



The Baffling Short-sightedness in the EU-Turkey-Cyprus Triangle

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Abstract

Diehard believers in Turkey's European future had, for a brief moment, hung their hopes on the European Parliament (EP) as the key to unlocking the poisonous stalemate in Turkey's ailing accession process. The glimmer of light had come with the Lisbon Treaty, which could have been used to unblock the stalemate over the Direct Trade Regulation (DTR) between the EU and northern Cyprus by granting a voice to the EP on the matter. Breaking the stalemate would not have magically removed all obstacles to Turkey's protracted accession process. But it would have breathed new life and instilled a dose of much-needed optimism in the troubled relations between Turkey and the Union. Alas, that opportunity has been lost and, with it, the short-term hope of a rosier future for Cyprus, Turkey and the EU as a whole.

Keywords: *European Union / Northern Cyprus / Direct Trade Regulation / European Parliament (EP) / EU enlargement / Turkey / Cyprus*

The Baffling Short-sightedness in the EU-Turkey-Cyprus Triangle

by Nathalie Tocci*

Diehard believers in Turkey's European future had, for a brief moment, hung their hopes on the European Parliament (EP) as the key to unlocking the poisonous stalemate in Turkey's ailing accession process. The glimmer of light had come with the Lisbon Treaty, which could have been used to unblock the stalemate over the Direct Trade Regulation (DTR) between the EU and northern Cyprus by granting a voice to the EP on the matter. Breaking the stalemate would not have magically removed all obstacles to Turkey's protracted accession process. But it would have breathed new life and instilled a dose of much-needed optimism in the troubled relations between Turkey and the Union. Alas, that opportunity has been lost and, with it, the short-term hope of a rosier future for Cyprus, Turkey and the EU as a whole.

Approaching a dead-end

Since the opening of Turkey's accession negotiations in 2005, storm clouds have darkened EU-Turkey skies. To date, Turkey has opened a mere thirteen out of thirty-five chapters in its negotiations, and has provisionally closed only one. In 2006, eight chapters were "frozen" by the EU on the grounds of Turkey's non-implementation of the Additional Protocol to its customs union agreement, which foresees the opening of Turkish ports and airports to Cypriot-flagged vessels and flights. The EU also declared that unless Turkey implements the Additional Protocol, no chapter would be provisionally closed. In 2007, France blocked the opening of a further five chapters on the shaky grounds that they were too evidently related to full EU membership. In 2009, in view of Turkey's persisting non-implementation of the Protocol, the Republic of Cyprus (RoC) vetoed a further five chapters (one of which is also blocked by France), as well as the energy chapter due to a dispute with Turkey over oil exploration rights. All in all, no less than eighteen out of thirty-five chapters are in the deep-freeze and only three can possibly be opened in the months ahead. Of these, the chapter on competition policy may well be opened before the end of 2010, bringing the number down to two. One further chapter – procurement – could be opened in the early months of 2011, before Turkey turns to electoral campaigning in the run-up to the June 2011 elections. Once in election mode, the Justice and Development Party (AKP) government is unlikely to pass the tricky reforms – e.g. on trade unions – which are necessary to open the only remaining chapter on social policy and employment. To all extents and purposes, by mid-2011, Turkey's accession negotiations will have ground to a complete halt.

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A brief moment of hope

Aware of the comatose state of Turkey's accession process, in the aftermath of the ratification of the Lisbon Treaty in late 2009, the European Commission dusted off the Direct Trade Regulation. The DTR had been proposed by the Commission back in April 2004, one week prior to the big-bang enlargement which welcomed ten new member states, including the divided island of Cyprus, into the EU. The DTR had a strong political rationale: taking the cue from the UN Secretary General following the separate referendums in which the Turkish Cypriots approved and the Greek Cypriots rejected the "Annan Plan" in 2004, the DTR was intended to signal to the Turkish Cypriots that the EU no longer believed in the logic of punishing northern Cyprus. The Turkish Cypriots, through their vote in the referendum, had demonstrated their support for reunification rather than secession. They no longer deserved international isolation. The DTR (and its sister regulation on EU financial assistance to northern Cyprus) was meant to show to Turkish Cypriots that, despite the RoC's entry into the EU and their de facto exclusion from it, the EU subscribed to this line of argumentation. The DTR was to contribute to lifting northern Cyprus out of isolation by legalizing preferential direct trade between it and the EU, blocked since a 1994 ruling by the European Court of Justice.

However, still locked into the balance of power logic bedeviling the Cyprus conflict, no sooner did it enter the EU, than the Republic of Cyprus vehemently objected and claimed its veto over the issue. The Council's legal service backed the Republic's logic. The Commission disputed it, claiming that a qualified majority vote would be enough to secure approval of the Direct Trade Regulation. Despite repeated efforts by successive EU Presidencies to unblock the impasse, the Regulation was left pending in a legal limbo. In turn, Turkey refused to open its sea and airports to the RoC. At each and every occasion on which EU officials and political leaders criticized Ankara's reluctance to abide by its commitments, the latter curtly replied "a port for a port". That is, only if the EU were to keep its "promise" by accepting preferential trade shipped from Turkish Cypriot ports to the EU, would Turkey reciprocate by opening its own ports to Greek Cypriot trade.

The Lisbon Treaty had offered hope of ending this tit-for-tat, which has epitomized the unedifying Cypriotization of EU policies towards Cyprus and Turkey since 2004. One of the most prominent effects of the Lisbon Treaty has been the increased powers granted the European Parliament, which could have changed the fate of the DTR. The Commission, which has continued to subscribe to the legal view that the DTR falls under the EU's common commercial policy (former Article 133, now Article 207 of the Lisbon Treaty), argues that the DTR now requires "co-decision" by the EP and a qualified majority in the Council. The co-decision procedure foresees that a proposal from the Commission – the DTR – is concomitantly sent to both the Parliament and the Council and can enter into force only if approved by both. Normally, the Council withholds its vote until the Parliament decides.

Had the European Parliament passed a resolution approving the DTR, the "hot potato" would have passed on to the Council. Within the Council, Cyprus would probably have remained unrepentantly against the Regulation. The same may have been the case of France, Greece and Austria, in view of either their support for Cyprus (i.e. Greece) or

their opposition to Turkey's EU membership (i.e. France and Austria). But squeezed under the pressure of a positive EP resolution and the prospects of a crisis in EU-Turkey relations due to the imminent freeze of accession talks, the majority of member states in the Council could have summoned sufficient resolve to approve the Regulation. In turn, Turkey would have implemented the Additional Protocol to its customs union agreement. The eight chapters blocked by the Council in 2006 would have been unfrozen and Turkey could have continued to provisionally close the chapters it has already negotiated. There would have been no guarantee of Cyprus lifting its veto over the further six chapters it has blocked. But the official logic presented by Cyprus to motivate its veto – Turkey's non-implementation of the Protocol – would no longer have been there. Magically, Turkey's EU accession process would have been given a new lease on life. In fact, new momentum in Turkey's accession process could have recast the EU at the centre of the political debate in Turkey in the run-up to the upcoming elections in Turkey. The opposition Republican People's Party (CHP) could have reclaimed its mantle of a genuinely pro-EU party. The AKP could have re-adapted its pro-reform instincts to an EU mould. True, the Gordian knots at the heart of both Turkey's accession process and the Cyprus conflict would still be there. But a new dynamic would not have made them look so hopelessly insoluble.

That hope is now lost. Since the European Commission re-tabled the DTR by passing it to the EP, alongside a host of other regulations whose legal basis had changed in light of the Lisbon Treaty, the RoC has taken up arms. It has single-mindedly used all the political capital at its disposal to drive a wedge in the process. It succeeded, over the summer, to shift the dossier from the hands of the trade committee of the EP (INTA) to the legal committee (JURI). That is, before expressing itself on the merits of the regulation, the EP was called upon to determine whether it had the legal competence to discuss the matter in the first place. On 18 October 2010, the RoC won the day. With 18 members in favour, five against and one abstention, the JURI committee of the EP approved the opinion of the EP's legal service, which argued that the legal basis of the DTR is Protocol 10 of Cyprus' Treaty of Accession (as asserted by the Council and the RoC) and not Article 207 of the Lisbon Treaty (as asserted by the European Commission). In other words, the EP washed its hands of the affair. In doing so, it not only underplayed its own powers under the Lisbon Treaty, but also wasted the opportunity to revamp one of the most important political relationships of the EU as a whole: the accession process with Turkey.

Back to short-sightedness ...

There is no end in sight for the comatose state of EU-Turkey relations and the blips on the ECG are rapidly slowing down. Such a halt will not resemble a "train crash", the metaphor so often used (and abused) when debating relations between Turkey and the EU. In fact, even if no new chapters are opened, the accession process remains the only institutional basis for the conduct of EU-Turkey relations. Unless Turkey itself decides to walk out on the process – a prospect which Turco-sceptic EU member states would silently applaud – the EU is unlikely to terminate it. In fact, while it is true that there is no shared commitment to Turkey's EU membership within the EU, there is certainly not (and there is unlikely to be) a consensus against Turkey's accession and in favour of officially ending the accession process. Turkey's supporters within the EU

may be insufficiently committed to the accession process and are certainly less vocal than its opponents, but those who continue to back Turkey's EU membership prospects within the EU remain in the majority.

... And its implications for Turkey, Cyprus and the European Union

Even without a train crash, the de facto death of Turkey's accession process represents a serious blow to Turkey, Cyprus and the EU alike, making the myopia of all actors involved a mystery to any outside observer.

In Turkey, domestic developments and foreign policy orientations are likely to become increasingly detached from the EU. Back 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 had represented the external push and anchor for Turkey's reform momentum, inspiring a set of constitutional, legislative and administrative reforms to harmonize Turkey's polity, economy and society to those of the EU. At the political level, the EU had represented the glue between a disparate set of actors in Turkey, ranging from the conservative AKP to the staunchly secularist CHP, passing through nationalists and liberals of all shapes and forms in between. Today and in the foreseeable future, this magic is gone. At the policy level, since 2005 there has been no shortage of reforms in Turkey. Yet unlike the reforms passed when Turkey's EU membership seemed difficult but tangible, today Turkey's reform impulses are detached from the accession process. Nowhere was this clearer than in the referendum campaign over the constitutional reform package approved in September 2010. Notwithstanding the European Commission's pronouncements in favour of the package, neither the government nor the opposition instrumentalized the Commission's position in their campaigns. The EU was simply a non-issue in the referendum. At the political level, the EU, far from representing the umbrella under which diverse political animals can find joint refuge, has become a victim of the acute polarization in Turkey. The CHP, characterized more by its opposition to the AKP than by any recognizable political programme, has awkwardly adopted a seemingly anti-EU stance simply due to the AKP government's support for the accession process. The rise of Kemal Kılıçdaroğlu at the helm of CHP before the summer had brought with it hopes that such a paradoxical situation might be reversed. To date, this hope has yet to materialize. In principle, the AKP is still committed to the accession process, in practice it has been let off the hook, in that it no longer has to prove domestically (or indeed internationally) its genuine commitment to the process. Benefiting (paradoxically) from the opposition's anti-EU stance, from the public disenchantment with the EU,¹ and from the EU's short-sighted policy towards Turkey (and Cyprus), the AKP has had ample space for manoeuvre. It has been free to pursue its (own) reform agenda domestically without the perceived imperative of seeking domestic consensus and linking reforms to external (EU) standards. Internationally, the AKP government, particularly under the leadership and vision of current Minister of Foreign Affairs Ahmet Davutoğlu, has been free to explore the many facets of Turkish foreign policy, sometimes in line with EU

¹ See for example the 2010 results of the German Marshall Fund's *Transatlantic Trends*, which show the decline in Turkish public support for EU membership from a high of 73 percent in 2004 to a low of 38 percent in 2010.

goals, sometimes not, without having to prove its EU credentials at home and abroad. In doing so, the Turkish political class has become a victim of its newfound sense of grandeur, losing sight of what remains a fundamental truth: what makes Turkey special in its neighbourhood, be this the Middle East, the Balkans or the Caucasus, is precisely its organic tie to the European Union. Remove this and Turkey will continue to be an important power in its region. Yet Turkish foreign policy, which has portrayed itself as being all things to all peoples, able to skilfully navigate, cut across geopolitical divides and reposition itself at the centre, would lose much of its magic. Turkish foreign policy-makers, currently jet-setting around the globe, would also risk losing their normative compass, which was formerly provided by the EU.

One of the consequences of this is also a reduced Turkish interest in a Cyprus settlement. Since 2004, Turkey has continued to support a solution based, *mutatis mutandis*, on the Annan Plan. Yet following the referendum, Ankara has felt, not without reason, that it has continued to be “one step ahead of the game” in Cyprus, as once declared by Davutoğlu. Indeed, between 2004 and 2008, Turkey and the Turkish Cypriots were faced by the brash intransigence of former RoC President Tassos Papadopoulos. Since the election of President Demetris Christofias and the ensuing re-launch of direct talks between the parties, there is no single culprit for the absence of a Cyprus settlement. Yet what is clear is that the blame does not fall squarely on Turkish Cypriot shoulders. Despite the election of nationalist Derviş Eroğlu, who replaced the pro-unification Mehmet Ali Talat as President of the unrecognized Turkish Republic of Northern Cyprus in April 2010, the Turkish Cypriots have not acted (and are not perceived as acting) as the spoilers of the Cyprus peace process. On issues currently on the negotiating table – notably property – the Turkish Cypriot side has reportedly put forward constructive proposals. In other words, in a situation in which the Cyprus talks continue with neither a breakthrough in sight nor a clear finger-pointing at the Turkish Cypriots, Ankara, busy with its manifold foreign policy endeavours in more exciting lands, has put Cyprus on the backburner.

With the Cyprus peace process moved to the shelf, where it keeps company with the comatose EU-Turkey accession negotiations, it is difficult to imagine how Greek Cypriot security and indeed the welfare of Cyprus as a whole can be well-served. True, the Greek Cypriot political elite may lack the political courage to take a step into the unknown through a bi-zonal and bi-communal federal settlement. Yet as repeated polls have shown, the Greek Cypriot public is unsatisfied with the status quo and continues to favour such a settlement as the only realistic second-best escape.² Hence, the inexplicable short-sightedness of the Greek Cypriot political class which, by converging on the imperative of exerting their political clout on Turkey through their EU membership status, are only obtaining the opposite result. By placing the bar too high, Turkey is merely being pushed away, and with it the prospect of a reunified Cyprus in which Greek (as well as Turkish) Cypriot insecurities would at long last be abated is fading away. In its stead, Turkey is likely to push for the de facto “Taiwanization” of north Cyprus, or, worst still for the RoC, the de facto integration of north Cyprus into Turkey.

² See for example N. Tocci, E. Kaymak and A. Lordos (2008) *Building Confidence in Peace*, CEPS, Brussels; and N. Tocci, E. Kaymak and A. Lordos (2009) *A People's Peace in Cyprus*, CEPS, Brussels.

Added to Turkey and Cyprus' short-sightedness is of course, and perhaps above all, that of the EU itself. Back in 2004 (and arguably much earlier) the EU squandered its potential of acting as a catalyst to a Cyprus settlement. Today, the EU risks wasting an even greater potential: that of repositioning itself as a credible power in an increasingly multipolar world. Turkey, of course, does not represent the be all and end all of EU foreign policy. Yet few would deny that Turkey adds considerably to the EU's much-sought clout in the foreign policy domain. In recognition of this very fact, the Council proposed a "strategic dialogue" with Turkey in September 2010. It is highly unlikely, however, that Turkey will accept any dialogue of the sort as long as its accession process is in the deep freeze. Engaging in strategic dialogue with the EU, provided such dialogue is substantive, could be in Ankara's interest. But much like its stance over the access of Cypriot-flagged planes and vessels, it is unlikely that any Turkish government will engage meaningfully in a strategic dialogue with the EU without a credible accession process. In Turkish eyes, this would amount to the EU having its cake and eating it too.

Myopia is thus all-round. In Turkey, it takes the form of an increasing detachment from the EU, leading to a domestic reform process that constantly risks derailing and a high-speed foreign policy that risks losing its normative compass. In Cyprus, it takes the form of a political class, single-mindedly determined to exert its leverage on Turkey, blind to the reality that all they have accomplished is to push Turkey away, exacerbating their own insecurities. Finally, the EU, as recently exemplified by the EP's Pontius Pilate-like abdication of powers over the DTR, is affected by the most serious short-sightedness of all, one that fails to act upon the imperative of unifying Europe, including Turkey, as a credible pole in the emerging multipolar world.

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