

Analysis

March 30, 2012

Summary: On February 28, the Constitutional Court issued a decision invalidated legislation which would have made those who denied that the Armenians experienced genocide in 1915 subject to prison sentences, substantial fines, or both. Not surprisingly, shortly after the news broke out that the French court had decided to annul the law, there was relief and rejoicing among the Turkish public. The Turkish government had put into effect a number of measures against France when the Armenian bill had cleared the Assemblée Nationale, but has decided not to withdraw the initial set of measures, adding that other measures would be introduced if the French government continued to insist on its past course and reintroduce the bill.

Back to the Drawing Board: French Armenians and Turkish-French Relations

by Ilter Turan

It all happened so fast. The readers of this series will recall that in December 2011, the French National Assembly passed a law that made those who denied that the Armenians experienced genocide in 1915 subject to prison sentences, substantial fines, or both.¹ Encouraged by French President Nicholas Sarkozy, a deputy from Marseilles, a constituency with a substantial Armenian-French population, had introduced the bill that was accepted in a sparsely attended session of the Assemblée Nationale. Interpreting the move as a gesture to French-Armenians whose votes for Sarkozy would be important in what promised to be a close election, we had suggested at the time that there was little time before the French legislature went into recess on account of upcoming presidential and then parliamentary elections, making it unlikely that the proposed legislation would go through the French Senate in sufficient time and then be rendered into law. It seems that we fully misjudged the determination of the French president and his allies who guided the bill through the Senate. In January, the procedure was completed.

It seems, however, that we are not the only ones who are prone to making misjudgments. Almost immediately after the promulgation of the law, a public debate that had already begun as the bill was going through the two legislative chambers intensified. A number of deputies, senators, and intellectuals felt that the law violated freedom of expression since it rendered impossible a debate by pronouncing one viewpoint *prima facie* criminal. French law allows 60 members of parliament to petition the Conseil Constitutionnel, the French Constitutional Court, and challenge the constitutionality of the law within a month of its going into effect. A process of collecting signatures to challenge the law commenced. The Turkish ambassador, who had been called back home for consultations, returned to Paris to persuade those already known to be disturbed by the legislation that not only did the law violate the freedom of expression but that it would cause irreparable damage to Turkish-French relations. Shortly before the deadline, the required number of signatures was collected. Apparently, remarks by President Sarkozy that the members of his party should not sign the petition had failed

¹ see "Legislating History and its Effects on Foreign Policy," On Turkey Series, Ilter Turan, January 05, 2012

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to persuade the UMP parliamentarians to abstain from challenging an act that they believed infringed upon basic rights.

The Constitutional Court issued its decision on February 28. In its opinion, the court concurred with the challengers that the law was unconstitutional, basing their decision mainly on the point that it restricted the freedom of expression as had been practiced in the country since the French revolution. Such an outcome, a week before the legislature was to go into recess, drew a furious reaction from Sarkozy, who said that a bill should immediately be prepared addressing the concerns of the court and rushed through the parliament. He only changed his mind after the strong discouragement from parliamentary leaders of his party that this was not only unorthodox but also nearly impossible.

Apparently a process of who is at fault for what transpired has commenced. Some radical Armenian publications have accused Sarkozy of leading them down the primrose path. It is reported, on the other hand, that the mayor of Marseilles has scolded the members of the Armenian lobby for having been impatient and forcing political leaders to rush without having sufficient time to plan the bill carefully. Not to be outdone, the Socialist candidate for president, Francois Hollande, who seems to be leading the polls at the moment, has also expressed his regrets and promised to take up the matter after the presidential election.

A Victory, but for Whom?

Not surprisingly, shortly after the news broke out that the French court had decided to annul the law, there was relief and rejoicing among the Turkish public. Televisions, radios, and newspapers all gave prominence to the news, emphasizing how Sarkozy had lost. The topic was taken up in television talk shows, and the views of experts were solicited by newspapers. The pertinent government ministers expressed content with the decision. Since Sarkozy had been correctly identified as the main “troublemaker,” his failure to get what he wanted was an understandable source of satisfaction. There was also a sense of achievement that the efforts of the Turkish ambassador and modest Turkish lobby to convince French parliamentarians to sign the petition, citing its

undemocratic nature and its potential harm on bilateral relations, had come to fruition.

Yet, there was an ironic twist to what was happening. Although Turkey had gotten what it had wanted after a tumultuous process, the outcome could not be termed a Turkish victory. Those who had lent their signatures to contesting the law were not necessarily favorably disposed toward Turkish viewpoints. Some among them probably agreed that the events of 1915 were in the nature of genocide. They did, however, subscribe to an understanding of democracy and freedom of expression that did not allow preventing citizens from putting forth ideas that differed from those of the majority or those of government agencies. Some also felt that if an international tribunal had designated the unfortunate events of 1915 as genocide, as in the case of the Gayssot Law that renders the denial of the Jewish Holocaust a criminal act, then the Armenian law could have been allowed to stand.

Turkish political leaders were quite aware that the outcome, though much to their liking, could not be termed a Turkish victory. Therefore, in their public remarks evaluating the developments, inadvertently, they extolled the virtues of French democracy and the country’s democratic traditions, which, they argued, had been served well by the decision of the court. During the ordeal, it became all the more evident that the shortcomings and the weaknesses of Turkey’s democracy did not strengthen Turkey’s ability to make its case forcefully in the international arena.

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What Next?

As shall be recalled, the Turkish government had put into effect a number of measures against France when the Armenian bill had cleared the Assemblée Nationale, adding that these constituted the first steps of a multi-stage plan where progressively tougher measures would be introduced. These initial measures included, among others, the suspension of political consultations, a hold on French naval visits to Turkish ports, a freeze on joint military exercises, and an end to blanket monthly permits for French military aircraft to use Turkish airspace. In view of the pronouncements of both Sarkozy and Hollande, that after the elections they would return to the issue and possibly rewrite the law to meet the Court's objections, the Turkish government has decided not to withdraw the initial set of measures, adding that other measures would be introduced if the French government continued to insist on its past course.

The deterioration of bilateral relations has also manifested itself in other domains. The Turkish prime minister, for example, has begun to argue that France should not be a member of the Minsk group, established by the OSCE to work toward a solution in the Armenian-Azerbaijan Conflict on Nagorno-Karabagh and led by Russia, the United States, and France. While the Azeri government is cautious in its expression of support, the Azeri opposition has found the idea appealing. The appeals of the Turkish prime minister who enjoys widespread popularity in North Africa, particularly among the Islamic parties, that France should repent for the sins that it committed in Algeria and elsewhere has found support, causing embarrassment to the current Algerian government, which is very favorably disposed toward France. Similarly, Turkey and France are engaged in an unfriendly competition in the Middle East. Regarding the meeting of the Friends of Syria, planned for Istanbul next month, apparently no invitation will be sent to the French president although French Foreign Minister Alain Juppé, a bastion of sobriety during the ordeal, will be getting an invitation.

It is clear that the insistence of French political leaders, irrespective of party, on passing some kind of law that makes denying the events of 1915 were genocide will continue to plague bilateral relations. It is quite conceivable that the issue is being kept alive at the moment for electoral reasons and that it will recede to the bottom of the political agenda

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after the elections, allowing the two countries to improve their relations. Such an expectation appears optimistic, however. It seems equally possible that the issue will remain alive, especially if Sarkozy returns to office. Furthermore, it is known that the Armenian diaspora has been working hard to commemorate the centennial of the "Great Disaster" in a major way, leaving no question that whoever is in power in France will come under great pressure by the French-Armenian community to pass a Genocide Law as well as do other things.

The Broader Framework

What happens in Turkish-French relations inevitably affects the relations of both countries with others. To begin with, France has been a major force (but by no means the only one) standing in the way of the advancement of Turkey-EU relations. French objections to Turkey's membership are not confined to the disagreement on what to call the events of 1915 and whether alternative interpretations should be disallowed and punished, but the emotional element on this topic is strong and tends to produce a crisis in what is already a problematic relationship. This, in turn, has other consequences. As reported in the preceding paragraphs, it also tends to spill over into areas such as the French membership in the Minsk group, French history in North Africa, and French political and military activism in the Eastern Mediterranean and the Middle East.

The current state of affairs has rendered it extremely difficult to be assured of Turkish-French cooperation within the Atlantic Alliance framework. The restrictions imposed on French military aircraft using Turkish airspace have already introduced inconveniences for the French forces in Afghanistan. It may also rule out effective military cooperation between the two countries in Syria. Bilateral cooperation or multilateral cooperation in which both countries take part in developing energy transport routes out of the Middle



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East and Caucasus has already fallen victim. Other areas may soon become a part of this contentious relationship.

Finally, the French actions reduce the likelihood of improvement in Turkish-Armenian relations. The Armenian government becomes less willing to reach compromises on its problems with Turkey and Azerbaijan when it feels it has the strong backing of France. Turkey, similarly, becomes less and less flexible in its dealings with Armenia when France engages in exercises that Turks perceive are designed to humiliate them.

What to Do?

Friends and allies may need to work harder to persuade both the French and Turks to act with restraint and take care not to worsen their relationship. While the problematic relationship between France and Turkey is due to many factors, the Armenian Genocide Law is a genuine powder keg. What should a friendly ally tell France and Turkey under the circumstances? To the French, one might advise to respect Turkish sensitivities, to choose rhetoric carefully, and to demonstrate that Turkey's friendship is valued and desired. One might add that the symbolic gratification of a law criminalizing the denial of the so-called Armenian Genocide is outweighed by the negative political and strategic outcomes it produces. Furthermore, it makes it all the more unlikely to get the Turks to take a critical look at their past. To the Turks, careful choice of rhetoric also applies. It may also be pointed out that the pressures to engage in symbolic action are not confined to the French government, and they are likely to increase as 2015 approaches. The reprieve the decision of the French Constitutional Court and the French elections may offer Turkey if limited, "unpressured time" within which to map out an innovative strategy to address the coming of 2015.

About the Author

İlter Turan is a professor of political science at Istanbul's Bilgi University, where he also served as president between 1998-2001. His previous employment included professorships at Koç University (1993-1998) and Istanbul University (1964-1993), where he also served as the chair of the International Relations Department (1987-1993), and the director of the Center for the Study of the Balkans and the Middle East (1985-1993). Dr. Turan is the past president of the Turkish Political Science Association and has been a member of the Executive Committee and a vice president of the International Political Science Association (2000-2006). He is a frequent commentator on Turkish politics on TV and newspapers.

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