commonly) Article 265 of the Penal Code, which concerns resistance to public officials preventing them from carrying out their duties. It has been argued that the new Police Law of June 2007 has increased the propensity to resort to this practice by expanding

⁴⁶ Council of Europe (2011b), *Report to the Turkish Government on the Visit to Turkey*, cit., p. 19.

⁴⁷ Council of Europe (2012b), *Report by Thomas Hammarberg, Commissioner for Human Rights of the Council of Europe, Following his Visit to Turkey from 10 to 14 October 2011* (CommDH(2012)2), Strasbourg, 10 January, para. 46, <https://wcd.coe.int/ViewDoc.jsp?id=1892381>.

⁴⁸ Atılğan and Işık (2012), *Disrupting the Shield of Impunity*, cit., p. 15-17.

the powers of the police.⁴⁹ It has also been reported that such counter charges are often dealt with more rapidly by the criminal justice system (see also the section on the judiciary).⁵⁰ Individuals thus refrain from filing complaints for torture and ill-treatment for fear of counter charges against them.⁵¹ Intimidating the plaintiffs and undermining their credibility is increasingly becoming a common strategy in getting around the reforms and achieving impunity. For instance, in the *Engin Çeber* case, Çeber's claims of having been tortured before his death were not investigated by the prosecutor, whereas an investigation was launched against him on the basis of Article 265.

These findings demonstrate that, despite the reforms which have led to certain progress in the fight against torture and ill-treatment, reform resistant forces among the police and the judiciary are finding novel ways to adapt to the new legal and institutional environment. This is also bolstered by the divided nature of the commitment of the political elite to fighting torture and ill-treatment. On the one hand, there are some signs of normative internalisation among the governing elite as seen in the *Çeber case*, where the Minister of Justice gave a public apology for Çeber's death under torture. On the other hand, however, Prime Minister Erdoğan's public support for the recent appointment of a police officer whose actions caused Turkey to be fined by the ECtHR in two torture cases, as the deputy chief of the Istanbul Police Department's anti-terrorism bureau, demonstrates the limits of this internalisation and strengthens the drive for impunity, especially under the banner of the "fight against terrorism".⁵²

It is apparent that one way to pursue reform in this area is to address the legal shortcomings highlighted above. But this, on its own, would not be sufficient given the quick adaptation shown by law

⁴⁹ Radikal (2007), "Kusursuz Polisler" ('Perfect Policemen'), 27 November, <http://www.radikal.com.tr/haber.php?haberno=239958>.

⁵⁰ Atılğan, Mehmet, and Işık, Serap (2012), *Disrupting the Shield of Impunity*, cit., p. 15-17; Council of Europe (2012b), *Report by Thomas Hammarberg, Commissioner for Human Rights of the Council of Europe, Following his Visit to Turkey from 10 to 14 October 2011*, cit., para. 5.

⁵¹ Amnesty International (2010), *Turkey: Briefing to the Committee against Torture*, 18 October, p. 8, <http://www.amnesty.org/en/library/info/EUR44/023/2010>.

⁵² Radikal (2012), "Örgüt Silah Bırakmazsa Mücadelemiz Devam Eder" (Our Fight will Continue if the Organisation does not Give Up Arms), 6 August, <http://www.radikal.com.tr/Radikal.aspx?aType=RadikalDetayV3&ArticleID=1096334&CategoryID=78>.

enforcement officers and the members of the judiciary in pre-empting the proper implementation of legal reforms. Hence there is a need to intensify institutional reform, such as setting up an independent police complaints mechanism or rapidly expanding the number of video and audio recording systems at police quarters which still remains very low.⁵³ Perhaps more importantly, however, is the need for continued intensive training for the members of the police force and the judiciary in both their formal education and also during their active careers on the implementation of the Istanbul protocol and on the primacy of individual rights and liberties over the state. Civil society institutions can also be involved in similar training programmes for informing the public of their rights relating to custody.

Freedom of expression

Freedom of expression is an area in which the progress that was made with the 1999-2005 reforms has been substantially reversed, to the extent that the curtailment of this freedom has now become one of the major sources of domestic and international criticism of the current state of Turkish democracy. The President of the Court of Cassation recently declared that problems with freedom of expression are growing in Turkey, while the issue was brought up for the first time in a European Council summit declaration on enlargement in December 2011.⁵⁴ ECtHR judge, Işıl Karakaş, declared in November 2011 that Turkey has the highest number of ECtHR decisions for violations of freedom of expression among all of the Council of Europe members. Turkey, with two hundred violations of the freedom of expression, was followed by France with only ten violations.⁵⁵

⁵³ As of 2011, digital audio and video systems were set up in 63 out of more than 2000 detention centres and testimony rooms. US Department of State (2012), *Country Reports on Human Rights Practices for 2011 - Turkey*, Washington, Bureau of Democracy, Human Rights and Labor, 24 May, p. 6, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?dlid=186414>.

⁵⁴ Ergin, Sedat (2012c), "Yargıtay Başkanı'nın Gözünden Otoriterleşme" (Rising Authoritarianism in the Eyes of the President of the Court of Cassation), *Hürriyet*, 5 September, <http://www.hurriyet.com.tr/yazarlar/21383699.asp>.

⁵⁵ BİA (2011b), "Turkey takes Lead in Violations in Freedom of Expression", *BİAnet*, 30 November, <http://bianet.org/english/freedom-of-expression/134404-turkey-takes-lead-in-violations-of-freedom-of-expression>.

The EU-led reform in the mid-2000s not only led to legislative changes, but was also translated into practice, resulting in a substantial decline in the number of individuals arrested for expressing their opinions.⁵⁶ According to Human Rights Watch, as of November 2005, there were no individuals serving prison sentences for the non-violent expression of their opinions.⁵⁷ However by June 2012, 95 journalists alone were reported to be imprisoned, 62 of which were detained in relation to their reporting on the Kurdish issue. This increase has been progressive, from 15 imprisoned journalists in June 2009 to 57, 68 and 95 respectively in the three years that followed.⁵⁸

The current stalemate in this area stems from the combination of a multitude of legal provisions and the mindset of the judiciary. The Constitution itself (in particular Articles 26 and 28) provides the main hindrance, given the limits that it imposes on the freedom of expression on the basis of national security, public order and national unity. In view of this, we reiterate our suggestion first set down in our 2004 paper to constitutionally guarantee the right to the freedom of press and of expression without censorship by amending Articles 26 and 28 of the Constitution as a key point of reform in the current constitutional deliberations. Besides the Constitution, the main legislative provisions that are most commonly used to restrict free speech concern the Turkish Penal Code and the Anti-Terror Law.

The main problem with the Penal Code is that, although it was passed as a part of the EU reform process in 2005, it retained key provisions of the old Penal Code that served to restrict the freedom of expression in the past. These articles are most prominently Article 215 (praising a crime or criminal), Article 216 (inciting the population to enmity or hatred and denigration), Article 301 (insulting the Turkish nation, the Turkish Republic, the Turkish Grand National Assembly, the government or the judicial organs of the state) and Article 318 (discouraging persons from

⁵⁶ Alpay, Şahin (2010), "Two Faces of the Press in Turkey: The Role of the Media in Turkey's Modernisation and Democracy", in Celia Kerslake, Kerem Öktem, Philip Robins, eds., *Turkey's Engagement with Modernity. Conflict and Change in the Twentieth Century*, Basingstoke, Palgrave Macmillan, p. 370-387.

⁵⁷ Human Rights Watch (2010), *Protesting as a Terrorist Offense: The Arbitrary Use of Terrorism Laws to Prosecute and Incarcerate Demonstrators in Turkey*, 1 November, <http://www.hrw.org/reports/2010/11/01/protesting-terrorist-offense-0>.

⁵⁸ Figures were retrieved from the annual BIA *Media Monitoring Reports*.

doing their military service). Articles 218 and 318 further increase the punishment in those cases where these acts are committed through the press or other types of publications. Although the infamous Article 301 which was used to convict writer and journalist Hrant Dink, laying the groundwork for his assassination in 2007, was amended in 2008 (where the maximum penalty was lowered from three to two years of imprisonment, the phrase “insulting Turkishness” was replaced by “insulting the Turkish nation” and investigations under this Article was tied to the permission of the Minister of Justice for each case), the changes were largely cosmetic, only temporarily decreasing the number of proceedings brought under the Article and leaving open the possibility for its abuse in the future.

While the maintenance of these articles and their widespread use in limiting the freedom of expression testify to the effects of incomplete legal reform, the case of the Anti-Terror Law demonstrates a reversal in the sense that the amendments made to this law in 2006 actually introduced new limits to fundamental rights and freedoms, including the freedom of speech.⁵⁹ For instance, with the 2006 amendments, the punishment for crimes under Article 6 (printing or publishing declarations or leaflets emanating from terrorist organisations) was changed from a fine to from one to three years imprisonment. The same article also allows for the suspension (by judicial order) of publications that contain propaganda of a terrorist organisation, incitement to commit a crime or praise for a crime committed for up to a month, and makes the publications' editors and owners liable for these crimes. In many cases, the Anti-Terror Law is used in combination with the Penal Code (Article 220 - propaganda in favour of a criminal organisation) to persecute even non-violent statements when they are perceived to concur with the aims of a terrorist organisation.⁶⁰

⁵⁹ Aytar, Volkan (2006), *Daha Karanlık bir Geleceğe Doğru mu? Terörle Mücadele Kanununda Yapılan Değişiklikler* (Towards a Darker Future? Amendments to the Anti-Terror Law), Istanbul, TESEV, <http://www.tesev.org.tr/Upload/Publication/52b9b38c-f36b-4093-b3ef-57537fe5eeca/TESEVTMKRaporu-VolkanAytar.pdf>.

⁶⁰ Council of Europe (2011a), *Report by Thomas Hammarberg, Commissioner for Human Rights of the Council of Europe, Following his Visit to Turkey from 27 to 29 April 2011: Freedom of Expression and Media Freedom in Turkey* (CommDH(2011)25), 12 July, para. 27, <https://wcd.coe.int/wcd/ViewDoc.jsp?id=1814085>.

These legal provisions became prominent instruments in curbing the freedom of expression, particularly against the background of KCK (Koma Ciwaken Kurdistan - Kurdistan Communities Union)⁶¹ operations initiated in April 2009. Not only has no substantial progress been achieved towards the resolution of the Kurdish conflict in the post-2005 period, tensions have grown further, first with the closure of the Kurdish nationalist DTP (Demokratik Toplum Partisi, Democratic Society Party) in December 2009 (renamed BDP - Barış ve Demokrasi Partisi, Peace and Democracy Party, following its 2009 closure), followed by the intensification of KCK operations in September 2010. The operations and the ensuing trials have seen the prosecution of prominent political leaders and activists of the Kurdish movement on the grounds that they constitute the political organisation of the PKK in urban centres, or of their opinions expressed in speeches, the press and other publications. This led to a sixfold rise in prosecutions from 2009 to 2010, when 150 people were prosecuted under the Anti-Terror Law for expressing opinions or reporting on subjects related to the Kurdish minority and the PKK.⁶² As of June 2012, 62 out of 95 journalists imprisoned were being detained in relation to KCK and related trials. Between April and June 2012 alone, 61 indictments were prepared against members of the BDP regarding their statements on the Kurdish question.⁶³

In addition to the KCK trials, the *Ergenekon* case has also played a prominent role in boosting the curtailment of the freedom of expression. In fact, it was the detainment of two well-known opposition journalists on the basis of Article 220 of the Penal Code within the scope of the *Ergenekon* investigation that brought the freedom of expression cases into the international spotlight in March 2011. Their detainment raised vocal criticism from the EU, the Council of Europe and international human rights organisations against the deteriorating levels of freedom

⁶¹ The KCK is an umbrella organisation of Kurdish movements in Turkey (including the PKK), Iran, Iraq and Syria and aims to form parallel alternative structures to the official organs of justice, management and politics in these countries. While its leader is reportedly Abdullah Öcalan, its Executive Council is headed by a PKK commander, Murat Karayılan.

⁶² Freedom House (2012), *Turkey: Freedom of the Press 2011*, <http://www.freedomhouse.org/report/freedom-press/2011/turkey>.

⁶³ BIA (2012), *Media Monitoring and Freedom of Expression Report: April-May-June 2012*, <http://www.bianet.org/english/other/144148-bia-media-monitoring-and-freedom-of-expression-report---full-text>.

of the press in the country, only to be rebuffed by the Prime Minister on the grounds that journalists were being detained due to their links with terrorist organisations and attempts to overthrow the government.⁶⁴ Article 285 (breaching the confidentiality of criminal organisations) and Article 288 (attempting to influence judicial bodies unlawfully) also played a key role in the mounting pressure on journalists covering the *Ergenekon* case.⁶⁵ As of January 2012, there were around 5000 ongoing investigations opened against journalists on the basis of these articles.⁶⁶

These cases imply that the existing legislative provisions and the new legal measures are being used to violate the right to free speech primarily when the government's authority and/or its Kurdish policy are being challenged. In the face of growing domestic and international criticism and the cases piling up at the ECtHR, the government embarked on a legislative reform strategy (also known as the third judicial reform package) adopted in July 2012 to revise some of the legislative provisions that stand in the way of freedom of expression. Nonetheless, while including some progressive measures such as suspending offences committed via the media to 31 December 2011 for three years (and scrapping the accusation for good if the same offence is not recommitted within those three years), the third reform package leaves the main legislative provisions used in curbing free speech largely intact.⁶⁷ The draft (fourth) reform package that is reported to contain important provisions in expanding the freedom of expression has not yet been submitted to Parliament.

Regarding legislative provisions, constraints on the freedom of expression are also imposed through laws that specifically pertain to the media sector. Although the Press Act, which was amended in 2004, was welcomed as a positive step towards expanding media freedoms, it continues to contain numerous restrictions on these freedoms by making references to "public security", "territorial integrity" and "state secrets".

⁶⁴ Ntvmsnbc (2010), "Erdoğan: Köşe Yazarına Hakim Olacaksınız" (Erdoğan: You will Control your Columnist), 26 February, <http://www.ntvmsnbc.com/id/25062661>.

⁶⁵ Council of Europe (2011a), *Report by Thomas Hammarberg, Commissioner for Human Rights of the Council of Europe, Following his Visit to Turkey from 27 to 29 April 2011*, cit., para. 20.

⁶⁶ Ergin, Sedat (2012b), "Yargı Reformu (3): Basın Özgürlüğünde Bir Adım İleri Bir Adım Dur" (Judicial Reform (3): One Step Forward One Step Stop in the Freedom of Press', *Hürriyet*, 28 January, <http://www.hurriyet.com.tr/yazarlar/19790263.asp>.

⁶⁷ Keskin, Adnan (2012), "Üçüncü Reform Paketi'nden Beklenen Özgürlük Çıkmadı" (Expected Freedom does not Emerge from the Third Reform Package), *Taraf*, 12 June.

Although prepared with a view to aligning it with the Audiovisual Media Services Directive of the EU, the more recent Act on the Establishment of Radio and Television Enterprises and their Broadcasts, adopted in 2011, also contains numerous restrictions on the freedom of the media open to subjective interpretation, such as “protection of the family” and “public morality”, which are not contained in the EU Directive. The Internet Law adopted in 2007 has been largely criticised for the wide and vague legal foundations that it introduces in denying access to websites.⁶⁸

As also highlighted in our 2004 paper, despite the pressing need for legal reform that would involve a comprehensive review of all existing laws that restrict the freedom of expression, amending these laws has its limits since the most important challenge for Turkey is to change the mindset of those who exercise these legal provisions. Most of Turkey’s violations of Article 10 of the European Convention on Human Rights (ECHR) are found to emanate from a lack of proportionality in the interpretation and implementation of these legal provisions by judges and public prosecutors. For instance, in contrast to ECtHR case law, the Turkish judiciary is commonly found to apply a very wide interpretation of “incitement to violence” and to disregard the “defence of truth” (assessing “whether the content of journalistic reporting is true”) and “defence of public interest” (assessing “whether the public has a legitimate interest in and a right to obtain the information in question”) in delivering its judgements on cases relating to the freedom of expression.⁶⁹ Hence intensive and systematic training of judges and public prosecutors on the case law of the ECtHR remains a key requirement for substantial reform in this area. It is also essential that this be supplemented by changes in the curricula of law faculties and the Turkish Academy of Justice, where the focus should be placed on specific and relevant cases from the ECtHR as well as EU member states, together with the arguments and discussions surrounding these cases.

⁶⁸ Kurban, Dilek, and Sözeri, Ceren (2012), *Caught in the Wheels of Power: The Political, Legal and Economic Constraints on Independent Media and Freedom of the Press in Turkey*, Istanbul, TESEV, June, p. 37-38, http://www.tesev.org.tr/Upload/Publication/6e7010fe-0f80-4c8d-821f-5278f2ca14ee/12301ENGmedya3WEB09_07_12.pdf.

⁶⁹ Council of Europe (2011a), *Report by Thomas Hammarberg, Commissioner for Human Rights of the Council of Europe, Following his Visit to Turkey from 27 to 29 April 2011*, cit., para. 37.

The problem with mindsets, however, also extends to the bureaucracy that runs the media regulatory authorities, such as the Radio and Television Supreme Council (RTÜK) and the Telecommunications Communication Presidency (TIB), which is responsible for regulating the internet environment. Both institutions lack autonomy, are largely dependent on political authority and apply wide discretion in interpreting the legislative provisions for which they are competent.⁷⁰ In 2011, RTÜK issued eighty-nine fines, three hundred and eighty three warnings, twenty-seven suspensions and one notice to twenty-seven radio and four hundred and eighty television channels.⁷¹ As of September 2012, 20,690 websites are blocked with 84.7 percent of the blocking decisions coming from the TIB.⁷² It has been argued that in cases where nationalist and conservative values clash with fundamental rights and freedoms, these regulators systematically uphold the primacy of the family, nation and state above the individual.⁷³ Thus it is crucial that, in addition to undertaking a reformist review of the acts that grant these institutions their powers, their competences also need to be restricted and their institutional composition decoupled from political processes.

The political economy of the media sector presents the final major obstacle to the freedom of expression in Turkey. While not a new phenomenon, almost all of the major media groups in the country have investments in key sectors of the economy (i.e. energy, telecommunications, finance) where they are not prevented by law from entering into public tenders. This creates a media landscape in which the public interest can be compromised by economic and political interests.⁷⁴ Against this background, certain policies of the strong single-party administration and its politicians can impact on editorial policies and reinforce self-censorship.

⁷⁰ The nine members of RTÜK are selected by the Parliament from the candidates proposed by the political parties in accordance with their seat shares in the Parliament. The seven members of TİB are appointed by the Council of Ministers whereas there is one representative each from the National Intelligence Organisation, Turkish National Police and the Gendarmerie in the institution.

⁷¹ BİA (2011), *Media Monitoring Report 2011*, <http://www.bianet.org/english/freedom-of-expression/136599-bia-mediamonitring-report-2011-full-text>.

⁷² The rest of these decisions emanate from the courts, public prosecutors and the High Election Board. For figures on the blocked websites, see <http://www.engelliweb.com>.

⁷³ Kurban and Sözeri (2012), *Caught in the Wheels of Power*, cit., p. 17.

⁷⁴ Ibidem, p. 18.

For instance, the tax fine issued in 2009 against the Doğan Media Group was perceived by many as a reaction by the government to the group's criticism of it. In a similar vein, on multiple occasions the Prime Minister has warned the media conglomerates that they are responsible for the writings of their columnists and that they should exercise control over them where necessary.⁷⁵

Freedom of peaceful assembly and association

The 1999-2005 reforms included considerable measures taken to expand the freedom of assembly and association, especially by easing the restrictions on organising demonstrations and by abolishing some pre-existing limitations on setting up associations, their membership requirements and the general regulations regarding their activities.

On the freedom of peaceful assembly, these reforms brought the legal framework broadly in line with EU standards which were also reflected in implementation.⁷⁶ Nonetheless, loopholes in the existing and new legislation, coupled with the setbacks in implementation and the new political developments have led to the resurgence of problems in this area. Excessive use of force by the police has been observed particularly in demonstrations concerning the Kurdish issue, as well as those on students' rights, trade union rights and the environment. As with torture and ill-treatment, impunity of the security forces has remained a major concern, with investigations depending on the permission of governors that in some cases are not forthcoming or involving scarce disciplinary sanctions.⁷⁷

On the legal front, especially since 2008, Articles 220 (propaganda for a terrorist organisation, committing a crime on behalf of an organisation without being a member) and 314 (membership in an armed organisation) of the Penal Code were combined with the amended Article 2 of the Anti-Terror Law (committing a crime on behalf of a terrorist organisation) to deliver an increasing number of prosecutions of protestors in the face of the rising stalemate in the Kurdish issue.⁷⁸ The mindset of the judiciary

⁷⁵ Ntvmsnbc (2010), "Erdoğan: Köşe Yazarına Hakim Olacaksınız" (Erdoğan: You will Control your Columnist), 26 February, <http://www.ntvmsnbc.com/id/25062661>.

⁷⁶ See European Commission, *Turkey Progress Reports 2007 and 2008*.

⁷⁷ European Commission, *Turkey 2008 Progress Report*, Brussels, 5 November 2008, p. 17.

⁷⁸ Human Rights Watch (2010), *Protesting as a Terrorist Offense: The Arbitrary Use of Terrorism Laws to Prosecute and Incarcerate Demonstrators in Turkey*, 1 November, p. 1,

has proved instrumental once again in delivering restrictive interpretations of these vague articles, as evidenced in a precedent-setting 2008 case in which the Court of Cassation decided that joining protests publicly supported by the PKK is a crime. Human rights organisations have underlined that even when a specific appeal by the PKK is not discernable, protesters are frequently charged with acting under PKK orders.⁷⁹ Hence, as with the closely related freedom of expression, resolving the current setbacks in the freedom of peaceful assembly requires both legal reform concerning the vague legal provisions open to arbitrary jurisdiction and the ongoing training of members of the judiciary. Constitutional provisions guaranteeing the right to hold demonstrations may also be helpful in legally enshrining this right.

Turkey's legal regime on the freedom of association is broadly aligned with EU standards, in particular following the entry into force of the 2004 Law on Associations. However, important restrictions continue to remain, mainly on foreign financial support for associations and the establishment of foreign associations and foundations. Although the 2004 Law on Associations replaced the "permission" required from the Ministry of the Interior to receive funds from organisations or individuals in foreign countries by "notifications" to local government officials, the implementation of this reform has kept the "permission" system intact, particularly since notification is required prior to the receipt of funds.⁸⁰ The cumbersome bureaucratic regulations for establishing foreign associations and foundations are still in place, and permission is still needed from the Minister of the Interior following approval by the Ministry of Foreign Affairs. Their actions are still closely scrutinised, and they are required to report regularly to the governor's office and the Ministry of the Interior on their activities and publications. Civil society organisations have suggested that all associations should be subject to the same rules and that their international activities should be guaranteed through the new constitution.⁸¹

<http://www.hrw.org/reports/2010/11/01/protesting-terrorist-offense-0>.

⁷⁹ Ibidem, p. 3.

⁸⁰ Sivil Toplum Geliştirme Merkezi SGTM (2012), *Örgütlenme Özgürlüğü Alanına İlişkin Sivil Toplum Anayasa Önerileri* (Civil Society Constitution Recommendations on the Freedom of Association), February, p. 14, <http://anayasaizleme.com/wp-content/uploads/2011/11/STGM-Anayasa-%C3%96nerileri.pdf>

⁸¹ Ibidem.

One of the remaining fundamental constraints on the freedom of association concerns the current political parties' regime in Turkey. Articles 68 and 69 of the current constitution contain a long list of broad provisions such as "the indivisible integrity of the territory and the nation" and the "principles of the democratic and secular republic" that can be invoked for the closure of political parties.⁸² The Law on Political Parties accentuates the possibility of closure by extending these criteria beyond what is specified in the Constitution. In particular, Article 80 of the Law on the "protection of the principle of unity of the state" and Article 81 on "preventing the creation of minorities" have both been invoked in the past for banning Kurdish parties.⁸³ The Constitutional Court has taken several closure decisions in the past based on a strict interpretation of these principles.

The decision to close down a political party has been made more difficult with the 2001 reforms, with the decision now requiring a three-fifths majority in the Constitutional Court rather than a simple majority. In addition, alternative sanctions such as depriving the political party of state financial assistance were introduced (and were instrumental in the Constitutional Court's decision to not to close down the AKP). Nonetheless, the principles that govern political party closure still lag behind European standards and should thus be revised in view of the new constitution. This remains a pertinent issue as demonstrated in the closure case opened against the AKP in March 2008, the closure of the DTP in December 2009 and the possibility of closure that constantly lurks over the BDP. One way to reform could be to constitutionally restrict closure to those political parties that advocate the use of violence or use violence as a political means to overthrow the democratic constitutional order, in line with the Venice Commission guidelines of 1999. Racism, incitement to war and advocating hate crimes can also be considered as particular expressions of violence in this respect.⁸⁴

⁸² The remaining principles which the party statutes and programmes should not conflict with are: independence of the state; human rights; principles of equality and the rule of law; sovereignty of the nation; not aiming to protect or establish class or group dictatorship or dictatorship of any kind; not inciting citizens to crime.

⁸³ Council of Europe Venice Commission (2009), *Opinion on the Constitutional and Legal Provisions Relevant to the Prohibition of Political Parties in Turkey* (CDL-AD (2009) 006), Strasbourg, 13 March, [http://www.venice.coe.int/docs/2009/CDL-AD\(2009\)006-e.asp](http://www.venice.coe.int/docs/2009/CDL-AD(2009)006-e.asp).

⁸⁴ Özbudun, Ergun, and Tarhanlı, Turgut (2011), "Eş Koordinatörlerin Yorum ve Değerlendirmeleri" (Comments and Evaluations of Joint Coordinators), in *Yeni*

Another possibility for reform relates to the specific procedures that are adopted in pursuing closure cases. A mechanism could be envisaged for giving political parties early warning prior to the decision to open a closure case. Given the substantial political repercussions of a closure case, the sole competence granted to the Chief Public Prosecutor in opening closure cases could be shared by the Parliament, either by means of a prior parliamentary mandate for the Prosecutor to file the case or through the approval by Parliament or a special designated commission within Parliament of the Prosecutor's decision to open a case.⁸⁵

PROTECTION OF MINORITIES

The phase of political reform in 1999-2005 addressed certain key issues relating to the rights of religious minorities in Turkey (mainly non-Muslim minorities), as well as of the Kurdish minority. While certain advances were made in extending the rights of non-Muslim minorities in the following period, progress has remained more limited with respect to the state of other religious minorities (mainly the Alevis) and the Kurdish minority.

Non-Muslim minorities

The Treaty of Lausanne grants non-Muslim minorities (represented by approximately 23,000 Jews, 1,700 Greeks and 65,000 Armenians) substantial negative rights as well as some positive ones, such as the right to equal protection and non-discrimination, the right to establish private schools and provide education in their own language, the conditional entitlement to receive government funding for education in their own languages at the primary level in public schools, the right to settle family law or private issues in accordance with their own customs and the right to exercise their religion freely. The reform process initiated with the prospect of EU accession aimed mainly at resolving the shortcomings in the implementation of these rights, especially regarding property rights

Anayasanın Beş Temel Boyutu (Five Fundamental Dimensions of the New Constitution Process), İstanbul, TÜSİAD, March, p. 57, <http://www.tusiad.org/committees/parliamentary-affairs-committee/five-fundamental-dimensions-of-the-new-constitution-process>.

⁸⁵ Ibidem.

and the status of religious/educational institutions. One of the main problems suffered by religious minorities in Turkey is the lack of legal personality and the impossibility of acquiring or selling property. Under Turkish law, religious institutions do not have legal personality and they can only be incorporated as “foundations”, falling under the jurisdiction of the Foundations Law. Hence their property rights were significantly limited, as only properties declared under Law No. 2762 (of 1936) were legally recognised (160 minority foundations) and all properties not listed in 1936 could be confiscated by the Turkish state.

The reform packages (specifically the third, fourth and the sixth) passed between 1999 and 2005 addressed this problem by amending the Foundations Law and allowing non-Muslim minorities to register the property they actually use as long as they can prove ownership. Nonetheless, these measures fell short of granting full property rights to non-Muslim minorities since the amended law failed to bring a just solution regarding the return of confiscated properties and did not eliminate the possibility of future confiscations.⁸⁶ The new Law on Foundations, adopted in February 2008, largely addressed these matters. Under the new Law, the foundations can now change their scope or purpose from the one specified upon their original incorporation; apply for the return of their confiscated property that is still under Turkish state control, and own and manage property without prior permission (Box 3). While the implementation of the new Law proceeded smoothly with 200 properties returned to non-Muslim minority foundations between February 2008 and August 2011, it has also been criticised for not allowing the return of properties seized and sold to third parties or those that were merged before the adoption of the new Law.⁸⁷ This created the background to the amendments introduced to the Law in August 2011, which widened the scope of the new Law by providing for the return of the properties that were registered in 1936 but not specifically described in the original documentation, and permitted the foundations to receive financial compensation in cases where their property was sold to a third party and

⁸⁶ Aydın, Senem, and Keyman, E. Fuat (2004), “European Integration and the Transformation of Turkish Democracy”, *EU-Turkey Working Papers*, No. 2, August, p. 32, <http://www.ceps.eu/node/995>.

⁸⁷ European Commission (2009b), *Turkey 2009 Progress Report*, Brussels, 14 October, p. 27, http://ec.europa.eu/enlargement/countries/strategy-and-progress-report/index_en.htm.

could not be returned. Nonetheless, the return of the property of merged foundations still remains outside the confines of the law and the Turkish government retains the right to seize land from religious communities.⁸⁸

Box 3. Post-2005 reforms undertaken in the field of religious minorities

- Under the 2008 Law on Foundations, non-Muslim community foundations can establish and/or participate in companies and other commercial entities to generate income and achieve their objectives. Donations of immovable property to foundations can no longer be seized or mortgaged. Properties no longer used can be transferred to another foundation of the same community, leased or have their use changed.
- The communities indicated in the Lausanne Treaty can each have one elected representative in the General Directorate for Foundations.
- The ninth reform package passed in April 2006 revoked the requirement of having a representative of “Turkish origin” of the Ministry of Education as the deputy head of minority schools.
- A legislative amendment adopted in February 2012 enabled the newspapers run by non-Muslim communities to publish official notices.
- The Ministry of National Education approved a new regulation allowing the Armenian, Greek and Jewish minorities who are not Turkish citizens to be educated in minority schools (without receiving an official document of graduation).

Progress has been more limited on religious/educational problems encountered by non-Muslim minorities (Box 3). A regular dialogue was sustained between the government and the representatives of the non-Muslim communities which culminated for the first time in their invitation to the Parliamentary Conciliation Committee to express their views on the new Constitution. Regarding legal reform, the ninth reform package passed in April 2006 revoked the much-criticised requirement of having a representative of “Turkish origin” of the Ministry of Education as the deputy head of minority schools.⁸⁹ There were also certain sym-

⁸⁸ US Commission on International Religious Freedom (2012), “Turkey”, in *2012 Annual Report*, March, p. 203, <http://www.uscirf.gov/reports-and-briefs/annual-report.html>.

⁸⁹ Turkish Ministry for EU Affairs (2007), *Avrupa Birliği Uyum Yasa Paketleri* (European Union Legal Harmonisation Packages), Ankara, Avrupa Birliği Genel Sekreterliği, p. 279, <http://www.abgs.gov.tr/files/pub/abuyp.pdf>.

bolic gestures towards non-Muslim minorities such as the realisation of the first religious service since 1915 at the Armenian Holy Church on Akdamar Island in Lake Van in 2010, which has been repeated in the following years.

Despite these steps, the major problems identified in our 2004 paper regarding the religious/educational matters of the non-Muslim communities remain largely intact. Direct state interference in the religious and educational institutions of non-Muslim communities through the Directorate General of Foundations (a government agency that must approve their operations) continues to violate the Treaty of Lausanne as it restricts the right of non-Muslim minorities to manage and control their institutions. There is still a ban on the training of Christian clergy which creates chronic shortages. Although the government has tried to address this issue by letting foreign clergy work through work permits obtained on the basis of the Bylaw to the Law on Work Permits or by granting citizenship to some foreign members of (particularly the Greek Orthodox) clergy, these measures have only served as “*ad-hoc* accommodations” that “fail to ensure institutional integrity and independence in intra-religious decisions”.⁹⁰ The repeated suggestions of the EU to re-open Armenian and Greek Orthodox seminaries (both were closed in 1969) and grant these minorities the right to exercise and teach their religion have not yet been followed.

Despite such remaining issues, reforms in this field have largely been effective in increasing electoral support for the AKP among non-Muslim communities in the 2007 elections. Yet, a major fault-line arose between these communities and the AKP with the assassination of the writer and journalist Hrant Dink in 2007.⁹¹ The lack of an effective investigation in its aftermath resulted in the impunity for key figures involved in the assassination plot. The climate of intolerance and discrimination that paved the way for this crime and underlay this impunity has been observed in other major cases of violence against non-Muslims and raised much public controversy, such as the 2007 killing of three Protestants in Malatya in a publishing house of the local protestant community. The case continues to this day, but is marred by its association with the much

⁹⁰ US Commission on International Religious Freedom (2012), “Turkey”, cit., p. 205.

⁹¹ Ter-Matevosyan, Vahram (2010), “The Armenian Community and the AK Party: Finding Trust under Crescent”, *Insight Turkey*, Vol. 12, No. 4, Fall, p. 93-111, http://file.insightturkey.com/Files/Pdf/insight_turkey_vol_12_no_4_2010_vahram.pdf.

disputed *Ergenekon* trials.⁹² These instances of violence and their ineffective handling are preventing the building of the much needed trust of the non-Muslim communities towards the state and undermining further reform.⁹³

The issue of religious freedoms also pertains to the Alevi which constitute the largest religious minority in Turkey, estimated at 15 to 25 percent of the total population. There are differing views within the Alevi community regarding the relationship of their faith to Islam and the policy reforms which they expect from the government. While some Alevi identify themselves as Shi'a Muslims, others reject Islam and perceive themselves as a separate culture. Despite their internal differences, there are certain common issues which they would like the government to address, in particular the abolition of compulsory religious education classes where the main focus is on Sunni Islam,⁹⁴ official recognition of their houses of worship (*Cemevis*), a halt to the building of Sunni mosques in Alevi villages and the revision of the status of the Directorate General for Religious Affairs which serves the Sunni majority, either by abolishing it altogether or making it representative of the Alevi community as well. Although the government initiated an "Alevi opening" in 2009, when seven workshops were held to bridge the gap between the state and the Alevi community and certain symbolic steps were taken, such as the participation of Prime Minister Erdoğan in an Alevi fast-breaking ceremony in January 2009, these were not followed by any concrete policies to meet the Alevi's key demands. In fact, the discriminatory discourse prevalent at the societal level was exploited and thus reinforced by the Prime Minister in his 2011 election rallies, in which he made repeated references to the Alevi background of the CHP leader, Kılıçdaroğlu, to discredit him in the eyes of pious Sunni voters. For example, between April 29 and May 13 2011, the Prime Minister brought this issue up in seven separate election speeches.⁹⁵

⁹² The case was included in the scope of the *Ergenekon* inquiry in March 2011 on the grounds of suspicion that the *Ergenekon* organisation was behind the crimes in Malatya.

⁹³ Ulusoy, Kıvanç (2011), "The European Impact on State-Religion Relations in Turkey: Political Islam, Alevi and Non-Muslim Minorities", *Australian Journal of Political Science*, Vol. 46, No. 3, September, p. 419.

⁹⁴ The ECtHR has decided in October 2007 that these classes provide exclusive instruction in the Muslim faith and requested Turkey to bring its education system and domestic legislation into alignment with Article 2 of Protocol 1 to the ECHR.

⁹⁵ Ergin, Sedat (2011), "Erdoğan ve CHP liderinin Aleviliği" (Erdoğan and the Alevi Background of the CHP Leader), *Hürriyet*, 18 May, <http://www.hurriyet.com.tr/yazar->

Ensuring the correct and full implementation of the Treaty of Lausanne for the non-Muslim minorities and respecting fully the rights of other religious minorities, such as the Alevis, should be among the key issues in the deliberations towards a new democratic constitution. The most substantial provisions in the new constitution could thus include the abolition of having to state religious affiliation on national identity cards (which already contravenes Article 24 of the present Constitution); introducing the positive obligation of the state to take the necessary measures to facilitate the practice of religious freedoms by the non-Muslim groups indicated in the Treaty of Lausanne as well as other religious groups (including the right to train their clergy); abolition of compulsory religious education classes; the abolition or changing of the composition of the Directorate General for Religious Affairs so as to represent other religious groups such as the Alevis that are outside the scope of Sunni Islam; and the granting of legal personality to the foundations of non-Muslim communities in line with the Venice Commission decisions⁹⁶ to fully resolve issues related to property rights and access to justice.⁹⁷ Nonetheless, as also highlighted in our 2004 paper, a crucial aspect of reform on this front entails the gradual transformation of the concept of citizenship and the recognition of cultural and ethnic pluralism in the country, which we come back to in the next section on the Kurdish minority.

The Kurdish question

Resolution of the Kurdish issue remains the key element for Turkey's democratic consolidation. It is not possible to make Turkish modernity more multicultural, Turkish democracy more consolidated, Turkish economy more sustainable, Turkish society more tolerant and peaceful, and Turkish foreign policy more proactive, multidimensional, and effective, without resolving the Kurdish question. As detailed in our first paper, the AKP government had taken steps forward on the Kurdish issue through the EU-led reforms it carried out in the 1999-2005 period. Some of these reforms, such as the right to broadcast in Kurdish, the

lar/17813544_p.asp.

⁹⁶ The Venice Commission decided in March 2010 that the right to freedom of religion includes the possibility for religious communities to obtain legal personality.

⁹⁷ Özbudun and Tarhanlı (2011), "Eş Koordinatörlerin Yorum ve Değerlendirmeleri" (Comments and Evaluations of Joint Coordinators), cit., p. 50-52.

right to learn the Kurdish language and the right to name children in Kurdish, despite their limited nature, were directly intended to improve the lives of Kurds in the country. Other human rights related reforms of this period, including the lifting of the state of emergency, can also be considered as efforts to improve the Kurds' situation. In the words of a close observer, the EU had managed to "desecuritize the Kurdish problem" in Turkey by empowering the reformist forces in society, thus paving the way for progress on this front.⁹⁸

The virtuous cycle of reform was soon to be replaced, however, by a vicious cycle of violence and the rise of Turkish and Kurdish nationalism, which stalled any substantial progress on this front. Against the background of weakening EU conditionality, the renewal of PKK attacks on civilian and military targets in 2005 and the ensuing operations contributed to the rise of Turkish nationalism that was already underway as a response to the EU-led reform process in the country. No further reforms were undertaken until January 2009, when the state-owned Turkish Radio and Television (TRT) established a new channel to broadcast exclusively in Kurdish. This was joined by a few minor reforms to make broadcasting in Kurdish possible, such as the approval of public use of the letters "q" and "w" which are not present in the Turkish alphabet (but are widely used in Kurdish) and the public use of which had led to court cases in the past.⁹⁹ The Regulation on the RTUK was amended in November 2010 to remove all restrictions on broadcasting in Kurdish (and other languages) by private and public channels at the local level, while the new Law on the Establishment and Broadcasting Principles of Radio and TV stations of March 2011 allowed for broadcasts in languages other than Turkish by all nationwide radio and television stations. A number of universities in the southeast were allowed to offer Kurdish degrees and Kurdish began to be taught as an elective course in public schools in September 2012.

None of these steps, however, have raised hopes for a lasting solution like the "Kurdish opening" in July 2009, an initiative launched by the AKP government following the March 2009 local elections in which the AKP suffered electoral losses to the BDP in the southeast. The first and only concrete step in the opening was the return of 34 PKK rebels to Turkey in

⁹⁸ Kirişçi, Kemal (2011a), "The Kurdish Issue in Turkey: Limits of European Union Reform", *South European Society and Politics*, Vol. 16, No. 2, June, p. 338.

⁹⁹ *Ibidem*, p. 344.

the fall of 2009. The expectation was that the PKK camps in Kandil would gradually be evacuated and a political settlement would be reached. The first group of 34 unarmed PKK rebels were questioned at the border with northern Iraq and then released. They were greeted by crowds in the southeast of Turkey. But the government then felt pressured to take steps back in view of the massive public and opposition outcry against the celebrated reception of the PKK rebels. The Kurdish initiative was quickly renamed the “democratic initiative”, and later the “unity and fraternity project”, and the rebels initially welcomed were soon prosecuted or fled the country. The failure of this initiative demonstrated the importance of mobilising broader political and societal support and, thus, the need for broad political preparation for substantial reforms on the Kurdish issue, the lack of which was partly responsible for the collapse of the “opening” and the rise in mistrust between the government and the Kurds. The following increase in PKK violence stalled progress even further and culminated in the closure of the DTP in December 2009, followed by the mounting numbers of prosecutions through the KCK operations. In the first quarter of 2010, 1483 members of the BDP were prosecuted under the KCK trials. By June 2011 general elections, 3200 people (the vast majority of whom were members of the BDP) were imprisoned in view of their alleged KCK affiliation.¹⁰⁰

The mood only worsened with the 2011 general elections, in which the AKP’s electoral strategy relied on adopting a rather conservative and nationalist approach to the Kurdish issue and placing the emphasis on religious ties and values rather than a rights-based discourse to attract Kurdish voters. In choosing to appeal to the Turkish nationalist vote and the traditional Islamist streak of Kurdish identity, the Prime Minister went so far as to declare that there no longer exists a Kurdish issue. The AKP attacked the CHP for its increasingly lenient tone on the Kurdish problem, which it presented as part of the party’s allegedly larger deal with the BDP. Following the elections, the Supreme Election Board decided to strip a BDP candidate of his deputyship on the basis of his 2009 conviction for “disseminating PKK propaganda”. In addition, the courts declined requests to allow the entry into parliament of five more

¹⁰⁰ Çandar, Cengiz (2012), *Leaving the mountain: How may the PKK lay down arms? Freeing the Kurdish Question from violence*, İstanbul, TESEV, March, p. 81, http://www.tesev.org.tr/Upload/Publication/1fe2c9c3-fe84-4044-81a1-d8a3ab906e5c/12028ENGsilahsizlandirma16_03_12Rev1.pdf.

BDP deputies who are jailed as suspects in KCK trials.¹⁰¹ Nonetheless, the election of 36 BDP members to parliament after the elections and the conviction that the AKP would soften its nationalist rhetoric after having come to power with a solid majority created a brief phase of optimism that soon dissolved when PKK violence intensified significantly in the aftermath of the elections, accounting for 711 deaths (four times more than in 2009) by August 2012.¹⁰²

The situation started to resemble closely the state of affairs in the 1990s, when the Kurdish issue marked by intense violence was dealt with solely as a security matter and used to restrict fundamental freedoms. The limited reform that had been achieved was overcome by the reversals in human rights reforms outlined in the previous sections, such as in the case of the 2006 amendments to the Anti-Terror Law, which imposed further restrictions on the fundamental freedoms of those who speak for expanded Kurdish rights. The State Security Courts entrusted with dealing with crimes against the state, which were abolished in 2004, were replaced by “heavy penal courts with special powers [...] bearing continuity in mandate, rules of procedure, judges, personnel, archives and case files”.¹⁰³ Although the state of emergency was lifted in 2002, the government has repeatedly authorised the military to declare “temporary security zones” in which the military can freely conduct its operations.¹⁰⁴ The labels have changed but developments ominously hark back to the 1990s.

Thus, Turkey continues to suffer from the ongoing low-intensity war between the Turkish state and the PKK; from the growing risk of becoming an ethnically-divided, polarised, and conflict-prone society;

¹⁰¹ Two CHP deputies and one MHP deputy also remain under arrest in connection with the *Ergenekon* and *Balyoz* trials respectively.

¹⁰² International Crisis Group ICG (2012), “Turkey: The PKK and a Kurdish Settlement”, *ICG Europe Report*, No. 219, 11 September, p. 1, <http://www.crisisgroup.org/en/regions/europe/turkey-cyprus/turkey/219-turkey-the-pkk-and-a-kurdish-settlement.aspx>.

¹⁰³ Kurban, Dilek, and Güllalp, Haldun (2013), “A Complicated Affair - the Court and the Kurds: The Role of the European Court of Human Rights in the Broadening of Kurdish Rights in Turkey”, in Dia Anagnostou, ed., *The European Court of Human Rights. Implementing Strasbourg’s Judgments on Domestic Policy*, Edinburgh, Edinburgh University Press, forthcoming. These courts were abolished with the third reform package adopted in July 2012 and replaced by Anti-Terror Courts.

¹⁰⁴ *Ibidem*.

as well as from the enduring dominance of the language of security and conflict over that of democracy and liberty. The resolution of this impasse calls for the implementation of a comprehensive strategy aimed at a durable political solution entailing constitutional and legal reforms together with their full implementation, as well as intense societal deliberation to win a critical mass of support for the initiatives to be taken. The basis of this strategy should be sought in a multicultural and differentiated understanding of citizenship as a constitutive norm of “living together in diversity”. This would then make it possible to seek a feasible and effective solution to the Kurdish question, not in ethnic terms, but by exploring possible ways of articulating identity-claims to citizenship rights “with an emphasis on the practice of democracy”.¹⁰⁵ This would also imply an enlarged understanding of citizenship including not only individual and group rights but also its “denationalisation”.¹⁰⁶

Locating the Kurdish question in the domain of equal citizenship without ignoring its “Kurdishness” enables one to rethink one’s loyalties and belonging not only in terms of identity and community, but also of the rule of law and constitutionalism. The call for citizenship should thus not only be post-national and differential, meaning that it should not be reduced to legal and political membership in the nation-state and recognition of cultural as well as individual rights; but that it should also be constitutional in the sense that it should function as a common ground for the constitutional guarantee and protection of both individual and group rights.¹⁰⁷ This is why the preparation of the new constitution is of the utmost importance in solving the Kurdish question democratically through the idea of equal citizenship.

The new constitution should thus not contain any references to an ethnic, religious or sectarian identity and include a comprehensive definition of citizenship that does not rest on any identity or class. It should have provisions that strengthen the role and autonomy of local gov-

¹⁰⁵ Işın, Engin F., and Wood, Patricia K. (1999), *Citizenship and Identity*, London, Sage, p. 4; Keyman, E. Fuat (2012), “Rethinking the ‘Kurdish Question’ in Turkey. Modernity, Citizenship and Democracy”, *Philosophy and Social Criticism*, Vol. 38, No. 4-5, May/June, p. 467-476.

¹⁰⁶ Benhabib, Şeyla (2004), *The Rights of Others. Aliens, Residents, and Citizens*, Cambridge, Cambridge University Press, p. 14.

¹⁰⁷ Keyman (2012), “Rethinking the ‘Kurdish Question’ in Turkey. Modernity, Citizenship and Democracy”, cit..

ernment within the framework of the European Charter of Local Self-Government;¹⁰⁸ lift the restrictions on education in mother-tongue on the basis of the European Charter for Regional or Minority Languages (which still has to be signed by Turkey); contain a section on cultural rights; include an article that guarantees protection against discrimination; and introduce measures that would make it more difficult to close down political parties in line with the Venice Commission guidelines (see the section on the Freedom of Peaceful Assembly and Association).¹⁰⁹ In addition to these and as highlighted in our previous paper, the constitutional endorsement of the principle of multiculturalism would reflect a legal commitment to the preservation of Turkey's cultural heritage. Thus when interpreting and enforcing the constitution and laws, judicial, legislative and executive officials would be required to consider the preservation and enhancement of the cultural heritages of all minorities in Turkey.¹¹⁰ Constitutional reform along these lines would help to create a new social contract between state and society/individual citizens, as well as within society. This would take place through the transformation of a republican and duty-based citizenship privileging state power over individual rights and freedoms into a democratic and multicultural citizenship based on enlarged rights and freedoms.

Constitutional reform would have to be coupled with a comprehensive reform of the accompanying laws such as the Political Parties Law, the Penal Code and the Anti-Terror Law. As outlined in the earlier sections, the current state of these laws substantially hinders fundamental rights and freedoms under the banner of the fight against terror. An overall strategy of democratic consolidation that entails the resolution of the Kurdish issue also necessitates proper implementation of the reformed

¹⁰⁸ Whereby Turkey's restrictions on some of its clauses would have to be lifted.

¹⁰⁹ These constitutional demands of the Kurdish minority have long been voiced by some prominent think-tanks and civil society organisations in Turkey. See Özbudun, and Tarhanlı (2011), "Eş Koordinatörlerin Yorum ve Değerlendirmeleri" (Comments and Evaluations of Joint Coordinators), cit., p. 27-29; Kurban, Dilek, and Ensaroğlu, Yılmaz (2010), *Towards a Solution to the Kurdish Question: Constitutional and Legal Recommendations*, Istanbul, TESEV, September, p. 24-32, <http://www.tesev.org.tr/Upload/Publication/004a6be2-5a6f-4365-9a00-1e2bbcf1da43/Toward%20a%20Solution%20to%20the%20Kurdish%20Question%20-%20FINAL.pdf>.

¹¹⁰ Kurban, Dilek (2003), "Confronting Equality: The Need for Constitutional Protection of Minorities on Turkey's Path to the European Union", *Columbia Human Rights Law Review*, Vol. 35, No. 1, Fall, p. 151-214.

laws, which in turn requires intensive training both during the education and the careers of the members of the bureaucracy and the judiciary.

These legal efforts should be combined with the lifting of indirect restrictions on political representation in parliament, namely the electoral system. The current 10 percent threshold in parliamentary elections stands as a big obstacle for democratic representation of various political currents in parliament. All previous proposals to lower the threshold have been declined on the basis of maintaining political and economic stability. Nonetheless, a recent study by the Economic Policy Research Foundation of Turkey shows that both stability and fair representation can be achieved with a 4 percent threshold.¹¹¹ Furthermore, since 2007, Kurdish nationalist parties, with a support base of approximately 5 to 6 percent of the national vote, have chosen to nominate their candidates as independents in those provinces where they have a substantial electoral base. The success of this strategy has demonstrated the obsolescence of the 10 percent threshold.

Resolution of the Kurdish issue also requires the adoption of new economic and social measures in the eastern and southeastern region including, but not limited to, the development of a long-term special incentive system that is specific to the region, intensification of infrastructural projects most notably in the energy and transport sectors, investments geared towards employment, vocational training for the employment of unqualified labour force, direct income transfers, and an action plan on education that entails measures for sustaining attendance in schools and resolving the shortage in teachers.¹¹² In line with the constitutional reform, opportunities for greater self-governance at the local level can be fostered by new measures such as the establishment of provincial administrations comprising a few provinces and a certain degree of transfer of competences and resources from the centre to these bodies in the fields of education and health. Restrictions on the use of languages besides Turkish in local administrations and in courts should be lifted. These measures may not only prove effective towards the res-

¹¹¹ TEPAV (2011), *Optimal Election Threshold for Turkey is 4 Percent*, 21 March, <http://www.tepav.org.tr/en/haberler/s/2024>.

¹¹² Kurmuş, Orhan, et al. (2006), *Doğu ve Güneydoğu Anadolu'da Sosyal ve Ekonomik Öncelikler* (Social and Economic Priorities in Eastern and Southeastern Anatolia), Istanbul, TESEV, August, <http://www.tesev.org.tr/Upload/Publication/d9f64ec6-3481-4f82-84b0-93b95dcd2a/guneydogu%5B1%5D.pdf>.

olution of the Kurdish issue, but also help to promote better governance at the national level.

The failure of the Kurdish opening has forcefully shown that the success of these reforms are closely tied to an intense societal deliberation in which the government needs to convince the Turks of the necessity, viability and timing of a political solution based on equal citizenship and non-discrimination. At the same time, it has to gain the trust of the Kurds on its sincere commitment to reform. In reaching out to the Turkish majority, the government needs to underline that despite the rising impasse, recent polls suggest that only 6 percent of the Kurds have separatist ambitions.¹¹³ The limited public reaction to current controversial events also shows that the political risks associated with such reforms may not be too high and that there may be grounds for hope in fostering societal support on this front. For instance, the leaked tapes of the government's negotiations with the PKK, also known as the "Oslo process", did not trigger a major backlash among the public. In a similar vein, Deputy Prime Minister Bülent Arınç's statements on the possibility of moving Öcalan to house arrest after a resolution of the conflict did not lead to a harsh public reaction.¹¹⁴ These show that even if the desired end has not yet been achieved, the democratic and public deliberations and discussion of the Kurdish question have nevertheless become the accepted norm in Turkey.

THE JUDICIAL SYSTEM

The state of the Turkish justice system is central to determining the fate of Turkey's efforts at democratic consolidation. In its current form, it poses a major hindrance to the reform process with its institutional, societal and ideological dimensions. About 32 percent of all the ECtHR judgements against Turkey in the period 1995-2010 concerned the right

¹¹³ Milliyet (2012), "Erdoğan'a Sunulan Son Anket" (Latest Survey Presented to Erdoğan), 29 June, <http://www.milliyet.com.tr/Yazdir.aspx?aType=HaberDetayPrint&ArticleID=1560416>.

¹¹⁴ International Crisis Group ICG (2012), "Turkey: The PKK and a Kurdish Settlement", *ICG Europe Report*, No. 219, 11 September, p. 5, <http://www.crisisgroup.org/en/regions/europe/turkey-cyprus/turkey/219-turkey-the-pkk-and-a-kurdish-settlement.aspx>.

to a fair trial, while 23 percent related to the right of personal liberty and security.¹¹⁵ Judicial independence is impaired by institutional links with the executive and the resilient allegiance of the judiciary to the state rather than the individual and society. Societal trust in the judiciary and in the law's capacity to solve problems is also low. A study conducted in 2008 revealed that only 41 percent of the population believed that individuals are treated fairly by the courts.¹¹⁶

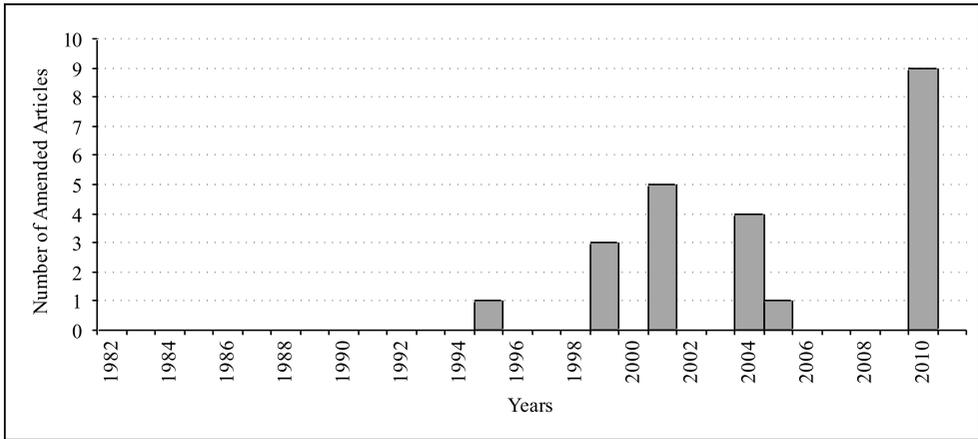
Since 1999, Turkey has undertaken important legislative reforms regarding its judicial system and has made considerable efforts towards the training of its judges. The 1999-2005 amendments covered some of the judicial reforms long demanded by the EU, including the abolition of the infamous State Security Courts that used to deal with crimes against the state, allowing retrial in civil and criminal cases in which the ECtHR had found violations of the European Convention of Human Rights, and ending the jurisdiction of military courts over civilians. Reforms on this front were then suspended, however, until the constitutional reform package was approved by 58 percent of the electorate in the September 2010 constitutional referendum.

The government, especially during its second term, had conflictual relations with the largely oppositional Kemalist judiciary, culminating in the closure case against the AKP in March 2008. In August 2009, the government announced the Judicial Reform Strategy (later revised in September 2012) and put its main provisions to the vote in the 2010 referendum. The constitutional reform package addressed some key priorities of the Accession Partnership Document in the area of the judiciary, such as further restricting the authority of military courts, allowing judicial appeals against expulsion decisions of the Supreme Military Council, introducing individual applications to the Constitutional Court and changing the composition of the Constitutional Court and the High Council of Judges and Prosecutors. These, and other reforms introduced by the reform package were in general received positively by the EU, while they have been strongly contested within Turkey.

¹¹⁵ European Court of Human Rights ECtHR (2010a), *Annual Report 2010*, p. 157, <http://www.echr.coe.int/echr/en/header/reports+and+statistics/reports/annual+reports>.

¹¹⁶ Kalem, Seda, Galma, Jahic, and Elveriş, İdil (2008), *Justice Barometer: Public Opinion on Court in Turkey*, Istanbul, Istanbul Bilgi University Publications, August, p. 15, http://www.academia.edu/853454/Justice_Barometer.

Graph 11 | Constitutional amendments in judicial reform (1982-2012)



Source: Grand National Assembly of Turkey, *Türkiye Cumhuriyeti Anayasası (The Constitution of the Republic of Turkey)*, 2011, <http://www.tbmm.gov.tr/anayasa.htm>.

Much of the dispute concentrated on two amendments that concern the composition of the Constitutional Court and the High Council of Judges and Prosecutors (HSYK), the latter of which determines the career paths of judges and prosecutors through appointments, transfers, promotions, reprimands and other mechanisms. While these amendments aimed to democratise the judiciary and make it more responsive to the demands of society by diversifying the background of the members of the Constitutional Court and by widening the composition of the High Council, they were criticised for retaining certain provisions that compromise judicial independence (see below).

Legal reform with respect to the judicial system continued with consecutive reform packages that were mainly geared towards decreasing the workload of the judiciary and increasing the efficiency of the justice system. The first and the second judicial reform packages passed in 2011 included measures such as decriminalising certain offences which are now subject to administrative fines, introducing legal fees for applicants to Regional Courts of Appeal and to the Court of Cassation and transferring powers of issuing inheritance certificates from courts to

public notaries.¹¹⁷ The Laws on the Court of Cassation and the Council of State were amended to decrease their current backlog by establishing more chambers, changing their working methods and appointing a large number of judges and prosecutors to these courts.¹¹⁸ In the case of the Court of Cassation, these measures have already started to yield an improvement with its caseload of 1.12 million in July 2011 going down to 0.88 million in July 2012.¹¹⁹

The third reform package passed in July 2012 abolished the much criticised heavy penal courts with special powers and replaced them with Anti-Terror Courts, which include specialised judges who are responsible solely for deciding on preventive measures during the investigation phase and who do not take part in the actual trial. This package has also introduced other measures to tackle the problem of undue and long pre-trial detention periods that have been widely criticised by the EU and the CoE, by lifting the three year limit for judicial control, introducing new measures of judicial control as an alternative to pre-trial detention and by amending Article 101 of the Criminal Procedure Code which now provides that pre-trial detention can only be introduced and sustained when there is a strong suspicion that the crime has been committed, that there are grounds for arrest and that the proportionality of arrest is explicitly documented and justified through the presentation of concrete evidence.

In addition to these legal measures, there has also been considerable progress relating to the training of the members of the judiciary, as well as to the technological infrastructure of the justice system. In 2011, 2941 judges and public prosecutors received intensive in-service training including on human rights related issues.¹²⁰ Regarding technological progress, the EU-assisted National Judicial Network Project initiated in 2001 has turned the Turkish justice system

¹¹⁷ Turkish Ministry of Justice (2012), *2011 Yılı Bakanlık Faaliyet Raporu* (2011 Activity Report of the Ministry of Justice), July, p. 43, <http://www.adalet.gov.tr/rapor/rapor2011.pdf>.

¹¹⁸ European Commission (2011), *Turkey 2011 Progress Report*, cit., p. 17.

¹¹⁹ Ibidem, p. 14-15.

¹²⁰ Turkish High Council for Judges and Prosecutors (2012), *2011 Yılı Faaliyet Raporu* (2011 Activity Report of the High Council of Judges and Prosecutors), January, p. 83, <http://www.hsyk.gov.tr/dosyalar/HSYK-2011-Yili-Faaliyet-Raporu.pdf>.

into one of the most computerized judiciaries in Europe.¹²¹ This has significantly helped to ease citizens' access to justice and improve the efficiency and transparency of judicial services by accelerating administrative procedures.¹²² A study conducted by the Council of Europe's European Commission for the Efficiency of Justice (CEPEJ) attributed this to the successful combination of the "reform of codes, procedures, structure, organization [and] composition" with reforms related to Information and Communication Technology.¹²³

Box 4. Selected post-2005 reforms of the judicial system

- The 2010 constitutional amendments increased the number of members of the Constitutional Court from 11 to 17 (where 4 are now elected by the Parliament instead of the President) and reduced their tenure from 25 to 12 years.
- The 2010 constitutional amendments increased the number of members of the High Council from 7 to 22 and widened its composition from representatives of the High Courts to legal scholars, lawyers and representatives of the low courts, elected mostly by the judiciary itself. They also established a Secretariat for the High Council separate from the Ministry of Justice.
- The amendments to the Constitution opened to judicial review decisions by the High Council dismissing members of the judiciary from the profession. Judicial inspectors responsible for evaluating the performance of judges and prosecutors now report to the High Council and no longer to the Ministry of Justice, to prevent political influence through the Ministry.
- The first and second judicial reform packages adopted in 2011 included measures such as decriminalising certain offences which are now subject to administrative fines, introducing legal fees for applicants to Regional Courts of Appeal and to the Court of Cassation and transferring powers of issuing inheritance certificates from courts to public notaries.
- A Law on Mediation that is expected to decrease the workload of the judiciary entered into force in June 2012.

¹²¹ Council of Europe (2010), "European Judicial Systems. Edition 2010 (Data 2008): Efficiency and Quality of Justice", *CEPEJ Studies*, No. 12, p. 92-94, <https://wcd.coe.int/ViewDoc.jsp?id=1700697&Site=COE>.

¹²² Van Delden, Bert (2009), *Effectiveness of the Judicial System. Report of a peer based assessment mission to Turkey 17-21 November 2008*, Brussels, European Commission, p. 11, <http://www.avrupa.info.tr/fileadmin/Content/Downloads/PDF/EFFECTIVENESS%20OF%20THE%20JUDICIAL%20SYSTEM.pdf>.

¹²³ Velicogna, Marco (2007), "Use of Information and Communication Technology in European Judicial Systems", *CEPEJ Studies*, No. 7, p. 15, http://www.coe.int/t/dghl/cooperation/cepej/series/Etudes7TIC_en.pdf.

- The third judicial reform package of 2012 abolished heavy penal courts with special powers and eradicated the rights of the courts to put time limits on defendants and prosecutors in the context of judicial processes; to expel the accused or the defence from any or all future hearings on the grounds of behaviour deemed to disturb court order and discipline; to limit to one the number of defence lawyers while the suspect's statement is being taken or during custody.
- In tackling the problem of long pre-trial detention periods, the third reform package lifted the three-year limit for judicial control, introduced new forms of judicial control and amended Article 101 of the Criminal Procedure to strengthen the obligation of giving reasoned opinions in the courts' decision for pre-trial detention.

Despite all these steps taken, there is general agreement that reforms in this area have not delivered the expected results and that the main problems facing the Turkish judicial system remain largely intact. As we did in our 2004 paper, we classify the remaining problems with the Turkish judicial system under three broad categories: *excessive workload, insufficient independence, and lack of impartiality*.

Regarding *excessive workload*, the 2010 CEPEJ data shows us that despite the increase in the number of judges in recent years, the number of judges per 100,000 inhabitants in Turkey is 10.6, still below the 21.3 average for CoE members.¹²⁴ A judge in Turkey currently faces an average number of 1078 cases each year compared to an average number of 200 cases faced annually by the judges of EU member states.¹²⁵ This largely contributes to excessively long judicial proceedings and huge backlogs in the system. Turkey was the country with the highest number of violations of Article 6 of the ECHR on the "reasonable time" of judicial proceedings in 2010.¹²⁶ The problem of workload becomes particularly acute in the case of the High Courts. For instance, the backlog of the Court of Cassation increased twelvefold between 2000 and 2011.¹²⁷ Another demonstration of the

¹²⁴ Council of Europe (2012a), "European Judicial Systems. Edition 2012 (Data 2010): Efficiency and Quality of Justice", *CEPEJ Studies*, No. 18, p. 145, <http://euromed-justice.eu/document/coe-2012-european-judicial-systems-edition-2012-2010-data-efficiency-and-quality-justice>.

¹²⁵ Public Expenditures Monitoring Platform (2012), *2012 Yılı Kamu Harcamaları İzleme Raporu* (2012 Public Expenditures Monitoring Report), İstanbul, October, p. 20, <http://www.kahip.org>.

¹²⁶ Council of Europe (2012a), "European Judicial Systems", cit., p. 172.

¹²⁷ Statistics pertaining to the Court of Cassation are available at <http://www.yar-gitay.gov.tr/index2.php?pgid=21>.

current workload of the judiciary is the fact that approximately 50 percent of all cases result in acquittals, whereas the EU average for acquittals are estimated to amount to 6 percent of all cases.¹²⁸

One way of dealing with this problem is to increase the number of judges and prosecutors, which the government has been trying to do in recent years. Nonetheless, this measure alone seems to be insufficient in effectively tackling the problem of excessive workload. It is also important that intermediate courts of appeal, the legal framework of which was already established in 2005, start functioning with no further delay. With a few exceptions, all decisions of the general courts can be appealed to the Court of Cassation, which results in its currently enormous backlog of cases that would otherwise be dealt with by courts of appeal. The courts of appeal are expected to increase the speed and efficiency of the judiciary and constitute an important step in ensuring the right to a fair trial. They can also allow the Court of Cassation to concentrate on its function of unifying and clarifying Turkish case law.

Another challenge concerning workload is the fact that prosecutors do not fulfill their “gate-keeping function” and tend to bring a high number of unmeritorious cases to court. This is partly due to their fear of judicial inspectors, particularly when cases concern the security of the state. On top of this, they do not always have the necessary resources to conduct high-quality pre-trial investigations and have to rely on ordinary police or gendarmerie officers under their supervision who lack specialised competences in judicial matters. In this respect, the establishment of a separate judicial police organisation may result in higher quality investigations and shorter trial periods. Other measures to decrease the workload, such as introducing reasonable time limits for the gathering of evidence and the presentation of indictments to courts, ensuring that trials continue with fewer interruptions and establishing a separate authority to exercise supervisory jurisdiction over courts to accelerate proceedings could also be adopted.¹²⁹

¹²⁸ Istanbul Policy Centre (2012), *Anayasa Reformu Aracılığı ile Türkiye'nin Denge ve Denetleme Sisteminin Güçlendirilmesi* (Strengthening Turkey's System of Checks and Balances through Constitutional Reform), February, <http://ipc.sabanciuniv.edu/en/publication/ipc-report-on-turkeys-constitutional-reform>.

¹²⁹ Council of Europe (2012b), *Report by Thomas Hammarberg, Commissioner for Human Rights of the Council of Europe, Following his Visit to Turkey from 10 to 14 October 2011*, cit., para. 15-26.

Substantial improvements in the *independence of the judiciary* have been made through the 2010 constitutional referendum that changed the powers and the composition of the High Council considerably. The constitutional amendments increased the number of its members from 7 to 22, which was largely necessary given the size of the Turkish judiciary; established a High Council secretariat separate from the Ministry of Justice; and widened its composition from representatives of the High Courts to legal scholars, lawyers and representatives of the low courts, elected mostly by the judiciary itself. This created a Council that is much more representative of the judicial sphere than the previous one. The fact that judges and prosecutors are now evaluated by inspectors appointed by the Council and not by the Ministry as before has remedied an important source of judicial dependence on the executive, which was much criticised in the past by the EU and scholars alike.

Nevertheless, despite these developments, there is still considerable cause for concern regarding the independence of the judiciary in Turkey. One crucial element of the 1982 constitution concerned the presence of the Minister of Justice in the High Council. The new constitutional amendments abolish the right of the Minister to attend the meetings. Yet, he still has the task of “representing” and “administering” the Council, can still decide on the Secretary General, must still approve inspections against judges and prosecutors and his Undersecretary is still present in the Council meetings. While for some observers the current presence of the Minister and his Undersecretary are rather symbolic in nature and thus does not have a bearing on judicial independence, there is a wider consensus that the voting system used to determine the members of the High Council is problematic. Under the system established after the referendum, each judge and prosecutor has the right to elect ten (out of 22) High Council members by voting for each post to be filled rather than voting for only one representative. The Venice Commission had already warned in its interim opinion on the draft law on the High Council that this system would entail “the possibility of informal electoral majority agreements aimed at avoiding the election of candidates who are the expression of minority orientations, which should, in any case, be present in the body if the HSYK is to be representative of the entire judiciary”.¹³⁰ In fact, the first elections to the High Council under the new

¹³⁰ Council of Europe Venice Commission (2010), *Interim Opinion on the Draft Law on the High Council for Judges and Prosecutors* (CDL-AD(2010)42), Strasbourg, 20 December,

rules were tarnished by the election of all the names in a list allegedly prepared by the government.¹³¹

Hence it is important that the voting rules to the High Council be changed to increase the representativeness of the institution and to strengthen its independence from the executive. The transparency of the High Council's decisions would also be enhanced by annual reports that communicate its decisions to society.¹³² While the transfer of the powers of inspection and supervision of judges and prosecutors from the Ministry to the Council under the new rules is welcome, the fact that the Minister has to authorise investigations by virtue of Article 159 of the Constitution compromises judicial independence; as a result, this veto right should be revoked.¹³³ Strengthening judicial independence also requires that all of the decisions of the High Council should be subject to judicial review and that the criteria relating to the inspection, performance appraisals, disciplining and dismissal of judges and prosecutors need to be more "precisely" and "narrowly" defined.¹³⁴ The new constitution should also more precisely define the derogations to judicial guarantees in line with the Siracusa Principles¹³⁵ and clearly state "geographic

para. 37, <http://www.venice.coe.int/docs/2010/CDL-AD%282010%29042-e.asp>.

¹³¹ Ergin, Sedat (2010), "HSYK Seçimi Nasıl Okunmalı?" (How to Interpret the High Council Elections?), *Hürriyet*, 19 October, <http://ankara.hurriyet.com.tr/yazarlar/16075077.asp>; İnsel, Ahmet (2010), "HSYK Seçimi Şaibeli mi Değil mi?" (Are the HSYK Elections Tainted or Not?), *Radikal*, 19 October, <http://www.radikal.com.tr/Radikal.aspx?aType=RadikalYazar&ArticleID=1024337>.

¹³² Istanbul Policy Centre (2012), *Anayasa Reformu Aracılığı ile Türkiye'nin Denge ve Denetleme Sisteminin Güçlendirilmesi* (Strengthening Turkey's System of Checks and Balances through Constitutional Reform), cit., p. 35-36.

¹³³ Council of Europe (2012b), *Report by Thomas Hammarberg, Commissioner for Human Rights of the Council of Europe, Following his Visit to Turkey from 10 to 14 October 2011*, cit., para. 108.

¹³⁴ Giegerich, Thomas (2011), *Independence, Impartiality and Administration of the Judiciary. Report of a peer based assessment mission to Turkey 17-21 November 2008*, Brussels, European Commission, August, p. 26-28, http://www.avrupa.info.tr/file-admin/Content/Downloads/PDF/Independence_Impartiality_and_Administration_of_the_Judiciary.pdf.

¹³⁵ Siracusa Principles (also known as the Draft Principles on the Independence of the Judiciary) were formulated by a committee of experts organised by the International Association of Penal Law, the International Commission of Jurists and the Centre for the Independence of Judges and Lawyers in May 1981. Text is available at <http://crisidanilet.ro/docs/Siracusa%20Principles.pdf>.

guarantees”, among others, against the use of geographic reassignment as an arbitrary source of punishment for judges and prosecutors.¹³⁶

Limitations to judicial independence, however, are not restricted to matters concerning the High Council, but are also observed at the point of entry into the judicial profession, where the Ministry of Justice is strongly involved. The Justice Academy at which the candidate judges and prosecutors receive their pre-service training is run by a general assembly whose members include the Minister and his Undersecretary. The written exams taken upon completion of the two year pre-service training are followed by an oral exam conducted by a board that is composed of five members from the Ministry and two from the Justice Academy. Hence to ensure full independence at entry level, the Justice Academy’s autonomy from the executive should be guaranteed and recruitment should be performed solely by the reformed Justice Academy.

While a judiciary fully independent from the executive or any other external locus of power is essential for a consolidated democracy, it may not be sufficient in attaining *impartiality* among the cadres of the judiciary. As Özbudun highlights, “achieving impartiality of the judiciary is much more difficult than achieving independence since independence is an institutional matter whereas impartiality is a psychological disposition [...] even if a judge is fully independent *vis-à-vis* the legislative and the executive, he can be susceptible to certain ideological pressures and relations of interest”.¹³⁷

In the Turkish judicial system, both judicial independence and impartiality are compromised by the relationship between judges and prosecutors. As also highlighted in our 2004 paper, judges and prosecutors continue to take the same exams to enter their professions, have their careers determined by the High Council, attend the same school for pre-service training, earn the same salaries throughout their careers and even live in the same residences. Even in courts, certain symbolic actions such as entering the court through the same doors and sitting side by side on an elevated platform reinforce the link between the two. Such symbolic actions also distort the balance between the prosecu-

¹³⁶ Istanbul Policy Centre (2012), *Anayasa Reformu Aracılığı ile Türkiye'nin Denge ve Denetleme Sisteminin Güçlendirilmesi* (Strengthening Turkey’s System of Checks and Balances through Constitutional Reform), cit., p. 33-34.

¹³⁷ Özbudun (2007), “Yargının Tarafsızlığı ve Bağımsızlığı” (Impartiality and Independence of the Judiciary), cit..

tion and the defence, as lawyers use different doors to enter the court, sit at a table below the judges and prosecutors at the ground level and remain in court when the prosecutors retire with the judges to the same chamber during the course of the proceedings. Hence, legal, institutional and functional linkages between the judges and the office of the prosecutor (including the existence of a single, common High Council for both) should be abolished in order to achieve the full independence and impartiality of judges, and defence and prosecution should be placed in equal positions. Reform on this front is particularly necessary considering that “the prosecutors’ symbolically privileged standing in criminal proceedings, as the guardian of state interests, could reinforce the perception according to which the Turkish judicial system has a strong in-built bias for the interests of the state and projects an appearance of partiality to defendants and to the public”.¹³⁸

Indeed, previous sections detailing the current state of the reform process in various areas demonstrate this “strong built-in bias” and the way in which it leads to inconsistent interpretation of the law and impedes political reform. While there is a need to refine certain laws to make them less vague and less open to interpretation, this is insufficient. Previous research suggests that there is an even more pressing need for a change in the mentality of judges and prosecutors who often consider their first and foremost job to protect the interests of the state rather than individual rights and freedoms and to grant a fair trial.¹³⁹ State sensitivities as the dominant ideology is in-built from the very early stages of the careers of judges and prosecutors who, when serving in small provinces, socialise mainly with the other members of the provincial bureaucracy and are under both peer and societal pressure to act as a “representative of the state”.¹⁴⁰

This is reinforced by the system of appraisals, which engender a widespread fear among both prosecutors and judges that “not conside-

¹³⁸ Council of Europe (2012b), *Report by Thomas Hammarberg, Commissioner for Human Rights of the Council of Europe, Following his Visit to Turkey from 10 to 14 October 2011*, cit., para. 123.

¹³⁹ Sancar, Mithat, and Ümit Atılğan, Eylem (2011), “Justice can be Bypassed Sometimes... Judges and Prosecutors in the Democratization Process”, in Suavi Aydın et al., *Just Expectations: A Compilation of TESEV Research Studies on the Judiciary in Turkey*, İstanbul, TESEV, p. 5-51, <http://www.tesev.org.tr/Upload/Publication/51186d43-abff-4428-8001-5c935ea659fc/YargiDerleme.pdf>.

¹⁴⁰ *Ibidem*, p. 14-16.

ring the necessary balances” (that is, between state interests and justice) in their investigations and decisions can result in punishment such as involuntary transfers.

The crucial issue here is to change the mindsets of the judges and prosecutors, not only to attain interpretations that expand fundamental rights and freedoms, but also to ensure they take allegations of human rights abuses seriously. The most important tool to achieve this end is primarily the education system itself. Although there have been certain improvements in legal education in the recent years, legal training in most universities is still far from satisfactory with over-crowded faculties relying excessively on simple memorising rather than analytical reasoning. This calls for a more comprehensive reform of education laws with a heavy emphasis on human rights education, inspired by practices in other European countries. Similarly, the training of candidate judges and prosecutors should also be reformed in such a way that they have significant experience before starting the profession. In-service training on matters such as EU law and international human rights law also needs to be continued in an intensive and systematic fashion and to reach out to a wide segment of the judiciary. These efforts at education need to be coupled with a comprehensive reform of the system of inspection and appraisals of judges’ and prosecutors’ performance where, as argued earlier, the criteria for career related decisions are more clearly and narrowly spelt out, and thus can act as “natural incentives for judges and prosecutors towards effectively embedding the ECHR and the case-law of the ECtHR into their daily work”.¹⁴¹

The prime embodiment in the Turkish justice system of judicial partiality toward the state were the State Security Courts and later the heavy penal courts with special powers, which were both associated with upholding state interests over those of the individual in the name of “securing the state”. Although the third reform package has recently replaced the heavy penal courts with Anti-Terror Courts and has introduced improvements in the rights of the defence, the problem of entrenched mindsets is difficult to eradicate in the short run and may continue to impede the rule of law. Hence it is also important for

¹⁴¹ Council of Europe (2012b), *Report by Thomas Hammarberg, Commissioner for Human Rights of the Council of Europe, Following his Visit to Turkey from 10 to 14 October 2011*, cit., para. 161.

the sake of impartiality that all kinds of special courts be abolished in the Turkish justice system.

CONCLUSION

This report shows that the current stagnation of Turkish democracy goes hand in hand with the current impasse in EU-Turkey relations. Domestic factors have combined with a loss of credibility of EU conditionality to create a situation in which political reform is substantially stalled and, in the cases in which it has continued, has mostly served the interests of the ruling political elite, with no particular reference to the EU. The virtuous cycle of reform that characterised the 1999-2005 period has been replaced by a vicious cycle in which lack of conditionality feeds into political stagnation which in turn moves Turkey and the EU further away from one another.

The post-2005 trajectory of democratic reform in Turkey hence demonstrates that the EU is still a fundamental anchor in the consolidation of Turkish democracy. It is an external anchor needed to keep the country on the *path to democracy and stability*, to ensure that Turkey pursues a *consistent path of reform with a view to joining the EU and to provide solutions to the immediate and pressing problems facing Turkish politics and society*. The presence of an EU anchor on the path to democracy and stability would mean minimising the risk of substantial reversals to the reform process, as observed in the recent debates initiated by Prime Minister Erdoğan on the merits of reintroducing the death penalty. Pursuing a consistent path of reform with a view to EU accession would entail undertaking systematic reforms rather than ad hoc steps (as in the case of the judicial system) which strengthen the perception that only those reforms that empower the ruling political elite are undertaken. Resorting to a strong EU anchor in searching for answers to key political challenges would help to weaken the forces opposed to reform in society who act as stumbling blocks in the resolution of key political conflicts such as the Kurdish issue.

In spite of the importance of this anchor, the future prospects for Turkey-EU relations seem to be mired on the EU side by the euro crisis, short-term political calculations of political leaders and the dominant exclusionary rhetoric towards Turkey, and on the Turkish side by the shift in interest among the political parties and in society at large

from Turkish membership in the EU towards a more active global and regional role for Turkey. A lack of vision, trust and commitment on both sides seems to have brought relations to a standstill. To overcome this impasse, both short- and long-term measures need to be envisaged. In the shorter run, the recommendations put forward in 2011 by the Commissioner for Enlargement and Neighbourhood Policy, Stefan Füle, are noteworthy. They include enhanced cooperation between Turkey and the EU on political reform, continued attempts on the part of Turkey to bring its legislation into closer alignment with the EU, maximising the potential benefits of economic relations between the two sides, a stronger dialogue on foreign policy in the light of the Arab Spring and visa facilitation.¹⁴² Nonetheless, reinvigorating relations and building them on more solid grounds where the EU can act as a long-term anchor for Turkish democracy requires a debate that is based on a stronger commitment and a broader vision. This may necessitate a reconceptualisation of Turkey-EU relations from the perspective of mutual benefits in a globalised world, where debates on more flexible modes of membership are not excluded. While this could prove to be crucial for the fate of Turkish democracy, the demand for democracy in the southern neighbourhood, where Turkey and its relations with the EU are closely watched, extends the importance of this democratic journey and the role the EU plays in it beyond Turkey.

¹⁴² Füle, Štefan (2011), *Enlargement Package 2011: Address to the Committee on Foreign Affairs (AFET) of the European Parliament*, SPEECH/11/652, Brussels, 12 October, http://europa.eu/rapid/press-release_SPEECH-11-652_en.htm.

9.

Presidentialism vs. Parliamentarism in Turkey

Ergun Özbudun

While Turkey is in the midst of a constitution-making process aimed at replacing the military-drafted 1982 Constitution with a new civilian constitution, a key twist to the saga was added when Prime Minister Recep Tayyip Erdoğan suggested in a TV interview on 6 June 2012 that a change to a presidential or semi-presidential system should be discussed. Actually, this debate is not new. Former Presidents Turgut Özal and Süleyman Demirel also advocated such a change in the 1980s and 1990s. These proposals were not energetically pursued, however, and the system of government established by the 1982 Constitution remained essentially in place, with the exception of an important revision in 2007 discussed below.

Indeed, the system of government established by the 1982 Constitution was far from the classical parliamentary model. The essential features of such a system are the political responsibility of the council of ministers to parliament, and an essentially symbolic head of state, whether a constitutional monarch or a president of the republic. Even though the executive power is shared between the president and the council of ministers, the source of authority and policy-making power lies clearly in the latter. The head of the state is politically unaccountable, and his/her criminal responsibility even in parliamentary republics is normally limited to cases of high treason. This, in fact, means that the head of state is devoid of any significant political power, since according to a cardinal principle of public law, power and responsibility must go hand in hand. This is assured by the principle of “counter-signature”, according to which the head of state is not authorized to act alone; in other words, all his/her acts have to be counter-signed by the prime minister and the minister(s) concerned who assume political and criminal responsibility for such acts. Therefore, the role of the head of state in parliamentary systems is essentially symbolic and ceremonial.

The 1982 Turkish Constitution departed significantly from this model by creating a presidency endowed with substantive political powers. Article 104, which enumerates the powers of the president of the republic, is the longest article of the Constitution, and endows the president with powers in legislative, executive and judicial domains. Even though the principles of counter-signature and the political responsibility of the council of ministers to parliament are maintained, the Constitution allows the president to act alone in certain cases without, however, specifying such cases (Art. 105). While some of the powers enumerated in Article 104 are ceremonial in nature, such as making an inauguration speech at the beginning of each legislative year, publishing laws, appointing the prime minister, acting as the commander-in-chief of the Turkish armed forces on behalf of the Turkish Grand National Assembly, and so on, many others involve the exercise of substantive and discretionary political authority. Especially noteworthy in this regard are his/her powers pertaining to the judiciary and the higher education system. The president is authorized to appoint the judges of the Constitutional Court, one-fourth of the judges of the Council of State, the Chief Public Prosecutor of the Court of Cassation and his deputy, judges of the Military Court of Cassation and of the High Military Administrative Court, and certain members of the High Council of Judges and Public Prosecutors. Similarly, s/he is authorized to appoint university rectors and the members of the Board of Higher Education (YÖK). In many of these cases, the president's authority is limited to selecting one of the candidates nominated by other bodies, such as the relevant high courts or the YÖK, but presidential power in these cases is nonetheless substantive.

Thus, the governmental system created by the 1982 Constitution was far from the classical parliamentary model. Consequently, it has been described as a "hybrid" system between parliamentarism and semi-presidentialism, or, borrowing a French term, as "attenuated parliamentarism" (*parlementarisme atténué*). The reason behind such a choice was clearly the desire of the governing military council (National Security Council) to create a strong presidency that would exercise a tutelary supervision of the elected bodies: the parliament and the council of ministers. General Kenan Evren, Chairman of the Council and Head of State in the interim period, strongly advocated a president who would act as an "impartial arbiter", a clear expression of his and his colleagues' distrust for elected politicians. To ensure this, he secured his election to the presidency by combining the referendum on the Constitution with

the election of the president. Thus, a “yes” vote for the Constitution also meant a “yes” vote for Evren’s presidency for a seven-year period (1982-1989). Probably, the military council had hoped that, even after Evren’s term of office, another military figure or at least a civilian acceptable to the military would be elected as president, and thus the president’s tutelary role would continue in the foreseeable future.

But this plan did not work out. After Evren’s term of office came to an end, all three presidents elected by the Grand National Assembly were civilians (Turgut Özal, Süleyman Demirel, and Ahmet Necdet Sezer). However, the system of government had a strong potential for creating conflicts between the president and the cabinet, and such conflicts were vividly experienced during the four presidential terms. Even though the presidents did not have substantive “policy-making” powers, the Constitution endowed them with significant veto powers, such as refusing to sign government decrees, returning laws to parliament for reconsideration, bringing about suits for annulment of laws before the constitutional court, submitting constitutional amendments to referendum, and so on.

When Ahmet Necdet Sezer’s term of office came to an end in 2007, Turkey experienced a serious constitutional crisis. Under Article 102 of the Constitution in force at that time, a qualified parliamentary majority for the election of the president required a two-thirds majority of all members in the first two rounds, and an absolute majority of all members in the third and fourth rounds. The majority party, the AKP, did not have the sufficient majority to elect its candidate (Abdullah Gül) in the first two rounds, but a comfortable majority to elect him in the third round. However, the military and the entire “secular establishment” were strongly opposed to Gül’s candidacy, fearing that his election would endanger the “secular Republic”. Consequently, through manoeuvrings of extremely dubious legality and democratic legitimacy, the Constitutional Court stopped the presidential election process. The AKP majority reacted to this by amending Article 102 of the Constitution, with the support of a minor opposition party (Motherland Party – ANAP), introducing popular election of the president for a maximum of two five-year terms. The constitutional amendment was submitted to referendum by the outgoing President Sezer and was approved by a 69 percent majority. However, before the amendment entered into force, the newly elected Grand National Assembly duly elected Gül under the previous rules.

Thus, with the constitutional amendment of 2007, the system of government was brought one step closer to a semi-presidential system. Indeed, semi-presidentialism can be defined as a system which combines a popularly elected president, who is endowed with significant substantive constitutional powers, with a council of ministers, which is responsible to parliament. In other words, it combines certain features of parliamentarism with those of presidentialism, but in contrast to presidential systems the division of powers is not so much between the legislature and the executive, but within the executive itself, that is between a popularly elected president and a council of ministers dependent on the confidence of the parliament. Therein lies the most problematic feature of semi-presidentialism. If on the one hand, the president and the parliamentary majority belong to the same party or political tendency, the system can be expected to function reasonably harmoniously. If, on the other hand, they belong to opposing tendencies, the system has the potential of leading to constant conflict within the executive. One possible way out of this crisis would be for the president to dissolve the legislature in the hope that elections would lead to a more cooperative parliamentary majority. Clearly, however, there is no guarantee of such an outcome. Another solution would be the withdrawal of the president to a more passive role in the face of an adverse parliamentary majority, as observed in the periods of *cohabitation* in the Fifth French Republic.

In face of the current arrangement in Turkey which combines a popularly elected president possessing wide and substantive powers with a cabinet responsible to parliament, it is not clear what the advocates of a "change" to a semi-presidential system actually propose. The present arrangement already meets the essential requirements of such a system. If its proponents suggest giving certain additional powers to the president, they have not so far clarified what these would be. Some Justice and Development Party (AKP) representatives have called for the appointment of the prime minister by the president. However, this is already a power assigned to the president under current regulations. Of course, such power is not absolutely discretionary. The president has to appoint someone who is likely to obtain a vote of confidence from parliament, which is one of the essential requirements of all semi-presidential systems. If what is meant is the abolition of the requirement of a parliamentary vote of confidence, such a system would no longer be semi-presidential system; it would be a presidential system in disguise.

Among possible additional powers, one may also think of giving the president an absolutely discretionary power to dissolve the legislature to hold new elections. However, the present Constitution (Art. 116) already gives the president such power subject to certain conditions, such as the failure to form a new government within 45 days. Even though this is a conditional power, it is conceivable that a president can create conditions for a dissolution by appointing persons unlikely to obtain a vote of confidence and thus satisfy the 45 days requirement. Another possibility is to add a provision to the constitution to the effect that the president normally chairs the council of ministers meeting as in France. Nevertheless, this too would not represent a significant change, since under the present arrangement, the president can chair such meetings whenever s/he deems necessary or can call for a meeting under his/her chairmanship (Art. 104). In certain cases, such as the declaration of martial law or state of emergency and the adoption of emergency decrees in such periods, the president's chairmanship of the council of ministers meetings is obligatory (Arts. 104, 119-122).

The proponents of a semi-presidential or presidential system invariably describe the parliamentary system as prone to crises and deadlocks. What critics probably have in mind is the rather unhappy coalition government experiences in the 1970s and the 1990s. However, governmental instability, ineffectiveness, and *immobilisme* are not the necessary fate of a parliamentary government. In many countries parliamentary governments work efficiently with single-party governments or reasonably harmonious coalition governments. Turkey has had stable and effective single-party governments between 1965-71, 1983-1991, and since 2002. Indeed, the parliamentary system incorporates mechanisms precisely to avoid persistent deadlocks. If the parliamentary majority supporting the government changes for reasons such as defections from the majority party or the break-up of a coalition, the vote of censure and the power of dissolving parliament are the two mechanisms to end the crisis and enable the formation of a new government that would reflect the new parliamentary majority.

In contrast, neither the presidential nor the semi-presidential systems incorporate such deadlock-solving mechanisms. As mentioned above, the semi-presidential system, particularly when the presidency and the parliamentary majority are controlled by opposing parties, is particularly vulnerable to crises and deadlocks. Presidential systems where the president and the legislature are elected separately by the people

for fixed terms and have no power to end each other's term in office, certainly ensure maximum executive stability and harmony within the executive. Instead, the president is often dependent upon the approval of the legislature for new laws s/he needs in order to pursue his/her political projects, and for his administration's budget. Again, if the two branches are controlled by opposing parties, there is no constitutional mechanism to end the deadlock. The Turkish advocates of a presidential system evidently have the US model in their mind. However, the success of the American model is due to the unique nature of American parties and the party system, not to constitutional arrangements. The loosely organized, non-ideological, undisciplined, and pragmatic nature of American political parties makes it possible to reach compromise even when the two branches are controlled by different parties. Thus, some authors have argued that the American system works reasonably well not because but in spite of the American Constitution. Clearly, this does not apply to countries where ideological differences among parties run deep, and parties are strongly organized and disciplined entities. In conclusion, the recent debate on parliamentarism vs. presidentialism in Turkey appears to be largely artificial and inconsequential. Turkey certainly needs a new constitution to solve its many urgent problems and to raise its democratic standards to a much higher level. The debate on parliamentarism vs. presidentialism is not one of these issues, and it should not distract attention from more urgent questions.

10.

Does the EU Still Have Leverage on Questions of Freedom of Expression in Turkey?

Michael Leigh

Does the EU still have leverage on questions of freedom of expression in Turkey? The problem of freedom of expression is real enough. The European Commission's annual reports, the US State Department's Human Rights Reports on Turkey as well as testimony from the country itself leave no doubt as to the increasing infringements of freedom of the press, publication more generally, and the internet. These sources make clear that the law itself does not sufficiently guarantee freedom of expression and note particular concerns about the high number of cases brought against journalists, the political pressure put on the media, the legal uncertainties, and the bans on websites. The Turkish Publishers' Association (TPA) has reported that serious restrictions on freedom of expression have continued despite legal reforms related to the country's EU candidacy.

The deteriorating human rights situation in Turkey is sometimes attributed to the slowdown in Turkey's EU accession process. This view, however, implies that the reforms of recent years were externally imposed and that the Turkish leadership itself sees no interest in an expansion of fundamental freedoms as such. It also implies that Turkish leaders have become oblivious to international opinion, especially as EU accession prospects have dimmed.

These assumptions need to be questioned. Turkish political reforms may have accelerated at the start of the century because of the country's EU membership bid. However, a major impetus for reform has come from the rising expectations of large parts of Turkish society. Turkish journalists, writers, bloggers and internet users depend on the freedom of expression and suffer when it is suppressed. Turkey's credibility as a model or source of inspiration for reformers elsewhere in the Muslim world partly hinges on its more open way of life, including the enjoyment of fundamental freedoms.

The widely reported clamp-down on civil liberties in Turkey is largely due to decisions taken by the Turkish leadership itself. This reflects problems related to the role of the military, especially in the “Ergenekon” affair and the pressure from the Fethullah Gülen movement. But other problems involve the abandonment of the “democratic opening” to the Kurds in light of renewed terrorism, fears of spillover from the situation in Northern Iraq and Syria, as well as sensitivities on the Armenia question following the failure of earlier efforts at rapprochement, and Ankara’s drift towards a more authoritarian style of leadership.

If setbacks in the exercise of the freedom of expression are largely home-grown, and not a response to disappointed EU ambitions, can the EU (and the US) nonetheless exercise leverage to improve the situation? The continuing importance to Turkey of its US and EU connections should not be underestimated. These links are particularly valuable given the tenuous nature of Turkey’s relations with Syria and other countries in its region following the Arab uprisings. Ankara cannot rely on a strategic alliance with Moscow or with Baku because of its energy dependence. Furthermore, Russia has drawn closer to Israel and Cyprus since the discovery of gas in the eastern Mediterranean.

The current honeymoon between Ankara and Washington is more with the US President than with the Congress or public opinion at large. Popular American sympathies often lie more with Israel, Armenia, Greece and the Kurds, than with Turkey. The honeymoon may well fade away, unless Turkey spruces up its performance on human rights.

The EU’s leverage on human rights issues may have diminished since the de facto suspension of accession negotiations, but it is not negligible. Turkey’s leaders have tried to keep the accession process alive through acceptance of the “positive agenda” put forward by the European Commission. Despite setbacks and increasing scepticism, Turkish leaders still refer with pride to the country’s status as a candidate for “full” membership (there is no other kind) in the EU. This was always going to be a long-term ambition – the country’s foreign minister himself mentioned the goal of 2023 for eventual EU membership, a hundred years after the Kemalist revolution. Turkish leaders recoil in disdain at any mention of an alternative scenario, especially if referred to as a privileged partnership (although even such a relationship would no doubt be subject to human rights conditionality.)

The Customs Union with the EU is crucial for retaining favourable access to Turkey’s most important export market. EU firms are still the

main source of technology transfer, management skills and capital for investment in Turkish business. Politically Turkey's EU orientation helps to maintain a certain balance within the ruling party and to deprive the social democratic opposition of an issue which, despite current opinion polls, may have future electoral value.

Visa liberalization is one of Turkey's principal goals in current talks with the EU. The EU has agreed to start a dialogue to draw up a "road map" with this goal in mind. As with other countries, this road map is certain to include respect for the freedom of expression.

Turkey's diplomats and lobbyists care enough to spend time and energy heading off unfavorable European parliament resolutions. Considerable attention is paid in Turkey to the European Commission's annual reports. The EU is still in a position to exercise pressure for an improvement in the freedom of expression through its judgment on Turkey's performance.

For the best part of the last decade, the Commission has concluded that Turkey *sufficiently* fulfills the ("Copenhagen") political criteria for EU membership. It will be increasingly difficult for the EU to maintain this or equivalent language unless there are distinct improvements in the freedom of expression in Turkey. To be sure, the EU institutions and member states need to speak the same language if their concern is to resonate with Ankara. Freedom of expression will be high on the agenda when the EU reviews its relations with Turkey on the basis of a new Commission report in December.

11.

To Europe and Back: The Three Decades of Kurdish Struggle in Turkey

Dilek Kurban

THE KURDISH FIGHT FOR RIGHTS AND THE ROLE OF EUROPE

Since the early 1990s, the Kurdish question has been a permanent agenda item in Turkey's political relations with Europe. What had triggered the initial European attention to the issue were the atrocities committed against Kurdish civilians in Turkey's south-east, under State of Emergency rule, as conveyed through news stories. What turned sporadic media coverage into long term political engagement in Europe, however, was the Kurdish human rights activists' persistence and ability to make use of the political and legal mechanisms of various European institutions for documenting the truth, litigating for justice and lobbying for political change in Turkey.

From the beginning, the "Europe" to which Kurdish activists reached out was not limited to the European Union (EU). Perhaps the most crucial, and often overlooked, role in galvanizing the international community was played by the European Court of Human Rights (ECtHR), the legal organ of the Council of Europe. At a time when national courts chose to turn a blind eye to the human rights abuses committed by the security forces and paramilitary groups, the ECtHR provided Kurdish victims with the sole platform for justice. With the legal support of British human rights lawyers and the assistance of the diaspora in Europe, human rights lawyers in Diyarbakır successfully petitioned the Strasbourg Court. The ECtHR's judgments against Turkey documented the state of terror reigning on civilians in the Kurdish region and displayed the regime of impunity shielding perpetrators against accountability.

Although the facts established by the ECtHR served to discredit Turkey's official narrative on the Kurdish question (that its security forces did not engage in wrongful conduct but merely fought terrorists), the democratization and reform processes have only started after the

initiation of the EU accession process. It was the prospect of joining the Union, not a fundamental shift in the Turkish state's approach or the Turkish society's thinking vis-à-vis the Kurds and the Kurdish question, that triggered the transition. Just like in the post-World War II era when Turkey became one of the early members of the United Nations and the Council of Europe and ratified their human rights treaties in an effort to be part of the "civilized world" or in the late 1980s when the Turgut Özal government granted Turkish citizens the right to petition the ECtHR in a diplomatic move to enhance Turkey's chances for EU membership, the advancement of democracy and the protection of human rights were perceived by the society at large as bitter pills that needed to be swallowed for achieving economic prosperity and international recognition. It had become increasingly clear that the state's oppression against the Kurds stood in the way of EU membership, which would bring economic growth, social development and a better quality of life. For the Turkish mindset, granting Kurds "a few rights" was a concession worth making in the name of being accepted into the club of developed nations.

It would become increasingly apparent, however, that the Kurds would not settle for little. Certainly, up until the early 2000s, when select provinces in Turkey's eastern and southeastern region were governed by a discriminatory legal regime based on a state of emergency, the Kurds' demands were by and large limited to the protection of their first generation rights. At a time when acts of torture, political disappearances, forced displacements and extrajudicial killings by state security officials and paramilitary groups were virtually daily incidents, the priority for the Kurdish activists and the pro-PKK political movement was the cessation of human rights violations and the return to normalcy. For European institutions, these were legitimate and rightful demands that Turkey was obliged to meet in order to enter the EU and to abide by its commitments undertaken in the Council of Europe. For the Justice and Development Party (*Adalet ve Kalkınma Partisi-AKP*) government which was elected to office in November 2002 on a pro-EU agenda, the political cost of meeting the Kurds' demands for the abolishment of state security courts, the adoption of procedural safeguards for the prevention of torture, and the removal of the restrictions on freedom of expression, association and press was tolerable when weighed against the gains it would bring. Bringing an end to the systematic human rights abuses in the Kurdish region would not only facilitate the initiation of accession talks with the EU and decrease the number of ECtHR judgments against

Turkey, but would also strengthen and legitimize the government's position at home vis-à-vis the military which still perceived itself as the primary repository of political power.

During its first term in office, the AKP government adopted a number of reforms to grant the Kurds their long denied rights. In addition to general human rights reforms called for by the ECtHR, the government granted the Kurds limited language rights to fulfill the EU's accession criteria. And it was one of these criteria, "respect for and protection of minorities", that gave Kurdish activists inspiration for the next phase of their struggle. By the mid-2000s, a mere guarantee of their first generation rights was no longer adequate for the Kurds. They now demanded group rights and cultural rights – the right to mother tongue education, the right to change the forcefully Turkified names of geographical places back to their Kurdish names, the right to name their children Kurdish names entailing q, x and w, letters lacking in the Turkish alphabet. The Council of Europe's little known legal instruments, the Framework Convention for National Minorities and the European Charter for Regional or Minority Languages, which the EU asked the candidate countries to ratify before accession, provided new opportunities for mobilization. Kurdish activists followed a multi-tier approach, bringing before the ECtHR cases raising novel issues, calling on the EU to pressure the government to grant Kurds their cultural rights, and raising societal awareness on minority rights.

By the 2000s, however, mobilizing the European public opinion around the Kurdish cause proved to be much more difficult compared to the 1990s. The past decade had witnessed drastic political changes at the national and international level. Though human rights violations continued and Turkey was far from being a genuine democracy, there was an undeniably significant progress in the democratization of the regime. Europe, too, had changed. The sudden expansion of the Council of Europe with the entry of the formerly communist Central and Eastern European countries resulted in an exponential increase in the workload of the ECtHR, rendering the Court much less accessible. Among the reforms introduced to ease the ECtHR's case load was the pilot judgment procedure, a form of power sharing between the Court and governments.¹

¹ According to the pilot judgment procedure, the ECtHR no longer decides on the merits of each admissible case; rather, as far as structural problems raising identical issues are concerned, the Court issues judgment in one application, rejects remaining

In view of its docket crisis and in recognition of the reform process in Turkey, the ECtHR became more deferential to the government in its choice of the domestic remedies needed to execute the Court's judgments and to prevent future violations. The new global legal and political order of the post- September 11th period, too, had consequences for Turkey's and the Kurds' relations with the EU. Preoccupied with their own "war on terror", the EU and its member states became much less tolerant of an armed "national liberation movement", as evident in their inclusion of the PKK among the list of terrorist organizations and frequent declarations of support for Turkey in its fight against the PKK. Finally, the lack of a common standard in the member states' policies on minority protection made the EU increasingly reluctant to support the Kurdish movements' demands for cultural and group rights.

The implication of these developments for Kurdish activists has been drastic. They no longer had an easily accessible Strasbourg which would tolerate procedural errors and make exceptions to the rule of the exhaustion of domestic remedies.² Their attempts to win judgments on the novel issues they brought before the ECtHR also failed. Asking the Court to condemn extrajudicial killings was one thing, winning a judgment against Turkey's high electoral threshold and ban on the use of the Kurdish alphabet was another.³ Kurdish lawyers failed in their efforts to push the boundaries of the individual rights protected under the

similar petitions and leaves it to the national government at issue to decide on the kinds of legislative reforms needed to solve the problem. This new approach was based on the new mandate granted to the Court by the Committee of Ministers (CoM) of the Council of Europe. See Committee of Ministers (2004), *Recommendation on the improvement of domestic remedies* (Rec(2004)6), 12 May, <https://wcd.coe.int/ViewDoc.jsp?id=743317>.

² Kurban, Dilek, and Güllalp, Haldun (2013), "A Complicated Affair: Turkey's Kurds and the European Court of Human Rights", in Dia Anagnostou, ed., *The European Court of Human Rights. Implementing Strasbourg's Judgments on Domestic Policy*, Edinburgh, Edinburgh University Press.

³ While the ECtHR acknowledged that the 10 percent electoral threshold in Turkey was the highest in Europe, it held that member states have a wide margin of appreciation on this matter owing to the lack of common practice in European countries and the political nature of electoral rights. ECtHR (2008), Judgment of the Grand Chamber on the case of *Yumak and Sadak v. Turkey*, Application No. 10226/03, 8 July, <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-87363>. In another case concerning Turkey's ban on the use of x, q and w, letters not present in the Turkish alphabet, the Court also ruled in favour of the government. ECtHR (2010b), Judgment on the case of *Kemal Taşkın and Others v. Turkey*, Applications Nos. 30206/04, 37038/04, 43681/04,

European Convention to have their group rights and cultural rights recognized. It has also become increasingly clear that there was a substantive limit to the support the Kurds could realistically expect from the EU and that they were fast approaching it.

REDIRECTING THE STRUGGLE TO THE NATIONAL ARENA

By the late 2000s, the growing mismatch between Kurdish demands and European institutions' ability and/or willingness to support them has led the Kurds to channel their resources to the national level. In contrast to their legal mobilization in the 1990s, the Kurdish struggle in the 2000s focused predominantly on politics. The change also owed to a growing realization that the AKP-led democratization process in Turkey would not, in the short term, bring structural legislative and constitutional reforms to the benefit of the Kurds. It was clear that the national electoral threshold would remain at 10 percent during the next few elections and the old Kurdish names of places would not be restored. The Kurds developed political strategies to circumvent the legal framework on the one hand and to engage in civil disobedience on the other. In 2007, the Kurdish political movement for the first time sent deputies to the parliament by participating in national elections with individual candidates, to whom the electoral threshold does not apply. The pursuit of the same strategy in the 2011 elections increased the number of independent deputies supported by the pro-Kurdish Peace and Democracy Party (*Barış ve Demokrasi Partisi-BDP*) led bloc. Also increasing its votes in the 2009 local elections, the BDP enhanced its hold on the administration of key provincial and district municipalities in the Kurdish region, strengthening its position as the AKP's sole rival for Kurdish votes.

Making use of its growing political power, the Kurdish movement pushed the boundaries of the democratization process. The government's attempts to solely define and limit the contours of the reforms were rendered futile by the BDP's civil disobedience campaigns at the local and national level. The BDP-run municipalities pursued bilingual and multilingual policies, in blatant violation of the laws, through

45376/04, 12881/05, 28697/05, 32797/05 and 45609/05, 2 February, <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-97088>.

restoring the old Kurdish names of places, providing municipal services in Kurdish and other minority languages and requiring fluency in the Kurdish language in recruitment for public service. In protest against the Directorate of Religious Affairs' (*Diyanet İşleri Başkanlığı*) refusal to provide religious services in Kurdish in the region, the BDP organized mass Friday prayers in public squares. The steps taken by the government as part of the "Kurdish opening" launched by the Prime Minister in 2009 proved to be too little, too late. The launch of TRT Şeş, a public television channel with 24 hours exclusive Kurdish broadcasting, meant little for the Kurds who have for years been following the world in Kurdish through the Europe-based *Roj TV*. The opening of Kurdish language departments at universities, likewise, was perceived as an insufficient measure in light of the Kurds' expectation for mother tongue education starting from pre-school. The most significant step taken by the government as part of the "Kurdish opening" was to allow the return to Turkey of eight PKK militants⁴ from Iraqi Kurdistan through crossing the Habur border gate on 19 October 2009. The welcoming of the group by tens of thousands of Kurds on the Turkish side of the border caused a nationalist backlash on the part of the CHP and MHP, which accused the government of "giving in to terrorism" and allowing the BDP to "propagate terrorism." Amid these protests, the AKP stepped back and effectively brought the Kurdish opening to an end.

What has consumed the AKP government's credibility and trustworthiness in the eyes of the Kurds, however, was not its belatedness in granting linguistic rights. Rather, it was the detention on remand of thousands of Kurdish politicians, mayors, activists, lawyers and journalists under the pretext of preventing the PKK's domination of civil politics in the Kurdish region. Suspects were accused of being leaders or members of the Kurdistan Communities Union (*Koma Ciwakên Kurdistan-KCK*), the alleged urban branch of the PKK. In 2011, the number of defendants reached thousands, many of whom were held in pretrial detention for periods ranging from 15 months to two years.⁵ The timing of the first

⁴ Accompanying the PKK militants were 26 Kurdish civilians who had been living at the Mahmour refugee camp since their forced displacement in the 1990s.

⁵ In reality, there are a number of interrelated Kurdistan Communities Union (*Koma Ciwakên Kurdistan-KCK*) cases. The prosecutorial investigation against the suspects started in May 2007. The first police operation was carried out on 14 April 2009, followed by others in 2009 and early 2010, resulting in the apprehension of thousands of

arrests, two weeks after the March 2009 municipal elections, was interpreted by the Kurds as the proof of the AKP's intention to penalize the Kurds for having voted for the BDP. Virtually every active member of the Kurdish political movement, with the exception of parliamentarians shielded with political immunity, was placed behind bars in the name of anti-terrorism. The draconian provisions of the Anti-Terror Law and Penal Law, as "reformed" by the government in 2005 and 2006, provided the legal basis for the witch hunt conducted by the police intelligence under the disguise of court-ordered investigations. The PKK militants and Kurdish refugees who had returned to Turkey in a gesture of good will to support the government's "opening" also fell victim to Turkey's expansive anti-terror laws. In 2010, only months after their return, four PKK militants and six refugees were detained on remand on charges of "acting on behalf of a terrorist organization". The remaining 24 individuals subsequently crossed the border back and returned to Iraqi Kurdistan.⁶

The AKP government's mishaps have led the BDP-led Kurdish political movement to increase the stakes for a democratic solution. Mother tongue education, the revision of the Anti-Terror Law and the Penal Code, the lowering of the 10 percent electoral threshold, a fairer distribution of the Treasury's assistance to political parties and constitutional guarantees for cultural rights were no longer sufficient; all KCK prisoners should be immediately released and the Kurds should be granted "democratic autonomy" as an assurance of self-rule in virtually all spheres of public life, with the exception of foreign policy, economy and national defence. The AKP's categorical refusal to negotiate over these demands led the BDP bloc to vote against the constitutional reform package submitted to parliament in March 2010, which failed to receive the requisite two-thirds majority and was therefore submitted to popular referendum

suspects and the detention of hundreds. It was only on 9 June 2010, when the indictment was issued, that defendants were formally informed of the charges against them. As of October 2010, there were ten separate but related KCK cases in the following provinces: Diyarbakır (hosting the principal KCK case), Batman (hosting two separate cases), Şırnak, Mardin, Van, Adana (hosting two separate cases), Mersin and Gaziantep. Information based on the legal brief presented by defendants' counsel to the Diyarbakır Sixth Heavy Penal Court with Special Powers, 18 October 2010.

⁶ Çandar, Cengiz (2012), *Leaving the Mountain: How may the PKK Lay Down Arms? Freeing the Kurdish Question from Violence*, Istanbul, TESEV, <http://www.tesev.org.tr/en/publications/1/1>.

on 12 September 2010. To show its weight as a political partner, the BDP called on its constituencies to boycott the referendum. Though the package was approved by 57 per cent of the votes, a significant portion of the electorate in the predominantly Kurdish provinces did not participate in the ballot.⁷

Encouraged by the support it received in the 2010 referendum, the AKP entered the general elections of June 2011 with a promise to adopt a new constitution based on inter-party consensus. The AKP's reelection with 47 percent of the vote was a clear signal that Turkey was ready for its first civil and democratic constitution. The AKP's establishment of a special commission with the equal representation of four political parties represented in parliament provided the BDP with the historic opportunity to play a key role in Turkey's democratization. The various political factions within the Kurdish liberation movement and Kurdish civil society were for the first time unequivocally united around the same constitutional demands and behind the BDP. Taking the constitutional process seriously, various Kurdish groups and parties presented to the parliamentary commission their common demands for mother tongue education, decentralization and the redefinition of citizenship. While these demands had a divisive effect on the commission, it was the proposal the AKP introduced in late 2012 for changing Turkey's regime from a parliamentary democracy to a presidential system that caused a political crisis within the commission (and in the parliament). The centre left and secularist Republican People's Party (*Cumhuriyet Halk Partisi-CHP*) and the right-wing nationalist Nationalist Movement Party (*Milliyetçi Halk Partisi-MHP*) staunchly opposed the proposal on the grounds that it was tailored to cater to Prime Minister Erdoğan's personal career and would lead to an authoritarian regime. The BDP, instead, signaled its support for a presidential system in exchange for the AKP's backing of their political demands.

In the meantime, the Kurdish political movement started a new civil disobedience campaign in protest against the deadlock in the KCK cases due to the courts' refusal to allow the defendants to conduct their legal defence in Kurdish. In one of the largest hunger strikes in Turkish history initiated on 12 September 2012 by 63 prisoners, the number of

⁷ The turnout rate in some of the Kurdish cities was: Hakkari, 9,1 percent; Diyarbakır, 35,2 percent; Batman, 40,3 percent; Şırnak, 22,5 percent; Van, 43,6 percent. The nationwide turnout average was 77,4 percent.

participants reached 682 prisoners⁸ by early November. The strikers had three demands: the alleviation of Öcalan's prison conditions, the right to education in Kurdish and the right to use Kurdish in courts. The duration of the strike and the participation of BDP deputies and leaders in it increased its public profile, forcing the government to acknowledge the problem and take action. Soon after the Minister of Justice announced that the government was preparing a new law granting the use of Kurdish in courts,⁹ and Öcalan made a call from his prison cell for an immediate end to the strikes. In response to this call, the strikes abruptly ended on 18 November. The incident was interpreted by many as a sign of the strength of the Kurdish political movement and Öcalan's omnipotence over it.

THE "PEACE PROCESS"

It was against this background that the AKP initiated the ongoing "peace process" to end the nearly 30 years of war with the PKK. Soon after Öcalan's call to end the strikes, in December 2012, Prime Minister Erdoğan disclosed that the National Intelligence Organization had reinitiated talks with the PKK's imprisoned leader Abdullah Öcalan. What brought the government back to the dialogue with Öcalan was a combination of multiple factors. First was a growing realization of the futility of an exclusive "law and order" approach to the Kurdish question, particularly since the PKK had escalated the war in recent years and launched fatal attacks targeting soldiers, police, public servants and civilians. Second was the inadequacy of the AKP's parliamentary representation for submitting a draft constitution to popular referendum in the likelihood of the collapse of the inter-party process. Third and related was the threat that a dragging Kurdish question would pose for Erdoğan's personal career plans of being elected as president with increased powers. Finally was the crit-

⁸ The number is based on the announcement made by the Ministry of Justice on 2 November 2012.

⁹ The law was eventually adopted on 24 January 2013, granting defendants a limited right of oral defence in "another language" other than Turkish during the reading of the indictment and in response to the substantive allegations. Defendants are required to bear the costs themselves. The law entered into effect with its publication in the Official Gazette on 31 January 2013.

ical role played by the Syrian Kurds and the PKK's Syrian faction in the war in Syria, where the establishment of an autonomous Kurdish region looks highly probable.

This time, to share the potential political costs of another failed peace attempt or to enhance its chances of success, the AKP government included the BDP into the talks with Öcalan by permitting two consecutive delegations of BDP deputies to visit Öcalan in the island prison of İmralı within a matter of two months. The inclusion of the BDP into the process stood in sharp contrast to 2009, when the talks with Öcalan were exclusively carried out by the Intelligence and the government refused the demands of the Kurdish political movement to be involved.

The government and the Kurdish political movement have divergent expectations from the ongoing process. For the government, the ultimate aim is the cessation of armed conflict, and the PKK's withdrawal beyond Turkey's borders and laying down arms. For the Kurdish political movement, the goal is to find a democratic solution to the Kurdish question based on structural constitutional and legislative reforms to grant the Kurds political status and equal rights. The leaked minutes of the meeting between Öcalan and the BDP delegation on 23 February 2013 make clear that Öcalan has no intention to immediately and unconditionally call on its troops to lay down their arms. Rather, he envisions a long term process where the two parties will gradually take coordinated and consecutive steps towards an eventual peace settlement. As a first step, Öcalan, through letters delivered by the BDP delegation to the PKK leadership in Europe and the Kandil Mountain in Iraqi Kurdistan, called on the PKK to release the soldiers and public servants it holds in captivity.¹⁰ It also appears that Öcalan has asked the PKK to announce a ceasefire on Newroz, the Kurdish New Year celebrated on March 21st, as a gesture of good will and sign of support for the new process. He also made clear, however, that any further positive step on the part of the PKK will be contingent on the ways in which the government will respond to the ceasefire.

In this respect, the long delayed "fourth judicial package", which is expected to introduce significant improvements for the protection of political freedoms, bears particular importance. It is the expectation of the Kurdish political movement and the Kurdish society at large that the

¹⁰ At the time of writing, preparations were under way for the captives' handover to a delegation of human rights activists and BDP deputies.

package will facilitate the release of KCK defendants.¹¹ While the courts, seemingly instructed by the Ministry of Justice, released in early March 2013 a few Kurdish mayors, thousands of other KCK defendants remain in prison. However, the fourth judicial reform package the government introduced to the parliament after the second BDP-Öcalan meeting fell far short of meeting these expectations.¹² At the time of writing, it remains uncertain whether and how the government will respond to the criticisms concerning the content of the package.

Certainly, the AKP government and the Prime Minister took an extremely high risk in initiating new talks with Öcalan and tasking the BDP with facilitating the dialogue. However, there is a fundamental problem in the way in which the government frames the expected outcomes of the process. The limitation of the “success” of the talks to the PKK’s withdrawal beyond the borders and laying down arms shows that the government’s approach to the essence of the problem is not fundamentally different than that of the military. The PKK and the armed conflict are certainly part of the Kurdish problem, but not all of it. After 30 years of struggle, the armed and civilian factions of the Kurdish movement expect much more than a government assurance that the military will cease its activities if/when PKK militants leave Turkish territories. Perhaps the most telling indication of this reality is Öcalan’s urge on the BDP deputies to continue to push for democratic autonomy, mother tongue education and collective rights as part of their work in the parliamentary commission on the new constitution. It is clear that the Kurdish political movement sees the realization of these goals as a precondition for a peace settlement with the state.

After decades of oppression, intimidation, exclusion and dismissal, the Kurdish political movement has become a key political player in Turkey’s democratization and peace process. What replaced the Kurdish political movement from the periphery to the centre of politics in Turkey were not only its decades of political, legal and armed struggle, but also an unanticipated turn of events. The strong societal support and demand

¹¹ While the courts, seemingly instructed by the Ministry of Justice, released in early March 2013 a few Kurdish mayors, thousands of other KCK defendants remain in prison.

¹² While introducing a number of positive changes in the name of executing the ECtHR judgments, the draft package does not include any amendments to the definition of “membership or leadership of terrorist organizations”, which are the principal crimes that the KCK defendants are charged with.

for peace, the AKP's absence of an alternative viable partner in peace, the indispensable role of the BDP in the constitution making process and the instability and transition in the Middle East have served to strengthen this position. Whether the "process" will actually lead to peace will depend on the willingness and ability of the Turkish government, media and society to come to terms with this new phenomenon and to accept the Kurds as equal partners in dialogue.

The transition of the Kurdish political movement from an outcast to the facilitator of peace stands in sharp contrast to the change in the role, perception and significance of Europe, which, within a matter of one decade, has lost its pivotal role in Turkey's democratization process and the solution of the Kurdish question. Having lost its soft power over the Turkish government and legitimacy in the eyes of the Kurds, the European political and legal institutions are virtually sidelined from the process where the parties are searching for a "home grown" peaceful settlement. While the EU is caught up in an existential crisis and the ECtHR is preoccupied with easing its workload, the Kurds and the Turks are writing a new history. It looks like this time Europe will be an onlooker rather than an agent of political change.

12.

Turkey, Syria and the Kurds: There Goes the Neighborhood

Piotr Zalewski

On 3 October 2012, a mortar shell fired from Syria landed in the small Turkish border town of Akçakale, killing two women and three children. It was not the first time that an errant shell had landed on Turkish soil since the beginning of Syria's civil war, and it was not to be the last. Over the ensuing weeks, Turkey and Syria were to trade artillery fire on almost a daily basis, leaving the erstwhile allies on the brink of armed conflict, and prompting Prime Minister Recep Tayyip Erdoğan to declare that his country was ready, even if not particularly eager, for war.

The tension had been brewing long before the Akçakale tragedy. Relations between Damascus and Ankara had turned sour after the first wave of protests that swept across Syria in the spring of 2011, deteriorated further after Turkey opened its doors to the Syrian opposition in exile and the insurgent Free Syrian Army, and reached a critical point when Syria downed a Turkish fighter jet on 22 June this year. The skyrocketing number of Syrian refugees fleeing the fighting had also become a factor. With Turkish camps home to over 100,000 refugees, and with the UNHCR predicting the arrival of up to 180,000 more by the end of the year, Ankara repeatedly called on the UN to create a safe haven in Syria.

However, nothing appeared to have stoked the Erdoğan government's anxiety about the fallout from Syria more than the news, which came at the end of July, that Bashar al Assad's forces had partially withdrawn from Kurdish majority areas in the country's north-east, near the border with Turkey. It was on the heels of such reports – and not after Akçakale, it needs pointing out – that Erdoğan first publicly considered the idea of armed intervention in Syria. When it emerged that the Kurdish takeover of several northeastern towns had been spearheaded by the Democratic Union Party (PYD), the Syrian

affiliate of the Kurdistan Workers' Party (PKK), Erdoğan warned that "intervening would be our most natural right."¹

Erdoğan's remarks, and the accompanying media storm, were a telling sign of the extent to which Turkey's Syria policy is, and will be, indexed to what Turks refer to the "Kurdish issue" – shorthand for Turkey's continuing struggle to accommodate its own Kurdish minority and to defeat the PKK's thirty year long insurgency.

For better or worse, Ankara believes that Kurdish autonomy inside Syria could become a major threat to Turkey's territorial integrity, fanning the flames of Kurdish separatism at home and offering the PKK new bases, in addition to those in Iran and northern Iraq, from which to hit Turkish targets. In the long term, the thinking in Ankara goes, it could also transform the idea of a Greater Kurdistan – comprising Kurdish areas in Turkey, Iraq, Iran and Syria – from pipedream to possibility.

As activists inside the country report, although the Kurds have taken over parts of the northeast, the regime remains embedded in the area, its security and intelligence forces operating alongside the PYD's.² (There are suspicions that Damascus may be using the PYD to keep a lid on things while fighting rages in other parts of the country). Likewise, those in Ankara fretting about the rise of a "terrorist entity" in Syria may have overestimated the PYD's power and popularity. According to Syrian Kurdish activists, even if the PYD is the best armed and the best organized of the Kurdish factions, its political base is comparatively small. The PYD's autocratic ways and its inability to tolerate dissent rub many Kurds the wrong way. "When the regime goes, the PYD will go with it," is a line frequently heard among the group's dissenters.

In any case, the PYD itself has been at pains to reassure Turkey that it has nothing to fear from the group. "From the beginning we said we are not against Turkey, that we'll keep our border safe, not let anyone pass our border into Turkey," says the PYD's leader Salih Muslim. "They're trying to relate us with the PKK. We have nothing

¹ See Today's Zaman (2012), "Erdoğan says PKK threat from Syria may prompt Turkish military retaliation", 25 July, <http://www.todayszaman.com/news-287680-erdogan-says-pkk-threat-from-syria-may-prompt-turkish-military-retaliation.html>.

² Interviews with Syrian Kurdish politicians and activists in northern Iraq, October 2012.

to do with the PKK; we're just protecting our people. We don't want to divide Syria. We are not separatists."³

Of course, conclude the authors of a recent report on Syria's Kurds, the group has plenty of reason to be disingenuous. "The PYD realizes that the post-Assad period is uncertain at best, so there is a great incentive to avoid the wrath of the Turkish military and deny any links with the PKK."⁴

Yet there is obviously much more to the Kurdish issue than the situation in Syria. Today, Turkey finds itself facing a deteriorating crisis inside its own borders. As a recent report by the International Crisis Group makes clear, Turkey's Kurdish conflict is at its most violent since 1999, the year Turkish commandos captured PKK founder and leader Abdullah Öcalan in Kenya.⁵ (The fighting has claimed a total of more than 40,000 lives since 1984.) Increasingly, the Ankara government has pointed an accusing finger at Syria, claiming that Assad has begun to supply the PKK with weapons so as to punish Turkey for harboring the Free Syrian Army.

That may very well be the case – Syria supported the PKK in the 1980s and 1990s and has reason enough to do so today – but it should not deflect attention from the homegrown factors fueling the conflict in Turkey. Despite a number of impressive reforms over the past decade, including new cultural and language rights, key Kurdish demands remain unmet. These include public education in Kurdish, a degree of political autonomy, and Öcalan's transfer to house arrest. Meanwhile, the arrests of as many as 8000 activists, politicians and journalists on charges of links to the PKK, often on very thin evidence, have exacerbated concerns that Erdoğan's government, unable to hand the Kurdish movement a decisive defeat at the polls, is doing so through the courts.⁶ (The Kurdish-

³ Phone interview with the author, 29 October 2012.

⁴ Tanir, İlhan, van Wilgenburg, Wladimir, and Hossino, Omar (2012), *Unity or PYD Power Play? Syrian Kurdish Dynamics After the Erbil Agreement*, London, Henry Jackson Society, October, <http://henryjacksonsociety.org/2012/10/15/unity-or-pyd-power-play-syrian-kurdish-dynamics-after-the-erbil-agreement>.

⁵ International Crisis Group ICG (2012), "Turkey: The PKK and a Kurdish Settlement", *ICG Europe Report*, No. 219, 11 September, <http://www.crisisgroup.org/en/regions/europe/turkey-cyprus/turkey/219-turkey-the-pkk-and-a-kurdish-settlement.aspx>.

⁶ For more on the so-called Union of Communities in Kurdistan (KCK) trials, please refer to the ICG report and the more recent study by the Committee to Protect Journalists CPJ (2012), *Turkey's Press Freedom Crisis. The Dark Days of Jailing Journalists and Criminalizing Dissent*, New York, CPJ, October, <http://cpj.org/reports/turkey2012-english.pdf>.

majority southeast is indeed one of the few places in Turkey where the AKP repeatedly fails to win the largest share of the vote.) The crisis has taken on added urgency since more than 700 Kurdish prisoners across the country launched a hunger strike to protest Öcalan's jail conditions and to demand new rights for the Kurds.

Less than a decade ago, Turkey's Kurds could have placed at least some of their hopes in the EU. With Turkish leaders dancing to Brussels' tune between 2002 and 2005, the Kurds had reason to trust that the EU accession process would deliver what no Turkish government could – a lasting solution to the political, economic and security crisis in the south-east. Tellingly, support for EU membership among the region's Kurds was said to hover around 90 percent.⁷

That era is now gone. The EU accession process is in the midst of a gradual slide into irrelevance. During Erdoğan's two-and-half-hour speech laying out his party's vision for 2023, the centenary of the Turkish Republic, the stalled membership talks did not receive so much as a single mention. Support for membership has plummeted from 74 percent in 2004 to as little as 38 percent today. A recent poll which found that a whopping 78 percent of Turks believe their country will never enter the Union is equally significant.⁸ To no one's surprise, the EU's ability to spur political change is quickly melting away. The Kurds' sympathy for the bloc might remain, but their faith in its power is badly shaken. "Before, we treated the Europeans like royalty," says Irfan Enc, a Kurdish politician from Şırnak. "And now, with all due respect, I don't attach much importance to what they say."⁹

The EU's waning importance in the Kurdish equation has been accompanied by the rise of another outside actor – Iraqi Kurdistan. For years, at least from Turkey's perspective, the quasi-state in northern Iraq seemed part of the Kurdish problem. Today, with regard to both the situation in

⁷ See, for example, Çarkoğlu, Ali (2003), "Who Wants Full Membership? Characteristics of Turkish Public Support for EU Membership", *Turkish Studies*, Vol. 4, No. 1, Autumn, p. 171-194; Moxon-Browne, Edward, and Ustun, Cigdem (2009), "Turkey and the European Union: Divergent Discourses?", *Romanian Journal of European Affairs*, Vol. 9, No. 3, September, p. 34-52, <http://ssrn.com/abstract=1473657>.

⁸ See Peker, Emre (2012), "Turks to European Union: No, Thanks", *The Wall Street Journal Blogs*, 29 August, <http://blogs.wsj.com/emerging europe/2012/08/29/turks-to-eu-no-thanks>.

⁹ Interview with the author, October 2012.

the Turkish southeast and the changing political mosaic in Syria, it may be part of the solution.

With a few notable exceptions – the Kurdistan Regional Government (KRG) continues to ignore Turkish pleas to clamp down on PKK rebels ensconced in the Kandil mountains – relations between Erbil and Ankara are thriving. Over half of the foreign companies registered in northern Iraq are Turkish, trade volume has reached \$12 billion, having quadrupled from only five years ago, and few are the roads, shopping malls and housing developments not built by Turkish contractors. Where trade and investment ties have shown the way, politics have followed. This was highlighted most recently by Turkish Foreign Minister Ahmet Davutoğlu's visit to Erbil in August and KRG leader Massoud Barzani's appearance at the AKP congress in late September. Both would have been unthinkable just five years ago.

Even if Turkey still fears that the KRG's growing appetite for sovereign rule may be fuelling the Kurds' dream of a national homeland, it is doing precious little to allay Erbil's estrangement from Nouri al Maliki's government in Baghdad. In fact, to judge by its decision to ink an oil deal with the KRG in May 2012, a decision made over Maliki's explicit objections, Turkey may be switching from Iraqi marriage counselor to home wrecker. (Reports are also making the rounds that Ankara has offered the KRG security guarantees in case Baghdad and Erbil come to blows.) To those who wonder why a Turkish government that once saw a robust Iraqi Kurdistan as a major strategic threat should now embrace it as a prized ally, Soner Çağaptay and Parag Khanna offer several possible reasons. First, they say, a stronger Iraqi Kurdistan would create a buffer between Turkey and a chronically unstable southern Iraq. Second, it would help Turkey counter Iran's Shiite axis, stretching from Baghdad to Hezbollah in Lebanon.¹⁰

Another reason is Kurdish oil and gas. Having concluded that the benefits of dealing directly with Erbil outweigh the risks of losing business in Baghdad, energy giants like ExxonMobil and Chevron are lining up to tap into northern Iraq's vast oil and gas reserves. Turkish companies are following suit. According to Matthew Bryza, "Turkish banks, construction companies, and energy brokers stand to profit from mas-

¹⁰ Çağaptay, Soner, and Khanna, Parag (2012), "Why Syria's Fragmentation Is Turkey's Opportunity", *The Atlantic*, 24 October, <http://www.theatlantic.com/international/archive/2012/10/why-syrias-fragmentation-is-turkeys-opportunity/263890>.

sive investments in [Iraqi Kurdistan's] energy infrastructure and from energy trade." Eager to feed as much of the oil and gas as possible into Turkey's own pipelines, the Ankara government hopes to send natural gas onwards into the Southern Corridor, and "elevate Turkey's strategic significance as an energy transit hub for Europe, the Caspian, and the Middle East."¹¹ With estimates of northern Iraqi gas reserves ranging from 1 to an eye-popping 6 trillion cubic meters (TCMs), the EU should take heed, particularly in the face of speculation that its Nabucco pipeline project may be short on potential suppliers.

Finally, there is growing recognition in Ankara that Barzani's KRG may be an important player in the search for a solution to Turkey's Kurdish conflict. Unlike many Kurdish nationalists in Turkey who appear either unwilling or unable to question the PKK's tactics, Barzani has explicitly stated that the rebels' armed struggle no longer makes sense. This has made him a credible interlocutor for the government in Ankara as well as a popular figure among those Turkish Kurds who seek an alternative to mainstream Kurdish politicians. His leverage among Kurds in Syria has also raised eyebrows. It was Barzani, after all, who managed to orchestrate an agreement, however tenuous, between the PYD and a group of Kurdish factions opposed to Bashar al Assad in July.

This, plus the nature of Turkey's relationship with northern Iraq, i.e., the extent to which Ankara has used business, trade and geopolitics to draw the region into its orbit, may ease the Erdoğan government's anxieties about the consequences of Kurdish autonomy in Syria. Signs of this are already on the horizon. In early August, following a visit to Erbil during which he met with Barzani and a host of Syrian Kurdish leaders, Davutoğlu announced that – as long as it was not unilaterally imposed – his country "would not oppose" Kurdish autonomy in Syria.

The notion that Turkey's model for reconciling with the Kurds of Iraq will serve it well as it grapples with the Kurdish issue in Syria is an appealing one, but calls for a few provisos. First, it would be naïve for Ankara to believe that it can have the definitive say in the future of Syria's Kurds. Erdoğan's government has already realized that it cannot simply will its policies into place (see "zero problems"); the best it can hope for

¹¹ Bryza, Matthew J. (2012), "Turkey's Dramatic Shift toward Iraqi Kurdistan: Politics before Peace Pipelines", *Turkish Policy Quarterly*, Vol. 11, No. 2, Summer, p. 57, <http://turkishpolicy.com/dosyalar/files/2012-02bryza.pdf>.

is that things in northern Syria go as they did in northern Iraq, and that Kurdish parties close to Barzani manage to supplant the PYD. That said, Turkey would be wise to support Barzani's mediation efforts in Syria and press the Istanbul-based Syrian National Council, the main opposition body, into accepting at least some Kurdish demands. The Kurds may have temporarily reconciled with each other, but are still miles from closing ranks with the Arab-dominated SNC. Finally, and most importantly, Turkey must know that any *modus vivendi* it finds with the Kurds of Syria – and of Iraq, for that matter – will not be sustainable until and unless it finds a solution to its own Kurdish problem.

13.

The EU, Turkey, and the Arab Spring: Challenges and Opportunities for Regional Integration

Kemal Kirişci

The Arab Spring has led to a critical reassessment of the European Union's policies towards the southern Mediterranean.¹ Since the launch of the Euro-Mediterranean Partnership (EMP) in 1995, the European Union has tried to encourage regional integration in the Euro-Mediterranean region. The European Neighbourhood Policy (ENP) and the subsequent Union for the Mediterranean (UfM) have also aspired to achieve this goal. The leading concern of these policies has been to bring about a more prosperous, and thus, a more stable and peaceful region. Unfortunately, the Arab Spring reminded the EU of how little these policies had achieved, precipitating the Union to adopt a new set of policies captured by its new strategy for a changing European neighbourhood.² However, many have expressed little hope that these new initiatives are likely to achieve fundamentally better results than their predecessors, and their impact on shaping reform in the Arab world appears to be extremely limited to date.³

¹ The author would like to acknowledge the assistance of Barış İne from Boğaziçi University who helped to collect and process the statistical data used in this paper.

² European Union (2011), *A new response to a changing Neighbourhood*, COM(2011) 303 final, Brussels, 25 May, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=celex:52011DC0303:en:not>.

³ Torun, Zerrin (2012), "The European Union and Change in the Middle East and North Africa: Is the EU Closing Its Theory-Practice Gap?", *Ortadoğu Etüdləri*, Vol. 4, No. 1, July, p. 79-97; Santini, Ruth Hanau (2012), "The Arab Spring and Europaralysis in the Levant and the Gulf", *Swiss Political Science Review*, Vol. 18, No. 1, March, pp. 120-123, <http://dx.doi.org/10.1111/j.1662-6370.2012.02059.x>, Schumacher, Tobias (2011), "The EU and the Arab Spring: Between Spectatorship and Actorness", *Insight Turkey*, Vol. 13, No. 3, Summer, pp. 107-119, http://file.insightturkey.com/Files/Pdf/insight-turkey_vol_13_no_3_-2011_schumacher.pdf

In the meantime, over the last two decades, Turkey's economy has become slowly but surely increasingly integrated with its neighbourhood. This has been a function of greater trade and economic relations as well as the institutionalization of a liberal visa policy with countries of this neighbourhood. In the years immediately preceding the Arab Spring, the Turkish government had begun to develop the elements of a neighbourhood policy that aspired to greater economic integration. However, this policy has come under serious challenge especially with the crisis in Syria and with the difficulties of spurring reform in the Arab world. While acknowledging Turkey's limited capabilities in light of the unfolding Arab awakening, the ability of Turkey to affect and shape developments on its southern borders has nonetheless been put to serious test in the course of the last year or so.

This picture suggests that the EU and Turkey stand a greater likelihood of achieving their common but so far separately pursued goals of encouraging regional economic integration if they cooperate instead of continuing to ignore each other. This chapter studies Turkey's "neighbourhood policy" in the southern Mediterranean and compares it with that of the EU before developing an argument for cooperation between the two sides in support for greater regional integration, even if this may be for the very long run. Traditionally, regional integration has long been seen as an effective tool for encouraging regional peace, stability and prosperity, with the added expectation that economic growth may also facilitate the transition to democracy. These are outcomes that both the European Union and Turkey support, albeit through different means: the EU has sought to promote regional institutions supportive of economic integration, while Turkey has pursued economic interactions between regional countries. Today, both approaches have fallen short of their potential in the southern Mediterranean countries. Can the Arab uprisings change this? What could Turkey and the EU do about it? What would be the challenges to and opportunities for regional integration in the Mediterranean?

The essay proceeds in three steps. It first discusses briefly the Euro-Mediterranean Partnership and European Neighbourhood Policy, with a focus on their activities related to democracy promotion, trade and movement of people. It then explores Turkey's "neighbourhood policies" with a special focus on the Mediterranean and compares these with EU policies. The final section elaborates the challenges that Turkey's "neighbourhood" policy faces in the current post-Arab Spring environment, which call for greater cooperation with the EU.

THE EU'S MEDITERRANEAN POLICY

The EU's policy towards the Mediterranean comprises three distinct but interrelated policies that have been supplemented by specific measures adopted in response to the Arab Spring. The first is the EMP, launched in 1995 to provide a forum for cooperation in political-security, economic-financial and social-cultural fields. Following the eastern enlargement in 2004, the EU developed the ENP, which aimed at strengthening bilateral relations with those neighbouring countries, including in the southern Mediterranean, which are not expected to enter the Union. In 2008, these policies were supplemented by the French-driven UfM, aimed at developing concrete cooperation projects between the two shores of the Mediterranean. In March 2011 in the context of the ENP, the EU rapidly responded to the Arab Spring by adopting the "Partnership for Democracy and Shared Prosperity with the Southern Mediterranean" to support reform and democratization.⁴ Overall, these policies aspire to assist partners in southern Mediterranean countries engaged in building deep democracy and inclusive economic development and to launch initiatives in areas such as trade, energy, transport, migration and mobility.⁵

The EMP and ENP have achieved an impressive level of institutional development accompanied by an *acquis* that identifies the areas, terms, as well as tools of cooperation. This *acquis* most importantly promises trade liberalization and a "stake" in the internal market for partner countries through deep and comprehensive free trade agreements. This is also accompanied by promises of support for increased "people-to-people" contacts. Trade and movement of people are seen as two key avenues for increasing the level of integration between the EU and the neighbourhood. However, these promises are made conditional on the neighbourhood countries' meeting a set of complex requirements. These range from the

⁴ COM(2011) 200 final, Brussels, 8 March 2011, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=celex:52011DC0200:en:not>. This partnership aims at developing "democracy and institution building", "tackling the challenges of mobility", "promoting inclusive economic development" and trade and provide EU financial assistance in support of these policies.

⁵ For a detailed assessment of these policies by the European Union itself see European Union (2012), *Delivering on a new European Neighbourhood Policy*, JOIN(2012) 14 final, Brussels, 15 May, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=JOIN:2012:0014:FIN:en:PDF>.

need to adopt EU rules concerning access to the internal market, strengthening border controls and combating corruption, illegal migration and terrorism, to making progress on democracy, human rights and good governance reforms. In EU parlance “more” is promised for “more”.

It is not the purpose of this study to assess these policies with respect to the southern Mediterranean. However, the literature indicates that overall progress has been slim.⁶ True, the “Barcelona process has created a constructive political and institutional infrastructure of comprehensive partnership between the region and Europe”.⁷ However, particularly in political terms, authoritarianism and the lack of rights and freedoms have persisted and often deepened.⁸ The eruption of the Arab uprisings especially in Egypt, Libya and Tunisia revealed how far the EU had fallen behind in meeting its own goals and standards. The EU has actually been bitterly criticized for having betrayed its own ideals by maintaining cosy relations with authoritarian regimes for the sake of its security concerns with respect to terrorism, migration and political stability.⁹ In contrast to the letter and spirit of its neighbourhood policies, the EU chose to preserve the

⁶ Emerson, Michael (2008), “Making sense of Sarkozy’s Union for the Mediterranean”, *CEPS Policy Briefs*, No. 155, March, p. 3, <http://www.ceps.eu/node/1453>; Behr, Timo (2010), “The EU’s Middle East failure”, in Toby Archer, Timo Behr and Tuulia Nieminen, eds., “Why the EU fails: Learning from past experiences to succeed better next time”, *FIIA Report*, No. 23/2010, p. 43, <http://www.fiaa.fi/en/publication/131>.

⁷ Emerson, Michael, and Noutcheva, Gergana (2005), “From Barcelona Process to Neighbourhood Policy: Assessments and Open Issues”, *CEPS Working Documents*, No. 220, March, p. 6, <http://www.ceps.eu/node/1055>.

⁸ *Ibidem*, p. 18: results reported in Table 12. See also European Commission (2010), *Taking stock of the European Neighbourhood Policy*, COM(2010) 207 final, Brussels, 12 May, p. 3, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=celex:-52010DC0207:en:not>.

⁹ Hollis, Rosemary (2012), “No Friend of Democratization: Europe’s role in the genesis of the Arab Spring”, *International Affairs*, Vol. 88, No. 1, January, p. 81-94, <http://dx.doi.org/10.1111/j.1468-2346.2012.01058.x>; Pace, Michelle (2009), “Paradoxes and Contradictions in EU Democracy Promotion in the Mediterranean: The Limits of EU Normative Power”, *Democratization*, Vol. 16, No. 1, February, p. 39-58; Bilgin, Pinar, Soler i Lecha, Eduard, and Bilgiç, Ali (2011), “European Security Practices vis-a-vis the Mediterranean: Implications in Value Terms”, *DIIS Working Papers*, No. 2011/14, <http://www.diis.dk/sw110703.asp>; Schumacher (2011), “The EU and the Arab Spring”, cit.; Torun (2012), “The European Union and Change in the Middle East and North Africa”, cit.; Santini (2012), “The Arab Spring and Europaralysis in the Levant and the Gulf”, cit.

prevailing order in the southern Mediterranean.¹⁰ This was captured by *The Economist's* damning remark that “for years European officials negotiated action plans with countries and wrote reports bemoaning their lack of democracy, yet kept paying autocrats billions of Euros”.¹¹ This was embarrassingly revealed in the early stages of the Arab uprisings, when the EU seemed to fear offending authoritarian leaders rather than lending unequivocal support for masses demanding change and reform. This reinforced the “theory and practice gap” in EU relations with the southern Mediterranean countries.¹²

In the area of trade, progress has also been limited. Institutional steps have been taken towards creating a free trade zone. Association Agreements with most of the countries of the neighbourhood are in place. However, these agreements have fallen well short of meeting the goal set in 1995 of achieving the Euro-Mediterranean Free Trade Area (EMFTA) by 2010. Trade gains have been made but are of very limited and mostly of a “hub and spoke” nature, consisting in increased trade between individual states and the EU without an accompanying rise in intra-regional trade.¹³ This meagre performance is partly caused by the inability of these countries to adopt and implement the EU *acquis* on the internal market. The reasons behind this inability are complex and numerous but the insufficiently valuable “carrots” offered by the EU to induce reforms is also a factor to be reckoned with.¹⁴ This, in turn, is closely related to the EU’s considerable resistance to opening the internal market to agricultural imports from the southern Mediterranean. Instead, energy and related products have constituted the bulk of EU imports from the region perpetuating the “rentier state” nature of many Arab economies. This bias for trade in energy is evident in the Maghreb countries’ larger share in the

¹⁰ Bilgiç, Ali (2010), “Security Through Trust-Building in the Euro-Mediterranean Cooperation: Two Perspectives for the Partnership”, *Southeast European and Black Sea Studies*, Vol. 10, No. 4, December, pp. 457-473, <http://dx.doi.org/10.1080/14683857.2010.529994>.

¹¹ Economist (2011), “Choosing new friends”, 9 April, p. 34, <http://www.economist.com/node/18527520>.

¹² Torun, “The European Union and Change in the Middle East and North Africa”, cit.

¹³ Cardwell, Paul James (2011), “EuroMed, European Neighbourhood Policy and the Union for the Mediterranean: Overlapping Policy Frames in the EU’s Governance of the Mediterranean”, *Journal of Common Market Studies*, Vol. 49, No. 2, March, p. 219-241.

¹⁴ Schumacher (2011), “The EU and the Arab Spring”, cit., p. 109.

EU's trade with the region compared to the Mashreq countries. Trade with the Maghreb countries constituted over 4.4 percent of overall EU trade in 2008 and increased from 3.5 percent in 1995 (Table 11). Trade with the Mashreq Mediterranean countries fell from 1.45 percent of overall EU trade to 1.24 percent for the same period, while falling down to 1.19 in 2011. Trade integration between the EU and the southern Mediterranean has not been impressive when compared with the EU's Eastern neighbours. EU trade with the southern Mediterranean countries increased by only 50 percent between 2004 and 2011, compared with a 156 percent increase with the Eastern ENP countries. The difference is even more apparent for the period 1995-2011, when trade with Arab countries increased barely three times compared to a twelve fold rise with East European countries. The structural disadvantages that southern Mediterranean countries face become even more striking in the case of the Mashreq countries that run large trade deficits with the EU. These countries have consistently imported much more from the EU compared to what they have been able to export in the absence of oil and natural gas exports.

Table 11 | Trade between the EU and the EMP countries

EU	1995		2004		2008		2011		% of inc. 1995-2011	% of inc. 2004-2011
	Total Foreign Trade	% of Tot.	Total Foreign Trade	% of Tot.	Total Foreign Trade	% of Tot.	Total Foreign Trade	% of Tot.		
Israel	14.321	1,47%	21.366	1,07%	25.296	0,88%	29.518	0,90%	106%	38%
Maghreb	33.902	3,49%	71.653	3,58%	126.769	4,41%	102.207	3,13%	201%	43%
Mashreq	14.084	1,45%	22.170	1,11%	35.589	1,24%	38.830	1,19%	176%	75%
Arab Total	47.986	4,94%	93.823	4,69%	162.358	5,65%	141.037	4,32%	194%	50%
European ENP	5.938	0,61%	27.882	1,39%	68.720	2,39%	71.314	2,18%	1101%	156%
Total	68.245	7,02%	143.071	7,15%	256.374	8,92%	241.869	7,40%	254%	69%
EU Total*	972.104	100%	2.001.661	100%	2.874.764	100%	3.267.467	100%	236%	63%

*Belgium and Luxembourg not included in 1995 EU Total due to lack of data.

Notes: EU-15 in 1995; EU-25 in 2004; EU-27 in 2008.

Maghreb: Morocco Algeria Tunisia Libya; Mashreq: Jordan Lebanon Syria Egypt;

European ENP: Armenia Azerbaijan Belarus Georgia Moldova Ukraine.

Source: EUROSTAT (in millions Euro)

Similar remarks can also be made about the movement of people. The Schengen visa regime requires that nationals of all southern Mediterranean countries are equipped with a visa to enter the EU.¹⁵ The EU does not keep statistics on the number of entries by foreign nationals into the Schengen area. However, data on the number of Schengen visas granted each year shows that it is not as difficult for nationals of the eastern neighbours to enter the EU as it is for those of the southern Mediterranean. As noted in Table 12, the number of Schengen visas issued between 2003 (the first year for which data was available) and 2011 increased from just under 1.5 million to approximately 2.8 million for all ENP countries excluding Israel (which is exempt from visa requirements). The increase in the number of visas issued to the nationals of Eastern ENP countries was more than 241 percent. The corresponding increase for the Mashreq countries was a meagre 20 percent, while there was actually a fall in the case of nationals of Maghreb countries. The situation is likely to persist as the EU foresees visa facilitation and liberalization for Eastern Partnership countries but not for all southern Mediterranean countries, despite recent openings regarding mobility partnerships with Tunisia and Morocco.

Table 12 | Schengen visas issued for nationals of Southern Mediterranean and Eastern European countries

EU	2003		2009		2011		% of Inc. 2003-2011	% of Inc. 2009-2011
	Total	% of G. Total	Total	% of G. Total	Total	% of G. Total		
Algeria	233572	2,99%	189155	1,76%	259004	2,00%	11%	37%
Libya	34588	0,44%	46465	0,43%	12432	0,10%	-64%	-73%
Morocco	317536	4,07%	345130	3,21%	313633	2,42%	-1%	-9%
Tunisia	102809	1,32%	108366	1,01%	102454	0,79%	-0,35%	-5%
MAGHREB	688505	8,82%	689116	6,40%	687523	5,30%	-0,14%	-0,23%
Egypt	78836	1,01%	107918	1,00%	110322	0,85%	40%	2%
Jordan	26517	0,34%	29095	0,27%	34791	0,27%	31%	20%
Lebanon	66423	0,85%	60905	0,57%	77575	0,60%	17%	27%
Syria	35543	0,46%	38826	0,36%	26952	0,21%	-24%	-31%
MASHREQ	207319	2,66%	236744	2,20%	249640	1,93%	20%	5%
Armenia	14927	0,19%	29039	0,27%	33543	0,26%	125%	16%
Azerbaijan	13255	0,17%	27302	0,25%	43099	0,33%	225%	58%

¹⁵ Council Regulation No. 453/2003, 6 March 2003 amending Regulation (EC) No. 539/2001, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2003:069:0010:0011:EN:PDF>.

Belarus	169739	2,18%	424267	3,94%	589291	4,55%	247%	39%
Georgia	14558	0,19%	49412	0,46%	59667	0,46%	310%	21%
Moldova	16796	0,22%	53641	0,50%	50323	0,39%	200%	-6%
Ukraine	324547	4,16%	1011243	9,39%	1112154	8,58%	243%	10%
EX-SOVIETS	553822	7,10%	1594904	14,82%	1888077	14,57%	241%	18%
TOTAL	1449646	18,58%	2520764	23,42%	2825240	21,80%	95%	12%
GRAND TOTAL	7803460	100%	10764935	100%	12961527	100%	66%	20%

Notes: Countries in 2003 data: AT,BE,DE,DK,EL,ES,FI,FR,IT,LU,NL,PT,SE

Countries in 2009 and 2011

data:AT,BE,CZ,CH,DE,DK,EE,EL,ES,FI,FR,HU,IT,LT,LU,LV,MT,NL,PL,PT,SE,SI,SK

Visa types: A+B+C+D in 2003; A+B+C+LTV+D+”D+C” in 2009; A+C+LTV in 2011

Ex-Soviet does not include the EU member countries such as Bulgaria and Romania

Source: Compiled from data obtained from EU Consilium (16.08.2012).

The results presented in Table 11 and 12 make it difficult to argue that the EMP and ENP have been particularly successful with respect to trade integration and increasing “people to people” contacts as far as the southern Mediterranean is concerned. The EU may have developed an impressive and well articulated neighbourhood policy, but despite claims to the contrary,¹⁶ the results evidently fall well short of what the Union set out to achieve. It is doubtful whether the review of the ENP adopted, *inter alia*, in response to the Arab Spring, is likely to make a major difference at least in the immediate future. It is difficult to envisage how integration between the two shores of the Mediterranean can be achieved if such a “theory and practice” gap persists. This discrepancy risks aggravating the very problems – such as irregular migration, terrorism, ill-governance and de-development – that the EU aims to overcome and fails to “prevent the emergence of new dividing lines between the enlarged EU and its neighbours”.¹⁷

Might there be useful lessons that the EU could draw from Turkey’s neighbourhood policy that could also constitute a basis for future cooperation between the two sides?

¹⁶ European Union (2010), *Five years of European Neighbourhood Policy: more trade, more aid, more people to people contacts*, IP/10/566, Brussels, 12 May, http://europa.eu/rapid/press-release_IP-10-566_en.htm.

¹⁷ European Commission (2004), *European Neighbourhood Policy: Strategy Paper*, COM(2004) 373 final, Brussels, 12 May, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=celex:52004DC0373:en:not>.

TURKEY AND ITS NEIGHBOURHOOD

Turkey is becoming more and more economically integrated with its neighbourhood.¹⁸ As the Cold War came to an end, only around 10 percent of Turkey's foreign trade was with its neighbourhood,¹⁹ and amounted to just under 3.5 billion U.S. Dollars (USD) (Table 13). Much of it was with the Soviet Union and Iran. Almost half of Turkey's overall foreign trade was with the European Union (EU) countries at around 17 billion USD. By 2011 this situation had changed dramatically. Trade with the neighbourhood was valued at almost 82 billion USD in 2011 and constituted around 22 percent of Turkey's overall trade. Between 1991 and 2011 the share of the neighbourhood in Turkey's overall foreign trade doubled while the share of the EU dropped from 50 to 41 percent. This constitutes an almost 23 fold increase compared to an roughly eight fold increase in trade with the EU and an approximately tenfold increase in overall trade during the same period. This was a period during which Turkey became a "trading state", a state whose foreign policy is shaped increasingly by economic considerations.²⁰ In 1975 foreign trade constituted only 9 percent of Turkish GDP. In 2011 this figure multiplied to 49 percent.²¹ In real terms, Turkish foreign trade increased from around 6.1 billion US Dollars in 1975 to about 376 billion dollars in 2011. Furthermore, Turkish exports diversified. In 1980 while exports of manufactured goods constituted only 27 percent of merchandise exports, this figure increased to 81 percent in 2008.²²

¹⁸ For the purposes of this essay, Turkey's neighbourhood includes immediate neighbours Greece, Bulgaria, Georgia, Armenia, Azerbaijan, Iran, Iraq, Syria and the Black Sea countries of Russia, Romania, Ukraine and Moldova. Due to political reasons, there is no direct trade between Turkey-Armenia and Turkey-Cyprus and no direct movement of people between Turkey and Cyprus.

¹⁹ Turkish Statistical Institute (TUIK), *Foreign Trade Statistics*, http://www.turkstat.gov.tr/AltKategori.do?ust_id=4. All foreign trade figures in this section are based on TUIK data unless otherwise noted.

²⁰ For a discussion of the concept of "trading state" with respect to Turkey see Kirişçi, Kemal (2009), "The Transformation of Turkish Foreign Policy: The Rise of the Trading State", *New Perspectives on Turkey*, No. 40, Spring, p. 29-57.

²¹ World Bank, *World Development Indicators database*, available at <http://databank.worldbank.org>.

²² Undersecretariat of the Prime Ministry for Foreign Trade (DTM), *Dış Ticaretin Görünümü: 2008*, p. 26.

Table 13 | Total foreign trade between Turkey and its neighbours

TURKEY	1991		1995		2008		2011		% of Change 1991- 2011	% of Change 1995- 2011
	Total	% of Total	% of Total	% of Total	Total	% of Total	Total	% of Total		
Bulgaria	216	0,62%	585	1,02%	3.992	1,20%	4.098	1,09%	1797%	601%
Greece	221	0,64%	411	0,72%	3.581	1,07%	4.123	1,10%	1766%	903%
Romania	304	0,88%	670	1,17%	7.535	2,26%	6.677	1,78%	2096%	897%
Moldova	-	-	23	0,04%	268	0,08%	453	0,12%	-	1870%
Russia*	1.708	4,93%	3321	5,79%	37.847	11,33%	29.945	7,97%	1653%	802%
Ukraine	-	-	1055	1,84%	8.294	2,48%	6.542	1,74%	-	520%
Armenia	-	-	-	-	-	-	-	-	-	-
Azerbaijan	-	-	183	0,32%	2.030	0,61%	2.327	0,62%	-	1172%
Georgia	-	-	118	0,21%	1.523	0,46%	1.406	0,37%	-	1092%
Iran	578	1,67%	958	1,67%	10.230	3,06%	16.051	4,27%	2677%	1575%
Iraq	122	0,35%	124	0,22%	4.050	1,21%	8.402	2,24%	6787%	6676%
Syria	331	0,96%	530	0,92%	1.438	0,43%	1.949	0,52%	489%	268%
Neigh. Total	3.480	10,05%	7.978	13,91%	80.788	24,19%	81.973	21,82%	2256%	927%
EU**	17.244	49,78%	27.939	48,72%	137.797	41,26%	153.475	40,85%	790%	449%
Maghreb***	956	2,76%	1.586	2,77%	7.074	2,12%	5.902	1,57%	517%	272%
Mashreq	833	2,40%	1.358	2,37%	5.080	1,52%	7.665	2,04%	820%	464%
Israel	157	0,45%	406	0,71%	3.383	1,01%	4.449	1,18%	2734%	996%
Med. Total	1.946	5,62%	3.350	5,84%	15.537	4,65%	18.016	4,79%	826%	438%
Grand Total	34.640	100%	57.346	100%	333.991	100%	375.747	100%	985%	555%

* In 1991, values for Russia are values for USSR, therefore ex-Soviet countries data is not included.

** EU-12 in 1991; EU-15 in 1995 and 2002; EU-27 in 2008.

Data are not available for Malta and Cyprus.

***Maghreb: Morocco, Algeria, Tunisia, Libya; Mashreq: Egypt, Jordan, Lebanon, Syria

Source: TUIK (in millions USD)

Trade has played a very important role in Turkey's integration with its neighbourhood and has been widely noted in the literature.²³

²³ Tsarouhas, Dimitris (2009), "The Political Economy of Greek-Turkish Relations", *Journal of Southeast European and Black Sea Studies*, Vol. 9, No. 1-2, March, pp. 39-57; Renda, Kadri Kaan (2011), "Turkey's Neighbourhood Policy: An Emerging Complex Interdependence?", *Insight Turkey*, Vol. 13, No. 1, Winter, p. 89-108, <http://file.insight->

However, this integration has other dimensions too. Turkish business presence in neighbouring countries has expanded in the course of the last two decades. An important proportion of Turkish FDI continues to flow to leading EU countries, but at the same time Turkish investments in neighbouring countries such as Bulgaria, Romania, Russia, Georgia and Iraq have increased significantly. These investments range from small bakeries and restaurants established by individuals, to large Turkish companies setting up factories, such as the glass works of Trakya Cam in Bulgaria. Tracking down Turkish investments is a difficult exercise, however. Central Bank figures suggest that Turkish FDI stock in neighbouring countries increased from just about 900 million USD in 2001 to 6258 million USD in 2011.²⁴ Turkish companies also have major construction projects in practically every nearby country and are increasingly associated with the building of airports, hotels, shopping centres, housing and sports complexes, as well as highways, bridges and tunnels. The total value of Turkey's almost 5900 construction projects between 1972 and 2010 comes to a total of 187.6 billion USD. Currently, almost 35 percent of the ongoing construction projects, amounting to more than 20 billion USD in value, are in Turkey's immediate neighbourhood.²⁵

Another manifestation of the integration occurring between Turkey and its neighbourhood is the growth in the movement of people, especially into Turkey. This is made possible because of a relatively liberal visa policy that consecutive Turkish governments have been employing since the late 1980s.²⁶ The total number of third-country nationals

turkey.com/Files/Pdf/insight-turkey_vol_13_no_1_2011_renda.pdf; Kutlay, Mustafa (2011), "Economy as the 'Practical Hand' of 'New Turkish Foreign Policy': A Political Economy Explanation", *Insight Turkey*, Vol. 13, No. 1, Winter, p. 67-88, http://file.insightturkey.com/Files/Pdf/insight-turkey_vol_13_no_1_2011_kutlay.pdf; Öniş, Ziya (2011), "Multiple Faces of the 'New' Turkish Foreign Policy: Underlying Dynamics and a Critique", *Insight Turkey*, Vol. 13, No. 1, Winter, p. 47-65, http://file.insightturkey.com/Files/Pdf/insight-turkey_vol_13_no_1_2011_onis.pdf; Straubhaar, Thomas (2012), "Turkey as an Economic Neighbor", in Ronald H. Linden et al., *Turkey and Its Neighbors. Foreign Relations in Transition*, Boulder, Lynne Rienner, p. 173-194.

²⁴ Central Bank of the Republic of Turkey (CBRT) Statistics, available at <http://evds.tcmb.gov.tr/yeni/cbt-uk.html>.

²⁵ "Müteahhitlik Alanında Bilgi Notu", available at <http://www.ydmh.gov.tr>, accessed on 29 March, 2010.

²⁶ Kirişçi, Kemal (2006), "A Friendlier Schengen Visa System as a Tool of 'Soft Power': The Experience of Turkey", *European Journal of Migration and Law*, Vol. 7, No. 4, March, p. 343-367, <http://www.edam.org.tr/document/Kirisici6.pdf>.

entering Turkey increased from just over 5.2 million in 1991 to around 31.4 million in 2011, with an ever larger number of people entering Turkey from the surrounding regions (Table 14). In 1980, a mere 40,000 persons from the Soviet Union entered Turkey. This figure had increased to around 623,000 by 1991. In the meantime, the number of entries from Turkey's immediate neighbourhood increased from about 2.5 million in 1991, a million of which came from Bulgaria, to 11.8 million in 2011, constituting almost 38 percent of overall entries.²⁷ The connections between Turkey and its neighbourhood resulting from this movement of people are probably best captured by the expansion of Turkish Airlines (THY) flights to the region. At the end of the Cold War, there was only one flight to Moscow, alongside flights only to Athens, Baghdad, Sofia, Tabriz and Tehran.²⁸ By June 2012, THY flew to 157 destinations in total, 35 of which are in Turkey's neighbourhood.

Table 14 | Entry into Turkey of persons from its neighbourhood

TURKEY	1991		1995		2008		2011		% of Change 1991- 2011	% of Change 1995- 2011
	Total	% of Total	Total	% of Total	Total	% of Total	Total	% of Total		
Bulgaria	925.446	17,82%	157.830	2,33%	1.255.343	4,77%	1.491.561	4,75%	61%	845%
Greece	122.793	2,36%	123.921	1,83%	572.212	2,17%	702.017	2,24%	472%	467%
Romania	503.724	9,70%	284.920	4,21%	447.419	1,70%	390.248	1,24%	-23%	37%
Moldova	-	-	-	-	141.514	0,54%	101.124	0,32%	-	-
Russia*	623.978	12,02%	1.074.858	15,89%	2.879.278	10,93%	3.468.214	11,04%	456%	223%
Ukraine	-	-	24.063	0,36%	730.689	2,77%	602.404	1,92%	-	2403%
Armenia	-	-	-	-	63.855	0,24%	578.685	1,84%	-	-
Azerbaijan	-	-	146.971	2,17%	459.593	1,75%	72.393	0,23%	-	-51%
Georgia	-	-	1.517	0,02%	830.184	3,15%	1.152.661	3,67%	-	75883%
Iran	244.352	4,71%	349.555	5,17%	1.134.965	4,31%	1.879.304	5,98%	669%	438%
Iraq	3.848	0,07%	15.363	0,23%	250.130	0,95%	369.033	1,18%	9490%	2302%

²⁷ 1991 figures are based on Ministry of Culture and Tourism database. Figures for other years are based on the General Directorate of Security database.

²⁸ Data obtained from Nergiz, Abdullah (2008), *Türkiye'de Sivil Havacılığın Gelişimi ve THY*, Master's thesis presented at Marmara University, Social Science Institute, Istanbul, p. 384 and Turkish Airlines website: <http://www.turkishairlines.com>. See also Selçuk, Orçun (2012), *Turkish Airlines as a Soft Power Tool in the Context of Turkish Foreign Policy*, Master's thesis, presented at Boğaziçi University, Atatürk Institute, Istanbul.

Syria	112.719	2,17%	111.613	1,65%	406.935	1,55%	974.054	3,10%	764%	773%
Neigh. Total	2.536.860	48.85%	2.290.611	33,87%	9.172.117	34,83%	11.781.698	37,51%	364%	414%
EU**	1.382.405	26,62%	3.182.641	47,06%	14.871.907	56,47%	16.980.964	54,07%	1128%	434%
Maghreb***	38.070	0,73%	89.914	1,33%	194.546	0,74%	270.227	0,86%	610%	201%
Mashreq	149.580	2,88%	182.451	2,70%	593.217	2,25%	1.285.743	4,09%	760%	605%
Israel	41.094	0,79%	261.012	3,86%	558.183	2,12%	79.140	0,25%	93%	-70%
Med. Total	228.744	4,40%	533.377	7,89%	1.345.946	5,11%	1.635.110	5,21%	615%	207%
Others	1.280.758	24,66 %	991.861	14,67%	3.181.197	12,08%	4.175.936	13,30%	226%	321%
Grand Total	5.193.255	100%	6.762.956	100%	26.336.677	100%	31.406.076	100%	505%	364%

*Total entry from Soviet Union for 1991 and from Commonwealth of Independent States (CIS) for 1995.

** EU-12 in 1991; EU-15 in 1995 and 2002; EU-27 in 2008.

Data are not available for Malta and Cyprus.

***Maghreb: Morocco, Algeria, Tunisia, Libya; Mashreq: Egypt, Jordan, Lebanon, Syria

Source: T.C. Emniyet Genel Müdürlüğü

Another less explicit aspect of Turkey's neighbourhood policy is democracy promotion. In contrast to the EU and the US, Turkey does not have an openly declared democracy promotion policy. As a democratizing state and a country that still struggles to consolidate its own pluralist democracy, this is no surprise. However, Turkey both at the governmental as well as the civil society level, is involved in democracy promotion-like activities in its neighbourhood. Interestingly, in the words of a Turkish observer of Middle Eastern politics "thanks to the Arab Spring, a Turkish state capable of talking with the Arab world for the first time in its modern history has emerged".²⁹ Turkey, after having shied away from openly raising a democratization agenda in its relations with neighbouring countries, began to pursue democracy promotion much more conspicuously and energetically in view of the Arab Spring.³⁰ The Turkish International Cooperation and Development Agency (TIKA) in the last couple of years has been channelling close to 1 billion USD a year in development aid to almost 100 countries,

²⁹ Özhan, Taha (2011), "The Arab Spring and Turkey: The Camp David Order vs. the New Middle East", *Insight Turkey*, Vol. 13, No. 4, Fall, p. 60, http://file.insightturkey.com/Files/Pdf/insight_turkey_vol_13_no_4_2011_ozhan.pdf.

³⁰ Oğuzlu, Tarık (2012), "Türkiye ve Arap Baharı: Türk Dış Politikasında Liberal, İddialı ve Batılı Eksenin Yükselişi", *Akademik Orta Doğu*, Vol. 6, No. 2, p. 41-60 and Özel, Soli, and Özcan, Gencer (2011), "Turkey's Dilemmas", *Journal of Democracy*, Vol. 22, No. 4, October, p. 124-138.

many of them in Turkey's neighbourhood. Some of the projects supported by TİKA in these countries involved matters of "good governance" and "empowering women". Since a Turkish national was elected as its Secretary General, there have been efforts to pursue similar projects among the members of the Organization of the Islamic Conference (OIC). Turkey pressed to include "good governance" and "expansion of political participation" in the OIC's Ten Year Programme of Action in 2005 and its Charter at the Dakar Summit in March 2008.³¹ Turkish leaders regularly raise democracy-related issues at various regional forums, as well as through bilateral relations. When doing so, their emphasis on local ownership and on the fact that Turkey's own democracy is "work in progress" increases the receptiveness to their words. Turkey's liberal visa policy also allows students, civil society activists and others to come to Turkey and observe this "work in progress". Turkish NGOs increasingly engage their counterparts in the neighbourhood on cultural, educational, environmental and women projects, while Turkish business associations interact with their counterparts abroad diffusing liberal market values. Since the Arab Spring, the government and the governing Justice and Development Party (AKP), have been closely cooperating with their counterparts especially in Egypt and Tunisia.³² Turkish media and TV programmes are closely followed in neighbouring countries, especially in the Middle East. These developments, accompanied by the growing interest in Turkey's reform process and economic development, produce a "demonstration effect" across the neighbourhood.³³

One last very important but often overlooked point is the manner in which Turkey economically engages with its neighbourhood through the transfer of remittances from Turkey to neighbouring countries. Turkey is within less than two hours flight distance from some of the top leading remittance receiving countries where remittances are an important share

³¹ Interview with an official from the OIC Secretariat, October 2009.

³² Özel and Özcan (2011), "Turkey's Dilemmas", cit.; Ülgen, Sinan (2011), "From Inspiration to Aspiration: Turkey in the New Middle East", *Carnegie Papers*, No. 130, December, http://carnegieendowment.org/files/turkey_mid_east.pdf.

³³ Kirişci, Kemal (2011b), "Turkey's 'Demonstrative Effect' and the Transformation of the Middle East", *Insight Turkey*, Vol. 13, No. 2, Summer, p. 33-55, http://file.insightturkey.com/Files/Pdf/insight_turkey_vol_13_no_2_2011_kirisci.pdf; and Göksel, Oğuzhan (2012), "Assessing the Turkish Model as a Guide to the Emerging Democracies in the Middle East", *Ortadoğu Etütleri*, Vol. 4, No. 1, July, p. 99-120, <http://orsam.org.tr/en/showArticle.aspx?ID=1846>.

of GDP.³⁴ They include Albania, Armenia, Bosnia-Herzegovina, and Moldova. Turkey's liberal visa system has enabled nationals of Armenia, Georgia and Moldova and of some Central Asian countries to work in Turkey, often informally, in the domestic care sector. The informal nature of this employment and the poverty of the countries of origin have constituted a pull, as well as a push factor for migrants. Most of these migrants are women and the remittances they send back home "have been instrumental in addressing the skyrocketing poverty" in their respective countries.³⁵ For a long time, Turkey was known as a country of emigration in that for its capital accumulation, it was heavily dependent on remittances from Turkish migrants in Europe. However, the astounding growth of the Turkish economy has increasingly led to Turkey's transformation into a country of inward migration, where "an increasing number of workers from the Black Sea area and the Middle East have come to Turkey to get a job that is better paid than at home. They remit parts of their income to their family members left behind in their region of origin."³⁶ Furthermore, this also enables these countries that usually run trade deficits with Turkey to raise the resources to pay for Turkish imports.

It is against this background of Turkey's increasing economic engagement with its immediate neighbourhood that looking at Turkey's trade with southern Mediterranean countries becomes important. How do these trade patterns play out in the Maghreb and Mashreq specifically, and how do they compare with EU trade patterns with the region? Turkey's trade with both the Maghreb and Mashreq countries had been increasing significantly over the last two decades, even if the place of these countries in relation to Turkey's overall trade has remained limited. The overall increase in trade between Turkey and Maghreb-Mashreq countries from 1995 to 2011 of 328

³⁴ World Bank, *Annual remittances data: Inflows*, <http://go.worldbank.org/092X1CHHD0>.

³⁵ Eder, Mine (2011), *Exploring Layers of 'Othering': Globalization and Female Migrant Workers in Turkey*, Paper prepared for the conference Continuity and Change in Southeastern Europe, co-hosted by the Kokkalis Program and Harvard's Minda de Gunzburg Center for European Studies, Harvard, 3-4 February, p. 5.

³⁶ Straubhaar (2012), "Turkey as an Economic Neighbor", cit. This trend is also noted by Demir, Oğuzhan Ömer, and Sözer, Mehmet Alper (2012), "Work and Remittance Patterns of Irregular Immigrants in Turkey" in Ibrahim Sirkeci, Jeffrey H. Cohen and Dilip Ratha, eds., *Migration and Remittances during the Global Financial Crisis and Beyond*, Washington, The World Bank, p. 303-311, http://publications.worldbank.org/index.php?main_page=product_info&products_id=24219.

percent is considerably under the 410 percent increase in EU-Turkish trade, but significantly below the 856 percent increase in trade between Turkey and its overall neighbourhood (Table 15). However, two developments need to be stressed. Firstly, in the course of the last couple of years, the Turkish government introduced policies to specifically enhance trade and economic relations with these southern Mediterranean countries. These policies began to bear fruit very quickly in spite of the complications resulting from the Arab uprisings. Turkey's trade with Maghreb and Mashreq countries indeed increased on average by 59 percent between 2008 and 2011 compared to 8 and 18 percent increase in trade with the overall neighbourhood and the EU, respectively. Secondly, compared with the EU's trade with the Mediterranean, Turkey's trade is becoming more diversified and this is precisely a development that the EU ought to be looking into in terms of encouraging the long-run economic development of these countries.

Table 15 | Foreign trade between Turkey and Mediterranean countries

TURKEY		1995		2008		2011		% of Inc. 1995-2011	% of Inc. 2008-2011
		Total	% of Total	Total	% of Total	Total	% of Total		
MAGHREB	Algeria	555	1,25%	2.175	0,96%	1.886	0,70%	240%	-13%
	Libya	482	1,09%	958	0,42%	647	0,24%	34%	-32%
	Morocco	92	0,21%	883	0,39%	959	0,36%	942%	9%
	Tunisia	98	0,22%	771	0,34%	752	0,28%	667%	-2%
TOTAL		1.227	2,77%	4.787	2,12%	4.244	1,57%	246%	-11%
MAGHREB	Egypt	352	0,79%	1.568	0,69%	2.974	1,10%	745%	90%
	Jordan	147	0,33%	331	0,15%	413	0,15%	181%	25%
	Lebanon	138	0,31%	573	0,25%	720	0,27%	422%	26%
	Syria	411	0,93%	981	0,43%	1.392	0,52%	239%	42%
TOTAL		1.048	2,36%	3.453	1,53%	5.499	2,04%	425%	59%
Israel		314	0,71%	2.286	1,01%	3.190	1,18%	916%	40%
Med. TOTAL		2.589	5,84%	10.526	4,66%	12.933	4,79%	400%	23%
Neighborhood*		6.178	13,93%	54.669	24,19%	59.044	21,86%	856%	8%
EU**		21.606	48,71%	93.430	41,34%	110.183	40,80%	410%	18%
GRAND TOTAL		44.356	100%	226.000	100%	270.072	100%	509%	20%

*Neighborhood contains Bulgaria, Greece, Romania, Moldova, Russia, Ukraine, Azerbaijan, Georgia, Iran, Iraq, Syria.

**EU15 for 1995, EU27 for 2008 and 2011.

Source: TUIK (in millions Euro)

Trade between the EU and the southern Mediterranean, in fact, has remained dominated by energy and the EU has resisted opening its markets especially to agricultural imports. This, of course, complicates the prospects of developing a more diversified and export-oriented industrial base for these countries. Naturally, Turkey is not a match for the EU. Its overall trade with the southern Mediterranean countries in 2011 stood at under €10 billion (Table 15) compared with more than €141 billion for the EU (Table 11). Yet unlike the EU, the composition of Turkey's imports from Mediterranean countries is less and less dominated by energy, particularly in the case of the Mashreq countries (Table 16). Turkey is becoming more open than the EU to at least partly manufactured exports from the Mediterranean. Clearly, these exports to Turkey are not at a level that could engender the kind of transformation in the southern Mediterranean economies that the EU could ignite. However modestly, Turkey is nonetheless offering these countries an opportunity to develop a more diversified trade with Turkey and that could well be a contribution to the economic transformation of these countries.

Table 16 | Energy imports from Mashreq and Mahgreb countries by Turkey and the EU*

	Turkey						EU					
	1995		2008		2010		1995		2008		2010	
	Total*	% of Grand Total	Total	% of Grand Total	Total	% of Grand Total	Total	% of Grand Total	Total	% of Grand Total	Total	% of Grand Total
Maghreb	625	50,28%	1.026	27,74%	884	22,75%	10.380	38,67%	53.304	50,75%	50.795	56,39%
Mashreq	271	21,80%	154	4,16%	105	2,70%	2.474	9,22%	7.201	6,86%	6.682	7,42%
Israel	2	0,16%	160	4,33%	275	7,08%	38	0,14%	944	0,90%	966	1,07%
TOTAL	898	72,24%	1.340	36,24%	1.264	32,54%	12.892	48,03%	61.449	58,50%	58.443	64,89%

* Energy imports defined as mineral fuels, lubricants, and other related materials.

Source: TUIK and EUROSTAT (in millions Euro)

Another area where Turkish policies differ conspicuously from EU policies is with respect to the movement of people or to use EU parlance "people to people contact". As discussed above, in contrast to the EU's failure to adopt policies encouraging such "contacts", Turkey's visa policies have encouraged an explosion in the

number of people entering Turkey from its neighbourhood. These policies have been extended to parts of the Arab Mediterranean countries only very recently. The number of entries of nationals of Mediterranean countries increased from a little more than 270,000 in 1995 to more than 1.5 million in 2011 (Table 14). This is an increase of about 470 percent compared to the 435 percent for EU nationals and has occurred mostly in the course of the last couple of years as visas were liberalized. These developments are not surprising because in a major and dramatic break from past practice, the AKP government began to liberalize visa requirements for most Arab countries. Visas for Moroccan and Tunisian nationals were lifted in 2007 and for Jordanian, Lebanese and Syrian nationals in 2009. At the 5th Arab-Turkish Forum in June 2010, Turkish Minister of Foreign Affairs Davutoğlu, underlined openly the importance of free movement of people and of creating free trade areas to foster greater economic activity and integration in the region.³⁷ He advocated an ambitious vision of integration leading to free movement of goods and people from the city of Kars to the Atlantic, and from Sinop to the Gulf of Aden. In July 2010 he led the effort for the establishment of a “Close Neighbours Economic and Trade Association Council” with Jordan, Lebanon, and Syria. Only time will tell whether once the dust has settled in Syria the Council will achieve its objectives. Turkey also introduced the practice of holding high-level joint cabinet meetings with neighbouring countries such as Syria, Iraq and Russia, chaired by the prime ministers of these countries.³⁸ This period also saw the signing of a string of free trade agreements with Arab countries.³⁹

³⁷ Milliyet (2010), “Yeni bir Ortadoğu doğuyor!”, 10 June, <http://www.milliyet.com.tr/yeni-bir-ortadogu-doguyor-/ekonomi/sondakika/10.06.2010/1249276/default.htm>.

³⁸ MEMRI Blog (2009), “Turkey, Syria to hold joint cabinet meeting next month”, November, http://www.thememriblog.org/turkey/blog_personal/en/22255.htm. In November 2011 the Turkish government decided to suspend the strategic cooperation council between both cabinets “until a legitimate government that is at peace with its people is in charge in Syria”. See Hürriyet Daily News (2011), “Turkey declares its sanctions on Syria”, 30 November, <http://www.hurriyetdailynews.com/PrintNews.aspx?PageID=383&NID=8199>.

³⁹ Kekeç, Serah (2010), “Türkiye’nin Avrupa-Akdeniz Ortakları ile Serbest Ticaret Anlaşmaları”, *Ortadoğu Analiz*, Vol. 2, No. 24, November, p. 85-93, <http://www.orsam.org.tr/tr/yazigoster.aspx?ID=1362>. Turkey has free trade agreements with fifteen

Besides, the government supported civil society initiatives favourable to regional integration. A case in point was the initiative led by TOBB, together with DEIK, establishing the “Levant Business Forum” composed of Jordanian, Lebanese, Syrian and Turkish representatives with the aim of encouraging greater economic integration.⁴⁰

The impact of the Arab uprisings on this integration process has been mixed. The relatively smooth regime transitions in Egypt and Tunisia meant that business and trade relations with Turkey did not suffer greatly. Actually, overall trade between Turkey and these two countries continued to grow during the course of 2010 and 2011, except for a minor drop in Tunisian exports to Turkey. The Turkish government’s success in developing close relations with the new governments in both countries is likely to ensure the continued growth of business relations. Actually, in the first six months of 2012 overall trade with these two countries continued to increase even if Tunisian exports to Turkey continued to suffer.⁴¹ The picture in the case of Libya and Syria is a very different one. Trade with both countries dropped significantly and by mid-2012 trade with Syria had actually ground to a halt. There are no indications suggesting that trade between Turkey and Syria is likely to pick up in the near future. Actually, the free trade agreement was suspended by Syria unilaterally in December 2011 and in July 2012 the Turkish government announced the closure of the border with Syria to trade due to events on the Syrian side of the border. However, the case may well be different with Libya as both governments are actively encouraging Turkish businesses to return though so far without much success.

It is Syria that constitutes the greatest challenge for Turkey in terms of the future of Turkey’s economic integration with the Arab world. The

countries plus members of EFTA. With the exception of Chile and EFTA countries, all the others are in Turkey’s neighbourhood: Albania, Bosnia and Herzegovina, Croatia, Macedonia, Montenegro and Serbia in the Balkans, Georgia from the Caucasus and Egypt, Jordan, Israel, Morocco, Syria, Palestine and Tunisia from the Middle East and North Africa. As of September 2012 the free trade agreements signed with Lebanon, Mauritius and South Korea are awaiting the completion of the ratification processes.

⁴⁰ EurActiv(2010), “Türkiye Ortadoğu’da 1.5 Trilyonluk Levant Birliği kurdu” [Turkey established a 1.5 trillion dollar Levant Union in the Middle East], 5 December, <http://www.euractiv.com.tr/ticaret-ve-sanayi/interview/trkiye-ortadouda-15-trilyonluk-levant-birlii-kurdu-013725>.

⁴¹ Compared to 2011, trade in the first six months of 2012 increased by 47 percent for Egypt and 6.6 percent for Tunisia.

AKP government had invested extensively into relations with Syria. There were a large number of Turkish companies that had set up businesses in Syria and Syria had also become a transit country for Turkish trucks ferrying exports to the rest of the Arab world. More importantly, the government saw Syria as a lynchpin for the creation of a larger free trade area composed of Lebanon, Jordan and eventually Egypt. Needless to say, the crisis in Syria has deeply disturbed these plans. At the same time, these developments do not negate the reality that Turkey's engagement in the Arab world is expanding independently of the Syrian crisis. Whatever the outcome of this crisis, regional economic integration will be a policy option that the post-Spring Arab countries will have to consider. After all, among the many causes behind the Arab uprisings, socio-economic grievances were critical and regional economic integration is a key ingredient of a more prosperous, stable, peaceful and possibly more democratic region.

Indeed, whereas the Arab world has seen numerous attempts at regionalism in past decades – first and foremost through the Arab League – trade barriers have remained high and the Arab world has remained one of the regions with the lowest level of intra-regional trade.⁴² Most strikingly outside the Gulf, only Egypt, Jordan, Morocco and Tunisia are full members of the WTO. If the gains of the Arab Spring are to be consolidated, it will be critical to invigorate efforts to promote greater trade within the region as well as establish effective regional institutions.

Turkey is well positioned to foster both regionalism as well as regionalization for at least three reasons. First, Turkey has a long standing experience in regional institution-building, stretching from participating in the establishment of the Council of Europe in 1949 to the Black Sea Economic Cooperation Organization in 1992. It is an active member of a long list of international economic organizations. Turkey has also the unique experience of being part of the EU customs union and has played a critical role in the establishment of the Economic Cooperation Organization in 1985, which now includes ten member states and in 2009 adopted the Economic Cooperation Organization

⁴² Fawcett, Louise (2005), "Alliances, Cooperation, and Regionalism in the Middle East", in Louise Fawcett, ed., *International Relations of the Middle East*, Oxford, Oxford University Press, p. 173-193; Aarts, Paul (1999), "The Middle East: a Region without Regionalism or the End of Exceptionalism?", *Third World Quarterly*, Vol. 20, No. 5, October, p. 911-925.

Trade Agreement to foster trade expansion. Most importantly, Turkey is a member of the G20. Second and as discussed at length above, Turkey has been expanding its economic relations with the neighbourhood, signing free trade agreements with an ever growing number of regional countries. It has thus been directly contributing to regionalization and its economy has become increasingly integrated with those of its neighbours. Third, since former President Turgut Özal's "Peace Pipeline Project", Turkey has advocated economic cooperation and integration as a vehicle for conflict resolution in the Middle East. Özal's project never materialized, but the thinking behind it was central to Turkey's participation in the multilateral working groups that emerged from the Madrid Conference in 1992. This tradition acquired particular prominence during the AKP's rule, becoming a central characteristic of Turkish foreign policy.⁴³ Despite this potential, there are a number of challenges that Turkey and the EU must face in order to join forces to promote regional cooperation and integration.

CHALLENGES FOR TURKEY AND THE EU

Among the many challenges that Turkey faces in the aftermath of the Arab uprisings, the one that stands out most starkly is the collapse of the "zero problems with neighbours" policy. This policy was presented as a major source of Turkey's soft power in international relations, leading Turkey's Minister of Foreign Affairs to talk about Turkey becoming an "order setter" (düzen kurucu) in its neighbourhood. Yet, as noted by a prominent observer of Middle Eastern politics, Turkish foreign policy "is now beset with grave problems on almost every front".⁴⁴ The limits of Turkey's foreign policy must be recognized. Until the summer of 2011, Turkey maintained almost dreamlike relations with Syria. Commercial and political relations were booming, the number of nationals travelling in both directions had reached unprecedented levels, and leaders of both countries spent vacation time together. The Turkish government seemed

⁴³ Aras, Bülent (2009), "The Davutoğlu Era in Turkish Foreign Policy," *Insight Turkey*, Vol. 11, No. 3, Summer, p. 131, http://file.insightturkey.com/Files/Pdf/insight_turkey_vol_11_no_3_2009_aras.pdf.

⁴⁴ Seale, Patrick (2012), "The Collapse of Turkey's Middle East Policy", *Middle East Online*, 5 September, <http://www.middle-east-online.com/english/?id=54209>.

confident that they would be able to cajole Syria into incremental political reform. Today Turkey is deeply embroiled in the Syrian conflict, its own security is being adversely affected and the situation in Syria is far from being resolved.

The Syrian crisis has also led Turkey to face growing criticism for fuelling sectarianism in the Middle East.⁴⁵ As much as the government virulently opposes such observations, some critics point to Turkey's lost ability to talk to all parties in the Middle East, particularly in Iraq, Iran, Lebanon and Syria itself. Reconstructing this ability is a key precondition if Turkey is to act as a motor for regional integration. A similar challenge regards Turkey's relations with Israel. Turkey's poor relations with Israel have not only undermined its ability to mediate in the Arab-Israeli conflict, but also complicate Turkey's grander objective of promoting an integrated, stable and prosperous Middle East. It is doubtful that regional integration in the Middle East would be feasible and meaningful without Israel and without peace between Israelis and Palestinians.

Another challenge is domestic and related to Turkey's faltering democratization and worsening relations with the EU, two important ingredients of its appeal in the neighbourhood.⁴⁶ A number of public opinion surveys and statements by regional leaders reveal that Turkey's added value to the region's stability as well as to its economic and political development is intimately tied to the health of its EU relations. The fact that 64 and 57 percent of respondents in 2009 and 2010 respectively thought that Turkey's EU membership would positively influence Turkey's role in the Middle East speaks for itself.⁴⁷ The centrality of the EU to Turkey's relations with the Middle East is also corroborated by how "Middle Eastern elites worry about any sign of Ankara turning its back on its EU accession process".⁴⁸ Actually, nurturing strong relations

⁴⁵ Cebeci, Erol, and Üstün, Kadir (2012), "The Syrian Quagmire: What's holding Turkey Back?", *Insight Turkey*, Vol. 14, No. 2, Spring, p. 13-21, <http://www.insightturkey.com/the-syrian-quagmire-whats-holding-turkey-back/articles/167>.

⁴⁶ Keyman, E. Fuat (2009), "Globalization, Modernity and Democracy: In Search of a Viable Domestic Polity for a Sustainable Turkish Foreign Policy", *New Perspectives on Turkey*, No. 40, Spring, p. 7-27; Öniş (2011), "Multiple Faces of the 'New' Turkish Foreign Policy", cit.

⁴⁷ Akgün, Mensur, et al. (2011), *Ortadoğu'da Türkiye Algısı 2010*, Istanbul, TESEV Yayınları, p. 14, <http://www.tesev.org.tr/tr/yayin/ortadoguda-turkiye-algisi-2010>.

⁴⁸ International Crisis Group ICG (2010), "Turkey and the Middle East: Ambitions and Constraints", *ICG Europe Report*, No. 203, 7 April, p. ii, <http://www.crisisgroup.org>.

with the EU also fits into Davutoğlu's vision that Turkey's neighbourhood should aspire to emulate the EU's experience of regional integration. His ideas are likely to carry much more weight if Turkey is able and willing to be part of that experience.

A related challenge is the Kurdish question. Turkey has come a very long way since the days when the very existence of a separate ethnic Kurdish identity was denied and Kurds were simply considered "mountain Turks". Over the last decade numerous reforms have been introduced, often motivated by the prospect of EU membership, expanding the cultural rights of Kurds in Turkey. Turkey also overcame its traditional nervousness about the prospect of a Kurdish state in northern Iraq and developed close and cooperative relations with the Kurdish Regional Government (KRG). Nevertheless, the Kurdish question is far from being resolved. Tensions have been particularly high since the collapse of the government's "Kurdish opening" launched in 2009 and the situation has become even worse with the Syrian crisis. There has been a marked increase in PKK violence and a return to a securitized approach to the Kurdish question in Turkey. Together with setbacks in the area of freedom of expression, many increasingly question Turkey's ability to set an example for reform in the Arab world. At a time when the Arab world is striving for transformation, Turkey's own reform process needs to be reinvigorated. Moreover, it is difficult to envisage how regional integration could be achieved without addressing the Kurdish problem with its Turkish domestic as well as regional dimensions.

Another challenge that Turkey would need to address when advocating regional integration is the accusation of "neo-Ottomanism": the idea that the Turkish government is primarily driven by the desire to reconstitute a sphere of interest coinciding with the geography of the former Ottoman Empire.⁴⁹ Even though Turkish officials often insist that they do not have a "neo-Ottoman" agenda, they fail to recognize Arab sensitivities about the Ottoman past. A related challenge may result from the relative size of the Turkish economy and the comparative advantage that Turkey enjoys in relations with many of its smaller neighbours, which could raise fears

org/en/regions/europe/turkey-cyprus/turkey/203-turkey-and-the-middle-east-ambitions-and-constraints.aspx.

⁴⁹ Nureddin, Muhamed (2010), "Davutoğlu, lütfen hata yapma", *Radikal*, 15 December, <http://www.radikal.com.tr/Radikal.aspx?aType=RadikalDetayV3&ArticleID=1032659>.

about Turkey's regional hegemony.⁵⁰ In fact, setting aside energy rich Russia and Iran, Turkey's GDP is larger than the total GDP of all other remaining neighbours.⁵¹ The situation is even more striking when Turkey is compared with those countries with which it has free trade agreements. To allay these concerns, Turkey will need to develop policies that can support "win-win" outcomes for both sides, providing for example economic assistance or supporting environmental regional institutions in the neighbourhood.⁵² In other words, Turkey would have to become a "benign hegemon". In its quest to be viewed as a benign power in the region, Turkey would benefit from close cooperation with the EU. Not only does Turkey lack the influence and resources that the EU can mobilize. But more importantly, the last two years have revealed the limits to Turkey's ability to shape unilaterally a new order in the Middle East.

Turning to the EU, there are also a number of challenges the Union would have to face in order to credibly pursue regional integration. Bridging the "theory and practice" gap in EU policy towards the southern Mediterranean in a manner that would ensure a more meaningful "stake in the internal market" and "people to people" contact for southern Mediterranean countries is of the essence. The likelihood of this occurring in the near future is slim. However, this should not preclude efforts to develop a governmental and civil society dialogue in that direction. This at least would help to put the issue of regionalism and regionalization on the agenda of post-Spring southern Mediterranean countries.

The next challenge stems from having to involve Turkey in such a dialogue. The level of cooperation between the EU and Turkey on regional issues has been lacking for some time and has long received considerable criticism from policy and academic circles. However, there are some recent signs that both sides are converging towards a more cooperative mood. Ironically, this is at least partly driven by the Syrian crisis. Most

⁵⁰ For a discussion of Turkey as a "hegemon" in the Arab world see Mufti, Malik (2011), "A Little America: the Emergence of Turkish Hegemony," *Middle East Brief* (Crown Center), No. 51, May, <http://www.brandeis.edu/crown/publications/meb/meb51.html>.

⁵¹ GDP in this case is measured in constant 2000 US Dollars. The unit is in billion USD. Turkey's GDP in the year 2011 (in constant 2000 USD) is 423 billion. The total GDP of the remaining neighbourhood countries Greece, Bulgaria, Romania, Moldova, Ukraine, Georgia, Armenia, Azerbaijan, Georgia, Iraq, and Syria, is 360 billion USD for the year 2011. The data for Syria is from 2010. Data are based on World Development Indicators.

⁵² Renda (2011), "Turkey's Neighbourhood Policy", cit., p. 106.

importantly, in May 2012 the two sides launched the “positive agenda” meant to bring new momentum to EU-Turkish relations, including on foreign policy dialogue. This has also been accompanied by closer cooperation between Turkish Minister of Foreign Affairs Davutoğlu and EU High Representative Catherine Ashton. Yet, as an expert of EU-Turkish relations points out, this level of cooperation is still inadequate and should not only be institutionalized but also extended to the development of a joint strategy with respect to the post-Spring Arab world.⁵³ Such a strategy should include at least a discussion/dialogue on developing a common approach to encouraging greater economic integration with the southern Mediterranean countries. Turkey’s experience and image would make an important contribution to the EU’s efforts in the region.

CONCLUSION

The notion that greater economic interdependence engenders more cooperative relations among countries is a well established expectation in international relations. Turkey is becoming increasingly integrated with its neighbourhood and the government has endorsed a regional integration agenda. This has even led some to argue that Turkey is

⁵³ Tocci, Nathalie (2012a), “The Prospects and Meaning of a Strategic EU-Turkey Dialogue on the Neighborhood”, *GMF On Turkey Analysis*, 14 September, <http://www.gmfus.org/archives/the-prospects-and-meaning-of-a-strategic-eu-turkey-dialogue-on-the-neighborhood>. For similar analysis calling for closer EU-Turkish cooperation with respect to the Arab Spring and the southern Mediterranean see for example Soler i Lecha, Eduard (2011), “The EU, Turkey and the Arab Spring: From Parallel Approaches to a Joint Strategy?” in Nathalie Tocci et al., “Turkey and the Arab Spring: Implications for Turkish foreign policy from a Transatlantic perspective”, *GMF Mediterranean Paper Series*, October, p. 25-34, <http://www.gmfus.org/archives/turkey-and-the-arab-spring-implications-for-turkish-foreign-policy-from-a-transatlantic-perspective>; Grant, Charles (2011), “A new neighbourhood policy for the EU”, *CER Policy Brief*, March, <http://www.cer.org.uk/publications/archive/policy-brief/2011/new-neighbourhood-policy-eu>; Harling, Peter (2011), “Europe and the Middle East: Divorce by Mutual Consent?”, *Al-Hayat*, 24 February; Barysch, Katinka (2011), “Turkey, the EU and the Mediterranean Uprisings”, *CER Blog*, 16 March, <http://centreforeuropeanreform.blogspot.it/2011/03/turkey-eu-and-mediterranean-uprisings.html>; Tocci, Nathalie, and Cassarino, Jean-Pierre (2011), “Rethinking the EU’s Mediterranean Policies Post-1/11”, *IAI Working Papers*, No. 1106, March, <http://www.iai.it/pdf/DocIAI/iaiw1106.pdf>.

“doing the European Neighbourhood Policy for the EU”.⁵⁴ Naturally however, Turkey on its own cannot bring about and ensure neither the objectives of the ENP nor institutionalised regional integration in the Mediterranean. To start with, Turkey has a very long list of challenges of its own to address. Furthermore, the long list of entrenched conflicts in the Middle East alongside the pressing domestic challenges within the region suggest that achieving greater economic integration and regional peace is no small feat. Yet, what is also clear is that the significance of the Arab uprisings is of historic proportions, somewhat resembling the end of Communism in Eastern Europe. Just as in the case of Central and Eastern Europe at the time, in the Mediterranean there is now a clear case for regionalization as a means of supporting domestic reform and regional peace.

So far developments suggest that democratization in the Arab world may not proceed as smoothly as in the case of Eastern Europe. However, this should not prevent Turkey and the EU from thinking about promoting regional integration and at least entering into a dialogue about it. This dialogue would need to emphasize policies that would allow Arab economies greater access to EU and Turkish markets as well as induce intra-Arab trade. The rewards in terms of stability, peace and prosperity would be huge. Furthermore, greater trade is likely to assist or bring about a more favourable environment for democratization. This is acknowledged by the European Trade Commissioner Karel de Gucht who remarked that “it is true that trade is not going to make democracy work but you will never have democracy without economic development and economic development without trade is completely impossible”.⁵⁵ As much as the probability of achieving regional integration around the Mediterranean may not seem terribly promising today, not trying would only mean less security, less stability and less economic growth for Turkey, the EU and the region as a whole. For the southern Mediterranean countries, it is likely to mean less democracy as well.

⁵⁴ Düzgit, Senem Aydın, and Tocci, Nathalie (2009), “Transforming Turkish Foreign Policy: The Quest for Regional Leadership and Europeanisation”, *CEPS Commentary*, 13 November, <http://www.ceps.eu/node/2662>.

⁵⁵ EuroNews (2011), “Are FTAs killing jobs?”, 29 September, <http://www.euronews.com/2011/09/29/are-fta-s-killing-jobs>.

14.

Unfinished Transitions: Challenges and Opportunities of the EU's and Turkey's Responses to the "Arab Spring"

Emiliano Alessandri and Meliha Benli Altunışık

The so-called "Arab Spring" has forced the European Union (EU) and Turkey to update their approaches and policies to respond to the realities of a rapidly changing Southern Mediterranean region.¹ Accepting blame for their cozy relationships with authoritarian regimes in the past, both have declared their will to put their full weight behind democratic transitions.² But has their pro-democracy stance been accompanied by a thorough review of respective interests in the region? And may these similar orientations help the EU and Turkey find new ground for engagement, moving beyond the difficulties that have come to characterize their relationship in the context of the accession process?

This essay argues that both the EU and Turkey have so far failed to establish a firm strategic rationale for their support for democratic change, often accepting the tenet that their "values" may continue to clash with – but in the new context will have to prevail over – their "interests". As the geopolitical implications of the Arab uprisings become clearer, the EU and Turkey should adopt a more lucid and nuanced approach to

¹ "Arab uprisings" is a better term to describe developments that have taken place in the MENA region after revolts broke out in Tunisia and other countries in the winter of 2010-11. To the extent that the term "Arab Spring" has gained currency in Western commentariat to conceptualize these events, the term will be used here in quotation marks as a testament to the limits and biases of mainstream Western understanding of regional developments.

² The European Commission has widely publicized its new regional initiatives following the Arab uprisings. See "EU response to the Arab Spring" in the web portal of the DG Development and Cooperation: http://ec.europa.eu/europeaid/where/neighbourhood/arab_spring/index_en.htm.

democracy. They should put their interests first and recognize that the Arab transformation will elude the establishment of democratic governments in some contexts; that under some conditions democracy can be rightly seen as a strategic goal in itself thus overcoming the apparent tension between values and interests; and that democracy in the Arab world – as in other regions characterized by multiple internal cleavages – will bring stability and development only if it is associated with institutions that allow for broad-based participation and a culture that promotes pluralism.

A more explicitly political response to the “Arab Spring” could offer the basis for joint initiatives bearing positive implications on the future of the bilateral relationship between the EU and Turkey. The dialogue developed to date in frameworks such as the EU-Turkey “positive agenda”, launched in 2011 by the European Commission, has delivered limited results as foreign policy and membership-related issues have both been included in the mix from the start, without an overarching vision or theme to guide cooperation. This has partly defied the original goal of neutralizing reservations and vetoes that have plagued the formal EU accession process. Trying to de-politicize discussions with Turkey by turning attention away from the sensitive issues related to its final relationship with the EU is as alluring as it is unrealistic. Rather, the EU could decide to pursue a wide-ranging dialogue with Ankara on respective primary strategic interests in the MENA region, not as a substitute for or diversion from more delicate discussions on the Turkey-EU relationship in Europe, but as a test of their present degree of alignment and possibly a catalyst for a more constructive conversation on accession in future.

The immediate purpose of such dialogue would be to identify convergences and explore synergies on regional issues. In the process, however, this dialogue could also help ease or recast EU-accession related challenges. In particular, regional dialogue and cooperation could reveal to the EU that Turkey’s potentially more geopolitical approach to the Middle East can add to the development of the EU’s own strategy towards what is bound to remain a critical arena of international competition at its borders – and not just one of the EU’s “neighbourhoods”, as in a EU-centric, domesticated vision of Europe’s near abroad. This exchange on strategic perspectives and policies could also reveal to Turkey the benefits that would accrue to its regional influence if the EU continued to play an important role in the country’s political and economic development. The so-called EU “anchor” may not be indispensable, but can nonetheless

be critical to help Turkey continue its democratization process and sustain its economic growth, both of which have been factors of its growing regional standing in recent years. Ankara could also come to realize that its regional outreach would be deeper if it could take full advantage of the more developed institutional instruments and operational tools that the EU has put in place over decades of engagement with its southern neighbours.

At a minimum, these complementarities between the EU and Turkey could help the two to address some of their most pressing foreign policy challenges more effectively. Possibly, they could also reinforce the view that deeper Turkish integration in the European space would serve both parties' interests. Confirming Turkey's path towards EU membership would help Turkey with its internal development and regional influence while making the EU stronger as an international actor.

THE EU'S RESPONSE

The EU's new regional initiatives emphasize stricter positive and negative "conditionality" as well as greater responsiveness to local demands, both as regards to financial aid, access to the EU market, and visa facilitation for MENA countries' citizens.³

Notwithstanding initial disorientation and continuing cautiousness, the EU response has been significant both conceptually and in terms of new resources. The EU has managed to change its approach and mobilize new financial capabilities despite the fact that change in the Arab world has taken place at a time of financial turmoil and recessionary tendencies across Europe, and deep political-institutional crisis within the EU.

The most serious shortcoming so far is not what the EU has not been able to deliver. Even a more proactive and generous EU would have hardly been able to address the needs of a region that remains largely underdeveloped. Rather, the problem has been that the EU's response has been mainly "institutional". At best, the EU has reacted like an international development organization revising its course of action in the face of sudden, large-scale change in one of the traditional areas of its oper-

³ Envisaged "mobility partnerships" between the EU and individual Southern Mediterranean countries will target in particular students, high-skilled workers, and businessmen.

ations. The EU has also largely limited itself to improving the existing approach, despite attempts made at questioning some of the assumptions that had guided past initiatives.⁴

The “political” response to the “Arab Spring” – the review of Europe’s interests and reformulation of the EU’s goals in light of new political realities and with a view to laying out a long-term strategy for the EU’s engagement in the region – has been confused and hesitant, overall very guarded. In any case, it has hardly lived up to the historical transformations underway in the Southern Mediterranean. As new Arab governments are voted in, not only new social and political contracts, but also new international balances are emerging across the region. Some have already talked about the decline of the “Camp David order”.⁵ The debate is open on whether Iran has become more isolated or, on the contrary, its position has grown stronger in the reshaped Middle East.

The protest against long-standing regimes has been accompanied by the outburst of civil conflicts in some contexts. As the case of Syria shows, domestic strife has the potential to spill over, triggering wider regional crises that directly or indirectly affect European security. Meanwhile, new players from Asia, and increasingly active actors from the Gulf, are said to be in the position to replace the influence of traditional actors from Europe and North America thanks to greater financial resources at their disposal, no strings attached, and less problematic legacies, or no track record at all, of economic and political engagement with the region.

The EU seems to be lagging behind in gauging the full *strategic* implications of ongoing domestic transformations sweeping across Arab societies. A distinct risk is a paradigm shift from “authoritarian stability” pursued in the past to a “pro-democracy stance” that is not informed by a lucid reassessment of European interests and ensuing policy approaches in the new context.⁶

⁴ Some of the observations made in this essay about the EU’s response to the “Arab Spring” echo and further elaborate on arguments made by Kausch, Kristina (2012), “Can the crisis unlock Euro-Mediterranean relations?”, *FRIDE Policy Brief*, No. 139, November, <http://www.fride.org/publication/1079/can-the-crisis-unlock-euro-mediterranean-relations>.

⁵ Özhan, Taha (2011), “The Arab Spring and Turkey: The Camp David Order vs. the New Middle East”, *Insight Turkey*, Vol. 13, No. 4, Fall, p. 55-64, http://file.insightturkey.com/Files/Pdf/insight_turkey_vol_13_no_4_2011_ozhan.pdf.

⁶ Gause, F. Gregory (2011), “Why Middle East Studies Missed the Arab Spring. The Myth of Authoritarian Stability”, *Foreign Affairs*, Vol. 90, No. 4, July-August, p. 81-90.

TURKEY'S RESPONSE

The Arab uprisings erupted at a time in which Turkey thought it had consolidated its regional power status. As a result political and economic transformation over the past twenty years and an increasingly proactive foreign policy, Turkey had become a source of attraction to opposition forces in the Arab world, while it deepened its relations with the regimes at the same time. In the wake of Arab uprisings this policy became unsustainable. The Justice and Development Party (AKP) government was forced to take sides.

After brief hesitation, the principles of the new policy started to take shape. Especially during the Egyptian uprising, the Turkish government began to clearly side with the Egyptian opposition. Prime Minister Recep Tayyip Erdoğan was relatively quick to call on Hosni Mubarak to listen to the voice of the people and leave. On February 1, 2011 while addressing AKP parliamentary group Erdoğan said:

"Mubarak, we are human beings. We are not immortal [...] When we die the imam will not pray for the prime minister or for the president, but he will pray for a human being. It is up to you to deserve good prayers or curses. You should listen to the demands of the people and be conscious of the people and their rightful demands."⁷

One day after the ouster of Mubarak, Erdoğan urged for free and fair elections and a move to constitutional democracy in Egypt, "without allowing chaos, instability and especially provocation."⁸ These two speeches, in fact, summed up the initial response of the AKP government to the Arab uprisings: to support the uprisings but anchor this support to the requirement of a "peaceful transition". For his part, Foreign Minister Ahmet Davutoğlu characterized the "Arab Spring" as "normalization of history" – an event that should have happened long before but for different reasons has been postponed. Yet, for him the "legitimate demands and expectations of the people" could no longer be left unanswered. As the uprisings expanded to other countries, however, the aim of a "peaceful transition" was increasingly seen as difficult to achieve.

⁷ Today's Zaman (2011), "Erdoğan Urges Mubarak to Heed People's Call for Change", 2 February, <http://www.todayszaman.com/news-234212-erdogan-urges-mubarak-to-heed-peoples-call-for-change.html>.

⁸ TurkishPress.com (2011), "Turkey's Erdoğan Urges Free Elections in Egypt after Mubarak Quits", 12 February, <http://trkne.ws/364089>.

The policy of supporting opposition forces has been implemented with increased vigor since then, casting Turkey as an irresolutely pro-change, pro-democracy actor in the region.

Despite this progressively more vigorous reaction to the unfolding developments, Turkey has remained trapped in contradictions which are not too different from the ones characterizing the EU's response. Ankara has embraced a pro-democracy approach which had received little emphasis during Turkey's proactive Middle East policy of the 2000s. The new pro-democracy stance has, however, put Turkey in a very uncomfortable position in the Syrian case, where reconciling the support for the Syrian opposition with the principle of "peaceful transition" has proved particularly hard. On a different level and more seriously, the focus on democracy has exposed Turkey's own democratic weaknesses, both when it comes to the democratic deficit that still characterizes its domestic political system pending further reform, and the unaddressed demands of the Kurdish population and other minorities living in the country.

With the crisis in Syria, the "Arab Spring" arrived at Turkey's doorstep, if not in Turkey itself, posing direct threats to the country's security and raising significant policy challenges. The AKP's policy of supporting the opposition movements against existing regimes remained unchanged, but hopes for an orderly transition soon faded. The AKP government has tried to use its contacts with the Muslim Brotherhood to facilitate political developments inside Syria. Foreign Minister Davutoğlu often repeated that he had several talks with Bashar al Assad, in which he urged the Syrian President to embark on reforms and even "presented [him] a road map".⁹ Faced with largely uncontrollable events, Ankara was later induced to resort to more coercive methods to cope with the new instability, such as through the imposition of an economic embargo, direct support for to the opposition, as well as using the threat and use of military force against the regime in Damascus. Together with Libya, where Ankara eventually backed the international military intervention, this represented a significant change in Turkey's policy. In fact, the Arab uprisings may have triggered a shift in Turkish foreign policy in the Middle East from the use of soft to smart power. But this shift seemed

⁹ Davutoğlu, Ahmet (2012), Interview published in *AUC Cairo Review* (Egypt) on 12 March, http://www.mfa.gov.tr/interview-by-mr_-ahmet-davutoğlu-published-in-auc-cairo-review-_egypt_-on-12-march-2012.en.mfa.

to be dictated more by circumstance than strategic rethinking. In any event, it has not fully addressed the consequences for Turkey's interests. Turkey's new approach in open support for the Syrian opposition has not been framed as part of a broader strategic vision for the region.

In fact, the alliances Turkey had built in the early years of the new millennium through engagement with countries often at odds with the West have now been compromised, calling for a review of Turkey's overall strategic posture. Ankara has tried to reach out to the two countries that were staunch supporters of the Assad regime, namely Iran and Russia, with which it had cultivated close relationships in recent years. Russia continues to support a compromise solution with Bashar al Assad and Iran has agreed not to agree with Turkey on Syria, remaining committed to supporting the embattled regime, which remains its main proxy in the Arab world.

COMMON ISSUES FOR THE EU AND TURKEY

Both the EU and Turkey have perceived the uprising through similar lenses and both are faced with challenging outcomes. Their responses to the "Arab Spring" have been based on the central premise that the transformation of the Arab world is towards more democratization and that they face a moral imperative to support this historic development. But both have had difficulties in understanding the complexities and specificities of this transformation, particularly as they relate to their interests. Indeed, what has been missing so far is an attempt to better define respective stakes in the new context and explore some of the complementarities that seem to characterize their presence in the region.

The "shift to democracy"

As other international actors, EU governments and institutions were found unprepared to face the sudden Arab uprisings of 2010-2011. However, it would be unfair to argue, as many have done, that the EU did not expect these developments at all and was soon to realize the complete failure of the policies it had pursued until that moment.¹⁰

¹⁰ Soler i Lecha, Eduard, and Viilup, Elina (2011), "Reviewing the European Neighbourhood Policy: a Weak Response to Fast Changing Realities", *Notes internacio-*

Decades of engagement with governments and societies in the region had revealed to EU and international observers that long-term dynamics across Arab societies – a youth bulge without adequate employment opportunities; the spread of mass technologies creating new networks; the changing life styles of women; massive urbanization; deep economic imbalances; sclerotic political systems – had created a time bomb for ruling elites.¹¹ Hence, well before the outbreak of the “Arab Spring”, the EU had committed significant resources to development aid, civil society support, as well as democratization, while collaborating (and often prioritizing engagement) with local political elites in the commercial and security fields.

The rapid fall of long-ruling authoritarian leaders in Tunisia and Egypt in the winter of 2011 led to trepidation and even excitement about prospects for political change after initial bewilderment. The term “Arab Spring” gained currency in the West as hope arose about a broad shift of the whole region to democracy. Later, when some of the “transitions” proved hard to complete, a more cautionary if not alarmist tale replaced trepidation. A growing number of observers warned that the “Arab Spring” could be followed by an “Arab Winter” of authoritarian restoration or Islamist hegemony.¹²

Having chosen democracy as the main reference and narrative of Arab events, the EU has interpreted developments in the past three years in terms of progress made towards that goal, or lack thereof. But what does the EU mean for and expect from “Arab democracy”?

While changes in the social basis of political power are indeed necessary in order to address some of the grievances of the Arab populations that took to the streets, democracy is just a system, among others, to manage conflict within society. It is the underlying social fabric and political values that fill the democratic system with content and should

nals CIDOB, No. 36, June, http://www.cidob.org/en/publications/notes_internacionals/n1_36.

¹¹ For an analysis of societal change in North Africa, see, among others, Merlini, Cesare, and Roy, Olivier, eds. (2012), *Arab Society in Revolt. The West's Mediterranean Challenge*, Washington, Brookings Institution Press.

¹² Totten, Michael J. (2012), “Arab Spring or Islamist Winter?”, *World Affairs Journal*, Vol. 174, No. 5, January-February, p. 23-42, <http://www.worldaffairsjournal.org/article/arab-spring-or-islamist-winter>.

be at the centre of analysis. But evidence that this has been the case remains inconclusive.

Democracy, moreover, can take different forms, in a continuum from a majoritarian to a "liberal- pluralistic" type. Levels of actual participation and deliberative processes should be taken into consideration together with other criteria such as the organization of elections or the re-drafting of constitutions in a democratic direction. To the extent that more representative governance will favor the emergence of groups and leaders who can innovatively address underlying socioeconomic questions, democracy will be part of the solution. When elections allow different groups to orderly express their legitimate aspirations, democratic politics may lead not only to political development but also greater stability.

However, demand for participation does not always and necessarily lead to democracy but could also result in the hegemony of majorities. As has already become clear, elections may create new challenges for local minorities, as the very process of counting heads for votes may highlight and harden sectarian, religious and ethnic divisions. These considerations could deflate the narrative about "the end of the Arab exceptionalism", which is as superficial as it is Western-centric, shifting attention to the actual shaping of the new social contracts and political and institutional balances. Democracy should not be seen as a goal as such, especially if only vaguely defined. It can become an element of EU policy when it works as the enabler for more advanced domestic balances.

To be sure and to its credit, the EU is gradually focusing on these issues, for instance by insisting on a notion of political and economic development that incorporates the principle of inclusiveness. "Inclusiveness" is indeed the new catchphrase of many documents produced by international organizations operating in the region. But a certain fascination with "democracy", broadly defined, seems to have permeated not only the rhetoric but also the approach of the EU. Some in the EU have presented this new approach almost as a "conversion to democracy", as if the EU had had no interest in democratization of Arab societies before the uprisings, and as if democracy was now the be all and end all of EU policy. This risks transiting from one stereotype and prejudice – "Arabs do not do democracy" – to another superficial characterization – "time has come for Arab democracy". In the process, less effort has been made to contextualize and historicize the most recent developments, as one of the cycles of Arab political and social development after decolonization. As Cesare

Merlini argues in a recent book, “[The West] has tended to frame it in its own image and paradigms rather than in the context of changing local realities, using the post-cold war Eastern European transformation as a misleading precedent.”¹³

A superficial focus on democracy has also led to a simplistic and in part inconsequential characterization, and even ranking, of different states depending on the will of local elites to modernize and reform. Among the “virtuous” countries, EU institutions have included Morocco, although reform efforts have been limited, top-down, and have not questioned the monarchic nature of the state. The view that the “stable Arab kingdoms” may be more capable than the “unstable dictatorships” (Egypt, Tunisia) to cope with the demand for change has taken hold among observers, who have easily embraced the notion that open political systems may develop in institutional contexts in which the monarchs remain actively engaged in politics. Another superficial division has been the one between status-quo oriented energy-rich countries such as Algeria and oil-poor countries which cannot stem revolutionary tendencies by subsidizing the population. Moving on, the less fractured North African countries have been pitted against the more internally divided countries of the Levant. Some have argued that North Africa, especially as Libya has rid itself from Gaddafi, can become a “democratic platform” for the Arab world.¹⁴

These and other notions have been later put to test as local developments have taken different turns. The victory of Islamists in several of the post-uprisings elections in 2011-2012, including in countries considered as more “advanced” in terms of democratic preconditions as Tunisia, has engendered very cautious reactions and fed skepticism. Some have accepted the victory of the Brotherhood in Egypt and other contexts as almost inherent to the emergence of democracy in predominantly Muslim societies. Others have argued that the coming hegemony of Islamist groups is on the contrary deleterious as democratization will be undermined by groups that do not value pluralism, will not respect

¹³ Merlini, Cesare (2012), “The Challenge of a Changing Arab Islam in Future Transatlantic Relations”, in Merlini and Roy, eds., *Arab Society in Revolt*, cit., p. 243.

¹⁴ Aliboni, Roberto, et al. (2011), “Southern Europe and the Mediterranean: National Approaches and Transatlantic Perspectives”, *GMF Mediterranean Paper Series*, September, <http://www.gmfus.org/archives/southern-europe-and-the-mediterranean-national-approaches-and-transatlantic-perspectives>.

minorities, and might never come to accept a separation between religion and state. Very few outside expert circles have bothered to look at the social forces supporting the rising religious and political elites: are Islamist parties and movements truly part of the future of these societies or are they already a residual political force that had ascended in the second half of the last century to be then repressed, neutralized, or sometimes co-opted by the regimes? Do they represent the emerging economic constituencies?

A problematic approach to democracy has also characterized Turkey's response to Arab developments. Unlike the EU, Turkey is a newcomer to democracy promotion. Indeed, since the end of the Cold War, Turkish governments have very timidly raised the issue of democratization abroad, for instance as regards the transition countries in the post-Soviet space in the early 1990s. Yet this discourse mainly remained haphazard and never turned into policy. When the AKP came to power in 2002, the government initially emphasized its identity as a democratizing force not only in domestic politics, but also in its international posture. As a party with roots in the Islamist movement of Turkey that now defined itself as a conservative democratic party, its identity bode well in the post-9/11 international context. At the same time, Turkey also emphasized other drivers of its regional engagement. The AKP embraced Turkey's Ottoman past, attracted accusations of neo-Ottomanism, and redefined its relations with the Middle East and the Muslim world, emphasizing the Islamic aspects of Turkey's identity and its willingness to adopt a more conciliatory approach than European and transatlantic partners towards problematic regimes such as Iran and Syria, or groups supporting violence such as Hamas.

The first AKP government (2002-2007) put some emphasis on democratization in its foreign policy approach to the Middle East. Prime Minister Erdoğan and then-Foreign Minister Abdullah Gül were outspoken concerning the need for political reform in the Muslim world. In their speeches, delivered to both Western and regional audiences, they emphasized themes such as the compatibility of Islam and democracy, and the importance of good governance, transparency, accountability, respect for human rights, and integration with the rest of the international community. Within this context, Prime Minister Erdoğan also participated in the G8 meeting in Sea Island Georgia in June 2004 on the Broader Middle East and North Africa Initiative (BMENA). As one of the BMENA countries, Turkey became a partner, with Italy and Yemen, in the

Democracy Assistance Dialogue (DAD) program, which was designed to integrate civil society concerns into governmental discussions on reform. Within that context Turkey focused on the issue of gender.¹⁵

The second AKP government (2007-2011), however, largely dropped this discourse in its relations with Arab/Islamic countries. Turkey had by now developed close ties with the regimes in the region and preferred to avoid undermining them by drawing attention to their lack of democratic credentials. The AKP government found itself confronted with the same dilemma faced by other promoters of democracy in the Middle East, such as the EU. Like them, it opted for a pragmatic approach focused on the advancement of national interests defined mainly as the cultivation of economic ties and the expansion of political clout through diplomacy. In response to criticisms, the government argued that it subscribed to a long term strategy of slow transformation. Political and economic engagement with these countries would help this transformation. Davutoğlu, with respect to Syria, explained this policy: “We invested in the Syrian people, not in individuals. No matter how long this very difficult transition process will last, that investment is an investment that is profitable, the one who invests in the people never loses”.¹⁶

Prominent elements of the AKP’s foreign policy in these years were the growing contacts and dialogue among state officials as well as civil society. Young diplomats, journalists, and academics from the region were invited to Turkey not only for meetings but also training programs, where they were hosted for long periods of time to observe the workings of their Turkish counterparts, conduct interviews, and attend lectures. In addition, visas were lifted with Syria, Jordan, Lebanon, Yemen and Libya. This facilitated an increase in tourism between Turkey and the Arab countries. Similarly, the popularity of Turkish soap operas in the Arab world contributed to increasing interest in Turkey. The image of Turkey in these TV series, a blend of tradition and modernity, contributed to the

¹⁵ TESEV (2009), *Feasibility Study for a Broader Middle East and North Africa Gender Institute*, October, <http://www.tesev.org.tr/en/publication/feasibility-study-for-a-broader-middle-east-and-nor>.

¹⁶ Davutoğlu, Ahmet (2012), *2012’de Türk Dış Politikası ve Gelecek Ufku* (Turkish Foreign Policy in 2012 and the Future Horizon), Speech at the Institute of Strategic Thinking, Ankara, 27 December, http://www.mfa.gov.tr/disisleri-bakani-sayin-ahmet-davutoglu_nun-stratejik-dusunce-arastirma-vakfi_nin-2012_de-turk-dis-politikasi-ve-gelecek-ufku_-k.tr.mfa. For a report of the meeting see <http://www.sde.org.tr/en/news/2047/turkish-foreign-policy-and-its-horizon-of-the-future-in-2012.aspx>.

appeal of the "Turkish model". Turkey was seen as "a modernizing one, but at the same time does not give up traditional social values and keeps the social base and the political structure in some kind of harmony."¹⁷

Finally, the economic bureaucracy, Turkish businesses, and business associations played an important role in engaging the Arab world economically and transferring their experiences. The Undersecretariat for Foreign Trade has been engaged with its counterparts in the Arab countries, particularly Egypt, Syria and Iraq, in the implementation of bilateral economic agreements. Through these engagements, Turkey's experience in transition to free a market economy was shared. Similarly Turkish business associations, such as the Turkish Foreign Economic Relations Board (DEIK) and the Turkish Union of Chambers (TOBB), became active in the Arab countries and engaged in joint business activities.

Thus, the AKP government began to argue that although Turkey had put aside the explicit promotion of democracy, it adopted indirect democratization via engaging these countries economically and opening up its borders allowing people to move freely. The skeptics, however, pointing to the AKP government's close relations with countries like Omar Al-Bashir's Sudan, questioned the government's sincerity. Furthermore, some argued that by engaging such regimes as the Syrian one, Turkey had helped them to consolidate power.

After the Arab uprisings the relevance of the "Turkish model" for transition countries started to be debated again, both in these countries and elsewhere. Prime Minister Erdoğan argued that "with its democracy, strong economy and its peaceful and active policies on global issues, Turkey is a model for all peoples who work to protect their countries and future. Turkey is a source of inspiration for peoples who start off to build a country where they can look to the future with confidence."¹⁸ The meaning of the Turkish model differed depending on the context in which it was raised. For instance, right after the ousting of Mubarak, the Turkish model was discussed in the context of civil-military relations in Egypt. Particularly those who were concerned about the mounting Islamist power, viewed the Turkish historical experience in civil-military

¹⁷ Comment by Sreeram Chaulia cited in RT News (2011), "Turkey good model for emerging Arab world democracies-analyst", 16 February, <http://rt.com/news/libya-unrest-sreeram-chaulia>.

¹⁸ Trend (2011), "Turkey: Source for Inspiration for Arabs-Erdoğan", 1 March, <http://en.trend.az/regions/met/turkey/1837617.html>.

relations as a useful model. However, this understanding of the Turkish model was not promoted by the AKP government as it operated to curb the role of the Turkish army. Among others, it is precisely this aspect of the AKP that raised interest amongst Islamists in the Arab world, some of which came to view the AKP, rather than Turkey as such, as a model. Overall the meaning of the Turkish model has narrowed after the Arab uprisings. With the “Arab Spring” in fact, the Turkish model has been largely reduced to the AKP model and at most the model of Turkey as a country combining Islam and democracy. Muslim Brotherhood groups in Egypt, Tunisia, Libya and Syria began to use the AKP model also to give messages of moderation to domestic and international audiences. On its side, the AKP government began to use its ties with these movements to exert influence over their transformation. As Islamist groups emerged as the most organized force in transition countries, the AKP presented these ties as an invaluable asset of Turkish foreign policy.

However, the Arab transitions also exposed the limits of Turkey’s model. First, the Turkish model used to mean different things to different people prior to the uprisings, but has now been subsumed exclusively into the AKP experience and the transformation of political Islam. Such a shift in the understanding of the Turkish model alienated Islamists and non-Islamists alike. Secular forces have been critical of the AKP’s perceived support for Islamists, viewing Turkey as an actor playing into the sectarian dynamics of the region. Islamists have also raised eyebrows at Turkish interventions. During his “Arab Spring” tour to Egypt, Tunisia and Libya, Prime Minister Erdoğan openly declared that while he was a devout Muslim, the state should be secular, triggering acute criticism in Egypt. The deputy leader of the Brotherhood’s Freedom and Justice Party, Essam al-Arian, said: “We welcome Turkey and we welcome Erdoğan as a prominent leader but we do not think that he or his country alone should be leading the region or drawing up its future.”¹⁹ In a later visit in November 2012, Egyptian President Mursi staged a reception for Erdogan that clearly aimed at keeping the profiles of the two leaders separate, despite cordiality.

In the long run also the evolution of Turkey’s own transformation may limit the positive influence of the Turkish model. Especially in the last two years, the AKP government has been criticized for slowing down the

¹⁹ Egypt Independent (2011), “Egypt’s Islamists Warn Turkish PM over Regional Role”, 14 September, <http://www.almasryalyoum.com/en/node/495611>

political reform process and becoming authoritarian. Political stability – the AKP has won three consecutive general elections and with ever greater margins since 2002 – has led to rivalries within the government camp, a marked toning down of initial reformist impulses, and extensive spoils to control the various branches of the public administration and government. For Turkey, the Arab transitions had finally provided an opportunity to prove the relevance of its own experience in a regional context. But the tendency towards exclusive engagement with Islamist movements, and, above all, the regression of its own democratization, casts shadows over Turkey's contribution to a democratic and peaceful Middle East.

A tension between values and interests?

One of the underlying assumptions of the recent "shift to democracy" is that tension exists between "values" and "interests" in the EU's and Turkey's foreign policies. The tension is both real and artificial. European countries – especially the southern EU members – have since long pursued interests other than democracy in the Arab neighbourhood, among which the cultivation of economic interests, the protection of vital energy supplies, the management of migration across the Mediterranean sea; cooperation on security matters, especially the fight against terrorism, and engagement with selected countries such as Jordan, Morocco, the Gulf monarchies on the Arab-Israeli conflict, nuclear anti-proliferation, and the containment of Iran's strategic ambitions.²⁰

Before the "Arab Spring", democracy was seen as something desirable given the lamentable state of Arab societies under oppressive regimes, but democracy promotion, implying the eventual fall of existing regimes, was viewed with caution. Commercial, energy, and security cooperation required deep engagement with ruling elites.²¹

²⁰ Aliboni et al. (2011), "Southern Europe and the Mediterranean", cit. See also, the European Security Strategy: "Our task is to promote a ring of well governed countries to the East of the European Union and on the borders of the Mediterranean with whom we can enjoy close and cooperative relations" (no reference to democracy). Council of the European Union (2003), *A Secure Europe in a Better World. European Security Strategy*, Brussels, 12 December, p. 8, <http://www.consilium.europa.eu/uedocs/cmsUpload/78367.pdf>.

²¹ Emerson, Michael, and Youngs, Richard, eds. (2009), "Democracy's Plight in the European Neighbourhood: Struggling transitions and proliferating dynasties", *CEPS Paperbacks*, October, <http://www.ceps.eu/node/2315>.

With the perceived shift of the region to democracy, the EU declared that it will now try to align its policies to the values it aims to promote. EU Commissioner Štefan Füle candidly admitted that “we are continuously struggling to keep our values and interests as close as possible in dealing with Southern neighbourhood. It is clear that we cannot return to the old days of complacency towards authoritarian regimes”.²² This is as laudable as it is problematic.

Democracy promotion can only be part of a strategy if it is anchored in an understanding of interests. The right question to ask is whether more democratic forms of government will help Arab societies become more stable and prosperous, and therefore more attractive partners for Europe. In those contexts in which the answer is “yes”, then democracy can be seen not only as a value but as a strategic interest in itself.²³ EU countries – and EU institutions in particular – risk instead to focus on democracy as a new moral imperative, only to sideline this once again when other strategic interests are at stake.²⁴ The so-called “more for more” approach proposed by the EU Commission and endorsed by the EU Council in 2011 has crystallized the notion that the EU will engage more with those countries which make greater efforts towards democracy.²⁵ This slogan is however already revealing its first flaws. How to justify the continuing energy relationship between several EU countries and Algeria or the Gulf monarchies, which have so far proved unwilling to budge on meaningful reform? The only way out seems to be – just like in the past – to silently keep pursuing economic and security interests irrespective of the progress made in democratization. As in the past, the “less for less” will be much harder to implement than the “more for more”, except for blatant cases of defiance, such as EU sanctions readily adopted against Syria.

²² Füle, Štefan (2012), “One Year after the Arab Spring”, *Europost*, 28 January, <http://www.europost.bg/article?id=3650>.

²³ Youngs, Richard (2004), *International Democracy and the West. The Roles of Governments, Civil Society, and Multinational Business*, Oxford, Oxford University Press.

²⁴ For a (timid) attempt to place democracy support within a deeper strategic understanding of democratization as a factor for regional stability, see Ashton, Catherine (2012), “Supporting the Arab Awakening”, *International Herald Tribune*, 3 February.

²⁵ European Commission (2011), *A Partnership for Democracy and Shared Prosperity with the Southern Mediterranean*, COM(2011) 200 final, 8 March, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=celex:52011DC0200:en:not>.

The focus on democracy only as a value is also problematic because more democratic regimes may be less prone to deliver some of the goods that the EU countries value. This goes beyond the foreign policy orientations of newly elected Islamist parties, which could become "revisionist" on critical issues such as Israel or the fight against terrorist groups. What is perceived as soft security priorities can also be part of the new EU dilemma on democracy. For instance, can new, more democratic, Arab regimes help the EU contain migration to Europe while they are expected to be more responsive to the demands of their own peoples which ask for greater freedom of movement?²⁶

Like the EU, Turkey is also facing a dilemma between values and interests. As a country that developed very close relations with some of these regimes and also became an inspiration to most of the opposition, Turkey had difficulty in reconciling values and interests. The Libyan crisis first exposed Turkey's dilemmas. Libya has been economically important for Turkey both as a source of crude oil as well as for the construction contracts of Turkish businesses which amounted to approximately USD 20 billion. These interests made it difficult for the AKP government to respond clearly to the crisis. Eventually, the government chose to side with the opposition in Libya, but only after successfully evacuating the over 25,000 Turkish citizens from the country.

This uncertainty about where priorities lies – in interests or values – , and what is the relationship between them, has also been reflected in public statements. In the early months of the "Arab Spring", Foreign Minister Davutoğlu argued that Turkish foreign policy is grounded on both values and interests and that there was no incompatibility between them insofar as the prevalence of democracy would ultimately strengthen stability, allowing Turkey to establish closer ties with its democratic neighbours:

"Turkish foreign policy is guided by our democratic values as well as our interests. [...] Turkey has always been encouraging the administrations to address the legitimate expectations of their people and undertake the necessary reforms. However, now, given the home-grown and irreversible march toward more democracy in the region, Turkey has stepped up its efforts to support this process."²⁷

²⁶ Tocci, Nathalie, and Cassarino, Jean-Pierre (2011), " Rethinking the EU's Mediterranean Policies Post-1/11", *IAI Working Papers*, No. 1106, March, <http://www.iai.it/pdf/DocIAI/iaiw1106.pdf>.

²⁷ Davutoğlu, Ahmet (2012), Interview published in *AUC Cairo Review*, cit.

The Syrian crisis challenged this rosy picture. Turkey's stand against the Syrian regime compromised all its past political, social and economic investments in the country. Economic relations were cut, with significant impact on the bordering towns in Turkey. Crucial security cooperation against the PKK ended and al Assad's regime resumed its support for the PKK. As a result, Turkey witnessed the escalation of PKK attacks with casualties recorded almost every day. The recasting of the Syrian crisis along sectarian lines has also started taking its toll internally in Turkey. Turkey's Alawites (Nusayris), mainly living in the neighbouring areas of Syria, feel uncomfortable with the staunch anti-Assad stance of the government. In addition to the dangers of a civil war next door and internal reverberations of a larger sectarian strife, Turkey could also be dragged into the conflict. This danger became clear after a mortar shell attack in a residential district in southeastern Turkey, Akçakale, killed five civilians. In response, Turkey attacked targets in Syria and the possibility of a cross-border escalation became more likely. Finally, Turkey's open support for the anti-regime forces has put the government in direct clash with the international supporters of the Syrian regime. Turkey's relations with Iran have deteriorated, undermining one of the pillars of the AKP's Middle Eastern engagement. Similarly, Turkey's support for the opposition has created tensions with Russia. Possibilities of a tenser relationship between the two countries became clear, when Ankara forced down a passenger jet en route from Moscow to Syria, allegedly carrying military equipment and ammunition.

These developments have led to intense debates within Turkey. Several public opinion polls showed little support for Ankara's Syria policy, even among AKP supporters.²⁸ The policy has been criticized also by the opposition parties, as well as many opinion makers. In responding to these criticisms, Foreign Minister Davutoğlu has accused critics of basing their perspective solely on interests (rather than values). In a recent interview he said that as an ethical neighbour: "we had to stand by the Syrian people. We stand by the oppressed and on the side of the consciousness of humanity", almost implying that this must hold true even if it comes at great cost for other interests.²⁹

²⁸ See, for instance, periodic polls conducted by the Centre for Economics and Foreign Policy Studies (EDAM): http://www.edam.org.tr/eng/index.php?option=com_content&view=article&id=140&Itemid=203.

²⁹ Interview with Foreign Minister Ahmet Davutoğlu (in Turkish), *CNN Türk*, 25 November 2012, <http://video.cnnturk.com/2012/haber/11/25/ahmet-davutoglu-ro>

Overall, like the EU, Turkey also has failed to establish a strong strategic rationale for its support to democratic change. A "balance between freedom and security" is now emphasized and, not unlike in the EU, democracy is seen as part of a revamped value-based foreign policy that may sometimes clash with "national interests". Talk of an "axis of democracy" is heard in reference to the relationship between Turkey and post-Mubarak Egypt, despite Egypt's highly uncertain path to democracy and anticipations that a less ossified Egypt may soon rise as a new pole in the region, alternative to Turkey's. Yet, especially the complexities in the Syrian case, highlight the limitations of a rather abstract and monolithic foreign policy discourse centred solely on values.

STRATEGIC CORRECTIONS AND THE FUTURE OF EU-TURKEY ENGAGEMENT

The EU has lacked a "strategic outlook" on the Mediterranean probably since European countries ceased to be colonial powers. While strategic choices after WWII were increasingly made by the US, for Europe, the "neighbourhood approach" gradually emerged as a substitute for a strategic vision. The neighbourhood approach has been very problematic and should be re-thought in light of recent developments. First, it has reinforced an EU-centric vision of the world, which divides countries along concentric circles drawn around Brussels, and ranks them according to levels of alignment with EU policies and laws. The Mediterranean is instead an increasingly global space, where a growing number of regional and external actors operate along multiple trajectories of engagement.³⁰ The transformations brought about by the "Arab Spring" have not only differentiated the region more, but have opened up the prospect for greater influence of players from the Gulf, the East, and the South. Emerging economies from Asia and Latin America will rise in importance as Western actors have fewer resources to mobilize. Strategically, the increasing engagement of actors that never fully left the scene such as Russia or that have recently stepped up their pres-

portajinin-tamami.

³⁰ Menon, Rajan, and Wimbush, S. Enders (2010), "New Players in the Mediterranean", *GMF Mediterranean Paper Series*, May, <http://www.gmfus.org/archives/new-players-in-the-mediterranean>.

ence such as China could also challenge the EU's position in the region. Putting the EU at the centre is also problematic because it assumes that Arab societies want to emulate the EU model. The EU remains a critical market for Arab countries and an important cultural reference, but Arab societies are all too aware of the European crisis and the challenges it poses to the future of European integration.

What has been missing, therefore, is a European view of an ever more global Mediterranean space which is growing more interdependent, but also more plural, and which features political trends that do not necessarily converge with the West's. The EU has done much in terms of its "institutional response", deploying new resources for assistance and new frameworks for cooperation. It has done much less at a time of deep internal crisis to understand the strategic and security implications of its changing neighbourhood: a "political" response. The latter would start with European interests, not local demands; would distinguish between countries and groups that the EU believes are critical to the protection of its interests in the region from those which are not; would support democratic development with its full weight when this would seem to promote greater stability, faster economic and social development, and deeper engagement with EU actors while accepting – and being ready to publicly acknowledge – that in some cases this logic may prove less compelling, thus requiring policies that do not take the establishment of a democracy as a strategic objective.

A clear illustration of this trend has been the EU's fairly strong influence over smaller countries like Tunisia, in which the internal situation is perhaps less intricate, and which economically can be seen as a satellite of the European Union market. However, even there increased polarization between the Islamists and other political forces especially after the assassination of Choukri Belaid demonstrate the challenges. By contrast, a lack of adequate instruments, and insufficient political influence, have defined the EU's engagement in countries like Egypt, which for reasons of size, internal composition and historical position, would be key to the emergence of a new regional order. Egypt has been very reluctant to accept any "conditionality" from the EU (and the IMF for that matter). Recent agreements between the EU and Egypt concerning aid are as important in themselves as they unfortunately appear futile. The game over what type of Egypt will emerge from the ruins of the Mubarak regime will be played between internal groups with some external influence from the Gulf and the US, the EU not being a major factor or consid-

eration (the EU did not even receive a mention among Egypt's references for its constitution-making process).

The lack of an adequate strategic perspective also risks applying to the re-assessment of Turkey-EU relations in the light of the "Arab Spring." Absorbed by the question of "how to help", the EU and several EU governments have seen a value in closer coordination with Turkey in the common Arab neighbourhood.³¹ Never fully sharing America's past concerns about Turkey's dealignment from the West, Turkey is seen by the EU as a model that can be emulated by emerging regimes; as an engine for growth for local economies; and as a rising regional actor that can help Europe and the US advance common positions thanks to its closeness to some of the local players and societies.³²

Indeed, attention in recent years has shifted from Turkey as an EU candidate country, to Turkey as a necessary regional partner. Even the more limited goal of a regional strategic partnership, however, has proved elusive so far. Reservations remain among EU members about Ankara's formal involvement in EU foreign policy mechanisms. Such involvement could directly or indirectly impinge on the EU accession process, which is only now slowly re-starting after years of stalemate.³³ Moreover, some EU countries continue to see Turkey as a potential competitor in the region in terms of economic and political influence. This is true, to an extent at least, for France, even under the new leadership of President Francois Hollande. But it is also true for traditional friends like Italy, in contexts like Libya, where high-value energy contracts are up for grabs in the post-Gaddafi era.³⁴ In the case of Syria, Turkey has been seen both as a critical proxy for the EU and the West but also as a

³¹ Tocci, Nathalie, et al. (2011), "Turkey and the Arab Spring. Implications for Turkish Foreign Policy from a Transatlantic Perspective", *GMF Mediterranean Paper Series*, October, <http://www.gmfus.org/archives/turkey-and-the-arab-spring-implications-for-turkish-foreign-policy-from-a-transatlantic-perspective>.

³² Füle, Štefan (2011a), "Turkey and the European Neighborhood Policy", *Turkish Policy Quarterly*, Vol. 10, No. 2, Summer, p. 17-21, <http://www.turkishpolicy.com/article/615/turkey-the-eu-and-the-european-neighborhood-policy-summer-2011>.

³³ Tocci, Nathalie (2012b), "A Trilateral EU-US-Turkey Strategy for the Neighbourhood: The Urgency of Now", *IAI Working Papers*, No. 1208, March, <http://www.iai.it/pdf/DocIAI/iaiw1208.pdf>.

³⁴ Alessandri, Emiliano (2011), "Italian-Turkish Relations: Potential and Limits of a Strategic Partnership", *Perceptions*, Vol. 16., No. 1, Spring, p. 91-110, http://sam.gov.tr/wp-content/uploads/2011/12/emiliano_alessandri.pdf.

non-European country to be kept at arm's length from critical EU decisions such as sanctions. Overall, the EU has hoped to take advantage of Turkey's foreign policy activism in the MENA region in order to add dynamism and resources to its own initiatives at a time of tight budgets and internal crisis. Turkish policies in the mid to late 2000s such as the lifting of visas with several neighbouring countries, and visions such as a free trade zone with Syria, Lebanon, and Jordan seemed to confirm that Ankara was interested in channeling its activism into concrete regional initiatives and frameworks. The principle of "zero problems with neighbours" promoted by Turkish Foreign Minister Davutoğlu clearly served Turkey's ambition to revive regional influence in former Ottoman possessions. The same principle, however, was also seen by many in the EU as supporting an approach similar to the EU's vision of a ring of stable and peaceful states around its borders.³⁵

This Turkish "neighbourhood" approach, however, was never formalized, let alone institutionalized, in the way the EU's approach was. In this sense, and quite understandably, Ankara's approach to the region remains the one typical of a nation state. Moreover, the Mediterranean was never the main focus or reference of Turkish foreign policy.³⁶ To the extent that the notion of a "Mediterranean" is entrenched in the EU's vision of its near abroad, Turkey never felt it needed to develop a Mediterranean approach. Turkey has rather conceived of itself as lying at the crossroads of different regions – the Balkans, Central Asia, the Caucasus and the Black Sea, as well as the Middle East and Asia – being therefore much more than a Mediterranean country. The Turkish Foreign Minister has not hidden his preference for other competing notions; defining as "Afro-Eurasia" the area where Turkey's interests are concentrated and its historical legacies are stronger.³⁷

This pattern of close but not perfectly aligned orientations and policies should be taken as an opportunity, not as a challenge to bilateral cooperation. If the EU is to emerge as a strong regional actor, it has to deeply revise its neighbourhood approach and add more strategy – a transition

³⁵ Council of the European Union (2003), *A Secure Europe in a Better World*, cit.

³⁶ Tocci, Nathalie, Altunisik, Meliha Benli, and Kirişçi, Kemal (2011), "Turkey: Reluctant Mediterranean Power", *GMF Mediterranean Paper Series*, February, <http://www.gmfus.org/archives/turkey-reluctant-mediterranean-power>.

³⁷ Davutoğlu, Ahmet (2009a), *Principles of Turkish Foreign Policy*, Address at SETA Foundation, Washington, 8 December, <http://arsiv.setav.org/ups/dosya/14808.pdf>.

that would be helped by greater cooperation with Turkey. Turkey, for its part, has to realize that a shift to democracy that does not rest on strategic considerations may be counterproductive. Ankara has also an interest in strengthening its democratic credentials if it wants to project its influence – a process that may be facilitated by EU-inspired reforms.

Turkey's shift as a pro-democracy actor has been welcomed in Western capitals. But while talk of Turkey as a model for the "Arab Spring" has spread, Turkey-watchers in Europe have noted worrying signs in Turkish domestic politics. Turkey currently has an exceptionally high number of imprisoned journalists. Attempts to rewrite the 1982 Constitution have failed to bear fruit so far. Protracted domestic political stability has brought with it a concentration of power and weakening checks and balances, if not soft authoritarian tendencies, by a small circle of relevant players under the charismatic leadership of Prime Minister Erdoğan. Initiatives towards minorities have been insufficient in recent years. The current initiative to resolve the 30-year old conflict with the PKK is very encouraging although full consequences will remain to be seen. Media freedom has become an increasingly serious problem. The risk that Turkey will not fully democratize is real. Although these problems have been included in the European Commission's latest Progress Report, European countries and institutions have not made the link yet between Turkey's domestic de-democratization and its waning appeal in the neighbourhood.³⁸

What the EU could now do is to accept to work more closely with Turkey in the region, by pursuing common diplomatic initiatives as well as developing joint concrete projects on the ground. This engagement with Ankara would benefit from Turkey's more strategic approach to the region, which is now being revised. As Turkey reassesses its role given current challenges, convergence with the EU could be found on a vision of the MENA region that avoids putting either the EU or Turkey at the centre. Rather, thanks to its historical legacies, cultural affinities, and growing economic ties with many of the region's players both in the Levant, Gulf and North Africa, Turkey could help the EU develop a common vision of a global Mediterranean, ever more connected to neighbouring regions, in which the EU's and Turkey's influence would

³⁸ European Commission (2011), *Turkey 2011 Progress Report*, Brussels, 12 October, http://ec.europa.eu/enlargement/pdf/key_documents/2011/package/tr_report_2011_en.pdf.

be measured not so much in terms of alignment of these regions with the European (or Turkish) space, but with the ability to protect and project the interests and values that both Turkey and the EU share, from economic openness to political development, despite the growing diversity and multipolarity of the region.

While pursuing this more strategic dialogue, the EU could recast its vision of a “Turkish model” as an experience in the making, still incomplete and benefiting from the EU for its full realization. Instead of presenting Turkey as a success story that can be emulated by Arab partners, the EU should link its ever more realistic assessment of the challenges still facing Turkey with its use of the Turkish experience in the MENA region. After all, as polls suggest, Turkey’s attractiveness in the Arab world has had much to do with it being a candidate member of the EU rather than being a former imperial entity in those areas. Put in this context, the incompleteness of the Turkish model would not be a problem or a contradiction, but it could be seen as a dynamic element as Arab countries would be arguably encouraged and inspired by Turkey’s future achievements and could learn not from successes but also from its failures.

Coordination is not impossible. A clear element of Turkey’s response to the Arab uprisings has been an attempt to act in coalitions. One of the early by-products of Arab spring has been an improvement of American-Turkish relations, which were scarred in the previous period due to a crisis in Israeli-Turkish relations and Turkey’s attempts to engage Iran. The Arab uprisings and increasing instability in the region has led a rapprochement with Washington. The Obama administration, which adopted a policy of relying on allies first in dealing with regional crises, found in Ankara an important partner. For the AKP government, the Arab uprisings provided an opportunity to mend fences. Although initial attempts to create close cooperation between the EU and Turkey in dealing with the challenges of the Arab uprisings did not bear fruit, Ankara began to work closely with some EU members, particularly Great Britain and France in the Syrian crisis. Despite having a problematic relationship with France under Sarkozy and despite initial reservations, Paris and Ankara were both active members of an international diplomatic effort that aimed to bypass the Russian and Chinese vetoes in the UN Security Council, the so-called “Friends of Syria”. The group so far has held several meetings with the participation of nearly 100 countries. Although these meetings have had limited success so far, they point to Turkey’s eagerness to act multilaterally.

But Ankara's response to the "Arab Spring" so far has been largely reactive, and failed to identify a long term strategy where a real harmony between the promotion of values and interests could be achieved. Similar to the EU, Turkey has overestimated the drive towards democracy in the region, while underestimating domestic and regional complexities. Especially the case of Syria has revealed Turkey's limitations. The AKP government's engagement strategy failed in Syria when Turkey realized that it did not have any leverage over the al Assad regime. Furthermore, the Syrian regime changed the nature of the conflict into a civil war and branded Turkey as a country interfering in its internal affairs. Turkey suddenly found itself surrounded by conflict and hostility. The AKP, which criticized the Kemalists for not understanding the Middle East, may have overestimated its own knowledge of the region clouded by an overblown understanding of Turkey's place in it. Recent developments in Turkey have also demonstrated that the continuing appeal of the so-called Turkish model depends on Turkey's own political and economic transformation.

All these challenges, if and when appreciated, could induce Turkey to reengage with the EU. Responsibility for the current state of EU-Turkey relations partly lies with the EU, partly with Turkey. Although Turkey seems to be cooperating with individual EU countries, the EU as an actor has lost its importance for the government. The frustration with the ever-dragging accession process coupled with a view of EU in crisis has fueled disinterest in the EU. More significantly, the self-confident AKP government now tends to underestimate the positive value of its engagement with the EU for its Middle East policy. The EU would not only strengthen Turkey's image in the region. It would also provide Turkey with highly developed and institutionalized instruments to deal with some of the most pressing regional challenges, from economic development to political transitions, which call for financial instruments, multi-lateral initiatives, and standardized procedures.

The basic deal that the EU and Turkey should agree upon is a common quest for greater political influence in the region through stronger bilateral engagement. Turkey would provide the EU with the extra strategic outreach, while receiving EU resources and instruments for its regional initiatives that, as a nation state, however dynamic and powerful, Turkey cannot have. This joint strategic engagement in the region would not constitute a short cut to membership for Turkey. It would also not be a substitute for membership as the supporters of the privileged partner-

ship would like. More limitedly but no less critically, this dialogue could help the two verify their long-term domestic and foreign policy preferences, thus helping them indirectly figure out the future content of the relationship between them.

Postscript

In recent months there are signs that both the EU and Turkey, having faced their limitations, are developing a more comprehensive and strategic understanding of their interests in the wake of the Arab uprisings. The unblocking of a French “veto” at least initially on one chapter in the accession negotiations can give a new impetus to EU-Turkey relations and may lead to a more meaningful dialogue between the two. More significantly some new developments on Turkey’s side may point to an emergence of a more strategic thinking about Turkey and its engagement with the Middle East region. The latest process that aimed to end 30-year conflict with the PKK is not only a gigantic step for domestic politics, but - if fully implemented - can have significant foreign policy consequences. Such a development can not only strengthen Turkey politically and economically and thus help to increase its appeal in the region, but may also bolster Turkey’s hand in Syria by increasing its influence and – if everything fails - helping Turkey to create a buffer between itself and an unstable Syria. Similarly, Netanyahu government’s recent apology to Turkey over *Mavi Marmara* and Turkey’s acceptance is related to this new strategic environment. This development does not only give a boost to Erdogan’s government which insisted on Israel’s meeting of their demands despite all the domestic and international pressures, but also opens up a possibility for Ankara to be able to talk to Israel in the new strategic context where Iran has become a major actor in Syria which faces a real danger of a collapse. Of course, the success of these new strategies in the long run remains to be seen.

15.

Making Sense of Turkish-EU Relations in the Aftermath of the Arab Spring

Bülent Aras

Brussels and Ankara were caught unprepared for the changes in their neighbourhood resulting from the popular uprisings in the Arab world. Equally unexpected was the long-term impact these changes have already had on the course of relations between Turkey and the EU. New dynamics are emerging which are creating a strong imperative for joint action to deal with common challenges in the post-Arab Spring political landscape. Turkey's active response has once again shifted the balance to the Western component of its foreign policy identity and thus represents a strong complementary position to the EU's. There is now a chance of refreshing Turkish-EU relations in the face of shared challenges arising from the Arab Spring.

Such a fresh approach requires an analysis of the role Europe has played in the genesis of Turkey's foreign policy. This is provided in the first section of this essay and is followed by an assessment of the Arab Spring as a political earthquake with implications beyond the immediate geographic neighbourhood, as well as of the current policies of Turkey and the EU in the region. The last section is devoted to a discussion of future courses of joint action by the EU and Turkey *vis-à-vis* the challenges and opportunities in the new political atmosphere of the post-Arab Spring era.

THE EU/ROPE'S PLACE IN TURKEY'S FOREIGN POLICY

For the last decade, Turkey has developed a new foreign policy which represents a considerable degree of discontinuity with its foreign policies in the former era. This is, first and foremost, the result of a transformation in the domestic landscape, but also of a new regional and international environment. The new geopolitical thinking is rooted in a self-confi-

dence and a perception of Turkey as a country with multiple identities in terms of regional belonging, with Turkey's European identity at the centre in historical and geographical terms. The intellectual architect of this perspective, Foreign Minister Ahmet Davutoğlu, argues that "Turkey can generate new theses and find solutions in the Eastern platforms with a confident claim to its oriental identity. It can discuss the future of Europe in Western venues with its European perspective."¹

Turkey's ties to Europe go back to the interaction of the Ottoman state with its counterparts in Europe for more than 300 years. The critical period was the Ottoman state's transformation as a result of the European international environment in the second half of the 19th century,² an environment that was replicated after a short delay in the Ottoman state. The 1648 Westphalian order found its reflection in the Köprülü reforms, and the 1815 Congress of Vienna and the Napoleonic Wars led to the Imperial Edict of Reorganization (*Tanzimat*) in the Ottoman state. There was also a strong connection between the 1856 Paris Congress and the Imperial Edict of Reformation (*Islahat*). This interaction and connection occurred mainly in the areas of reforming domestic structures and foreign policy orientation.

The systemic change in Ottoman diplomacy came as a result of an international environment that forced the Ottoman state to be a part of the European order, instead of its previous role of challenging it.³ This was a critical period as the Ottoman state moved from reclaiming the empire to adopting a new survival strategy within the new state system in Europe. It was also the start of a tension in Turkish diplomacy as it aimed to reconcile its role in its cultural and historical hinterlands with the requirements of being part of the European order. According to Davutoğlu, this tension

¹ Davutoğlu, Ahmet (2013), *Teoriden Pratiğe. Türk Dış Politikası Üzerine Konuşmalar* (From Theory to Practice. Speeches on Turkish Foreign Policy), İstanbul, Küre.

² Naff, Thomas (1963), "Reform and Conduct of Ottoman Diplomacy in the Reign of Selim III, 1789-1807", *Journal of the American Oriental Society*, Vol. 83, No. 3, August-September, p. 295-315; Davison, Roderic H. (1996), "Ottoman Diplomacy and Its Legacy", in L. Carl Brown, ed., *Imperial Legacy. The Ottoman Imprint on the Balkans and the Middle East*, New York, Columbia University Press, p. 174-199.

³ Adanır, Fikret (2005), "Turkey's Entry into the Concert of Europe", *European Review*, Vol. 13, No. 3, July, p. 395-417.

was reproduced in different contexts, but the essence was not substantially different.⁴

Turkey's Europeanization did not take shape only in terms of a harmonization of its foreign policy. There was a close connection between the international situation and domestic political reforms. This has been an element of continuity, and changes in the international environment have led to new discussions for reforming the state apparatus and attempts to restructure Turkey.⁵ Turkey's EU process is an example of this, since it exemplifies how the EU is more than a foreign policy issue and has its expression in domestic political reforms and changes in state structure.

In this line of reasoning, Turkey has a well-established place in European history and its political, economic and social modernization has been guided by European-oriented ideas. The influence of the major transformations and developments in Europe on the late Ottoman elites and the founding fathers of modern Turkey is obvious as it shaped their revolutionary idea to create a modern nation-state. From Davutoğlu's perspective, Turkey is an integral part of Europe, and the next step in Turkey's transformation and modernization is its membership in the EU.⁶

The new geopolitical thinking has its own interpretation of Europe and the EU, and Turkey's place within this wider context. Turkey is a European actor, and the EU is a project developed within this geography in recent history. In this view, the EU's hesitancy to accept Turkey as a full member and the problems in the membership process have nothing to do with Turkey being an integral part of Europe, but is to a large extent due to the current political atmosphere and lack of vision in the EU leadership. Davutoğlu suggests a more dynamic and functional framework of relations with the EU, which will make Turkey a full member in due course and contribute to the EU's transformation into a more effective actor in world politics.⁷ He argues that Turkey offers something unique

⁴ Davutoğlu, Ahmet (2002), "International Transformation and the Continuity Principles of Turkish Diplomacy from the Ottoman Period to the Present", in Hasan Celal Güzel, C. Cem Oğuz, Osman Karatay, eds., *The Turks. Vol. 5: Turkey*, Ankara, Yeni Türkiye, p. 322-335.

⁵ See, Davison, Roderic H. (1963), *Reform in the Ottoman Empire, 1856-1876*, Princeton, Princeton University Press.

⁶ Davutoğlu, Ahmet (2009b), "Turkish Foreign Policy and the EU in 2010", *Turkish Policy Quarterly*, Vol. 8, No. 3, Fall, p. 15, <http://www.turkishpolicy.com/article/433/turkish-foreign-policy-and-the-eu-in-2010-fall-2009>.

⁷ Ibidem, p. 14.

to the EU as it could give it an enlarged geopolitical imagination and staging, which will allow the EU to be a global player by consolidating Europe's multicultural characteristics and providing access to Asia.⁸ Turkish policy makers' warm welcome of the establishment of a High Representative for foreign policy as a significant development for the EU's global role is a reflection of this perspective.⁹ Having a EU High Representative has increased the hope that the EU may assume a global role in world politics by organizing the capabilities of the member states and its institutional strength. Turkey's new geopolitical thinking also helps to engage in the future developments of the EU.

One needs to understand the role and impact of Europe in the genesis of Turkish foreign policy to make sense of Turkish policy makers' rediscovery of the West in certain periods. The same is also valid for not getting lost in the discussions of axis shifts in Turkish foreign policy. European modernity is an intrinsic character of Turkish politics. The historical connection between European and Ottoman/Turkish history has left a permanent European trace in the style and preferences of Turkish foreign policy. Following this line of reasoning, I underline that there is a limit to Turkey's distancing from the West, in particular at times of regional or systemic crisis that force Turkish policy makers to rethink the ethical and practical dimensions of Turkish foreign policy. The end of the Cold War and September 11 were previous tectonic shifts in the international order that made Turkey re-evaluate its policies in regional and international terms. The Arab Spring is the most recent shift that has had a transformative impact on Turkey, and has led Turkish foreign policy makers to rediscover the West in foreign policy at a time of critical change in its neighbourhood. The next section will discuss the impact of the Arab Spring in regional and international terms, and the relevance of the popular uprisings to Turkey and the EU.

⁸ Radikal (2013), "Davutoğlu: Türkiye Avrupa'nın Bir Parçasıdır" (Davutoğlu: Turkey is part of Europe), 17 February, <http://www.radikal.com.tr/Radikal.aspx?aType=RadikalDetayV3&ArticleID=1121747>.

⁹ Radikal (2010), "AB Dış Politika Ortaklığı Önerdi, Türkiye Şartlarını Masaya Koydu", 12 September, <http://www.radikal.com.tr/Radikal.aspx?aType=RadikalDetayV3&ArticleID=1018433>.

THE IMPACT OF THE ARAB SPRING

The Arab Spring has introduced ideas and agents that have transcended the domestic and international divide in a way unseen in recent history. The Arab Spring is part of a larger transformation, which is not likely to end without a re-orientation of the political landscapes of the countries in the Middle East. It is, in this sense, a serious blow to the status quo in the Middle East, which was already outdated in a changing international environment. The inward-oriented regimes, which were resistant to international influences, have been removed, their places being taken by new variants of outward-looking regimes coming to power on a wave of calls for honour, liberty, freedom and good governance. The Arab Spring also challenged the survival strategies of authoritarian rule through regional and international balance-of-power strategies and the emulation of Asian developmental models. Since a critical mass of countries in the region has moved toward a new thinking of appreciating international norms and values, the region will likely be more welcoming to the imperatives of domestic and regional transformation in the short-to-medium run.

The ideas that brought the Arab youth to the street did not emanate from the ideas of well-known Islamist thinkers but from their genuine search for universal standards of honour, dignity and freedom. This does not mean that these Islamist writers did not have an impact on earlier generations, but they have not been a source of inspiration for the popular uprisings in the Arab world.¹⁰ These new dynamics and value systems are the ideational source of the transformation and likely to persist in the Middle East. The long-lasting stability in the region under the coercive design of authoritarian rulers will be replaced by a new balance in the region, with a renewed pattern of relationships with the outside world.

The international responses to the Arab Spring have also reignited the discussion on the ethical framework of the emerging international system. The so-called rising powers have adopted an isolationist or non-interventionist attitude toward the Arab Spring while trying to preserve their economic interests in the region. Considering the disappointment of the masses with the West as it pursued long-term relations

¹⁰ Kashani-Sabet, Firozeh (2012), "Freedom Springs Eternal", *International Journal of Middle East Studies*, Vol. 44, No. 1, February, p. 157, http://www.history.upenn.edu/faculty/docs/kashani-sabet_freedomspringseternal.pdf.

with the former authoritarian rulers in the Arab Spring countries, the behavior of the rising powers seems to perpetuate this pattern and has thus underlined the crisis of the international system; there seems to be no foreseeable prospect of change in the system with their inputs. In contrast, the Arab Spring is a possible tectonic shift in the international system as it touches upon this very fault-line.

Turkey's approach and rhetoric, in contrast, have differed from other newly rising states, specifically regarding the situation in Syria. China, Russia, India and Brazil, among others, have all expressed a certain level of distance from Turkish policy, if not outright opposition. Their non-interventionist and Western-sceptical attitudes depart from the perspective Turkish policy makers see as a basis for a new international order. As Kardaş argues: "Turkey conducts its Syria policy very much on the liberal principles that underpin the normative bases of the international order. More importantly, this development underscored not only Turkey's similarity to Western values but also its dissimilarity from potential contenders to the global order."¹¹

Coming back to the regional level, the Arab Spring, to a considerable extent, is a Mediterranean issue. The EU is the main stakeholder in the region considering the limited US role with its primary perspective on Israeli security and continuing attempt to save the alliance with Egypt. The EU's treatment of the Mediterranean has not been promising insofar as it continues to prioritize security, political and economic interests, let alone thinking of a geographical and historical continuity with its immediate neighbourhood. The EU should recognize that it has a certain stake in the success of the transformation in the Arab countries. As Scott underlines, the EU's neighbourhood policies mainly target the establishment of a political community.¹² In the end, the EU's treatment of its neighbouring regions has not produced much in the political, economic and security realms. As one may witness from the range of engagements from the Mediterranean Dialogue to the Eastern Partnership, the EU's predetermined perspectives and policies have fallen short of creating a framework of dialogue and cooperation. Hollis questions the absence of

¹¹ Kardaş, Şaban (2012), "Global Swing States and International Order: A Turkish View", *GMF On Turkey Analysis*, 21 December, p. 4, <http://www.gmfus.org/archives/global-swing-states-and-international-order-a-turkish-view>.

¹² Wesley Scott, James (2005), "The EU and 'Wider Europe': Toward an Alternative Geopolitics of Regional Cooperation?", *Geopolitics*, Vol. 10, No. 3 (Autumn), p. 435.

the EU in the Arab Spring despite all these regional engagements and the EU's policies on the Middle East.¹³

The new regional realities in the post-Arab Spring environment have caught Turkish policy makers as unprepared as their European counterparts. However, Turkey's geopolitical mindset was quick to adapt to the changing dynamics and position itself in a central role by contributing to the transformation in this region. As an indicator of its active policy, Davutoğlu has visited Egypt ten times since 2011. Turkey can leverage its own political stability, economic development and soft power diplomacy, and Turkey's popularity among the new political elites and the people is high and on the rise. This is advantageous for Europe, since the "MENA [Middle East and North Africa] region needs a 'native' stakeholder to soften ethnic, religious and sectarian cleavages, especially between Shias and Sunnis."¹⁴ This is a role for Turkey, and it has an additional potential of bridging the emotional and material gap between the EU and the southern neighbourhood which had emerged from Europe's past negligence and mistakes in the region.

TURKEY AND THE EU: TOWARDS PROGRESSIVE GEOPOLITICS

The Arab Spring represents a chance to reclaim Western values in a way that accommodates differences and offers emancipation from oppression in a formerly authoritarian region. Before the Arab Spring, the so-called Asian model of development posed a serious challenge to the liberal European model in these countries. The comparative advantage of the Chinese model was its high rate of development at times of economic crisis in Europe and its success in creating millions of jobs in light of high unemployment rates in Europe. It is within this framework that the rise of the Global South has been interpreted in reference to declining EU and US economic power and, to a lesser extent, weakening political influence.

¹³ Hollis, Rosemary (2012), "No Friend of Democratization: Europe's Role in the Genesis of the 'Arab Spring'", *International Affairs*, Vol. 88, No. 1, January, p. 81-94.

¹⁴ Balcer, Adam (2013), "The EU and Turkey in the Southern Neighbourhood: A New Opening", *Notre Europe - Jacques Delors Institute Policy Papers*, No. 72, February, p. 4, <http://www.eng.notre-europe.eu/011-15083-The-EU-and-Turkey-in-the-Southern-Neighbourhood-a-new-opening.html>.

The popular uprisings have set an opposite trend to the expansion of the Asian developmental model in the wider Middle East, putting the ethical framework of this model on the defence. Perthes argues that “Europe’s interest in the success of these transformations is hardly smaller than it was 20 years ago in Eastern Europe.”¹⁵ There is a historic opportunity for the EU to undertake a role of appreciating and supporting popular demands for universal rights and good governance in a critical neighbourhood. The EU has a chance to regain the moral high ground in international politics through a new response to the uprisings on the Arab street.

The EU’s relations with the Global South are more complicated than the US’s for several reasons, most importantly the different perspectives of the member states regarding the rising powers. These diverse relations challenge multilateralism, to which the EU has committed as a guiding principle in its European Security Strategy. The EU used to have different levels of involvement in multilateral organizations. The challenging task has been to expand this multilateralism through a new framework of relations with the rising powers at a time when it has been losing legitimacy and credibility in a changing international system. The Arab Spring provides the EU with an opportunity for a new start in relations with the Global South. The EU’s active involvement with the new regimes and actors in the Mediterranean and the Middle East would give it new legitimacy and refresh its own confidence in its relations with the Global South. The EU’s multilateralism was designed as a pragmatic strategy to foster its international role despite its lack of great power capabilities. Now that there has been a renewed attention to the EU’s value system in the form of a search for universal rights and good governance in the post-Arab Spring political environment, the EU has a chance to regain parts of its soft power.

The political uprisings are an indigenous development that has occurred without international engagements. The new proud political elites will be highly selective in their early international dealings. To some extent, they may even have a tendency to refuse contributions from abroad. However, they will certainly do better with outside support. The EU, on the one hand, has a portfolio of well-prepared suggestions, ranging from labour laws to minority rights, and resources for providing

¹⁵ Perthes, Volker (2012), “Europe and the Arab Spring”, *Survival*, Vol. 53, No. 6, December-January, p. 83, <http://dx.doi.org/10.1080/00396338.2011.636273>.

incentives for improvements on a wide range of vital areas. Turkey, on the other hand, has already started to contribute to the internal transformation of these states. It is logical that Turkey and the EU should cooperate in order to prevent a delivery gap, which would only delay the required assistance to the new governments in the post-Arab Spring countries.

A promising development is the emergence of a regional political community under the transformative impact of the Arab Spring. The characteristics of this political community are that political rights and freedoms are given priority, and that there is an attempt to reconcile authentic values with universal forms of government and legitimate representation. This mirrors the EU's proclaimed foreign policy agenda of the past two decades in its surrounding regions. The EU's relations with this political community will depend on the EU's commitment to and involvement in its formation. The transformation processes these countries are currently passing through are challenging and the EU has the resources and capabilities to contribute to smoother transitions in its southern neighbourhood. Turkey's new geopolitical orientation offers a strategic asset to the EU as Turkey has extensive reach and access to the new political elites and people in this region. Combined with the EU's connection to civil society, Turkey and the EU would have access to a large audience and ensure that the uprisings result in smooth democratic transitions. Furthermore, Turkey itself is an example for the new administrations which shows that the demands for good governance may lead to better political and economic environments in their countries.

Such EU-Turkey cooperation is not only necessary due to the Arab Spring, but the very same event has also made it more likely. Ankara has discovered the limitations of distancing itself from the West when facing the Arab Spring. Turkey's commitment to the EU will continue since being European is part of Turkey's broader identity. The EU's cooperation and coordination with Turkey would offer a substantial contribution to the regional transformation and secure a formative place for Brussels in the future of this new political community.

CONCLUSION

Both the EU's recognition of the importance of its value system and Turkey's rediscovery of its European component in its foreign policy identity have occurred during a period of radical transformation in the

Mediterranean region. The Arab Spring has resulted in a process of renegotiation over territory, identity and governance which has eventually fostered the idea of a new regional political community, which has prepared the ground for a redefinition of “wider Europe”. This is indeed an opportunity for a long-lasting constructive involvement of the EU in its southern neighbourhood. Hollis argues that what the EU has done so far has not been encouraging for the Arab Spring countries since Brussels has acted against its own values for the sake of political, economic and security interests and invested in the status quo in this geography.¹⁶ This is a correct analysis when examining EU policies and its regional engagement. But was the EU alone in treating this region with a double standard? Obviously not. Although an assessment of past policies do not present a good picture, from a policy oriented perspective, the EU still may play a constructive role with a future oriented vision.

The EU needs to shift to a new geopolitical mindset in order to put an end to its former short-sighted policies in the region. The political earthquake in the Mediterranean has created an opportunity for an enlarged European political community to the east and the south. Brussels should have a future vision for this new political community. Such a community would make sense only if it has clearly determined values combined with a fuzzy territorial understanding. The popular uprisings, the emergence of new leaders and mass political participation are all signs of the emergence of a robust civilian sphere and a new sense of regional solidarity. It is time to combine Islamic philosopher Ibn Khaldun’s *ta’asub*, the collective conscience of solidarity based on universal values and good governance, and the EU’s sense of community to form a wider political community.

The crucial issue is to be aware of the ongoing radical transformation, which will go beyond the current geographic reach of the Arab Spring, and also recognize that the EU is in an advantageous position if it truly wants to build a political community eastwards and southwards. One logical move would be a renegotiation in the EU over Turkey’s role in a new vision for the future of the EU. Turkey’s European identity and policy style will continue to shape its own neighbourhood policy as it is at the centre of a new geopolitical thinking. Ankara sees itself as having an order-instituting role in its changing neighbourhood and is in a pro-

¹⁶ Hollis (2012), “No Friend of Democratization”, cit., p. 94.

cess of recalibrating its policies in this direction. The Turkish and EU models complement each other, and there is no possibility for any other model to compete with these perspectives in the foreseeable future. For anyone who wants the EU to have a greater role in regional and international politics, the critical group whose calculations should change is European policy makers. They should recognize the potential of the emerging political community in the south, value Turkey's new geopolitical mindset, and have a future vision of a Europe that incorporates these assets. The implications of such a global player would be substantial for two premises of the international system: its ethical structure and the nature of multilateralism. Time will tell if policy makers will grasp this opportunity for progressive geopolitics in the Mediterranean and beyond.

16.

Turkey, Syria and the Western Strategic Imperative

Ian O. Lesser

The escalation of the turmoil and violence in Syria, coupled with the tense military confrontation along the Turkish-Syrian border, underscore the marked deterioration of the strategic environment in Turkey's Middle Eastern and Mediterranean neighbourhoods. Of all Syria's neighbours, Turkey may have the biggest stake in the outcome of an increasingly desperate internal struggle. The evolution of the Syrian conflict, and its broader regional consequences, will have important implications for Ankara's regional role, and the future of Turkish-Western relations. The repair of the Turkish-Western strategic relationship is no longer optional, but essential for both sides.

A DANGEROUS BORDER

The precise circumstances behind the downing of a Turkish RF-4E reconnaissance aircraft remain uncertain. That the plane was brought down by Syrian anti-aircraft fire, most likely by gunfire rather than a surface-to-air missile, is clear. The plane may well have strayed over Syrian territory. It may or may not have been struck outside of Syrian airspace. An apologetic statement from Damascus asserts that Syrian forces mistakenly identified the plane as Israeli. Whether or not this is true, it is probably less revealing than the apology itself, which seems aimed at forestalling a Turkish military response. The build-up of ground and air forces operating in close proximity on both sides of the border has heightened the risk of a more serious clash. This includes the potential for escalation after a new incident, even an accidental one. The risks long associated with brinkmanship between Turkish and Greek forces in the Aegean – risks that have receded substantially in recent years – are now back in full force on the Turkish-Syrian front.

Ankara's response to the loss of the aircraft and its crew has been viewed as measured and sensible by most observers. But the Turkish leadership and Turkish public opinion are clearly in no mood to tolerate further military threats from Syria. The strong reinforcements sent to the Syrian border underline Ankara's commitment to deter any further incidents, and to respond as required. In any conventional military clash, Turkey's air and land forces are virtually certain to prevail. But the balance of conventional forces does not tell the whole story. Turkish planners must also be concerned with Syria's significant arsenal of Scud missiles capable of reaching Turkish population centres, including Iskenderun and Adana. In a serious Turkish-Syrian conflict, NATO's nascent missile defence architecture could face a dramatic test.

HIGH STAKES IN SYRIA

But the risk of a large-scale military clash is perhaps the least likely contingency facing Turkey across the Syrian border. Turkey is already dealing with a large influx of refugees from the fighting in Syria. Looking ahead, the most troubling scenario for Turkey may also be the most likely one: protracted chaos and sectarian conflict, leaving a security vacuum across the border, with an ongoing risk of spillovers affecting Turkish security. Under these conditions, Ankara will be most concerned about the potential for the PKK (Kurdistan Workers Party) to re-establish itself and to conduct operations inside Turkey from Syrian bases. This would mirror the circumstances prevailing in the 1990s, when the Assad regime hosted the PKK leader, Abdullah Öcalan in Damascus, and allowed the PKK to operate from Syrian safe havens. Turkey came close to war with Syria in 1998 over precisely this issue, and it remains the most serious flashpoint in Turkish-Syrian relations. To the extent that Ankara deepens its support for armed opposition groups in Syria, Damascus may once again be tempted to play the PKK card. Ankara could well respond by establishing a security zone on Syrian territory along the border. The potential for escalation is all too real.

Turkish stakes in the Syrian crisis go well beyond the risk of conventional and proxy war, and the exposure of Turkish territory to Syrian missile attacks. Even in the absence of direct spillovers, Ankara must be concerned about the consequences of the Syrian conflict for regional balances and the broader geopolitical competition. Over the last decade,

Ankara has developed a stable and at times cooperative relationship with Tehran. This era may be coming to an end. Even before the steep escalation in tension with Syria, Turkish strategists and policymakers had begun to take a more wary attitude toward Iran. Ankara may appear relatively relaxed about Iran in comparison to its NATO allies, but on the question of Iran's nuclear ambitions, there are clear signs of a new, tougher stance. Certainly, Turkey is seeking to hedge against the possible emergence of a new nuclear armed state on its borders, including through participation in NATO's new missile defence architecture (also useful vis-à-vis Syria, of course). An embattled Syrian regime, even more dependent on its alliance with Iran, together with the prospect of growing Iranian influence in Iraq, reinforces the potential for a strategic competition along sectarian lines. For all of the AKP government's affinity for Sunni regimes and political movements, Ankara's essentially conservative, status quo approach to international policy will not benefit from this kind of regional future.

EUROPEAN AND TRANSATLANTIC IMPLICATIONS

Over the last decade, Turkey's regional policy has been driven substantially by commercial interests, and supported by multiple *détentes* with traditionally difficult neighbours. Turkey and the region have benefited from this shift in Ankara's relations with neighbouring states, and the emergence of Turkey as a prominent soft power from the Balkans to the Black Sea, and beyond. Today, the unfinished revolutions across the Middle East and North Africa confront Turkey with a tougher set of challenges, and some potentially uncomfortable strategic choices. This is not an environment that lends itself to unilateral policies. In important respects, it harks back to the Cold War era, in which Ankara relied heavily on its NATO allies for reassurance and deterrence vis-à-vis hard security risks. These risks now emanate from a different quarter. Turkey faces the prospect of a prolonged period of chaos in Syria, a looming geopolitical competition with Iran, and the conundrum of an Egyptian state dominated by the Muslim Brotherhood that may pursue a destabilizing foreign policy and may, ultimately, come to resent Turkish influence in the region. To this one can add an unstable relationship with Israel, and mounting competition over energy resources in the Eastern Mediterranean.

The economic crisis in southern Europe is also part of the equation. At first glance, weakness in Cyprus and Greece might not pose a threat to Turkish interests. But the possibility of expanded Russian influence through concessionary loans and investment, not to mention Moscow's role in supporting the Syrian regime, is likely to complicate Turkish-Russian relations, which remain important to Ankara's energy security. A European Union increasingly inclined to worry about its southern members is all the more likely to hold Turkey at arm's length.

This deterioration of the strategic environment is likely to change the character of Turkish-Western relation in significant ways. Beyond a rhetorical commitment to strategic cooperation, both Turkey and the West have had at least a decade in which close cooperation has been optional. The superstructure of relations – NATO membership and Turkey's EU candidacy – has remained in place, of course. But the last decade has been characterized by a sense of drift and uncertainty regarding the longer-term trajectory of relations between Ankara and the West. Turkey's economic dynamism and European diffidence have encouraged many Turks to focus on other options. The US and Europe have often been frustrated or annoyed at Turkish policy, or simply distracted by other concerns. Turkey's staunch opposition to NATO-EU cooperation, at a time when closer links between these organizations are badly needed, has not endeared Ankara to Alliance partners. So too, Turkish-Israeli frictions have further complicated NATO's already troubled Mediterranean Dialogue.

Today, the highly unstable environment in the Middle East, above all the crisis in Syria, makes Turkish-Western partnership essential for all sides. The US and Europe cannot pursue an effective strategy towards Syria – humanitarian, political or military – in the absence of Turkish cooperation. Turkey, for its part, will require active support from its NATO allies in addressing threats emanating from Syria and, potentially, Iran. Renewed progress in Turkish-EU relations will be essential to continued stability in the Balkans, the Aegean and the Eastern Mediterranean. A truly strategic relationship between Turkey and the West is no longer optional.

17.

Turkish-Israeli Relations in a Changing Strategic Environment

Daniela Huber

RELATIONS DURING THE COLD WAR AND ITS AFTERMATH

Turkish-Israeli relations go back to the time of the Ottoman Empire, when Jewish immigration to the land of Palestine commenced. Historically speaking, the Ottomans provided a 'shelter' for the Jews, but when immigration started to grow, the Ottomans and later also the Young Turks began to perceive this as a dangerous development for the local balance and sought to curtail it. In 1949, Turkey was the first Muslim majority state to recognize the State of Israel, signaling its alignment with the West in the unfolding Cold War. In 1958, as a countermove to the establishment of the United Arab Republic (UAR) between Egypt and Syria, Turkey even embarked on a secret "peripheral alliance" with Israel.¹ This was abandoned, however, in the 1960s when Ankara turned to a more balanced course between the Western and Arab 'worlds' for various reasons related to energy, the economy, and the Cyprus conflict. Turkey became more supportive of the Palestinian cause, albeit in the framework of UN Security Council Resolution 242, which acknowledges the right of every state in the area, including Israel, to live in security.² In 1979, the PLO was allowed to establish an office in Ankara, but – again as part of Turkey's balancing strategy – at the level of chargé d'affaires like its Israeli counterpart. At about the same time as relations with Israel started to become denser again, Turkey recognized the Palestinian state (1988). In 1991, both sides reached ambassadorial level.

¹ Bengio, Ofra (2004), *The Turkish-Israeli Relationship. Changing Ties of Middle Eastern Outsiders*, New York, Palgrave Macmillan.

² Aykan, Mahmut Bali (1993), "The Palestinian Question in Turkish Foreign Policy from the 1950s to the 1990s", *International Journal of Middle East Studies*, Vol. 25, No. 1, February, p. 91-110

In the aftermath of the Cold War and with the commencement of the peace process between Israelis and Palestinians, Turkey felt freed of the constraints of narrow balancing between the two sides. The open intensification of relations with Israel was now socially more acceptable in Turkey, as well as in parts of the Arab world. Thus, the peace process was a necessary condition for the open and significant upgrade of relations in the 1990s,³ even though not a sufficient one. Several factors pushed Turkey to go for deepened relations with Israel. First, Turkey was interested in Israeli military technology which Western actors were unwilling to provide it with in light of the Turkish human rights record. Second, the Turkish-Israeli alliance was directed against Syria (and Iran), which at the time supported the Kurdistan Worker's Party (PKK). And third, Islamism was perceived as an increasing threat in Turkey,⁴ and the alliance was meant to keep Turkey anchored in a Western, secular framework.⁵

RELATIONS SINCE THE AKP GOVERNMENT

By the early 2000s, much had changed. The peace process had broken down and with Israeli-Palestinian violence escalating, cooperation with Israel became more difficult to justify in Turkey, especially to the conservative constituency of the AKP for whom relations with Israel are the single most significant foreign policy issue. The role of the Turkish military in politics started to decline, leading to political rather than securitized approaches to Turkey's interests in the region. The AKP government developed its "zero problems with neighbours" policy, which was based on a very different perception of the region

³ In 1996, Turkey and Israel signed agreements on free trade and military cooperation including military technology, joint military trainings, and the mutual opening of air bases and airspaces

⁴ The military agreement was signed during the Refah-Yol government under strong pressure of the Turkish military which was suspicious of the Refah Party's Islamist agenda.

⁵ Altunsik, Meliha (2000), "The Turkish-Israeli Rapprochement in the Post-Cold War Era", *Middle Eastern Studies*, Vol. 36, No. 2, April, p. 172-191; Oğuzlu, Tarik (2010), "The Changing Dynamics of Turkey-Israel Relations: A Structural Realist Account", *Mediterranean Politics*, Vol. 15, No. 2, March, p. 273-288; Bengio (2004), *The Turkish-Israeli Relationship*, cit.

than Israel's. Turkey came to terms with Syria and Iran, and started viewing American interventionism and the deterioration of the Israeli-Palestinian conflict as the main source of instability in the region.

Israel, in contrast, increasingly focused on Iran as the main danger to its security or even existence. It divided the region into the "radical axis" of Iran, Syria, Hezbollah and Hamas, which it sought to contain, and the "moderate axis" of Egypt, Jordan and Saudi Arabia, with which cooperation was seen as possible. The threat presented by Iran's growing power led to the quasi alignment of Israel and the US with the "moderate axis", making the status quo sufficiently 'comfortable' for Israel not to move forward in the peace process. Thus, foreign policy objectives between Turkey and Israel diverged substantially. But while no longer a privileged partner already under the first years of AKP rule, Israel remained one of Turkey's 'neighbours' with whom to seek 'zero problems'. The AKP also inherited Turkey's role as a regional interlocutor. It acted as a mediator between Israel and Syria, as well as between Israel and Hamas. Turkish troops also participated in UNIFIL after the 2006 Lebanon War.

The caesura in Turkish-Israeli relations came with the Gaza War/Israeli Operation Cast Lead in December 2008/January 2009, as well as the 2010 Gaza Flotilla raid, both perceived in Turkey as improper acts of aggression. With general elections approaching in 2011, the AKP used its outspoken opposition to the Gaza War and the Flotilla incident to steer Turkish public opinion in its favour. Ankara requested an apology from Israel, which chose to express regret instead. In September 2011, after the leaking of the UN Palmer Report,⁶ Ankara downgraded diplomatic relations with Israel, which in turn interpreted this as a move to garner support from the Arab street and to boost Turkey's soft power in the region at Israel's expense. Since the break in relations was perceived as a strategic move by Turkey, an apology was seen as unhelpful in repairing relations. Instead, Israel improved military relations with Greece and cooperated with Cyprus

⁶ The Palmer Report was commissioned by the Secretary-General of the United Nations to settle legal issues and help the two sides reach a compromise. It found that the Israeli Defence Force's use of force against the flotilla was excessive, but that the naval blockade of Gaza is legal. Turkey rejected the latter position and was angered by the leaking of the report to the press, since the parties were supposed to agree together on its publication date.

in exploring gas fields in the Levant basin, giving rise to a worrying new geopolitical dynamic in the Eastern Mediterranean.⁷

THE IMPACT OF THE ARAB SPRING AND EASTERN MEDITERRANEAN GAS ON TURKISH-ISRAELI RELATIONS

The Arab Spring represents the biggest transformation of the Middle East since decolonization and is substantially changing the status quo that emerged in the late 1970s with the Egyptian-Israeli peace treaty and the Iranian revolution. Egypt is departing from the close alignment with the US that characterized the foreign policy of the Mubarak era and is now developing a more independent and balanced foreign policy vision. Egypt and Turkey upgraded their relations immediately in the aftermath of the Arab Spring. While this move was initially perceived in Israel as an alliance against it, Lindenstrauss has pointed out that Turkey can actually have a moderating influence as a “counterweight to possible Iranian influence on Egypt.”⁸ Turkey can also serve as a model for Egypt internally, as well as in foreign policy. Indeed, some of President Morsi’s foreign policy rhetoric is reminiscent of the AKP’s foreign policy vision. Imbued with confidence as elected leaderships, both are assuming more responsibility for their region and advocate regional solutions for crises in the area. They have been displaying similar role identities as regional intermediaries, for example in brokering between Israel and Hamas, while at the same time not questioning their alliances and partnerships with the West.⁹

More important for Turkish-Israeli relations than Egypt’s transformation, however, is the Syrian civil war. It has partially shattered the AKP’s “zero problems with neighbours” approach, which turned a blind eye to the political nature of the regimes with which Ankara cooperated.

⁷ See chapter 6 by Michael Emerson in this book.

⁸ Lindenstrauss, Galia (2011), “The Palmer Report: Significance and Ramifications”, *INSS Insight*, No. 280, September, <http://www.inss.org.il/research.php?cat=398&incat=&read=5469>.

⁹ Hamas on its part – and this is an additional outcome of Syrian crisis and the ascent to power of the Muslim Brotherhood in Egypt – has changed its political priorities. Its leadership has moved from Syria to Qatar in February this year, signalling that Hamas is turning away from Iran, as well.

Shortly after the civil war commenced, Turkey abandoned its friendly posture towards the Assad regime, and tensions increased even more when a Turkish jet was downed by Syria in July 2012. Ankara is facing the influx of tens of thousands of refugees and has advocated the establishment of buffer zones in Syria with US and European backing. Indeed, the Syrian crisis is increasingly spilling over into the whole Levant. In Lebanon, clashes have erupted between Sunni groups and Hezbollah forces, evoking shadows of the destructive civil wars of the past. Israel is watching the Syrian chemical weapons arsenal closely and has threatened a military strike on Syria should the weapons fall into the hands of radical Sunni forces or be transferred by a falling Assad regime to Shiite Hezbollah in Lebanon. Syrian opposition forces have repeatedly also intruded into the demilitarized, UN-controlled border area between Israel and Syria.

Thus, both Israel and Turkey started to have increased interest in cooperating with each other in exchanging military intelligence, specifically also regarding the movement of chemical weapons in the country. Turkey also needed Israeli military technologies, specifically its electronic warfare systems for early-warning planes of the Turkish Air Force.¹⁰ Furthermore, both fear a “Somalization” of Syria and the increasing penetration of the opposition forces by Jihadists. It is, therefore, in the interests of both governments to see a fast downfall of the Assad regime and the emergence of a new moderate government, which would cooperate closely with Turkey.

Thus, the Syrian quagmire is one of the reasons that brought Israel and Turkey to mending fences in March 2013 when Israeli Prime Minister Benjamin Netanyahu finally apologized to Turkey and Turkish Prime Minister Recep Tayyip Erdoğan accepted the apology even though one of his key demands – the lifting of the Gaza blockade – was not fulfilled. But maybe even more importantly, the rapprochement might be the result of new dynamics regarding Israel’s Mediterranean gas revenues. In early 2013 the Zorlu Group, a major Turkish conglomerate which owns a 25 percent stake in the Israeli Dorad Energy company, was lobbying Israel to approve a plan to lay an undersea pipeline from Israel’s port of Haifa

¹⁰ Pfeffer, Anshel (20139, “Israel supplies Turkey with military equipment for first time since Gaza flotilla”, *Haaretz*, 18 February, <http://www.haaretz.com/news/diplomacy-defense/israel-supplies-turkey-with-military-equipment-for-first-time-since-gaza-flotilla-1.504299>.

to Turkey's southern coast which could carry gas from Israel's biggest gas field – the Leviathan field - directly to Turkey.¹¹ This pipeline would not be possible without a Turkish-Israeli rapprochement. Turkey would not only lose an opportunity for its own energy-hungry economy, but also for becoming a major hub in the exportation of Mediterranean gas to Europe. Should Turkish-Israeli energy cooperation indeed materialize, also Turkey's leverage over Cyprus' gas sources would increase: without Israel providing economies of scale, the liquefied natural gas (LNG) option for Cyprus becomes less attractive from an economic point of view than a pipeline to Turkey.¹² Similarly, for Israel energy cooperation with Turkey is not only in its economic, but also in its political interest, since it can help Turkey to diversify its energy sources away from Iran in the long term.

CONCLUSIONS

Two major developments have emerged in the Middle East in the past years which are decisively changing the region's strategic landscape: the Arab uprisings and the discovery of gas revenues in the Eastern Mediterranean. This analysis has shown that both events have driven Turkey and Israel to mending fences. But the apology was also in the US' interest and US President Barack Obama indeed played a key mediating role. The rapprochement anchors Turkey in its Western alliance in a rapidly changing Middle East and helps Israel to escape its regional isolation when the prospects for reviving a genuine Middle East Peace Process appear dim. Furthermore, the rapprochement also comes at a time when the Obama administration is intensifying P5+1 negotiations with Teheran on its nuclear file. In this context, the apology increases Israeli deterrence on Iran: Israel's threat of a military attack on Iran's nuclear facilities becomes more credible, when potential Turkish opposition to such a strike decreases and when Israel might even be able to

¹¹ Trilnick, Itai, and Bar-Eli, Avi (2013), "Turkish company lobbying Israel for gas exports to Turkey", *Haaretz*, 14 February, <http://www.haaretz.com/business/turkish-company-lobbying-israel-for-gas-exports-to-turkey.premium-1.503442>,

¹² Evripidou, Stefanos (2013), "Turkey and Israel change the gas game", *Cyprus Mail*, 25 March, <http://www.cyprus-mail.com/cyprus/turkey-and-israel-change-gas-game/20130325>.

use Turkey's airspace again as it did for its attack on an allegedly nuclear reactor in Syria in 2007. In addition, Turkey could play an important role in preventing such an action. Israel's trust in Turkey is increasing again and while Teheran views Ankara's support of the Syrian opposition as well as its rapprochement with Israel suspiciously, Turkey still has comparatively good offices in Iran and could be an important part of an eventual solution to the conflict.¹³

¹³ See the following chapter by Riccardo Alcaro.

18.

A Tale of Wasted Opportunities: The EU, Turkey and Iran's Nuclear Issue

Riccardo Alcaro

Of the many negative side-effects of Turkey's stalled EU accession process, EU-Turkish non-cooperation on Iran's nuclear issue is amongst the most lamentable. Iran's controversial nuclear ambitions are a source of concern both in Ankara and European capitals, and yet the courses of action chosen by EU and Turkish leaders have been, if not on opposite ends of the spectrum, certainly too far away from one another. Turkey remains unconvinced that the combination of incentives and sanctions adopted by the EU3+3 – the group of EU and world powers negotiating with Iran, represented by EU foreign policy chief Catherine Ashton – will ever bring results. It therefore insists that sanctions, particularly the ones unilaterally adopted by the EU and the US, be dropped. The EU, in turn, maintains that Turkey's diplomacy-only approach is delusional, as Iran should not be permitted to get away with defying successive United Nations Security Council (UNSC) resolutions demanding the halt of sensitive nuclear activities and full cooperation with UN nuclear inspectors.

Critics of Turkey's EU bid probably view such divergence as a further confirmation that the two are too poorly suited a couple for their marriage to be a happy one. They point out that Turkey, as an EU candidate, should be expected to pursue a policy course in keeping with the EU's Iran policy, and not get in the way of it. Supporters of Turkey's accession contend instead that Ankara's *Sonderweg* on Iran is the consequence, not the cause, of its growing estrangement from the EU. Had the EU shown commitment to Turkey's accession, so the argument goes, the latter could have been more forthcoming on Iran.

Supporters of Turkey's EU bid rightly complain about the lack of any serious EU attempt to involve Turkey on Iran. They are nonetheless wrong in implying that Turkey's Iran policy is the by-product of the mismanagement of Ankara's EU accession process. Rather, it originates from the ambition

of Prime Minister Recep Tayyip Erdoğan's ruling Justice and Development party (AKP) to turn their country into a regional pivot, an ambitious policy objectives presupposing good or at least manageable relations with its neighbours. Furthermore, the Erdoğan government's take on the nuclear issue is quite different from the EU's. Whereas the Union sees Iran's nuclear ambitions as a danger to regional security and the non-proliferation regime, Turkey's opinion is that they should be understood against the backdrop of an unstable regional environment in which Iran feels increasingly isolated and threatened by the West and Western-backed countries. Hence, while the EU thinks of coercive measures as an instrument to extract concessions from Iran, Turkey maintains that they only increase Tehran's anxiety and mistrust of the West.

This said, inferring that the gap between the Turkish and EU positions is unbridgeable, as opponents to Turkey's EU accession claim, is however wrong. EU-Turkey non-cooperation on Iran hinges more on poorly thought out policies than on incompatible strategic differences.

In fact, in the past there has been potential scope for the EU and Turkey to coordinate their Iran policies without compromising on their respective redlines. There has never been any need for Turkey to fully embrace the EU-championed 'dual track' approach to contribute to managing the crisis. As the EU and the US have opted for accelerating on the sanctions track in the absence of any progress in their talks with Iran (and in the face of the latter's steady, albeit irregular, nuclear advancements), Turkey's good offices could have been key to preserving the credibility of the diplomacy 'track' of the dual approach. Unfortunately, neither the US nor the EU have ever seemed to realize that they needed a broker the calibre of Turkey to add a friendly voice to the West's imperious calls on Iran to get back to the negotiating table and adopt a constructive approach. Turkey, in turn, could have seized on its mediating role to get the moral high ground and urge the West to offer Iran more rewarding incentives.

That the EU and the US have failed to so involve Turkey, however, is only partly their fault. The blame also rests with Turkey's erratic Iran policy, itself a reflection of the AKP's strategic goal of having, in the words of Foreign Minister Ahmet Davutoğlu, 'zero problems with the neighbours'. While many, including within Turkey, have read such a policy course as a 'shift towards East', its rationale has never been that of repositioning the country outside the Euro-Atlantic framework. It is rather an attempt to provide Turkey with a more flexible foreign policy platform to deal with its troubled neighbourhood. In this regard, Erdoğan's effort to reverse the tra-

ditionally adversarial pattern of Turkey-Iran relations is in keeping with its government's desire to pre-emptively contain the risk that regional tensions spiral out of control.

For a while, the Erdoğan government convincingly pursued this objective. It refrained from chastising the Iranian government's crack-down on the Green Movement following the controversial re-election of Mahmoud Ahmadinejad as president. It presided over a huge expansion of bilateral trade and referred to Iran as Turkey's main energy supply alternative to Russia. Having its roots in political Islam (although of a more moderate version than Iran's), the AKP abandoned any talk about the risk of an Islamist 'regime import' from Iran, thereby signalling a willingness to engage it on an equal footing.

In so doing, the AKP government initially won what the EU had lost after imposing sanctions upon Iran: Iran's trust. Coupled with Erdoğan's credibility in the West, this would have made Turkey a potentially effective mediator between Iran and the West. Lacking any form of coordination with the EU, however, Turkey opted for going its own way. Far from playing a mediating role, it made an attempt at solving the dispute by striking, together with Brazil, a nuclear deal with Iran: the Tehran Declaration of May 2010.

The agreement, as it turned out, was flawed in many respects, and eventually foundered. Meant to be a de-escalating measure, it lacked any significant confidence-building provision. Moreover, the timing could not have been worse, as the EU3+3 were in the process of finalizing talks on new UN sanctions and were in no mood to ease pressure on Iran – actually, they credibly maintained that the deal was nothing else than a desperate attempt by Iran to derail the sanctions train. The main weakness of the Tehran Declaration lay however in the fact that it excluded the EU3+3 from the picture. Thus, its only effect was that of driving a wedge between the West and Turkey, which felt compelled to vote against the new round of UNSC sanctions, while an abstention would have been a fairly acceptable compromise for both Turkey and the EU3+3 under different circumstances.

The disagreement on Iran has added to several difficulties the EU and the US have been recently experiencing with Turkey, ranging from the unsolved Cyprus issue to the severe deterioration in Turkish-Israeli relations after Israel's Operation Cast Lead in the Gaza Strip and the Freedom Flottilla incident. In an attempt at mending fences, Turkey eventually agreed to host on its soil a radar tracking system which is part of a US-built and NATO-operated missile defence infrastructure. The problem is that

such a system is ostensibly designed to protect the Alliance from potential ballistic threats from Iran. While Turkey obtained an exclusion of any mention of Iran in NATO's official documents, its decision nonetheless undermined its credentials as a balanced interlocutor in Tehran. Erdoğan's support for Syrian rebels fighting the regime of President Bashar al-Assad, a long-time ally of Iran, has further eroded the Iranians' trust in him.

The EU's failure to coordinate with Turkey on Iran's nuclear file is unfortunate, not least because Turkey is an EU candidate with significant stakes in the issue. Turkey's attempt at carving out a crisis management role independent from the EU3+3 could have been prevented had the EU coordinated its strategy with Turkey. But Turkey's Iran policy has equally been a blunder, eventually resulting in a weakening of Ankara's credibility both in the West and Tehran.

It is far from certain that Turkey's mediation would have steered EU3+3-Iran talks on the path towards resolution of the nuclear dispute, but it would have nonetheless helped in several respects: Turkey would have gained credit by both sides while emptying of substance any talks of its supposed 'shift towards East'; any alternative to the EU3+3 as the framework for negotiating a settlement would have been eliminated; and the EU and Turkey would have proved that their bilateral cooperation is not hostage to the accession process.

Now Turkish officials insist that their country can still play the role of 'facilitator'. They point out that Istanbul is one of the venues where Iran has agreed to meet the EU3+3 representatives, and that Erdoğan still has the ear of Iranian leaders and the trust of US President Barack Obama. While it might be regarded as a watered-down version of a mediator, a facilitator might still be useful. Turkey could still, for instance, guarantee and host an eventual shipment abroad of Iran's enriched uranium. The fact remains, however, that EU-Turkey (non)cooperation on Iran, measured against its unexploited potential, is a tale of wasted opportunities.

Transforming Turkey-EU Relations: Ground for Hope

E. Fuat Keyman and Senem Aydın-Düzgit

The overarching theme of the Global Turkey in Europe project of the Istituto Affari Internazionali (IAI), the Istanbul Policy Center (IPC), and the Mercator Stiftung has been that the EU is changing, Turkey too, and that - above all - there is systemic change and crisis all round, ranging from economics, the spread of democratic norms and foreign policy. The research produced and the conferences conducted in the framework of this project explored how the EU and Turkey can enhance their cooperation in the political, economic, and foreign policy domains and how they can find a way out of the stalemate EU-Turkey relations have reached with the lack of progress in accession negotiations and the increasing uncertainty over both the future of the European project after the Eurozone crisis and Turkey's role in it. Enlargement is no longer on the EU's list of priorities and Turkey is currently suffering from Euroscepticism, stemming from a disproportionate degree of self-confidence based on its foreign policy activism and economic growth.

The debate which this project has triggered is necessary since the current state of affairs is no longer sustainable. Turkey has been waiting for sixty years to become a full member of the EU. There is no comparable case in the EU's history. It has been repeatedly stated over the decades that Turkey is closely bound to the EU. These strong links were emphasized in the 1990s when Turkey experienced severe political and economic instability and it is highlighted again today when it is an economically dynamic country in a multipolar global configuration. However, Turkey is not considered adequate for full EU membership either when it is strong or when it is weak. While underlining the need to foster strong ties with Turkey, the EU seems unable to make a clear commitment regarding full membership based on a long term vision. This is no longer an acceptable situation.

This research paper has shed light on the many dimensions which are crucial to renew Turkey-EU relations and to enable both actors to respond more effectively to global challenges, to strengthen the EU's

profile as a global player and to deepen the currently stagnating process of democratic consolidation in Turkey. We conclude this volume with a reflection on the main themes addressed, focusing on the potential future shape of the EU as well as the different models of full membership that could lead to more flexible arrangements that would still strongly anchor Turkey to the EU.

3 OCTOBER 2005: THE FIRST DAY OF THE CRISIS

The negotiation process with the EU began on 3 October 2005. However, on that very day the negotiation process started stalling. The day when negotiations were scheduled to start was not a day of celebration but one of crisis. The negotiations could not begin as scheduled due to the reservations expressed by Austria on that day. Negotiations could only begin after a temporary management of the crisis. By the time the crisis was settled, it was well into the 4 October, although the clocks were symbolically turned back a few hours so that negotiations would begin as scheduled. This extraordinary situation was a somber sign that Turkey-EU relations would move towards crisis in the period ahead. The EU has pursued actions geared towards hindering Turkey's full accession to the EU.

A SERIES OF EU OBSTACLES ALONG TURKEY'S PATH TO EUROPE

Four substantial and unacceptable steps were taken to block Turkey's progress towards EU accession. First, was the debate on the "absorption capacity" of the EU, launched by France to prevent Turkey's full accession. While the debate acknowledged Turkey as an important country that could potentially make serious contributions to the EU, it also stressed that it was too big to be politically, economically and culturally absorbed by the EU. Turkey was characterized as a country too big to be absorbed. The political and institutional structure of the EU, its economic strength and resources, and its cultural identity would be harmed by Turkey's full membership. This debate which seemed to be theoretical on surface was in fact a highly political move to prevent

Turkey's full membership. The debate on the EU's inability to absorb Turkey continued to be used for a certain period despite all the research and studies that argued the contrary.¹

The second step was the concept of "privileged partnership" put forward by France and Germany. Turkey would be closely tied to the EU, especially in the area of security, but would not be a full member. This in turn implied that it could not participate in EU institutions and would continue facing visa restrictions. But it would be required to follow EU norms. This attempt was of an exclusionary nature on the brink of racism. It was not only unacceptable, but it also accelerated and deepened the process that would almost suspend Turkey-EU accession negotiations. While Turkey rejected this proposal, the support for the EU within Turkey began to fall rapidly. Nonetheless, both the concepts of "absorption capacity" and "privileged partnership" went beyond public and political debate, being officially inserted into the Negotiating Framework document with Turkey. These notions were absent from Croatia's Negotiating Framework document, which was drafted on the same day and contained the same language with these exceptions standing.²

The third step concerned the vetoes placed by France and Cyprus on Turkey's negotiation chapters. Negotiations reached a *de facto* state of suspension due to these vetoes.

The fourth step is related to the Cyprus conflict in which North Cyprus voted "yes" and South Cyprus voted "no" in the referendum to unite the island through the Annan Plan in 2004. Even though the South of the island expressed its stance against the resolution of the conflict, it gained full membership to the EU representing the whole island. This was an unacceptable development and created a very severe trust problem in the Justice and Development Party (AKP) government's perception of the EU. The Cyprus problem led the AKP and Prime Minister Tayyip Erdoğan to view the EU as an "untrustworthy partner".

¹ For a comprehensive treatment of the concept of "absorption capacity" and the debates that surround it, see Emerson, Michael, et al. (2006), "Just What is This 'Absorption Capacity' of the European Union?", *CEPS Policy Brief*, No. 113, September, <http://www.ceps.be/node/1219>.

² For the debates on the "privileged partnership" proposition and how it figures in the Negotiating Framework for Turkey, see Aydın-Düzgüt, Senem (2006), *Seeking Kant in the EU's Relations with Turkey*, Istanbul, TESEV, <http://www.tesev.org.tr/en/publication/seeking-kant-in-the-eus-relations-with-turkey>.

In addition to these four negative developments, EU leaders such as former French President Nicholas Sarkozy who opposed Turkey's full membership for populist and short-term domestic interests also severely damaged Turkey-EU relations.

The EU followed a flawed, populist and identity-based policy towards Turkey as a result of which it came today to the brink of losing Turkey.

REACTIONARY AND DELUSIONAL EUROSCEPTICISM IN TURKEY

The EU dimension is only one side of the coin. The other side concerns Turkey's mistaken policies and approach. After accession negotiations started, Turkey followed a policy line and discourse which favoured the suspension of relations rather than their improvement. In reference to the negative and discriminatory approach of the EU explained above, it declared that Turkey-EU relations had come to a standstill. In response Turkey started acting like an "axis-free nation-state" that tries to engage with different parts of the world on the grounds of a multi-vector foreign policy.

Hereby it is necessary to underline two key problems in the Turkish context. The first concerns the attitudes of political parties. Since 2005, the AKP has not displayed a political and vision-based commitment to EU membership, but has adopted instead a more instrumentalist and functional EU discourse. It did not seem to be too concerned with the stalemate in the accession process. The AKP government frequently declared that cooperation with other regions could be an alternative to the EU, that the Ankara criteria could replace the Copenhagen criteria, and that Turkey achieved its status as a regional and global actor without EU membership.

Similar to the AKP, other political parties also failed to show the necessary commitment to full EU membership. The Nationalist Action Party (MHP) continued with its line of Euroscepticism. The pro-Kurdish Peace and Democracy Party (BDP) also, albeit later tensed its relations with the EU due to the Kurdish issue. The EU's criticisms of terror and violence as well as its criticism of the ethnic nationalist tone of Kurdish actors when advocating a democratic solution to the Kurdish question opened a difficult phase in EU-BDP relations. The BDP started to criticize the EU and display a more sceptical attitude. Even though the main

opposition party, the Republican People's Party (CHP) under the leadership of Kemal Kılıçdaroğlu recently started using an EU discourse, it has not shown sufficient commitment to full membership. Just like the AKP, the CHP and the BDP have followed an instrumentalist and functional approach towards the EU. They have not sufficiently criticized the AKP for the stalemate in Turkey-EU relations, nor have they complained much about the current situation.

The second major problem is the persistence of Euroscepticism amongst the Turkish public. While a nationalist and reactionary Euroscepticism existed until 2005, this has been replaced largely by a type of Euroscepticism that belittles the EU's importance and exaggerates the global power of Turkey and the AKP. This can be defined as "delusional Euroscepticism", which exaggerates Turkey's economic and foreign policy power and dismisses its democratic and human development deficiencies, while downplaying the power and effectiveness of the EU and its member states.

Until 2005, Euroscepticism in Turkey entailed a reactionary nationalism and underlined issues such as state sovereignty and partition: EU membership would harm Turkey's state sovereignty and ultimately trigger partition. Alongside this, today a reverse type of Euroscepticism is voiced: one stemming from self-confidence to the point of arrogance, which looks down on the EU, states that Turkey's economy is strong and does not need the EU anchor, whereas the EU needs Turkey, and which believes that Turkey is a regional and global power.

The Euroscepticism established along the "strong EU-weak Turkey" axis in 2005-2010 has shifted today towards the "weak EU-strong Turkey" axis. Both types of Euroscepticism entail an ideological, reactionary or delusional approach devoid of knowledge of the EU. They misread Turkey and the EU as well as regional and global developments. It also demonstrates a viewpoint that is at best not beneficial, and at worst harmful for Turkey's future governance.

THE NEED FOR A TRANSFORMATIVE APPROACH

There has recently been a strengthening of views and voices both within Turkey and the EU that express their concerns with the stalemate in Turkey-EU relations and the dominance of sceptic attitudes in the political and public debates on both sides. The need to revitalize EU-Turkey

relations is appreciated not only for the benefit of Turkey and Europe, but also for the stability and peace of the globalizing world. This view argues that accession negotiations should resume by the lifting of vetoes and that Turkey-EU relations should be transformed so as to respond to global challenges. This transformative approach to Turkey-EU relations forcefully counters Euroscepticism, while calling for a revitalized public debate on the question.

These voices argue that joint Turkey-EU actions and the contributions that Turkey and the EU could make to one another on a wide scale ranging from economics to politics, culture and foreign policy are very significant not only for the two sides, but also for regional and global peace and stability. They underline that the EU anchor, the Copenhagen criteria, the EU single market, and the EU axis in foreign policy have made and will continue to make important contributions to Turkey. They also stress that Turkey's economic dynamism, its foreign policy, its entrepreneurial culture, its democracy/secularism and its experience of good governance could make an important contribution to the EU. They highlight that against Turkey-scepticism in the EU and Euroscepticism in Turkey, Turkey-EU relations need to be reinvigorated on the grounds of mutual benefits, joint actions and contributions to regional and global peace and stability.

WHAT KIND OF EU MEMBERSHIP FOR TURKEY ?

At this point of the debate, an academic discussion that has not yet permeated politics emerges. Full accession to the EU is important and beneficial. Yet what type of full membership is envisaged for Turkey?

This question calls for a reconceptualization of Turkey-EU relations from the perspective of mutual benefits in a globalized world, where more flexible modes of membership are not excluded. The Eurozone crisis has spawned new questions over the institutional future of the EU with the possibility of closer political integration entailed in a fiscal and monetary union. The fact that the federalist logic inherent in this approach may not be acceptable to some member states such as Sweden, the Czech Republic, and most notably the United Kingdom, can pave the way for alternative models of integration, which could have strong ramifications for the EU's relations with Turkey.

These developments and debates in the EU overlap with Turkey's own concerns with respect to joining the EU. Turkey's economic dynamism

stems from the diversification of its trade relations at the global level and its participation in the governing structures of global institutions. A global Turkey enjoys economic relations with every part of the world. This is why Turkey wishes to be a full member of the EU but has not expressed an interest in membership of the Eurozone and the Schengen area. Hence, a membership in which Turkey fully joins in the EU's political and security institutions and the EU's single market while it remains outside the Eurozone and the Schengen area seems to constitute the ideal type of membership for Turkey. This is a flexible mode of full membership that is different from that of the core EU member states.

A flexible and differentiated full membership model that is similar to the experiences of Sweden and Poland is more suitable for Turkey. Flexible institutional arrangements should go together with a strong political commitment from both sides. Although the British model is sometimes underlined as the prime example for Turkey, the analogy may carry certain risks for Turkey's future membership of the EU. This is mainly due to two reasons. One relates to the former point we made earlier regarding the need for Turkey to refrain from a fully instrumentalist outlook in its relations with the EU. It is of utmost importance for the sake of Turkish democracy and modernity that Turkey is fully embedded in EU norms and values through membership. The current debates in Britain on the EU suggest weak and purely instrumental links, which would not be a useful precedent for Turkey. The second reason is the fact that Britain may leave the EU altogether, which would then leave Turkey alone in its search for an alternative model of membership. Thus we believe that the Swedish or the Polish cases, where a strong commitment to Europe goes hand in hand with more flexible institutional arrangements should be further discussed as a potential model for Turkey's membership. This would also move the debate away from a "privileged partnership", where Turkey would be only loosely associated with the EU without strong political commitments from both sides.

We should thus discuss and work on what type of full membership for Turkey would be both possible and desirable in the years ahead. Turkey should be actively engaged in the debates over various possible models of integration and the EU should ensure that any future cooperation model with Turkey besides full membership would treat the country as an equal partner enjoying more than a mere "privileged partnership". However, before doing that, we first need to revitalize Turkey-EU relations in 2013. The EU bears an important responsibility

in this respect. France is expected to soften its categorical opposition to Turkey's accession under the Presidency of François Hollande, who has announced the lifting of one negotiation chapter. This would not only represent a breath of fresh air in the negotiation process, but would also help reinvigorate French-Turkish relations that have turned largely acrimonious under President Sarkozy. Positive developments may also be expected on the horizon for the Cyprus issue with the election of to the Cypriot presidency of Nicos Anastasiades, who has in the past been a supporter of the Annan Plan. Short-term institutional measures are also expected to generate some dynamism in relations, such as the "positive agenda" introduced by the European Commission in May 2012, which involves enhanced cooperation between Turkey and the EU on political reform, economics, foreign policy and visa facilitation. On the Turkish side, both Prime Minister Erdoğan and Foreign Minister Davutoğlu have expressed their will to revitalize relations in 2013. We can only hope that they will stand by their words and take the necessary steps after a long period of inaction.

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