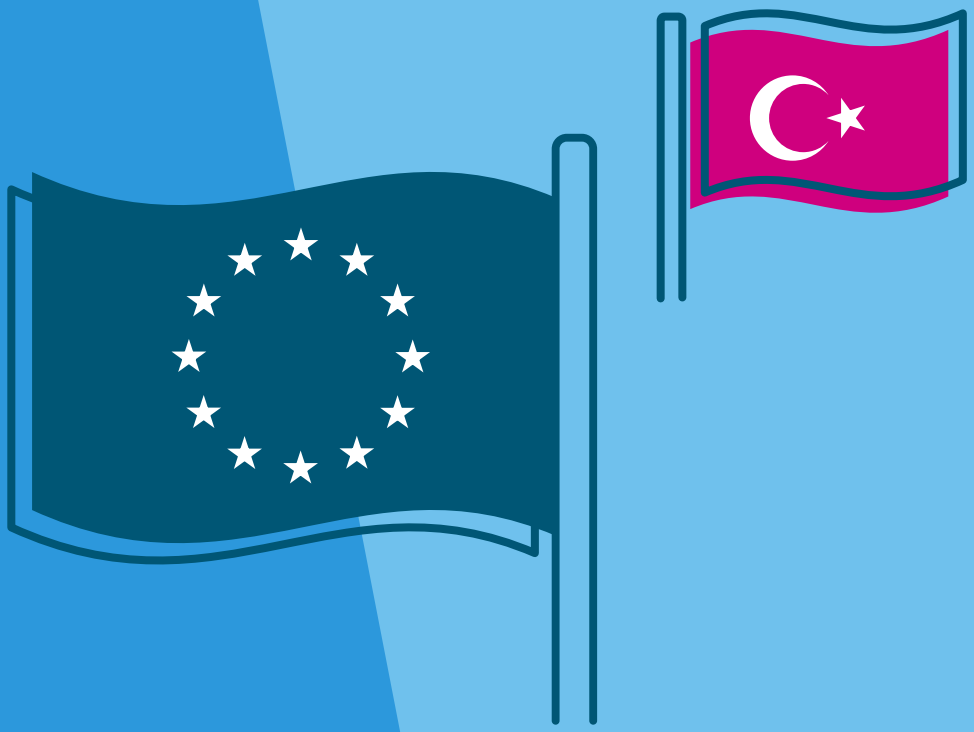
THE EFFECTS OF A SUSPENSION OF TURKEY'S EU ACCESSION PROCESS

STUDY



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A study by Max Hoffman and Michael Werz from the Center for American Progress commissioned by Stiftung Mercator

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PREFACE

Turkey and the member states of the European Union are bound together by numerous cultural, political, and economic ties. They depend on each other to develop and implement resilient solutions for key challenges, including economic globalization, migration, integration, and international security.

Despite this mutual dependence, Turkey and the EU have drifted apart. Turkey's EU accession bid no longer drives effective political reform, nor does it promote honest, constructive dialogue. Political relations are at an impasse, and decision makers on both sides have put Turkey's claim for EU membership into question. The potential consequences of a suspension of accession talks, however, are largely unknown, and feasible alternatives have not been identified with any detail.

An important objective of Stiftung Mercator is to strengthen Turkish-European relations. We strive to contribute to a better understanding of Turkey, arrange encounters and exchange programs with Turkish civil society, and jointly search for solutions to key questions. The prerequisite for a constructive and resilient relationship between Turkey and the EU and its member states is an institutional setting that promotes a solution-oriented dialogue at eye level. Given the state of mutual relations, it is questionable if the accession process as it is currently framed can provide such a setting. While the EU and Turkey would be ill-advised to make any imprudent changes to the status quo, they should be engaged in an honest debate on the future rules, norms, and contours of their political dialogue.

This study explores the potential consequences of a suspension of Turkey's EU accession process. The policy recommendations of this report solely express the views of the authors, Max Hoffman and Michael Werz from the Center for American Progress, to whom we express our gratitude. As a private and non-partisan foundation, Stiftung Mercator's role is not to advocate for specific political solutions. Instead, as publisher of this study, our goal is to inform the debate on the future of Turkey-EU relations and to help put it on a more realistic footing.

Michael Schwarz
Executive Director,
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ABSTRACT

This paper examines the current state of Turkey's EU accession process and the ramifications of its potential suspension. EU-Turkey relations are critically important for both sides in their efforts to provide political stability, promote economic growth, and address the refugee crisis. But important voices on both sides feel the current accession-based framework is not working, leading to calls to freeze or even suspend Turkey's EU bid. While a formal suspension remains unlikely, it cannot be ruled out. This report is based on discussions with officials in Brussels and Ankara; a study of the treaties, regulations, and policy statements governing EU-Turkey relations; and the work of scholars and policy experts.[1] It is not meant to weigh the pros and cons of the accession process, but rather aims to provide a basis for a fact-based discussion of what a reframing of EU-Turkey relations might entail.

Overall, a potential suspension of the accession process as described in the 2005 Negotiating Framework might not be as decisive as many observers assume. Most of the relationship is governed by earlier agreements, particularly the 1963 Association Agreement and the subsequent Additional Protocols. Certain activities would cease or change format in a suspension scenario, including the programs funded by the Instrument for Pre-Accession Assistance. But the EU would retain ample statutory authority to cooperate across issue areas, including in the provision of support for refugees and Turkish civil society. Monitoring of Turkish alignment with European law would likely end, but the established venues for regular, high-level political contact would be formally unaffected. However, the way in which a suspension was decided – and the Turkish government's political reaction – would likely determine the level of ongoing cooperation and contact in these areas. Finally, there is little clarity under European law – and no precedent – for how such a scenario would play out; EU leaders would have flexibility to determine the conditions of a formal suspension.

KEY FINDINGS

- There is no chance of Turkish accession on any predictable timeframe, and meaningful process towards accession has been frozen.
- Still, both the EU and Turkey find the accession-based framework politically convenient for the management of unavoidable issues like migration, trade, and security.
- The odds of a formal suspension of the accession process are low, but they are not zero.
- A suspension would likely not be as decisive as many observers assume, as little of the relationship is tied to the formal accession process.
- Despite this legal context and flexibility, the political risks of suspension are difficult to anticipate and could be considerable.
- A suspension scenario would expose the legal and institutional gaps in the EU accession construct, which leaves substantial room for political maneuver, for better or for worse.
- The reframing of EU-Turkey relations is underway but is currently implicit; the political, legal, and financial ramifications of a new framework should be explicitly assessed now, in advance of any potential crises or formal changes in status.

Taking Stock – 2019

There is no chance of Turkish full membership in the EU on any predictable timeframe. The European Council, its constituent Member States, and the European Commission have de facto frozen the accession process. Today, the accession-based framework is not used to prepare Turkey to join the Union, as intended, but is rather maintained as a way to manage critical shared issues. It is, in effect, a "non-accession accession" process. The substantive accession activities – screening meetings, accession conferences, legislative alignment – have been stopped for more than two years, while bilateral relations work though the structures of the Association Agreement, which predates the accession process, and other ad hoc structures. The arrangement is unsatisfactory in many ways, but the risks of upending the status quo through a suspension are poorly understood.

The EU leadership views the current impasse as largely the result of Turkey's democratic deficit.[2] European decision-makers see little prospect for renewed democratic reform from the current Turkish government. President Recep Tayyip Erdoğan is in almost complete control of the Turkish state; the judiciary and the media are heavily politicized. The nationalist right is ascendant, and the opposition is divided.[3] No credible challengers exist within the dominant right-wing political constellation. Pressure on opposition politicians and civil society activists, especially Kurds, is unremitting. The business community is cowed after years of asset seizures, tax fines, and politicized government contracting, leaving little economic base for a meaningful political challenge.

On the European side, opposition to Turkish accession remains in place. Germany and France's early skepticism is unchanged, while the Cyprus issue remains unresolved. Even a solution to the Cyprus issue is unlikely to unlock Turkey's accession process, with other Member States likely to step in to block any real progress, given the current state of EU politics. European leaders know that Turkey is too important to ignore, however, and have continued to pursue high-level contacts with the Turkish government to secure crucial interests – primarily, this has revolved around preventing irregular migration via Turkey into the EU and securing mutually-beneficial economic exchanges with the large Turkish market.[4]

Both sides are therefore left with a framework originally designed to govern a progressive alignment of values and standards that instead provides the venue for hard-edged, transactional management of unavoidable key issues like migration, the refugee crisis, economic relations, and security coordination on counter-terrorism, Russia, and Syria. Relations are still dressed up in the language of a values-driven, rules-based accession process, but the gap between rhetoric and reality is often wide.

This situation is politically convenient for many on both sides. Despite recent reductions in the level of financing, Turkey gets the EU's financial support and reassuring imprimatur with investors, as well as a rhetorical foil for populist rhetoric. Many European leaders, meanwhile, see no reason to endanger cooperation on migration, the economy, or counter-terrorism just to vent frustration at Turkey's democratic shortcomings. Others feel the values-based structure is the only way to maintain support for "the other Turkey" – the parts of Turkish society who espouse European values. Still others argue that political conditions can always change and want to preserve the accession framework in case a better moment arrives, presumably years in the future. Finally, Member States like Greece and Cyprus value the accession framework for the opportunities it provides to criticize Turkey for its democratic shortcomings by referring to accession criteria, as well as for the safeguards it provides along their tense national borders.

For all these reasons, the odds of a formal suspension of Turkey's accession bid are low – but they are not zero. Many Europeans – from conservatives to right-wing populists to left-wing human rights activists – may press EU institutions to go further in their formal rebukes of Turkey. Events in Turkey could contribute to such a decision.[5] These steps could include a formal suspension of the accession negotiations, triggered by invoking Article 5 of the Negotiating Framework of 2005.[6] Most recently, the European Parliament easily passed a symbolic resolution calling for the formal suspension of Turkey's accession bid.[7] This rhetoric[8] cannot be dismissed; the decision to open accession negotiations in 2005 was based on the assessment that Turkey "sufficiently meets the political criteria set by the Copenhagen European Council in 1993."[9] Ankara's progress toward meeting the criteria on democratic governance, human rights, and transparency has since stalled and then reversed. Politically convenient or not, those who support a suspension can make a serious case that Turkey is no longer sufficiently aligned with the Copenhagen criteria – nor showing progress towards alignment – to warrant accession negotiations.

A formal suspension might not be as decisive as many observers assume. The EU-Turkey relationship has deep roots, and very little of it is directly tied to the formal accession process as laid out in the Negotiating Framework. The 1963 Association Agreement provides the statutory framework for most of the relationship. The treaty, between what was then the European Economic Community and Turkey, aimed to progressively deepen relations, establish a customs union, and promote political contacts. The Agreement created an Association Council to facilitate regular high-level contact and negotiate rules governing the movement of goods, people, and capital. The scope was expanded through Additional Protocols in 1970, 1995, and 1996, deals which together define the Customs Union.[10] The Association Agreement therefore offers several instruments for pursuing EU interests with Turkey separate from the accession process and provides the legal basis for the Customs Union and most other activities.

Despite this legal flexibility, a formal suspension would send a strong political signal and could exacerbate tensions with Ankara. Unless a suspension took place in the context of a mutually agreed-upon replacement framework – an unlikely prospect – Turkey would likely react very negatively to such a step, potentially upsetting the broader relationship. Ankara's responses could include: stronger anti-Western rhetoric; harassment of European citizens in Turkey; further repression of civil society groups with links to Europe; an end to cooperation on migration; informal trade barriers; interference in the domestic politics of EU Member States; military posturing against Member States like Greece and Cyprus; or deeper engagement with European adversaries like Russia.

The status quo is unsatisfactory in many ways, bringing the EU and Turkey into regular tension when the gap between the aspirational accession framework and the prosaic reality is made apparent. But the risks of a suspension are poorly understood. The European project has always been progressive, iterative, and constantly evolving – few gave serious thought to what would happen if the tide of integration turned. The idea of a "multi-speed" Europe is not new, but the concept has gained traction in the wake of recent turbulence surrounding the financial crisis, migration, and Brexit. Turkey has consistently rejected any hybrid form of association, continuing to insist on the goal of full accession, but the new European Commission and Parliament may return to these questions. An electoral window offers the chance for EU leaders to consider what the bloc requires from its relations with Turkey, including on issues of trade, migration, refugee aid, infrastructure, counter-terrorism, security, mobility of citizens, energy, and the protection of civil society. The following assessment explores what is at stake and provides an empirical basis for a fact-based discussion of what a reframing of EU-Turkey relations might entail.

Growing Together – The EU and Turkey in Context

To fully grasp how this complex and ambitious relationship settled into the present transactional "border state" dynamic, it is useful to consider the history of European-Turkish convergence. In addition to deep socio-economic and political ties, migration and people-to-people exchanges have fused the societies together in myriad ways; this organic connection defines the contours of any framework for relations in the future. The formal association began shortly after World War II, as Turkey quickly grew into a crucial pillar of European security during the Cold War. Turkey joined NATO in 1952, fielding one of the alliance's largest standing armies and pinning down Soviet military assets on NATO's southern flank. Turkey also became an early member of the Council of Europe, joining in 1949 just months after its foundation and a year earlier than Germany.

Socio-economic ties deepened with the 1961 Turkish-German guest worker agreement, 1961 membership in the Organization for Economic Co-operation and Development, and the 1963 Association Agreement with the European Economic Community.[11] The guest worker agreement helped drive German and European economic recovery and, in turn, overall European integration.[12] By 1973, some 750,000 Turks had taken jobs in Germany, helping fuel the post-war economic boom and allowing many native Germans to move from blue to white collar jobs. Return rates dropped significantly in the 1970s (to 16 percent by 1973), with many Turkish migrants settling permanently in Europe. Immigrant communities continued to grow through family reunification even as governments stopped recruiting guest workers.[13] Today, roughly three million people of Turkish descent live in Germany alone, with some 5.5 million Turks in Western Europe as a whole, securing enduring people-to-people ties between the countries.[14]

At the same time, Turkey was undergoing massive domestic changes, driven by urbanization and industrialization, that would further tie it to the rest of Europe. In 1970, just one-third of Turkey's population lived in urban settlements of 20,000 or more people; by 2000 two-thirds lived in urban areas, with the trend continuing today. Industry's share of Turkey's GDP grew from 17.6 percent in 1960 to 27 percent by 2013, while services grew from 26 percent to 64 percent.[15] These changes – along with the guest worker program and associated remittances and cultural contacts – contributed to greater economic integration with Europe. Turkey is now the EU's fourth largest export market and fifth largest provider of imports, while the EU is by far Turkey's largest export market and source of imports and foreign direct investment.[16]

Despite these social, economic, and political anchors with Europe, Turkey's progress towards a more open democratic system was highly uneven, punctuated by repeated military coups and restrictions on political expression. The highly centralized

Turkish state remained focused on national cohesion, proud of its sovereignty, and severe in responding to efforts by minority groups – particularly Kurds – to assert their political rights. This stance was in fundamental tension with the impulses and values driving the European project.

The AKP's remarkable electoral victory in 2002 overturned the established order and inaugurated a new era of Turkish politics. Amidst a devastating economic crisis, voters pushed all the incumbent parties out of parliament, leaving the AKP dominant. The early AKP approach seemed moderate, measured, and pro-European; the party appeared to seek engagement with Europe as part of its attempt to modernize the Turkish economy and its politics. The government implemented the IMF reform package, expanded social services, and stewarded the Turkish economy to years of impressive growth.

This reformist impulse – at least in the EU's eyes – was epitomized by Turkey's abolition of the death penalty in times of peace, first voted on by the Turkish Parliament in 2002 and reinforced when Turkey signed the European Convention protocol abolishing capital punishment in all circumstances.[17] The AKP eased restrictions on the media and on Kurdish cultural rights, modernized the Turkish penal code, and pushed for civilian control over the Turkish military. To some European observers, the early AKP years offered the prospect of values-based political engagement on top of the long-term economic and social convergence between the EU and Turkey.

This prospect was enshrined in the opening of formal accession negotiations in 2005 on "the basis that Turkey sufficiently meets the political criteria set by the Copenhagen European Council," which had laid out the requirements for accession in 1993.[18] The 2005 Negotiating Framework began Turkey's real accession process, setting out the expectation of continued reform and acceptance of the EU *acquis communautaire*, laid out in 35 chapters, establishing screening and monitoring mechanisms, and providing pre-accession funding per the requirements of the Treaty on European Union.[19] For a time, the Turkish government engaged seriously with the *acquis*, pushing reforms to bring the country into line with European standards. But, despite the progress, key Member States, particularly France under President Nicolas Sarkozy and Germany under Chancellor Angela Merkel, never signaled true openness to Turkish accession.

Today, the picture is a very different one. Turkey's domestic circumstances drove a dramatic deterioration of democratic standards from 2011 onwards, with the weakening of Turkish legislative and judicial institutions and Erdoğan's consolidation of power in the presidency accelerating in the wake of the 2015 elections and 2016 coup attempt. The AKP – which had once reflected competing traditions and included Turkish liberals and Kurds – fell back on its base of religiously-infused conservative nationalism and – forced into a political coalition with the Eurosceptic Nationalist Movement Party (MHP) – abandoned much of its values-based engagement with Europe.

Current Affairs: Political Relations

Over the past six years, the political distance between the EU and Turkey has grown dramatically. Turkey has largely departed from the European value system, disregarding ECHR rulings, eroding domestic checks and balances, suppressing political dissent, and engaging in frequent rhetorical diatribes against the EU. Likewise, the EU has engaged with Turkey under false pretenses – the rise of right-wing populism within Europe has underlined the long-standing reality that there was never political consensus regarding Turkey's accession. European Commission President Jean-Claude Juncker has described this as "enlargement fatigue," suggesting that no new member would join the EU during his term.[20] While Juncker was at one level stating the obvious, his comment was a clear political signal towards accession countries like Turkey. In the meantime, the EU accelerated negotiations with Serbia and Montenegro as part of its Western Balkans Strategy, adopted by the Commission in early 2018. Turkey has found itself left behind by the Union's enlargement policy, leading to recriminations and charges of hypocrisy and double standards lobbed at Brussels from Ankara.

WHAT IS ACCESSION?

Accession is the process by which new countries join the EU, described in Article 49 of the Treaty on European Union[21], and align with its laws and standards, collectively known as the *acquis communautaire*. Any European country can apply to join the EU if it adheres to a set of values – including provisions on democracy, the rule of law, human rights, minority protection, economic competition – and subject to the absorption capacity of the Union. These standards are referred to as the Copenhagen criteria, after the 1993 European Council meeting where they were described.

The first step in the accession process is to become a candidate country, which Turkey did in 1999. But the real accession process only begins with a unanimous approval by the European Council of a negotiating framework with the candidate country, which Turkey secured in the 2005 Negotiating Framework. This lays out the terms for Turkey's alignment with established EU law and implementation of required reforms to meet the accession criteria laid out in the *acquis*.[22] *The acquis* runs to some 130,000 pages and is grouped into 35 thematic chapters for accession candidates.[23]

The EU Commission then handles a detailed screening process in which it determines what is necessary to bring the candidate country into alignment in each area (chapter) and reports to Member States; the Commission can require that certain benchmarks be met before opening negotiations in a given chapter.[24] Through-

out this process – and even before screening begins – the EU offers technical and financial assistance through the Instrument for Pre-Accession Assistance (IPA) to aid the candidate's alignment. While the opening of chapters is called negotiation, the *acquis* is set and not subject to change – it is not so much a negotiation as a process of implementation in the context of the candidate country, for which the EU can set certain benchmarks through a common position. The candidate must then make reforms to meet those requirements. If every EU Member State agrees the benchmarks have been met, chapters may be provisionally closed. But no chapter is truly closed – and the negotiation process concluded definitively – until every chapter is closed. The EU and the candidate then agree an accession treaty with the detailed terms of membership, necessary transitional arrangements, and financial arrangements.

This accession treaty is not final and binding until it is approved by the EU Council, the Commission, and the European Parliament; signed by the candidate country and all EU Members; and is ratified by the candidate country and each EU Member State, according to their constitutional rules (parliamentary vote, referendum, etc.).[25]

There appears, therefore, to be no chance of Turkish accession to the EU on any predictable timeframe. The resumption of Turkey's Ministerial Reform Action Group meetings (in August and December of 2018) after a three-year hiatus was seen by some as sign of cautious progress, potentially signaling a return to the reform agenda that had driven the accession process.[26] Thus far, however, the Reform Action Group meetings have not led to the actual enactment of any reforms, merely the creation of working groups. The sweeping political reforms required to truly reinvigorate the accession process – including the release of political prisoners, loosening of censorship, and judicial reform – appear antithetical to the Turkish government's current agenda and trajectory. The EU has perhaps undermined the credibility of the rules-based framework with its maneuvering to secure the EU-Turkey Statement of March 2016 (the so-called "refugee deal"), understandable as it may have been in the face of severe political pressure. The deal held that, henceforth, Turkey would accept the return of irregular migrants and step-up enforcement, while the EU would undertake equivalent resettlement of Syrians, offer additional financial aid to Turkey, and promise faster progress on accession chapters and visa liberalization.[27] The agreement was part of a process that left Turkey and the EU with a transactional relationship set against the window-dressing of a rules-based framework. The political will which, at least on the Turkish side, originally animated the accession process has long-since atrophied. Since the accession-based framework relies on the understanding that Turkey is moving towards membership, as that goal becomes less likely, the framework becomes more fragile. The tone of relations has also deteriorated as the gap between political reality and aspirational rhetoric has grown wider.

Still, EU-Turkey ties are deeply-rooted and extend beyond this accession process. The broader framework for relations is laid out in the Association Agreement of 1963, which remains the foundational document of these relations. The Agreement aimed to progressively deepen relations, establish a customs union, and promote political contacts. The Association Council created by the Agreement was designed to provide an open-ended, institutionalized venue for frequent high-level contacts. The Council has the power to conclude agreements covering trade in all goods and the movement of people and capital – powers it exercised through Additional Protocols in subsequent decades to expand trade relations with Turkey. Even with these additional protocols and other updates, the 1963 Association Agreement is not as comprehensive as more recent association agreements the EU has concluded with other countries, and the Customs Union does not encompass many agricultural goods, services, or an adequate dispute resolution mechanism. Still, the Association Agreement provides a substantial platform for relations with Turkey in the case of a formal suspension of the accession process.[28]

The accession process, then, was layered on top of this older foundation. Formal accession began with the approval of the 2005 Negotiating Framework by the European Council, based on the assessment that Turkey met the Copenhagen criteria, which lay out the requirements for a country to join the EU, including provisions on democracy, the rule of law, human rights, minority protection, economic competition, and the absorption capacity of the Union.[29] The Negotiating Framework outlined an open-ended process of gradual Turkish alignment with the EU's shared body of laws and court decisions – the *acquis communautaire* – as described in 35 chapters attached as an annex to the agreement. The Negotiating Framework empowered the Commission to pursue a monitoring and screening process to help encourage and assess Turkey's alignment with the *acquis*. It also authorized the use of the Instrument for Pre-Accession Assistance (IPA), a program of financial assistance meant to facilitate Turkey's alignment with EU laws and standards. The Negotiating Framework also contains a clause for formal suspension – Article 5 – in the case of "serious and persistent breach in Turkey of the principles of liberty, democracy, respect for human rights and fundamental freedoms and the rule of law."[30] While open-ended, the Negotiating Framework was justified by Turkey's reform agenda and the judgment that it "sufficiently meets" the Copenhagen criteria. It was also premised on Turkey's eventual accession to the Union and the expectation of continued reform from Ankara.[31]

From the beginning of this process, individual Member States blocked the Commission from opening certain chapters – mainly linked to the Cyprus issue – thus de facto limiting how far accession could proceed without a resolution of that intractable dispute. The European Council decided in 2006 that no chapter could be closed with Turkey until it extended the terms of the Additional Protocol to Cyprus, effectively limiting Turkey's progress until a solution to the Cyprus problem is found. Many EU Member States no doubt welcomed the political cover the Cyprus issue provided, not wanting to admit that, in fact, there was never European consensus in

support of Turkey's accession. The accession process was therefore always limited. But the deterioration of democracy in Turkey has called the very premise of accession into question, leading some European political leaders to consider suspending or formally ending the process outlined in the Negotiating Framework. These calls refer to the formal accession process begun in 2005, not the wider relationship governed by the 1963 Association Agreement and its additional protocols, which define the trade relationship, including the Customs Union. No serious political figures have called for the elimination of the underlying legal authorities or bilateral venues rooted in the 1963 Agreement; in fact, some continue to call for the upgrade of the Customs Union, though the European Council has so far refused to initiate negotiations.[32]

Parsing the exact meaning of some political leaders on accession is complicated by varying terminology. The technical details of what a formal end to Turkey's accession process would bring are also difficult to determine, as there is no precedent. But the discussion usually revolves around a "freezing" of the accession process – effectively the status quo – or a "suspension" of the accession process. The European Parliament first called for the "freezing" of accession negotiations in November 2016. The term carries no specific legal weight, as the Parliament has little direct role in the EU's enlargement policy, instead offering advisory resolutions, aligning the budget with the enlargement policy's goals, and approving any finalized accession treaty. The Parliament's earlier call to freeze accession instead represents the general desire to stop further political alignment with Turkey pending a renewed commitment to reform. The Parliament has reiterated this view in resolutions in subsequent years and, in 2019, called for a formal suspension – a term we will return to shortly – in an advisory resolution. The European Council has largely shared the Parliament's view on the necessity of a freeze, putting talks toward further accession progress on ice and explicitly stating that no new chapters will be opened until the political situation changes, but has not endorsed the call for suspension.[33] The European Commission shares the Council and Parliament's concerns and is in any case constrained by the political holds placed by certain Member States. "Freezing" can therefore be understood as a de facto pause in progress towards accession, rather than a formal change in status.

This freeze is, effectively, the current policy stance of the EU, most recently explained in the European Council conclusions of June 2018, which determined that: "Turkey has been moving further away from the European Union. Turkey's accession negotiations have therefore effectively come to a standstill and no further chapters can be considered for opening or closing and no further work towards the modernisation of the EU-Turkey Customs Union is foreseen."[34] On a separate track – but rooted in the same political differences – there was an almost four-year pause (from May 2015 to March 2019) in meetings of the Association Council, the joint decision-making body governing the wider relationship beyond the accession process. The lower-level Association Committee and its Sub-Committees – tasked by the Association Council with preparing technical reports and monitoring harmonization

but lacking decision-making authority[35] – continued to take place during this time, including in sensitive areas like the judiciary and fundamental rights (Chapter 23); and justice, freedom, and security (Chapter 24). But there has been little recent substantive progress toward bringing Turkish laws and standards into alignment with the *acquis communautaire*, according to the EU officials interviewed for this report, and, rather, significant backsliding. As mentioned, the European Council also halted high-level talks towards the modernization of the EU-Turkey customs agreement as part of this freeze.

The "suspension" of accession negotiations, on the other hand, does carry legal weight and would formalize the freeze. Suspension implies the formal activation of the Negotiating Framework's suspension clause, outlined in Article 5. The mechanism for formally suspending accession negotiations reads:

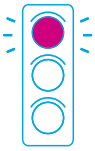
In the case of a serious and persistent breach in Turkey of the principles of liberty, democracy, respect for human rights and fundamental freedoms and the rule of law on which the Union is founded, the Commission will, on its own initiative or on the request of one third of the Member States, recommend the suspension of negotiations and propose the conditions for eventual resumption.[36]

The voting mechanism for any suspension decision is also described, though the European Council has thus far operated on the principle of consensus for such important decisions and is unlikely to use the qualified majority voting outlined in Article 5 of the Negotiating Framework.

But the Negotiating Framework does not explicitly state what would happen to IPA funds or other specific, tangible areas of the EU-Turkey relationship.[37] Furthermore, there is no precedent for formal suspension. The only example is Iceland, which voluntarily relinquished its official status as an accession candidate country, but that was an amicable decision taken unilaterally by a country with no major human rights violations. Because there was no decision to suspend from the Council in Iceland's case, it is not a useful precedent. The Negotiating Framework also does not lay out how a suspension might be reversed, leaving the Commission and Council to define the terms of any renewed negotiations – a legal gray area which leaves ample room for maneuver. But it is safe to assume that suspension would likely be long-term if not permanent, given that member states like Austria, the Netherlands, France, and Germany would make a new unanimous decision to re-open accession negotiations unlikely, even after the pre-conditions for re-opening talks were potentially met. A formal suspension could have unforeseen consequences across numerous areas of EU-Turkish cooperation and connection, and these potential technical ramifications are explored in the next section.

Assessing the Impact of a Suspension in Key Areas

This section details how key areas of EU-Turkey cooperation and connection could be affected by a suspension. It is organized in rough order from those most likely to be affected by a suspension to those least likely to be directly affected. That said, there is no precedent for such a suspension, and many of the documents governing these activities do not explicitly state what would happen in the case of suspension. The substantial legal uncertainty means that much would depend on the exact terms of a suspension, as decided by the Commission and Council, as well as Turkey's response.



INSTRUMENT FOR PRE-ACCESSION

IMPACT OF SUSPENSION: HIGH

The exact ramifications for the IPA funds of a suspension are difficult to establish, but the funding instrument would be seriously affected. Most likely, new funding would be suspended while existing programs would continue under previously-concluded legal commitments. But there is considerable legal uncertainty, and it is possible all activities would be suspended under certain circumstances, such as a unilateral suspension decision met with Turkish hostility.

The **Instrument for Pre-Accession** funds are financed by EU taxpayers and are among the key ways in which Turkey benefits from the accession process. The IPA funds support a panoply of projects intended to bring Turkey into line the *acquis communautaire* and EU standards, including through efforts to increase labor-force participation, innovation, transportation, clean energy, and other key aspects of economic competitiveness. The assistance is flexible and can take the form of grants; procurement contracts for service or supplies; general or sector-specific budget support (though Turkey refuses most forms of support except grants). The IPA grants can also be blended with other funding instruments, as well as loans or guarantees.[38]

Turkey has been the largest recipient of IPA funds, with €4.5b originally budgeted for 2014–2020, subsequently cut to €3.8b, and a total of €9b budgeted since 2007.[39] But Turkish authorities have struggled to absorb the money and implement programs outside of the agricultural sector, and only a fraction of the funds have been spent under Turkish management.[40] According to the most recent EU audit, "the funds…have barely addressed some fundamental needs: the independence and impartiality of justice, the fight against high level corruption and organized crime, press freedom, the prevention of conflicts of interest, and reinforcing external audit

and civil society."[41] Most recently, the IPA assistance has been refocused on three priority areas: democracy and governance; the rule of law and fundamental rights; and the environment, climate, and energy.[42]

Despite the difficulties with implementation, the Turkish government cares about the IPA funding; it provides additional funds for investment and projects, and some 4,000 Turks are employed in implementing the programs, not to mention the secondary economic effects of the disbursements. The most recent IPA Strategy Paper for Turkey (in 2018), budgeted €97m for projects in the field of democracy and the rule of law, and €289m for projects to improve competitiveness and growth, including: €23m for transport; €62m climate, environment, and energy; €164m for competitiveness, innovation, and rural development; and €40m for education, employment, and social policies.[43] The list of IPA projects is far too long to summarize – let alone detail – and captures the full range of issues of shared concern, from the relation between media and the courts, to the vaccination of livestock, to flood mitigation, to integrated border management.[44] These projects can range from the parochial – such as improving agricultural competitiveness through grants to small dairy farmers to improve their stables[45] – to the deeply political, such as the €6m floated in the first quarter of 2019 to bring in EU experts to help train junior Turkish judges and prosecutors, increase administrative capacity in law enforcement agencies, and better instruct personnel at Turkish prisons.[46] The financing is meant to target joint priorities while reflecting EU values and priorities by, for example, supporting academic exchange programs; efforts to combat human trafficking, including a trial shelter; and assistance to Turkish energy agencies and companies to adopt low-carbon technologies.[47] The use of the funds is often inherently political on the Turkish side as well; for example supporting high-profile infrastructure projects such as passenger and rail transport through Bulgaria and Turkey that are celebrated by the pro-government press in Turkey.[48] Beyond the funds themselves, the expertise linked to these programs is valuable to Turkey. These funds would come under tremendous political pressure in a suspension scenario.

The absorption difficulties and "lack of political will" from Turkish authorities[49] have already led the EU Commission to recommend cutting the funding from €640m to €340m per year, with the European Council and Parliament trimming the levels further as a signal of displeasure with Ankara's current course.[50] In addition to cutting the overall levels, the EU also redirected more funds to Turkish civil society, particularly to activities aimed at bolstering the rule of law and checks and balances.[51] Some of this funding is channeled through the EU's "Civil Society Facility," established in 2008 to support capacity-building and cooperation among local civil society organizations, as well as facilitate exchange programs with Member States.[52] The EU has also shifted some programming from indirect management of the funds by Turkey's Central Finance and Contracts Unit and other government bodies to direct management by the EU Delegation in Ankara.

Amidst these reductions and adjustments, however, the EU has taken steps to protect fruitful people-to-people exchanges. The 2018 IPA implementation decision included a special €12m financing for the Jean Monnet Scholarship Programme, which grants stipends for Turkish students to study in Europe; the funding is anticipated to facilitate 320 scholarships for education and training opportunities. The 2018 decision also included €63m in co-financing for Turkey's ongoing participation in EU programs (discussed in a later section) in areas such as education, training, youth, and sports through the Erasmus+ program.[53] Through these carve-outs, the EU has hoped to protect the societal connections while focusing attention on the erosion of the Turkish government's reform agenda.

In addition to financing these direct people-to-people exchanges, the implementation of the IPA regulation also brings significant administrative and human contact. The administration of the funds and programs requires significant cooperation between EU and Turkish authorities. To facilitate this cooperation, the IPA regulation established a monitoring committee to oversee effectiveness and compliance of the programs, composed of representatives of the Commission and the relevant Turkish authorities. The regulation also authorized sectoral monitoring committees to monitor programming in each policy sector. The monitoring committees are comprised of experts from government, civil society, and international organizations, and make recommendations on efficient programming to the IPA committee.[54] These venues provide opportunities for experts and officials on both sides to get to know counterparts and exchange best-practices.

The exact ramifications for the IPA funds of a suspension are difficult to establish, but the funding instrument would likely be seriously affected – and possibly immediately suspended – by such a move. Still, there is considerable legal uncertainty; Article 5 of the Negotiating Framework does not specify what a suspension would mean for the funds. Likewise, the 2014 IPA II Regulation governing the funds through 2020 does not contain an explicit suspension clause. In approving the current tranche of funds, the European Parliament further complicated the picture by asserting that "any suspension of assistance…would modify the overall financial scheme agreed under the ordinary legislative procedure" and would therefore require parliamentary approval.[55] The European Parliament could, therefore, potentially step in to prevent a total end to IPA funds, but that seems unlikely. Equally, the Regulation states that IPA funds "shall be provided in accordance with the enlargement policy framework defined by the European Council and the Council and shall take due account of the…Progress Reports… The Commission shall ensure coherence between the assistance and the enlargement policy framework."[56] The Commission is further empowered to adjust IPA allocations "where the progress made …remain[s] significantly below the agreed levels set out in the strategy papers."[57] The European Court of Auditors assesses that, at the political level, the Council has the authority to suspend IPA assistance "if the principles of democracy and rule of law ha[ve] not been complied with," or recentralize budget authority (as it has done); the Commission, meanwhile, has the authority to cancel individual projects

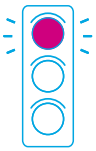
if contract conditions are not met.[58] These latter points provide significant leeway for the Council and Commission to make unilateral changes to the IPA funds if the overarching enlargement policy framework were to shift, for instance in a suspension scenario.

Further cuts to the IPA funds would therefore be the most likely outcome of a suspension. Most officials interviewed for this report believed a suspension would result in the immediate end to new IPA funding; since the funds are nominally to prepare Turkey for accession, they would have no legal basis. Previously contracted projects might be allowed to run their course, but this would likely depend on the context of a suspension decision. The timing could also be decisive; negotiations to define follow-on funding under the IPA III regulation covering 2021–2026 are ongoing. A suspension at the beginning of a new funding cycle, for example in 2021, might be handled differently than a suspension at the end of a cycle, where programs and contracts are already well underway. Further, IPA III could see the introduction of a suspension clause for cases of consistent backsliding on the Copenhagen criteria. Some of these changes – suggested by the European Court of Auditors[59], among others – would tie financial support to successful reforms in an incentivize-based system designed to encourage progress; these new approaches are being tried in the 2018 funding awards.[60] The introduction of a suspension clause might allow for the total suspension of IPA funding even absent a formal suspension of accession negotiations. The monitoring bodies associated with the IPA – both the IPA committee itself and the sectoral monitoring committees – could eventually disappear in a suspension scenario, though likely only after the conclusion of previously allocated projects, which would reduce the overall points of working-level contact and visibility.

Turkey's reaction would also be decisive. Despite the benefits to Turkey, in the wake of a suspension Ankara might decide that certain IPA projects managed directly by the EU are a violation of its sovereignty and interfere with or end those activities. Given the current political sensitivities, the Turkish government might first end projects aimed at supporting judicial independence or civil society – EU priorities that are often seen as meddling by some in the Turkish body politic. This sort of response might then cause the EU to go further than it might otherwise have done, suspending all IPA assistance, for example. This is speculative, however, and underlines the considerable uncertainty surrounding the issue, as well as the potential for political events to reverberate in unforeseen ways.

Despite this murky outlook, European officials speculate that new instruments would likely emerge to advance and finance EU interests vis a vis Turkey, even in a suspension scenario. After all, even non-accession countries like Egypt, which lacks even a modicum of democratic practice, enjoy the benefits of EU funding instruments, albeit at lower levels. Options for such alternative funding mechanisms could include the European Neighborhood Instrument used for countries like Egypt, Ukraine, and Tunisia; the European Instrument for Democracy and Human

Rights (indeed funding through that instrument might even increase in a suspension scenario, given the democratic deterioration); or the Peace and Stability Mechanism, which could potentially be used to advance counter-terrorism or stabilization cooperation as appropriate. Some of these alternative funding arrangements would require proactive steps by the EU to adjust the legal basis for these instruments. Recent history underlines the EU's commitment to continued engagement despite the political difficulties, for example in the continued funding for Turkish participation in the Jean Monnet scholarship, Erasmus+, and other EU programs.



EUROPEAN COMMISSION'S SCREENING AND MONITORING (INCLUDING THE ANNUAL REPORT)

IMPACT OF SUSPENSION: HIGH

Many aspects of the EU's screening of human rights and freedom of expression in Turkey as well as other benchmarks – currently frozen – could permanently end in a formal suspension scenario. On the other hand, Turkey would remain a candidate country, and some activities could continue under the authorities granted by the Association Agreement, pending Turkish acquiescence. These interactions might look much like the EU's monitoring efforts in non-accession candidate countries, for example in North Africa, or could simply return to the regular reporting on Turkey as a candidate country that existed before the 2005 accession process.

The **European Commission's Annual Report** (formerly the "Progress Report") assesses Turkey's alignment efforts over the past year and has been one of the most visible public aspects of the accession process, particularly in recent years as the findings have detailed Turkey's democratic shortcomings. Based on input from the government of Turkey, EU Member States, the European Parliament, and international NGOs, the Annual Report serves as a one-stop clearing house for all the information gleaned through the overall screening and monitoring efforts of the EU and its partners. It evaluates Turkey's alignment with each chapter of the acquis.[61] In a suspension scenario, wherein Turkey is no longer an accession candidate, this reporting would be scaled back, and EU access limited. The reporting requirements provide enhanced visibility into Turkish affairs, obliging Turkey to "open its books" and welcome regular fact-finding missions. Beyond a technical assessment of Turkey's efforts concerning individual negotiating chapters, the report also analyses "political criteria," evaluating overall domestic developments against EU standards, norms, and values. The report has lost much of its moral traction in Turkey recent years, however, with Turkish leaders strongly rejecting its tone and findings.[62] Paradoxically, this reporting is one of the reasons Greece and Cyprus favor keeping the current accession framework, despite their opposition to Turkish accession – because it offers yearly opportunities and the legal justification to publicly criticize Turkey's democratic failings.

The accession process also brings less visible screening and monitoring efforts to assess alignment with the *acquis communautaire* – efforts which collectively feed into the summary Annual Report. This process begins with initial screening of a candidate country's alignment with each chapter of the *acquis;* as part of this the Commission can require certain benchmarks be met before opening negotiations in a given chapter.[63] These decisions are based on working-level explanatory sessions, presentations, data sharing, regular expert missions and reports, and requests for exemptions. Coordinated by the Directorate-General for Neighborhood and Enlargement Negotiations, this screening and monitoring process is, in many ways, the heart of a healthy accession process and provides the basis for EU member states to determine if critical benchmarks have been met to justify the opening or closing of accession chapters.

While the opening of chapters is called negotiation, the acquis is not subject to change – less than a negotiation, it is more of a process of monitoring and assisting implementation in the context of the candidate country. The EU can set certain benchmarks through a common position or develop roadmaps to allow phased alignment in particularly challenging areas, but the candidate must still meet the reform requirements. If every EU Member State agrees the benchmarks have been met, chapters may be provisionally closed. But no chapter is truly closed – and the negotiation process concluded – until every chapter is closed. Therefore, while the chapter decisions are taken seriously they have no binding legal effect; until the EU and the candidate agree an accession treaty with the detailed terms of membership, the entire process is effectively advisory. For example, the EU engages in important and regular monitoring of Turkish human rights and the rule of law, even though these areas are covered by Chapter 23 and Chapter 24 of the Negotiating Framework, blocked by Cyprus for more than a decade; just because a given chapter is open or closed does not meaningfully change the monitoring efforts. Indeed, there has always been some disagreement within the EU over whether the opening of a chapter is better-used as an incentive to open the books and engage with the benchmarks, or as a reward for progress achieved – if the chapters are more useful as a starting gun or a finish line.[64]

The chapter decisions do justify and contextualize the ongoing monitoring summed up in the Annual Report, however. This process is based on the regular exchange of data and fact-finding delegations described above; internal assessments by Commission staff or partners, such as Member State agencies or NGOs, based on candidate-provided documents and data; and external monitoring drawing on widely-accepted benchmarks and data maintained by third-parties like the World Bank, Freedom House, and other INGOs. There is also significant additional monitoring tied to IPA programming, including analyses by the Directorate-General for Neighborhood and Enlargement Negotiations, spot checks on programs, audits, and contracted third-party evaluations from external experts.[65]

These efforts would change shape in a formal suspension scenario, though some activities could potentially continue under the authorities granted by the Association Agreement, pending Turkish acquiescence. Turkey's commitments as a candidate country would still provide the legal foundation for the EU to monitor human rights and the rule of law. After all, it was this monitoring that provided the basis for opening formal negotiations in 2005 in the first place, on the basis that Turkey was sufficiently in line with the Copenhagen criteria. Indeed, the Annual Report on Turkey was a continuation of the Commission's "Regular Report on Turkey."[66] The Association Subcommittee meetings on human rights and rule of law could also continue, for example, governed as they are by the Association Agreement.

But a formal suspension would likely cause Turkey to refuse cooperation for many activities or scale back the EU's access in terms of government statistics, interactions with working level staff, and fact-finding delegations. Without the theoretical goal of membership, Turkey would have little reason to provide this level of visibility, and the government would have even less tolerance for European criticism on human rights or democracy.[67] In practice, however, much of this is already a reality. Turkey already rejects such criticism and limits European visibility for oversight purposes. The screening process has been effectively frozen for more than two years, and the European Council's June 2018 conclusions reiterated that no further efforts would be undertaken absent a meaningful recommitment to reform in Turkey. Technical work toward broader alignment under the Association Agreement framework has continued through the freeze, but formal accession screening has halted. And, as the Annual Report has been more critical of Turkey's democratic deficit in recent years, the Turkish government has grown more strident in its rejection of the report's findings.

In sum, in a suspension scenario Turkey would remain a candidate country, and some monitoring activities could continue under those auspices. The authorities granted by the Association Agreement would be formally unaffected, pending Turkish acquiescence and cooperation for data access and permission for delegation visits. A suspension decision would also theoretically lay out the criteria for re-initiation of negotiations, if the European Council followed the instructions contained in Article 5; these criteria would then require monitoring to verify, as it did before the conclusion of the 2005 Negotiating Framework. But given the political atmosphere that would likely accompany a suspension decision, Turkey might limit cooperation, believing accession to be permanently off the table. The monitoring, audits, working-level contacts, and civil society consultations tied to the IPA funds would also likely be significantly scaled back, pending the final status of the IPA funds.[68] In the end, the EU's monitoring activities might end up looking much like EU monitoring efforts in North Africa, reliant on the standard political reporting of the Delegation, rather than cooperative, wide-ranging access that theoretically defines the accession process, though has not done so for some time.

VISA LIBERALIZATION

IMPACT OF SUSPENSION: MEDIUM

The issue is not directly tied to the accession process but is likely to be politically affected by a formal suspension. EU Member States are unlikely to move forward under a suspension scenario, with many likely to use a suspension as political cover to avoid taking a step that might stir up anti-immigration sentiment at home.

Visa liberalization[69] is an important avenue for EU-Turkish cooperation, politically valued by the Turkish government but carefully managed by EU Member States wary of security concerns and the potential for political blowback from immigration hardliners at home. The issue is not directly tied to the accession process but could be politically affected by a formal suspension. Freedom of movement for workers was an explicit goal, to be implemented in stages, of the 1963 Association Agreement.[70] A visa liberalization roadmap was laid out in 2013, detailing the technical steps necessary to realize this goal; real functional progress was made over the following years, though political consensus within the European Council for the actual passage of visa liberalization package was never assured.[71]

Most recently, renewed progress towards visa liberalization for Turkish citizens was a key part of the EU-Turkey Statement of March 2016 (the "refugee deal"). At that time, the Commission assessed that Turkey had fulfilled 65 of the 72 requirements for visa liberalization laid out in the agreement, covering everything from improved training for consular staff to the adoption of biometric passports. But several of the remaining criteria are politically fraught: the requirement to narrow the definition of terror under Turkish anti-terrorism laws as well as "effective judicial cooperation in criminal matters, including in extradition matters, to all EU Member States."[72] Turkey's anti-terror laws have been used to crackdown on civil society and freedom of expression – concerns which grew with the sweeping purges in the aftermath of the 2016 coup attempt. The EU wants to see the law changed to protect the right to political dissent, and the Council of Europe and the Turkish Justice Ministry have established a working group to resolve the issue. But, realistically, President Erdoğan is unlikely to narrow the current anti-terror law unless there is a dramatic change in the Turkey-PKK conflict or his own political needs (both his personal intolerance of dissent and the hardline positions of his nationalist coalition). Turkey has also not aligned with the EU's own visa-free and visa-required positions towards third-countries, another requirement, and still has discriminatory visa requirements for EU Member States, including Cyprus.[73] If progress toward visa liberalization were renewed, the May 2016 assessment would need to be reviewed and updated to ensure that the previously assessed benchmarks were still being met. But such progress seems unlikely, given the political position of the Turkish government. Further, EU Member States are unlikely to budge from these requirements, with many happy to have the political cover to avoid taking a step that might stir up anti-immigration

sentiment at home, and the European Parliament's required assent might not be forthcoming. In other words, with or without a formal suspension of the accession process, visa liberalization remains unlikely.

ASSOCIATION COUNCIL AND ASSOCIATION COMMITTEE MEETINGS

IMPACT OF SUSPENSION: MEDIUM

The Association Council and the Association Committee are rooted in the Association Agreement and would not be legally affected by a suspension. But the political signal sent by a suspension decision might undercut these meetings, and they could be frozen for an extended period. The type of suspension would be decisive on this score; a mutually agreed suspension could leave the Association Agreement structures as the key venues for cooperation, used to build a new framework for relations, while a unilateral suspension might claim the fora as political casualties. Several other venues for bilateral contact could be similarly affected.

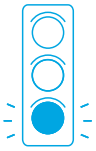
The 1963 **Association Agreement**[74] created important, institutionalized venues – the **Association Council** and the Association Committee and its Subcommittees – to promote contacts and resolve issues between the EU and Turkey. The Association Council was intended as a regular ministerial meeting to ensure that the terms of the Association Agreement were being met; it still has the power to conclude agreements covering trade in all goods and the movement of people and capital, though it requires unanimity among EU Member States and Turkey in order to act. The EU is represented by the Commissioner for European Neighborhood Policy and Enlargement Negotiations, usually alongside the High Representative of the Union for Foreign Affairs and Security Policy / Vice-President of the Commission. Turkey is usually represented by the Foreign Minister. The Association Committee, meanwhile, is the technical level working group where detailed issues can be hashed out, though binding decisions cannot be taken. The European Commission is represented at the senior official level, while Turkey is represented at the Undersecretary or Ambassador level. These meetings need no formal EU Member State approval to pursue technical alignment of Turkish and EU standards. The Association Committee subsequently established eight subcommittees dealing with key areas of primary concern in Turkey-EU alignment.[75]

Because the Association Council and the Association Committee are rooted in the Association Agreement, they would not be legally affected by a suspension scenario – a suspension, after all, would not touch the Association Agreement itself. But the political signal sent by a suspension would undercut their purpose, and they could enter a long-term, de facto pause. The way in which a potential suspension came about would likely be decisive in determining the impact on the bodies rooted in the Association Agreement. If the EU and Turkey were – against the odds – to

amicably agree on an end to accession as part of a process to define a new framework for relations, it might serve to reinforce these structures, leaving them as the primary conduits for managing bilateral affairs. If, more likely, the EU unilaterally decided to suspend accession talks due to political backsliding in Turkey or some unforeseen crisis, it could prompt a hostile reaction from the Turkish government, making it difficult for senior officials on both sides to participate in these fora, leaving the Association structures to languish for some period of time. Indeed, this is already the case, with a de facto freeze on Association Council meetings from May 2015 until the recent March 15, 2019 meeting. The 2019 meeting was largely symbolic, intended to demonstrate a shared desire for continued dialogue through the broader Association Agreement framework; it produced no results beyond a statement of the EU's continued concern about Turkish backsliding across a range of issues essential to further progress toward accession.[76]

Similar to these higher-profile and decision-making institutional contacts, several consultative and dialogue bodies might be affected politically by a suspension but would not be legally eliminated. The Joint Parliamentary Commission is an advisory body to the Association Council, bringing 18 parliamentarians – half from the Turkish Grand National Assembly and half from the European Parliament – together twice a year to analyze the major issues in the relationship.[77] The body is only advisory but offers a useful venue for political contact at the parliamentary level. Rooted as it is in the Association Council, its fate would likely be linked to the Council's own – there would be no legal requirement for it to end, but the political atmosphere might lead to a pause in meetings.

The Joint Consultative Committee brings together economic and social interest groups Europe and Turkey to facilitate the institutionalization of civil society dialogue in and with Turkey. The Joint Consultative Committee discusses topics ranging from migration and energy to trade union rights. As with the bodies outlined above, the Committee's mandate comes from the Association Agreement, not the accession process.[78] As such, it might face political pressures in a suspension scenario, but would still have a legal mandate to continue its activities. Collectively, then, most of the venues for EU-Turkey institutional contact might face de facto difficulties based on Turkey's political reaction to a suspension but would not face any de jure need to end their activities.



EU TURKEY STATEMENT ("MIGRATION DEAL")

IMPACT OF SUSPENSION: LOW

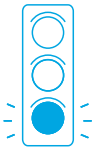
A formal suspension is unlikely to immediately endanger the migration deal, but the political message sent could prompt a backlash from the Turkish government that might endanger implementation on the ground. In particular, the EU's direct management of assistance to Syrians within Turkey under the EU Facility for Refugees in Turkey (FRIT) might be rejected as a violation of Turkish sovereignty. Still, Turkey values this support, and political pragmatism would likely lead Ankara to return to cooperation, perhaps after some disruption. Furthermore, the EU plans in any case to transfer the program to direct Turkish government management from 2021.

The **EU-Turkey Statement** or "migration/refugee deal" is currently the most highly-valued part of the relationship, at least on the European side, due to the political stakes for Member States.[79] The deal is not directly linked to the accession process but did include a nominal commitment to reinvigorate the accession negotiations and work to open new chapters. As part of the deal, the Commission was tasked with presenting screening reports "without prejudice to positions of Member States and in accordance with existing rules."[80] Chapter 17 was opened after the first EU-Turkey agreement on migration in November 2015, with Chapter 33 opened following the subsequent EU-Turkey Statement in March 2016.[81]

It is unclear if a formal suspension of Turkey's accession would endanger the migration deal, but temporary disruption seems more likely than outright cancelation. While the Statement is not officially tied to the accession process, the political message a suspension would send could prompt a backlash from the Turkish government that might endanger implementation on the ground. In particular, it is possible the EU's direct management of portions of the assistance to Syrians within Turkey under the EU Facility for Refugees in Turkey (FRIT) might be rejected as a violation of Turkish sovereignty in the wake of any unilateral EU suspension decision, though the Turkish government's strong need for assistance would weigh against this possible disruption. The FRIT projects done in conjunction with Turkish government ministries or international organizations like the UN might see disruption but are unlikely to be canceled. Other elements of the EU-Turkey statement could be affected, including the visa liberalization roadmap[82] and the upgrading of the Customs Union, discussed separately in this section.[83] Further, the fate of the IPA funds could affect the FRIT; 43 percent of the funding for the FRIT comes via the IPA.[84] But the majority of the funds have already been allocated and would therefore be unlikely to disappear in a suspension scenario. Still, this points to the budgetary restructuring a suspension might bring, with the resulting potential for some disruption on the ground.

The FRIT's best protection against disruption is its relative success in providing aid to Syrians in Turkey, despite the moral questions surrounding the conclusion of the overall deal, and Turkey's deep need for assistance in confronting the challenge of integration. Some €3.4b has been contracted in a two-year period, financing 72 projects and facilitating direct cash transfers to 1.2 million of the most vulnerable refugees – an impressive achievement that has meaningfully improved the circumstances of many Syrian refugees and benefited the Turkish economy.[85] A second tranche of €3b – extending through 2021 – is currently being contracted, with the emphasis shifting from humanitarian to development aid. EU officials intend to transition the programs from EU-directed and financed projects to normal Turkish state social services from 2021. Turkey desperately needs this assistance, which might lead Ankara to adopt a pragmatic response, after any potential period of disruption.

Thus far, there have only been a few direct grants to Turkish government bodies; for example, €700m total[86] – including €400m added in 2018 – to the Turkish Ministry of Education to help pay for new schools and teachers to accommodate the incorporation of Syrian school-age children from temporary education centers, with instruction in Arabic, into the Turkish public-school system.[87] Additional direct government grants have gone to the Turkish Directorate General for Migration and to the Turkish Ministry of Health.[88] Turkey has not always been happy with how much of the assistance is channeled through non-governmental bodies like the UN and wants more direct to Turkish government institutions, but the programs have been effective.[89] A looming issue concerns a prospective third tranche of assistance for Syrian refugees in Turkey – the Turkish government is pushing for an agreement, while EU officials say the absence of an EU financial framework after 2020 make new financial commitments impossible at this time. EU officials are working to ensure the refugees are provided the means to ensure sustainable livelihoods and that other programs are smoothly integrated into Turkey's national systems from 2021. With most Syrians settled in Turkey and Europe's border hardened, a new wave of mass migration as seen in 2015–2016 is unlikely, even if Turkish-EU cooperation breaks down in a suspension scenario. In 2018, the total number of arrivals from Turkey into the EU was 50,789.[90] And, while the Turkish government might suspend aspects of the FRIT in such a scenario, the assistance is valued and badly-needed. Taken together, then, these factors seem to presage a period of disruption after which Ankara would likely return to pragmatic cooperation on migration and support for refugees.



STAFFING AT EUROPEAN INSTITUTIONS FOCUSED ON TURKEY

IMPACT OF SUSPENSION: LOW

Staffing levels at EU institutions, including the Delegation in Ankara, might be affected over time, but the exact impact will be determined by the status of the IPA funds or other follow-on funding instruments and is unlikely to be dramatic. Even in a suspension scenario, previously-contracted IPA programs, the FRIT, and the day-to-day management of EU-Turkey relations will require consistent staffing levels both in Turkey and in Brussels.

Staffing at European Institutions Focused on Turkey, including at the Commission, European External Action Service, and the Delegation of the European Union to Turkey – the EU's diplomatic mission in Turkey – would likely be affected by a suspension, but the impact is difficult to judge and would take shape over time. Currently, the Delegation employs around 180 Turkish and European professionals[91]; as with all EU delegations, this staff is a mix of European Commission staff, diplomats detailed from EU Member States, and local Turkish staff.[92] Even in a suspension scenario, the EU would have diverse and important interests in and with Turkey, making large scale staffing changes unlikely. Indeed, third-countries such as Egypt – with no accession prospects and far smaller interests at stake with the EU – have similarly sized EU Delegations.[93]

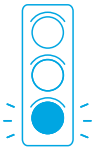
The EU Delegation in Ankara, for example, is responsible for the standard range of diplomatic activities of any embassy or mission, but also plays a key role in monitoring the implementation of the Customs Union, reporting on Turkey's alignment with the accession criteria and the acquis, and maintaining contacts with political figures and civil society. While the direct accession monitoring would stop in the case of a suspension, the standard political and economic monitoring – as conducted by any foreign embassy – would be unaffected. Certainly, the political atmosphere might become more hostile in the wake of a suspension, perhaps complicating civil society contacts and reducing access to Turkish officials, but most of the Delegation's activities would carry on. Similar parameters govern the likely impact at the European External Action Service and the Commission – it is possible certain berths would shift or be reduced to reflect Turkey's downgraded status, but the effect would likely be minimal.

The larger question in terms of staffing is tied to its handling of EU financial assistance in Turkey – many of the staff positions at the Commission and Delegation in Ankara are linked to the management and oversight of the IPA funds and activities. The recent cuts to IPA funds have not yet had a major effect on staffing and may not do so; while the overall level of financial assistance has been reduced, the EU is also moving to more direct management of the funds (from Turkish government responsibility) for new tranches, perhaps evening out any impact on staffing levels.

Even if further IPA funds were terminated as part of a suspension decision, previously-contracted IPA programs would still require management, both at the Delegation in Turkey and in Brussels. The FRIT also brings substantial staffing requirements, given how much of the assistance is administered and contracted directly by the EU. The effects are, therefore, very difficult to gauge; the number of personnel working at the Delegation and on Turkey at the Commission would probably decrease marginally, but the sheer volume of financial management and diplomatic and trade monitoring would mitigate the size of these changes. As with many other areas of the relationship, a suspension would complicate staffing matters and diplomatic contacts, but the fundamental importance of the relationship would likely insulate many activities from dramatic change.

CUSTOMS UNION

IMPACT OF SUSPENSION: LOW



The Customs Union is separate from the formal accession process and is unlikely to be affected by a suspension, though the prospects for modernization could be affected in unpredictable ways. The structural economic and financial connections are substantial, meaning neither side can afford to act too aggressively.

The **Customs Union** is crucial to EU-Turkey relations, but it is largely separate from the formal accession process and is unlikely to be affected by a suspension. The structural economic and financial connections are substantial; Turkey is the EU's fourth largest export market and fifth largest source of imports, while the EU is by far Turkey's largest export market and source of imports. The EU is Turkey's largest source of foreign direct investment. These relations are largely governed by the 1963 Association Agreement and additional protocols signed in 1970, 1995, and 1996, which together removed tariffs and restrictions on industrial goods in bilateral trade.[94]

The Customs Union was originally intended as an intermediary step on the way to single-market integration. The prospect of further expansion or modernization of the Customs Union to include more agricultural goods, services, and public procurement is favored by several Member States, as well as some in the Commission and the European Parliament. Supporters of this approach argue that it would bring economic benefits for both sides[95] and help address vexing issues surrounding the rule of law, for example by requiring strict rules on public procurement that could improve transparency in Turkey. Currently, however, key Member States and the European Council have been unwilling to be seen to reward Turkey while its democratic standards have deteriorated.

A formal suspension would leave the existing Customs Union unscathed, but the prospects for modernization could be affected in unpredictable ways. The more negative atmosphere resulting from a suspension might complicate negotiations. But a suspension might also clarify the interests at stake and the benefits (particularly to Turkey) of an updated agreement. Turkey can ill-afford the status quo to continue indefinitely. Currently, Turkey is bound by the EU's agreements and, if it wishes to conclude a separate deal with a country with which the EU has a trade agreement, must align tariffs with the EU's own agreement with that country. The Turkish market is therefore exposed to the EU's expanding trading ties with third-countries, but the Turkish government has little control over that regime. Ankara is understandably angered by this imbalance but has little recourse without full accession or a renegotiated Customs Union. It is therefore possible – if unlikely – that a suspension of the accession process might, after an initial downturn in relations, eventually yield renewed momentum toward an updated trading regime.

For the time being, however, this prospect remains distant due to dynamics on the European side. Both the Council and Commission acknowledge the material incentives – the Commission's 2016 Impact Assessment outlined substantial benefits for both sides from a modernized agreement.[96] But European officials view the prospect of an updated Customs Union as their only source of meaningful leverage with Turkey and hope to use it to incentivize real Turkish progress on human rights and the rule of law. This view was confirmed by nearly all the officials interviewed for this report, with most saying that serious political reforms – and the full implementation of the 2005 Additional Protocol[97] relating to new members, including Cyprus – would be necessary to truly unlock an updated customs arrangement.

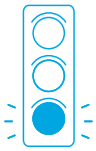
The tension within the EU on the proper approach to the Customs Union was illustrated in 2016–2017. In December 2016, the Commission proposed opening negotiations, sending a draft mandate to Member States in the Council of the EU, where it was debated at the Working Group level. German-Turkish relations were at a low point, however, and Berlin led the Council to block further advancement on the file, arguing it would be rewarding bad behavior in Turkey. This political dynamic seems likely to hold for the time being, despite the Commission's official support for an upgraded Customs Union. Meanwhile, technical cooperation continues on associated issues like the full implementation of the Open Skies agreements (under the Directorate General for Mobility and Transport), technical trade preparations (under the Directorate General for Trade), and work on product safety.

In sum, then, serious negotiations will not advance without progress on human rights and democracy; this conditionality is not new and was a factor in negotiating the existing EU-Turkey agreement. The EU has included expanded provisions on human rights and democracy in all its more recent FTAs with third countries. A formal suspension could therefore affect the overall political calculus surrounding trade relations in unpredictable ways but is unlikely to change the basic requirement of conditionality, which would be a prerequisite for any new agreement to secure ap-

proval from the European Parliamentary, let alone ratification by all Member States. While modernization of the Customs Union could well be a vehicle to secure greater transparency and rule of law in Turkey, this conditionality also decreases the odds of getting an agreement; large trade agreements are already a huge political lift, even with unimpeachable democratic partners. Modernization therefore remains a distant prospect, suspension or not.

CYPRUS

IMPACT OF SUSPENSION: LOW



Even in a suspension scenario, Turkey can ill-afford to change the status quo on the island or its environs without facing dramatic repercussions. Strategic energy concerns and domestic politics are more likely to dictate the risks in Cyprus, rather than changes to Turkey's accession status. Still, Cyprus and Greece oppose suspension because they believe the accession process restrains Turkey, and that a suspension might remove an incentive for Turkey to seek a resolution to the Cyprus problem.

The sensitive issue of **Cyprus** would likely be influenced only indirectly by a formal suspension. The Cyprus issue has long been a primary obstacle to full Turkish engagement in the accession process. Turkey has never fully applied the Additional Protocol to the Association Agreement, which extended the agreement's provisions to the Republic of Cyprus, among other new members. This refusal to recognize Cyprus has always been an insuperable obstacle to Turkish accession.[98] Even while agreeing to the opening of formal negotiations in 2005, Turkey's position led the European Council to stipulate that eight chapters will not be opened, and no chapters closed, until Turkey fully applies the Additional Protocol.[99] Chapter 31 of the Negotiating Framework dealing with foreign, security, and defense policy encompasses this roadblock, requiring as it does an overall political solution on the divided island. Full accession of new members requires the approval of all EU members, and Greece and Cyprus will never approve Turkey's full membership without recognition of the government in Nicosia.

The Cyprus problem has a dynamic all its own, independent of Turkey's EU accession process. Its origins pre-date Greek and Cypriot accession to the EU as well as the opening of Turkey's accession process. Therefore, even though Cyprus' own EU accession, together with Turkish policy on Cyprus, is among the factors effectively guaranteeing Turkey could not achieve full EU membership, the two processes are on separate tracks. The original Turkish intervention had nothing to do with European integration. Cypriot accession to the EU was decoupled from the development (and failure) of the Annan plan.[100] The lack of progress during Derviş Eroğlu's leadership of the Turkish Cypriot community coincided with a decent period in EU-Turkey relations, while the hopeful period under Nicos Anastadiades and Mustafa Akıncı coincided with a particularly difficult spell of EU-Turkey relations. Most

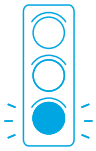
recently, the tensions are driven by energy concerns, fights over exclusive economic zones, and nationalist politics on all sides.[101] In the current context, with a UN peacekeeping mission, respective guarantor powers, international energy companies actively exploring undersea resources, and frequent military exercises, the Negotiating Framework's requirement that Turkey continue to work toward a permanent settlement on Cyprus within the UN framework pales to relative insignificance.[102]

If anything, Turkey has been moving further away from the Chapter 31 targets as energy and maritime tensions in the Eastern Mediterranean have escalated. Even if Turkey moved to resolve the issue unilaterally, it is complicated by additional actors like the Greek and Turkish Cypriots, Greece, and United Kingdom. Most EU officials interviewed for this report felt a plan would be needed to reassure Greece and Cyprus in the event of a suspension. Athens and Nicosia believe the accession framework restrains Turkish behavior and would want another formal structure to prevent escalation; they fear Turkey could seize on any change in status to shift the demography of the divided island or engage in low-grade aggression to advance its energy interests. On the larger requirement of Chapter 31 (beyond Cyprus) – that accession countries align with the European security and defense policies – Turkey would likely also face serious complications due to the military incursions into Syria and Iraq and a possible sanctions regime against Russia. Given the importance the government in Ankara attaches to these deployments, it's hard to envision a scenario in which Turkey comes into overall alignment with EU policies absent a major reconfiguration of regional affairs.

Cyprus – and the security and strategic energy issues now associated with the divided island – therefore offers a paradox in relation to the accession suspension risk assessment. Cypriot membership in the EU – and EU Member State Greece's position on the divided island – have long been core stumbling blocks preventing full Turkish accession, even while functional work towards Turkish accession advanced separately from the talks on Cyprus' status. Despite this separation, Cyprus and Greece value the EU framework as a restraint on Turkey's behavior, even though they oppose full Turkish accession; they do not want Turkey in, but they also do not want Turkey all the way out. Greece and Cyprus are therefore also a key force preventing a suspension of Turkey's accession bid. Adding a final layer of complexity, Cyprus today presents a real risk for escalation and, possibly, even military confrontation; such an escalation might be one possible trigger for a formal suspension which otherwise appears unlikely. Therefore, the EU needs a plan to reassure its Member States and deter escalation on all sides, irrespective of the question of Turkish accession. Despite this complexity for the EU, however, the decision-making of the key players regarding the Cyprus problem is not shaped by the EU accession framework, but rather by their perceptions of their own security interests, strategic energy designs, and domestic politics.

EU-TURKEY HIGH-LEVEL SECTORIAL DIALOGUE

IMPACT OF SUSPENSION: LOW

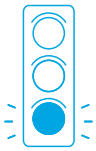


Though separate from the accession process the political impact could make it difficult for Turkish officials to continue participation for a time. After initial disruption, however, the logic of cooperation on important bilateral issues will likely win out.

The current **EU-Turkey High-Level Sectorial Dialogue** – on energy, transport, economy, and political issues[103] – would likely continue regardless of accession status, touching as they do on important functional aspects of the relationship that are mutually beneficial quite apart from the accession process. That said, the political heat that would likely be generated by a unilateral suspension could disrupt these efforts, making it difficult for Turkish officials to participate for some period of time, while the dust settled. A similar political dynamic can be seen in Turkey's suspension of its participation in Creative Europe for political reasons, described below, but the Turkish government would have important vested interests in returning to the sectorial dialogue after a period of disruption.

OTHER EU PROGRAMS SUCH AS ERASMUS+, HORIZON 2020

IMPACT OF SUSPENSION: LOW



Other EU programs are unlikely to be legally threatened by suspension, but the programs could face political pressure over time. Still, with specific EU funding allocated to subsidizing Turkish participation, it would take a particularly hostile suspension scenario to threaten these avenues of people-to-people cooperation.

Other EU Programs such as Erasmus+ or the Horizon2020 research and development cooperation are unlikely to be legally threatened by suspension, but the programs could face political pressure. These activities are governed by the 2002 Framework Agreement for the participation of Turkey in Community Programmes, not the accession process as laid out in the Negotiating Framework. The agreement grants Turkey, as a candidate country, access to EU programs and agencies, subject to financial contributions and the agreement of the European Commission and Turkey. There are fifty such programs covering a wide range of EU activities, from nuclear security to fisheries to sport to R&D. Turkish participation has therefore developed on an ad hoc basis, shaped by the political and logistical determinations of the Commission and the Turkish government. For example, Turkey participates fully in Erasmus+, contributing to the program budget out of its national budget, but pulled out of Creative Europe in 2017 for political reasons. As of the last EU Annual Report, Turkey was participating in Erasmus+, Horizon 2020, Customs2020, Fiscalis 2020, COSME (Competitiveness of Enterprises and Small and Medium-sized En-

terprises), EASI (Employment and Social Innovation), the European Environmental Agency, the European Monitoring Centre for Drugs and Drug Addiction, and the Civil Protection Mechanism.[104]

Turkey's participation in these programs is tied to its status as a candidate country and not to the formal accession process tied to the Negotiating Framework. An Article 5 suspension would therefore not legally affect participation, unless it was paired with a Commission decision to end Turkish access. The Commission seems unlikely to unilaterally exclude Turkey from EU programs, even in a suspension scenario. Indeed, programs like Erasmus+ are carried on with complete third-countries lacking any formal neighborhood status, let alone accession status, such as Ghana. Iceland, which chose to de facto freeze its own accession – but did not see a formal suspension – also continues to participate fully in Erasmus. The political will to protect these people-to-people exchanges was underlined again in 2018, when the EU's IPA implementation decision carved out tens of millions in special financing for Turkey's ongoing participation in EU programs, including hundreds of scholarships under the Jean Monnet Scholarship Programme and the Erasmus+ program.[105] Still, the case of Creative Europe provides a cautionary example of how political controversies can undermine nominally apolitical avenues of cooperation. The political fallout from a suspension could cause similar disruption, but it seems unlikely Turkey would want to cut these societal ties – especially if the EU is subsidizing that participation. Most officials consulted believe EU programs like Erasmus+ would have the legal framework, funding mechanisms, and political will to continue regular operation with Turkish participation, even in a formal suspension scenario, and the European Commission would be unlikely to end such cooperation.

Strategic Outlook

More than the intricacies of the accession process laid out above – and the legal ambiguity surrounding any potential suspension – the EU's relations with Turkey will be defined by three major questions:

- How will the Turkish government manage the growing economic crisis, and what role will Europe play?
- Will Turkey and Europe be able to manage their shared demographic future and, most urgently, successfully integrate four million refugees?
- Can Europe and the U.S. cooperate to keep Turkey embedded in the Western security architecture, or is a strategic rupture imminent?

The answers to these questions will shape the context in which EU-Turkey relations develop and dictate the terms and tone of any new framework for relations. Additional research and strategic foresight exercises could help improve the EU's risk assessment for Turkey, building on the work of the FEUTURES project. There is also a need to situate the study of EU-Turkey relations within a wider context – both geographically, in terms of regional security, and substantively, with more granular analyses of the sociological transformations reshaping Turkish society. These research challenges await, but for the present a brief examination of the key questions outlined above must suffice to contextualize the debate around suspension.

Economic Crisis

Turkey's economic crisis is, in many ways, the most pressing matter and the one on which the EU can have the greatest impact. Despite productive ties with Europe, Turkey's economy is now locked in a cycle of rampant inflation, weak currency, and persistent current account deficits. In the last quarter of 2018, Turkey's gross domestic product shrank 3 percent, and the economy grew only 2.6 percent overall in 2018, down from 7.4 percent in 2017 (although the 2017 figure was artificially high due to a low-base effect stemming from the disruptions of 2016, including the coup attempt and a spate of terrorist attacks).[106] Consumer inflation was above 20 percent and unemployment at 13.5 percent in December 2018 – with 4.3 million people unemployed – just below Turkey's record worst unemployment rate of the past three decades, achieved at the height of the global financial crisis in 2009.[107] Youth unemployment was nearly 25 percent.[108]

This reality is the product of pursuing growth driven by consumption, short-term capital, and low savings. Turkish macroeconomic policy has only deepened its reliance on short-term foreign capital inflows. The immediate challenge is to decrease inflation, stop the devaluation of the lira, and begin to address the current account deficit. In the mid-term, Turkey needs foreign and domestic investment.[109] Most likely, the country will face a U-shaped recession. Slower growth will at least help

address the current account deficit, but suffering will be widespread, and Turkish companies could face threats to their solvency. These companies will continue to seek state support, transferring liabilities onto the state balance sheet.

Longer term, the economy must reduce its reliance on construction, consumption, and low-cost, low-technology manufacturing for export. This will require moving to higher-tech production, innovation, and services. Turkey has had some success growing its defense industry to meet more of its own military needs and target the lower-end of the international market, but this highly-competitive industry may offer only limited room for growth. Other high-tech growth sectors require a highly educated workforce, but Turkey's education system struggles to provide the skilled labor pool needed to propel such growth.[110] Severe brain-drain driven by political turmoil is exacerbating the problem.

The EU will be instrumental if Turkey is to address these economic shortcomings, both on the supply side through financing, expertise, and tourism; and on the demand side as the largest market for Turkish goods and services. European foreign direct investment is critical, and Turkey's status as an accession candidate provides confidence to investors – this financial backing will be essential to the stability of the lira and continued financing for indebted Turkish companies. But beyond the material considerations, Turkey's economic future is tied to the rule of law, institutional autonomy, and government transparency. The business climate is currently hindered by political risk, uncertain property rights, and a lack of transparency in public procurement. The central bank lacks independence, and unpopular but necessary economic reforms have been delayed for many years for fear of the political ramifications. On this front, too, the EU is crucial; the accession process provides a roadmap to enacting exactly the kinds of reforms Turkey's economy needs. For all of these reasons, Turkey's room for confrontation with the EU – for example in the wake of a suspension decision – is severely limited.

Demographic Convergence

In any realistic future scenario, Turkey and Europe's demographic futures are entwined. Migration is, of course, the key factor. The influx of four million Syrians is Turkey's most significant demographic change in decades, and the scale of the challenge of integrating this population continues to grow – there are an estimated 350 Syrians born per day in Turkey.[111] Turkey must reckon with the reality that most of the Syrian refugees will remain in Turkey and figure out how to fully incorporate them into society. In 2018, again, the total number of Syrian refugee arrivals into the EU from Turkey was just 50,789.[112] Still, the EU has a crucial interest in ensuring that Turkey manages this challenge effectively and humanely, and Turkey needs all the help it can get.

Aside from the refugee issue and irregular migration, there is the possibility of increased numbers of economic migrants should Turkey face a prolonged economic downturn. Already, wealthy and educated Turks are leaving the country in

large numbers. In 2018, 113,000 Turks left the country, a 40 percent increase on 2017, when more than 69,000 left the country, according to the Turkish Institute of Statistics; the number of Turks applying for asylum worldwide jumped to more than 33,000 in 2017.[113] Academics and intellectuals have fled repression, with many seeking refuge in Europe, particularly Germany.[114] At least 12,000 Turkish millionaires – 12 percent of the country's total – moved their assets out of the country in 2016 and 2017, according to the Global Wealth Migration Review, with most going to Europe.[115]

Beyond even the brain drain and capital flight from Turkey to Europe, the demographic projections clearly demonstrate their shared future. The EU's statistical agency, Eurostat, predicts that the bloc's population will level off in 2045 and begin to decline thereafter.[116] With plummeting birthrates across much of the EU, the bloc's overall population growth is already maintained only through immigration from outside the Union. Without immigration, by 2050 Germany and Italy would face population declines of 18 percent and 16 percent, respectively, with devastating social, economic, and fiscal consequences.[117] Across the EU, just 26 percent of the population is under-25 years of age. Turkey, meanwhile, has a young population, with 40 percent under-25 years of age; under the right circumstances, this young Turkish population could constitute an important source of in-migration and associated economic dynamism to a rapidly ageing EU.[118]

Paradoxically, given the fraught domestic politics on both sides and the erosion of EU-Turkish rules-based relations in the face of the refugee crisis, migration is now the primary area of the current transactional cooperation between Turkey and Europe. Despite the moral questions surrounding the issue, the EU Facility for Refugees in Turkey has been, on balance, a success thus far. Migration, therefore, cuts in several directions. Despite the effective joint cooperation on migration, the issue remains a major political liability in both Europe and Turkey, where it feeds general hostility towards the EU. Many Turks resent the EU's treatment of their country as a border state and barrier for refugees and migrants. A May 2018 Center for American Progress nationwide poll of Turkey, supported by Stiftung Mercator, found that 62 percent of Turks felt the 2016 EU-Turkey refugee deal was bad for Turkey, with even a majority of AKP supporters against the agreement.[119] In part, this opposition is rooted in deep Turkish resentment of the Syrian refugees themselves – 67 percent of Turks had unfavorable views of Syrian refugees, with 43 percent reporting very unfavorable views. But the Turkish public also feels strongly that the EU has not dealt fairly with Turkey; a majority of Turks say their country has fulfilled its side of the bargain, while just 10 percent felt the EU had done its part.[120]

Even in a scenario in which Turkey is conceived of exclusively as a buffer state, outside the structure of a formal accession process, the EU and Turkey will have to cooperate on migration. The fear that Turkey will use migration as a lever against Europe ignores the fact that most Syrians have settled into life in Turkey, and that Turkey needs EU support. A suspension of accession negotiations will likely elicit a

hostile reaction from Turkey and might jeopardize coordination at the border, but neither side can afford to jeopardize the implementation of projects for Syrians within Turkey. As one European diplomat told us, "FRIT is the real deal – the rest is just window-dressing."

Security Ties and Strategic Alignment

The migration challenge, in turn, ties into the most urgent security issue confronting Turkey and Europe – the Syrian war. Without question, Turkey, the EU, and the U.S. need each other's support in Syria, despite years of sharp disagreement on the right response. Turkey is a frontline state in dealing with the spillover from the conflict and has deemed the support from the EU and the U.S. to be insufficient. The EU has an obvious, immediate interest in providing that support. Still, beyond Europe, on these security questions it is U.S. partnership which is most essential for Turkey's long-term interests. The U.S. is indispensable for the influence it still wields over Kurdish forces, the intelligence and surveillance assets it brings to the counter-ISIS efforts, and the deterrent effect it has on the Assad regime, Russia, and Iran – each of which could seek to harm Turkish interests via Syria. Indeed, the U.S. is the only Western power capable of stopping a new phase of fighting in Syria and precluding a resurgent ISIS insurgency. But to provide reconstruction and humanitarian assistance to displaced Syrians – both within Syria and beyond, including Turkey – the U.S., EU, and Turkey will have to work in concert.

Beyond the immediate, urgent challenge of the Syrian war, the most pressing strategic challenge revolves around Turkey's planned purchase of the Russian S-400 air defense system, to which the U.S. has pledged to respond by excluding Turkey from critical shared defense activities and, potentially, levying economic sanctions. Many in Europe and the U.S. continue to believe Turkey is an essential partner in confronting a newly assertive Russia. But the S-400 deal builds on years of deepening Turkish-Russian cooperation on energy issues and in Syria, eroding foundation of security cooperation that has supported Turkish integration with Europe and the West since 1952. The risk of a lasting strategic rupture has not been higher since the 1974 invasion of Cyprus and subsequent arms embargo.

These pressing bilateral issues only build on a longer-term, political divergence. Leading AKP figures have long used the West as a convenient rhetorical foil against which to define their political appeal and on which to blame Turkey's problems. This narrative also has the effect of eroding the constraints of Western-defined liberal democracy. But this political convenience hides the fact that many Turkish leaders – and much of the public – genuinely believe Turkey should chart a more independent path, with less to bind the country to Europe and the West. These views are not just politically instrumental to the current Turkish government – the Turkish public sees few friends when it looks at its traditional allies in Europe and the United States. Across party lines, Turks feel too reliant on other countries.[121]

President Erdoğan has responded to this environment – and what he sees as hypocritical, uneven support for democracy from the U.S. and Europe – with a transactional approach toward these traditional allies and deeper ties with powers like Russia. To be clear, this approach is not limited to the Turkish President – Turkey has long sought to build its domestic military-industrial base and balance its great power ties. But the perception of double standards and inertia in Turkey's relations with Europe and the U.S. has eroded the appeal of those traditional relationships, which seem to revolve around regular points of tension rather than shared, proactive projects. The result is dramatic, with Russia viewed more positively than the United States, Germany, or Europe in polls.[122]

European, Turkish, and American interests are all served by keeping Turkey embedded in a Western orbit defined by a democratic values structure. But the odds of success in this endeavor increase if the EU and U.S. coordinate and triangulate their approaches to Ankara's drift. If the EU shifts from its current, implicit rethinking of ties with Turkey to a more explicit restructuring – perhaps through a formal suspension – the framework which emerges to regulate relations would be best designed in concert with the United States' more security-oriented approach. For the EU, a strategic rupture between the U.S. and Turkey would dramatically complicate its own ties with Ankara. Despite this negative prospect, even separate from the debate on suspension, the EU has not made a proactive effort to keep Turkey tied to its security architecture, firmly excluding Turkey from most conversations on European collective defense outside of NATO, nor seeking to cooperate on issues of strategic convergence, like Iran or Syrian reconstruction.

Back to the Future: Questions to Address in the EU-Turkey Relationship

The question of whether to continue a "non-accession accession" process with Turkey – one which implicitly rejects the possibility of full membership – has normative importance for the European Union. As one EU official put it, "determining the borders and membership is a way to define the EU." The turmoil in the Visegrád Group, Austria's agitation on migration, and continuing economic and political instability in Italy and Greece have strained EU governance and tested its commitment to democratic values. These situations have shown that the bloc struggles to establish internal mechanisms to confront Member States that fail to uphold EU standards on the rule of law and human rights after accession.

In this context, Turkey's political deterioration is a litmus test of the EU's internal credibility as well as its broader neighborhood and enlargement policies. The credibility question looms in relation to the implementation of a rule of law and human rights monitoring mechanism for Bulgaria and Romania, and the accession process begun with Serbia in 2007. Transactional agreements like the migration deal struck with Ankara have eroded the normative basis of EU governance. How the new European Commission handles these questions in the 2019 to 2024 term will define not just enlargement policy, but also the response to deteriorating democratic and judicial standards in Member States like Hungary and Poland as well.

More broadly, Turkey has become a domestic political cipher for concerns around immigration, terrorism, and shifting cultural or religious norms. Euro-skeptics in many Member States often use this potent political symbolism to stir up broader populist opposition to the European project. Brexit advocates, for example, cast the prospect of Turkey's accession to the EU as a security threat in their campaign, often using the images and rhetoric of an "invasion" to stoke opposition to Brussels. What EU parties and Member States say about Turkey reveals much about how they envision their own countries and the EU. Many European conservatives oppose Turkish accession because of the size and cultural or religious difference of the Turkish population. Other Europeans conceive of the EU as a democratic community of shared "European" values, however vaguely defined. Europe's policy toward Turkey may also help determine whether the EU is defined by identity politics or by democratic values and cosmopolitanism.

There may soon be a break from the immediate political tumult to consider these longer-term questions. Neither Turkey nor Germany – the most powerful EU Member State as well as the one with the most extensive ties to Turkey – is expected to face major elections until the fall of 2021. This electoral break offers a window in which to reassess EU-Turkey relations with a new European Parliament and Commission. The EU has not yet come to terms with the complete centralization of political power in the Turkish presidency under the new system, which

has undercut more than a decade's work building institutional ties with the wider Turkish state. Nor has either side internalized the extent to which the challenge of integrating four million refugees will change Turkey's society, economy, and politics.

The current framework of EU-Turkey ties is the result of decades of painstaking work – no part of it should be jettisoned lightly. But there may be more effective forms of hybrid association which preserve ties and protect important venues for adjudicating bilateral issues, while relieving some of the structural points of tension inherent in the accession process. Assessing the relative pros and cons of these various forms of association will require a conscious process and thorough risk assessment. Thus far, the EU has recalibrated its policy towards Turkey in an ad hoc manner, relying on the implicit understanding that full accession is off the table. Both Europe and Turkey would be better-served by asking the critical questions directly:

- Where would a suspension leave EU-Turkey relations at the centenary of the founding of the Turkish Republic in 2023?
- How can the most positive people-to-people contact mechanisms and exchanges be protected, should the accession process end?
- Could "snap-back" mechanisms be built into any new framework, in order to save progress in case political circumstances change, allowing for renewed progress toward accession?
- How can the EU ensure that any post-accession legal framework for EU-Turkey relations is not purely transactional?
- Would an expanded Customs Union – perhaps with a further additional protocol to the Association Agreement – be enough to secure necessary Turkish acquiescence or support for a non-accession framework?
- What essential parts of the management of Turkish-European relations would revert to the level of national, bilateral ties in the event of a suspension?

These questions merely scratch the surface, of course. This paper is an initial effort to understand what impact the most-discussed step – the suspension of the accession process – might have, on the assumption that pressure will grow to narrow the distance between stated goals and observable reality. Rejecting the accession framework will undoubtedly have negative effects, but it would likely not be as decisive as most assume. The relationship has deep roots, and the EU would retain substantial political, legal, and financial flexibility to preserve valued activities and avenues of cooperation, provided it could avoid the most negative Turkish political responses and, ideally, secure eventual cooperation towards a new structure for relations. While the EU has begun the risk assessment, both through the excellent FEUTURE project and through official channels[123], there remain considerable areas of legal and political uncertainty. As a first step, the EU should seek to better-understand these gray areas.

APPENDIX

Key Documents Defining EU-Turkey Relations

Name of the document	Impact, authorities, activities (summary)	Affected by suspension in accession?
1963 Association Agreement (also known as the Ankara Agreement)	The foundation of modern European-Turkish relations. The Agreement between what was then the European Economic Community and Turkey aimed to progressively deepen relations, establish a customs union, and promote political contacts. The Association Council created by the Agreement is vested with the power to conclude agreements covering trade in all goods and the movement of people and capital.	No. In fact, the Association Agreement would likely be the foundation of any follow-on framework for relations in the event of a suspension. The agreement (and its additional protocols) provides the legal foundation for almost any trade or customs decision needed, while the Association Council is, in effect, the governing entity of bilateral relations.
1970 Additional Protocol	Signed in 1970 and entering into force in 1973, this Additional Protocol removed tariffs on certain industrial goods and was another step towards a full customs union.	No.
1973 Additional Protocol	Signed in 1973 and entering into force in 1986, this Additional Protocol adapts the 1963 Agreement and 1970 Additional Protocol to reflect the accession of Denmark, Ireland, and the United Kingdom to the European Community.	No.
1992 Treaty on European Union (Treaty of Maastricht)	One of the founding treaties of the European Union, subsequently amended and expanded, including by the Treaty of Lisbon. Article 49 lays out the process for joining the Union, requiring unanimous approval of the European Council, consultation of the Commission, and consent of the European Parliament. The conditions for admission are to be outlined in a negotiating framework agreement with the applicant country. If the accession proceeds positively, the conditions of final admission and any necessary treaty adjustments will be laid out in an accession agreement between the EU Member States and the applicant, which must then be ratified by all the contracting States in accordance with their constitutional requirements.	Not tied to accession, but the Treaty does mean that, if negotiations were formally suspended under Article 5 of the Negotiating Framework, re-opening accession negotiations would likely require the unanimous approval of the Council and the European Parliament's approval.
1993 "Copenhagen criteria"	The conclusions of the 1993 European Council meeting in Copenhagen lay out the primary criteria which must be met for a country to join the European Union, including provisions on democracy, the rule of law, human rights, minority protection, and economic competition. The criteria also note that accession is subject to the "absorption capacity" of the Union.	Not affected by suspension, but rather the criteria upon which a formal suspension would likely be justified. The negotiating framework for accession was originally agree in 2005 because Turkey was deemed to "sufficiently meet[s] the political criteria set" in Copenhagen. Suspension would be based on the judgment that Turkey is no longer in sufficient alignment.

1995 Customs Union (Decision No 1/95 of the EC-Turkey Association Council)	Phased out tariffs on manufactured goods between the European Union and established a Joint Committee to monitor implementation and arbitrate disputes. The agreement contributed to a massive expansion in bilateral trade and helped harmonize most product standards. But the agreement did not cover most agricultural goods, services, public procurement, or adequate protections for intellectual property, leaving it badly outdated in the modern economic environment. Furthermore, the dispute resolution mechanism is insufficient. Finally, its provisions leave Turkey subject to other trade agreements concluded by the EU but lacking a voice in shaping those agreements.	No.
1998 Decision of the EC-Turkey Association Council (No 1/98)	The Association Council (comprised of the EU and Turkey) here consolidated various ad hoc concessions granted on agricultural products (primarily lowering technical barriers and tariffs); it is effectively an addendum to the Customs Union codifying some limited bilateral trade in agricultural goods.	No.
2002 Framework Agreement for the participation of Turkey in Community Programmes	This agreement grants Turkey, as a candidate country, access to EU programs and agencies, subject to financial contributions and the agreement of the European Commission and Turkey. Over time, Turkish participation in the full range of EU funding programs and agencies has therefore developed on an ad hoc basis, shaped by the political and logistical determinations of the Commission and the Turkish government. For example, Turkey participates fully in Erasmus+, but pulled out of Creative Europe in 2017 for political reasons. There are fifty such programs covering a wide range of EU activities, from nuclear security to fisheries to sport to R&D.	Not directly, as Turkey's right to participate in these programs is tied to its status as a candidate country, not the formal accession process tied to the Negotiating Framework. Therefore, an invocation of Article 5 of the Negotiating Framework would not directly affect participation in these programs, unless it was paired with a Commission decision to end Turkish access. But the political fallout from a suspension could cause disruption, as happened in the case of Creative Europe.
2005 Additional Protocol	This additional protocol extends the provisions of the Association Agreement and the Customs Union (as laid out in subsequent Additional Protocols) to ten new Member States of the EU, including Cyprus. With the accession of Cyprus and the ensuing failure of the Annan Plan, the Association Agreement is currently not fully in force, as Turkey does not implement it towards all EU Member States.	Not directly tied to accession, but until Turkey agrees to apply the Additional Protocol to Cyprus, eight negotiation chapters will remain blocked by Cyprus and other EU Member States. Without a solution to the Cyprus issue, progress is unlikely.
2005 Negotiating Framework	The key document governing Turkey's accession process. Per the requirements of the Treaty on European Union, the EU opened a formal accession process on "the basis that Turkey sufficiently meets the political criteria set by the Copenhagen European Council in 1993." It sets out the expectation of continued reform and acceptance of the EU acquis communautaire. It further requires the Commission to report annually to the Council on the progress of Turkey in the areas outlined. Article 5 lays out the process for suspension of negotiations in the case of "serious and persistent breach" of the Copenhagen criteria. The Framework is also the legal basis for financial assistance tied to accession (the IPA funds); lays out the Commission's screening process for alignment with the acquis; and lists the 35 chapters comprising the acquis.	Yes. This is the crux of what "suspension" would mean: an invocation of Article 5 of the Negotiating Framework. Suspension is meant to be accompanied by a description by the Commission and Council of the conditions for eventual resumption – presumably realignment with the Copenhagen criteria. But, per the Treaty on European Union, such a resumption would default to requiring unanimity on the Council, unless otherwise stipulated by the Council. A suspension would end the opening of chapters and associated screening and monitoring, and would remove the basis for the provision of IPA funds.

2006 Agreement on the participation of Turkey in EU crisis management operations	This agreement lays out the terms and conditions on which Turkey can participate in EU military crisis management operations.	No.
2007 Treaty of Lisbon, entered into force in 2009	The key treaty governing the modern European Union left the intergovernmental nature of enlargement policy largely untouched but added a role for national parliaments in ratifying accession treaties with potential new members.	No. There were no changes to the provisions governing the suspension of accession negotiations.
2014 Readmission Agreement	Separate from the "refugee deal," this agreement governs the repatriation of Turkish nationals residing in the EU illegally, as well as third-party nationals who entered the EU illegally via Turkey.	No.
2014 Regulation establishing an Instrument for Pre-Accession Assistance (IPA II) and 2014 IPA II Indicative Strategy Paper for Turkey (2014–2020)	The 2014 IPA II Regulation awarded pre-accession funding for the 2014–2020 period and provided guidance for how it was to be spent, including in Turkey. The Regulation does not contain an explicit suspension clause – and the European Parliament attached a signing statement arguing that "any suspension of assistance…would modify the overall financial scheme agreed under the ordinary legislative procedure…the European Parliament is therefore entitled to fully exercise its prerogatives in that regard, if such a decision is to be taken." But, equally, the Regulation states that IPA funds "shall be provided in accordance with the enlargement policy framework defined by the European Council and the Council and shall take due account of the…Progress Reports… The Commission shall ensure coherence between the assistance and the enlargement policy framework." The Commission is further empowered to adjust IPA allocations "where the progress made…remain[s] significantly below the agreed levels set out in the strategy papers."	Yes. In the event of a suspension of negotiations with Turkey, further cuts to the IPA funds would be likely, on top of previous reductions. There is a possibility the European Parliament could step in to prevent a total end to IPA funds, but that would seem politically unlikely. Furthermore, negotiations to define follow-on funding under the IPA III regulation (covering 2021–2026) are ongoing. IPA III could see the introduction of a suspension clause for cases of consistent backsliding on the Copenhagen criteria. Such a clause might allow for the total suspension of IPA funding even absent a formal suspension of accession negotiations.
EU-Turkey Statement and Joint Action Plan, 29 November 2015	An initial attempt to address the migration crisis, this statement committed to regular high-level political dialogues; acceleration of work on the visa liberalization roadmap with the goal of lifting visa requirements for Turkish citizens (subject to Turkey fulfilling 72 criteria, including changing the anti-terror law); the establishment of the EU Facility for Refugees in Turkey (FRIT) with initial €3b in support for refugees in Turkey; stepped up border and migration management; and preparatory steps towards the upgrade of the Customs Union.	Not technically tied to the accession process. A unilateral decision to suspend Turkey's bid could endanger the visa liberalization roadmap, but it already faces profound political hurdles.
The "Refugee Deal" – EU-Turkey Statement, 18 March 2016	Building on the 2015 statement, this 2016 agreement is widely referred to as the "refugee deal." It is today a dominant feature of EU-Turkish relations, given the political gravity of the refugee issue. Under the deal, all new irregular migrants crossing from Turkey into Greece will be returned, and, for each of these returnees, a Syrian refugee will be resettled from Turkey to the EU according to UN guidelines. It also expanded the FRIT by a further €3b (total €6b) and promised faster movement on the visa roadmap and the opening of new accession chapters.	Not technically tied to the accession process, but a unilateral decision to suspend Turkey's bid could prompt a backlash, endangering cooperation at the border (border control; refugee processing and resettlement) and within Turkey (the FRIT). On the other hand, Turkey values the FRIT, and most Syrian refugees are settled in Turkey.

Annual Turkey Reports by the European Commission	On an annual basis, the European Commission takes stock of progress made by accession candidates and potential candidates over the previous 12 months towards alignment with the acquis as well as fulfillment of the political criteria. Currently, the Commission reports on seven countries (six in the Western Balkans and Turkey). The reports provide regular assessments to candidates in between the chapter screening and benchmark reports and outline policy recommendations for each area. In most cases, they are publicly debated and elicit responses from the government in question. In the case of Turkey, however, the impact of the Commission's annual report has eroded; criticism of deteriorating rule of law in Turkey has led the Turkish government to declare the reports null and void in recent years. Still, they provide an important basis for the orientation of the EU's pre-accession funding instruments.	It is unclear if the annual report would be suspended along with the accession negotiations. The Commission also reports on non-candidate countries benefitting from IPA funds. In the case of a formal Article 5 suspension of negotiations, the Commission would need to lay out the criteria under which negotiations could be re-opened. That determination would presumably also include a decision on Turkey's IPA funding status and, therefore, shape whether the annual reports would continue or end.

Endnotes

1 Many scholars and policy experts have contributed to the study of EU-Turkey relations. While these contributors are far too numerous to list, we are particularly indebted to the work of Nathalie Tocci overseeing the FEUTURE consortium project and Sinan Ülgen's excellent studies of hybrid forms of close association. See, for example: Beken Saatçioğlu, Funda Tekin, Sinan Ekim, and Nathalie Tocci, "The Future of EU-Turkey Relations: A Dynamic Association Framework amidst Conflictual Cooperation," University of Cologne, (March, 2019), available here: http://www.feuture.uni-koeln.de/en/publications/feuture-synthesis-paper/. See also, for example: Sinan Ülgen, "Trade As Turkey's EU Anchor," Carnegie Europe, (December 13, 2017), available at: https://carnegieeurope.eu/2017/12/13/trade-as-turkey-s-eu-anchor-pub-75002.

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About Stiftung Mercator

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