
Has the time come to reconsider Turkey's EU membership?

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Theme

The European Commission's latest annual report on Turkey's progress in meeting the conditions to become a full EU member shows that the rule of law, media freedom and human rights have deteriorated to such an extent since last July's military coup attempt that it would be appropriate to wonder whether the two sides should consider abandoning the accession process.

Summary

President Recep Tayyip Erdoğan is using the coup, which he says was masterminded by the exiled US-based Islamic cleric Fethullah Gülen, to purge Turkey massively of his opponents and reshape the country to his liking. The EU accession process is going nowhere. Turkey-EU relations are at a low if not breaking point.

The European Commission's latest annual report on Turkey's progress in meeting the conditions to become a full EU member (negotiations were started in October 2005, 18 years after formally applying) is so critical that it would be appropriate to wonder whether the two sides should consider abandoning the accession process.

Analysis

Background to the report

The 19th report on Turkey's accession process comes four months after the failed coup on 15 July that sought to topple the democratically elected government of President Recep Tayyip Erdoğan with the loss of 265 lives. Erdoğan blamed the coup on the exiled US-based Islamic cleric Fethullah Gülen –a former ally turned arch enemy in a power struggle, whose extradition has been requested– and his followers. Since then very extensive suspensions, dismissals, arrests and detentions have taken place over alleged links to the Gülen movement and involvement in the coup. More than 100,000 people, a staggering number, have been swept up in the purge, depleting the ranks of the armed forces, judiciary, schools, universities and ministries and going well beyond anything that could be justified by the coup. Gülenists were infiltrating institutions and creating what the government calls a 'parallel state'. Some 300 people, for instance, lost their jobs in the Foreign Ministry including several ambassadors.

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Many institutions and private companies have also been shut down and their assets seized or transferred to public institutions. Powers activated under a state of emergency declared on 20 July for three months and extended for another three months on 3 October have stifled the media and other forms of opposition to an even greater extent than before the coup.

In the predominantly Kurdish south-east of the country, the renewed war between the state and the separatist Kurdistan Workers' Party (PKK, which remains on the EU list of terrorist organisations) following the collapse of the settlement process in July 2015 has led to heavy casualties. In the latest batch of arrests, 53 of the 59 pro-Kurdish People's Democratic Party (HDP) members of parliament, including the two Co-Chairs, were detained this month.

The EU and Turkey struck a deal last March to stem the flow of refugees who use Turkey as a staging post to get to the EU. In return for taking back those who land in Greece, Ankara was promised €6 billion to help care for the estimated 2.7 million refugees from Syria and Iraq stuck in Turkey, along with visa-free travel. The European Commission says more work is needed and as a result it discarded Ankara's end of October deadline for the visa liberalisation. The deal is looking shaky.

Only 15 of the 33 chapters of the *acquis* that require negotiations have been opened in 11 years (the last one in December 2015) and just one provisionally closed. Turkey's failure to implement the 2005 Additional Protocol to the Ankara Agreement and extend its customs union with the EU by opening its ports and airports to Greek-Cypriot traffic led the EU to suspend at the end of 2006 the opening of eight chapters related to the Customs Union and announce that no more chapters would be provisionally closed until Turkey had fulfilled its commitment. France and Cyprus have unilaterally blocked other chapters.

The state of play

The rule of law is a paramount feature of a full democracy, and it is this area –particularly given the scale and collective nature of the measures taken since the coup attempt– that is woefully inadequate and causing the EU concern. This year's report makes no bones about Turkey's 'backsliding' in this area. 'Individual criminal liability can only be established with full respect for the separation of powers, the full independence of the judiciary and the right of every individual to a fair trial, including through effective access to a lawyer', the report states. 'Turkey should ensure that any measure is taken only to the extent strictly required to the exigencies of the situation and in all cases stand the test of necessity and proportionality'.

Turkey has slipped 27 places since 2014 to 99th place out of 113 countries in the global ranking of the WJP Rule of Law index (see Figure 1).

Figure 1. Rule of Law Index

Global ranking	Score
1. Denmark	0.89
6. Germany	0.83
10. UK	0.81
21. France	0.72
24. Spain	0.70
35. Italy	0.64
99. Turkey	0.43
113. Venezuela	0.28

World Justice Project Rule of Law Index, 2016.

Before the coup, parliament was beginning to implement reforms and the legislative requirements of the visa liberalisation roadmap, but progress since then has not been sufficient. Several key pieces of legislation that were adopted regarding the rule of law and fundamental rights were not in line with European standards. Of particular concern was the adoption of a law allowing the immunity of HDP members of parliament to be lifted.

The renewed fighting between the PKK and security forces has –as it did during the 1990s– led to serious allegations of human rights violations and the disproportionate use of force. Many elected representatives in the south-east have been suspended or arrested under terrorism-related charges, some of them on the basis of decrees under the ongoing state of emergency. ‘The settlement of the Kurdish issue through a political process is the only way forward; reconciliation and reconstruction are also becoming key issues for the authorities to address’.

The judicial system comes in for a lot of criticism. The report says the extensive changes to the structures and composition of the high courts are not in line with European standards. Judges and prosecutors continued to be removed and in some cases were arrested for allegedly conspiring with the Gülenists. One fifth of the judges and prosecutors have been dismissed since July and their assets frozen. Under the state of emergency, Ankara further extended for certain offences the pre-trial detention to 30 days without access to a judge, contravening European Court of Human Rights case law. Moreover, a significant part of the judiciary is subject to these measures.

As regards respect for human rights, many allegations of serious violations of the prohibition of torture and ill-treatment and of procedural rights were reported in the immediate aftermath of the coup.

Freedom of expression has been very seriously eroded by what the report calls ‘selective and arbitrary application of the law, especially of the provisions on national security and

the fight against terrorism'. In the latest crackdown on the press, the editor and 12 senior staff of the opposition *Cumhuriyet* newspaper, one of Turkey's oldest, were detained, some following raids at their homes. They are suspected of 'committing crimes' on behalf of the Gülen movement. More than 170 media outlets have been closed since the attempted coup and 105 journalists arrested, according to Sibel Günes, the General Secretary of the Turkish Journalists' Association. The Authorities have also revoked the press credentials of more than 700 journalists. Among those arrested at *Cumhuriyet* was the cartoonist Musa Kart. Long before the coup, Erdoğan (Prime Minister from 2004 to 2014) became infamous for mercilessly pursuing those who criticised his creeping authoritarianism.

Corruption remains rife in many areas, despite the adoption of a plan to combat it. Turkey has dropped from 53rd place out of 177 countries in 2013 with a score of 50 (the closer to 100 the cleaner the country) to 66th out of 168 in 2015 with a score of 42.

On the issue of Cyprus, the report yet again urged Turkey to implement the provisions of the Ankara Protocol and thus recognise the Republic of Cyprus, which joined the EU in 2004. Reunification of the island, the northern part of which was invaded² by Turkey in 1974 and occupied since then, is not *per se* a condition for EU membership but would undoubtedly improve the tense relations with Brussels. The landslide victory of the pragmatic Mustafa Akıncı, the leader of the internationally unrecognised Turkish Republic of Northern Cyprus in the April 2015 presidential election over the more inflexible Derviş Eroğlu raised hopes of progress finally being achieved in reunifying the island. Both Akıncı and Nikos Anastasiades voted in favour of reuniting Cyprus in the 2004 referendum and are at a delicate stage of negotiations to end one of the world's longest conflicts.

Conclusion

Where do we go from here?

Turkey-EU relations are at a low if not breaking point. Whether Erdoğan throws in the towel or the European Commission suspends the accession process remains to be seen. Neither side wants to make the first move, as it would be an admission of defeat and carry with it strategic consequences. For the EU keeping Turkey on board has been the name of the game for many years now, but this has its limits.

Ending Turkey's accession process would be a blow to the EU's soft power. All countries that have started the process have seen it through and become EU members. But Erdoğan has repeatedly ignored the EU's criticisms if not mocked them and got away with crossing EU red lines, often in the name of fighting terrorism. Earlier this month he said it was time to 'cut our own umbilical cord' as the EU has 'kept Turkey at its gates for 53 years'. Brussels long ago ceased to have any leverage over Ankara.

² Ankara claimed it was an intervention in accordance with the 1960 Treaty of Guarantees between Cyprus, Greece, Turkey and the UK, as it was in response to a military coup to annex Cyprus to Greece.

What would automatically trigger the suspension of the accession process would be if Erdoğan presses ahead with his threat to reintroduce the death penalty (abolished in 2004). That would then run the risk of imperilling the migration deal and plunge relations with Turkey into a deep crisis at a crucial point in the West's fight against the so-called Islamic State in Syria and Iraq, countries that border Turkey.

One way to move the EU accession along and put Erdoğan's democratic credentials to a final test would be to open the chapters on judicial and fundamental rights and on justice, security and freedoms, core values of the EU. But these chapters are blocked by Cyprus.

Key dates

September 1959: Turkey applies for associate membership of the European Economic Community (EEC).

September 1963: Signature of the Association Agreement, aiming at enhancing economic cooperation and achieving a Customs Union between Turkey and the EEC.

April 1987: Turkey presents its formal application for membership of the European Economic Community.

January 1995: Turkey-EU Agreement creating a customs union.

December 1999: The European Council recognises Turkey as a candidate country.

December 2004: The European Council agrees to start accession negotiations with Turkey.

October 2005: Start of accession negotiations.

December 2006: The Council decides that eight negotiating chapters cannot be opened and no chapter can be closed until Turkey meets its obligation of full, non-discriminatory implementation of the additional protocol to the Association Agreement.

May 2012: European Commission and Turkey start the implementation of the Positive agenda for Turkey.

November 2013: Chapter 22 on Regional Policy and coordination of structural instruments becomes the 14th chapter on which negotiations are opened.

December 2013: The EU-Turkey readmission agreement is signed in parallel with the launching of the visa liberalisation dialogue.

October 2014: The EU-Turkey readmission agreement enters into force.

March 2015: The European Commission and Turkey launch a high level energy dialogue.

May 2015: The European Commission and Turkey agree to modernise the 20-year-old Customs Union Agreement and to enhance EU-Turkey bilateral trade relations.

November 2015: On the occasion of the EU-Turkey Leaders Meeting, both sides agree on the activation of a Joint Action Plan aiming at ending the irregular migration from Turkey to the EU, in full compliance with EU and international standards.

December 2015: Chapter 17 on economic and monetary policy becomes the 15th chapter on which negotiations are opened.

January 2016: The EU-Turkey high level energy dialogue takes place.

March 2016: The EU and Turkey agree on a joint statement on the basis of the Joint Action Plan of November 2015.

April 2016: The first EU-Turkey high level economic dialogue takes place.

May 2016: The third Report on progress by Turkey in fulfilling the requirements of its visa liberalisation roadmap is published.

June 2016: Chapter 33 on financial and budgetary provisions becomes the 16th chapter on which negotiations are opened.

September 2016: The third Report on the implementation of the EU-Turkey Statement of 18 March 2016 is published.