

Boosting Negotiations with Turkey: What Can France Do?

Ahmet Insel

November 2012

POLICY BRIEF 04



Stiftung
Mercator



IPC

ISTANBUL POLICY CENTER
SABANCI UNIVERSITY
STIFTUNG MERCATOR INITIATIVE

Boosting Negotiations with Turkey: What Can France Do?

Ahmet Insel*

Executive Summary

The Turkish accession process is deeply stalled not least since one of the EU's key member states - France - has opposed it tout court as the result of a highly politicized debate kicked off by Valérie Giscard d'Estaing during his Presidency of the Convention on the Future of Europe. Being used for electoral mobilization, the question gradually grew independent of its initiators and established itself as a lasting issue in French politics. By 2007, the newly elected President Nicolas Sarkozy stalled Turkish accession process by unilaterally blocking five negotiation chapters. With Eurozone crisis on the one hand and the recent economic successes of Turkey on the other, the accession question has lost a great deal of gravitas in Turkey too. François Hollande and the new French government could seize the window of opportunity opened by the presidential and legislative elections to redynamize accession negotiations with Turkey, and do away with the image of France in Turkey as the anti-Turkish shield of Europe.

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 the summary table below).

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

* Ahmet Insel is Professor of Economics at Galatasaray University in Istanbul

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 coalition 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 it 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 parliamentary 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 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

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

2 Idem, p. 5.

3 Idem, p. 7.

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 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 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.

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

5 See the Policy Brief by Kemal Derviş in this series.

• Table 1 | Summarizing negotiation chapters with Turkey as at 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 phyto-sanitary 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.