

The European Commission's 2011 Progress Report on Turkey: more than just a hollow ritual? (ARI)

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Theme: The European Commission has released its 2011 Report on Turkey's progress towards EU accession. Unfortunately, this is no more than following a ritual, a hollow gesture, since 'progress' is not that visible, especially considering that no new chapters have been opened following the Spanish Presidency in 2010.

Summary: The European Commission's annual report on Turkey's progress towards EU accession was released on 12 October, a further episode in a ritual that began with a Regular Report in 1998.¹ Prepared by the Directorate-General of Enlargement's Turkey team, the report lays out the progress achieved during the year in political criteria, fundamental rights and freedoms and the economy. In addition, it provides an annual overview of developments in each negotiation chapter, one by one. This year's report underlines issues related to the freedom of expression and of the press, which is an increasing concern in the country. Furthermore, the application of the rule of law is another hot topic as regards developments in the ongoing cases on alleged criminal networks, while regional and minority issues are always on the table when talking about Turkey.

Analysis: This year's report on Turkey's progress towards EU accession can be read from various angles. Basically, the 2011 Progress Report has two dimensions, of which the first refers to the EU itself as the author of the annual report whereas the second dimension covers Turkey's steps towards the EU. From a general point of view, the main purposes of the progress reports published annually by the European Commission are to *explicitly* analyse the current political and economic situation in a specific country and to *implicitly* define ways to further improve the shortcomings that are mentioned. However, it can be argued that the Progress Reports have not served this second purpose in recent years and that the latest report is no exception. This point merits further attention before we continue with the specific developments related to Turkey this year.

Progress Reports at a glance

In the early 2000s the regular progress reports published by the Commission were regarded as *roadmaps* for the Turkish governments to engage in legislative and political action in the following months. Thus, the period leading to the opening of accession negotiations was one of the most active in terms of the Turkish Parliament approving numerous laws over a relatively short period of time. However, from the reciprocal declarations made by the two sides on the vexing Cyprus issue in 2006, followed by the

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¹ The Key Documents prepared by European Commission on Turkey are at http://ec.europa.eu/enlargement/candidate-countries/turkey/key-documents/index_en.htm (accessed 20/X/2011).

blocking of eight negotiation chapters because of this very issue and the blocking of a further four by France, the ambiguous messages of the European Commission embodied in the progress reports started to lose effectiveness.² Thus, the progress reports started to lose their power to inspire further reforms in Turkey and began to lapse into mere bureaucratic routines for the Commission to fill out the agenda of the Directorate-General of Enlargement's officials every year from July to October. Hence, the progress reports have failed to have the hoped-for influence on Turkey's path to EU accession. The question is whether Turkey's road to Europe is getting shorter or whether the possibility is moving even further away.

To answer this question it is necessary to analyse the various parts of the 2011 Progress Report. In the light of the recent debates on Turkish foreign policy and the arguments about a 'shift of axis', the Report mentions the active policies undertaken by the Turkish government regarding the Syrian dispute, Iran and the Arab Spring. The statements made by politicians and comment in the media show that neither the EU Member States nor the Commission are very happy with the new orientation of Turkey's foreign policy. However, the final goal aimed at by both Turkey and the EU is one and the same: peace and stability in the neighbouring regions. The German Marshall Fund's recent Transatlantic Trends Survey also shows that the attitudes of the two sides towards foreign policy issues converge.³ The problem is that the paths they have been following have separated, as the EU tries to act as a single voice instead of 27 different ones, while Turkey's ambitions is to become a regional leader. Nevertheless, Turkey seeks to play its leadership role by promoting values such as democracy, secularism and human rights, which are fully in line with its EU membership goal. Therefore, although the Progress Reports criticise many shortcomings, improvements in democracy and the rule of law are in Turkey's interest. Consequently, it can be argued that Turkey remains on the EU path, but not on every single issue. The conclusion is that the accuracy of the Progress Reports must be re-evaluated in light of these considerations.

2011 Progress Report on Turkey

For the first time, the European Commission's annual overview on Turkey's progress towards EU membership⁴ makes no mention of new chapters being opened or provisionally closed. As a rule, the reports try to touch on sensitive topics in a prudent manner. Before going through the most important points of the 2011 edition, it should be borne in mind that it is six pages longer than last year's, showing that it is not always true that the 'longer the negotiations, the more structured the relations and thus the shorter the progress reports'. It is obvious that the Commission needs more ink every year to criticise Turkey.

Last year's report mainly focused on constitutional reforms, the government's 'democratic opening', the trials against the planned *coup d'état* and the Kurdish issue. The 2011 Progress Report focuses particularly on freedom of press, freedom of expression, the rule of law and the judiciary's current practices. The European Commission recommends that

² For a detailed analysis on Turkey-EU relations see M. Ilgaz & I. Toygur (2011), 'EU-Turkey Accession Negotiations: The State of Play and the Role of the New Turkish Foreign Policy', Working Paper nr 8/2011, Elcano Royal Institute, http://www.realinstitutoelcano.org/wps/portal/rielcano_eng/Content?WCM_GLOBAL_CONTEXT=/elcano/elcano_in/zonas_in/dt8-2011 (accessed 20/X/2011).

³ Transatlantic Trends 2011, <http://trends.gmfus.org/> (accessed 17/X/2011).

⁴ The full Progress Report is at http://ec.europa.eu/enlargement/pdf/key_documents/2011/package/tr_rapport_2011_en.pdf (accessed 12/X/2011).

the *Ergenekon* case (an alleged clandestine network) should be used as an opportunity to improve the rule of law in Turkey. The case is having a deeply polarising effect on Turkish society, with not only members of the military but also many writers and journalists being under arrest.

The report discusses the judicial investigations, arrests and the conduct of the trials, all topics under debate by Turkish public opinion. Furthermore, the secrecy of the investigation orders, the length of pre-trial detentions, the delays between the arrests and the presentation of indictments and the restricted access to evidence by the defence are all subject of concern also. Even if the aim of the trials is supported by many in the country, the ways they are being carried out is not, while there is significant concern about issues concerning human rights.

The 2011 Progress Report also deals with the KCK (*Koma Civakên Kurdistan*, or Union of Communities in Kurdistan) case, and mentions it as another example of its concerns about the rule of law. The same criticisms are being levelled by the Commission on both the methodology and functioning of the judiciary. The Kurdish issue is an important topic in Turkey at present and is likely to remain so in the future, being connected to not only terrorism but also minority rights in Turkey. The AKP government aimed to implement a 'democratic opening-up' in 2009, but it failed to yield the expected results. The 2011 report shows that the issue will be monitored closely by the Union as well.

In another point, the European Commission's report mentions the parliamentary elections as an example of how democracy functions in Turkey. It summarises the results in detail before commenting on the issue of the detention of elected representatives, which has been the subject of debate by Turkish public opinion since the general elections were held in June. Some MPs refused to take their oath for a couple of months in support for their colleagues who were then in prison. Turkey still has the highest threshold among the members of the European Council for gaining a seat in parliament (10%), and this limits the effectiveness of democracy right from the very beginning. The European Commission has criticised this every single year, but no progress has been made. Furthermore, the legislation on political parties requires changes, including the granting of immunity to MPs. In this regard, even if the elections are an example of functioning democracy, Turkey has a long way to go and needs good European advice.

Looking at developments, rather than merely at criticism, the civilian oversight of the security forces in general is mentioned as an 'improvement' in Turkey, both in the 2010 and 2011 reports. There have not only been legal arrangements but also a change in mentality, even among the members of the Turkish armed forces. In this regard, progress has definitely been made, especially when considering Turkish history. However, the key figure of the 1980 *coup d'état*, Kenan Evren, is still a symbol of the inability to bring the perpetrators to account. Turkey needs to come to terms with its past and deal with it appropriately.

To be Addressed Urgently: Fundamental Rights, Freedom of Expression and of the Press

The main focus of criticism in the 2011 report is undoubtedly freedom of expression and of the press. Even if the report claims that 'the media and public continued debating openly and freely a wide range of topics perceived as sensitive', there are many related concerns. The Kurdish and Armenian issues, minority rights and the role of the army are always considered to be 'sensitive' topics in Turkey. In this respect, providing an opinion is a challenging task, which can have implicit and explicit consequences. Even if Turkey is

improving, it still needs a better understanding of freedom. This year's report specifically underlined as an example the confiscation of an as yet unpublished book. There are many other violations, with a lack of proportionality in the interpretation and application of the law and, hence, unjustified decisions. Frequent website bans, the fine on the Doğan media group and warnings and fines meted out by the RTÜK (Supreme Board of Radio and Television) are further examples cited in the report. All these instances show that fundamental rights are an area in which Turkey would benefit from the anchor provided by the Eu if it were to gain full membership.

Any Progress in the Negotiations?

Looking at the situation today, 13 of the 35 chapters are opened while only one is provisionally closed. Since the last chapter opened by the Spanish Presidency in June 2010, no new chapters are being negotiated. The main obstacle to progress is the Cyprus problem. The negotiations for a united federal island have been continuing under the auspices of the United Nations and a roadmap for a permanent solution is expected to be reached by the end of the year. If such an agreement ever happens and Turkey and the EU consider it appropriate to speed up the stalled negotiation chapters, then some further progress may be possible. Otherwise, it would be naïve to expect a radical change in the current status quo. Following the rejection of the Annan Plan prior to Southern Cyprus's accession to the EU without a comprehensive solution, Turkey and the EU tried to reach a compromise which would prevent the blocking of Turkey's accession negotiations while overcoming the isolation of the Turkish Cypriots. However, the compromise was never reached. At this stage of the negotiations, neither side is willing to take one-sided steps, but a possible solution by mid-2012 would have the potential to accelerate Turkey's talks with the EU.

The deadlock always raises questions about whether Turkey is experiencing an axis shift. In order to keep on track, Turkish officials underline the importance of EU membership at every possible opportunity. Although this has been the case for many years, they have an increasingly proud and even arrogant tone. In any case, the creation of a Ministry for EU Affairs and the appointment of Egemen Bağış are perceived as signs of the willingness to keep up relations with the EU. The report mentioned this as an improvement also, although a Ministry blocked by political problems has little scope to make further progress.

Enhanced Political Dialogue Continued?

Before commenting on the political dialogue with the EU, it is necessary to mention the polarisation between the government and the opposition. This is damaging the process of political reforms, the efforts to design a new constitution and the resolution of the country's other problems. In this regard, political dialogue should primarily be conducted in the Parliament. The need for improved dialogue between political parties is also underlined by the members of the European Commission. It could be said that the lack of communication is definitely harming the EU accession process, and this should be resolved as soon as possible.

Looking at the dialogue between the EU and Turkey, there are also many problems. Waiting half a century at the doors of Europe and still being in a deadlock has exhausted Turkish society. Even Egemen Bağış, the Minister for the EU, has accepted that the report has not generated the hoped-for enthusiasm. He blamed the EU and its unjust practices for this, underlining that Turkey is a self-sufficient global actor that does not need to become the member of any Union. These words should have been taken into consideration. As discussed above, the reports are losing relevance and having negligible

effects since accession looks increasingly so far away. In this regard, the dialogue between Turkey and the EU's institutions, as well as Member States, should be unconditionally stepped up to ensure a satisfactory outcome. It should be borne in mind that Turkey and the EU are tied up historically, politically and economically, and this is reason enough to require dialogue.

What Next?

As mentioned above, the ties between Turkey and the EU require further deepening, since a large number of issues are of common interest and deserve some form of simultaneous action. For instance, the report names the Middle East, the Western Balkans and the Southern Caucasus as 'foreign policy issues of common interest' to the EU and Turkey. It also continues saying that Turkey has become a very active regional player. This leads to the conclusion that beyond the accession negotiations there are many different areas which still require a political dialogue. As an example, bilateral trade between the EU and Turkey totalled €103 billion in 2010, making Turkey the EU's seventh-largest trading partner while the EU is itself Turkey's main partner, but there are many other similar instances. In this regard, Turkey and the EU must work harder to keep their relations on track. The coming Presidency of the Republic of Cyprus (July 2012) has already started to increase the tension. Prime Minister R. Tayyip Erdoğan mentioned freezing the negotiations, but perhaps steps should be taken before the existing deadlock deepens.

Conclusion: The European Commission's 2011 Progress Report aimed to reflect the annual developments in the relations between Turkey and the EU. Even if the 'legitimacy' of the progress reports requires further attention, they still try to present a roadmap. In any case, the criticism from the EU's officials should be taken into consideration. As we all know one of the main aims of the reports is to lead the process, pointing the way forward, but the stalemate in the relations between the two parties works against the role played by the Commission's experts. This should be repaired as soon as possible so that criticism can serve its purpose of fostering further progress.

The report's main focus, freedom of expression and of the press, deserves the criticism and standards should be improved immediately. Self-censorship in Turkish media is a danger, since having a free press is also a guarantee of democracy in a country. Unfortunately it is also a matter of mentality, which is why it is necessary to define the issue so clearly in accordance with international standards. In addition to fundamental freedoms, concerns related to the judicial processes must be taken seriously as well. The fight against criminal networks is an effort that needs to be concluded within the framework of the rule of law. It should be borne in mind that any practices that disregard human rights and international law will merely cast a shadow on the main aim and will be of no service to Turkish democracy. In this respect, the attempts to design a civil constitution need to embrace all players, including the opposition and civil society.

Turkey has been on its journey towards Europe for half a century. There have always been ups and downs, disappointments and hopes in the process. The years 1999 and 2005 are recognised as key points and a date for full membership is needed in order to keep the relations on track.

Croatia started its negotiations on exactly the same day as Turkey but will become a full member in 2013. Even if the two countries are very different, this generates frustration. Both sides should focus on the solutions rather than be paralysed by the deadlock. It is always important to remember that Turkey and the EU co-exist and have strong ties and that their relationship is worthy of a happy end.

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