

**POWER TO DELAY: TURKEY'S EU ACCESSION PROCESS
WITHIN THE CONTEXT OF A PROCESS-DRIVEN
APPROACH¹**

**GECİKTİRME GÜCÜ: SÜREÇ YÖNELİMLİ BİR YAKLAŞIM
BAĞLAMINDA TÜRKİYE'NİN AB'YE KATILIM SÜRECİ**

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ABSTRACT

In this article, European enlargement will be analyzed with specific reference to the Turkish case. Instead of goal-oriented and rational-comprehensive approaches, incrementalism and process-driven approaches will be employed. Based on these analytical tools, it will be argued that delay is not a problem but an opportunity for any solution based on democratic negotiation. In addition to this basic assumption, in this study it will also be put forth that incremental policies may cause major policy changes and that technical issues can hardly be separated from politics.

Key Words: *Power to delay, process-driven approach, negotiations, EU accession process, Turkey, incrementalism*

ÖZET

Bu makalede, Avrupa genişlemesi özellikle Türkiye örnek olayına atıfla çözümlenecektir. Amaç yönelimli ve ussal-kapsayıcı yaklaşımlar yerine, artımcılık ve süreç yönelimli yaklaşımlar kullanılacaktır. Bu çözümleme araçlarına dayanarak, gecikmenin bir sorun olmadığı, demokratik müzakereye dayalı herhangi bir çözüm için bir fırsat olduğu savunulacaktır. Bu temel varsayıma ek olarak, bu çalışmada ayrıca artımcı politikaların temel politika değişikliklerine yol açabileceği ve teknik meselelerin siyasetten ayrılmasının zor olduğu ortaya konacaktır.

Anahtar Kelimeler: *Geciktirme gücü, süreç yönelimli yaklaşım, müzakereler, AB katılım süreci, Türkiye, artımcılık*

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Negri (2005: 29) argues that “time cannot be presented as measure, but (...) substance.” By time as substance he means, “qualitative measure of the alternative and of change” (Negri, 2005: 21), rather than quantity. In this paper, time will be discussed using the term delay, rather than punctuality. I will explain two qualities of time/delay with reference to the term power to delay. The first quality of time/delay, as its name suggests, is power. In enlargement literature, it is argued that a candidate country has to do nothing but adopt the Copenhagen Criteria dictated by European Union (EU). Under such conditionality, the candidate country has no power at all. The term power to delay assumes that any candidate country has still some kind of power. The second quality of time/delay is democratic negotiation. Again, in enlargement literature, especially according to those who refer to multiple veto points of rational choice institutionalism, delay is seen as a problem to be solved. On the contrary, I will argue that it is not a problem but a part of the solution since it is a means for democratic negotiation. Delay is a democratic moment because it permits debate over the issue imposed by the EU, that is to say, it is an opportunity to bring the issue into the public debate. Apart from democratic opportunity, power to delay gives a strong motive to the policy makers from a pragmatic perspective: In this sense, power to delay is needed to save time to break down deeply rooted path-dependent policies. So, my main argument is that enlargement process is not only a way with constraints, but also with opportunities.

DELAY AS A POWER

According to Weber, power “is the probability that one actor within a social relationship will be in a position to carry out his own will despite resistance, regardless of the basis on which this probability rests” (Hesikela, 2001: 242). To summarize, “in the case of exercise of power, A gets B to do what he would not otherwise do” (Lukes, 1993: 54). The crucial point here is that the B’s deed is not wanted until A acts. In this case, only if the deed is not wanted can we speak of successful exercise of power. The first conclusion is that, if A gets B to do what he would have done it is not an exercise of power. Secondly, which more specifically concerns us, if B postpones A’s will to act, that is, if B delays executing the deed because he was compelled by A, there also wouldn’t be a successful exercise of power. If there is no successful exercise of power, then there should be a power to prevent it. This power concerned is power to delay. Nevertheless, it is temporal in the sense that delay cannot be forever.

If the example of the Constitution of Republic of Turkey is taken, the article 104 rules that The President of the Republic has power “to return laws to the Turkish Grand National Assembly (TBMM) to be reconsidered.” This means the President has power to delay the promulgation of laws adopted by the TBMM for further consideration.

Therefore, the President has nothing but power to delay the laws, because TBMM can reintroduce the same law with the same wording. However, he cannot reject the adopted law a second time, but has to promulgate the law. The rationale behind this power is to give chance the rejected part an opportunity to rethink the issue concerned. This brings us to my second point: Democratic negotiation.

DELAY AS DEMOCRATIC NEGOTIATION

Rational Choice Institutionalism (RCI) is based on actor-centered functionalism (Pierson, 2000) and instrumental rationality. RCI asserts that all institutions provide security and efficiency by removing uncertainties and reducing transaction costs for those strategically involved. Institutions do exist because its anticipated effects (functions) are for the sake of actors who created them. Instrumental rationality asserts that reality exists and reason can grasp the reality as a whole. In order to conceive the knowledge of reality, it assumes that it is possible to capture perfect information and rational man can know all alternatives vis-à-vis any problem faced. Given full information and all alternatives, rational man can choose the best alternative after considering his/her ends with appropriate means. Since actors are aware of the possible and predictable benefits coming from the institution, they voluntarily act in accordance with institutional rules and procedures. However, rational actors may not be in line with the same rules and procedures regarding the enlargement. In the case of “preference heterogeneity”, “rather smooth and unproblematic transformation process is not expected” (Dimitrova and Steunenberg, 2004: 188). Accordingly, “the basic hypothesis is that when the number of actors involved in the decision-making process increases, it becomes more difficult to find solutions that are preferred by all” (Dimitrova and Steunenberg, 2004: 189).

Such a perspective is true only if it implies that multiplicity leads to delay. However, the point here is not limited with this simple assumption. If it is admitted that delay is a problem, then the solution becomes the reduction of the multiplicity. “It is as if conflicts among objectives are seen, not as a normal or inevitable part of life, but as an error to be corrected—a pathology to be treated” (Spicer, 2004: 258). Therefore the solution is twofold: 1. Accelerate the policy-making process and 2. Reduce the veto points. Then, what is rationally expected by the candidate countries is to be a passive receptor. The contradiction here is sometimes stated by the term “democracy deficit” (Hix, 2003) or “governance by enlargement” (Dimitrova, 2002: 176). However delay has never been seen as an opportunity so far. It is an opportunity to open the door of democratic negotiation. What is to be done is not to restrict but to create a non-distorted communication among individuals. This requires the communicative reason instead of technical one.

Using Habermasian language, I suggest that EU enlargement is the level of practical discourse and EU membership is that of theoretical discourse. Habermas, separates the interactive use of language with the cognitive one which corresponds to practical and theoretical discourse in order to explain his theory. (Williams and Fearon-Johns, 1992: 122-124) Practical discourse refers to the norms of a certain society and culture oriented towards integration. These norms provide the normative framework which legitimizes the actions of actors. In our case, the enlargement itself is the normative framework. If we question the practical discourse, says Habermas, we have three options: The first one is to reject communication. The second one is the strategic communication which is not compatible with the notion of good will which is good in itself. The third option is “to continue interaction on a consensual basis by entering into a critical discussion for the purpose of arriving at a rational agreement.” (quoted from Habermas by Williams and Fearon-Johns, 1992: 124). This level refers to the theoretical discourse, that is, the membership. Everyone is free to pass or not to pass to this level. If such freedom exists, and if they choose to pass through this level, then it is possible to reach the ideal speech situation aiming at achieving consensus. So, it is essential that public debate be vitalized, and not diminished. Delay, in this context becomes an opportunity to pass the second level.

MEANS-ENDS IN PRACTICAL DISCOURSE

Instrumental rationality takes means and ends as given before any decision taking process. However, communicative rationality that supports practical discourse enables participants to discuss both means and ends. “Practical discourse involves discussion, debate, deliberation, and argumentation over that is true or false, good or bad, right or wrong, and what should be desired.” (Jay, 1990: 133) Furthermore, what is also aimed at by the practical discourse is to understand each other: “Mutual understanding does not necessarily mean accepting another person's beliefs and values, but rather understanding what those beliefs and values are and why others hold them, and vice versa.” (Jay, 1990: 143-144)

Then practical discourse has two distinctive advantages. The first one is argumentation, that is to say, democratic negotiation. The second one is mutual understanding. Power to delay enables both of these aims while deferring the time. Delay permits both parts to discuss every issue in a detailed manner. Public debate and exposing subjective interest in the course of argumentation would facilitate understanding every part.

According to instrumental rationality, since both means and ends are predetermined, what is rationally expected, is to follow the means prescribed in order for the realization of the ends. Instrumental rationality promotes a sole and explicit goal so that everyone concerned will be able to devote their

effort to fulfill this unique aim. On the one hand one aim underestimates the multiple and conflicting purposes, on the other hand presupposes the so-called consensus of all without democratic negotiation. Then the main strategy becomes as follows: "They urge entrepreneurial leaders to rally their communities to their visions and to gain support from enough of the community so as to overcome the opposition to the leaders' vision." (Spicer, 2004: 359)

Contrary to instrumental rationality, practical discourse allows the protection of multiplicity and diversity. This is the main point that the term *deliberation* leads us to. A goal-driven approach focuses on ends via quickening the process. The process here is only a means for achieving the predestined end. However, a process-driven approach gives priority to the process rather than the goal. "Results in and of themselves ought not be considered a measure of success; sometimes, preventing action would be the better indicator that democracy has taken place." (Miller, 1998: 463)

The logic behind it can be explained via Dahl, who is a liberal pluralist defending procedure for policy-making process. For Dahl (1995), it is not possible to imagine that human beings are in agreement with each other. So, the problem is not to make them agree, but rather, to create a very structure (and/or procedure) which legitimizes disagreements. In other words, this method would allow everybody to accept the output of the debate even if it is not true for them. So, by this decision-making process, whatever the result, it would be adopted. As argued by Benhabib (1999: 108) procedures neither dictate the results nor determine the quality of the argumentation.

A process-driven approach does not have a bias of truth in the argumentation, the only aim is to promote diversity and multiplicity. The result is not important in the sense that it is the secondary aim of the argumentation. There is no truth without the discourse. The discourse determines the truth. Since truth is dependable on the discourse, the truth itself has no primary importance. As is defended by Popper, the only outcome of argumentation process does not stem from perfect consensus, because it is impossible since as soon as we solve a problem, we immediately face another one. That's why; Popper (1963: 352) claims that one can only hope for the "mutual fertilization of opinions, and the consequent growth of ideas." A more radical view echoed by Miller (2000: 90) goes further as follows:

Discourse (...) is intersubjective, contingent, and open ended. I presume all utterances to be contestable, including any agreement that may emerge within the discourse. Consensus, on the other hand, is realized either through brute coercion or strategic exclusion. There is no authoritative final decision in the public discourse (...) Instead there are a variety of voices and orientations worthy of listening.

INCREMENTAL LOGIC OF PROCESS-DRIVEN APPROACH

By looking at policy process as something rational leads us to such an understanding that everything is in its place like cogs in a machine. Everything is arranged in order, and to achieve a result, one should follow certain predestined stages. Then, it is possible to assume that one best possible alternative would inevitably be shared by others, that is, policy environment would not be conflict-ridden but consensus based as is seen in the table below.

Table 1: Technical Policy Process

Formulation	Means-Ends	Process	Environment	Effect
Technical	Predetermined	Controlled	Consensual	Foreseen

Inspired from (Gordon et al., 1993)

However, according to the political model of policy process in Table 2 below, it is rather a description of an ought-to-be situation. In the real world neither the knowledge, nor the alternatives are perfect. Moreover, there are few alternatives considered. Therefore, means and ends are determined contingently and not permanently. According to this model, the policy process follows a diversified line since there is no one right path to go. Finally, it is assumed that ultimate technical-rational authority understanding should be abandoned, since conflict is desirable, let alone inescapable. Every actor in the policy process tries to persuade the others in order to get their alternative adopted. This model may also be labeled as incremental model.

Table 2: Political Policy Process

Formulation	Means-Ends	Process	Environment	Effect
Political	Contigent	Diversified	Conflitual	Unintended

Inspired from (Gordon et al., 1993)

Incremental logic and its rationality, question every kind of deterministic and instrumental approach. Instead of it, Lindblom (1995) suggests successive limited comparisons due to the fact that according to him policy makers cannot have an overall criterion in order to evaluate any alternative. Moreover, means and end cannot be taken for granted since they are simultaneously determined in the course of time. The decision between alternatives is based on their marginal differences. By this method, policy process is defined as a negotiation process. For him, any rationality comprehension should reject any technocratic connotations based on specialists' technical knowledge.

The main criticism directed at incremental logic is its slowness and its lack of capacity to take radical steps. That's why, for Dror (1989)

incrementalism is rather conservative and promotes “inertia.” However, as has been debated before, slowness is not a problem for the process-driven approach; on the contrary it is part of the solution. As for the second criticism, incremental logic does not negate radical steps; on the contrary, it facilitates them. It is true that incremental logic follows a path-dependent way; however, it is not the whole story. The Turkish case presents a good example of the radical nature of incremental logic.

THE FIRST CASE: DEATH PENALTY AND INCREMENTALISM IN TURKEY

Let’s recall the Turkish case of abolishing the capital death penalty. It was not an easy task for Turkish governments to tackle because of the strong opposition of nationalist (Nationalist Movement Party, MHP) member of the coalition government. Six incremental steps have been taken by different governments which resulted in full compliance with EU legislation. This process shows that delay is not an obstacle but the very part of the solution. It also proves that some fundamental decisions need time to debate the hot issue concerned. Furthermore, this case also indicates that incremental steps may lead to macro or fundamental changes instead of inertia. It is important to underline the fact that abolishment of death penalty was not final aim of the government which proves that ends-and-means can change during the policy process.

The first step taken by the Ecevit government in lifting the death penalty was the postponement of the execution of death penalty on Abdullah Öcalan, who is the leader of the terrorist organization, PKK. This decision was taken by the three coalition partners headed by Prime Minister Ecevit at the 12th of January, 2000 summit that took seven and a half hour to come to an agreement.

Ecevit announced that the file would be put on hold in Prime Ministry till the end of the process stemming from international commitments. In order to relieve the MHP group, the sentence saying, 'the process of delaying will be cut immediately and the process of hanging will start in case the delay is tried to be used against the high interests of Turkey' was added into the statement of Ecevit. (quoted from *Cumhuriyet* by *Anadolu Agency*, 13.01.2000).

“Paramount interests” discourse does also exist in the coalition protocol of 57th government of Ecevit. In this protocol it is written that “no concession will be given from our national rights and interests in return to the efforts to be a full member of the EU.” (Anadolu Agency, 28 May 1999) So as is seen, the execution of death penalty has been postponed in order to wait the decision taken by the European Court of Human Rights. This

tactical policy shows the incremental approach and delay politics of the government.

The second step may also be considered incremental because the constitutional amendment only lifts the death penalty partially. According to the law no. 4709 that amends article 38 of the constitution of the Republic of Turkey, the death penalty shall not be imposed on anyone except for cases in times of war, imminent threat of war and terrorist crimes. Out of 465 present members of Parliament, 383 MPs have accepted the amendment against 74 no votes (TBMM, 2001). This was a rather easily accepted amendment due to its limited extent. That's why, even the MHP voted yes. Nevertheless, again, the full harmonization to EU *acquis* was delayed.

As for the incremental but also fundamental third step, the death penalty has been abolished for terrorist crimes. It is an incremental change because it only removed the word of "terrorist crimes" from the constitution. It is also a fundamental change because Turkey decided not to impose the death penalty on the leader of the terrorist PKK. That's why this amendment attracted many objections², especially by one of the members of the coalition partner MHP. Out of 419 present MPs, only 256 of them voted yes, 162 MPs including MHP voted no. Only one MP abstained from voting. MHP appealed to the Constitutional Court for this article which caused crises between coalition partners, MHP and Motherland Party (Belgenet, 2002). Eventually, "this petition was ... rejected by the Constitutional Court in December 2002" (Avci, 2006: 70).

Finally, the new government (founded on 14 March 2003) under the leadership of Erdoğan, abolished the death penalty completely in line with the European Convention of Human Rights' 6th and 13th protocols. On 26.06.2003 with law no 4913, Turkey adopted the 6th protocol. On 9 January 2004 Turkey signed the 13th protocol of ECHR. On 22 May 2004, with the law of 5170, the exemptions comprise "in times of war and imminent threat of war" have been lifted in line with the 13th protocol.

It took four long years to be fully in line with EU legislation in terms of capital punishment. On the one hand, this case displays "incremental logic marked slow, small and marginal changes." (Dimitrakopoulos, 2001: 405) Within four years, governments have taken incremental steps; however, on the other hand, the case also proves that incremental changes can create major changes.

² "The families of the soldiers who had been killed while fighting the PKK in the Southeastern region of Turkey protested against the reform package because it effectively withdrew the death penalty" (Müftüler-Bac, 2005: 24).

Table 3: Incremental Changes, Fundamental Outcome In Terms Of Death Penalty

Date/ Gvnt	1st Step	2nd Step	3rd Step	4th Step	5th Step	6th Step
12 January 2000 <i>Ecevit Government</i>	Postpone ment of the execution of death penalty					
03 October 2001 <i>Ecevit Government</i>		Removal of death penalty in peacetime				
03 August 2002 <i>Ecevit Government</i>			Removal of death penalty for terrorist crimes			
26 June 2003 <i>Erdogan Government</i>				Adoption of 6th protocol of the ECHR		
09 January 2004 <i>Erdogan Government</i>					Signature of 13th protocol of the ECHR	
22 May 2004 <i>Erdogan Government</i>						Abolish ment of the death penalty as a whole
			<i>Refraction</i>			

One may ask why it took so long to lift capital punishment. Historical Institutional analyses can give us the clue: As is seen, until the third step, the incremental change was rather path-dependent. Since terrorism was an immediate threat in Turkey, it was always possible for Turkey to realize capital punishment. Although the death penalty has not been executed in Turkey since 1984, it would probably have been when terrorist Öcalan's case took the floor at MHP's insistence. That's why refraction point regarding capital punishment was the third step in Table 3 above. It is an important example to show "how incremental steps can produce transformative results" (quoted from Streeck and Thelen, by March and Olsen, 2005:12). Although supported first two incremental steps, MHP strongly objected to the third step on the basis of this transformative capacity. In this case, MHP was the most powerful veto point not only because it had 18% public support from general elections, but also it was a member of the coalition in the ruling government. However, this time opposition parties supported the ruling coalition. When the refraction point had been passed, the door to the abolishment of the capital penalty was widely opened. So until the refraction point, theses concerning path-dependent character of the change have been validated in this case:

The direction of the incremental institutional change will be broadly consistent with the existing institutional matrix and governed by the kinds of knowledge and skills that the entrepreneurs and members of organizations have invested in. That is, institutional change will be path dependent. (North, 1993:3)

Nevertheless, after the third step, path-dependent character became diluted and transformative changes have taken place.

THE SECOND CASE: CYPRUS PROBLEM AND TIME-OUT POLICY IN TURKEY AND THE EU

Another case study may be presented to show how delay is seen as part of the solution and how power to delay matters in the problematic areas.

According to the booklet of Delegation of the European Commission to Turkey, namely "EU membership negotiations process for Turkey" (*Türkiye için AB üyelik müzakereleri süreci*), "*acquis communautaire* cannot be negotiated" (Delegation of the European Union to Turkey, 2006) which states clearly that accession negotiations are not negotiation in the full sense of the meaning. Correspondingly, as argued by Schimmelfenning and Sedelmeier (2005: 224) "accession negotiations are negotiations only by name." Based upon this fact, it is argued that any country that wants to be a member of the EU, "sooner or later" must adapt the *acquis* as a whole. The problem lies here. Implementing a policy sooner (quickening the process) or later (delay politics) are totally different kinds of policies as was argued

before. If any attention is not paid to the time dimension, what is missed in any analysis is the power to delay and its implications.

If we accept that accession cannot be negotiated *per se*, then we should consider the negotiation framework as a purely technical matter. Since everything is clear in this technical matter, every country has nothing to do but to adopt the framework without any negotiation. What is missing in this analysis is that this framework is not beyond question and is *de facto* open to debate especially in the domestic public sphere. The rules of the game are the very topic of practical discourse. Anytime, any country has an opportunity not to accept the rules of game. But they may not use this choice. The crucial point here is that this decision should be decided within the practical discourse. So just like every kind of discourse, negotiation framework and *acquis* is open to discussion within the practical discourse. Besides, if it was beyond question, then why have the EU and Turkey tried to save time and delayed the problem once more?

The second problem with this approach is its technocratic point of view. A flashback to public administration literature may be a good beginning: While Weber (1947: 337) was mentioning bureaucracy from “a purely technical point of view” he never meant that it is a fact. On the contrary, it is an ideal type that cannot be found in the real life. Especially post-Weberian thinkers have showed the “other side of the moon” , although Weber has already showed this part with his terms “bureaucratization of human life,” “disenchantment of the world” and “loss of meaning” in modern world due to rationality. (Smith, 1998) So, technical matter does not necessarily mean that it is purely technical. Any technical matter includes functions and dysfunctions that affect societies as a whole. So it includes politics *per se*. So let’s go back to the main problem. The Customs Union protocol urges Turkey to open ports and airports to (Southern) Cyprus. This so-called technical matter is being debated on the basis of political recognition. Turkey rejects opening its ports and airports without lifting direct trade between Turkish Republic of Northern Cyprus (TRNC) and the EU. On the other hand, (Southern) Cyprus rejects direct trade between TRNC and the EU on the basis that it would pave the way for recognition of the TRNC. So this technical point becomes an immediate political concern.

The term power to delay is a key word to understand this problematic. On the one hand, the EU has a power to delay, because it postponed opening the negotiations in 8 chapters. On the other hand, Turkey has also a power to delay, because Turkey has postponed the Cyprus question while rejecting to open its ports and airports. This means, Turkey has a power to delay even those which are considered compulsory obligations of the EU. As is argued before, if B [Turkey] delays to execute the deed compelled by A

[the EU], there wouldn't be a successful exercise of power. So, Turkey prevented the EU from executing a successful exercise of power. Does it matter? Yes. First of all, it gave a chance to Turkey to debate the legitimacy of the EU and its rules to join the EU. We may call it democratic negotiation. As is argued in the practical discourse, it is a legitimate right of Turkey to question every rule in the discourse. It is power to delay that made it possible. Secondly, it is a part of the solution. The process is going on despite partial suspension. This means there still a chance to solve the problem. Furthermore, the EU is trying to take steps for direct trade between TRNC and the EU. So, Turkey at least achieved one of her aims: it brought this solution to the agenda of the EU. Finally, the immediate solution to this problem may cause bigger problems. So, the so-called solution of sooner implementation may not be a solution *per se*. The current ruling party does not want to assume this important responsibility. So it is a practical decision of the government to delay the Cyprus issue. Secondly without any negotiation within Turkey such a proposal may react conversely. The support for the EU is diminishing in Turkey. In this demotivated mood, any decision which is not legitimized among the people may accelerate the alienation from the EU. Thirdly time-out was a deliberative policy proposal of ex-Ministers of Foreign Affairs. In Turkey, in a television program (Dündar, 2006), five former Ministers of Foreign Affairs were gathered to debate on the diminution of the Turkish people's support for the EU. There was a consensus among former ministers. According to them relations between Turkey and the EU should be suspended for one year. Although such a proposal did not find support from the government and intellectuals, it should be seen as a variant of delay politics. Although the government did not share this idea, Turkey postponed the implementation of the basic demand of the EU regarding Cyprus. Time-out policy somehow has also been implemented by the EU especially after the EU's decision to suspend the negotiations partially.

One may ask: Does power to delay matter? In this situation it seems that it matters. Let's see the outcome according to the Economist (14.12.2006):

The ministers imposed this penalty in retaliation for Turkey's refusal to open its ports and airports to traffic from Cyprus (with whose government it disputes control of the divided island). The foreign ministers also agreed not to give Turkey a firm deadline to meet its obligations (as originally proposed by France and Germany). Instead they contented themselves with a vague formulation. And everyone committed themselves to a form of words about lifting the EU's own trade blockade of northern Cyprus next year.

Although the EU partially suspended the negotiations, it is common knowledge that preparations will be going on in Turkey. *De jure* partial suspension does not necessarily mean *de facto* suspension of preparations for Turkey. On the other hand Turkey has gained three other benefits. The first one is related to the government itself. This important decision has been postponed. The second one is related to the official Cyprus policy of Turkey. Minister for EU Affairs and Chief Negotiator Egemen Bağış (2009) makes this point very clear: “If the EU keeps its promise, and removes the isolations on the Northern Cyprus and initiates the direct trade, we will be happy to open our air and sea ports to the Greek vessels and planes”. Thirdly, Turkish public opinion has a chance to debate this issue in the following years.

As is seen, what is important is not to implement a policy or not, the important thing is the process itself. If the process goes on, then there is still a chance for getting a result from the process even if we still look with a goal-driven approach.

NEGOTIATIONS: TECHNICAL OR POLITICAL?

Then we should revisit the question of technicality of the negotiations. The Cyprus issue has showed that technical issues are intensely political matters. Delay at this point does not necessarily mean problem but it can be part of the solution.

Social Policy and Employment may be a good example for political issues and delay policies. The reason why Turkey could not open this chapter to the negotiations is political. The technical opening benchmark is the enforcement of the trade unions’ law, however, Egemen Bağış could have persuaded neither trade unions nor business organizations. According to rational institutionalism or goal-oriented approach this outcome may be seen as a problem or failure, but according to process-driven approach it is the indicator of the democratic negotiation and in this context the delay is an opportunity.

Another example may be given from the 26th chapter related to education and culture. Although there is no technical opening benchmark for the chapter concerned, according to the EU experts of the Ministry of Culture and Tourism, Yılmaz and Savacı (interview, 2009), it has not opened yet so far due to political reasons.

It should be underlined that technical matters can easily be politicized. Atalay (interview, 2009) gives an important example in her interview. In this case there used to be a land registry problem because of the expansion of two walls of a religious place. However, this topic became immediately political on the grounds of freedom of religion in Turkey. Indeed these kinds of technical matters related to are more political than the other such

as 23rd (Judiciary and Fundamental Rights) and 24th (Justice, Freedom and Security) chapters. Güçlüol (interview, 2009) from the Ministry of Internal Affairs points out that these chapters are very delicate issues and they should be handled politically.

Indeed, the chief negotiator is aware of the political side of the so-called technical negotiations. That's why Egemen Bağış has given an order for the finalization of the technical issues. In this order according to Baygün (interview, 2009), Bağış said that "leave us political issues which would take long time. Keep on solving technical criteria as if they would be concluded immediately." Bağış (2009) expresses Turkey's official strategy as follows:

Bagis said the Progress Report prepared by the Commission of the European Communities laid out that Turkey had made progress in 21 Chapters in the previous year though 17 of 35 negotiation Chapters were blocked for political reasons. Indicating that this situation proved that Turkey continued working even on blocked Chapters.

CONCLUSION

In this article, goal-oriented and rational-comprehensive approaches are criticized on the grounds that these approaches do consider the policy process as something technical, and regard the conflicts within this process as a deviation from the predetermined goals. However, the policy process is incremental and its political content cannot be deprived of conflicts.

In the first case of this study, it is shown that the abolishment of the death penalty started with an incremental step, that is, the postponement of the execution of the death penalty, due to conflictual nature of the issue. The second case exemplified that the delay itself became a deliberate policy choice for both the EU (e.g., suspension of the eight chapters) and Turkey (i.e., refusal to open its ports). This policy gave both sides an opportunity to question the validity claims of the membership process. In the final section, it is underlined that so-called technical issues cannot explain the whole story about the negotiations process since especially opening and closing the chapters are highly political issues.

What I have tried to show is that, "enlargement is not simply a deterministic process (...) because enlargement negotiations envisage an open-ended process (...) implying the influence of contingent factors" (Şener, 2009: 213). This is the very logic of the incrementalism and the process driven approach. Ends and means may change over time. They are not necessarily predetermined.

Deterministic interpretation of the enlargement process may hinder opportunities of the candidate countries. That's why I focused on the other

side of the enlargement: “Opportunity rather than constraint. The term opportunity comprises the convenient time and place to actualize” or not to actualize the policy concerned. (Şener, 2009: 213) Process-driven approach concentrates on the process, rather than the conclusion. So, opportunity here is the power to choose the timing and power to delay in order for realizing one’s own choice. By this kind of power, the candidate country has a chance to debate the validity claims and means-ends of the EU, and saves time to internalize the norms concerned. So delay in this context becomes the part of the solution rather than problem. This is a rather voluntaristic side of the Enlargement. Any country that does not feel ready to adopt the norm concerned can delay the rule following behavior if it really wants so.

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