

The EU's Progress Report on Turkey's Accession: Sluggish Steps Forward (ARI)

*William Chislett**

Theme: The European Commission's annual report on Turkey's progress towards full EU membership showed that some advances had been made over the last year, but it continued to raise concerns about freedom of expression, the independence of the judiciary and the military's interference in political life, among other issues.

Summary: The report, released on 14 October, came at a critical juncture for the ruling Justice and Development Party (AKP) as the country's bid for full membership will come up for review at the EU summit in December under the Swedish Presidency. Accession negotiations have been proceeding at a snail's pace over the last year and run the risk of coming to a complete standstill unless there is some substantive progress on Cyprus.

Analysis:

Background

So far Ankara has completed only one of the 35 negotiation chapters (science and research). Negotiations on eight of them have been suspended by the European Council since December 2006 because of the Turkish government's failure to make any progress on implementing the 2005 Ankara Protocol and open its ports and airports to Greek Cypriot traffic and hence recognise the Republic of Cyprus. The whole of the island joined the EU in 2004, but the *acquis* only apply to the Greek Cypriot southern part as the northern part (36% of the territory) is still occupied by Turkey which invaded the country in 1974 (see Figure 1). The Turkish Republic of Northern Cyprus is only recognised by Ankara. A further five chapters are blocked by France because it believes Turkey should be offered 'partnership, not integration'.

Figure 1. Cyprus



Source: BBC.

* Journalist and writer, author of four Working Papers on Turkey for the Elcano Royal Institute.

Meanwhile, support to join the EU has picked up in Turkey, after reaching rock bottom in 2007 and 2008, while remaining low and virtually unchanged among the main EU countries, according to the latest Transatlantic Trends survey by the German Marshall Fund of the US (see Figure 2). Turkish enthusiasm for EU membership had been waning since reaching a peak in 2004 because of the feeling that however hard the country tried it would be denied membership, due to opposition in some of the big EU countries, particularly France and Germany, and the cost of entry.

Figure 2. Support for Turkey to Join the EU (%)

	2004	2005	2006	2007	2008	2009
Turkey	73	63	54	40	42	48
EU-9 (1)	30	22	21	21	19	19

(1) France, Germany, Italy, the Netherlands, Poland, Portugal, Slovakia, Spain and the UK.

Source: Transatlantic Trends, German Marshall Fund of the United States.

The change in sentiment, according to analysts, is due to various factors including more palatable statements from Europe, the even-handed report of the Independent Commission on Turkey, which called on Brussels to honour its commitments to Turkey if it meets all the entry requirements and not move the goal posts,¹ more self-confidence as a result of domestic demons being pushed back into a corner (mainly the fiercely secularist establishment's attempt to have the neo-Islamist AKP outlawed), resumption of a bare minimum of reforms as the government moves into higher gear and not sounding off so much at the EU and the Obama factor (50% of Turks approve of Obama's foreign policy compared to 8% approval of Bush's in 2008, according to Transatlantic Trends).²

Only five of the 13 countries surveyed in 2009, including Turkey, registered an increase in the feeling that the country shares enough common values to be part of the West (see Figure 3). Spain, whose current Socialist government and the previous Popular Party government actively support Turkey's membership, is not one of the five as it recorded a drop of 3 percentage points to 41%.

Figure 3. Turkey Shares Enough Common Values to be Part of the West (%)

	2008	2009
Bulgaria	27	25
France	27	28
Germany	20	20
Italy	34	32
Netherlands	40	33
Poland	25	22
Portugal	35	39
Romania	45	51
Slovakia	17	17
Spain	44	41
Turkey	29	34
UK	43	40
US	37	39

Source: Transatlantic Trends, German Marshall Fund of the United States.

¹ See the author's analysis of the report at

www.realinstitutoelcano.org/wps/portal/rielcano_eng/Content?WCM_GLOBAL_CONTEXT=/elcano/elcano_in/zonas_in/ari127-2009.

² See the interview in *Today's Zaman* by Yonca Poraz Doğan with Ozgur Unluhisarcikli, Ankara Director of the German Marshall Fund of the United States, at www.todayszaman.com/tz-web/news-187007-gmfs-unluhisarcikli-turks-pessimistic-europeans-fatalistic-on-eu-membership.html.

The victory of Angela Merkel, the Christian Democrat Chancellor, and the liberal Free Democrats in last month's elections (after the survey was conducted) could reinforce Germany's scepticism towards Turkey's membership. Her stance towards Turkey was tempered by the more positive approach of the Social Democrats, but they did badly in the elections and have been replaced in the coalition government by the Free Democrats whose views are closer to those of the Christian Democrats.

While the new German government might impede Turkey's membership bid, the sweeping victory of George Papandreu's Socialists in Greece on 4 October could work to Ankara's benefit. Papandreu is also Foreign Minister, a post he held between 1999 and 2004 when he masterminded the rapprochement with Turkey (the so-called 'earthquake diplomacy'). He says he wants to persuade the Greek- and Turkish-Cypriots to agree this year on a plan to reunify Cyprus. Athens, however, does not have much leverage over the Greek-Cypriots. He was in favour of the Annan Plan to settle the Cyprus dispute, which was overwhelmingly rejected by Greek Cypriots in the 2004 referendum and accepted by Turkish Cypriots.

Lastly, three days before the European Commission released its latest progress report Turkey and Armenia signed agreements in Zurich that aim to end almost a century of hostility following the 1915 killings of up to 1.5 million Armenians, which Turkey denies was genocide. The protocols set a timetable for the two countries to restore diplomatic relations and reopen their shared border –closed by Turkey in 1994 in support of its ally Azerbaijan in a conflict with Armenia over the disputed territory of Nagorno-Karabakh (see Figure 4)–. Open borders are an EU requirement.

Figure 4. Turkey and Armenia



Source: Financial Times.

This issue, however, is by no means in the bag as the two countries' parliaments have to ratify the protocols, even though each government should technically be able to win parliamentary approval. Ratification would smooth Turkey's path to EU membership. Armenian diaspora organisations condemn the accords (more Armenians live outside than inside the country) and Azerbaijan said they 'cast a shadow over fraternal relations'. Azerbaijan has hinted that it might reconsider oil and gas sales to energy-dependent Turkey if Ankara mended its fences with Armenia before the Nagorno-Karabakh conflict was resolved. In addition, Turkey wants Armenia to withdraw from some or all Azeri land.

The Zurich signing, however, did enable Armenia's President, Serge Sarkisian, to go to Turkey on 14 October for a World Cup qualifier. This was the first time Turkey and Armenia played football in Turkey. The Turkish President, Abdullah Gul, attended the initial World Cup qualifier in Armenia last year when he kicked off the rapprochement.

The Report³

In **democracy and the rule of law**, the European Commission said the investigations into the alleged criminal network Ergenekon involving military officers, some of whom are accused of attempting to overthrow the government and instigate armed riots, represented an 'opportunity for Turkey to strengthen confidence in the proper functioning of its democratic institutions'. It was also important that the proceedings fully respect the due process of law, in particular the rights of the defendants. There have been reports of violations of the procedural rights of the accused.

Turkey still needs to bring its legislation on political parties in line with European standards. The government has yet to amend legislation governing the closure of political parties which the Venice Commission of the Council of Europe said earlier this year was incompatible with Article 11 of the European Convention on Human Rights (right to freedom of assembly and association). Political parties need to gain 10% of the vote in order to win seats in parliament, a high threshold (in Spain it is 5%).

Although there was a growing awareness in the country that Turkey's Constitution, drafted in the aftermath of the 1980 military coup, needed to be amended in order to give greater guarantees of fundamental freedoms in line with EU standards, nothing has been done because of a lack of consensus between political parties. 'The lack of dialogue and of a spirit of compromise between political parties is having a negative impact in this respect', said the report.

In **public administration**, much greater efforts were needed to modernise the civil service in order to further develop a professional, independent, accountable, transparent and merit-based bureaucracy.

Civilian oversight of the security forces had improved, following the passing of legislation lifting the remaining powers of military courts to try civilians in peacetime, but the 'armed forces continued to exercise undue influence via formal and informal mechanisms'. The report said senior members of the armed forces had expressed on a large number of occasions their views on domestic and foreign policy issues going beyond their remit, including on Cyprus, ethnicity, the South-East, secularism, political parties and other non-military matters. On a number of occasions, the General Staff reacted publicly to politicians and media reports. During a press briefing in April, the Chief of General Staff made comments on the Ergenekon case and on the indictment, thus putting the judiciary under pressure, and some senior officers lent support to military personnel standing trial.

No progress had been made on strengthening legislative oversight of the military budget and expenditure. Likewise, the Defence Industry Support Fund (SSDF), from which most procurement projects are financed, is still an extra-budgetary fund excluded from parliamentary scrutiny. Parliament still has no mandate to develop security and defence policies.

³ The full report is at https://webgate.ec.europa.eu/olacrf/20091014Elarg/TR_Rapport_to_press_13_10.pdf.

As regards the **judicial system**, the adoption by the government of the reform strategy was a positive step, but concerns remained about the independence, impartiality and effectiveness of the judiciary.

Limited progress had been made in fighting **corruption** which remained prevalent in many areas. The European Commission welcomed the law to amend the Penal Code and the Code of Misdemeanours in order to align it with international conventions and the requirements of the OECD Bribery Convention, but there was no progress on limiting the immunity of MPs as regards corruption-related cases. Turkey has no code of conduct for its MPs and needs to establish a permanent ethics commission to deal with complaints and allegations.

The situation of **human rights** had improved, but implementation of some judgements by the European Court of Human Rights (ECtHR) requiring legislative amendments had been outstanding for several years. During the period covered by the report, the ECtHR delivered a total of 381 judgements finding that Turkey had violated the European Convention in Human Rights. Most of these judgements date back to the 1990s or before the new Turkish Criminal Code or Criminal Procedure Code were enacted.

The European Commission urged the government to release the report by the Council of Europe's Committee for the Prevention of Torture which visited Turkey in June. The Optional Protocol to the UN Convention against Torture (OPCAT), which requires the establishment of an independent national preventive mechanism for monitoring places of detention, had not yet been ratified by parliament. It has been pending since 2005.

Counter-cases are frequently initiated by law enforcement bodies against persons who allege torture or ill-treatment. Such legal proceedings might result in deterring complaints, the report said and added that there was evidence that such cases were treated expeditiously by Turkish courts.

Freedom of expression had improved, particularly as the infamous Article 301 of the Turkish Criminal Code was no longer systematically used to restrict it. The revision of this article in 2008 had led to a significant decline in prosecutions compared with previous years. However, the legal framework still failed to provide sufficient guarantees for exercising freedom of expression and, as a result, was often interpreted in a restrictive way by public prosecutors and judges. The report pointed out there were still some prosecutions and convictions based on Article 301.

Turning to the Doğan Media Holding, owner of more than half of Turkey's broadcast and print media and a thorn in the side of the ruling Justice and Development Party, the report said the US\$2.5 billion fine imposed on it in August for alleged tax dodging 'potentially undermines the economic viability of the Group and therefore affects freedom of the press in practice. There is a need to uphold the principles of proportionality and of fairness in these tax-related procedures'. With penalties and interest clocking up, the sum has grown to more than US\$3.2 billion (roughly the total value of the holding company), the amount the Group must deposit as collateral to appeal the judgement.

Another concern is frequent website bans. Judicial and administrative decisions block the entire website instead of filtering out unwanted content. YouTube has been banned since May 2008.

Freedom of worship continued to be generally respected, but non-Muslim communities – as organised structures of religious groups– still faced problems due to a lack of legal personality. Turkish legislation does not provide for private higher religious education for these communities and there are no such opportunities in the public education system. The Halki (Heybeliada) Greek Orthodox seminary remained closed, although its re-opening was widely debated over the reporting period.

As regards **women's rights**, domestic violence, honour killings and early and forced marriages were still serious problems. Also, political representation of women, at both national and regional levels, was very low. Following the March local elections, there are only two female mayors at provincial capital level and 17 at district town level.

Minority rights remained restrictive. The country had still not signed the Council of Europe Framework Convention for the Protection of National Minorities or the European Charter for Regional or Minority Languages. The government, however, had taken a positive step by authorising TRT, the public service broadcaster, in January to operate channel TRT-6 in Kurdish around-the-clock. Political debates or general entertainment programmes in Kurdish are virtually impossible on private TV channels. Although the use of any language other than Turkish in political life is illegal, in most cases no legal action was launched. However, criminal convictions against members of the pro-Kurdish Democratic Society Party (DTP), which has a number of seats in parliament as independents, are pending.

Lastly, on **economic criteria**, the report was generally more positive than on other issues.

Conclusion: The 2009 report is less critical than the one in 2008, but still shows many shortcomings and a pressing need to quicken the pace of reform.

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