

European issues

n°437

13th June 2017

European Union - Turkey: from an illusory membership to a 'privileged partnership'.[1]

When the then Turkish Prime Minister Recep Tayyip Erdogan entered the meeting room of the European Council in Brussels in the evening of 17th December 2004 he came to fulfil the dream that Turkey had been nursing since its signature of the Association Agreement on 12th September 1963, the so-called Ankara Agreement: to open membership negotiations with the European Union. That was the historic decision taken by the heads of States and governments, supported by European Parliament on 15th December, 407 votes in support, 262 against. A day of glory for Erdogan's government and his Justice and Development Party (AKP) that had entered office only two years previously, on 3rd November 2002. However, Erdogan's stern expression revealed a great deal of frustration - of having to accept the additional Protocol to the agreement, to extend membership to the Republic of Cyprus and to nine other States that became EU Member States on May 1st 2004. This was the condition that the European Council had set on the opening of the negotiations.

1. FROM AMBIGUITIES TO MISUNDERSTANDINGS

Erdogan's government decided in May 2004 to extend the Customs Union[2] established with the European Economic Community in 1995, to the new Member States, but Cyprus was excluded from it. The prospect of negotiations forced the addition of Cyprus in a new decision in October - "Cyprus" and not the Republic of Cyprus, which Turkey does not acknowledge. But a decision is a unilateral act. Only a protocol engages both sides. And against his will, and before the European Council, Erdogan stated that the "Turkish government was ready to sign before the effective opening of negotiations." [3]

And so, this was the first misunderstanding between Turkey and the European Union. Ankara, rightly alleged that it was Nicosia that had prevented the reunification of the island, as it rejected the Annan Plan in a referendum on 24th April 2004[4], whilst the Turkish Cypriot community had accepted it in a parallel referendum. There was feeling of injustice on Erdogan's part and on the part of Turkish public opinion. This was also the first expression of the latter's ignorance and misunderstanding of what

the European Union was about, how its institutions function and of the importance of solidarity between Member States. Indeed negotiating its membership of the European Union without acknowledging all of its members is clearly a problem, especially since 30,000 Turkish soldiers are still stationed on Cyprus without Erdogan, at any moment in time, reducing this contingent as a guarantee of opening and trust.

The second misunderstanding lay in the 'negotiation framework'[5] which, consistent with common practice, the European Council asked the European Commission to present in view of opening negotiations. But the Council already stipulated in point 23 of its conclusions on 17th December that this framework should provide for "long transitory periods of exemptions, specific arrangements and permanent "safeguard clauses" "in areas like the free movement of people, structural policies and agriculture." In this it echoed the European Commission's recommendation included in the report dated 6th October 2004. And to prevent the "permanency" of these clauses from turning Turkey into a second rate Member State, the Council specified that these clauses "can be permanently

1. The opinions expressed here are those of the author only.

2. Trade agreement that liberalises the trade of manufactured goods and whereby Turkey also adopted the EEC's common customs tariff. It entered into force on 1st July 1996 and was completed with a list of processed agricultural products in 1998.

3. European Council of Brussels 16th & 17th December 2004, Conclusions of the Presidency - EU Council 16238/04, 17th December 2004.

4. A plan negotiated between the Greek and Turkish Cypriot communities under the aegis of the UN but against which President Papadopoulos finally called to vote.

5. Document adopted by the Member States and the candidate country during the first membership conference and which sets out the principles governing the negotiations, the content of these and the procedures that will be followed.

referred to as a base for safeguard measures". This was a subtle nuance that barely masked the ambiguity of the wording, illustrating the fears sparked by the prospect of receiving Turkey into the Union at some point or another.

This was all the more the case since the Council added that if the "common objective of the negotiations is membership (these) are an open process the outcome of which cannot be guaranteed in advance." Although any negotiation is evidently dependent on this principle, it was however the first time in membership negotiations that the Council recalled this in its conclusions. Establishing this so openly already sowed the seeds of doubt about the outcome of the process and weakened the commitment that should govern it - and the fact that this wording was not taken up again as part of the negotiations with Croatia leaves us with no illusions. It is indeed Turkey which was being targeted, seen by its public opinion and by Erdogan as a further injustice.

The third misunderstanding was to emerge again in the protocol, before the real negotiations had even begun. The protocol was signed on 13th June 2005 by the Ambassador of Turkey in Brussels, Oguz Demiralp. But the supporting letter states that Turkey does not acknowledge the Republic of Cyprus as representing the whole island. This led the Council, after bitter discussion between the Member States, to adopt a declaration on 21st September 2005. It stipulated that they were "counting on a total and non-discriminatory implementation of the protocol ... that the opening of negotiations over the "pertinent" chapters depended on the respect by Turkey of its contractual obligations regarding all of the Member States, the non-respect of which would influence the general progress of negotiations." The European Union insisted on the "importance that it gives to normalisation as quickly as possible of relations between Turkey and all Member States (since) the acknowledgement of all Member States is a necessary component of the "membership procedure".

The membership negotiations were formally launched by the Council on 3rd October 2005 since their launch required only the signature of the protocol. But the key language of the conclusions of the Council of 17th December 2004 and of the declaration of 21st September 2005 was taken up entirely as part of the "negotiation" that the Council adopted on 12th October. This meant that the recognition of Cyprus was effectively linked to the "negotiation process" and not to membership itself, an ambiguity that rapidly disrupted the latter. Especially since Turkey soon deemed that the ports and airports are "services" and consequently outside of the "Customs Union" - which only covers products - and therefore of the protocol, which prevented direct trade with Cyprus. Although one might be able to defend the idea from a legal standpoint, it is inappropriate of course from the political point of view. The Council also asked the Commission to undertake an assessment in 2006. Noting a lack of change regarding Cyprus, the Commission suggested the freezing of eight "pertinent" chapters[6], which the Council then approved.

This involved the following chapters, chosen specifically for their pertinence in the Customs Union: the free movement of goods, free movement of workers, the right to establishment and the free provision of services: financial services; agriculture and rural development; fisheries; transport policy; Customs Union. A year on it was France that decided to prevent the opening of four chapters, deeming that they belonged rather to the final phase of negotiations: agriculture and rural development; economic and monetary policy; financial and fiscal measures; institutions. Hence nearly one third of the chapters cannot be opened to negotiations whilst these have hardly even started. This was a reason for further feelings of injustice for Turkey, notably regarding France and Cyprus. Ankara had forgotten that the process is "technical", in that it depends on the criteria and conditions of the negotiation framework, it is also eminently political and requires - at every stage - the unanimity of the Member States.

6. All of European legislation or the community acquis, is divided into 35 thematic chapters to facilitate negotiations.

2. THE ILLUSION OF THE MEMBERSHIP "NEGOTIATIONS"

Eleven years later although 16 chapters have been opened, only one has been closed[7]. From misunderstandings to ambiguities the membership process is in stalemate. But then why then did the EU open negotiations? By declaring its candidacy on 14th April 1987 Turkey recalled that membership had been promised to it in the 1963 agreement. Its preamble indeed acknowledges "that the support provided by the EEC to the effort made by the Turkish people to improve their living standards will ultimately facilitate Turkey's membership of the Community". And article 28 stipulates that "when the functioning of the agreement enables the total acceptance by Turkey of the obligations resulting from the treaty establishing the Community, the contracting Parties will then examine the possibility of membership." And declarations by General de Gaulle and Chancellor Adenauer intimated support in this direction. But this was during the time of the Common Market and not the Union, which was to emerge 40 years later under the Lisbon Treaty. This was a forty year-old promise made by a radically different organisation but purposely used by Turkey so that Europe seems indebted to it.

In its Opinion of 18th December 1989 the Commission deemed that this candidacy was premature, but did not challenge Turkey's eligibility. It was the European Council of Helsinki on 11th December 1999 that granted it the status of "candidate" with the support of Greece and the notable support of Germany, France and the UK. The Council deemed that at the time it was decided to open negotiations with Bulgaria and Romania – after having done so in December 1997 with the Baltic States and those of Central Europe, as well as Malta and Cyprus – granting Turkey "candidate" status would only facilitate the reunification of Cyprus and appease tension in the Aegean, in addition to the "promise" made forty years previously. Those promoting opening also pointed to the fact that Turkey's membership would help show that Islam and democracy are compatible – whilst the images of 9/11 were high in everyone's mind.

Moreover relations between Ankara and Israel were excellent. As for the Turkish borders with unstable States, everyone saw the advantage of making safe the Union by strengthening this strategic outpost and NATO member.

By becoming a "candidate country" Turkey therefore entered the process that would lead it to membership negotiations five years later. But this occurred without there being any real debate, neither over the Union's borders, nor regarding its ability to integrate a country which would become its biggest member. Since the membership criteria[8] called specifically for the Union to guarantee its "capacity to assimilate new members" the Commission analysed the possible impact of this membership in a study that supported its report of 6th October 2004. It estimated that this impact would be significant, notably regarding agriculture, the free movement of people and post-membership budget support.

The EU's budget contribution to Turkey's post-membership catch-up would indeed be significant. Also to reassure the Member States, the negotiation framework stipulates, in point 13, that due to the very reason of major "financial consequences, negotiations would only be concluded after the establishment of a financial framework (for the EU) for the period starting 2014." This wording is both ambiguous and optimistic since it suggested that negotiations might be completed during a period covered by the financial framework, i.e. between 2014 and 2020.

And although the Commission recommended "transitions, exemptions and safeguards" – which would be repeated by the Council in its conclusions, then under the negotiations – the disruption caused by Turkey's accession were not discussed in depth. An in-depth discussion was postponed till later and public debate remained limited. This was all the more regrettable since Turkey's membership clearly played a negative role in the rejection of the draft treaty establishing a constitution for Europe on 29th May 2005 in France and then in the Netherlands on June 1st. Four months later, negotiations were launched anyway. Hence, a further misunderstanding was

7. Science and Research, for which there are so few community acquis that this closure is purely symbolic.
8. "Stable institutions, guaranteeing democracy, the rule of law, human rights, the respect of minorities and their protection, a viable market economy as well as the capability to face competitive pressure and the market forces in the Union's internal market". Criteria often spoken of as being political on the one hand and "economic" on the other. Decided by the European Council of Copenhagen on 21st and 22nd June 1993.

created, this time with European public opinion, which also contributed to undermining trust in the Union.

It is true that significant progress made by Turkey in terms of democracy and Human Rights – unprecedented since the establishment of the republic in 1923 including the abolition of the death penalty – allowed us to think that negotiations would speed up even more reform. These of course formed the core of the Commission's recommendations, which stressed however the slowness of their implementation and the irreversibility of maintaining them. It also insisted on the progress to be undertaken, notably regarding minority rights and recommended the adoption of six legislative texts, particularly regarding the Penal Code to strengthen the freedom of expression.

Its positive recommendation, under these conditions, was re-iterated by the Council; "Turkey fulfils the political criteria of Copenhagen enough for membership negotiations to be opened." And the then Enlargement Commissioner, Günter Verheugen, repeated constantly that what was important was the process that was supposed to transform Turkey even more, more than the result of the latter. Designed above all to re-assure public opinion this declaration stresses nevertheless the ambiguity of these "negotiations".

There is the ambiguity of the term itself. Indeed in the membership negotiations and whatever the candidate country, there are only real negotiations over budgetary aspects, some elements of the common agricultural policy and possible periods of transition. In most of the 35 chapters, it is in fact, and on recommendation from the Commission for the Member States – a question of ensuring that the negotiating country integrate the community acquis into the national legislation, chapter by chapter and that it provides itself with the means and mechanisms to "implement these efficiently and effectively." [9]

This is what the countries of Central and Eastern Europe understood and achieved during the process that led to their membership. On several occasions

the Turkish ministers stressed however that the European legislative base could be adapted to their country's membership. In other words the "European Club" would have to change some of its rules in order to receive Turkey. This led Commissioner Johannes Hahn to recall, regarding political criteria, that it was Turkey that wanted to join the Union and not the opposite! A misunderstanding that is still purposely used by Ankara regarding its political excesses but which strengthens the feeling amongst a major part of Turkish public opinion that the Union does not want to accept it into its fold.

It was surely the determined support of Jacques Chirac[10], Tony Blair and Gerhard Schröder, with the support of Greece, which won over the Council's decision. It was the Union's golden age, in this period of optimism, when it was to develop "the most competitive knowledge economy in the world" according to the Commission President Romano Prodi in March 2000. It had just integrated eight former post-communist countries, which peacefully changed their systems in this the 5th enlargement, which was its response to the end of Europe division and its potential risks. In June 2003 it had also just launched the neighbourhood policy to create a "circle of friendly countries" and confirmed to the Western Balkans that they had membership prospects. The Union wanted turn its soft power into the key in its neighbourhood policies, as it had done with Central and Eastern Europe. Post-Cold War irenicism? Twelve years later the "circle of friends" is now the "circle of fire" and Turkey is turning back to its old ways, authoritarianism and violence.

"I believe that Turkey – as matters stand - is not in a situation to be able to join soon, nor even over a longer term." This declaration by the President of the Commission, Jean-Claude Juncker on France2 radio, ten days after the aborted coup d'Etat in Turkey on 15th and 16th July 2016 and the response given by President Erdogan via thousands of arrests, put an end to the pretence ongoing since the beginning of the negotiations. It also reflects the changes that occurred in the Union: economic crisis, migratory crisis, legitimacy crisis of the every

9. Complementary wording to the Copenhagen criteria regarding the candidates « administrative capability » adopted by the European Council of Madrid in 1995.

10. An all the more surprising position that the UMP did not support, just like the CDU in Germany. It was rather the European left which supported this membership.

"European system" that has formed a gulf with part of its public opinion. Moreover, as of 2007 Nicolas Sarkozy said he was against Turkey's membership. Chancellor Merkel, whilst saying that inviting Turkey to become a candidate country had been a mistake, did not oppose the process. Negotiations continued therefore, with a new ambiguity caused by two key actors in the Union.

3. TOWARDS THE "NEW SULTAN'S" HYPER PRESIDENCY

Hopes for reform in Ankara were rapidly quashed and their pace was not maintained. Minority rights, notably those of the Alevis, have not moved forward. An important point for the Union has been dialogue to find a peaceful solution to the Kurdish question, which was the source of great hope. Launched in 2013 this came to an end in 2015 and new waves violence followed, which was all the more brutal since the Kurds asserted themselves as a vital force to counter Daesh in Syria and Iraq. And when at the end of 2013 the judges launched investigations into suspected cases of corruption within the Prime Minister's entourage, the latter perceived a "conspiracy" in this, caused by his former ally Fethullah Gülen, who is exiled in the USA. The ensuing repression removed or displaced some 6,000 policemen and magistrates.

Recep Tayyip Erdogan, who became president in 2014, has reigned without sharing power since then, leaving it up to Prime Minister Ahmet Davutoglu to restore a neo-Ottoman Turkey, hoping to play the educator (according to the Turkish model) to the regimes that resulted from the "Arab Spring". His failure, notably with Egypt, closed this path to him. Enjoying the absolute majority of the AKP, won in the second general election of 2015 – the first having been cancelled in the hope of reducing the success of the Kurdish Party HDP – President Erdogan renewed his attacks against his opponents and the media qualified as "terrorists", in his speech to the ambassadors on 12th January 2016, whilst Turkey was suffering a series of terrorist attacks. "We are facing betrayal on the part of the intellectuals – you are with the nation and the State or with the terrorist organisations ... all of those who live on the

State but treat it like an enemy must be punished."

We are far from the membership criteria. Following the AKP's victory in 2002 Erdogan maintained that he wanted to "respect the Kemal legacy of secularism and to accelerate reform." In fact he used the membership process to free himself of Kemalism by reducing the role of the army (principle of the control of the military by the civilian) and by relinquishing elements of secularism (principle of non-discrimination, regarding the wearing of the veil at university for example). This change has been so profound that it was not just the result of the lukewarm response on the part of the Union alone regarding Turkey's membership, as some maintain. It seems consubstantial to the ideology promoted by Erdogan, who has drawn closer to the Muslim Brotherhood. And his diatribe against the European Court of Justice's decision on 14th March 2017 regarding the right of businesses to ban, under certain conditions, the wearing of the veil at work, leaves no room for doubt, even though it was part of referendum campaign over the Constitution[11]. Moreover, there are now some new factors: the president starts his meetings referring to God and the increase in the number of mosques across the entire country is a surprise to the visitor.

As a matter of urgency the European Union concluded an agreement on 18th March 2016 given the massive influx of refugees, which provides details of the plan agreed on 29th November 2015. This was a three part agreement: limitation of refugees and aid of 3 billion € for their settlement in Turkey; relaunch of the membership process; acceleration of dialogue for the liberalisation of visas. "A historic day" said Ahmet Davutoglu. "The Day of Dupes" for many. "Pragmatism" for Commissioner Hahn and for a bewildered Union. Did it have the choice? Having allowed ambiguous relations to develop and its Member States divided, and being without any other solution, it was taken "hostage" by Turkey. Migration decreased sharply; a new negotiation chapter, energy, was opened; the Union paid out 748 million € at the end of 2016. And the ratification of the readmission agreement in June 2016 opened the way to the liberalisation of visas[12]. This follows

11. "Dear Brothers, they have launched a crusade against the Crescent," 16th March 2017.

12. The Member States have the competence to grant visas, they facilitate the granting of these for businessmen and students etc ... This "facilitation" agreement is subordinate to a readmission agreement that stipulates that illegal migrants who are deported must be readmitted by the country from where they first come. The liberalisation of the visa system abolishes visas in the Schengen Area for stays of up to 90 days.

however a strict order book that Turkey deems it has fulfilled, whilst the European Union is asking it to revise its legislation regarding terrorism. On several occasions President Erdogan has threatened to break the agreement over migration if the liberalisation of visas is delayed. And yet it has been delayed, since Ankara has made no progress without the threat being put into action. But for how long still? Will the agreement hold strong without this key element?

The failed coup on 15th and 16th July 2016 and the massive purges that followed immediately thereafter in the army, the police force, the courts, education and the media (some 43,000 people imprisoned, 130 media closed, 149 generals dismissed) reflect the weakness of the institutions, and therefore of the reforms accomplished and the gulf that exists with the Union. Moreover, the president responded violently to the Union's request for the respect of the rule of law[13]: "The Western world was in contradiction with the values he was defending ... it is up to the Union's members to try and adjust their relations with Turkey. For 53 years we have been on Europe's doorstep. The European Union is the only one responsible and the guilty party[14]."

Beyond this skilful victimisation, it is Turkey as a whole that feels insulted by the Union that it would like to join, but without understanding what it is and why it criticises its policy. In addition to this the country is a key element in NATO, in terms of controlling migration and the transit of energy. Carried along by an exacerbated form of nationalism, the legacy of Kemalism, the regime places work, family and religion at the heart of its policy. It is widely followed by the man in the street and the new middle classes who have grown wealthy with impressive economic successes achieved during the Erdogan period. This "total" regime rules out all types of criticism deemed to be anti-Turkish. Disappointed by the West, Erdogan rekindled relations with Russia on 9th July 2016.

The reform of the Constitution to establish a hyper-presidential style regime was approved by the National Assembly in spite of vehement criticism on the part of the European Commission for Democracy

by Law at the Council of Europe (the so-called Venice Commission) in its opinion dated 13th March 2017, whilst the leaders of the HDP party were in prison. It was adopted by referendum on 16th April with 51.3% of the vote. A tight margin of course and with a Turkey cut in two, but the "new Sultan" had won his wager. The leader of the State, the executive, the armies and the secret services, Erdogan also leads the AKP, turning the Grand National Assembly into a rubber stamp when the text comes into force after the elections in November 2019. He is the only authority without any counterbalance, since he will be able to govern via decree, decide on the budget, declare a state of emergency, appoint ministers and high ranking officials, as well as half of the members of the Constitutional Court, since the other is dominated by his party via the Assembly.

4. TOWARDS A « PRIVILEGED PARTNERSHIP »

In 2006 Erdogan declared[15]: "If Turkey cannot join the European Union, the Copenhagen Criteria will become those of Ankara". This time seems to be far off. And his insults pointed at Germany and the Netherlands[16] have formed an impossible gulf with the Union. Neither side is blind, but neither wants to take the first step for the time being. Voices however are being raised in the Union to suspend membership negotiations. The Austrian Chancellor asked for this in August 2016. Other European leaders followed suit, such as the Belgian Prime Minister on 7th May 2017.

The European Parliament requested the same thing in a non-binding resolution on 24th November 2016 479 votes in support, 37 against and 107 abstentions. "This vote is not valid" was the defiant response given by President Erdogan! MEPs did however re-assert their "commitment in support of maintaining Turkey's attachment to the European Union" and committed to review their position when "the disproportionate measures" (adopted after the aborted coup d'Etat) have been lifted." The Parliamentary Assembly of the Council of Europe decided on 25th April 2017 to place Turkey under surveillance regarding Human Rights, democracy and the rule of law.

13. Via Federica Mogherini, the EU's High Representative for Foreign Affairs and Security Policy and Martin Schulz, President of the European Parliament who declared on 18th July that "arbitrary decisions were unacceptable on the part of a candidate country."

14. Interview in *Le Monde*, 9 August 2016.

15. Conference on foreign investments by 'The Economist', Istanbul, 2007.

16. Accused of "Nazi behaviour" following the authorities' refusal in both of these countries to allow Turkish ministers to hold political meetings with the Turkey communities there for the "yes" in the referendum due to risks of disrupting public order.

The "negotiation framework" of 2005 also provides for the "suspension of negotiations ... in the event of the serious and continued infringement of the principles of liberty, democracy, the respect of human rights and fundamental freedoms, as well as the rule of law on which the Union was founded." This suspension, which can be recommended either by the Commission on its own initiative, or requested by a third of the Member States, is decided by the qualified majority; the end likewise the opening of negotiations however has to be decided unanimously. But the outcome of the procedure is uncertain because many Member States would undoubtedly prefer a de facto freezing to a suspension de jure, as long as the migratory risk remains. In this regard the Union remains at Turkey's mercy. And President Erdogan regularly recalls that if the Union does not keep its promises, Turkey can, at any moment, allow the migrants to continue again on their route to Europe.

This is the fear that led the Council for Foreign Affairs that met in Valletta on 28th April 2017 to adopt a five point standby position, firm in its principles, but prudent regarding the consequences of their non-respect by Turkey. Indeed the Council recalled that the "Copenhagen Criteria" are extremely clear regarding democracy, Human Rights, the freedom of expression and good neighbourhood manners" and it reminded Turkey that it must respect the opposition and undertake an inclusive policy." Prudence is the leitmotif in terms of three other points: since Turkey is a "key partner" the Europeans "respect the referendum" and they expect the report by the observation mission of the OSCE and the decision of the Venice Commission; the membership process is neither "suspended nor interrupted" (but) no new chapter will be opened." Some ministers like Luxembourgish Jean Asselborn have claimed quite loudly and clearly that the membership process is dead, but German minister Sigmar Gabriel was clear; the German government is strictly against a halt being brought to the negotiations."

Firmness but prudence also governed the new debate in the European Parliament on 26th April on the eve of the Council in Valletta. President, Antonio Tajani

set things out clearly: "the European Union does not intend to close the door on the Turkish people", whilst "millions of Turks share the Union's values and are counting on it to be a catalyst for reform," as stressed by Kati Piri, rapporteur for Turkey. The "red line" is still the re-introduction of the death penalty, which has been mentioned several times by Erdogan. However, Germany and Austria said on 7th May 2017 that they were against their Turkish citizens being able to vote during a possible referendum on this issue. This augurs for further confrontation if such a project ever came to be on the agenda.

Most MEPs in fact want to review relations with this country because: "it is no longer realistic to think that Turkey will ever become a member of the European Union ... we have to stop this fantasy and undertake in-depth discussion," said the leader of the European People's Party, Manfred Weber, on 25th April 2017. A feeling that is shared by Commissioner Hahn in his answer: "the time has come for an open, friendly discussion on our future relations."

Has President Erdogan for his part understood that his rather unorthodox method of implementing the membership criteria and his wish for a hyper-presidency, confirmed by his new Constitution, are alienating him from the Member States and the European institutions to the point that membership is becoming an illusion? We might think not with his warning issued to the Union on 2nd May 2017 about the opening of other chapters in the negotiations otherwise Turkey would quit the talks. And yet he knows very well that no chapter will be opened in the present circumstances, as declared by the Council in Valletta. He would provide himself with a unilateral, dignified withdrawal if he left the negotiations rather than suffering the humiliation of repeated European criticism, which attacks the very core of his way of implementing power. He would emerge even more powerful in the eyes of his supporters, presenting Turkey as Europe's victim once more. By doing this he would avoid the Member States and the Union from having to contradict their values and of torturing themselves over a difficult decision to suspend negotiations! We might doubt that he

European Union - Turkey: from an illusory membership to a 'privileged partnership'

would give us this "gift", whilst he still holds the migratory card in his hand. On 9th May he also declared that "membership remained Turkey's strategic objective."

Stopping negotiations would not mean Turkey's isolation. The negotiation framework provides in point 2 that "if Turkey is unable to assume all of the obligations associated with the quality of being a member, it has to be ensured that it is fully established in European structures via the strongest link possible." What might this strong link be? The aim would be to lead Turkey, step by step, towards a close association with the Union, given our significant mutual interests. What might the shape of a "Privileged Partnership" be, as mentioned for the first time in 2006[17] ? Four chapters might be possible.

The first part would be a modernised Customs Union (CU). First implemented on 1st July 1996 indeed it only covers manufactured goods and some processed agricultural products. But it excludes, amongst other things, public procurement and services. The Union-Turkey Summit on 29th November 2015 marked its agreement over the preparation of a modernised CU which would include products, services, technical barriers to trade, public procurement and intellectual property.

The public consultation that the Commission organised in view of a new agreement showed that European businesses are facing many difficulties: cumbersome customs procedures, technical obstacles, State aid in contradiction with the agreement and even the flaunting of intellectual property. EU-Turkey trade has certainly grown four-fold over the last twenty years to reach more than 140 billion € in 2016, with the Union having a positive balance of 12 billion. But Turkey's imports from Asia were double those from the Union during the same period. It is therefore time to revise the CU as desired by both European and Turkish economic players. It is to this end that the Commission asked the Council for a negotiation

mandate on 21st December 2016.

A question linked to this would then come to light: if services were to be included Ankara's argument regarding the Cypriot protocol would fall. But will Turkey relinquish this master card for a revised CU? Undoubtedly, if negotiations for the reunification of the island, relaunched in 2016 under the aegis of the UN are successful. Unless it plays this card for a wider more political agreement.

The second part would be a new Association Agreement to replace the one that dates back to 1963. Like the Ukraine Agreement it would include political dialogue and close cooperation in terms of justice and fundamental rights, security, energy, transport and the environment, just to quote the key areas.

The third part might specifically arrange the adoption of European legislation by Turkey in vital areas such as energy or the environment, or even norms and standards that are not included in the new CU. Again the dual agreement with Ukraine[18] might serve as a guideline, to integrate the Turkish market, in stages, into the Union's internal market beyond the CU.

An agreement like this would lead Turkey to the Union's doorstep in a similar situation to that of Ukraine after it implements the DCFTA. Turkey might then integrate the first circle of a European Union, some of whose members would deepen their integration in new areas at the same time. There is not much chance of parts two and three being taken into consideration with the present way that power is exercised, especially when the new Constitution enters into force.

For the time being a revised CU seems therefore to be the only realistic path of mutual interest. It might however be crowned by a last part: including Turkey in the Foreign Affairs Council regarding regional issues of common interest. The Partnership or its first stage would then make complete sense, as it would acknowledge

17. By Sylvie Goulart and Karl Theodor zu Guttenberg, who was German Defence Minister – Robert Schuman Foundation « Note » n°38 December 2006.

18. Association agreement and Deep and Comprehensive Free Trade agreement (DCFTA).

Turkey's strategic position, which would attenuate the bitterness borne of the relinquishment of membership negotiations. Parts two and three might be provided for, once significant change has been made in Ankara.

In all events the artificial upkeep of membership negotiations can only serve to frustrate Turkey more and further undermine the Union's credibility, whose

public opinion is mainly against Turkey's accession. However, it is feared that both sides will experience other periods of tension and crisis before reason wins the day leading to appeased, promising relations.

Pierre Mirel

Director at the European Commission 2001-2013 (DG
Enlargement)

You can read all of our publications on our site :
www.robert-schuman.eu

Publishing Director : Pascale JOANNIN

THE FONDATION ROBERT SCHUMAN, created in 1991 and acknowledged by State decree in 1992, is the main French research centre on Europe. It develops research on the European Union and its policies and promotes the content of these in France , Europe and abroad. It encourages, enriches and stimulates European debate thanks to its research, publications and the organisation of conferences. The Foundation is presided over by Mr. Jean-Dominique Giuliani.