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The Scenarios for Türkiye-EU Relations: What to Expect in the Foreseeable Future?

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Introduction

This paper aims at providing a brief outlook on the state of play in Türkiye-EU relations and their foreseeable future. Yet, one might ask whether it is still consequential either for the academic or the policy circles to analyse the current status and the future prospects of Türkiye-EU relations?

Would there still be the possibility of a happy ending, a silver lining of some sort that would pave the way, not necessarily for Türkiye's "full" accession to the EU, but maybe some sort of a "gradual" or "staged" accession, or at least some sort of structured, institutions, rules and norms based, progressive and integration motivated relationship? Or maybe the only realistic option is a semi-structured, transactional, interest-based, rather than a norm-based relationship? Yet, maybe even this last scenario might seem too rosy, while EU circles¹ long stopped referring to Türkiye, if the issue under discussion is not how to tackle irregular migration flows, or an example for ever-growing number of competitive authoritarians, illiberal democracies or regimes is being sought for. Indeed, the radio silence on the issue of Türkiye in EU policy circles might be called as deafening. So maybe the only realistic option that might be deemed positive is an issue-based give and take, some "alternating cooperation and competition" type of coexistence between the parties depending on the circumstances?

Granted, the "ebb and flow" or the "pendulum" metaphors have long been employed in order to depict and explain the oscillating nature of the relations between the parties, a stagnant or even discouraging period being followed by a positive turn of events. A promising start in the early 1960s with the signing and coming into force of an association agreement between the parties that would culminate in a customs union and would pave the way for the country's possible future membership, followed by a somewhat stagnant period in the 1970s. The military coup in 1980, despite an overall deterioration in the relations, paradoxically and somewhat inevitably started to inject a healthy dose of democracy and human rights element and expectation on the EU side to a supposedly pure economic and trade relationship model. Coupling with the first direct elections of the European Parliament, the most vocal promoter of those values, starting to gain prominence in EU institutional structure, this development was

¹ The only exception might be the European Commission, as the technocratic body which needs to push all candidate countries for accession, even if its is on paper and within a procedural context.

followed by Türkiye's membership application in 1987 meant to function like a shock therapy both for the Türkiye-EU relations, but also act as a leverage for the domestic democratic reform efforts of the country and counter balance the military influence.

Similarly, Türkiye, after achieving the daunting task of fulfilling not only the economic and the legal, but also the political conditions for the establishment of the Customs Union², was sidelined by the EU for Eastern Enlargement in mid 1990s. Yet again, this frustration and Türkiye's reluctance in discussing its democracy and human rights problems and international disputes – namely the Cyprus and Aegean disputes- triggered a change of heart on the EU side. Such change, inarguably resulting mainly from the changes in the international and domestic political climate on both sides, culminated in the official candidacy status of Türkiye being declared by the European Council on December 1999.

The following period, till the opening of the accession negotiations in October 2005, witnessed an unparalleled positive climate in the relations. Türkiye focused on the Copenhagen political criteria alignment efforts and the Cyprus talks under the auspices of the UN. Meanwhile EU's main concentration was on the attainment of the dual objectives of wrapping up the big bang Eastern enlargement and the Constitutional Treaty ratification process in the Member States without a hitch. Yet, the EU continued its strong support to Türkiye's progress towards membership, at least until the December 2004 European Council.

From then onwards one might argue that rather than a swinging pendulum, Türkiye's accession process in particular, and Türkiye-EU relations in general, have been the scene of mostly misunderstandings, mistrust, frustration and resentment for both sides. Yes, the parties managed to come to a deal in certain mutual interest areas since then, like the migration cooperation on 18 March 2016. Yet, any structured and progressive element of integration was minimal at best, and indeed resulted in not being taken up in practice.³

The social, economic and political climate of the period in the EU Member States, which was reflected in the 2005 Negotiating Framework⁴ stipulating the principles, procedures and actors of the accession negotiations created a paradoxical anti-climax for Türkiye in particular, instead of a determination to concentrate on the successful completion of the accession negotiations.

Moreover, the membership of Cyprus to the EU, despite the Greek Cypriot rejection of the Annan Plan prepared as a result of the talks under the auspices of the UN, offered the first signs of this new membership's potential for creating multifaceted difficulties in the smooth progress of Türkiye's accession prospects. Over the years, such adverse effects gradually infected all forms and subject matters of relations, not only on the accession dossier, but on a wide range of areas from the modernisation of Customs Union to energy security dialogue.

Both factors are regularly cited for the frustration and mistrust of large segments of the Turkish society, as well as the governing elites towards the commitment of EU side for Turkish membership. The impact of such growing frustration and mistrust are largely considered amongst the factors behind the democratic backsliding of Türkiye and its foreign policy diversification efforts. In turn, such ambivalence demonstrated by Türkiye towards some of the

² See in general for the impact of the political conditionality and the role played by the European Parliament in that regard in F.H. Burak Erdenir (2013). "Gümrük Birliği Sürecinin Türkiye'nin Siyasi Reform Sürecine Yansımaları". Ankara Avrupa Çalışmaları Dergisi, 12, No 1, 31-46.

³ The modernisation of the Customs Union, the progress in the accession negotiations, expediting the Visa Liberalisation Dialogue were amongst those structural, progressive integration elements and apart from the opening of a few negotiating chapter, none of the other elements were took traction in the relations.

⁴ Council of the European Union Brussels, 12 October 2005 12823/1/05 REV 1 LIMITE ELARG 64, "Accession negotiations with Turkey: General EU Position: EU Opening Statement, Negotiating Framework, External Arrangements" adopted on 3 October 2005, (hereinafter "Negotiating Framework for Turkey").

main foundational pillars of the Western liberal political and security structure, and therefore of the European Union, fed into the contentions of opponents of Turkish membership based on a plethora of reasons, while also depriving the proponents of such membership of credible justifications and arguments.

The seemingly bright, yet fleeting sunny patches in this bleak picture of two decades of Türkiye-EU relations might be cited as follows: the dialogue and cooperation for tackling the irregular migration flows and the visa liberalisation dialogue⁵, the bureaucratic agreement on the process and substance of the modernisation of the Türkiye-EU Customs Union⁶ and the two so-called positive agenda attempts of the European Commission⁷ and the European Council and the High Representative for Foreign Affairs and Security Policy.⁸

⁵ For the documents of the Visa Liberalisation Dialogue between Türkiye and the EU, comprising the Readmission Agreement signed by the parties on 16 December 2013 in Ankara and the Agreed Minutes and Annotated Roadmap Towards a Visa-Free Regime with Türkiye see https://www.ab.gov.tr/the-visa-liberation-dialogue_51819_en.html

⁶ For the Report of The Senior Officials Working Group (SOWG) on The Update of The EU-Turkey Customs Union and Trade Relations, 27 April 2015, see https://ticaret.gov.tr/data/5b87b62f13b8761160fa10c4/ydmcg_raporu.pdf and the European Commission, “EU and Turkey Announce Modernization of Custom Union”, Brussels, 12 May 2015, <http://trade.ec.europa.eu/doclib/press/index.cfm?id=1307>

⁷ The first “positive agenda” in the European Commission’s 2011 Enlargement Strategy, aimed at paving the way for furthering the relations in areas of common interest, as well as devising a mechanism for work to be carried out in *acquis* alignment in the negotiating chapters in a fashion somewhat outside the official accession negotiations. A detailed excerpt will be provided below in order to provide a context for the areas under discussion and to put forward the question of whether the parties covered much ground and came up with many more areas to cooperate in the last one and a half decades or not.

According to the Commission:

“The Commission will work to launch a new virtuous circle in the accession process with Turkey. Based on a pragmatic approach and incorporating concrete steps in areas of common interest, a joint understanding of constraints and a search for progress in Turkey's alignment with the EU, a fresh and positive agenda should be developed, to enable a more constructive and positive relationship.

This agenda should cover a broad range of areas, including intensified dialogue and cooperation on political reforms, visa, mobility and migration, energy, the fight against terrorism, the further participation of Turkey in Community programmes such as “Europe for citizens”, town twinning, as well as trade and the Customs Union with the aims of eliminating ongoing trade irritants, seeking closer coordination in the negotiations on free trade agreements and exploring new avenues to make full use of the EU's and Turkey's joint economic potential. Alongside the accession negotiations, the Commission intends to enhance its cooperation with Turkey, in support of the country's efforts to pursue reforms and align with the *acquis*, including on chapters where accession negotiations cannot be opened for the time being. The Commission will continue informing the Council as soon as it considers that Turkey has met relevant benchmarks.” For the EU's 2011 Enlargement Strategy see Commission of the European Communities, Communication from the Commission to the European Parliament and the Council-Enlargement Strategy and Main Challenges 2011-2012, COM(2011) 666 final, Brussels, 12 October 2011.

In that vein, eight chapters were identified where progress of Turkey in *acquis* alignment was to be discussed by bureaucratic officials from both sides in technical meetings and the launch of the positive agenda took place in Ankara on 17 May 2012 on Chapter 23, “Judiciary and Fundamental Rights”. See https://ec.europa.eu/commission/presscorner/detail/en/memo_12_359. Since that date several meetings took place on various chapters where Turkey’s alignment levels were assessed and in some cases consolidated on the basis of EU *acquis* and in some cases some further requirements have been identified. Yet, the whole process stalled after a few months.

⁸ The second so-called “positive agenda” in Türkiye-EU relations came with the Conclusions of the European Council and the initiatives of the HR Joseph Borrell. This time the Positive Agenda of 2020-2021 envisaged a renewed engagement with Türkiye in the aftermath of the difficult period between the 2016 coup attempt and the escalating tensions in the Eastern Mediterranean from 2018 onwards. See for instance, “The way ahead after a difficult 2020 for EU-Turkey relations”, 18.12.2020 Josep Borrell, High Representative of the European Union for Foreign Affairs and Security Policy / Vice-President of the European Commission, at https://www.ceas.europa.eu/ceas/way-ahead-after-difficult-2020-eu-turkey-relations-%C2%A0_en.

Moreover, the High Representative, together with the Commission, prepared a recent report⁹ for the improvement and/or re-consideration of the relations between the parties, yet even though commissioned by the Member States, such efforts did not also bear any tangible fruit, or any discernible impetus.

The only genuine outcome of those efforts or attempts on EU side might be the appeasing of the migration averse political segments of society on EU side, while also feeding into their emotion and fear-based reactions capturing the political debate and therefore strengthening such political sides inadvertently. The last European Parliament election results of June 2024 and the almost linear progress of the far right for the last decade(s) attests to this finding. In fact, if one wants to be optimistic – or maybe totally cynical – one might argue that the relations demonstrated “extraordinary resilience” in the face of this very brief account of the recent years.¹⁰

For Türkiye, on the other hand, any engagement with the EU side not necessarily based on any rules, principles or norms, but on short term interests of the member states reinforced the critical stance of the ruling elite of EU bashing and consolidated democratic backsliding preferences and attitudes. The cost of such backsliding lost almost all leverage, since the linkage between progress and reward, or backsliding and negative consequences have become irrelevant, damaging the credibility of EU and its normative transformative power in the case of Türkiye.

The accession process despite continuing on paper or “de jure”, for all intents and purposes, is in a political, practical and “de facto” coma, if not yet called “dead” officially. The pendulum seems to be mainly stuck on the cold, dark, negative side for almost 20 years now, and it might prove to be enormously difficult to resuscitate the full-fledged, proper accession process for the foreseeable future, especially if the current geopolitical and economic climate continues for another decade or so, and both parties’ intentions and attitudes remain stuck accordingly as well. The underlying factors of this negative and seemingly long-lasting turn of events are manifold and beyond the confines and objectives of this paper.

Moreover, a structured, rule-based, progressive and integration-oriented association model of some kind seems unable to become functional and operational either as evidenced by the decade long failure of the modernisation of the current Customs Union efforts.

The other avenue, namely of an interest and issue based, semi-structured transactional loose partnership model keeps on being investigated by all relevant parties on both sides and beyond, yet a functioning, result-oriented, mutually satisfactory option or design has not yet emerged.

The last option of a purely transactional, ad-hoc cooperation, alternating with competition, when the occasion and the issue under discussion dictates and when the short to medium term interests meet without any sort of genuine common procedures, institutions, structures might

Such renewed engagement were to be taken up in accordance with December 2021 European Council Conclusions in “a phased, proportionate and reversible manner” in areas of common interest, including the modernisation of the CU, visa liberalisation, people-to-people contacts and migration and would be conditional on Türkiye de-escalating tensions in the Eastern Mediterranean, normalising neighbourly relations and showing a readiness to resolve differences through dialogue. Whether any progress has been made in those areas are open to debate.

⁹ Joint Communication to the European Council - State of play of EU-Türkiye political, economic and trade relations, 29 November 2023,

see https://neighbourhood-enlargement.ec.europa.eu/document/download/16679fa1-cb73-4481-bc02-e3620b8c6dd3_en?filename=Joint%20Communication%20to%20the%20European%20Council%20-%20State%20of%20play%20of%20EU-Turkiye%20political%20economic%20and%20trade%20relations.pdf

¹⁰ Eduard Soler İ Lecha (2023). Hope and Despair: Understanding Change in Turkey-EU Relations. Uluslararası İlişkiler Dergisi. Vol: 20 No: 78, 21 – 42.

be another avenue for the relations that might be further explored. Yet, such exploration would only be able to identify a few areas or issues of cooperation, yet self-evidently, cannot come up with any models, designs, procedures or precepts since there will not be any.

This paper aims at a brief outlook on the possibility and probability of scenarios as identified above. The main caveats for such brief analysis would be that, firstly, any such design would inevitably be interlocked with the future designs and aspirations of the European integration- both as regards deepening and enlargement are concerned- on the one hand, and Türkiye's political prospects on the other. Secondly, there might always be permeation between those models or designs, resulting in some hybrid pattern for a given period or more permanently, since in particular for transactional models' flexibility and fuzziness will be amongst the defining characteristics. Moreover, the turbulence experienced in the existing world order, in particular the so-called emerging multipolar structure, would obviously have profound impact on any such future scenarios. Lastly, the recent re-election of Donald Trump as the President of the USA, with all its unpredictability and possible drastic implications on both the stability and security of Europe, the Transatlantic security and defence architecture and the globalisation and trade patterns, let alone the future and resilience of liberal democracies on a global scale would have to be taken into account while predicting the possible scenarios for Türkiye-EU relations.

Such eventualities, albeit significant, will only be mentioned, but not elaborated in detail within confines of this paper. Lastly, the method will also be confined to the basic legal, institutional and political aspects of such future designs and a detailed analysis will not be attempted at this stage.

The main possible future designs for Türkiye-EU relations

Enlargement: The New Designs and Old Problems

The EU enlargement has come to the fore once again due to recent geopolitical and geostrategic turn of events. Accession to the Union has always been, and still is, a predominantly political matter, yet the criteria, principles, standards, procedures and processes of enlargement also require a normative outlook both for the Union and for the candidate country as well. The concepts, methods and tools of enlargement employed by EU's enlargement strategies and negotiating frameworks in the aftermath of the "big bang" enlargement of 2004-2007 differed from the previous bout in many ways.

The reasons for that include, *inter alia*, the enlargement fatigue as a result and the lessons learned because of the "big bang" enlargement, the long EU reform process which took almost the best part of a decade in the 2000s, the political and financial hardships faced by the Union with the sovereign debt crisis, migration crisis and the rise of the populism crisis, but also from the particulars of the candidate countries, and in particular one of them, i.e. Türkiye.

Indeed, Türkiye provided such a challenge to the EU as an accession country that both its negotiating framework and the already existing 4th and last Copenhagen criteria, "the absorption capacity" had to be remembered and reminded by the Member States while the decision to open accession negotiations with that candidate country was taken in 2004-2005.¹¹

¹¹ Negotiating Framework for Türkiye.

According to the 4th component of the Copenhagen Criteria of 1993, “the Union's capacity to absorb a member, while maintaining the momentum of European integration is an important consideration in the general interest of both the Union and the candidate country”.¹²

The European Commission was also given the task by the Parliament to prepare a study to explain the meaning and function of this “criterion”. Renamed with the finesse of political correctness and sensitivity as “integration capacity”, this concept was to guarantee a smooth, feasible and successful enlargement process and outcome. The meaning and various components of the concept have been elaborated by the European Commission, and discussed by the relevant circles¹³.

European Commission’s 2006 Enlargement Strategy onwards, the rules, principles and procedures developed for Türkiye and the Western Balkans were all prepared and implemented with such over cautious, almost delaying manner that, save for Croatia, not only Türkiye, but also none of the Western Balkans managed to satisfy the requirements of these new strategies.¹⁴ It needs to be pointed out, however, that despite the accession conditions becoming ever more difficult to comply with for the new group of candidates, their efforts for alignment had to be also more vigorous, in particular in the area of democracy, human rights and rule of law too.¹⁵ The reasons for this were twofold. The Union was developing a fast-evolving *acquis* in the political criteria area, and an approach of lessons learned from the previous Eastern enlargement was being adopted. The Union was gaining ground in common rules and procedures in the area of democracy, human rights and rule of law since the early 2000s, so the relevant *acquis* was expanding. And secondly because the Union had experienced the adverse effects of expediting the accession process especially as regards the independence and impartiality of the judiciary, the separation of powers, freedom of expression etc., and consequently was taking more cautious steps. In that sense, delays in the accession process might be agonising and infuriating for the candidates, yet to a certain extent understandable from the perspective of the EU side: the Union’s political and legal system required and justified such caution, hence no accession since 2013.

Yet, today’s international geopolitical climate attests to a somewhat different enlargement process. The geopolitical climate changed drastically from that of the aftermath of the collapse of the Iron Curtain’s liberal economic and political values and approaches to the circumstances created by a war of aggression just outside the borders of the Union. This change in a nutshell has already had and probably will continue to have some very dramatic impact on the Western liberal order and also the European integration regarding its political, economic and legal

¹² European Council Conclusions of June 1993, Copenhagen.

¹³ Steven Blockmans (2007). “Consolidating the Enlargement Agenda for South Eastern Europe”. in Steven Blockmans and Sacha Prechal (eds). *Reconciling the Deepening and Widening of the European Union*, The Hague, TMC Asser Institute; Fabien Amténbrink (2007). “On the European Union’s Institutional Capacity to Cope with Further Enlargement”. in *ibid*; Alex Stubb (2006). Report on the institutional aspects of the European Union’s capacity to integrate new Member States, A6-0393/2006, 16 November 2006; House of Lords (2013). *European Union Committee, 10th Report of Session 2012-2013. The Future of EU Enlargement*, HL Paper 129, 6 March 2013, Börzel, Dimitrova and Schimmelfennig (2017). “European Union enlargement and integration capacity: Concepts, findings, and policy implications”. *Journal of European Public Policy*, 24(2), 157–176; Börzel and Schimmelfennig (2017). “Coming together or drifting apart? The EU’s political integration capacity in Eastern Europe”. *Journal of European Public Policy*. 24(2), 278–296.

¹⁴ Commission of the European Communities, Communication from the Commission to the European Parliament and the Council-Enlargement Strategy and Main Challenges Including Annexed Special Report on the EU’s Capacity to Integrate New Members, Brussels, 8.11.2006 COM (2006) 649.

¹⁵ See for the revised elements of the enlargement strategy of the EU in 2006, 2012-2013, 2018, 2020, 2022, 2023 and 2024 and also see for instance Mirel, P. (2019). “European Union-Western Balkans: For a revised membership negotiation framework”. Policy Paper: European Issues, no. 529; Mirel, P. (2022). “In support of a new approach with the Western Balkans: Staged accession with a consolidation phase”. Policy Paper: European Issues, no. 633.

system as well as its policies. The EU is the product and the most prominent promoters of the liberal world order that emerged after the 2nd World War and got consolidated after the fall of the Iron Curtain

It needs to be pointed out that not only the Russian aggression on Ukraine, but a plethora of reasons from the economic, social and political discontent with the consequences of the global liberal world order that emerged in the aftermath of the collapse of the Iron Curtain created the dynamics of this geopolitical turn of events for Europe.¹⁶ Hence the enlargement climate this time is very different from that of the second half of 1990s and the first half of the 2000s.

There is one strong similarity, however, that needs to be pointed out, between the Eastern enlargement of the early 2000s and the enlargement of 2020s in that respect: enlargement proves to be the best and most powerful response and most effective foreign policy tool for the EU.¹⁷

In today's enlargement, the candidates consist of the Western Balkans – together with Türkiye – Ukraine, Moldova and Georgia, and the accession process is predicted to take a considerable amount of time due to the specific circumstance of the candidates and their need of a long and demanding *acquis* and policy alignment process.

Moreover, the EU itself would require a long and again demanding period of reforms to prepare for such enlargement in order to fulfil the requirements of “integration capacity” from the view point of the Union. Commission's new endeavour of pre-enlargement reform preparations¹⁸ might be seen from such a perspective. Within confines of this study, the discussions on the governance, policy and budgetary aspects of those reform aspirations, and consequently their impact on the Union's integration capacity merits a specific mention, without of course forgetting the budgetary implications.

Similarly, discussions on staged/gradual integration/accession which can be regarded to a certain extent as related to the concept of integration capacity from the candidate country perspective¹⁹. The main contention for the proponent of such designs seems to be that the Union

¹⁶ See in general for various crises of the EU in the recent years and the significance of the Russian aggression on Ukraine in that regard see Tanja A. Börzel, (2023). “European Integration and the War in Ukraine: Just Another Crisis?,” *Journal of Common Market Studies*, Vol. 61, 14-30.

¹⁷ See for instance Helene Sjursen (2002). “Why expand? The question of legitimacy and justification in the EU's enlargement policy”. *Journal of Common Market Studies*, 40(3), 491–513; Helene Sjursen (2006). *Questioning EU enlargement. Europe in search of identity*. Routledge; Anghel, V. and Džankić, J. (2023). *Wartime EU: Consequences of the Russia – Ukraine war on the enlargement process*. *Journal of European Integration*. 45(3), 487–501 and Heads of State and Government of EU Member States' Granada Conclusions, 6 October 2023.

¹⁸ Commission Communication (2024) Communication from the Commission to the European Parliament, the Council on pre-enlargement reforms and policy reviews, Brussels, COM (2024) 146 final, 20.3.2024.

¹⁹ For the first time employed in the EU's revised negotiating position on Montenegro and Serbia in 2021, then with Albania in 2022 and repeated with Ukraine in 2024, the Union underlines accelerated integration and “phasing in” to individual EU policies, the EU market and EU programmes in a merit-based and reversible manner. In the Negotiating Framework of Ukraine the elements of the new methodology such as “phasing in” or “accelerated integration” were stated as “If Ukraine makes sufficient progress on reform priorities agreed in the negotiations, this should lead to closer integration with the European Union, through accelerated integration and “phasing in” to individual EU policies, the EU market and EU programmes, in a merit-based and reversible manner, in order to unleash the potential of such integration, in particular by removing technical barriers to trade, while ensuring a level playing field and safeguarding the internal market's integrity; primary focus should be given to areas where the candidate country already has the capacity and expertise for exports to the EU, and to areas of mutual strategic interest where the candidate country has significant production but needs to meet EU norms and standards, and to other areas where there is a vast untapped potential.”

should be a multi-speed construct, where new understanding of membership due to accession prospects cannot be all or nothing²⁰.

Whether such designs, and they should perhaps be identified conceptually as “differentiated integration designs”²¹ –albeit a debate might be in order on whether they should be considered as “internal” or “external” differentiated integration, depending on a temporal element whether such staged or gradual “membership” is to take place before or after so-called “accession” – are capable of being reconciled, how and to what extent, with the fundamental principles and foundations of EU law and institutional structure and thus might have any practical traction and/or normative appeal will also have to be explored.

Here only three remarks will be made on the impact of this broad framework regarding EU enlargement on Türkiye-EU relations, in order to make some predictions for the short to medium term future.

First, geopolitics emerges as the main motive and impetus behind this new enlargement stage. Yet, Türkiye, whose main attributes include its strong presence in NATO, its experienced and versatile army, its developing defence industry, hence the value of the country for the security and defence of Europe, as well as its geopolitical significance not only for the moment, but throughout the history and most probably for the future are not deemed as arguments for even a slight consideration of Türkiye in the enlargement designs of the EU. Even the fact that the EU regards enlargement once again as its main foreign policy tool, such urgency or priority does not extend to re-energising Türkiye’s accession process. This, arguably demonstrates even on its own the deep and certain rapture of the accession process for Türkiye, at least for the foreseeable future.

Secondly, such deep rapture might even prove too strong for a structured and principled relationship model beyond a purely transactional issue-based model for the time being, even though the interests of the parties dictate otherwise. Here, the impasse in the Cyprus issue proves to be a genuine obstacle in the way of establishing a working, functional and somewhat norm, principled and institutions-based model despite the intensifying focus and priority on geopolitics, security and interests.

And thirdly that the EU will be preoccupied with this new and very challenging enlargement wave and the necessary internal reforms as a response to the current geopolitical situation in Europe and beyond, concerns about Türkiye’s relationship with this newly shaping policy and structure, seemingly prioritising geopolitics and security over values and norms for the foreseeable future, will be at the slow-burner and transactional at best. Most probably this says a lot about the so-called geopolitical turn in EU policies and structures, but also about Türkiye’s position regarding its alignment, or lack of, with the EU’s Common Foreign and Security Policy, which was in high % 90s in the mid-2000s, and declining in a steady manner ever since.

²⁰ See for instance the Report of the Franco-German Working Group on the EU institutional reform, Paris-Berlin. 18 September 2023.

²¹ See for instance Schimmelfennig, F., and Winzen, T. (2020). *Ever looser union? Differentiated European integration*. Oxford University Press.

A structured, principles and rules based, institutions and procedures-oriented design in the relations: A new or revised external differentiated integration model?

The updating of the Customs Union provides a concrete step in preparing the ground for a positive agenda in Türkiye-European Union relations amid the stagnation in the accession negotiations and the drastic overhaul of the global economic and political order. It also has the potential to pave the way for restructuring stability, trust and a non-binary perspective of interest for the parties that is currently much needed. Hence, the modernisation of the Customs Union might prove to be the exemplary area or rather the core of a new design structure in Türkiye-EU relations.

Here we will take the technical and then the political implications and probabilities of such a scenario of a differentiated integration model for the relations. The “integration” terminology employed in this regard relates to the institutions, rules and standards-based nature of this type of relationship, involving also a progressive and to a certain extent transformative element, aiming at a furthering of the type of engagement between the parties by way of the dynamics of an ever evolving integration process.

The brief blueprint of the May 2015 Senior Officials Working Group Report (SOWG) would have to be taken up and reconsidered due to the passing of a considerable amount of time since the first understanding and arrangement.

Moreover, as far as Türkiye is concerned, the expectations should be curtailed to a certain extent regarding the “negotiation” aspect of such modernisation. The EU has several advantages in its trade relations with third parties. First, due to its economic and political strength; secondly, due to the intrinsic characteristics of its supranational legal and institutional order and mechanisms and thirdly, because of the level and intensity of the economic, political and legal integration already achieved within the Union. Such advantages multiply also when the third party strives for a deeper level of economic or otherwise “integration” with the Union, going much beyond a simple and traditional free trade agreement. The close integration of the Customs Union model provides several advantages, yet autonomy in trade policy is not one of them and a level of asymmetry is intrinsic in the model.

Thus, the limits and restrictions informed by the *sui generis* legal and institutional set up of the Union itself, with its supranational characteristics based on transfer of sovereign powers by the Member States should also be taken into account while contemplating on various alternatives by Türkiye. Moreover, the degree and level of economic and also political integration existing in the EU constitutes another issue that needs to be considered in that regard.

Türkiye should concentrate on certain advantages of norm and rule transfer from the Union, should work on the means and tools for increasing its informal influence on EU decision-making in related fields, as well as internalising the developments regarding the mechanics and functioning of the international dispute settlement in global trade.

EU, for its part, should engage in contemplating various alternatives and start thinking outside the box – albeit within the limits imposed by its own legal and institutional structure – in order to accommodate Türkiye’s reasonable and fair expectations.

Yet, it needs to be pointed out that irrespective of the type of solution to be brought to the table and agreed upon by the parties, the proof of the pudding will be in the eating, therefore the proper implementation of such new design would necessitate mutual trust and good faith from the parties. Starting the negotiations would inarguably be instrumental in rebuilding such mutual trust and good faith.

Lastly, certain examples from the external differentiated integration realm of the European Union as regards its economic relationship models with third countries would provide ample ground to predict the possibilities and prepare realistic negotiating positions once the updating or modernisation negotiations appear in the horizon. Due to the limits of this study, an attempt at such examination has not been undertaken here.

Yet, if we need to be realistic, such technical, economic and in the long run transformative expectations and outcome of a modernisation of Customs Union to materialise seem farfetched for the time being, since the EU has very strong political resistance to even starting the modernisation negotiations. The political conditionality employed by some Member States regarding the democracy, human rights and rule of law backsliding in Türkiye, and maybe even more importantly the Cyprus factor stipulated in the recent European Council Conclusions precludes the possibility of starting the modernisation of the Customs Union and resorting to the dynamics of such external differentiated integration mechanism in order to stabilize and develop the relations remains highly improbable, if not totally inexistent.

Three developments might play a positive role to change the current negative state of play and the stand-off: first, the changes in the external dynamics and the need to re-consider the trade patterns, trade routes, supply chains, economic security and the ideas and ideals of free trade and globalisation for EU in the possible case of a Trump administration triggered trade war. Secondly, a much needed, yet for the moment elusive negotiation table being set up for the Cyprus dispute. And lastly, some opening on the democracy, rule of law and human rights issues in Türkiye, again desperately needed, yet again proving difficult in current circumstances. In that regard, the resilience and dynamism of Turkish civil society and societal opposition as well as the unpredictability and pragmatism of the ruling political elites still deserve a mention at least.

Arguably, the twin transformation efforts of the Union, the Green and Digital Agendas, also compel the involvement of a significant partner of the EU like Türkiye in such policies in order to increase the appeal and effectiveness of EU's rule transfer role and policy.

Indeed, from supply chain security, to the approaching Trump administration's challenges to open markets and to a great extent to globalisation might bring EU and Türkiye together, since economic interdependence and geographic proximity might bring economic security and benefits to both sides and might be conducive to mentality and policy shift which are currently very much needed. An opening in the Cyprus problem, albeit a procedural one such as a genuine search by all parties involved for talks to resume, might also provide a positive impetus in that regard.

Issue and interest based, semi-structured, transactional cooperation model: the case of Türkiye-EU migration cooperation

There might be other issues or instances to cite for such issue-based, semi-structured cooperation areas or transactional models for the short to medium term time range of the Türkiye-EU relations. The European Political Community endeavour of the Union, the recent high level political dialogues from trade to energy and lastly the invitation of Turkish Foreign Affairs Minister Hakan Fidan to the August 2024 Gymnich Meeting of EU Foreign Ministers might be seen from the perspective of such loosely semi-structured, intergovernmental, bilateral or multilateral cooperation and consultation platforms that might be seen from the perspective of such transactional relationship models. Each occasion mentioned here has a particular nature and objective and require analysis accordingly.

In particular, the redesign of European security and defence architecture within or alongside NATO structures and the possible role Türkiye might play in that regard with its strong and experienced army, vast military capabilities, developing defence industry, as well as its large population might be another avenue that might be explored, especially after the re-election of President Trump, yet any in-depth analysis might be considered as premature at this stage before the outlines of the Trump administration policies become apparent to a certain extent.

The migration cooperation will be taken up as the most prominent example here for various reasons. First, due to its significance for the relationship between the parties, not only since the Türkiye-EU Deal of 18 March 2016, but starting long before that, at least since the mid-2000s when the parties started the formal negotiations for a Readmission Agreement and the possibility for visa free travel rights of Turkish nationals, based on Türkiye-EU Association Law and the judgments of the Court of Justice of the EU²² various developments prompted the parties to search some ways to handle the “migration cooperation” area as a fitting issue to obtain mutual benefits. Therefore, it was and still is treated as one of the few areas that could be presented to both the Turkish and the European public opinion as a functional and result oriented area of cooperation.

Secondly, because its complex and multifaceted consequences – to some extent positive, yet arguably predominantly negative – for both the European and Turkish political, economic, social, legal and normative landscapes had and continue to have a big impact on both entities, their relationship and beyond. The fact that this model has been adapted to various other cases in EU’s externalisation of migration policy, regrettably attests to this assertion.²³ Moreover, the search for a similar “deal” in other so-called areas of mutual interest, despite matching very well with the political climate between the parties and beyond, had an adverse effect on the efforts and search for the rule-based, institutionalised, structured and progressive type of relationship that has been the case both in the association and in the accession models. So instead of finding ways to focus on areas and designs to strengthen the relations through rule, institutions and process based, principled cooperation models that might contribute to build trust and pave the way to “integration” between the parties, parties preferred such a quick fix cooperation deal which might prove to be what they intend to continue with at this moment in time.

The 18 March 2016 migration or refugee deal between Türkiye and the EU, differs from the aforementioned diplomatic and high-level dialogue platforms, and arguably can be seen as a case of externalisation of migration governance by the EU and therefore a genuine policy tool. The refugee deal had other provisions which included the expediting of a target date for visa-free travel of Turkish nationals into the Schengen area, acceleration of Türkiye’s accession negotiations, modernisation of the Customs Union etc. Yet, save for a couple of negotiating chapters opened by the Member States, none of the other elements of the Deal had any concrete results. One last issue which obviously was not in the Deal, yet provides an insight into such transactional designs and their consequences was that the Commission’s report on Türkiye which was due to be published in October 2015 was postponed until after the elections so as not to put pressure on the government.

On the one hand, it might be argued that in case of Türkiye, especially due to the accession process but also with the migration cooperation, the country’s alignment with the EU *acquis* in the area of freedom, security and justice (Chapter 24) has increased. Moreover, the Deal indeed was useful and effective in dealing with the refugee crisis and appeasing the migration averse

²² See for instance the February 2009 judgment of the European Court of Justice: Case C-228/06 Mehmet Soysal and Ibrahim Savatli v Bundesrepublik Deutschland [2009].

²³ See the recent examples related to Tunisia or Albania.

segments of the domestic public opinion in the Member States for a while, at least until the relations between the parties was faced with new crises such as the Eastern Mediterranean and until the irregular migration found new routes and tools.

It is argued here however that the transactional nature of the externalisation of the migration problem as demonstrated in the EU-Türkiye Deal case, accentuated the interest-driven approaches instead of value-driven approaches and thus exacerbated the mistrust and misunderstandings between the parties, rather than alleviating them. This has also resulted in the diminished leverage for the EU and the selective observance of the rules and principles and inefficient use of the tools and resources for Türkiye. This is a significant dilemma of external differentiated integration designs of the EU: how to develop a mechanism, a process, a method with political, economic objectives and institutional and legal structures which demonstrates an efficient and effective mixture of incentives and sanctions, that satisfies the need for functioning conditionality that would in turn result in the promotion and projection of EU's values and interests?²⁴

This flexibility and even leniency demonstrated by EU to Türkiye, an accession country, contravened the political conditionality employed by the EU in its enlargement policy. This in turn, breached the normative stance of the EU, together with some blatant human rights, rule of law and democracy problems it entailed²⁵. Entering into a so-called "cooperation" with an accession country, side-lining the rules, principles and conditions of the so-called "normative power EU" to deal with a crisis, consolidated the EU's so-called "double-standard" in matters of principle, both in Türkiye and beyond.

Moreover, since the Deal was rushed to a certain extent due to the pressing circumstances, the lack of resort to usual consultation and decision making procedures and processes both within and amongst the parties paved the way for misunderstandings and misperceptions about its contents and requirements. This was instrumental in the claims of non-implementation of certain aspects of the Deal and inevitably created resentment, instead of alleviating it. The principled/normative stance of the Union was eroded further and significantly though, even amongst the segments of Turkish society that supported the EU membership and the political conditionality it involved.

²⁴ Çiğdem Nas (2018). "*EU-Turkey Refugee Deal: Norms versus Interests*". Paper presented at the EUIA 2018: 'Protecting and Projecting Europe', Brussels, 16-18 May 2018 and its adapted and updated version as Sanem Baykal and Çiğdem Nas (2020). "Externalisation of Migration Policy of the EU and Turkey-EU Deal". Paper presented at the EUNova Seminar, Maastricht University MCEL, December 2020. See in general, Bashirov and Yilmaz (2019). "The rise of transactionalism in international relations: evidence from Turkey's relations with the European Union". *Australian Journal of International Affairs*; S Aydın Düzgüt (2017). "Legitimizing Europe in Contested Settings: Europe as a Normative Power in Turkey? Legitimizing Europe in contested settings". *Journal in Common Market Studies*, Vol. 56, No. 1; Alper Kaliber (2017). "Contextual and Contested: Reassessing Europeanization in the case of Turkey". *International Relations*. Vol. 27, No.1; Senem Aydın-Düzgüt and Alper Kaliber (2016). "Encounters with Europe in an Era of Domestic and International Turmoil: Is Turkey a De-Europeanising Candidate Country". *South European Society and Politics*, Vol. 21, No.1; Janning (2018). "Transactional by Default: EU-Turkey Relations in Search of a New Rationale". *Turkish Policy Quarterly*, Vol. 17, No.1; Ziya Öniş and Mustafa Kutlay (2017). "Global Shifts and the Limits of the EU's Transformative Power in the European Periphery: Comparative Perspectives from Hungary and Turkey". *Government and Opposition*, Vol. 54, No. 2; Fuat Keyman, Senem Aydın-Düzgüt, and Kristen Biehl (2019). "Changing Parameters of Migration Cooperation: Beyond the EU-Turkey Deal?". IPC Policy Paper, December 2019.

²⁵ The denial of the European Parliament from its role in the international agreements of the EU, both in decision making and to an extent its supervision powers, lack of transparency, the "deal" being outside the formal legal procedures of the EU, therefore being declared as not an EU law instrument by the Court of Justice of the EU, the human rights problems inherent in the Deal, together with some possible breaches of EU law instruments are amongst those issues.

Main sticking points of the Deal and this type of externalisation of migration designs are illustrated by the problems occurred in the first few months of 2020 by Türkiye's policy of not obstructing the refugees surge to reach at the Greek land border and put pressure on the Greek authorities. The inevitable political and humanitarian crisis was short-lived mainly due to the emergence of the Covid-19 pandemic and the ease off of the situation.

Loose, Selective, Transactional, Issue and Interest Based Relationship Models Alternating Between Cooperation and Competition

The last scenario for the future of the relations in the short to medium term might be a cooperative as well as competitive relationship, some type of coexistence through alternating between cooperation and competition.

Türkiye's so-called foreign policy diversification in the last decade or so, changing its priorities from a Western or European-oriented direction and non-interference in the disputes in its own region, somewhat diverged its stance from that of the EU's CFSP. In that vein, the EU Strategic Compass of 2022²⁶ does not even categorise Türkiye as a partner and Türkiye debates the possibility of closer ties with other actors or entities, as demonstrated by the latest example of interest in BRICS. Yet, the parties still cooperate in security and defence area of course, due to NATO and other common security mechanisms in the Continent and in the area of trade due to the Customs Union.

Both parties underline their objective of "strategic autonomy" from time to time, not necessarily with the exact same understanding of the term, and not necessarily from each other. Türkiye mostly points out to its diversified interests while claiming to reject the binary split between the East and the West. Yet the developments in the world scene might urge Türkiye to choose a direction sooner rather than later. Indeed, Türkiye cannot stand alone and should seek partners, cooperating and competing where necessary, based on a clear understanding of its own interests, interests that also closely relate with the stability and resilience brought about by institutions, procedures and trust based, structured relations.

That is also the case for the EU. The strategic interests of the Union require building its own defence capacity, diversify its energy supply routes, strengthen its economic and digital security, including secure supply chains in its vicinity and finding ways to re-build, maintain and increase its soft power credentials; its regulatory, normative, rule-setting, transformative attributes, especially in the aftermath of Russian aggression on Ukraine and the re-election of Donald Trump. EU needs as many allies as possible for its multilateral international order agenda, combatting climate change agenda, its free trade agenda, its democracy agenda, its rule of law agenda, its freedom of speech, media freedom and pluralism agenda, its anti-discrimination agenda and more.

Cyprus issue is significant for both, shaping each side's psyche and their view of the stance and attitude of each other thus preventing closer cooperation in a wide range of issues that might be covered by the term "security" in that regard, such as energy supply security, security and defence, economic security, etc.

Indeed, Cyprus problem exemplifies the ever-growing issues dominated by distrust, misperception and misunderstanding of the parties. For Türkiye it is the most obvious example of the double standards and untrustworthiness of the EU, whereas for EU it is the most

²⁶ A Strategic Compass for Security and Defence, for a European Union that protects its citizens, values and interests and contributes to international peace and security, 2022 see at: https://www.eeas.europa.eu/sites/default/files/documents/strategic_compass_en3_web.pdf.

significant example of Türkiye's exceptionalism and belligerent attitude and incompatibility with the EU construct. Mainly due to the already immense complexity of the historical, legal, diplomatic, strategic and social components of the dispute, it has been largely exacerbated by the membership of Cyprus to the EU without a settlement. Moreover, it also needs to be pointed out that Cyprus issue provides a very convenient justification or excuse to certain EU circles for adopting a negative attitude towards Türkiye in many fronts, which might not be that easy to express based on some other, somewhat uncomfortable, argument.

It needs to be reminded, however, that the so-called "strategic interdependence" that exists between the parties should preclude a pure competitive or worse, an adversarial relationship, which would be a lose scenario for both²⁷.

Conclusion

Türkiye is not generally seen as a part of Europe or at least part of the European integration for more than a decade now, but as a country that Europe can cooperate with on an issue-based capacity if need be. Enlargement might be the most transformative policy tool of the EU, but seems to have failed in the case of Türkiye. EU seems to be content with a pragmatist political elite in the country that would protest often and loud, but most of the time not act on their complaints, and would not have any ideological or practical qualms about forsaking the EU membership ideal. In fact, EU cooperates on a pure interest-based manner with the Turkish government, while criticizing the same government's problematic democratic practices and credentials. In fact, Türkiye's democratic backsliding, seems to give the justification to not to engage with the country as a candidate or an associate anymore.

This *status quo* might be too difficult for the parties to maintain in the very near future, due to the challenges ahead. In certain cases, the pragmatic, in others the normative arguments have so far contributed to the avoidance of an abrupt rupture in the relations and facilitated preserving the current fragile *status quo*. However, how reliable and stable such *status quo* is, would not and should not be something they would like to test. Rather, their common or shared interests are in acting together to face the challenges of today and the near future.

The hopes for ending the deterioration of the relations for both sides do not seem to be completely realistic for this moment in time. The parties seem to assess the internal and external dynamics as not conducive for a change in their perceptions, attitudes and policies in their bilateral relations. Consequently, they seem to prefer the current impasse, the *status quo*, to any decision either way – that is to move forward or to roll back.

The EU and Türkiye are bound by geography, history, trade, a common security architecture and common rules and procedures in a wide range of fields. Whether they have the political will for any functioning integration model based on common institutions, norms and values, albeit a model that does not immediately result in membership, yet remains to be seen.

Prospects of political, social and economic transformation in Türkiye should be followed closely by the EU, and engagement with the whole range of Turkish society and the NGOs for the protection and promotion of common values should be regarded as a must. Democracy, human rights and rule of law promotion are to be prioritised and strengthened. This is in the interest of EU and Türkiye alike, both in the short and long term. The fact that Turkish society

²⁷ See Jose Ignacio Torreblanca (2023). "Onwards and outwards: Why the EU needs to move from strategic autonomy to strategic interdependence", ECFR, 24 August 2023.

is a very dynamic one, where the political preferences of the people are open to sometimes drastic change, should always be born in mind by the European circles.

As far as Türkiye's political elite is concerned, the relations with the EU should be taken back on the agenda as a priority for the political and economic system of the country to get back on the path to recovery, welfare and stability. This first and foremost necessitates an end to the backsliding on the fundamentals; that is democracy, human rights and rule of law. Genuine stability and security as well as economic and social welfare would only be rebuilt, maintained and promoted in a country like Türkiye through those fundamentals.

Moreover, foreign policy alignment with the EU is a priority in the current geopolitical climate and whether Türkiye is willing and capable in those areas will be amongst the key factors for the future prospects of the relations.

Any type of a transactional model, in particular as Türkiye-EU relations are concerned, should take into account the need to consider interests and values/norms equally for any such design to work, since being effective cannot be considered a success in a relationship as emotionally, politically, historically and economically loaded and multidimensional as Türkiye-EU relations.

Rebuilding the mutual trust, the institutional structural set-up and having an, albeit thin, normative basis should always be the building blocks of any design for Türkiye-EU relations. Purely transactional models lacking such elements might not serve even the parties pure realist interests in the long run.

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