

# **Rising Illiberalism in the European Periphery and the EU's Application of Membership Conditionality**

**Beken Saatçiođlu**  
MEF University, Istanbul  
beken.saatcioglu@mef.edu.tr

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## **Introduction**

In recent years, illiberalism has risen both within the EU and in the European periphery, in line with a global trend against democracy and freedom intensifying since 2005/2006 (Diamond, 2015). Notable cases include Hungary and Poland (democratic backsliding); Bulgaria, Romania, Latvia (potential backsliding); Albania, Bosnia Herzegovina and Macedonia (stalled domestic reforms) (Borzel and Schimmelfennig, 2017); and most extensively, Turkey, as an example of competitive authoritarianism (Esen and Gumuscu, 2016) and a clear case of de-Europeanization, notably with respect to the rule of law (Saatçiođlu, 2016). Added to this more recent illiberal trend is the presence of authoritarian or semi-authoritarian regimes in the EU's eastern and southern neighborhood. Aside from a few exceptions (Tunisia, Georgia, Moldova and the Ukraine), the countries included in the European Neighborhood Policy (ENP) exhibit very low levels of democratic development (Borzel and Lebanidze, 2017).

These developments have revived interest in the EU's role and capacity for promoting democracy, as the principal international institution with claims to liberal

democratic rule transfer. Undoubtedly, the observed domestic illiberal dynamics complicate the EU's efforts of governance export, limiting its transformative power to a considerable extent. Yet, the EU is not powerless when it comes to addressing them. Far from it, it retains the institutional and legal capacity to use a key policy instrument vis-à-vis illiberal neighborhood and accession countries: conditionality. While ENP conditionality is rather "soft" (Lavenex, 2014, 892) and limited in scope given the lack of a membership perspective, accession conditionality is more domestically intrusive and provides the EU's most advanced and successful foreign policy tool embedded in its enlargement strategy. Consequently, the EU's capacity to affect domestic change via accession conditionality has proven stronger. Hence, in view of the illiberal trends dominating the EU's periphery, a relevant question arises: How consistently has the EU itself used membership conditionality<sup>1</sup> to address illiberalism? Has it sufficiently and effectively used its conditional, transformative capacity in the first place, i.e., independent of the domestic factors gaining ground in third countries and paving the way for illiberalism?

This memo proposes to assess this question by focusing on the EU's recent relations with Turkey, as the longest standing EU candidate, within the context of the 2015 Syrian refugee crisis. This episode of EU-Turkey relations provides a real test case for the EU's ability and willingness to consistently use conditionality since doing so coincided with the EU's other foreign policy aims linked with external border security (relatedly also, the integrity of the Schengen area) and even, protection against terrorism. Historically, despite politics frequently infiltrating Turkey's EU accession process (Saatçioğlu, 2009), the EU's relations with Turkey have not strayed too far

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<sup>1</sup> When assessing membership conditionality, the paper focuses on political conditionality (centered on EU candidates' compliance with the Copenhagen political membership criteria). Hence, the terms "membership conditionality" and "political conditionality" are used interchangeably throughout the paper.

from the latter's compliance with the Copenhagen political criteria. Currently, Turkey is the fastest backsliding EU candidate (notably, since 2013) and, according to Freedom House's 2017 Freedom in the World Report, the country with the largest one-year decline in political rights and civil liberties in the world. Therefore, when compared to the other candidates in the Western Balkans, the EU faces a much stronger normative responsibility to stick to its values in the case of Turkey.

Studying in depth the EU's externalization of the refugee crisis to Turkey, the memo finds that in managing the crisis, consistency of conditionality was by and large compromised by the EU's security interests<sup>2</sup> which trumped the pursuit of political values vis-à-vis Turkey. In line with the literature, I argue that consistency is present when the EU uses political conditionality as a mechanism of "reinforcement by reward" (Schimmelfennig and Sedelmeier, 2004), suggesting that "[it] rewards democratic progress (positive conditionality) or sanctions the lack thereof (negative conditionality)" (Börzel and Lebanidze, 2017, 18).

When judged against this measurement, *inconsistently* applied conditionality emerges as the main pillar of EU-Turkey cooperation throughout the refugee crisis. The evidence for this is twofold. First and more generally, EU-Turkey relations turned towards transactionalism/functionality after the crisis, captured by a "strategic partnership" rather than a rules-based, conditional relationship. This was fueled by the EU's incapacity and/or unwillingness to manage the crisis on its own and its resulting security need to externalize it to Turkey. Specifically, the EU's asymmetric dependence on Ankara to stop the flow of refugees to Europe by hosting them in Turkey culminated

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<sup>2</sup> In this paper, I do not get into a theorization or analysis of the EU's security interests in relation to the refugee crisis. The EU's control- and security-oriented approach to the crisis has already been discussed elsewhere (Bauböck, 2017; Haughton, 2016; Monar, 2016, among others). Instead, I take these security motivations as given and show *how* (rather than *why*) the EU consequently retreated from conditionality in order to secure Turkey's cooperation, which in turn was pivotal for its efforts to safely externalize the crisis.

in the so-called EU-Turkey “refugee deal” of March 2016 whereby Turkey was offered a number of benefits in exchange for its cooperation with the EU. Hence, the deal provided the backbone of the strategic partnership: Turkey emerged as a key strategic partner to the EU – rather than a seriously treated EU candidate subject to firm EU conditionality - as it crucially enabled the Union to maintain the Schengen regime by helping secure its external borders against refugee flows.

Second and more significantly, this strategic partnership came at the expense of EU membership conditionality in that the EU sidestepped Turkey’s compliance with its foundational political values for the sake of securing its cooperation throughout the crisis. Turkey was offered both material rewards (embedded in the refugee deal) and normative concessions (in the form of a discursive European de-emphasis on Turkey’s mounting illiberalism) by the EU. The EU’s strategy to accommodate Turkey this way despite the “significant backsliding” observed in its democracy and fundamental freedoms (European Commission, 2015) revealed that it no longer treats Turkey as a serious membership candidate and is willing to put its own conditionality regime on the back burner to secure its strategic interests for which Turkey’s cooperation remained crucial. Hence, Brussels has not only boosted its strategic relationship with Turkey following the refugee crisis but it has also come to prioritize it over working towards the conditional possibility of Turkish accession.

This evidence shows that when other foreign policy aims are overwhelming, the EU can undermine the consistency of conditionality even with respect to democratically backsliding countries holding official EU candidacy status such as Turkey. In the present case under study, this is proven by the variation in the EU’s application of conditionality before, during and after the refugee crisis. In contrast to its pre-crisis relations with Turkey, which were relatively rules-based, the EU retreated from

conditionality during the period of the crisis (2015 and much of 2016) in order to effectively externalize it to Ankara and resorted to maintaining relations of strategic partnership. Conversely, once the crisis was taken under control and the refugee flows to Europe were contained as a result of implementing the refugee deal, the EU went back to its conditionality regime (as evident in the de facto freeze of Turkey's EU membership negotiations since December 2016, motivated by the country's deepening illiberalism under the current emergency rule).

The following proceeds as follows. First, the memo briefly reviews the literature on EU membership conditionality to show that existing works have mostly focused on the mechanisms for conditionality's domestic effectiveness (i.e., target states' compliance with the membership criteria), leaving the conditions of its consistency largely unexplored and under-theorized. Second, it studies the EU-Turkey cooperation over the refugee crisis and empirically demonstrates how this has led to a strategic partnership at the expense of conditionality. Third, it ends by reflecting on the current state of EU-Turkey relations (and conditionality vis-à-vis Turkey). I conclude that the Turkish case highlights the EU's propensity to apply conditionality based on external factors, independent of candidates' degree of compliance with the political criteria and notwithstanding their rising illiberalism. One major unintended consequence is that this deepens the ongoing illiberalism on the ground, acting in conjunction with (thereby intensifying the effect of) the absence of domestic "pro-democratic reform coalitions" (Börzel and Lebanidze, 2017). These aspects reveal that the way the EU uses membership conditionality can in fact be very similar to its application of ENP conditionality, both in terms of guiding rationale and domestic consequences.

## **The Literature**

Research on EU membership conditionality is elaborate and has been developed since the early 2000s, largely in parallel to the need to theorize post-communist Central and Eastern European countries (CEECs)' efforts to meet the EU's membership criteria. Embedded in the broader research on Europeanization, scholarship on conditionality has sufficiently assessed the question of how conditionality generates domestic effects in target states, convincingly laying out the causal mechanisms of compliance with the membership criteria. Relatedly, the rationalist "external incentives model" has shown that conditionality produces compliance when it is credible (therefore also consistently applied) and the domestic political compliance costs do not outweigh its benefits associated with EU membership (Schimmelfennig and Sedelmeier, 2005; Schimmelfennig and Sedelmeier, 2004; Schimmelfennig *et al.*, 2003).

Yet, its thorough theorization of conditionality's domestic effects and the EU's related transformative power notwithstanding, the literature remains weak when it comes to exploring and problematizing conditionality itself. As Gateva rightly argues:

... Most of the research is aimed either at explaining how the EU conditionality influences the domestic structures in the applicant countries or at evaluating the effectiveness of EU conditionality in particular policy areas. The fundamental problems of the nature and the scope of EU conditionality remain very weakly analysed (Gateva, 2015, 26).

Hence, most of the theoretical discussion on EU conditionality is centered on hypothesizing the factors affecting its domestic effectiveness rather than its consistency. Under what conditions is conditionality consistently applied? Is consistency something which is exogenously given, i.e., dependent on the EU's other foreign policy goals (stability, trade, security) vis-à-vis the countries concerned?

This question is left unexplored due to several reasons. First, the literature readily assumes that conditionality has been consistently applied vis-à-vis EU candidates as opposed to the neighborhood countries (Schimmelfennig, 2012), since enlargement

policy has been systematically “linked to compliance with basic democratic norms in the target countries” (Schimmelfennig, 2008). Accordingly, this has largely stemmed from the European Commission’s centralized and meritocratic role in assessing candidate and EU applicant countries’ compliance as well as, more significantly, the “community effect”: “Whereas interest-based considerations are permitted to take the upper hand in relations with external states, the constitutive community rules will prevail in relations with future insiders” (Schimmelfennig, Engert and Knobel, 2006, 46).

Second and relatedly, the literature on EU membership conditionality argues that problems of inconsistency are mostly limited to the EU’s external relations with the non-candidate third countries in the neighborhood and beyond (Schimmelfennig, 2012), as has been widely documented by works on EU foreign policy (Youngs, 2010; Whitman and Juncos 2014; Pomorska and Noutcheva 2017; 2013) as well as more specific studies on the ENP which have long highlighted the problematic application of ENP conditionality due to the so-called “stability-democracy dilemma” (Börzel and Lebanidze, 2017; Börzel and van Hüllen, 2014). Relatedly, the major problem standing in the way of norm-based (i.e., consistent with the EU’s goal of external democracy promotion) EU foreign policy has been diagnosed as the EU’s frequent prioritization of other, security- and stability-oriented foreign policy aims over democracy.

Yet, such external factors affecting the EU’s usage of ENP conditionality or conduct of foreign policy at large have also infiltrated the EU’s specific relations with accession countries. In fact, inconsistent EU application of membership conditionality is already documented in individual case studies involving the EU’s relations with candidate countries in the Western Balkans (Richter, 2012), Romania (Phinnemore, 2010) and Turkey (Saatçioğlu, 2009; 2010), as well as acknowledged – if not fully

investigated - in more recent studies taking stock of the problems surrounding the EU's Eastern enlargement (Grabbe, 2014; Vachudova, 2014).

To conclude, in view of the state of the academic literature, there is a clear need for a more systematic theorization of the consistency of EU membership conditionality. So far, Gateva's above-cited contribution is the only study "designing a rigorous conceptual framework for the [analysis] of EU enlargement conditionality" (Gateva, 2015, 2), incorporating "the impact of institutional and external factors on the development of EU enlargement policy" (Ibid., 26-27). The empirical sections that follow (case study on EU-Turkey relations through the refugee crisis) provide a preliminary step into filling this gap in the literature. The analysis shows that political conditionality is trumped by the EU's exogenously oriented foreign policy aims motivated by geostrategic and security considerations. When these interests are overwhelming (i.e., when the EU is confronted with an external shock or crisis placing security needs at the center of its external action), democratic values embedded in conditionality take the back seat even in relation to authoritarian-leaning regimes (Turkey) over which the EU's democratizing pressure is most needed. In the final analysis, this prioritization of security over democracy is very much reminiscent of the EU's relations with the ENP countries. Consequently, it can be concluded that accession conditionality and ENP conditionality actually suffer from similarly driven, *inconsistency* issues.

### **The EU's Refugee Crisis: Strategic Partnership Undermining Conditionality in EU-Turkey Relations**

The massive flow of Syrian refugees to Europe in 2015 led to a strategic rapprochement between the EU and Turkey. As the EU was unable to adopt a "European solution" (i.e., a solution built around principles applicable to EU asylum



and immigration policies, such as “solidarity” and “fair sharing of responsibility” among the member states)<sup>3</sup> to address this challenge in the fall of 2015, it externalized the management of the crisis to Turkey, following its strategic interests. Consequently, largely under the initiative of the German government, the EU-Turkey Joint Action Plan was adopted in October 2015, forming the basis of the EU-Turkey Statement of 29 November 2015 and the EU-Turkey “refugee deal” of 18 March 2016 finalized under the Dutch EU presidency. With these arrangements, in exchange for stemming the flow of refugees to Europe and hosting them in Turkey, Ankara was promised EU financial aid (geared towards covering hosted refugees’ needs), “re-energized” EU-Turkey accession talks, and the conditional prospect of Schengen visa liberalization for Turkish citizens.

In specific terms, the November 2015 Statement offered key material rewards to Turkey: (1) a three-billion-euro aid package, (2) progress in membership negotiations which had remained static since November 2013, (3) visa liberalization, however conditional, to be accomplished by October 2016, (4) Turkey’s participation to regularly held EU-Turkey summits (twice a year) geared towards a “structured and more frequent high-level dialogue” serving as a “platform to assess the development of Turkey-EU relations”.<sup>4</sup>

The March 2016 deal expanded these concessions. Specifically, the EU committed to the fastened disbursement of the three billion euros under the November Statement besides granting Turkey an additional three-billion-euro package under the Facility for Refugees until the end of 2018. Additionally, the deal included the prospect of accelerated visa liberalization “with a view to lifting the [Schengen] visa

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<sup>3</sup> As stated in the Treaty on the European Union (TEU): “The [asylum and immigration] policies of the Union ... and their implementation shall be governed by the principle of solidarity and fair sharing of responsibility, including its financial implications, between the Member States” (Art. 80).

<sup>4</sup> European Council, “EU-Turkey Statement, 29/11/2015”.

requirements for Turkish citizens at the latest by the end of June 2016”<sup>5</sup> (contingent on Turkey’s fulfillment of all relevant benchmarks, including, particularly, Turkey’s revision of its Anti-Terror Law). More significantly, it offered provisions for resettlement: “All new irregular migrants crossing from Turkey into Greek islands as from 20 March 2016 [would] be returned to Turkey” and “for every Syrian being returned to Turkey from Greek islands, another Syrian [would] be resettled from Turkey to the EU”.<sup>6</sup>

Both the November Statement and the March deal resulted from strategic bargaining between the EU – as well as member states leading the negotiations, i.e., Germany - and Ankara, reflecting interdependence and convergence around mutual interests. While Ankara extracted gradually broadened material advantages cited above (and important normative concessions, as explained below), the EU was able to resolve a major crisis, which hit it as it was already going through a larger “existential crisis, within and beyond the European Union”.<sup>7</sup> Hence, in managing the crisis, the EU’s strategic dependence on Turkey was much greater than it was the case vice versa. This asymmetry provided Turkish negotiators with unprecedented bargaining leverage over Brussels, which even resulted in threats raised to secure a favorable deal for Ankara.<sup>8</sup> As Turkish President Erdoğan revealed during a conversation with Juncker and Council President Donald Tusk: “We can open the doors to Greece and Bulgaria anytime and put the refugees on buses... So how will you deal with refugees if you don’t get a deal? Kill the refugees?”<sup>9</sup> Indeed, Ankara’s bargaining superiority and threatening rhetoric persisted even after the March deal so as to guarantee its implementation by the EU as

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<sup>5</sup> European Council, “EU-Turkey Statement – 18 March 2016.”

<sup>6</sup> Ibid.

<sup>7</sup> EU HR/VP, “Shared vision”, 7.

<sup>8</sup> Greenhill, “Open Arms Behind Barred Doors”.

<sup>9</sup> “Turkey’s Erdoğan threatened to flood Europe with migrants: Greek website.” *Reuters*, February 8, 2016.

originally promised (along with the realization of other potential incentives such as a modernized EU-Turkey Customs Union arrangement). As former Turkish Prime Minister Davutoğlu put it: “We want ... our citizens to travel visa free, and the customs union to be updated. [But] if the EU doesn’t keep its word, including the migrants deal, we will cancel all agreements”.<sup>10</sup>

As far as the broader EU-Turkey relationship is concerned, the net effect of the bargaining process engendered by the refugee crisis was twofold. On the one hand, a purely strategic and functional give-and-take relationship emerged between Brussels and Ankara, whereby the former maintained its conciliatory attitude - given its asymmetric dependence on Ankara - even in the face of “dirty” bargaining tactics (threats) employed by the latter.<sup>11</sup> On the other hand, the resulting refugee deal encouraged EU-Turkey cooperation not only in the area of migration but also the economy (via preparations for the upgrading of the EU-Turkey Customs Union agreement), energy, and foreign and security policy (i.e., counterterrorism), as foreseen by the November 2015 Statement. It was also agreed that such matters of mutual concern would be tackled at regularly held EU-Turkey bilateral summits (EU-Turkey High Level Dialogue) which, emerging as an alternative avenue for EU-Turkey interactions in comparison to longstanding yet ineffective mechanisms such as the EU-Turkey Association Council, “indicate[d] a new pattern of a differentiated integration between the EU and Turkey” outside of the traditional EU negotiations and enlargement policy.<sup>12</sup>

Taken together, these developments suggested that EU-Turkey interactions now exhibited a pattern which comes close to a strategic partnership based on mutual

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<sup>10</sup> “Turkey will call off migrant deal if EU fails to grant visa-free travel by June – PM.” *Reuters*, April 18, 2016.

<sup>11</sup> Greenhill, “Open Arms Behind Barred Doors”.

<sup>12</sup> Müftüleri-Baç, “TURKEY’S Future”, 18.

functional interests rather than a rules-based relationship primarily guided by political conditionality and geared towards Turkey's EU accession. In fact, in the period following the refugee crisis, the relations' strategic nature was regularly emphasized by the EU's official documents on Turkey as well as EU officials' and European politicians' statements. Although a full discourse analysis is beyond the scope of this paper, it should nonetheless be noted that a generally strategic European tone towards Turkey was prevalent. In a way, the tone was set at the outset by Donald Tusk when launching the November 2015 EU-Turkey Statement: "Turkey remains a strategic partner for Europe, but also a candidate country of the EU".<sup>13</sup> By the end of 2016, the Commission's Progress Report on Turkey opened by stating: "Turkey remains a key partner for the European Union", and underlined enhanced EU-Turkey "cooperation in the areas of joint interest, which support and complement the accession negotiations".<sup>14</sup> While former Commission reports had also highlighted functional interactions between Ankara and Brussels in addition to the former's progress towards accession, the 2016 report was the first to put this much emphasis on the EU-Turkey "partnership". Similarly, the December 2016 EU General Affairs Council labeled Turkey "a candidate country and a key partner for the Union" and underscored the EU's commitment to working together with it "for the mutual benefits of our longstanding cooperation in many important fields".<sup>15</sup> Significantly, even the openly critical European Parliament – in its July 2017 resolution calling for the suspension of EU-Turkey accession talks – "[s]tressed the strategic importance of good Turkey-EU relations"<sup>16</sup> and called "for the deepening of ... relations in key areas of joint interest, such as counter-terrorism,

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<sup>13</sup> "Press Remarks by President Donald Tusk after the meeting of EU heads of state or government with Turkey." 882/15, November 29, 2015. <http://www.consilium.europa.eu/en/press/press-releases/2015/11/29-tusk-remarks-after-eu-turkey/>.

<sup>14</sup> European Commission, "Turkey 2016 Report", 4.

<sup>15</sup> European Council, "Outcome of the Council Meeting", 9.

<sup>16</sup> European Parliament, "European Parliament Resolution of 6 July 2017", point 3.

migration, energy, the economy and trade”, emphasizing that it would be “an investment in the stability and prosperity of both Turkey and the EU”.<sup>17</sup>

At this point, it should be stressed that by themselves, the EU’s strategic, functional relations with EU candidates are not inherently at odds with the logic of conditionality. The EU can very well maintain such relations while making them conditional, to some degree, on candidates’ respect for its liberal democratic values. It is doing the opposite (that is, ignoring values altogether and sticking to pure transactionalism) that would clearly violate the Union’s conditionality regime. In fact, this would not only be misplaced and illegitimate (given the need for the EU’s external relations and partnerships to reflect democratic principles, as stated in TEU’s Article 21) but would also signal the EU’s preference for purely transactional relations over a conditional relationship subsuming the membership carrot. Indeed, this is precisely what emerged between the EU and Turkey as evident in the strategic partnership triggered by the refugee crisis. With the material rewards and normative concessions it extended Turkey – at a time when the backsliding of Turkish democracy had reached historic proportions - in exchange for its cooperation through the crisis, the EU systematically overlooked Turkey’s non-compliance with the political criteria forming the backbone of its accession conditionality. In other words, EU-Turkey functional cooperation following the crisis came at the expense of the EU’s foundational democratic principles that had hitherto conditioned the flow of EU-Turkey relations, especially since 1999 when Turkey earned official EU candidacy status.<sup>18</sup>

The EU’s backtracking on conditionality through the refugee crisis was evident in two specific ways. First, as highlighted above, the Union offered Ankara certain

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<sup>17</sup> Ibid., point 20.

<sup>18</sup> Kubicek, “Political conditionality”.

material rewards. Among these, the prospect of “energized accession talks” especially contradicted the EU’s conditionality regime that prohibits (and may even suspend) the opening of negotiation chapters in case of “serious and persistent breach” of the EU’s foundational democratic principles,<sup>19</sup> which effectively characterizes Turkey’s sustained non-compliance with the political criteria.<sup>20</sup> As observers rightly reacted: “The EU’s offer to reinvigorate Turkey’s accession process ... has voided the political criteria for membership of meaning”.<sup>21</sup> Yet, negotiations on two chapters (Chapters 17 – “Economic and Monetary Policy” and 33 – “Financial and Budgetary Provisions”) were respectively opened in December 2015 and June 2016, drawing sharp criticism from scholars of EU-Turkey relations: “[O]pening a chapter now - and a chapter that is not directly related to human rights issues - signals to a radiant Davutoğlu that EU norms are up for grabs” (Bechev and Tocci 2015).

This inconsistency in conditionality came in sharp contrast to the EU’s pre-crisis approach to invigorating Turkey’s negotiation process, which revolved around democracy and human rights. As expressed by former EU Commissioner for Enlargement and Neighborhood Policy Stefan Füle in 2013: “Energizing the EU accession process and strengthening democracy by respecting rights and freedoms are two sides of the same coin”.<sup>22</sup> Additionally, the launching of Chapters 17 and 33 contradicted the EU’s Enlargement Strategy (announced by the Commission in 2012) prioritizing the opening of Chapters 23 (“Judiciary and Fundamental Rights”) and 24 (“Justice, Freedom and Security”) with Turkey so as to “signal the EU’s emphasis on rule of law and the protection of individual liberties as the main objectives of the

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<sup>19</sup> European Council, “Negotiating Framework”, 7.

<sup>20</sup> European Commission, “Turkey 2018 Report”; European Parliament, “European Parliament Resolution of 6 July 2017” and “European Parliament Resolution of 14 April 2016”.

<sup>21</sup> Okyay and Zaragoza-Cristiani, “The Leverage of the Gatekeeper”, 64.

<sup>22</sup> Füle, “EU-Turkey bound together”.

enlargement strategy”.<sup>23</sup> In short, the opening of chapters at a time of unprecedented non-compliance by Turkey tore down the very idea of “reinforcement by reward” forming the essence of EU conditionality since the incentives in this case were not given to reward pre-existing democratic compliance.

Second, the EU’s retreat from political conditionality was also evident at a rhetorical level. Indeed, EU officials and European policy-makers verbally de-emphasized Turkey’s growing problems on the democracy and rule of law fronts during negotiations leading up to the EU-Turkey refugee cooperation, thereby effectively offering Ankara what could be considered as normative concessions. Starting with October 2015, the frequent, high-level visits between Turkey and representatives of EU institutions as well as individual member state leaders (notably, Merkel) reinvigorated dialogue on a purely functional basis: “Erdoğan ha[d] sunk to pariah status in the west since 2013 because of his hardline responses to internal dissent. Europe’s refugee emergency, however, ha[d] its leaders increasingly keen to overlook the problems”.<sup>24</sup>

More vividly, as admitted by Juncker on the eve of the November 2015 Statement:

We can say that EU and the European institutions have outstanding issues with Turkey on human rights, press freedoms and so on. We can harp on about that but where is that going to take us in our discussions with Turkey?... We want to ensure that no more refugees come from Turkey into the European Union.<sup>25</sup>

Similarly, when Merkel visited Turkey in October 2015 to negotiate the refugee deal with Ankara, she refrained from raising Turkey’s democracy problems and expressed support for re-energized EU-Turkey talks. As the representative of the leading EU member state in managing the refugee crisis, her change of tone proved

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<sup>23</sup> Müftüler-Baç and Çiçek, “A Comparative Analysis”, 23.

<sup>24</sup> “EU leaders ask Erdoğan to back radical refugee plan.” *The Guardian*, October 5, 2015.

<sup>25</sup> “EU should not ‘harp on’ Turkey about human rights, says Jean-Claude Juncker.” *The Telegraph*, October 17, 2015.

significant not only because it contrasted with her highly critical, pre-crisis stance concerning Ankara's democratic backsliding,<sup>26</sup> but also because it signaled that the EU would be willing to put democratic values on the back burner if doing so is strategically indispensable.

The softened European approach to Ankara to secure its strategic cooperation through the crisis additionally triggered certain political concessions, again sharply contrasting with the relatively firm conditionality of the pre-crisis period. For example, the Commission delayed the publication of its 2015 progress report (strongly criticizing the “significant backsliding” of Turkish democracy) – reportedly “on Erdoğan’s request”<sup>27</sup> - until after Turkey’s general elections held on November 1, 2015, eventually issuing it on November 10, 2015. The European Parliament (EP) was the only EU institution which criticized the move, arguing that it “was a wrong decision, as it gave the impression that the EU is willing to go silent on violations of fundamental rights in return for the Turkish Government’s cooperation on refugees”.<sup>28</sup> Parallel warnings were particularly issued by EP’s Turkey rapporteur Kati Piri when she stressed, during the negotiations for the March 2016 deal, the need to disassociate it from Turkey’s accession process: “My message to the EU leaders is stick to your own values. We are not taking our own principles seriously enough”.<sup>29</sup>

In short, the EU’s asymmetric strategic dependence on Turkey as it handled the refugee crisis ushered in a functionally oriented, strategic partnership with Ankara, which replaced earlier relations that centered around Turkey’s observance of the EU’s

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<sup>26</sup> In this respect, the fact that Merkel nearly vetoed the opening of Chapter 22 (“Regional Policy and Coordination of Structural Instruments”) with Turkey during the summer of 2013 (citing the Turkish government’s intolerance vis-a-vis peaceful dissent, following the May-June Gezi protests) is particularly worth noting.

<sup>27</sup> Okyay and Zaragoza-Cristiani, “The Leverage of the Gatekeeper”, 58.

<sup>28</sup> European Parliament, “European Parliament Resolution of 14 April 2016”.

<sup>29</sup> “Refugees and Turkey accession are ‘separate issues.’” *EUobserver*, March 17, 2016.



democratic values. Indeed, the EU-Turkey refugee deal was finalized in the spirit of the Union's and/or individual member states' (e.g., Italy) strategic interactions with some ENP countries (e.g., Libya) over migration, which have similarly been maintained in disregard for these regimes' democratic credentials. As such, arguably, Turkey has effectively been dealt with as a neighborhood country and a strategic partner rather than a more firmly treated EU candidate subject to membership conditionality.

### **Conclusion**

This paper has investigated the question of how consistently the EU has used its political membership conditionality to tackle rising illiberalism in the European periphery by focusing on the case of EU-Turkey relations during the 2015-2016 Syrian refugee crisis. It has shown that motivated by external factors (i.e., security-related foreign policy goals), the EU has violated the consistency of conditionality vis-à-vis Turkey by making the March 2016 refugee deal. Relatedly, as Brussels and Ankara intensified cooperation to manage the crisis, relations have taken a turn towards a strategic partnership which came at the expense of conditionality that characterized pre-crisis relations. In fact, the deal was the product of strategic bargaining between the two sides, marked by Ankara's leverage, and resulting in material and normative concessions extracted by the latter.

At the current juncture, relations seem to be oriented by a firmer application of conditionality, which is consistent with the lessening impact of exogenous, security-related factors bearing on the EU's application of this crucial policy instrument. Now that the refugee crisis has largely been contained as a result of Turkey's cooperation with the EU, there is larger scope for conditionality and a more rules-based EU approach. Indeed, signs for this are already in place since the EU no longer "rewards" Turkey by opening new negotiation chapters. Condemning the deterioration of Turkish

democracy under Turkey's emergency rule<sup>30</sup> (declared in response to the July 2016 coup attempt and effective since then), the EU's December 2016 General Affairs Council decided: "Under the currently prevailing circumstances, no new chapters are considered for opening" (European Council, 2016, 13). Instead, the EU is rather committed to maintaining relations of functional cooperation and partnership with Turkey. As announced by Council President Donald Tusk at the EU's March 2018 Varna meeting with Turkish President Erdoğan:

... while our relationship is going through difficult times, in areas where we do cooperate, we cooperate well. We reconfirm our readiness to keep up the dialogue and consultations and to work together to overcome current difficulties with a view to unleashing the potential of our partnership.<sup>31</sup>

In the final analysis, in light of the case study on Turkey, the memo reveals that EU membership conditionality can be just as inconsistently applied as ENP conditionality when other factors trump its application by the Union. Consequently, just like it has been demonstrated by the EU's dealings with the illiberal regimes in the neighborhood, this can have a stabilizing effect on the illiberal incumbent regimes (Börzel, 2015).

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<sup>30</sup> In this respect, it is worth noting that the Commission's 2018 progress report on Turkey widely documented the "serious backsliding" marking the independence of the Turkish judiciary and fundamental freedoms (European Commission, 2018).

<sup>31</sup> "Remarks by President Donald Tusk following the EU-Turkey leaders' meeting in Varna." 173/18, March 26, 2018. <http://www.consilium.europa.eu/en/press/press-releases/2018/03/26/remarks-by-president-donald-tusk-after-the-eu-turkey-leaders-meeting/>.

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