European Union Enlargement: A Status Report on Turkey's Accession Negotiations

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Summary

October 2009 marked the fourth anniversary of the European Union's decision to proceed with formal negotiations with Turkey toward full membership in the Union. And, on October 15, the European Commission issued its fourth formal report on Turkey's accession progress. The Commission's 2009 report, like its previous reports, was marked by a mixed assessment of Turkey's accomplishments thus far in working through the various chapters of the accession process that have been opened. The report, while noting some progress in judicial reform and relations with the Kurds and Armenia, and little progress in other areas, contained nothing new or dramatic. Contrary to some views within Europe, the Commission did not view its 2009 report as any more significant or important than previous annual reports.

For some in Europe, the focus now shifts to December 2009, when the EU Parliament will issue its own progress report and the EU Council must decide the next steps in the accession process. Many "Turkey-skeptics" see December as a deadline for Turkish action that could mark a critical juncture for the future of Europe's relationship with Turkey and perhaps force EU member states into a difficult debate pitting loyalty to another member state, being shunned by a candidate for Union membership, versus Europe's long-term strategic interests in Turkey. The principal issues regarding Turkey's accession center around what the EU believes has been too slow of a pace for certain critical reforms within Turkey; a perceived ambivalence toward the EU by the current Turkish leadership; Turkey's failure to live up to its agreement to extend the benefits of its customs union with the EU to Cyprus, including the continued reluctance by Turkey to open its sea and air ports to Cypriot shipping and commerce until a political settlement has been achieved on Cyprus; and a continued skepticism on the part of many Europeans about whether Turkey should be embraced as a member of the European family. Further complicating the attitude toward Turkey is the ongoing debate within parts of Europe over the implications of the growing Muslim population in Europe and the impact Turkey's admission into the Union would have on Europe's future.

While unification talks have continued between Greek and Turkish Cypriots, a settlement in December remains elusive, and, short of such a settlement, Turkey appears unlikely to open its ports to Cyprus. Thus, the talk could once again be of "train wrecks," the suspension of negotiations, revised talk of a different relationship with Turkey, and renewed expressions of doubt over whether Turkey should ever be admitted into the Union. More likely, however, is that if the talks regarding a political settlement on Cyprus appear to be making some positive progress, critical for Turkey's prospects, the Council, after what could be a difficult debate, will defer any decisions regarding Turkey's accession negotiations to a later time.

The U.S. Congress has long been supportive of Turkey's eventual membership in the European Union and President Obama, in his visit to Ankara in the spring, reiterated the U.S. government's continued support for Turkey's membership.

For additional information on European Union enlargement, see CRS Report RS21344, *European Union Enlargement*, by Kristin Archick.

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The EU Accession Process[1]

The European Union (EU) views enlargement as an historic opportunity to promote stability and prosperity throughout Europe. The criteria for EU membership require candidates to achieve "stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities; a functioning market economy, as well as the capacity to cope with competitive pressure and market forces within the Union."[2]

Under Article 49 of the Treaty on the European Union, any European country may apply for membership if it meets a set of criteria established by the Treaty. In addition, the EU must be able to absorb new members, so the EU can decide when it is ready to accept a new member.

Applying for EU membership is the start of a long and rigorous process. The EU operates comprehensive approval procedures that ensure new members are admitted only when they have met all requirements, and only with the active consent of the EU institutions and the governments of the EU member states and of the applicant country. Basically, a country that wishes to join the EU submits an application for membership to the European Council, which then asks the EU Commission to assess the applicant's ability to meet the conditions of membership.

Accession talks begin with a screening process to determine to what extent an applicant meets the EU's approximately 80,000 pages of rules and regulations known as the *acquis communautaire*. The *acquis* is divided into 35 chapters that range from free movement of goods to agriculture to competition. Detailed negotiations at the ministerial level take place to establish the terms under which applicants will meet and implement the rules in each chapter. The European Commission proposes common negotiating positions for the EU on each chapter, which must be approved unanimously by the Council of Ministers. In all areas of the *acquis*, the candidate country must bring its institutions, management capacity, and administrative and judicial systems up to EU standards, both at national and regional levels. During negotiations, applicants may request transition periods for complying with certain EU rules. All candidates receive financial assistance from the EU, mainly to aid in the accession process. Chapters of the *acquis* can only be opened and closed with the approval of all member states, and chapters provisionally closed may be reopened. Periodically, the Commission issues "progress" reports to the Council (usually in October or November of each year) as well as to the European Parliament assessing the progress achieved by a candidate country. Once the Commission concludes negotiations on all 35 chapters with an applicant, in a procedure that can take years, the agreements reached are incorporated into a draft accession treaty, which is submitted to the Council for approval and to the European Parliament for assent. After approval by the Council and Parliament, the accession treaty must be ratified by each EU member state and the candidate country. This process of ratification can take up to two years or longer.[3]

The largest expansion of the EU was accomplished in 2004 when the EU accepted 10 new member states. In January 2007, Romania and Bulgaria joined, bringing the Union to its current 27 member states. Since then, the EU has continued supporting the enlargement process.

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[1] For more detailed information on EU accession see, "The Process of Joining the EU" on the European Commission's website at http://ec.europa.eu/enlargement.

[2] Conclusions of the European Council, Copenhagen, Denmark, June 1993.

[3] CRS Report RS21344, *European Union Enlargement*, by Kristin Archick.

Currently, there are three candidate countries—Croatia, Turkey, and Macedonia. There also is speculation that Iceland will soon join this list.

Prior to October 2009, in order for enlargement to continue, two barriers that existed had to be overcome. First, and although not explicitly stated, certain conditions established by the 2000 Treaty of Nice seemed to limit the EU to 27 members. In order for any other new country to be admitted to the Union, the Nice Treaty would have had to be amended or a new treaty ratified to allow further expansion of the Union. The proposed Treaty for a European Constitution would have facilitated further enlargement, but that Treaty was rejected by France and the Netherlands in the spring of 2005. The successor attempt, the Lisbon Treaty,[4] was agreed to in 2007 by the EU leadership and placed on a ratification schedule in all 27 member states. The Lisbon Treaty, however, was rejected in 2008 by Ireland, halting the ratification process. A second national referendum on the Treaty was held in Ireland on October 2, 2009, and this time the Treaty was overwhelmingly approved. On October 10, 2009, the president of Poland signed the Treaty followed on November 3 by the signature of the president of the Czech Republic allowing the provisions of the Treaty to take effect on December 1, 2009. A second barrier to the current accession structure involves any candidate country whose accession could have substantial financial consequences on the Union as a whole. Under this provision, admission of such a candidate can only be concluded after 2014, the scheduled date for the beginning of the EU's next budget framework.[5] Currently, only Turkey's candidacy would fall under this restriction.

The Cyprus Dilemma[6]

In December 2002, in advance of the conclusion of the EU's accession negotiations with Cyprus, then-U.N. Secretary General Kofi Annan presented a comprehensive plan to resolve the political division on Cyprus and to reunite the island. Although the decision to admit Cyprus into the Union was taken several years before, the EU had hoped to admit a unified Cyprus by May 2004 and quickly endorsed the Annan Plan. Over the next 18 months, the U.N. worked to negotiate the Annan Plan so that both the Greek and Turkish Cypriots could accept a final settlement. On March 29, 2004, Annan presented his final revised plan. Neither side was fully satisfied with the proposal but agreed to put it to referenda in the North and the South on April 24. The Plan was accepted by the Turkish Cypriots but rejected by the Greeks.

The EU expressed regret over the Greek Cypriots' rejection of the Annan Plan and congratulated the Turkish Cypriots for their "yes" vote in the referenda. Nevertheless, the EU, in part under pressure from Greece, agreed in May 2004 to include the divided island as one of 10 new EU members. EU leaders indicated that they were determined to put an end to the isolation of the Turkish Cypriot community and facilitate the reunification of Cyprus by encouraging the economic development of the Turkish Cypriot community even as the Greek Cypriot part of the island began to enjoy the benefits of membership in the Union, including the ability to approve or veto future applicant states.

[4] For additional information on the Lisbon Treaty and EU reform see, CRS Report RS21618, *The European Union's Reform Process: The Lisbon Treaty*, by Kristin Archick and Derek E. Mix.

[5] "The Process of Joining the EU," *Op. Cit.*

[6] For more information on Cyprus, see CRS Report RL33497, *Cyprus: Status of U.N. Negotiations and Related Issues*, by Carol Migdalovitz.

On July 7, 2004, the EU Commission proposed several measures to end the Turkish Cypriots' isolation and to help eliminate the economic disparities between the two communities on the island. In addition to a package of financial assistance, the EU proposed to allow direct trade between northern Cyprus and the EU member states. The Greek Cypriot government agreed to the aid if it were to be administered by the government of Cyprus but rejected the trade measure as something close to international recognition of a Turkish Cypriot state. The Greek Cypriots also insisted that all trade between the north and Europe be conducted via the south. The EU has since opened an aid office in the North and has facilitated regulations to enhance trade between the North and South. Turkey and the Turkish Cypriots, however, seek additional measures to end what they consider the "isolation" of northern Cyprus.

After the Greek Cypriots rejected the Annan Plan, four years followed during which the U.N. appeared to distance itself from the settlement process as the Secretary General chose not to name a new Special Advisor on Cyprus to oversee it and the two sides on the island did not engage in substantive negotiations. In February 2008, however, a new Cypriot President, Dimitris Christofias, took office and said that he hoped to achieve a "just, viable, and functional solution" to the Cyprus issue, and the process was revived. In March, Christofias met Turkish Cypriot leader Mehmet Ali Talat, and they agreed to establish working groups and technical committees to lay the foundation for resuming negotiations. On May 23, the two leaders reaffirmed their commitment to the U.N. Security Council's principles for a settlement: a bizonal, bicommunal federation characterized by the political equality of Greek and Turkish Cypriots. In July, the Secretary General named former Australian Foreign Minister Alexander Downer as his Special Advisor on Cyprus, and the two leaders agreed to start "full-fledged" negotiations in September 2008. At the same time, the two sides undertook confidence-building measures intended to improve cooperation in areas such as criminal justice, environmental protection, crisis management, and the like.

In the first round of negotiations, which began in September 2008, Christofias and Talat held 40 meetings on core issues—governance and power-sharing, property, European Union affairs, security and guarantees, economy, and territory—in order to identify areas of convergence and divergence. They reported progress on governance, European Union affairs, and the economy. Property is said to have been particularly difficult, and territory will be dealt with in the end. Security and guarantees also will be dealt with in the end, as it will involve countries named in the 1960 Treaty of Guarantee, i.e., the United Kingdom, Greece, and Turkey. A second round of negotiations began in September 2009, and Christofias and Talat agreed to expedite the schedule by holding at least two meetings a week instead of one. Turkish officials have supported Talat since the talks began. Both they and Talat insist that the Turkish security guarantee continue in any settlement, which the Greek Cypriots oppose. It remains to be seen if this major obstacle can be overcome or finessed.

While there is no official deadline for reaching a settlement and holding new referenda, unofficial ones may affect the process. These include the forthcoming 2009 EU Parliament and Council progress reports on Turkey, which are likely to address Cyprus as it relates to Turkey's membership prospects. The EU undoubtedly will be pleased that the two sides have made progress on the issue of European Union affairs, which apparently has not been divisive. Should negotiations still be underway as the report is issued, the EU is expected to take the constructive approach of urging the parties onward. "Presidential" elections in northern Cyprus scheduled for April 2010 may present another deadline. Talat, a champion of the Annan Plan and of the settlement process, will face a challenge from his "Prime Minister" Dervis Eroglu, an opponent of the Annan Plan and critic of Talat's negotiating positions. Eroglu's party won an overwhelming

victory in the December 2008 parliamentary elections in northern Cyprus. Talat has attributed that victory to the Turkish Cypriots' dejection after they had voted for the Annan Plan and to the failure of the European Union and others in the international community to end their isolation.

Turkey's Initial Path to European Union Accession

Immediately after the EU's decision in May 2004 to admit 10 new members, the EU turned its attention to future candidates for Union membership, including Turkey.

Turkey and the European Commission first concluded an Association Agreement (Ankara Agreement) aimed at developing closer economic ties in 1963. A key provision of that agreement was the commitment by Turkey to establish a customs union that would be applied to each EU member state. In 1987, Turkey's first application for full EU membership was deferred until 1993 on the grounds that the European Commission was not considering new members at the time. Although not technically a rejection of Turkey, the decision did add Turkey to a list, along with the United Kingdom, of nations to have been initially turned down for membership in the Union. In 1995, a Customs Union agreement between the EU and Turkey entered into force, setting a path for deeper integration of Turkey's economy with that of Europe's. In 1997, the Luxembourg EU summit confirmed Turkey's eligibility for accession to the EU but failed to put Turkey on a clear track to membership. The EU recognized Turkey formally as a candidate at the 1999 Helsinki Council summit but asserted that Turkey still needed to comply sufficiently with the EU's political and economic criteria before accession talks could begin.[7]

In February 2001, the EU formally adopted an "Accession Partnership" with Turkey, which set out the priorities Turkey needed to address in order to adopt and implement EU standards and legislation. Although Ankara had hoped the EU would set a firm date for initiating negotiations at the December 2002 Copenhagen Summit, no agreement was reached. As mentioned, two years later, 10 new member states, including a divided Cyprus, were admitted into the Union. In December 2004, and despite the fact that Turkey had still not met its obligations regarding its customs union, the European Council stated unanimously that Turkey had made enough progress in legislative process, economic stability, and judicial reform to proceed with accession talks within a year. In the aftermath of the Council's decision, the European Parliament voted overwhelmingly to support the Council's decision to move forward with Turkey.

Under a compromise formula agreed to by the Council, Turkey, before October 2005, would have to sign a protocol that would adapt the 1963 Ankara Agreement, including the customs union, to the 10 new member states of the Union, including the Republic of Cyprus. Turkey signed the Protocol in July 2005 but made the point that, by signing the Protocol, it was not granting diplomatic recognition to the Republic of Cyprus. Turkey insisted that recognition would only come when both the Greek and Turkish Cypriot communities on the island were reunited. The decision by Turkey to make such a declaration regarding Cyprus immediately served to sour attitudes of many within the EU. In September 2005, the EU Council issued a rebuttal to Turkey. In that declaration, the EU reminded Turkey that Cyprus was a full member of the EU, that recognition of all member states was a necessary component of the accession process, and that the EU and its member states "expect full, non-discriminatory implementation of the Additional

[7] *Op cit.*, CRS Report RS21344, *European Union Enlargement*.

Protocol to all EU member states ... and that failure to implement its obligations in full will affect the overall progress in the negotiations."[8]

On October 3, 2005, after a prolonged debate over the status of Cyprus and expressions of concern by some European member states over admitting Turkey altogether, the EU Council agreed to a "Negotiating Framework," and opened formal accession talks with Turkey. However, the language of the Framework included an understanding that the negotiations would be open-ended, meaning an outcome (eventual full membership) could not be guaranteed. This language was to become a significant rallying point for some European governments which support a relationship with Turkey that falls short of full membership in the Union.

Current Status of Turkey's Accession

The relationship between Turkey and the European Union has vacillated between support for and doubt over future membership. In general, concerns regarding immigration, jobs, and uncertainties over its Muslim population have continued to cloud European attitudes about Turkey. Although projected by many to require 10 or more years to accomplish, the question of Turkey's membership in the Union became a debating point during consideration of the Treaty for a European Constitution in the spring of 2005. Many observers suggested that one of the factors contributing to the defeat of the Treaty in France and the Netherlands was voter concern over continued EU enlargement and specifically over the potential admission of Turkey, which was considered by many as too large and too culturally different to be admitted into the Union.

The controversy over Turkey's accession continued until the decision in October 2005 to begin accession negotiations. Expressions of concern by Germany, France, and Austria, which proposed that Turkey be given a "privileged partnership" instead of full membership, forced the Council to go to the 11th hour before agreeing to open accession talks.

For Turkey, 2006 became a more difficult year in its relations with the EU even as formal negotiations between Brussels and Ankara began. The membership of Cyprus in the Union, despite the Greek Cypriot rejection of the U.N. unification plan, and Turkey's public stance on not dealing with the Greek Cypriot government, served to aggravate relations further and, in the opinion of some observers, may have contributed to a changing attitude within Turkey towards the EU. At the outset, Cyprus expressed its opposition to formally opening and closing the first of 35 negotiation chapters unless Ankara met its obligations to recognize all 10 new EU member states, including Cyprus. Despite the Cypriot position, the Science and Research Chapter, considered one of the least controversial of the *acquis*, was opened on June 12, 2006. However, on June 16 the EU Presidency issued a statement that referred implicitly to Turkey's continued refusal to open its ports to Greek Cyprus as required by Turkey's customs union with the EU. The EU again asserted that Turkey's failure to "implement its obligations fully will have an impact on the negotiating process."[9]

Ankara responded that Turkey would not open its seaports or airspace to Greek Cypriot vessels until the EU ended the "isolation" of the Turkish Cypriots by providing promised financial aid

[8] Enlargement: Turkey, Declaration by the European Community and Its Member States, Council of the European Union, September 21, 2005.

[9] See Council of the European Union - 15/16 June (2006), Presidency Conclusions, at http://www.consilium.europa.eu.

and direct trade between the EU and the north, aid that at the time was being blocked by Cyprus. EU Enlargement Commissioner Olli Rehn warned Ankara that the resolution of the Cyprus issue was a central stumbling block in the accession talks and that a "train crash" was coming later in the year if Turkey did not resume implementing reforms and honoring its commitments in the Accession Agreement and the additional Protocol.[10]

In July 2006, Finland assumed the rotating Presidency of the EU, and the Finnish Prime Minister urged Turkey to resolve the contentious issue with Cyprus over access to ports and airports by the end of 2006. In Turkey, advocates for closer relations with the EU began to believe that European interest in Turkey was changing and that what should have been EU incentives to promote and encourage necessary reforms in Turkey had become conditions that many Turks felt were designed to discourage Turkey. As a consequence, many observers believe that the reform process in Turkey began to slow as a reassessment of the relationship began to take hold.[11] In September, both EU Commission President Jose Manuel Barroso and then-Finnish Foreign Affairs Minister Erkki Tuomioja warned Turkey over the pace of reforms and the issue of Cyprus.

In September 2006, the European Parliament joined in the criticism of Turkey when the Committee on Foreign Affairs issued a progress report on Turkey's accession. The Parliament's finding suggested that reforms in Turkey had slowed, especially in the implementation of freedom of expression, religious and minority rights, law enforcement, and the independence of the judiciary, and urged Turkey to move forward. During a visit to Paris in September, Turkey's then-Foreign Minister Abdullah Gul promised additional reforms and noted that the Turkish Parliament had reconvened a week earlier than normal in September in order to discuss a new reform package. The EU Parliament also stated that "recognition of all member states, including Cyprus, is a necessary component of the accession process and urged Turkey to fulfill the provisions of the Association Agreement and Additional Protocol."[12] On September 14, 2006, then-Cyprus Foreign Minister George Lillikas suggested that without Turkey's compliance with its obligations, Cyprus would likely object to opening any further chapters of the *acquis*.[13]

With Commissioner Rehn's warning of a "train crash" fast approaching in the Fall of 2006, the Finnish Presidency, committed to the accession process, worked with all parties to try to reach a compromise that would avoid any serious disruption in Turkey's candidacy for membership. On November 29, 2006, the EU Commission issued its assessment of Turkey's accession negotiations. Although acknowledging that negotiations should move forward, the Commission noted that Turkey had not met its obligations toward Cyprus and recommended that the Council take actions regarding the opening of any new chapters in the *acquis*. At the EU Summit in December a compromise was reached that averted the worst possible outcome but clearly enunciated a strong opinion against Turkey. Based on the recommendations of the EU Commission,[14] the Council again noted that Turkey had not fully implemented the additional Protocol to the Ankara Agreement and, more importantly, decided not to open negotiations on

[10] Interview with Olli Rehn on EU Enlargement, *Reuters*, March 28, 2006.

[11] A public opinion poll conducted by the German Marshall Fund in 2004 indicated that 75% of those Turks interviewed responded that being in the EU would be a good thing for Turkey. A similar poll in 2006 indicated that that number had declined to 54%. See *Transatlantic Trends*, German Marshall Fund, 2006.

[12] See "Turkey's Progress Towards Accession," Committee on Foreign Affairs, European Parliament, September 2006 at http://www.europarl.europa.eu.

[13] See "Cyprus FM: No More EU Chapters for Turkey Before Progress Report," Cyprus Embassy, September 2006.

[14] See "Commission presents its recommendations on the continuation of Turkey's accession negotiations," European Commission, November 29, 2006.

eight chapters of the *acquis* covering policies relevant to Turkey's position on Cyprus, or to provisionally close any chapters until the Commission had confirmed that Turkey had fully implemented its commitments under the Additional Protocol.[15] The Council further required the Commission to report on Turkey's progress "in its forthcoming annual reports, in particular 2007, 2008, and 2009."[16] While the compromise decision prevented the feared "train crash," it did portend a slowing of the accession negotiations and, in the eyes of some Turkey skeptics, presented a deadline of sorts for Turkey to implement the Additional Protocol by December 2009, which is now fast approaching. Others, however, point out that 2009 was identified simply because it was the final year of the current Commission's term.

The accession process entered 2007 with a mixed sense of direction. Turkey apparently felt its EU aspirations had been dealt a serious blow with the EU decision to condition negotiations on certain key chapters until the Cyprus issue was resolved. Matters were further complicated within Turkey as the ruling Justice and Development Party (AKP) began to come under fire from a determined opposition. In addition, presidential elections were scheduled in Turkey which would necessarily complicate the timing of the accession negotiations. Finally, the issue of Turkey's membership entered France's 2007 presidential election campaign, during which conservative candidate and then-Interior Minister Nicholas Sarkozy, in a campaign speech, stated that he felt Turkey should never become a member of the Union.[17]

Turkey's 2007 presidential election became mired in controversy. The Turkish Grand National Assembly (parliament) had the responsibility to make the selection and the ruling AKP then held a comfortable majority in the legislature, but its numbers fell short of the two-thirds majority needed to elect a president on the first or second ballot. Prime Minister Recep Tayyip Erdogan named his close associate, Foreign Minister Abdullah Gul, to be AKP's candidate for president. Because AKP has Islamist roots, the prospect of its controlling the presidency as well as the parliament threatened secularists in the military and the political opposition. The main opposition party, the Republican People's Party (CHP), boycotted the first round of the voting, in which Gul won a majority but less than two-thirds of the vote. CHP then argued that the vote was invalid because a quorum was lacking and petitioned the Constitutional Court to nullify it. At the same time, the Office of the Chief of the General Staff posted a warning on its website as a reminder that the Turkish Armed Forces are the "sure and certain defenders of secularism"—an ineptly veiled threat of possible military interference in the political process, which has occurred several times in Turkey's past.[18] Shortly thereafter, the Constitutional Court nullified the first round of the presidential election on the grounds that a quorum had not been present.

Prime Minister Erdogan then called early national elections for July 22. AKP won with almost 47% of the vote, a larger plurality than in 2002, and 341 seats in the 550-seat parliament. CHP lost 37 seats, and the far-right Nationalist Action Party (MHP) returned to the legislature after having failed to cross the threshold in 2002. Although AKP supports Turkey's EU aspirations and both the CHP and MHP criticize (but do not outright oppose) it, the EU was not an issue in the

[15] This freeze on negotiations included chapters on the free movement of goods, right of establishment and freedom to provide services, financial services, agriculture and rural development, transport policy, and external relations, among others.

[16] Conclusions of the European Council, December 11, 2006.

[17] "News Analysis: Sarkozy May Cause Global Ripple," *International Herald Tribune*, September 11, 2006.

[18] Text of General Staff Statement "On Reactionary Activities, Army's Duty," Open Source Center Document GMP20070428016005.

campaign nor did EU statements exert much influence over domestic political developments leading to the election. Instead, the parties competed on parochial Turkish-based issues. With its parliamentary majority secure, AKP was able to elect Gul president in August in a first round of voting with the support of MHP.

Despite the internal political events in Turkey which slowed the reform process, the EU agreed to open three additional chapters of the *acquis* and identify the benchmarks necessary to open 14 additional chapters should Turkey meet the requirements for doing so. By the end of the year, the EU Commission, in its annual recommendations to the Council, noted some progress in the political reform process but also pointed out areas where additional progress was needed. These areas included freedom of expression, the fight against corruption, cultural rights, and civilian oversight of the security forces. In its December 2007 conclusions, the EU Council praised Turkey for the resolution of the political and constitutional crisis earlier in the year and the conduct of the presidential and parliamentary elections as signs that democratic standards and rule of law were sufficiently implemented and supported in Turkey. However, the Council also expressed regret that overall political reform had achieved limited progress and once again warned Turkey that it had not made any acceptable progress in establishing relations with Cyprus.[19]

Throughout 2008, the Turkish government continued to deal with multiple political challenges, including the call for the dissolution of the AKP and for the banning of several prominent politicians, and an investigation into an alleged conspiracy involving several retired military officers and others, to create chaos throughout Turkey and provoke the military to overthrow the government. In July 2008, the Constitutional Court found that the AKP was indeed a focus of "anti-secularist activity," but the vote fell one short of the 7 out of 11 justices required to close the party. The conspiracy investigation has led to numerous arrests and continues.

These internal political affairs polarized the political atmosphere in Turkey, and the global economic crisis also began to consume the government's attention. Despite these problems, which virtually ground the accession negotiations to a halt, six additional chapters of the *acquis* were formally opened by the EU. However, key chapters relating to energy, external relations, and security and defense matters have been held up by several EU member states, including France, although in the case of energy, some have suggested that France did propose to open this chapter during its 2008 Presidency of the Council.

Averting another constitutional and political crisis was seen as sign that democracy in Turkey was strong. Nevertheless, Turkey again came in for EU Council criticism when it reviewed the Commission's annual progress report. Although upbeat about the internal political situation in Turkey, the Council again stated that "Turkey has not yet fulfilled its obligations of full non-discriminatory implementation of the Additional Protocol to the Association Agreement and has not made progress towards normalization of its relations with the Republic of Cyprus."[20] Perhaps recognizing that the future of the accession negotiations faced a 2009 decision it set in 2006, the Council, in its conclusions, stated that "progress is now urgently awaited."

In early 2009, Turkey, in a sign of a renewed commitment to the accession process, announced the appointment of its first full-time EU accession negotiator, State Minister Egemen Bagis, and it

[19] Conclusions of the European Council, December 11, 2007.

[20] Conclusions of the European Council, December 2008.

has moved forward on a number of reform fronts. In June, the 11th chapter of the *acquis* was opened.

In March 2009, Turkey's accession process hit a political bump in the European Parliament, which adopted three resolutions based on enlargement reports issued by special rapporteurs. In the resolution on Turkey, the Members of Parliament noted with concern the "continuous slowdown of the reform process" and called on Turkey "to prove its political will to continue the reform process." The resolution also stressed the need to reach a solution to the Cyprus question and called for Turkey to remove its military forces from the island. Finally, the Parliament noted that the customs union agreement, specifically with Cyprus, had not been fully implemented, and pointed out that "the non-fulfillment of Turkey's commitments by December 2009 will further seriously affect the process of negotiations."[21]

On October 15, 2009, the European Commission issued its annual "Progress Report on Turkey" along with its report on "Enlargement Strategy and Main Challenges 2009-2010." As expected, the Report on Turkey did not include anything new or dramatic and did not refer to any deadline for Turkey's accession process. The report did note progress Turkey had made in judicial reform, relations with both the Kurds and Armenia, and its positive role in the Nabucco pipeline issue that will serve to provide an alternative source for natural gas for Europe. However, the report was also littered with phrases ranging from "some progress" to "little progress" to "no progress" and stated that significant efforts were still needed in areas such as freedom of expression and the press. The report also noted that while Turkey has expressed public support for negotiations regarding a Cyprus solution, The Commission expected Turkey to actively support the ongoing negotiations. Finally, as with its other assessments since 2006, the Commission again noted that Turkey had made no progress toward fully implementing the additional protocol regarding the use of its ports by Cyprus or in normalizing relations with the Republic of Cyprus.[22] The Commission, referencing the 2008 Council conclusions, stated that "it was urgent that Turkey fulfills its obligations."

While the reaction to the Commission's report by Turkey's EU accession negotiator, Egemen Bagis, seemed to be that the report was at least balanced, some believe the Commission's assessment was too mild and written to avoid creating possible problems while the negotiations involving Cyprus are under way.

Possible Scenarios

All three institutions of the European Union have expressed concern that Turkey's efforts to enact and implement critical political reforms have been slow and, worse, insufficient. Yet, some do recognize advances, such as restricting the jurisdiction of military courts, other judicial reforms, and the granting of more rights to Turkish Kurds. However, Turkey's failure to open its ports and airspace to the Republic of Cyprus, in accordance with its Protocol agreement, increases the risk that accession negotiations between Turkey and the EU could come under new pressures by the

[21] 2008 progress reports on Croatia, Turkey, and FYROM: EP sets out its views on enlargement. European Parliament Press Release, March 12, 2009.

[22] For more information see "Turkey: 2009 Progress Report," prepared by the European Commission, October 14, 2009.

end of 2009, when the EU Parliament will issues its next progress report and the EU Council has to issue conclusions based on the assessment of the Commission issued on October 15.

Some observers believe that this year's Council decision will be the subject of very difficult internal debate due to a lack of consensus among the member states on how to respond to Turkey's shortcomings in the reform process and its failure to meet its customs union obligations toward Cyprus after four years.[23] There has also been an upsurge in concern over Turkey's policy orientations and recent activity in Middle Eastern affairs, including a closer relationship with Iran.

Under the accession process, discussion of an EU response to a candidate country's failure to meet its accession requirements can only take only place when the Commission releases its Progress Report and before the Council issues its conclusions. Since the 2006 Council conclusions specifically listed 2009 as a possible deadline for certain progress to be made as part of the accession talks, many Turkey skeptics in Europe have begun to suggest that the accession process may have to be significantly altered. For instance, in an interview with Spanish news media, French Secretary of State for European Matters Pierre Lellouche again reiterated his government's position that if Turkey fails to satisfy the requirements for membership or if the European Union's capacity for absorption does not permit it, alternatives should be considered. Although not specifically stating that the EU needed to prepare such alternatives by the end of 2009, Lellouche did state that "we wonder whether it is not the time to begin reflecting on alternative paths [for Turkey] without interrupting the negotiations."[24] This statement reflects France's (and perhaps others') continued opposition to full membership in the Union for Turkey and support for a yet-to-be defined "special relationship" or "privileged partnership," which Turkey will almost certainly reject. Similarly, on September 11, 2009, Cypriot Foreign Minister Markos Kyprianou stated that while Cyprus was "a genuine supporter of Turkey's EU course," Cyprus was "one of the strictest supporters who are not prepared to compromise the principles and values that the EU is founded upon just for the sake of a speedier accession of our neighbor."[25]

Between now and the EU Council meeting in December 2009, it is likely that a good deal of behind-the-scenes diplomacy between Brussels and Ankara, Brussels and Nicosia, and Brussels and the capitals of the member states may be necessary if a possible "train wreck" is to be avoided in December.

For most observers, of course, a "best-case" scenario for moving forward would be if a political settlement on Cyprus could be reached and if Turkey opened its ports to Greek Cypriot ships and aircraft. In return, the Council would unfreeze the eight chapters of the *acquis*, allowing the accession process to continue on a normal course. Although leaders on both sides in Cyprus seem genuinely committed to reaching a fair settlement of the political stalemate, a comprehensive agreement by December does not seem likely and, thus, action by Turkey is not anticipated.

A variation of this scenario that could be pursued by the Swedish Presidency might include a compromise in which Turkey would open a few of its ports, perhaps without formally recognizing the government of Cyprus, if negotiations over the status of Cyprus appeared to be making

[23] Observations made by the author during discussions with EU and other officials.

[24] "France Seeks alternative to Turkey's EU membership," *TurkishNY.com,* September 3, 2009.

[25] "Cyprus, one of a few genuine supporters of Turkey's EU Course," *Cyprus News Agency,* September 11, 2009.

significant progress. In return, although more problematic, the EU would permit direct trade between the North and the EU. Enhanced EU economic assistance would also be provided to the North. Complicating this possibility is the perception of limited flexibility on the part of both Ankara and Nicosia. Domestic politics have already made it difficult for Ankara to compromise on the Cyprus issue without winning concessions for the Turkish Cypriots. Greek Cypriots contend that recognition of the Republic is a legal condition set by the Union that cannot be compromised indefinitely. Nicosia also has the added issue of just how much compromise can be accepted without threatening the current coalition government. Thus far, the Turks do not appear to be open to this idea, and the Greek Cypriots continue to reject any linkage between Turkey's customs union obligations and EU assistance or other outreach to the Turkish Cypriots.

A "worse-case" scenario for Turkey would be a temporary suspension of all accession negotiations on those chapters of the *acquis* already in progress and a veto of any proposals to open additional chapters until Turkey complies with the Protocol. It has been suggested that other EU member states may sympathize with such a suggested course of action if requested by the Greek Cypriots. This scenario, however, is complicated by what may be a Greece–Greek Cypriot agreement that Cyprus cannot be the one that would ultimately sabotage Turkey's EU prospects.

A fourth option, and one that would seem to suit the Swedish Presidency and others, would be that the Council would issue a very sternly worded criticism of Turkey's failure to move quickly enough on the reform front or to live up to the obligations it agreed to, but then for the sake of the ongoing negotiations on Cyprus, defer any actions on the negotiation process until a later point in time.

U.S. Perspectives

Although the United States does not have a direct role in the EU accession process, successive U.S. Administrations and Congresses have continued to support EU enlargement, believing that it serves U.S. interests by spreading stability and economic opportunities throughout the continent. During the Bush Administration, the United States had been a strong and vocal proponent of Turkish membership in the European Union, apparently much to the displeasure of many EU member states who felt that the United States did not fully understand the long and detailed process involved in accession negotiations, did not appreciate the long-term impact the admission of Turkey could have on Europe, and defined the importance of Turkey in too-narrow terms, generally related to geopolitical and security issues of the region. This latter view seems to be one held by countries such as France, and perhaps Germany and Austria.

Most European member states believe that the Obama Administration and the 111th Congress will continue to support Turkey's EU membership aspirations. President Obama's statements in support of Turkey during his April visit to Ankara and his assertion that Turkey's accession would send an important signal to the Muslim world affirmed this but also caused anxiety among some Europeans who feel that putting Turkey's accession in those terms suggests that anything short of full EU membership for Turkey would represent a rejection of Turkey by the West, and by association, a rejection of the Muslim world. Many in Europe hope that the United States will scale back its rhetoric and use U.S. relations with Turkey in more constructive ways for the EU. For instance, some Europeans seem to feel that when the United States interjects itself into the EU's business of who can join the Union by promoting Turkey's EU membership, the United States should also be more helpful in encouraging Turkey to move more rapidly on reforms and to comply, at least in part, with the Additional Protocol regarding Turkey's customs union. When

asked in an interview in June whether the United States could be more helpful on this point, Assistant Secretary of State for Europe and Eurasia Philip Gordon demurred, saying that "ultimately, this is an EU issue; we're not directly involved in it.... This is between the EU and Turkey." [26] Other Europeans believe that Turkey's membership in NATO is the appropriate venue to demonstrate that Turkey can interact constructively with an organization dominated by most of the same European countries that belong to the EU and play a positive role in foreign policy matters that impact Europe, whether it is the Europe of the EU or the Europe of NATO. The Europeans would like to see the United States use its influence to help shape a more constructive NATO-EU relationship, which is strained in a large part by actions taken or not taken by Turkey because of the Cyprus issue. Afghanistan is another area where Europeans would like to see more cooperation from Turkey and help from the U.S. Turkey, with one of the largest standing armies in NATO, deploys over 30,000 troops to Cyprus, an EU member state, while deploying fewer troops to the NATO ISAF mission in Afghanistan than non-NATO ally Australia. Recently, however, Turkey did announce that it would be deploying additional troops to Kabul in mid-November.

Assessment

For supporters and opponents of Turkey's EU membership, arguments come from two different sets of talking points. While Turkey and its supporters, such as the United States, argue in support of Turkey's role as an important regional energy and foreign policy actor, many in Europe express concern regarding Turkey's political, economic, social, and religious orientation. Turkey and its supporters argue that Turkey, through the EU plan to build the Nabucco gas pipeline in part through Turkey, will play an even more important energy role and could play an important role with respect to Iraq, Iran, Russia, and the Black Sea region. These advocates sometimes seem miffed that the EU does not appear to appreciate that role or place a greater importance on those issues when considering Turkey. Europeans, on the other hand, point out that while energy security and foreign policy are important elements in the operations of the EU, those issues comprise only two or three of 35 chapters in the *acquis*, and Turkey must come into compliance with the requirements of the entire *acquis*. In addition, many Europeans argue that Turkey is already playing an important role on defense and foreign policy matters with Europe through its membership in NATO. Further, many Europeans point to public opinion attitudes in both Europe and Turkey with respect to membership in the EU. In the latest publication of the German Marshal Fund's *Transatlantic Trends*, [only] 32% of Turks polled held a favorable opinion of the EU. According to the poll, [only] 34% of Turks believed Turkey shared the same values as the West and Turkish support for EU membership since 2004 has fallen from 73% to 48%.[27] In that same study, [only] 20% of the Europeans polled thought Turkey joining the EU was a good thing. Finally, while many Turks believe the change in atmospherics between Europe and the Obama Administration could make U.S. support for Turkey's accession more effective with the Europeans, this era of goodwill appears unlikely to persuade the Europeans to be more open-minded about Turkey's membership in the EU.

For now, all attention seems to be focused both on the current negotiations in Cyprus and any comments the government in Ankara may make regarding its commitment to the Protocol as the

[26] See Assistant Secretary Gordon's interview with Tom Ellis of *Kathimerini*, June 27, 2009, Corfu, Greece.

[27] See Transatlantic Trends: Key Findings 2009, published by the German Marshall Fund, September 2009, at http://www.transatlantictrends.org

EU Council prepares to consider the assessment of the Commission and issue its own conclusions. If it becomes less likely that a settlement between the Greek and Turkish Cypriot communities will be reached this year, and thus unlikely that Turkey will comply with the requirements of the Protocol, the EU will have a major debate on its hands come December. In this case, it is possible that the Republic of Cyprus and a few other EU member states may dig in their heels and push for some type of "sanctions" on Turkey or at least sufficiently critical remarks on Turkey's lack of commitment in meeting its obligations by the forthcoming meeting of the Council unless Turkey opens its ports to all member states. On the other hand, the Swedish Presidency, along with a few others, seems determined not to allow Turkey's accession talks to come to a halt during its Presidency, especially if the talks involving Cyprus give the appearance of progressing. Sweden will likely engage in intensive talks with all parties to find a way to once again avoid the ultimate "train crash" and postpone any significant decisions about Turkey's accession negotiations until a later time.

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