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ASSESSING THE 16-17 DECEMBER 2004 EUROPEAN COUNCIL DECISION ON TURKEY: IS IT A HISTORIC DECISION?

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Introduction:

After two days of nerve-wrecking negotiations, political brinkmanship and typical European Union (EU) style diplomacy, the European Council, highest governing body of the EU representing 25 member countries, decided to open membership negotiations with Turkey on 3 October 2005.¹ This decision had been preceded by a series of earlier critical decisions starting with the one by the Helsinki European Council decision in December 1999 to grant candidate status to Turkey.² Subsequently, Turkey had embarked on an ever expanding reform process to meet the EU's infamous Copenhagen political criteria to qualify to start accession negotiations.³ In December 2002, the EU produced yet another critical decision when it acknowledged the massive reforms in Turkey but asked the European Commission to monitor closely the adoption of the remaining reforms and to

¹ Croatia was given 17 March 2005 for opening its accession negotiations with the EU conditional to the Croatian government turning in remaining indicted to the ICTY (International Criminal Tribunal for the former Yugoslavia). The text for the *Presidency conclusions* for the European Council meeting on 16-17 December 2004 can be found at:

http://ue.eu.int/ueDocs/cms_Data/docs/pressData/en/ec/83201.pdf

² For the December 1999 Helsinki European Council *Presidency conclusions* see

http://ue.eu.int/ueDocs/cms_Data/docs/pressData/en/ec/ACFA4C.htm

³ The Copenhagen criteria for membership had been adopted by the June 1993 Copenhagen European Council summit. These criteria are: democracy and the rule of law; functioning market economy capable withstanding competitive pressures and market forces; administrative capacity to adopt and implement the *acquis communautaire*. The need to have sufficiently met the first set of the Copenhagen criteria, also known as the political criteria, is required for the opening of accession negotiations. For the Presidency conclusions see:

http://ue.eu.int/ueDocs/cms_Data/docs/pressData/en/ec/72921.pdf

advice the European Council on whether accession talks with Turkey could start “without delay”.⁴

This recent summit had been preceded by a bitter debate in Europe on Turkey’s eligibility for membership and its “Europeaness”. The resolution of the Cyprus problem also loomed as an insurmountable obstacle in front of Turkey. Nevertheless, the current government with an unprecedented will by Turkish standards proceeded with the adoption of the remaining critical political reforms. The government was also successful in achieving the impossible when it persuaded the Turkish political establishment and public to lend its support or at least acquiescence to the Annan Plan on Cyprus. This success was crowned by an overwhelming support that Turkish Cypriots gave to the referendum on the Plan in April 2004. The accession of Cyprus to the EU, in spite of the rejection of the Plan by the Greek-Cypriots, cast a dark shadow on Turkey’s otherwise successful march to get a date to open accession negotiations. The critical *Progress Report* on Turkey, prepared by the European Commission, acknowledged Turkey’s successes and concluded that Turkey had sufficiently met the Copenhagen political criteria.⁵ It went on to recommend that negotiations could be opened with Turkey “without delay” as soon as some remaining reforms were completed.

The Turkish Prime Minister, Recep Tayyip Erdoğan, and his able Minister of Foreign Affairs, Abdullah Gül, received a hero’s welcome after their return from the European Council summit. Most of the media chose to emphasize the “full” part of the glass and termed the outcome as a “success”. Yet, there are also many, both in Turkey and in Europe, who highlight the “empty” part of the glass or at best have received the decision with mixed feelings. This is a function of the recognition that Turkey’s road to membership remains paved with a multitude of challenges if not obstacles. Some of these challenges actually stem from the “buts” and qualifications that have been built into the actual decision to open the accession talks while another set stems from Europe and Turkey itself. Yet, these challenges or difficulties can not hide the fact that the European Council is heralding a new era both for Europe as well as Turkey with potential repercussions for the regions beyond Turkey. These give the decision a historic quality.

Background to the December 2004 European Council Summit:

Turkey had embarked on its journey to join the then European Economic Community (EEC) with the signing of the Ankara Association Agreement in 1963. In 1987, under the leadership of Turgut Özal, the then Prime Minister of Turkey, an application for membership to the European Community (EC) was filed. However, the EC at the time rejected this application. It argued that even if Turkey in principle was qualified to become one day a member, it was not ready to take on the obligations of membership, and instead it recommended the formation of a customs union. The customs union was negotiated and signed in 1995 and subsequently, came into force in 1996 with great political difficulties. This period coincided with one when the violence resulting from the

⁴ For the December 2002 European Council *Presidency conclusions* see:

http://ue.eu.int/ueDocs/cms_Data/docs/pressData/en/ec/73842.pdf

⁵ For the 2004 *Progress Report* on Turkey and the actual recommendation see:

http://europa.eu.int/comm/enlargement/report_2004/pdf/rr_tr_2004_en.pdf

and

http://europa.eu.int/comm/enlargement/report_2004/pdf/tr_recommandation_en.pdf

confrontation between the Turkish security forces and the Kurdistan Workers' Party (PKK) was causing massive violations and displacement of Kurds in south east Turkey. Turkish-EU relations were particularly foul during this period as the EU governments criticized Turkey bitterly for failing to solve the Kurdish problem. The Turkish government, in turn, accused the EU of interfering in Turkish domestic affairs and of supporting the PKK's agenda to carve up a separate Kurdish state from Turkey.

Relations between Turkey and the EU reached its lowest point when, in December 1997, the European Council decided not to include Turkey among the list of candidate countries for the next round of enlargement. This was preceded in 1996 by a major crisis between Greece and Turkey when both countries came to the brink of a military confrontation over a tiny set of islands in the Aegean Sea. Yet, the capture of the leader of the PKK in February 1999 very quickly brought the violence to an end. A general improvement in the political climate in Turkey occurred and the coalition government elected to power in April 1999 committed itself to reforms. This also coincided with a period when Greek-Turkish relations, subsequent to the massive earthquakes that both countries suffered, began to improve. These developments ushered in an era leading to the December 1999 European Council Helsinki summit decision. Subsequently, a long and slow process of political reforms started. Initially, the reforms proceeded very slowly due to a weak coalition government. However, the election in November 2002 brought in the current government led by the Justice and Development Party (AKP) with a decisive majority in the Turkish parliament.

The new government was able to bring about a number of breakthroughs in overcoming a series of Turkey's taboos. It succeeded to substantially curb the influence of the military in Turkish politics. Similarly, on Cyprus, the government was able to replace the entrenched policy of maintaining the status-quo to one that led to the adoption of a plan brokered by the United Nations Secretary General Kofi Annan. The Plan envisaged the reunification of the island following a referendum on both sides of the island. However, the Plan failed to materialize when the Greek-Cypriots voted overwhelmingly against it. Even if the government was extensively praised in the international arena for supporting the Plan and ensuring a positive outcome from the referendum among the Turkish-Cypriots, it could not prevent the Greek side joining the EU representing the island of Cyprus. In the meantime, the government pushed through a final round of reforms in the fall of 2004 that created a positive climate in terms of meeting the Copenhagen political criteria. This climate though was briefly soured when the Prime Minister virulently tried to support the criminalization of adultery. This provoked massive reaction both from within Turkey as well as the European Union. The Turkish lira that had until then been appreciating began to loose value and the Turkish stock-exchange plummeted. After a few days of hesitation, the government backed down averting a major crisis in EU-Turkish relations. This enabled the European Commission to issue its Progress Report on Turkey early in October with the recommendation to the European Council that accession negotiations with Turkey could be opened. The Progress Report intensified the debate on Turkey in Europe.

Turkey's transformation and prospects of EU membership:

The last couple of years have transformed Turkey massively. Many of the political taboos that only a few years ago no one would have dared to address have been broken. The lifting of the death penalty that had faced intense resistance back in the summer of 2002

now has been revised and expanded to include the war time crimes as well. Broadcasting and education in Kurdish and other languages that had provoked divisive debates only two years ago is now accepted as part of normalcy. Civil society is buoyant and there is an ever growing cooperation between civil society and the state bureaucracy. Even the extremely touchy subject of the Armenian massacres of 1915 that once could not be raised is actually being debated in the public. In an unprecedented manner, the Turkish Prime Minister attended early in December 2004 the opening of an Armenian museum in Istanbul and emphasized the importance of diversity in what he called “our togetherness”. In the typically Kurdish populated city of Diyarbakır, a massive public demonstration took place under the banner of “no to separation and yes to diversity”. The Kurds in south east Anatolia who had taken the brunt of the violence have been distancing themselves from the activities of the PKK and often do not shy from condemning its recent acts of violence and terrorism. These developments do not mean that all problems have been resolved. There are still persistent allegations of torture and mistreatment of people in the region. The economic situation of the region is still very poor and unemployment is rampant. Yet, there is also a much more politically relaxed climate and high expectations about the future.

These improvements and high expectations in the south east and the rest of the country are undoubtedly driven by the prospects of EU membership. There is the recognition that many of the reforms and the pressure for their implementation are actually a product of EU pressure. In a similar manner, the impressive performance of the Turkish economy in respect to reducing inflation, expanding exports and sustaining an impressive level of economic growth is by and large attributed to the prospects of EU membership. The link between the performance of the economy and EU membership was very visible on the morning of the 17th of December. The news that a crisis had erupted over Cyprus and that the Prime Minister might fly back home prematurely sent the Istanbul stock-exchange tumbling only to recover once it became clear that a breakthrough was actually achieved.

The Turkish public is enthusiastically supportive of EU membership. Opinion polls have constantly substantiated this. The public is cognizant that by and large the EU has had a positive impact on their lives and on Turkey. However, there is also a deep running mistrust of the EU. Public opinion polls also reveal that the Turkish public fears that the EU has double standards against Turkey and that when the day comes it would shy from meeting its end of the bargain. This situation of course is also aggravated by statements that are flying in all directions in Europe that throw a dark shadow on the prospects of membership. It is understandable therefore that the public is on the one hand jubilant about the decision of the European Council yet, on the other hand, they are also nervous about the “buts” and “conditions” attached to the decision to open accession talks with Turkey in October.

Prospects for the opening of accession negotiations:

The decision to open negotiations with Turkey has been linked to a number of conditions and reservations. Many in Turkey believe that at least some of these conditions undermine the spirit if not the letter of the 1999 Helsinki summit decision that stressed Turkey is “destined to join the Union on the basis of the same criteria as applied to other candidate states”. Furthermore, they also suspect that the decision is worded in such a manner that it leaves open the possibility of no membership or a relationship with the EU that falls short of full membership. Indeed in a paragraph under the section on “Framework for

negotiations”, the European Council declared that the “objective of negotiations is accession”. Yet, it went on to qualify this objective by adding that these “negotiations are an open-ended process, the outcome of which cannot be guaranteed beforehand”. Furthermore, it went on to add that in the event that membership can not be achieved an effort must be so that “the Candidate State concerned is fully anchored in the European structures through the strongest possible bond”. Such a wording not only leads many in Turkey to believe that the EU is not genuine but that it wants to keep the door for a “special-enhanced relationship”, falling short of membership. This has long been an idea advocated by Christian Democrats in Europe, particularly in Germany and Austria. Angela Merkel, the leader of German Christian Democrats, and Valéry Giscard D’Estaing, former president of France and president of the “Convention on the Future of Europe” that drafted the European Constitution. The approach argues that Turkey is simply too big, culturally too different (read this as not Christian), economically too underdeveloped to deserve EU membership. They also add that Turkey is geographically not in Europe and therefore not suited for membership. Instead, they advocate a “special” relationship, that basically remains undefined, to prevent “loosing” Turkey.

The concerns if not anxieties on the part of many Turks are aggravated by a paragraph noting that “Long transition periods, derogations, specific arrangements or permanent safeguards... may be considered” ... “for areas such as freedom of movement, structural policies or agriculture”. The reference to “permanent safeguards” is found particularly disturbing. In the case of past enlargements, accession treaties have indeed included long transition periods, especially in respect to the freedom of labor movement. Currently, the nationals of the new member countries are not able to enjoy the freedom to movement for up to seven years due to these transitional arrangements that particularly Austria and Germany sought. However, these are what they are: “transitional” arrangements. In no previous enlargement has there been a member that has been admitted to the EU with permanent safeguards understood to be the denial to enjoy basically the rights, free movement of labor, and the fruits that come with EU membership, structural and agricultural support funds. Furthermore, the European Council has also included in its decision a novel practice opening the possibility to suspend accession negotiations should it be concluded that a Candidate State is in breach of the Copenhagen political criteria. This is yet another practice that has clearly been prompted because the Candidate State in mind happens to be Turkey. Previously, the EU had indeed bitterly criticized candidate states such as Slovakia and Romania for their inadequate or slow progress in implementing the Copenhagen political criteria. However, it had never actually been included as a written condition.

At a closer look, clearly some of these “conditions” are typically an outcome of a bargaining process between those who have supported Turkish membership on the grounds of principle and politics, and those who have been opposed to it either on ideological reasons or on grounds of public opposition. The governments of the former group, including mostly the Mediterranean countries, Britain, the Netherlands, Germany, Finland and Sweden, have argued that if the EU is going to be a Union of law it must respect its previous decisions and must treat Turkey equally as all other previous and current candidates. The second group, led by especially France and Austria, has openly opposed Turkish membership often citing domestic opposition and fear that Turks may actually flood the Union’s labor market as well as aggravate immigration related problems in these countries. This fear of course is also raised by the publics of countries belonging to the first group even if their governments have preferred to conceal those

fears or side-step them. The concern of appeasing the second group's anxieties in a typically EU decision making style is very much reflected in the way the *Presidency conclusions* say that the adoption of permanent safeguards "may be considered", preferring to leave the issue open-ended and shrouded in ambiguity.

However, these intra-European political calculations and idiosyncrasies of EU decision making by and large is lost on the Turkish public. Instead, many Turks simply see these paragraphs as a reflection of a time old European rejection of Turkey. This, unfortunately, reinforces the Turkish public's deep distrust of the EU's "word" in spite of the government efforts and many other Turks' effort to put up a brave face. Hence, in the coming years, when negotiations do indeed start, it will be a major challenge both for the Turkish and EU leadership to try to mobilize Turkish public commitment, patience and trust in EU membership. This will become even more critical, when, as has been the case with the past candidate countries, the actual adoption of the European *acquis* actually begins to bite and public support levels for membership start to plummet. This challenge of course will be complicated by the fact that the same leadership will also need to dissuade the fears and prejudices of parts of the European public concerning Turkey.

The question of Cyprus:

One last challenge embedded in the Presidency conclusions is the one addressing the issue of the recognition of Cyprus. This is a particularly complex and sensitive issue, and actually, on the first day of the summit, provoked a crisis that left the Turkish Prime Minister at the brink of leaving the summit prematurely. The draft *Presidency conclusions* had included a paragraph welcoming the Turkish decision to adopt a protocol extending the implementation of the 1963 Association Agreement and by default the Customs Union Protocol of 1995 to the ten new members including Cyprus. Although there was no open mention of the name of Cyprus, nevertheless, a crisis erupted over the fact that such a protocol could amount to the recognition of the Greek-Cypriot government as the government of the whole of Cyprus. This was considered to be a situation that clearly would leave the Turkish government in an impossible situation *vis-à-vis* the Turkish public opinion and the Turkish-Cypriots. Many also believed that this would not only make Turkey's presence on the island simply untenable, but worse, would leave the Turkish-Cypriots in a position no more than being a minority in a Greek-Cypriot run and dominated Cyprus. This was also aggravated by the fact that both the Turkish public as well as the Turkish-Cypriots remain utterly puzzled and disappointed that in spite of the support that was given to the Annan Plan, the Greek-Cypriots had joined the EU on behalf of the whole of the island and that they could block EU policies that were promised to them for ending the Turkish-Cypriots isolation from the international community.

At the end, the EU was once more able to demonstrate its skills in fudging a "solution" of some sorts. The compromise arrangement that was reached allows Turkey the breathing space until the actual commencement date for the negotiations in October 2005 to adopt the relevant protocol. However, that still leaves the issue of the recognition of Cyprus unresolved. As a result, two major challenges remain. Firstly, can the Turkish government actually come up with a protocol that can circumvent the recognition issue in a manner that satisfies both the Greek-Cypriots as well as Turkish skeptics? Secondly, can Turkey succeed in reinvigorating the diplomatic process that had culminated in the Annan Plan and actually assist the adoption of some kind of a new "Annan Plan" that is adequately palatable to the Greek-Cypriots to ensure that they do not again vote "no" to it and at the

same time make sure that this new plan does not set back the gains that Turkish-Cypriots acquired in the first plan? The two challenges are organically linked to each other. However, it is not clear at all whether Turkey can, on its own, meet those two challenges. It will need the goodwill and support of the EU. Will an EU, absorbed in its own problems and especially in the ratification of the European Constitution, master the political resources needed to assist Turkey to meet these challenges? Much more importantly, will the Greek-Cypriots have the minimum of an incentive to contribute to find a viable “solution” now that they enjoy both the comfort and the massive power that comes with sitting at the European Council decision making table as an equal partner to all the other members. Compared to all the other challenges, this one might actually be the one that may be the Everest of the challenges to meet.

The future:

In any event, these “buts” and “conditions” should not detract one from the fact that the EU has actually reached the decision to open accession negotiations with Turkey. The “buts” and “conditions” are more a reflection of partly the special challenges arising from Turkey’s membership and partly the Council’s efforts to find a balance between the competing and conflicting priorities of 25 members. Ultimately, what counts is that if Turkey does indeed resolve the current impasse on Cyprus, there should not be any obstacle in the way of starting negotiations. If the government is able to maintain the will it was able to mobilize in support of the Annan Plan, it should be able to meet this key challenge.

The government is right in tying the actual recognition of Cyprus to a resolution of the problem itself. It is generally acknowledged that Turkey currently holds the high ground because of the constructive role it played in terms of the adoption of the Annan Plan and the positive vote for the Plan on the Turkish side of the island. However, that in itself is not adequate. There clearly is a need to initiate a diplomatic attack to bring the sides back to the negotiation table to achieve a breakthrough for a final settlement on Cyprus. Any deal short of such a settlement is going to leave Turkey hostage to the Greek-Cypriot government that will be sitting across Turkey at the negotiation table as representing the whole of Cyprus. Even if Turkey manages to find a formula to extend the application of the Ankara Agreement to include Cyprus without though recognizing the Greek-Cypriot government’s authority over the northern part of the island, this will not change the fact that their counterpart will enjoy all the power and the authority of being a fully fledged member of the EU.

In the meantime, the next few weeks will be critical in terms of whether the government will be able to “sell” the decision of the European Council as a “success”. The Prime Minister declared the outcome as a success even if his Minister of Foreign Affairs noted that they had fallen short of getting 100 per cent of all they had sought. No one from such summits emerges with 100 per cent success but the critical bit is how the public takes the decision. If the government convinces that this was indeed a success, it is highly likely that Turkey’s transformation will continue unabated. The Turkish public after all did usher them to power with a decisive majority when the previous coalition government failed to take decisive steps on reforms. Furthermore, in the March 2004 local elections, the electorate cast 41 per cent of the votes for AKP. This is an important increase from the already impressive 34 per cent that the AKP had received at the November 2002 elections. Many commentaries have suggested this outcome could at least be partly

attributed to the government's resolution to pursue policies in support of EU membership, including its efforts to achieve a breakthrough on Cyprus.

The government will need to sense strong public support behind it in the coming months. This is why it will be critical for the government to succeed in "selling" the Council decision on Turkey as a success. This will facilitate resolving the Cyprus challenge and getting negotiations started. However, an important role will also fall on the shoulders of the EU. The EU too will need to take some initiative on Cyprus. The EU or a number of EU governments could indeed help to revive the Annan Plan. Yet, more important would be if the EU could succeed in getting through the legislation that the Turkish-Cypriots were promised for ending or easing their isolation from the international community. This would surely facilitate the hand of the government to find and push a formulation for the extension of the Ankara Agreement to include Cyprus and overcome the last hurdle for getting the accession negotiations off the ground.

Once negotiations do actually start, it will become much easier to talk about a "success" and the country will enter another but much more substantive period of transformation. This will then become a period during which Turkey will have to start to adopt the EU *acquis*. This will be a very costly and painful exercise. In the previous round of enlargement, massive public support for membership evaporated as people began to experience the cost of the transformation. The EU will provide funds to assist and some what cushion the transformation. However, these funds will simply be too small to cushion the pain and buy over the public. Hence, it will be critical for the government to maintain public support and exercise their will to march towards EU membership. The opposition inside and outside the parliament is already bombarding the government with tough criticism. They are arguing that the government is basically trying to sell an outright failure as a success.

Nevertheless, all this should not detract one from the fact that the decision taken on 17 December 2004 to open negotiation for membership is a historic one. From Turkey's point of view, the country has already transformed itself to an unrecognizable extent as it struggled to meet the Copenhagen political criteria. The gains are visible and generally acknowledged. Turkey, almost eight decades after Kemal Atatürk, the founder of the Turkish Republic, set Turkey's vocation as achieving the standards of what he termed "muassır medeniyetler" (basically Western civilization), has been recognized to have met at least the political standards needed to formally start to negotiate the membership to the very organization, the European Union, that is associated most closely by that "civilization". This indeed is no small success considering the state in which other Muslim societies find themselves today. It should also be possible to argue that the fact that this has been achieved by a government, whose roots are in a political party once associated with political Islam, enhances the historic significance of the European Council decision. It signifies that the transformation process, triggered by the prospect of EU membership, has encouraged the softening of political Islam's rougher edges and made it much more capable of co-existing with pluralist democracy and the rule of man made law as opposed to God given Sharia Law. Similarly, the hard line secularism of Turkey has also become softened as the transformation seems to have ensured a more nuanced approach to religion and pluralist democracy. At least, the traditional state establishment elite are willing to give the government the benefit of the doubt. This mutual process of toleration has benefited the country politically as well as economically. It is this process and the acknowledgement of it by one of the most advanced political and economical

projects of regional integration that reinforces the historic nature of the decision and raises the prospects of Turkey setting an example for the other Muslim societies. If the reference to “the shared objective of the negotiations is accession” noted under the 23rd paragraph of *Presidency conclusions* is successfully carried out to its ultimate end of Turkish membership, the 17 December 2004 European Council decision offers the good prospects of surmounting the challenges associated with a “clash of civilizations” between the Muslim world and the West. The decision may have “buts” and “conditions” attached to it yet what is important is that the huge and cumbersome EU decisional wheel continues to turn and the arrow points toward Turkish membership. The next critical period will clearly be 3 October 2005. Turkey, compared to 16 December 2004, is much closer to membership than it ever was.

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