

EU-Turkey-Monitor

Vol. 5 No. 3

December 2009

Editorial

After another long and tedious but successful ratification process, the Lisbon Treaty has entered into force on 1 December 2009. After having cleared the last obstacles on the way during the course of this year, the Union has finally managed to live up to its post-Amsterdam challenges, formulating a new legal foundation for the Union, more appropriate for the EU 27+ than any other treaty before. Nonetheless, also the Treaty of Lisbon falls short of the high expectations raised during the reform process. It has often been described as “Nice plus” but also as “constitutional treaty minus”, in short, as a compromise between high ambitions and strong status quo forces. With regard to the political dynamics within the Union, the Treaty of Lisbon has to be considered the best possible treaty for the Union at present: Dissatisfaction with Nice was as evident as the constitutional treaty proved to be just too ambitious for its decade. In this issue of the *ZEI EU-Turkey-Monitor*, German and Turkish authors look into the new treaty, reflecting particularly on the treaty’s implications for the future of enlargement – and therefore on the implications for the future of EU-Turkey relations.

This issue of the *ZEI EU-Turkey-Monitor* also features an interview with Egemen Bağış, Turkish Minister for EU Affairs and Chief Negotiator. He reflects on the treaty and its relevance for Turkey, the implications of the newly created posts (President of the European Council and High Representative) and recent nominations as well as on the course of Turkey’s foreign policy with respect to continuing tensions in Turkey’s neighbourhood.



Dr. Andreas Marchetti
Editor, Center for European Integration Studies (ZEI)



The Lisbon Treaty, signed in 2007, entered into force on 1 December 2009. It lays the foundation for the Union’s procedures, policies, and performance. © European Union, 2009

THE TREATY OF LISBON A renewed European Union?

Andreas Marchetti

European treaty reforms after Maastricht were mainly motivated by the prospect of enlarging the western European integration system to formerly Communist states after the end of the Cold War. This historical endeavour aimed at the definite termination of the decade-long dividing lines in Europe. However, despite the first solemn declarations in this sense 20 years ago, it took the Union until the Copenhagen European Council in 1993 to grant a clear accession perspective to middle and eastern European countries.

With respect to this central decision, the treaty reforms envisaged were mainly concerned with the Union’s internal arrangements. After all, the initial treaties had been conceived for a Community of six, already having doubled its size at the beginning of the nineties. It was generally agreed that the existing institutions and decision-making procedures had to be changed for a Union more than four times the size of the initial

Community. The first attempt to adapt the Union to this challenge, the Amsterdam Treaty signed in October 1997, was generally regarded as not living up to the challenge. People soon started talking about the “leftovers” of Amsterdam. Even worse, these “leftovers” did not concern any unimportant side issues but were at the centre of the Union’s power balance:

- 1) The votes of member states in the Council had to be re-weighted in order to find a new balance between the different “groups” of member states: small vs. large, poor vs. rich, west vs. east, new vs. old.
- 2) In order to prevent severe deadlocks within the enlarged Union and its decision-making bodies, the extension of qualified majority voting (QMV) within the Council was considered an important factor to minimise the potential of national vetoes.
- 3) Every member state had always nominated at least one own national to become member of the European Com- ▶

► mission. With enlargement in view, an equal enlargement of this central European Union body conflicted with the necessity to guarantee a streamlined and efficient Union even after enlargement. Already the distribution of portfolios would not necessarily correspond to political necessities in case each member state retained its own Commissioner.

The Treaty of Nice was supposed to overcome and solve the “leftovers” of Amsterdam. However, also this treaty did not live up to expectations. Accordingly, heads of state and government soon launched another reform effort at the Laeken European Council in 2001. A “Convention on the Future of Europe” was convoked. The Convention under the presidency of former French president Valéry Giscard d’Estaing did not only try to tackle the Amsterdam “leftovers” but aimed at a substantial leap in European integration. It eventually proposed a draft Constitution for Europe, serving as basis for a subsequent intergovernmental conference that finally reached agreement on the text of the “Treaty establishing a Constitution for Europe” in 2004. By signing the constitutional treaty in October 2004, the Union should finally get the institutional setup and internal procedures it needed after the biggest ever enlargement round already realised in May 2004 with the entry of ten new member states. However, the solemn signing of the treaty in Rome did not become the second founding moment of European integration since the ratification process of the “European Constitution” did not only prove difficult – it proved to be impossible to ratify the treaty in all 25 member states of the time: In two subsequent referenda in – founding member states – France and the Netherlands, the treaty was rejected in late May and early June 2005. After a two-year reflection period, even the most outspoken optimists and supporters of the constitutional treaty had to admit that the document would never enter into force. The German presidency in the first half of 2007 finally gave new impetus to the reform process by – at first reluctantly – accepting the necessity to re-start treaty negotiations and to say goodbye to some of the more ambitious provisions of the failed document. After agreement on a solid and detailed mandate for the intergovernmental conference, a new treaty could be negotiated under Portuguese presidency in the second half of 2007. The treaty was finally signed on 13 December 2007 in Lisbon.

The “reform treaty”, modifying once again the Treaty on European Union and also changing the Treaty establishing the European Community (the latter is now called Treaty on the Functioning of the European Union), did not come into force without difficulties. To the contrary, the document encountered similar challenges as the constitutional treaty had experienced, although after the “disaster” of 2005 no European government dared to hold a popular vote on the document – with the exception of Ire-

land, having to hold a referendum due to its constitutional requirements. After all the efforts undergone, the result of the June 2008 referendum seemed to repeat history, as 53.4% of the Irish voting in the referendum expressed a clear “no”.

Despite the similarities with the 2005 situation, the “new crisis” was quite different in scope and implications: The Irish “no” remained singular and the ratification process went on throughout the Union – almost unhampered. The “Irish exception” did not cause another “reflection period” or even a halt in the process. To the contrary, political leaders tried to make a second referendum in Ireland acceptable by considering specific “Irish” reservations – as expressed in the “no”-campaign – without having to change the text of the treaty. On 2 October 2009, 67.1% of the Irish voting in the second referendum then expressed a very clear “yes” in favour of the treaty, clearing the way for its entry into force.

Besides the “Irish patient”, the treaty also had to surmount political obstacles in Poland and the Czech Republic and to overcome legal hurdles in Germany. Despite all these challenges, the Lisbon Treaty could finally enter into force on 1 December 2009, ending the Union’s more than decade-long reform process. The central innovations brought about by the treaty can be summarised along three major intentions:

1) Solution of the Amsterdam “leftovers”: In the case of QMV, the necessity to ensure a “triple majority” (Nice Treaty) – requiring specific majorities with respect to a) the number of member states, b) the weighted votes of member states and c) the total population represented by these states – has been abandoned in favour of a “double majority”. Under qualified majority voting, an act of the Union now has to get the support of 55% of member states, representing 65% of the entire population of the European Union. In certain fields, the support has to be somewhat stronger, however, the former weighting of votes has been entirely abolished. In addition, the co-decision procedure has been strengthened; it is now the “ordinary legislative procedure” within the European Union. With the European Parliament having an equal say together with the Council, this also strengthens democratic governance within the Union. Finally, the Treaty also foresees a reduction of the size of the Commission to two-thirds of the number of member states. However, the treaty grants the European Council the right to deviate from this rule – as has already been done, mainly owed to Irish demands after the first referendum in 2008. Accordingly, the Commission still consists of 27 members – and not only 18. Nonetheless, the new treaty continues to foresee a smaller size for the Commission, a rule that can simply be applied with another decision of the European Council, once political circumstances allow for this change.

2) Reduction of the Union’s “democratic deficit”: The political will to tackle this problem is highlighted by integrating an entire title on “democratic principles” into the treaty. In substance, the further advancement of co-decision making between Council and Parliament can be considered one of the central innovations to really strengthen democratic legitimacy. In addition, national parliaments have also been strengthened, in particular in the area of subsidiarity. Last but not least, rules for a citizens’ initiative have been introduced: one million European citizens from a considerable number of member states now can call on the Commission to initiate a legislative process, taking into consideration the initiative’s concerns.

3) Consideration of frequent criticisms against European integration: Many had rejected the constitutional treaty because it seemed to lead the way to a true European state. In order to counter this perception, the Lisbon Treaty has abandoned state-like vocabulary (“constitution”, “minister for foreign affairs” etc.) and symbols (flag, anthem, motto) – without, however, abandoning major innovations of the constitutional treaty. In addition, general criticisms against “Europe” shall be surmounted by integrating frequent concerns into the treaty’s text: items like “fair trade” and “social market economy” have now found their way into the treaty. However, this has not led to a fundamental change of the Union’s traditional aims: “free trade” and a “competitive market economy” are named hand in hand with the new elements. Hence, the document seems to be less coherent and less clear than before by trying to include all sorts of political trends. The intention behind this is clear: If it is not – yet – time to talk of a European Constitution, the new treaty shall at least be a document for all of the Union’s citizens.

Despite the shortcomings of the present treaty, a look back at the reform process highlights that the Treaty of Lisbon is the maximum that can be attained today: The Treaty of Nice was less convincing to many, the constitutional treaty proved to be too ambitious at the time. Therefore, the Treaty of Lisbon is clearly in line with the traditional quest for compromise within European integration – a compromise that advances the project without leaving anyone behind. In this sense, the new treaty might also be able to encourage and support new and innovative trends within the Union’s policy making, now that the time of reforms on the primary law level is over. It will now be up to member states’ governments, the new personnel at the helm of the Union and European citizens alike to advance the European Union in political terms. The Treaty of Lisbon is not a guarantee for this – but it is a suitable basis.

Dr. Andreas Marchetti is Research Fellow at ZEI.

TREATY IMPLICATIONS FOR NEIGHBOURS AND CANDIDATES

Wiebke Drescher

On 1 December 2009, the Lisbon Treaty finally entered into force. The long period of difficult discussions and negotiations on the future of the Union's institutional and legal setup has been officially concluded – for the time being. The Lisbon Treaty, designed as “reform treaty” of former primary law, is in clear continuity to previous treaties. Nonetheless, with its new treaty, the EU also acknowledges more explicitly than ever before that it has changed from a mere economic community to a political Union, based on common values and goals. This is owed to its recent development but also to the fact that the new primary law has a second source of inspiration: the Constitutional Treaty that was rejected in two referenda in the Netherlands and in France in 2005. In contrast to this predecessor that never entered into force, it is less ambitious and does completely without state-like elements (e.g. no articles on a European anthem, flag or the like). Its supporters point to improvements in decision-making, in democratic governance and in Europe's foreign policy potential. Despite these innovations, critics still see the Union as a mainly elite-driven project that continues to be too far away from its citizens.

Focusing particularly on its foreign policy provisions, the Lisbon Treaty offers new as well as *modified* foreign policy approaches that are worth considering. In particular, there have been changes regarding the classic enlargement instrument and a new and unprecedented emphasis on the Union's relations with bordering third countries.

The enlargement process is said to be the European Union's “most successful foreign policy instrument”¹. European countries applying for membership have to adapt and alter their own legislation in various policy fields in order to eventually become part of the Union. So far, the concrete prospect of accession has proven to serve as *the* “golden carrot” for reform: In the past, countries wishing to join have undergone substantial and sometimes painful reforms to eventually be allowed to join the EU. Countries implied had been in the direct neighbourhood of the Union, ensuring a sort of organic enlargement, also coherent under geographical considerations.

Yet, at the beginning of the 21st century, the EU developed an additional policy to govern relations with bordering countries. This new approach labelled European Neighbourhood Policy (ENP) was to improve the bilateral cooperation between the EU and the respective neighbouring countries. At the same time, it was developed as an approach distinct from the classic foreign policy tool for countries bordering the EU,

namely the enlargement instrument.

Certainly, there have always been different foreign policy approaches towards the Union's direct neighbours compared to relations with other third countries. Still, the development of the new policy instrument of ENP has been encouraged by two different but interrelated trends:

First, EU member states increasingly feared to put into question the Union's ability to function with additional enlargements. At present, the EU already is made up of 27 member states. Even back in 1993, with just twelve members constituting the newly founded European Union, the Copenhagen European Council emphasised the importance of the internal functioning of the Union. Since then, the preoccupation with the Union's “absorption capacity” has been advanced at different occasions. At the same time, more and more member states have stated a more or less explicit *enlargement fatigue*, emphasising the necessity to consolidate the Union internally before growing in size. Hence, the new foreign policy instrument for (European) bordering countries was expected to serve as a substitute to enlargement policy by at the same time producing comparable results on the transformative agenda of the Union. The “golden carrot” of full membership was to be transformed into a “silver carrot” – within the ENP almost everything continues to be (at least formally) on offer, with the slight but important exception as phrased originally by Romano Prodi: “everything but institutions”.

Second, in the aftermath of ending the artificial separation of Europe in the early 1990s and eastern enlargement in 2004 and 2007, the EU was forced to develop a more comprehensive foreign policy approach that took into consideration its grown international – and geopolitical – weight. In this context, the European Security Strategy (ESS) of 2003 named several (new) threats or challenges the EU was likely to face in the 21st century (e.g. terrorism, illegal migration, environmental pollution). The ESS identified several ways to live up to increased expectations on Europe's responsibilities in the world after the Cold War. In parallel, in a more and more fluid security environment, enhanced co-operation between the (enlarged) EU and its (new) neighbours became a European preoccupation. In addition, such an approach was deemed to be beneficial for both partners in terms of trade, technical and economic progress and exchange.

The Lisbon Treaty integrates these changes and developments into primary law, thereby granting them a solid and fundamental foundation. At the same time, the treaty also advances some changes regarding the concrete or potential implications for neigh-

bours and candidate countries in comparison to the course of former European Union policy in both fields.

First, the treaty establishes a completely new article for the Union's relations towards its neighbouring countries. This new article 8 TEU states in its first paragraph that “[t]he Union shall develop a special relationship with neighbouring countries, aiming to establish an area of prosperity and good neighbourliness, founded on the values of the Union and characterized by close and peaceful relations based on cooperation.” Although this emphasis on neighbours within the treaties is unprecedented, there has already been a solid legal basis for relations between the Union and third countries in general in the TEC Nice. Article 310 TEC Nice mentioned that the Community and third countries or other international organisations could conclude agreements that are based on the procedure described in article 308 TEC Nice. In addition, there were several other articles that regulated these relations. However, the Constitutional Treaty introduced an independent article for neighbouring countries, an article, the Lisbon Treaty integrated completely. With regard to the already given legal basis for relations with third countries, the purpose of the article on neighbours seems to be rather political: on the one hand, the Union emphasises the importance of its relations towards its direct neighbours; on the other hand, it establishes an alternative to the classic enlargement policy. By doing so, it highlights its intention to focus more on the ENP in the future. The article is one way among others to again upgrade its new foreign policy tool. Despite these efforts, many of the countries addressed have frequently compared the ENP with enlargement policy. By doing so, they concluded that the ENP was less interesting and supportive than the classic enlargement instrument because of a decreased offer.

However, the constantly constructed connection between enlargement policy and ENP is not only owed to neighbour's perceptions. It rather has taken its course when the ENP was first developed. At the time, the ENP concept was primarily developed in the Commission's Directorate General responsible for enlargement. Only at a later stage, it was shifted to the Commissioner responsible for foreign relations. Thus, the vocabulary used in official documents – on ENP *and* on enlargement – has often been the same. Even though the Union has tried to separate these two policies ever since, it has created – rather unintentionally – a net connectedness between the two. Even the goals of the two instruments are rather similar (e.g. participation in the internal market in the case of accession, a stake in the internal market in ENP). 

▶ Second, contrary to the composition of the Constitutional Treaty, the order of articles in the Lisbon Treaty is quite different: In the Constitutional Treaty, the conditions and implications for “Union membership” (Title IX) directly followed “The Union and its neighbours” (Title VIII). In the Lisbon Treaty, however, the article on the Union’s relations with its neighbouring countries features at the beginning of the treaty (“Common Provisions”) while the provisions relevant for applicant and candidate countries can be found at the end (“Final Provisions”). Certainly, a treaty’s composition is legally irrelevant. Nevertheless, it is structured along a certain logic in order to make it a transparent and understandable document. In this context, the “separation” of the neighbourhood article (art. 8 TEU) and the enlargement article (art. 49 TEU) in the Treaty of Lisbon evidently hints at the Union’s intention to keep these two foreign policy tools – although they are closely related – separate and distinct.

Third, the requirements to fulfil in order to become member of the Union have been slightly increased. This is not all too obvious at first sight. However, the article on membership has been amended: one word has been replaced and two phrases have been added that might have a considerable impact on future accession talks. The Treaty of Nice still stated that “[a]ny European state which respects the principles set out in Article 6(1) may apply to become a member of the Union.” After the Lisbon Treaty any European

state interested in joining the Union has to respect the “values” of the Union. Moreover, it is now “committed to promoting them” and may then “apply to become a member of the Union”. Finally, a new sentence is added: “The conditions of eligibility agreed upon by the European Council shall be taken into account.” The substitution of the word “principles” by “values” is a rather logical change in light of the Union’s development from a mere economic project to a more and more political project. This is linguistically underlined by using more “politicised” vocabulary. The other additions, however, can be seen as a clear signal of the EU towards (future) candidate countries. Now, countries applying for membership not only have to *respect* but already to *promote* the common values of the Union. Furthermore, they have to fulfil the so-called Copenhagen criteria – and any other additional criteria the European Council might formulate – as highlighted by the additional sentence. Hence, accession to the EU could become even more difficult. The idea behind all this is striking: While increasing the hurdles to become a full member of the Union, the EU upgrades its foreign policy tool for bordering (European) countries, i.e. the ENP. ENP certainly also offers close co-operation, however, eventual co-operation is offered on a lower level and is strictly separated from any membership aspiration. In sum, all this hints at a subsequent phasing out of enlargement as European policy.

Yet, *final* decisions on the future of the Un-

ion’s enlargement and neighbourhood policies have not even been made with the new treaty. Current discussions see the ENP to come closer to enlargement yet again. For the past five years, Commissioner Benita Ferrero-Waldner has been responsible for the ENP together with external affairs in general, although the ENP was – as mentioned above – originally developed in the field of enlargement. The newly created position of a High Representative of the Union for Foreign Affairs and Security Policy (the former Mr. CFSP) is naturally also responsible for neighbourhood policy. However, in the designated Commission for the years to come, Czech Commissioner Štefan Füle will be responsible for the ENP as well as for the classic enlargement policy. It is more than difficult to understand the reasons for this shift. Nevertheless, some neighbouring countries with rather outspoken “European aspirations” may appreciate this shift that allows them to be summed up within a pool of ENP countries *and* candidate countries (e.g. Ukraine) while others have to fear to be left aside once more, despite the efforts already undertaken (e.g. Turkey).

1) Commission of the European Communities: *Wider Europe – Neighbourhood: A new Framework for Relations with our Eastern and Southern Neighbours*, COM(2003) 104 final, Brussels, 11 March 2003, p. 5, http://ec.europa.eu/world/enp/pdf/com03_104_en.pdf [1 December 2009].

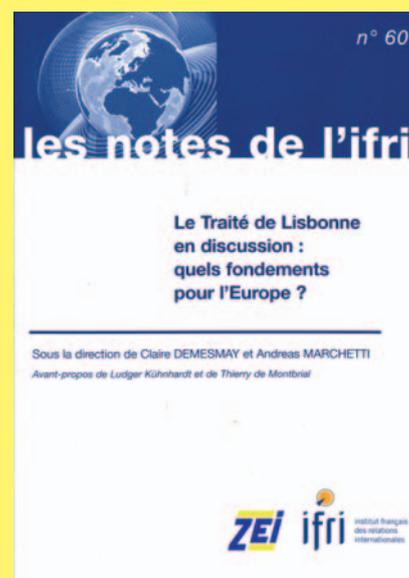
Wiebke Drescher is Research Fellow at the Center for European Integration Studies (ZEI).

ZEI PUBLICATIONS

| | |
|---|---|
| Schriften des Zentrum für Europäische Integrationsforschung Center for European Integration Studies |  |
| Andreas Marchetti/Claire Demesmay (Hrsg.) | |
| Der Vertrag von Lissabon | |
| Analyse und Bewertung | |
| in Zusammenarbeit mit | |
|  | institut français des relations internationales |
|  | Nomos |

Andreas Marchetti/Claire Demesmay (eds.): *Der Vertrag von Lissabon: Analyse und Bewertung*, Schriften des Zentrum für Europäische Integrationsforschung (ZEI), Vol. 71, Baden-Baden: Nomos, 289 pages, 2010, ISBN 978-3-8329-3676-1.

The Treaty of Lisbon concludes the European Union’s long process of internal reforms. Coordinated by ZEI Fellow Dr. Andreas Marchetti, an interdisciplinary ZEI group of authors analyzes the Treaty along the structure of the new EU-Treaty. The publications, edited in cooperation with the Institut français des relations internationales (Ifri) in Paris, combine views from political science, law and economics. In addition to the interpretation of the Treaty provisions with regard to the evolution of the European Union and its policies, the authors evaluate the Treaty in comparison to the Treaty of Nice as legal reference point and the failed European Constitution as political orientation. From an integrationist perspective it can be concluded in many cases that the Treaty of Lisbon offers more than the Treaty of Nice but less than the constitutional Treaty. However, in a considerable number of cases, the situation is quite different. All in all, the authors design a differentiated picture of the new Treaty, albeit ambivalent at times.



Claire Demesmay/Andreas Marchetti (eds.): *Le Traité de Lisbonne en discussion: quels fondements pour l'Europe?*, Note de l'Ifri 60, Paris: Ifri, 141 pages, 2009, ISBN 978-86592-374-8.

TURKEY AND THE EU

A common destiny after Lisbon?

Ercan Atak

More than fifty years have passed since the signing of the Treaties of Rome. Almost the same time has elapsed since the start of close and structured relations between Turkey and the European Economic Community. At first, western European economic integration mainly aimed at Europeans helping themselves to overcome the severe impact of World War II and to prevent a renewal of hostilities between western European countries. Economic cooperation was seen as the key to peace, security and development. Along the line of this reasoning, Turkey was perceived as a natural stakeholder in the process, having been a late ally in World War II and being in a front position vis-à-vis the Soviet Union, more and more perceived as a threat. Accordingly, Turkey became a member of western international organisations such as NATO or the Council of Europe. As a rather natural consequence, Turkey also applied for membership in the European Economic Community in 1959 – at the same time as Greece.

The process first seemed to pursue this path of increased western integration: The Ankara agreement was signed in 1963, applying protocols were prepared, and lists of goods subject to trade liberalisation between the parties were established. A clear perspective to “full” membership seemed at hand.

However, the 1970s proved to be difficult for the two parties and their bilateral relationship. Political and economic crises negatively affected Turkish-European interactions in these years, slowing down the initial momentum in the relationship, eventually even leading to a halt. The political indecisiveness and short-sightedness presented by the Turkish governments of that time proved to be detrimental for the country's future. Even worse for Turkey, the European Community began to transform into a more important international actor with the transition to the Single Market toward the end of 1980s. As a consequence, Turkey had to start the process all over again, whereas its southern European competitor, Greece, had already become a member of the European Community in 1981. These developments made Turkey's membership ambitions technically and politically extremely demanding: technically, because of growing Single Market related legislation that needed to be implemented *prior* to any accession; politically because of a rather opposing stance to Turkish membership within the Community. In addition, the end of the bipolar world order had diminished the importance of Turkey for the “free world”: There was no longer a need

to recruit “friends” and to integrate them in the own bloc in order to face the potential expansion of a dictatorial enemy.

The rest of the story after this breaking point is widely known: a story of a country trying hard to become part of the EU, despite growing doubts if this is still possible. This ambiguous situation has already become part of our daily lives. It is no longer a natural process that has a beginning as well as an end. It has by now become rather unhistorical and thereby unnatural because most of the circumstances favouring Turkish membership in the beginning of the Community have changed, changing the nature of political actors, political logic and strategy, in short: everything has changed – for the worse of Turkey's ambitions.

Now, with the entry into force of the Lisbon Treaty, the EU has entered a consolidation period. It seems more eager than ever to avoid any additional complications in the pursuit of European politics. Enlargement, having had a large share in public debates and political reality in Europe over the past fifteen years, has evidently proven *too successful*: The Union enlarged massively, feeling no longer capable to “absorb” many more new members in the near future. Reluctance is especially high with respect to Turkey, a country with considerable population and a vibrant economy. Bearing in mind this reluctance, even the evident *innovations* put into effect with the Lisbon Treaty do not necessarily favour Turkey's case:

- *More qualified majority voting (QMV) in the Council of Ministers*: Turkey's membership would imply a major say of Turkey in the decision making procedures of the EU because of the size of its population. More politically speaking, Turkey would occupy a place among the major European powers and have the potential to influence every policy, every political strategy and thereby the future direction of the EU. Not many EU member states are ready to see and accept Turkey in such a position.
- *Increased involvement of the European Parliament in the legislative process through extended co-decision with the Council of Ministers*: What holds true for the considerations concerning QMV also holds true for the increased weight of the European Parliament. Turkish MEPs would have a major say in EU politics. But European reservations are less owed to a general opposition to immigration, problems to socially integrate immigrants and a general “Islamophobia” than to power considerations within the vulnerable equilibrium of power within the Union's

present structure.

- *The elimination of the pillar system, the creation of a long-term President of the European Council and a High Representative of the Union for Foreign Affairs and Security Policy together with an External Action Service are to strengthen the Union's international profile*: Turkey, being a country neighbouring one of the most conflict-ridden regions of the world, has considerable regional ambitions itself. Therefore, Turkey and the EU present themselves as competitors rather than partners in international geostrategic and political affairs.

This background and the described implications of Turkish membership explain the endurance of those offering Turkey a “privileged partnership” as an alternative to full membership. However, Turkey has constantly underlined that it will not accept any option other than full membership. With rigidity on both sides, any constructive approach to advance bilateral relations seems to be blocked at present. As a result, even under the most favourable circumstances and even under the Lisbon Treaty, Turkey will definitely need to wait for another long period to join the EU. Considering the problematic ratification process of the Lisbon Treaty and taking into consideration the particular opposition to Turkish membership within the Union, it is not difficult to imagine what kind of odyssey an eventual accession treaty would have to undergo! For this process to be concluded successfully, the European Union, its member states and Turkey would surely need a major stimulus, which is non-existent today. Time is currently not playing for Turkey. With the economic and financial crisis also challenging Turkey, Turkey might want to follow the EU at this point and also enter a consolidation period before resuming to pursue its membership ambitions.

Ercan Atak is Doctoral Researcher at the Freie Universität Berlin.

ZEI PAPERS

Meredith Tunick: Promoting Innovation in the European Union. On the Development of Sound Competition and Industrial Policies, ZEI Discussion Paper, C 191/2009.

Frank Decker/Jared Sonnicksen: The Direct Election of the Commission President. A Presidential Approach to Democratizing the European Union, ZEI Discussion Paper, C 192/2009.

THE EU AND THE CYPRUS CONUNDRUM

Ludger Kühnhardt

Since 2004, the Cyprus conundrum is right at the heart of Europe. Here, the EU's geostrategic undecided-ness has encountered and re-enforced the most interlocked dichotomy possible: While the Republic of Cyprus has become a member of the European Union, the quest of the Turkish Cypriots to implement the Annan Plan was rejected by the Greek Cypriots in the name of their European perspective. The European Union could only overcome the self-imposed impasse by creating symmetric relations with all parties to the conflict – that is by accepting Turkey as an EU member. But as long as many in the EU are hoping that EU membership negotiations with Turkey will not lead to membership, the EU cannot expect Turkey to hope that moving on Cyprus will lead to a better reputation or even to faster EU membership. As long as the Republic of Cyprus can insist on unanimity in EU foreign policy-making, the EU as a whole can hardly become an honest broker in the process of resolving the Cyprus issue. And yet, in past years, the European Union has moved more than anybody else – but only into one direction and without achieving what was defined as the prospect of this move: the resolution of the Cyprus problem. One conclusion is evident: As long as moving fast will be understood as the best way to losing much, the opposite behaviour will be rewarded: moving slowly as the best strategy to lose little.

While in the Middle East, the European Union can project itself as an honest broker and mediator, on Cyprus the EU is party on

the side of one of the key players. This constitutes a fundamentally different constellation for the EU. As mediator, the EU can balance between sticks and carrots: It can activate incentives and resort, if necessary, to threats. As party to a conflict, the European Union has only one choice: It must apply its normative system of inner-EU multilateralism without having the clouts of projecting the necessary power to either the outside parties in the conflict or the party in the conflict which is a member of the EU. Cyprus is the one dilemma the EU has intentionally aggravated by accepting the EU membership of the Republic of Cyprus.

The idea that EU membership of the Republic of Cyprus would eventually lead to the re-unification of the island and the subsequent membership of Turkey has failed, at least for now. Alternative strategies have not been tested either: Could Turkey join the EU without an earlier solution to the Cyprus issue? The conflict in Northern Ireland may include some insights for those advocating this strategy. The United Kingdom and the Republic of Ireland both joined the European Economic Community in 1973 without a prior solution of the Northern Ireland conflict. Borders were never ever rearranged on the British Isles and the Northern Ireland conflict was never brought closer to a solution due to the EU membership of any of the two countries involved. Eventually, American mediations were essential to bring about the Good Friday Agreement in 1998. The issue of re-drawing borders was replaced by focussing on an inclusive political regime in Belfast. Both the United Kingdom and the Republic of Ireland can

live with this situation which does not affect their respective EU membership either.

As for the role of the EU in Cyprus, here is the paradox: The EU as an outsider might be accepted as a strategic player in the Middle East but it is obviously incapable of resolving a substantial normative and strategic problem which involves one of its member states and one of its candidate partners. At least for now, it would be futile to hope for a solution to the Cyprus conflict as a function of EU membership negotiations with Turkey. Turkey may refuse to accept any un-proportional move and the Republic of Cyprus may veto any move that it deems insufficient. The EU as a whole is not in the position to impose its normative philosophy on Turkey as long as its strategic interests can be vetoed by the Republic of Cyprus. Generally speaking, the European Union has not reconciled the experience of a normative and multilateral power with the ambition to play a strong role among strategic powers that do not comply with EU norms and concepts of multilateral cooperation. For the time being, it seems as if a solution to the Cyprus question requires additional outside actors beyond the European Union, no matter its increasing global presence. But in the past, the European Union has often been good enough to surprise even the biggest sceptics. Who knows what this entails for the future of the Eastern Mediterranean.

Prof. Dr. Ludger Kühnhardt is Director at the Center for European Integration Studies (ZEI) and Professor of Political Science at the University of Bonn.

CHRONOLOGY

compiled by Volkan Altintas

13 July 2009: Turkey and the EU sign the transit agreement for the Nabucco gas pipeline. With Nabucco, the EU aims at reducing its dependence on Russia.

14 July 2009: Jerzy Buzek is elected President of the European Parliament.

10 October 2009: Turkey and Armenia sign an agreement on diplomatic relations and the opening of borders.

14 October 2009: The European Commission adopts its annual strategy on enlargement. The Commission underlines the progress made in financially and economically difficult times.

19 October 2009: The European Council elects its first full-time president, Belgian Prime Minister Herman van Rompuy.

27 October 2009: European Commission president José Manuel Barroso confirms that Czech EU commissioner Stefan Füle receives the enlargement portfolio.

1 December 2009: The Lisbon Treaty enters into force.

11 December 2009: The Democratic Society Party (DTP) is closed by Turkey's Constitutional Court. Ahmet Türk, leader of the party, and MP Aysel Tuğluk lose their status as deputies and are banned from politics for five years, along with other members of the party.

21 December 2009: Chapter 27 on environment is opened for negotiations.

Volkan Altintas is Junior Fellow at ZEI.

ZEI PAPERS

Aschot L. Manutscharjan: Der Berg-Karabach-Konflikt nach der Unabhängigkeit des Kosovo, ZEI Discussion Paper, C 193/2009.

Wiebke Drescher: The Eastern Partnership and Ukraine. New Label – Old Products?, ZEI Discussion Paper, C 194/2009.

Ludger Kühnhardt/Tilman Mayer (eds.): Die Gestaltung der Globalität. Neue Anfragen an die Geisteswissenschaften, ZEI Discussion Paper, C 195/2009.

Ina Hommers: Die Migrationspolitik der EU. Herausforderung zwischen nationaler Selbstbestimmung und europäischer Konvergenz, ZEI Discussion Paper, C 196/2009.

THREE QUESTIONS

to Egemen Bağış, Minister for EU Affairs and Chief Negotiator

With the Treaty of Lisbon, the EU has finally put in place some substantial institutional reforms, making the enlarged Union more capable to act. In which way will the new treaty provisions have an impact on the future conduct of EU-Turkey relations?

The Lisbon Treaty is expected to make the functioning of the EU more democratic, more transparent and more efficient, in order to be better equipped to deal with challenges and opportunities of the 21st century. The Treaty also enables the Union to become a coherent and powerful actor in foreign and security policy. This will be the case especially with the appointment of a new High Representative for Foreign Affairs and Security Policy and a full-time President of the European Council.

The Lisbon Treaty also sets out the nature,

basic structure, values and objectives of the European Union. According to the Treaty, the Union's values are respect for human dignity, freedom, democracy, respect for human rights, including the rights of persons belonging to minorities in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between men and women prevail. This issue is important in the sense that the emphasis of such values falsifies those who claim that the European Union is a "Christian Club".

The European Union, after putting its house in order, will function faster and better with increased problem-solving and policy-shaping capacity, and would be better equipped to integrate Turkey.

Secondly, as a candidate for global actor-ness, the EU will be in a position to better

understand the contributions and traits of an EU member Turkey as a key to meet the challenges that we face such as overcoming the global economic crisis, securing energy supplies and routes, combating illegal immigration or organized crime or terrorism.

Therefore, Turkey welcomes the coming into force of the Lisbon Treaty since it will assist shaping a better Union for the future, a Union within which Turkey will become an indispensable element and member.

The revised Article 49 of the Treaty on European Union stipulates that "Any European State which respects the values referred to in Article 2 and is committed to promoting them may apply to become a member of the Union." I would like to underline that a value-based Union as stated in the Lisbon Treaty is the Union that Turkey wishes to join, since all those values are also embraced by the Turkish people. Once it becomes a member, Turkey will be a driving force within the Union to promote those values.

A new provision is inserted into the Treaty on European Union as far as the accession of new Member States are concerned, regarding "the conditions of eligibility agreed upon by the European Council" to be taken into account while assessing the accession of a European country. Those conditions of eligibility are basically the Copenhagen criteria as elaborated within the context of the experiences of the EU regarding enlargement. This provision means that the Copenhagen criteria have been incorporated into the Treaties. Turkey continues to fulfill the Copenhagen political criteria sufficiently, while stepping up its efforts to improve its legislation and implementation in that field. The efforts for the fulfillment of the economic and acquis criteria have been an ongoing, dynamic process as well. In that regard, we do not expect any difficulties for the accession of Turkey following those Lisbon Treaty amendments.

The European Union has now a full-time president and a more powerful High Representative for foreign affairs and security policy. What do you expect from the new personalities at the helm of the Union?

During the EU Summit on 19 November, EU leaders have come to an agreement on assigning the Conservative Prime Minister of Belgium Herman Van Rompuy as the President of the EU Council. On the other hand, as the High Representative of the Union for Foreign Affairs and Security Policy, a British Socialist, Catherine Ashton, has been appointed. These selections are

CURRENT NEGOTIATING STATUS

| No. | Title of Chapter | Status |
|-----|--|--------|
| 1 | Free movement of goods | ● |
| 2 | Freedom of movement for workers | ● |
| 3 | Right of establishment and freedom to provide services | ● |
| 4 | Free movement of capital | ● |
| 5 | Public procurement | ● |
| 6 | Company law | ● |
| 7 | Intellectual property law | ● |
| 8 | Competition policy | ● |
| 9 | Financial services | ● |
| 10 | Information society and media | ● |
| 11 | Agriculture and rural development | ● |
| 12 | Food safety, veterinary and phytosanitary policy | ● |
| 13 | Fisheries | ● |
| 14 | Transport policy | ● |
| 15 | Energy | ● |
| 16 | Taxation | ● |
| 17 | Economic and monetary policy | ● |
| 18 | Statistics | ● |
| 19 | Social policy and employment | ● |
| 20 | Enterprise and industrial policy | ● |
| 21 | Trans-European networks | ● |
| 22 | Regional policy and coordination of structural instruments | ● |
| 23 | Judiciary and fundamental rights | ● |
| 24 | Justice, freedom and security | ● |
| 25 | Science and research | ● |
| 26 | Education and culture | ● |
| 27 | Environment | ● |
| 28 | Consumer and health protection | ● |
| 29 | Customs union | ● |
| 30 | External relations | ● |
| 31 | Foreign, security and defence policy | ● |
| 32 | Financial control | ● |
| 33 | Financial and budgetary provisions | ● |
| 34 | Institutions | ● |
| 35 | Other issues | ● |

Legend: ● not yet opened ● suspended
 ● opened
 ● provisionally closed

Data as of December 2009

▶ results of the need to find a balance in many aspects in the EU and its culture of compromise. We observe on the one hand a small-large country balance and on the other hand the conservative-socialist balance. In addition, this also constitutes a search of equilibrium between the vision of a federal Europe and advocating the model of cooperation rather than strong integration.

Mr. Van Rompuy emerged as the common denominator about whom the EU leaders have been able to come to an agreement. It is just a beginning. It seems that the EU once again prefers to go incremental and advance according to the results. I believe that Van Rompuy's past statement against Turkey's membership has nothing to do with his appointment. In fact, President Van Rompuy's first commentary, as an answer to a question regarding this issue, was that he would be impartial regarding the Turkish membership case and embrace the common stance of the EU-27. This statement is important and in line with the "pacta sunt servanda" principle on which the EU is based. Turkey, on a contractual basis, is a negotiating candidate country destined to join the EU, when we fulfill the membership criteria on the basis of the EU acquis. Essentially, Turkey's expectation from the EU is to live up to its decisions taken unanimously. These two personalities can further advance the EU integration process and contribute a lot to turn the EU into a global and value-based actor. I believe that in such an EU Turkey can be a big asset.

The latest progress report on Turkey by the European Commission has pointed to several sore spots; nonetheless, progress has also been made, in particular in some of the more difficult foreign policy issues. Where do we stand at present concerning Cyprus and Armenia and what could be the next developments to expect?

The 2009 Progress Report underlined that our Governments' efforts on the reform process have been intensified. The report is generally positive and balanced. Comprehensive and largely technical assessments of the report are also signaling the maturity of the process at which we proceed in a systematic way. As you know, the report also welcomed our Government's initiatives such as

- democratic opening that we name as the National Unity and Brotherhood,
- ongoing dialogue with the Alevi population,
- intensified dialogue with the non-Muslim communities,
- attempts to normalize bilateral relations with Armenia,
- increasing the weight and stabilizing role of Turkey in diplomacy and bilateral disputes and regional conflicts.

As for the Cyprus issue, the decision of the EU Council of 26 April 2004 to put an end to the unfair isolations imposed on the Turkish Republic of Northern Cyprus has not been implemented yet. The commitments in this respect, such as direct trade and financial assistance, have not been respected.



Egemen Bağış, Minister for EU Affairs and Chief Negotiator.

While not keeping own promises, making demands from Turkey on the issue of the Additional Protocol is unfair. Turkey has always been in the lead in terms of making steps and gestures in order to find a solution. Our supportive approach continues. Our Action Plan of January 2006 to implement the 26 April 2004 decision and open the ports simultaneously is still on the table.

However, allowing the Greek Cypriots to abuse their EU membership veto power,

a breakthrough neither in the Cyprus issue nor in our accession process could be reached. It has not been possible so far, may not be possible by the end of 2010 either, if the right balance is not brought to the Cyprus negotiations.

Peace and stability in Cyprus is essential. We are eager to reach a settlement on the UN parameters early next year, which can be submitted to both sides' approval in the island by simultaneous referenda in spring 2010.

We sincerely believe, once a just and lasting comprehensive settlement is achieved in Cyprus, that we can bring about cooperation, stability and welfare in this part of Europe. Greek and Turkish Cypriots will reap huge benefits from such a cooperation.

We expect our Greek neighbours and EU partners to encourage Mr. Christophias towards a settlement as much as we do towards President Talat.

As far as Armenia is concerned Turkey would like to develop good-neighbourly relations based on mutual respect with all its neighbours. However, the Turkish-Armenian reconciliation alone will not suffice to bring a sustainable peace to the South Caucasus. Concrete steps for the peaceful resolution of the Nagorno-Karabakh conflict are also necessary in this regard. Turkey has from the very start been engaged in this process with a genuine political will and therefore remains committed to taking this process forward. The signature of the Protocols constitutes an important first step for the normalization of our bilateral relations. The Protocols are submitted to the Turkish Parliament. In Turkey there is a well-functioning Parliamentary system, which means that in the final analysis, the parliamentarians will take their decision with a free conscience. I hope that our Armenian neighbours can also take courageous and constructive steps.

The interview was conducted by Dr. Andreas Marchetti, Research Fellow at ZEI, and Dr. M. Murat Erdoğan, Hacettepe University, Ankara, Dept. of Political Science and Public Administration. He is Vice Director of the Hacettepe University European Union Research Center (HUAB) and of the Strategical Research Centre (HÜSAM).



*Zentrum für Europäische Integrationsforschung
Center for European Integration Studies*

IMPRINT

ISSN 1817-1729
Center for European Integration Studies
Walter-Flex-Str. 3
53113 Bonn, Germany

Editors: Andreas Marchetti, Volkan Altintas
Tel.: +49 (0)228-73-4952
Fax: +49 (0)228-73-1788
www.zei.de

The ZEI *EU-Turkey-Monitor* is published three times a year. Authors are responsible for the views expressed in their contributions.