

The Positive Agenda and Beyond: A New Beginning for the EU-Turkey Relations?

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ABSTRACT

What do Turkey's democratic transformation, its future EU membership and its growing position in the Middle East signify for a Europe which is experiencing severe difficulties in its relations with Islam? Answers to these questions will determine the EU's future policy towards Turkey both as a candidate for membership and as a full partner of the EU and its Member States. Only after such a soul searching can a new era of genuine partnership start between Turkey and its future European partners. Recently the European Commission, in consultation with Turkish authorities, the European Council, as well as members of Turkish civil society, has launched a brand new initiative called the Positive Agenda. The objective is to revive the stalled relationship between the EU and Turkey by rebuilding confidence and normalizing the process. If successful the Positive Agenda could let the EU revisit its basic principles that have made recent enlargement rounds beneficial to the stability in Eastern Europe. To that end it may consider proposing to Turkey a clear date for accession without which no initiative could be conclusive and sustainable.

It is no exaggeration to say that European Union (EU)-Turkey relations are going through one of its darkest times. Membership negotiations and political cooperation alike are stuck and neither side seems willing to unblock them. EU politicians are more than pleased with a Turkey that is sailing away and the Government of Turkey is proudly and pretentiously becoming a self-declared regional power with no need of EU norms.

In a European continent entangled in an existential crisis, there are fewer and fewer decision makers interested in the enlargement policy and in its key participant, Turkey. Nowadays Turkey's prospective membership has become such a remote possibility that even former French president Nicolas Sarkozy, who used and abused Turkey's future membership in every election, hardly made a reference to it during the recent presidential campaign. For better or worse,

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in Europe, Turkey's membership is no more a "headache".

As for Turkey, EU affairs have lost their past lure, failing even to be seen as news in media. It is within this

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gloomy environment that the European Commission has launched the Positive Agenda initiative. Even though it is not proper to compare the initiative to the significant role played by the EU in Turkey's agenda between 2002 and 2005, it might become a tool that restores the mutual confidence and help maintain the momentum for cooperation, if properly and duly managed by both parties.

So why and how has the Positive Agenda been developed and what does it imply? There are several reasons behind the initiative.

Despite the lonely efforts of Turkey's EU Ministry, neither the negotiation process, nor the so-called political dialogue between the EU and Turkey on a variety of issues from Syria or Eastern Balkans to NATO-EU cooperation, is proceeding. The primary reason for this state of affairs is the lack of a clear European perspective for Turkey. It is not enough to say that "harmonization with the EU is in Turkey's interest." It is not likely that Turkey will pay attention to EU harmonization if the country is sys-

tematically ostracized, as was the case during Sarkozy's presidency. Such disincentives work against harmonization which is already hard to achieve and costly. Not to mention the government's

lack of enthusiasm towards a cumbersome legislative and practical framework that is not necessarily compatible with its short-term agenda designed for unchecked and free-riding economic growth as well as far-reaching social engineering. Besides, the fact that the Republic of Cyprus assumes the six-monthly term presidency on July 1, 2012 has added a new dimension to the already cooled relations between the EU and Turkey.

The European Commission is the natural ally of candidate countries; the success of a candidate means the success of the Commission. The troubles Turkey has encountered throughout the negotiation process have not necessarily pleased the Commission. Stefan Füle, the Commissioner for Enlargement and Neighborhood Policy, has therefore taken action to get things moving. In addition to his staff and the Commission's official counterparts in Turkey, he has engaged with independent intellectuals in an attempt to find out what else could be done to fix the current situation and to rebuild confidence.

The Positive Agenda first appeared in last year's Strategy Paper, which was released at the same time as the Progress Report. Then, once the substance of the agenda started to take shape,

the Enlargement Directorate General cleared it with the European Council, and finally on May 17, 2012 it was officially launched in Ankara.

An Original Practice

The Positive Agenda is so far an unheard of practice in terms of enlargement policy techniques. In it, Turkish bureaucrats will work with Eurocrats within eight working groups. In addition to the working groups, special dossiers will be tackled, such as visa regime, political reforms, anti-terror cooperation, energy, and the prospect of Turkish bureaucrats getting training in the Commission in Brussels. The Commissioner for Enlargement summarized the principles as follows: “We shall not teach you anything; we shall be equal partners around the table; we shall raise all crucial aspects of our relationship; the process will be interactive and civil society will be part of it.”

Meetings will be held in Ankara and Brussels, EU Member States will be informed about the progress, and in case the opening criteria for negotiating the chapters are met, the Commission will inform the Turkish party in writing. An important detail will be that the process won't be interrupted during the Republic of Cyprus' presidency. Working groups will focus on eight chapters, and while these are no substitutes for negotiations *per se* but aim rather to facilitate

the process through the Commission's direct involvement.

The selected chapters will include the “Right of Establishment and Freedom to Provide Services”, which has been blocked since 2006, and the following five chapters: “Company Law”, “Information Society and Media”, “Statistics”, “Consumer and Health Protection” and “Financial Control”. These are not key chapters, and with the exception of the chapter on health protection, rapid progress can be achieved on these issues. In addition, there are another two crucial chapters included in the Positive Agenda process, the “Judiciary and Fundamental Rights” and

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“Justice, Freedom and Security”. Cyprus unilaterally threatened to veto negotiations on these two chapters in December 2009. This second chapter also includes visa facilitation which is one of the top dossiers of the Positive Agenda. All together, this is not an approach we have seen since the beginning of the accession process in Helsinki in 1999.

The Crucial Visa Issue

Let's examine the visa issue further. In November 2011, in the presence of



European Union Enlargement Commissioner Fuele shakes hands with Turkey's EU Minister Bagis during their meeting in Ankara.

the visiting German Chancellor Angela Merkel, Prime Minister Erdoğan complained that the “Passports of our businessmen look like a book”, referring to the countless Schengen visa stickers which fill their passports. The visa issue is as political as it is legal one.

EU countries began to require visas from citizens of Turkey due to the asylum pressure following the September 12, 1980 military coup in Turkey. Greece had started visa requirements earlier, after Turkish citizens of Greek origin were expelled from Istanbul in 1964. Today, the visa requirements continue to affect the lives of millions of Turks, who increasingly view it as an undue burden. Turkish businessmen are

subject to unfair competition in the EU market, despite the fact that Turkey has been a part of that common economic area since January 1996 following the customs union. Paralleling their plight are students, researchers and the relatives of the five million EU citizens of Turkish descents living in Europe who are being tormented in visa application lines.

Complicating the issue is the EU's rather liberal visa policy vis-à-vis other countries, which increases the ire of many Turks and feeds into perceptions of double standards. In the course of the last five years, the EU has lifted visa requirements for other candidate countries before accession. Even Russia and

Ukraine, which are not in the membership process, are benefitting from a “no visa” regime. Today, the EU denies Turkey visa facilitation, although it has recently fulfilled the required technical and legal steps. At the first EU Interior and Justice Council meeting on the subject held on February 24, 2011 in Brussels, the Austrian, Bulgarian, Danish, Dutch, French, German and Romanian ministers refused to give the European Commission the necessary mandate to negotiate visa facilitation and waivers with Turkey.

This state of affairs has not changed, although recently the Interior and Justice Council finally granted the Commission the mandate to negotiate the visa issue with Turkish authorities. With court cases piling up against EU Member States’ visa practice regarding Turkish nationals, there exists less and less legal ground for them to continue a tight visa regime.

In fact Europeans seem simply to be saying “don’t get too closer to me” by using visa obstacle toward the “other”. However that “other” is not an alien living in a different planet. On the contrary, he or she is a Turk, or a Pakistani or a Maghrebian who is supposed to represent a threat to the European citizen by getting close to him or her. The fear of “other” is an existentialist angst, a pathological situation concretized through the visa requirement.

This being said there appear to be differences of views among the top decision makers in Ankara regarding the steps to be taken regarding the easing

of visa requirements. The radical position, which operates under the false impression created by some academics, is adamant for a total visa waiver immediately, while the reasonable stance argues for a gradual waiver through facilitation by reducing the stamp costs and by granting long-term entry for some selected groups such as businessmen, students and researchers involved in joint EU projects. Taking into account the “fear of the Turk”, and adding to it the present financial if not existential chaos in the west of the continent, and considering the sizeable number of visa-free passports owned by Turkish nationals, it is obvious that the latter position is more feasible than the former.¹ The Commission will now negotiate with the objective of a total waiver at the end. However, it will most probably proceed by small steps and start with facilitation. The Member States on the other hand will throughout the process keep the upper hand for any decision through majority voting.

At the end, if it leads to a successful outcome, visa facilitation would improve the present morose atmosphere in EU-Turkey relations and could lead the way for the Positive Agenda to take hold. But more is needed for a complete overhaul.

Turkey’s Candidacy and the Future of the Enlargement Policy Reevaluated

In Europe, the Laeken spirit was the climax of a political project based on

solidarity and partnership in the European continent and beyond. It was a response to the emerging situation in the continent after the end of the Cold War in 1989. The Europeans crowned this project—which in a way signaled a continental rebirth—by launching works on a European Constitution in Laeken near Brussels in late 2001. We know the rest. Since then, the “Project Europe” based on federalist principles and constitutional citizenship has begun to fade in spirit. Because of petty national calculations, out-dated hostilities, politicians with no foresight and their attitude to underesti-

took over and Turkey is being perceived as a burden on a Europe’s back that has lost the Laeken spirit for good. European policy makers started to consider the Turkey dossier as a “crisis management” case.

The slowly eroding Laeken spirit has affected the integration process as well. With the rejection of the Constitutional Treaty, the dream of federal Europe was postponed to some vague future. Incidentally, Turkey, fully participating in the preparatory work as well as the signing ceremony of the since rejected Constitutional Treaty in October 2004

in Rome, was not invited to the signing ceremony of its avatar, the Lisbon Treaty, in December 2007.

So EU-Turkey relations have fallen victim to a new enlargement policy approach adopted by Member States.

The EU’s extremely prudent

and timid approach has caused a major shift in the very meaning of Turkey’s membership prospects, which are now tainted with massive uncertainty. Consequently, since December 17, 2004, when the decision to go into the negotiation phase was taken, the membership process has been losing momentum. As a result the credibility of the EU’s Turkey policy as well as the ruling Justice and Development Party’s (AKP) EU policy have been concurrently getting hurt.

Let’s begin with the EU’s lack of credibility. It is due to the dysfunctioning of the conditionality principle and

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mate successful EU policies which cast shadow over their poor performances, the wind turned to the opposite direction.

Enlargement, as one of the critical policies of the new EU, is widely affected by the new situation. Incapable of appreciating the successes of enlargement, Europeans have started delaying and whining. They have taken position against such past or future enlargement candidates as Bulgarians, Czechs, Poles, or Turks, without discrimination.

Turkey’s membership bid has suffered from the vanishing of the Laeken spirit, the so-called enlargement fatigue

the EU authorities' strategy to soothe every actual bilateral dispute that had erupted since late 2004.

The EU's conditionality principle means that a "the stick and the carrot" approach is used, and during the last enlargement round,

the EU owed the stability in Central and Eastern Europe to this principle. Candidates were asked to follow the Copenhagen Criteria and meet membership obligations in order to be EU members, which they did. At the end, they joined the Union. Thanks to the enlargement policy, the EU protected itself and the former communist countries, with the exception of Yugoslavia, from wars similar to the ones that took place in Yugoslavia precisely, by bringing stability to these countries and to the continent.

For instance, one would want to imagine what kind of an adventure Hungary might have been dragged into, if it, a country exclusively bordered with Hungarian minorities all around since the Trianon Treaty of 1920, had not had an EU perspective. Curbing potential conflicts similar to those in former Yugoslavia and bringing long lasting stability in the east of Europe has been achieved through the conditionality principle.

Turkey's open-ended accession talks, which has no final membership guarantee, and French hostility has emptied the substance of the conditionality principle and consequently condemned the process to a slow death. Alas the desire of some EU countries to keep Turkey

at bay and to refrain from giving any clear perspective regarding accession

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was in sharp contrast with simultaneous demands from Turkey to fulfill its membership requirements. Eventually, the EU appeared to take the form of a "stick without the accompanying carrot", in other words the failure of the conditionality principle.

Within this framework six major factors could be detected in connection with the loss of interest by Turkey in the process:

- The ruling AKP's grassroots felt ostracized when the European Court of Human Rights (although not an EU institution) failed to oppose the headscarf ban at universities, a requirement inherited from old secularist elites (*Leyla Şahin vs Turkey* case);
- Disappointment felt at the EU's failure to adopt a balanced Cyprus policy to honor its moral obligations to those in the north of the island who accepted the Annan Plan for a settlement and to avoid abusing the Cyprus stalemate to block Turkey's membership;²
- Groundbreaking political reforms in the direction of citizens of Kurdish extraction have not stopped violent actions by radical the Kurds (mostly in the PKK). As a result, the reforms

are, although mistakenly, seen by the establishment as the main reason behind the resurgence of violent activities;

- Within this framework it now appears from the Ergenekon crime gang trial that in early 2004 the military top brass with the exception of the Chief of General Staff Özkök requested the Prime Minister to slow the EU reform process;
- Negative statements by the governments of some Member States such as France and Austria, as well as by politicians from Germany, the Netherlands, and Denmark have acted as disincentives;
- The government had wanted to transform the success of December 17, 2004, when the decision to start membership negotiations was taken, into votes in the next general elections of 2007, without pushing further the reform process.

Thus since December 2004 there has been a steady erosion of support for the EU, and the government has hesi-

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tated restarting its EU-inspired reform agenda. This is where we are today and every attempt to counter this state of af-

fairs should take this fundamental constraint into account.

Next Steps

It is obvious that EU decision makers who value integration between Turkey and the EU are not pleased with the current state of affairs. The same applies to large social groups in Turkey who are looking for solutions to chronic problems, for the appropriate management of newly emerging ones, and the consolidation of democratic fundamentals. They are fully aware of the instrumental value of EU norms, standards and principles regarding Turkey's transformation process. Thus, the common goal is to avoid the further weakening of relations.

If a new dynamic could be achieved through the Positive Agenda, the next step should be bilateral consultation to come up with a reasonable accession date which would revive the spirit of the conditionality principle. I have personally long advocated for the centenary of the creation of the Republic of Turkey,

2023, as a possible accession date, as it is a realistic, feasible and symbolic target for a sizeable country like Turkey to be ready for membership. It is also a sufficiently remote target for a Europe in an existentialist self-questioning mood to re-evaluate

its future relations with Islam and its immediate neighborhood and "digest" Turkey. The aftermath of the elections

in the Republic of Cyprus and Germany in 2013 could be the right moment for such consultations to come up with an accession date.

This being said, there exists a structural problem behind Western European politicians' conception of Turkey. Their policy towards Turkey is unable to go beyond the orientalist approach and to consider Turkey a partner. Take for instance the newly elected president of France. Before the election, François Hollande gave rather neutral answers to questions on Turkey's EU membership by the weekly *Nouvel Observateur*. French Socialists are not opposed to Turkey's EU membership. Sarkozy's veto decision in 2007 to block the opening of five negotiation chapters that pertain to full membership could now be reversed. But this is the normal thing to do; what Sarkozy did was abnormal. However, the Socialists need to go beyond this neutral stance and create the mental and physical infrastructure for partnership with Turkey. This is true for all other Western European politicians.

To achieve this they should be capable of answering these crucial questions: What do Turkey's democratic transformation, its EU membership and

its growing role in the Middle East, particularly in the aftermath of the Arab Spring, mean for a Europe which is experiencing severe difficulties in its relations with Islam? Answers to these questions will determine the EU's future policy towards Turkey. Only after such a soul searching can a new era of genuine partnership start, both at the multilateral and bilateral levels, for the benefit of all.

Endnotes

1. Indeed out of 8.6 million Turkish passports issued, over a million are special passports that might entitle their owners visa-free travel to many European countries. For a detailed analysis, see Zeynep Özler "Breaking the Vicious Circle in EU-Turkey Relations: Visa Negotiations", *Turkish Policy Quarterly*, No. 1 (2012), pp 121-131.

2. On April 24, 2004, a week before the accession of former candidates which included the Republic of Cyprus, a simultaneous referendum took place in Greek and Turkish parts of the divided island regarding a settlement plan bearing the name of the then Secretary General of the United Nations Kofi Annan. Greek Cypriots voted against the Plan being assured of their accession which was already ratified in Athens months before (the Athens Treaty), whereas Turkish Cypriots voted for it. The European Council at a meeting on April 29, 2004 decided to not to "penalize" Turkish Cypriots any longer but failed to deliver on promises such as the Free Trade Regulation benefiting the northern part of the island.

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