

**The Impact of EU Conditionality on
Democratisation in Turkey: Institutional
Transformation and Policy (Re)formation
of Minority Rights, Freedom of Expression,
the Military and the Judiciary**

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Abstract

This thesis focuses on the impact of EU conditionality on democratisation in Turkey. Built on the assumption that Turkey's democratisation process cannot be fully understood without taking the EU's impact into account, this thesis argues that even if external actors (e.g., the EU) can create opportunities for domestic political change in target states (e.g., Turkey), these actors cannot impose democracy externally; instead, they can provide support, or encourage power holders towards a more open and democratic system. Ultimately, however, these efforts cannot produce democratisation unless there are sufficient pro-democracy pressures at the domestic level.

Empirically, the study examines institutional transformation and policy (re)formation in Turkey in the course of its EU accession process by conducting cross-sectoral and cross-temporal analysis. The analysis involves four policy areas and three time periods. These areas include minority rights, freedom of expression, the military and the judiciary; the domestic changes in these policy areas are traced across three time periods: 1999-2002, 2002-2004, and 2005-2008.

The study is motivated by an academic interest in the intricacy of Turkey's long-term association with the EU and seeks to explore the external and internal dynamics of Turkey's candidacy process by employing theoretical tools offered by Europeanisation research. Following a Europeanisation theoretical framework, as devised out of new institutionalist theories, the thesis traces and analyses the democratisation process of Turkey and examines Turkey's pre-accession process at two levels. It first looks into EU-level factors to explore how the EU influences domestic change in Turkey with respect to its conditionality strategy and influence mechanisms; and secondly, it examines the domestic factors that pertain to each policy area to assess how EU conditionality is translated into domestic policy responses.

Drawing upon data derived from primary and secondary sources, the thesis has three main findings. First, the recent reforms in Turkey represent a substantively significant effort to consolidate Turkish democracy. Second, as the cross-sectoral analysis illustrates, Turkey's strong desire to accede to the EU played a triggering role in the institutional transformation and policy (re)formation of Turkey. Third, although EU conditionality greatly influenced the domestic political debate surrounding the recent political reforms, ultimately the internal political dynamics determined and shaped the policy outcomes in Turkey.

The research also reveals that to fully understand the impact of EU conditionality on domestic change in Turkey, we need to draw on both the external incentives and the social learning models, since they explain different aspects of domestic change based on diverging international and domestic level factors. As a wider outlook, the thesis reflects on the role of international organisations in democracy promotion, relating it to wider academic debates on democratisation and Europeanisation and their implications for domestic transformations in target countries.

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List of abbreviations

AKP	Justice and Development Party
ANAP	Motherland Party
AP	Justice Party
AP	Accession Partnership
CEEC	Central and Eastern European Country
CHP	Republican People's Party
CoE	Council of Europe
CU	Customs Union
DEP	Party of Democracy
DP	Democratic Party
DSP	Democratic Left Party
DYP	True Path Party
EC	European Community
ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights
EEC	European Economic Community
EIDHR	European Initiative for Human Rights and Democracy
ENP	European Neighbourhood Policy
EU	European Union
FCNM	Framework Convention on the Protection of National Minorities
FP	Virtue Party
HADEP	People's Democratic Party
HEP	People's Labour Party
ICCPR	International Covenant on Civil and Political Rights
IMF	International Monetary Fund
IO	International Organisation
MDP	Nationalist Democracy Party
MHP	Nationalist Movement Party

MSP	National Salvation Party
NATO	North Atlantic Treaty Organisation
NGO	Non-governmental Organisation
NPAA	National Programme for the Adoption of the Acquis
NSC	National Security Council
OSCE	Organisation for Security and Co-operation in Europe
OSI	Open Society Foundation
PfP	Peace for Partnership
PHARE	Programme of Community aid to the countries of Central and Eastern Europe
PKK	Kurdistan Workers Party
RP	Welfare Party
SSC	State Security Courts
SSR	Security Sector Reform
TACIS	Technical Aid to the Commonwealth of Independent States
TAF	Turkish Armed Forces
TCC	Turkish Constitutional Court
TEU	Treaty on European Union
TESEV	Turkish Economic and Social Studies Foundation
TGNA	Turkish Grand National Assembly
TGS	Turkish General Staff
TÜSİAD	Turkish Industry and Business Association
UDHR	Universal Declaration of Human Rights
UN	United Nations
USA	United States of America
USAK	International Strategic Research Organisation
WB	World Bank
YÖK	Higher Education Board

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SECTION I: INTRODUCTION, THEORY and METHODS

The Introductory chapters of this thesis set out the research puzzle that this thesis aims to solve: the impact of EU conditionality on Turkish democratisation in general, and the institutional transformation and policy (re)formation of minority rights, freedom of expression, the military, and the judiciary in particular.

Nonetheless, before starting the empirical investigation, there are a number of areas that should be delved into in order to provide any consistent deductions on the main research question. These areas include:

1. The contextualisation of the international dimension of democracy promotion;
2. The conceptualisation and theorisation of Europeanisation;
3. Designing the research on Europeanisation.

The following chapters in Section 1 cover these areas respectively. Introduction (Chapter 1) provides the general scope of the thesis. Chapter 2 portrays the discussion on the international dimension of democracy promotion; and Chapter 3 introduces the theoretical framework on Europeanisation. Section 1 concludes with research design and methodology (Chapter 4).

1. Introduction

1.1. Scope and Purpose

A wide range of academic literature has extolled the benefits of international actors helping countries on the path to democratisation. This is especially true in the case of the European Union (EU), which provides many non-member and candidate states with guidelines regarding the improvement of democratic practice, which must be adopted in order to have a stronger affiliation with the Union. The EU employs conditionality as an instrument to provide incentives in exchange for compliance with certain conditions, which candidate countries are required to meet. In the context of its enlargement policy, the EU employs conditionality as a political tool to develop and democratise candidate countries. Using Turkey as a case study, this thesis seeks to illustrate that, in stark contrast to existing studies that highlight the impact of the EU on the process of democratisation in candidate countries, the EU's actual effect on democratic transformation is relatively limited.

The main purpose of this thesis is to examine the impact of EU conditionality on the institutional transformation and policy (re)formation in Turkey. The thesis considers the conditionality-compliance dichotomy as an interminable challenge between the EU as an external actor, and target states such as candidate countries, which are subject to the external pressures of the EU. The outcome of this pressure can be determined by delving into external and internal factors relating to the EU's conditionality strategy.

Firstly, institutional transformation is referred to as a 'rational' and 'sequential process', the outcome of which is usually the creation of new structures or the organisation of new principles (Kezar, 2001: 33). There are several factors that affect how the process of a particular type of transformation occurs. These include rewards or options, which can provide incentives for continuing or enabling transformation, and for encouraging

changes from existing actions to new or additional ones (Eckel et al., 1998, 1999a, 1999b; Tierney and Rhoads, 1993). Bacharach et al. (1996: 477) describe the process of institutional transformation by stating that 'to the degree that organisations are systems of exchange, they may be said to be transformed through a process by which the logics of action that parties bring to the exchange are aligned, misaligned, and realigned'.

Secondly, policy (re)formation, which mainly involves 'cultural' and 'institutional' normative changes, indicates significant developments in the realm of domestic policies, where the 'absence' or 'lack of' policy agendas are changed into the actual formation or (re)formation (e.g., revision) of domestic policies and rule adoptions. These policy changes are seen as the outcome of a 'complex process of interaction' between national, international, or transnational actors (Krizsan and Popa, 2007), where they reflect on the 'collective understanding' and 'expectations' of the conventional behaviour of actors, who share a common identity (Finnemore and Sikkink, 1998). Domestic policy reforms are conveyed and socialised through a process of the internalisation of norms, principles and practices under the influence of domestic and external actors (Sayed, 2006: 1-2). Considering the EU's external pressure, as part of its overall democratisation process, the institutional transformation of Turkey is presumed to involve new systemic organisational approaches to change governmental institutions in order to increase their coherence, coordination and administrative capacity in line with the EU's own practices. In a similar vein, policy (re)formation in Turkey is assumed to entail the internalisation of new or renewed domestic policy reforms in a political and normative context; this is where the EU's impact through its conditionality strategy is felt to a great extent.

Literature on democratisation posits that although democratisation has previously been seen as a domestic process, since the end of the Cold War, international actors and supranational organisations such as the EU have become more influential in the internal affairs of developing countries. In this

period, there was a significant increase in the interest paid by western liberal democracies and international institutions to the promotion of democracy and democratic principles, such as human rights and the rule of law, and the strengthening of good governance, as part of their foreign policy objectives (Stokke, 1995; Burnell, 2000; Santiso, 2001; Schimmelfennig, 2005a). These democratic principles are often regarded as 'the global gold standards' for democratic governance in nation-states (Burnell, 2000).

Through the mobilisation of liberal democratic principles, international organisations seek to promote democratisation. They do so by encouraging, and in some cases demanding, the introduction of democratic principles in non-democratic national settings. In that respect, international organisations aim to help individual states to achieve conformity and regularity, whilst generating a community of states wherein compliance with the international system is achieved through certain strategies. Specifically, they develop both formal rules and informal norms and procedures to shape domestic interests, regularise behaviours, and/or constrain political activities within target states (Checkel, 1999a; 1999b). These liberal democratic values and principles, and human rights issues have a prominent place in the foreign policy objectives of the EU and they constitute the main pre-conditions in the EU's enlargement process.

This thesis specifically looks at the EU as an important international organisation and the main external actor impacting upon Turkish democratisation for two reasons. First of all, the literature on Europeanisation describes the concept itself as a process where domestic politics, policies, and polities are changed through engagement with the EU system. It also puts particular emphasis on the EU and its transformative power and impact on domestic political change in target states. In this literature, the EU is accepted as an important global agent due to its deliberate attempts in the promotion of democracy, and in the reformation of domestic structures and policies of target countries (Börzel and Risse, 2004; Burnell, 2008).

It is assumed that the EU uses its transformative power by means of providing certain economic, political and social incentives, with the intention of reforming the political structures of target countries through the application of external pressure (Pridham, 1999a; Grabbe, 2002; Schimmelfennig and Sedelmeier, 2005a; Barnes and Randerson, 2006; Yilmaz, 2009). The EU utilises political conditionality as its main instrument to promote democratic principles, human rights and good governance; and it complements its conditionality strategy with democracy promotion in its region (Maier and Schimmelfennig, 2007: 40). In fact, all previous candidate countries of the 2004 and 2007 enlargements had already been subject to political conditionality as part of the EU's pre-accession framework. Particularly after its fifth enlargement round, in ex-communist states this issue acquired more salience as the 'Europeanisation of candidate countries' progressed, where the EU's external impact became a central issue and was accepted as one of the main determinants of institutional transformation and policy (re)formation of candidate countries.

The EU has had a direct impact as an external actor on domestic change in Turkey. In the process of accession negotiations, the EU has actively involved and engaged with policy (re)formation in Turkey by bringing in new policy objectives to support democratic consolidation and advancement as part of its pre-accession framework. Furthermore, with the prospect of membership at stake, the EU has gained an extensive leverage over Turkey's political reforms as part of its democratisation process. Since then, the EU has acted as the main democracy promoter in Turkey through the use of different mechanisms, instruments and approaches. The EU has been doing this by providing assistance for institutional transformation with the intention to transform formal models of institutions so that behavioural change can be obtained, by initiating social learning in order to change norms, beliefs and values, and by getting involved in diplomatic interactions to influence group

dynamics of political elites who actively participate in the political reform process (Burnell, 2008: 425).

1.2. Aim

Turkey presents itself as a complex case study when analysing the impact of the EU on institutional transformation and policy (re)formation in the context of the 'Europeanisation of candidate countries'. This thesis contends that Turkey's democratisation process coincides with increased pressures from the EU on Turkey, within the context of EU accession negotiations. Although relations between Turkey and the EU started almost half a century ago, it was not until the European Council summit in Helsinki in 1999 that the EU's external impact on domestic transition in Turkey was felt.

Formal relations between Turkey and the EU started with an association partnership in 1963, when Turkey signed the Ankara Agreement with the European Economic Community (EEC). Against this background, Turkey is considered the candidate country with the longest history of association with the EU (Müftüler-Baç and McLaren, 2003: 18). This was followed by Turkey's first application to the European Community (EC) for membership in 1987, which resulted in the refusal of its initial application, due to Turkey's inadequate democratic credentials and low levels of economic and financial development. In the meantime, Turkey signed the agreement on the Customs Union with the EU, which came into effect in January 1996.¹ Although this seemed to be a positive development, the decision of the European Council of Luxembourg in 1997 to exclude Turkey from accession process negatively affected relations between the two parties. As Müftüler-Baç and McLaren (2003: 18) argue, the relations between Turkey and the EU have a significant impact on the functioning of Turkish democracy.

¹ Thus far, Turkey remains the only country that has completed the Customs Union prior to becoming a member of the EU (Özler, 2012: 125).

Nonetheless, two years later, in 1999, Turkey was declared a candidate country at the European Council of Helsinki, which marked the beginning of a momentous domestic change in Turkey under the influence of the EU. Although Turkey became a candidate in 1999, it was not until October 2005 that the accession negotiations finally started. However, the accession negotiations were halted nearly a year after the opening of accession negotiations. This was mainly caused by Turkey's refusal to open its ports to, and approve of, any trade privileges for Cyprus. The EU in turn took this reaction as a violation of Turkey's Custom Union agreement with the EU. Therefore, the EU decided to suspend the opening of eight chapters of the *Acquis Communautaire*. On this issue, the European Commission noted that unless Turkey met its obligations towards Cyprus and came to a resolution, the Council would not take any action regarding the opening of any new chapters in the *Acquis Communautaire*.²

As will be discussed later in the thesis, even in the absence of a concrete prospect of EU membership or a functioning pre-accession framework after 2008, the current AKP government intended to work on political reforms and endorsed significant legal and constitutional amendments, which are considered crucial for Turkey's democratisation process.³ This is a puzzling outcome since it challenges the arguments of the previous studies of Europeanisation, which predominantly assumed that conditionality – along with a strong membership perspective – provides the strongest incentive. Hence, it is the main determining factor for institutional transformation and policy (re)formation at the domestic level. Nevertheless, the 'open-ended' character of the current accession negotiations, and talk of the EU's limited absorption capacity in connection with its 'enlargement fatigue' in the aftermath of the

² Since the beginning of the accession negotiations, only one chapter (Science and Research) has been closed. Among others, the suspended chapters include external relations, transport policy, financial services, agriculture and rural development, free movement of goods, right of establishment and freedom to provide services.

³ During his visit to the Azerbaijani Parliament on 29 June 2005, Turkish Prime Minister Recep Tayyip Erdoğan, stated that 'Turkey should be accepted into the European Union. If not, we'll change the name of the Copenhagen criteria to the Ankara criteria and continue with the reforms' (The Journal of Turkish Weekly, <http://www.turkishweekly.net>).

EU's eastern enlargement of 2004, has indicated the changing character of the EU's political, economic and security rationale as well as the EU's incentives for enlargement (Phinnemore, 2006a: 8). These changes at the EU level have caused a complete political stalemate in Turkey. Consequently, the accession negotiations came to a halt in 2008, slowing down Turkey's domestic transformation.

Therefore, this thesis posits that although Turkey has shown significant democratisation efforts as part of the EU's pre-accession framework, its reluctance to comply with EU rules and norms in some policy areas presents an interesting research puzzle. This puzzle asks why progress on institutional transformation and policy (re)formation of a number of areas (such as minority rights, freedom of expression, the military, and the judiciary) has so far been problematic and/or unsteady compared to other policy areas. In other words, the puzzle arises from the characteristics of the Turkish case in view of the fact that there has not been linear convergence towards European norms. Furthermore, there have been periods of slow-down and acceleration in political reforms in the aforementioned problem-areas, particularly in the post-Helsinki-era.

1.3. Argument

Building on the assumption that Turkey's democratisation process cannot be fully understood without taking the impact of the EU into account, this thesis argues that even if external actors (i.e. the EU) can create opportunities for domestic political change in target states (i.e. Turkey), these actors cannot impose democracy externally. Instead, they can provide support or encourage power-holders towards a more open and democratic system. Ultimately however, these efforts cannot produce democratisation, unless there are sufficient pro-democracy pressures at the domestic level. This thesis claims that conditionality is not at all times well suited to impact upon institutional transformation and policy (re)formation in candidate countries,

hence it is not suited to act as the most decisive factor. Instead, this thesis suggests that democratisation overwhelmingly depends on domestic conditions, and EU conditionality only plays a marginal role in this process, which can be identified as a 'triggering' factor.

This thesis seeks to reveal how a range of global/external pressures (e.g. democracy promotion of the EU) and events (e.g. EU accession negotiations) combined to open a political opportunity for democratisation in Turkey. This thesis also aims to examine whether EU conditionality has been effective in transforming institutional structures and policy (re)formation in Turkey, in the course of the country's EU accession process.

On the other hand, this thesis is motivated by an academic interest in analysing the intricacies of Turkey's long-term association with the EU. The main research question of this study, along with sub-research questions (further discussed in Chapter 4), is intended to 'unpack' the complex relationship between Turkey and the EU; in connection with the conditionality-compliance dichotomy, this thesis will shift the focus from the EU to the domestic level, in other words, it will incorporate a bottom-up approach in its analysis. It is important to incorporate a bottom-up approach because, as Papadimitriou and Phinnemore (2004: 636) put forward, 'the unpacking of domestic contexts has often been the missing link in Europeanisation studies'. Studies which fail to explore domestic contexts either follow a 'linear direction' or miscalculate the extent to which domestic actors or institutions are relevant in the Europeanisation process.

In light of this context, the main research question of this study can be listed as:

(Q): How does Europeanisation impact upon institutional transformation and policy (re)formation in Turkey? How does it affect the political actors, institutions and cultural norms and values embedded in the Turkish political system?

The findings of the empirical analysis in Chapters 5-8 point to several factors that may have contributed to the diverging periodical outcomes of Turkey's minority rights, freedom of expression, the military, and the judiciary policies under the influence of EU conditionality. These have included domestic adoption costs, the Turkish state's identification with the EU, domestic resonance, the Turkish state's capacity and the political will of actors at the domestic level as well as sizeable and credible rewards and legitimacy at the EU level. The findings show that the combination of favourable domestic conditions (successful identification with the EU, the state's capacity and political will of actors as well as low domestic adoption costs) and strong conditionality (i.e. sizeable and credible rewards and high levels of legitimacy) provide the best possible outcome of positive Europeanisation, which indicate the successful institutional transformation and policy (re)formation of the policies.

The findings also show that any change in the values of these variables would either result in fractional Europeanisation (the combination of unfavourable domestic conditions and strong conditionality), indicating a partial adjustment instead of complete transformation; or negative Europeanisation (the combination of unfavourable domestic conditions and weak conditionality) as an indicator of an ineffective process and policy outcome. As will be discussed in the concluding chapter (Chapter 9), it is also observed that domestic adoption costs, identity, state capacity and the political will of actors ultimately seem more decisive in explaining the differential process and policy outcome on Turkey's institutional transformation and policy (re)formation in the aforementioned areas.

Therefore, the limited impact of EU conditionality on the institutional transformation and policy (re)formation in Turkey, while still considered an important and indispensable element and a major triggering factor for Turkish democratisation, is likely to be a result of the precedence of domestic

conditions that overshadow the strength of EU conditionality. Ultimately, the findings reveal that no external actor or strategy can induce democracy from outside if the political capacity and willingness to advance the level of democracy is absent in the domestic sphere.

1.4. Theoretical Framework

Theoretically, this thesis seeks to explore the external and internal dynamics of Turkey's candidacy process by employing theoretical tools offered by the literature on Europeanisation. In the analytical framework of this thesis, 'Europeanisation' transpires as the most problematic issue. This is due to the fact that the term encompasses interaction dynamics between Turkey and the EU during the accession process as well as the domestic changes that occurred under the influence of the EU. Therefore, this thesis acknowledges 'Europeanisation' as a process entailing a two-way interaction: rule transfer (from the EU) and rule acceptance (by Turkey) in line with the EU's conditionality strategy.

The main theoretical investigation of this thesis starts with the basic premise that EU conditionality exists and that it is unavoidable in the context of accession negotiations. The thesis posits that conditionality reflects on the power asymmetry between the EU and target states since it provides the EU with extra powers, enabling it to impose rule adoptions as a precondition for membership admission (Hughes et al., 2004a: 523). This in turn leads to a rational deduction that domestic change is a highly expected outcome of an asymmetrical interaction between the EU and the target country. Taking this statement as a starting point, the theoretical investigation focuses on different aspects of such an impact. These different aspects include the different forms of EU impact, its effectiveness, pace, direction and timing (Börzel and Risse, 2003: 60).

Nevertheless, the theoretical investigation on Europeanisation shows that although the EU's impact on domestic transformation is inevitable – in the sense that EU policies and conditionality comprise of an 'impetus' for institutional transformation and policy (re)formation – the two different strands of thinking in the institutionalist framework differ in their hypotheses on how EU policies and conditionality matter. In fact, existing research on Europeanisation places great emphasis on the 'differential impact' of the EU on domestic changes, and in most cases, its impact is explained through the effectiveness of EU conditionality at the international level, and the historical trajectories of the target states at the domestic level (Cowles et al., 2001; Börzel and Risse, 2003; Börzel, 2010).

Following a Europeanisation framework as devised out of new institutionalist theories, the thesis focuses on the concept of EU conditionality and the conditions that impact on the effectiveness of this conditionality. Previous studies on the effectiveness of conditionality towards candidate countries during the accession process reveal that there are two theoretical models to test which conditions explain the policy outcomes and the effectiveness of conditionality. The first model, the external incentives model, is a rationalist bargaining model and presumes that factors such as the 'political costs of adoption' and 'credibility of incentives' account for the effectiveness of conditionality. The second model, the social learning model, follows a sociological institutionalist stance and presumes that factors such as 'societal salience' and 'identity' are necessary conditions for the process of EU rule transfer and adoption. These two models offer different arguments to explain the effectiveness of conditionality and the diverging policy outcomes. Adopted from Schimmelfennig and Sedelmeier's (2005a) study of the effectiveness of EU conditionality on candidate countries, six hypotheses based on these two theoretical models are put forward in this thesis to examine the diverging levels of the effectiveness of EU conditionality across minority rights,

freedom of expression, the military and judiciary policies in Turkey. Further information on the hypotheses can be found in Chapters 3 and 4.

In light of this context, this thesis also endeavours to reflect upon the analytical challenge of attempting to find an actual cause-effect relationship between the EU's external influence and domestic change in target states. In relation to the power asymmetry debate, it is often assumed that the Europeanisation process and conditionality principle follow a top-down approach. However, given the complexity of the relations between Turkey and the EU, this thesis adopts a two-dimensional approach on cause-effect relationships, by referring to Europeanisation as a top-down and a bottom-up approach. This two-dimensional approach is useful for two reasons. Firstly, these approaches help to understand the major challenges that caused Turkey's troublesome reception of EU conditions and the consequent failure in full adoption of EU rules; secondly, they also enable a conception of the EU's effective external pressure. In support of the inclusion of the bottom-up approach to the theoretical investigation, Radaelli (2004: 4) argues that this two-dimensional approach enables the identification of different components of the 'system of interaction' at the domestic level, hence this approach provides an improved grasp of the specifics of the EU's impact on domestic transformations.

Last but not least, the thesis tests the explanatory values of international and domestic level variables in relation to the external incentives model and the social learning model. Whilst doing this, the thesis also traces and analyses the democratisation process of Turkey, and examines Turkey's pre-accession process at two levels. It first looks into EU-level factors to explore how the EU influences domestic change in Turkey with respect to its conditionality strategy and influence mechanisms. Secondly, it examines the domestic factors that pertain to each policy area in order to assess how EU conditionality is translated into domestic policy responses. The application of different theoretical models comes out as an imperative to delve into the

complex interaction between Turkey and the EU, by identifying the main dynamics of the interplay between EU conditionality and respective EU-level and domestic level factors.

1.5. Methodology

Methodologically, this thesis employs qualitative techniques developed in comparative politics (Gerring, 2001), utilising a small-N approach. In particular, this thesis embodies qualitative case study research, and in order to make a causal inference linking the research question and the hypotheses, this thesis conducts cross-sectoral and cross-temporal analysis (King et al., 1994: 75-115; George and Bennett, 2005: 166). Furthermore, a process-tracing method has been chosen to uncover the causal paths behind the domestic change in Turkey, in relation to its democratisation process, and in order to understand the reasons behind this development or the lack of such development.

The research in this study relies heavily on documentary sources. The core of the empirical research includes the analysis of primary sources along with academic literature. This is complemented by data gathered through interviews. For the interviews, a 'semi-structured' style was chosen for the purposes of keeping the focus of the topics constant and to provide a partial structure to the interview while allowing the necessary flexibility for both the interviewer and the interviewee so that they can improvise on the discussion of the topics. Further information on the research design and methodology of this thesis is provided in Chapter 4.

1.6. Research Design

Empirically, the thesis examines the impact of EU conditionality on Turkey's democratisation process with respect to domestic developments and political reforms, by conducting cross-sectoral and cross-temporal analysis. In this respect, the research process of the thesis combines the analysis of a

small sample of policy areas, with an in-depth investigation of different time periods. The empirical analysis thereafter involves four policy areas and three time periods. These policy areas are minority rights, freedom of expression, the military, and the judiciary. The domestic changes and policy outcomes are traced across three time periods: 1999-2002, 2002-2004 and 2005-2008.

There are two main reasons for the selection of the above-mentioned policy areas. Firstly, modern conceptualisations of democracy indicate that democratic systems require: effective civilian control over the military; the promotion of political freedoms, such as freedom of expression; the protection of minority rights; and, efficient and impartial judicial systems (Mayo, 1960; Przeworski, 1995; Dahl, 1998; Diamond, 1999). Whilst these areas form some of the key components of liberal democracies, they also constitute the policy areas that are incorporated by the EU in the Copenhagen political criteria regarding the EU's formal membership accession conditions; yet, at the same time, they constitute the main challenges for Turkey in the process of EU accession. Secondly, the examination of these cases is useful for identifying the explanatory values of the necessary conditions for the effectiveness of EU conditionality, since this type of examination creates an opportunity to elaborate in further analysis on the diverging policy outcomes of these selected policy areas. The selection of the cases and variables is discussed extensively in Chapter 4 (section 4.4).

The first period of analysis (1999-2002) starts with the decision made by the European Council in Helsinki in 1999, where Turkey was granted EU candidacy status, marking the beginning of a 'strategic mutual transformation' process (Tanlak, 2002). The ending of the first phase (also the beginning of the second phase) coincides with the early general elections held in Turkey; this is also when the Justice and Development Party (AKP) established the first single-party government to have come into power since 1987. The second period is significant due to the extensive reform packages adopted by the AKP government, and the positive relationship between the EU and Turkey. The

third period of analysis starts with the announcement at the European Council in Brussels, in December 2004, that accession negotiations for Turkey's EU membership would be opened on 3 October 2005. In contrast to the previous period, the third phase witnesses a gradual decrease in the pace of reforms and an increase in conflicting views at the EU-level towards the prospective membership of Turkey. This periodisation will be useful to assess the explanatory values of the independent variables, due to their potentially different or altering overall impact on the dependent variable of this thesis – the democratisation process of Turkey, formulated in the form of its compliance with the EU conditions.

Specifically, the case study analysis begins with a narrative of the EU's liberal norms and an overall approach to each policy area, for instance the EU's approach to minority rights policy. Then, the same approach is applied to the case of Turkey, where Turkey's approach to the same policy area is scrutinised. This is followed by the identification of the conditionality instruments applied by the EU. In the final section of each empirical chapter, these conditions and instruments of EU conditionality are evaluated and the rule adoption process is discussed along with progress made on the implementation of rules (hence degree of compliance), which are in accordance with the EU's liberal democratic principles, norms and standards. The largest part of the data is collected from the Commission's Regular Reports and Strategy Papers, the Accession Partnership Documents and Action Plans, as well as the National Programme for the Adoption of the Acquis, which is complemented by semi-structured interviews. Further information on data collection methods is provided in Chapter 4 (section 4.5).

1.7. Relevance and Added Value

As previously indicated, the main purpose of this thesis is to provide a comprehensive analysis of the democratisation process in Turkey and more specifically the EU's external impact on Turkey's institutional transformation and policy (re)formation in the realm of democratic reforms. This thesis seeks to contribute to the literature in three main areas. First, the thesis aims to offer a conceptually rigorous study of democratisation and Europeanisation, by linking the two processes together in the case of Turkey. The attempt to address both democratisation and Europeanisation debates within the general theories of political change has not been studied to this extent before. This examination also has contemporary political relevance since it can provide readers with a starting point for a deeper analysis of external pressure exercised on Turkey, which could serve as a model for other prospective candidate countries in the process of democratisation and Europeanisation. Studying the debate on Turkish democratisation and the impact of EU conditionality and subsequent institutional transformation and policy (re)formation steps taken also contributes to a better understanding of challenges faced by other democratising countries (and potentially EU candidate countries) with their own system-wide policy and domestic structures, and provide constructive insights for comprehensive questions of democratisation and Europeanisation.

This thesis posits that Turkish democratisation has served more as a means to prospective EU membership rather than an end in itself. Even if Turkish democracy has advanced particularly after it gained EU candidacy status in 1999, Turkey's visible political orientation, state tradition and deeply embedded political ethos played a crucial role in the alignment process with the EU's democratic credentials. In that respect, domestic political developments and the attitudes of political elites had a key role in shaping the political reform process and policy outcomes in Turkey. Although the EU

accession process has significantly triggered political reforms in Turkey and brought about substantial constitutional and legal amendments particularly in the areas in relation to the functioning of Turkish democracy, such as the protection of minority rights, freedom of expression, democratic governance of civil-military relations and judicial independence, the nature of the pre-existing domestic structures, Turkish national politics and policy-making emerged as the main determinants of actual domestic change. Externally induced democratic credentials cannot be sufficient for a triumphant Turkish democratisation on their own as they cannot prompt a concrete domestic change in isolation from other factors stemming from national contexts. A real democratic change henceforth can only be achieved if the Turkish political system and policy structures can be altered in a way to accept any new sets of democratic rules, norms and values that are crucial for the functioning of democracy.

Secondly, there is a rapidly growing body of literature that adopts a Europeanisation theoretical framework. So far, the democratisation of Turkey with respect to its institutional transformation and policy (re)formation in the selected areas has not been analysed using international and domestic level factors provided by the external incentives model (devised out of rationalist institutionalism) and the social learning model (devised out of sociological institutionalism). With the new empirical data, this thesis aims to contribute to this rapidly growing literature. It intends to do this in three ways: firstly, by questioning the effectiveness of conditionality as an external influence mechanism; secondly, by discussing the relationship between conditionality and compliance, based on domestic level factors (e.g., the social salience and embedded political attitudes and political culture) and EU-level factors (e.g., the legitimacy of the EU in the relevant policy areas); and thirdly, by providing a model of interaction, demonstrating a two-dimensional reflection on the process outcome in relation to the dynamics between domestic conditions and EU conditionality.

Finally, thus far, the literature on Europeanisation has largely maintained the same opinion on the explanatory values of theoretical models of Europeanisation when discussing the effectiveness of EU conditionality. 'Credible EU conditionality' and 'size of adoption costs' are mainly identified as the principal factors influencing the effectiveness of conditionality, which falls into the theoretical model of external incentives (Schimmelfennig and Sedelmeier, 2005a). However, this thesis challenges the propositions of previous studies on conditionality. Based on empirical evidence, it suggests that neither the external incentives model nor the social learning model can account sufficiently for the policy outcomes in Turkey. Instead, a more balanced approach is adopted by drawing on more than one theoretical model. Different models can explain different aspects of domestic change based on diverging international and domestic level factors.

1.8. Structure of the Thesis

This chapter (**Chapter 1**) has introduced the general scope of the thesis and incorporated the research topic, the main research question, and the intended contribution of the thesis as a whole. The subsequent chapters are organised as follows:

Chapter 2 provides a critical engagement with the literature on the international dimension of democracy promotion by focusing on the discussion of the EU as a democracy promoter and its crucial role in the democratisation processes of states. Among the topics that are reviewed are the EU's democratic norms and principles, and its conditionality strategy. Each sub-section briefly introduces and critically assesses these concepts, and examines the international dimension of democratisation in a wider perspective. This is followed by a discussion on the history of Turkish democratisation.

Chapter 3 sets out the theoretical framework of the thesis. In the first section of Chapter 3, previous academic research on 'Europeanisation' is discussed. Most importantly, this involves the identification and clarification of

core concepts, and a reflection on the implications of viewing the EU as the main external actor impacting upon the domestic political structures of target states. It also discusses the concept of conditionality in relation to its origins and characteristics, and engages with factors that make conditionality effective. Subsequently, the following section of Chapter 3 is devoted to a discussion of new institutionalist theories, and the interlinked theoretical models – namely, the external incentives and social learning models. Therefore, Chapter 3 presents arguments for why these two theoretical models, in relation to new institutionalist theories, are suitable for the study of institutional transformation and policy (re)formation in a candidate state for EU membership.

Chapter 4 focuses on the research design and methodology. This chapter starts with the justification of the case selection. This is followed by a discussion of the operationalisation and measurement of variables, and the formulation of hypotheses. For analytical purposes, Chapter 4 also covers an illustration of a model of interaction of variables. Chapter 4 concludes with an overview of data collection methods.

Chapters 5-8 present an empirical analysis of the case studies. The main concern in these chapters is to examine the impact of EU conditionality on the institutional transformation and policy (re)formation cross-sectorally and cross-temporally. The systematic analysis of domestic change will be conducted in the areas of minority rights, freedom of expression, the judiciary and the military by utilising a process-tracing method (see Chapter 4). The analysis considers whether there has been any domestic change in relation to Turkey's democratisation and if so, to what extent EU conditionality accounts for this outcome. It also discussed whether there are other factors determining the policy outcome at the domestic level. To address these issues, each empirical chapter starts with a brief historical analysis of the EU's approach to the specified policy area and examines whether an effective EU conditionality is

utilised. In the final section of these chapters, a summary of the main findings in relation to the hypotheses formulated in Chapter 4 is presented.

Chapter 9, summarises and compares the key research findings. The findings are then related to the academic literature on Europeanisation and democratic conditionality.

Chapter 10, the final chapter of the thesis sums up the research in general and reflects in greater detail the limitations of this thesis and indicates potential areas of research.

The next chapter (Chapter 2) firstly looks at the international dimension of democratisation and democracy promotion of international organisations, and introduces the main democratic principles of the EU. This debate is fruitful since it shows how the EU uses political conditionality, predominantly in relation to democracy promotion, good governance and human rights practices, which concurrently represent the main political accession conditions of the EU in the context of its enlargement policy. Secondly, it links the debates on EU democracy promotion with the historical record of democratisation efforts in Turkey, prior to when Turkey came directly under the influence of the EU's political conditionality. This unified approach aims to present a retrospective examination, in order to understand the former dynamics between Turkey and the EU, which have played a part in shaping the current state of affairs.

2. The International Dimension of Democracy Promotion

2.1. Introduction

Democracy promotion has become an important issue in international relations, and it continues to be more and more prominent. It is widely believed that international democracy promotion leads to global 'democratic peace', increasing the possibility of wider 'economic well-being' and 'welfare of societies' that are in the process of democratisation (Burnell, 2008: 414-415). The 21st century in particular has witnessed the large-scale engagement of numerous international organisations (IOs) in democracy promotion throughout the world. As Kubicek (2003: 1) notes, the said engagement of IOs in democracy promotion can be verified simply by looking at instruments that promote political liberalisation and result in democratic consolidation in target countries, such as 'alliances', 'trade pacts', and 'economic assistance'.

It can be argued that the importance of IOs as democracy promoters has increased especially in the aftermath of the Cold War. Formerly, it was believed that the role of IOs was limited. However, during the Cold War as changes in the balance of power occurred, the roles of IOs in world politics significantly increased. IOs became important actors in the diffusion of democratic norms and values. Nonetheless, the political environment in the post-Cold War period also became more suitable for potential political changes and the expansion of democracy in the European continent (Kubicek, 2003: 1). In a similar vein, Burnell (2000: 8) contends that thereafter analysis of democratisation process, without taking the international dimension of democratic transition and/or consolidation into account, became increasingly indefensible.

In light of this context, the European Union (EU) deserves special attention due to its active interest in democracy promotion. The EU is accepted as one of the 'well-established' international actors in democracy promotion

along with the United Nations (UN) and the USA (Burnell, 2008: 414-415). It is also known that the EU has successfully transformed from being a union based on economic interests into a major international organisation with political, social and economic aims and objectives.

When examining EU foreign policies, it can be seen that the EU has been actively involved in the democratisation processes of various countries within the region and it endorses the emphasis on human rights and the rule of law as universal democratic principles. In that respect, the EU has set democracy and democracy promotion as a central aspect of its external relations; and the EU has aimed to spread its democratic principles in its region. At the same time, the EU principles on democracy, human rights and the rule of law are strictly embedded in the declarations of the European Council, the EU's Association and Partnership documents, Cooperation Agreements, as well as its Treaties (e.g., the Maastricht Treaty, Lomé Convention), and pronounced in the Copenhagen Criteria, which specifies the democratic conditions for the EU membership accession (Kubicek, 2003: 1).

In that respect, this chapter aims to present an overview of the role of the EU as an international organisation in democracy promotion and the ways in which it has an impact on domestic change in target countries in relation to their institutional transformation and policy (re)formation. As the argument in this thesis goes, the EU became an indispensable actor in Turkish democratisation and domestic change. The EU, through its conditionality strategy, has been deeply involved in the institutional transformation and policy (re)formation in Turkey; and, the EU became a major reference point for the Europeanisation/Westernisation of Turkey with reference to the internalisation of universal democratic norms and principles in the Turkish context.

The discussion in this chapter therefore sheds light on the characteristics of the EU as a democracy promoter and aims to unveil its contributions to the spread of democracy within its regional sphere, particularly

in Southern, Central and Eastern Europe. This discussion also makes references to the democratic principles of the EU, which later in its enlargement policy became the main accession criteria for membership. Based on this, a general democratic template of the EU can be identified where certain policy areas such as minority rights, freedom of expression, the military, and the judiciary are found to be important to analyse in the context of democratisation and democracy promotion.

Last but not least, this chapter also incorporates an historical overview of Turkey's democratisation efforts since the beginning of the establishment of the Republic in 1923. It provides an overview of domestic changes in relation to the spread and consolidation of democratic values at the domestic level prior to its candidacy status for EU membership was affirmed. This chapter also aims to shed light on the initial stages of the relationship between Turkey and the EU in order to open up the debate on the problematisation of the impact of EU conditionality on the democratisation process in Turkey, and domestic patterns of institutional transformation and policy (re)formation in the Turkish context.

2.2. International Organisations as Democracy Promoters: the Case of the EU

The dominant the actor-oriented approach within literature on democratic transitions to a great extent gives emphasis to the role of political actors in explaining any regime change at the domestic level (Rustrow, 1970); according to which, democratisation is determined by the decisions of major political actors wherein old political elites are considered to be the biggest potential threat to this process (O'Donnell and Schmitter, 1986; Di Palma, 1990; Karl, 1990), as these actors are responsible for showing sufficient political will to change the political landscape of the country. However, as previously noted, with the increasing role of international organisations in democracy promotion around the world, an 'international' dimension has been

brought into the analysis of democratisation. Hence, democratisation processes can no longer be analysed by focusing exclusively on domestic politics.

In general, democracy promotion by international organisations develops at the regional level instead of a wider global level because the promotion of democratic values and norms becomes less demanding and more straightforward due to the political interactions between structurally interconnected target states and the international organisations in the same region. In light of this context, the EU is seen as the most 'articulated' and 'intensive' form of those interconnected structures wherein its 'conditionality' strategy comprises the 'essence' of those political interactions where the EU as an external actor impacts upon domestic change and democratisation at the domestic level (Pridham, 1999b: 59-60). In that respect, the adoption and implementation of conditionality by regional actors, such as the EU, signify the importance given to the promotion and dispersion of democracy in their peripheries.

Over a decade ago, Linz and Stepan (1996: 73) stated that 'if one considers the entire world and all major actual (or potential) cases of democratisation in modern times, the analysis of international influences can be pushed much further and a series of nuanced hypotheses can be advanced'. Linz and Stepan (1996: 74) also emphasised the importance of 'regional hegemons' by referring to their contribution to democratic transitions by means of their 'geopolitical and economic power', where their powers are specified by the adoption and promotion of coherent policy options with respect to a wide array of 'incentives' and 'disincentives'. In this context, regional hegemon is seen as an external (f)actor implementing neutral or moderate pro-hegemon foreign policy within target countries to stimulate transition to democracy or democratisation at the national level (Doorenspleet and Mudde, 2008). In that respect, the relevant regional hegemons can play a significant role in the democratic transition processes in target states. Therefore, it can be argued that one way of promoting democracy can be attained firstly, by

communicating with the political actors with pro-democracy tendencies in the target state; and secondly, by applying the material and social incentives in order to facilitate democratic reforms (either in the form of reform packages, or legal amendments); and thirdly, by monitoring and measuring these reforms.

The EU applies conditionality as an important instrument or a strategy to compel target countries towards domestic reform and change, and more specifically, towards institutional transformation and policy (re)formation. In this context, the EU offers certain incentives to target countries in order to externally support the capacity of these countries to improve their political setting in relation to democratisation, human rights promotion, the rule of law, and the protection of minority rights. In that respect, conditionality posits the act of 'linking by a state or international organisation of benefits desired by another state to the fulfilment of certain conditions' (Smith, 2003: 108). Therefore, the adoption and implementation of conditionality by regional actors, such as the EU, signifies the importance they give to the promotion and dispersion of democracy.

In that regard, Pridham (1999b: 60) argues that democratic conditionality should be seen as a tool for assessing the effectiveness of the EU in terms of influencing and promoting democracy and states that 'the EU possesses an institutionalised regional framework which readily transmits the kind of influences and pressures that may affect the course of democratisation, deliberately or otherwise'. Therefore, it can be argued that the EU, being one of the most influential international actors as a democracy promoter, exerts its influence on countries with the help of its strategy of democratic conditionality, which at the same time comprises a precondition for its membership, forces target (i.e., candidate) countries to adopt a democratic political system and further implement liberal democratic norms and procedures associated with the EU. In a similar vein, Schmitter (1995: 524) recaps the lasting influence of the EU as a democracy promoter as follows:

First, EU membership is expected to be permanent in nature and to provide access to an expanding variety of economic and social opportunities far into the future. Second, it is backed by a 'complex interdependence', an evolving system of private transnational exchanges at many levels and involving many different types of collective action (parties, interest associations, social movements, sub-national governments etc.). And, finally, it engages in lengthy, public, multilateral deliberation and is decided unanimously in the Council of Ministers and by an absolute majority in the European Parliament. This requirement enhances the 'reputation' or 'certification' effect beyond the level attainable via unilateral recognition or bilateral exchanges where other criteria (i.e. security calculations) may override the democratic ones. More than any other international commitment, full EU membership has served to stabilise both political and economic expectations. It does not directly guarantee the consolidation of democracy; it indirectly makes it easier for national actors to agree within a narrower range of rules and practices.

Moreover, regional hegemons can promote democracy in two forms: negative or positive. A negative form of democracy promotion is indicated by sanctions (either financial or political) employed by IOs, such as the EU. To elaborate this further, it can be argued that establishing such a requirement scheme on meeting conditions (ranging from democratic and human rights conditions to various liberal democratic principles), as well as introduction of a conditionality clause based on unsatisfactory progress of a candidate country, emphasises the negative side of the democracy promotion equilibrium. On the other hand, the positive form of democracy promotion is associated with terms such as support, incentive, inducement and reward. The EU, by offering various rewards and necessary support (either technical or financial), aims to expedite the process of democratisation within candidate countries. As Carothers (1999: 6) argues 'democracy aid' provided by international organisations is the 'most common and often most significant tool for promoting democracy'.

Furthermore, as a result of the Europeanisation process, regime change and institutional adaptation at the EU level becomes inevitable. In that respect, as indicated by Laffan (1998: 242), the EU should not only be seen as a new 'level' of governance, but also as an innovator of new 'approaches' of

governance. Nevertheless, it is important to bear in mind that with Europeanisation member states become subject to various supranational influences on policy-making and thus policy competence at the national and supranational level becomes highly contested. This reasoning is evident in the fact that some member states differ in terms of their 'openness' to Europeanisation, as well as their adaptation to internationalisation, compared to others (Laffan, 1998: 242). Along those lines, Sadurski (2004: 374), from the candidate countries' point of view, stresses that despite the material costs of accession to the EU, the citizens of candidate countries show a high level of support for the accession itself since the process of Europeanisation in general and EU accession in particular significantly contribute to democratic consolidation, as well as to the adoption and promotion of liberal democratic rules and institutions at the national level.

Besides, there is a common tendency among candidate country leaders and citizens to believe that the EU accession process and further attainment of membership strongly favours a robust democratisation process by the candidate country. The main reason for this conviction is that the EU aims to provide necessary tools to endorse democratic political systems in candidate countries and that it promotes initiatives on democratic credentials, such as fighting against corruption, imparting efficient public administration and a system of justice (Sadurski, 2004: 371-372). Therefore it can be argued that EU accession improves the quality of democratic principles and practices within the candidate countries since the EU model of democracy embodies benchmarks such as consolidation of democracy, the rule of law and the protection of human rights, which are crucial for the promotion of democracy in the target candidate countries.

2.3. Democracy Promotion in Europe

In the 1970s, Southern Europe witnessed regime transformations within various countries and for the first time in its history, the EU (then the EC) was actively involved in the transformation processes of these countries. Being an organisation consisting of democratic countries, the EU, via key political actors, assisted countries such as Spain, Portugal and Greece by developing political and economic incentives, creating commercial ties, and by guiding and informing them about the end results of democratisation. Even then, the EU explicitly stated that the membership of those democratising countries would be dependent on their level of democratic consolidation (Kubicek, 2003: 8). For instance, as Closa and Heywood (2004: 15) argue, Spain's exclusion from the EC 'transformed Europe into a symbol of democracy' and eventually 'membership was viewed as an anchor for democracy'. Supporting this, McLaren (2008: 249) argues that it was Spain's unsuccessful application for associate status of the EEC that resulted in the EEC's utilisation of conditionality strategy to 'produce regime change' since at that time the member states restricted the EEC membership to 'fully functioning democracies'; and this decision of the EEC has eventually had a direct impact on other candidates, such as Turkey.

By maintaining close relations with these countries, the EU carefully monitored their democratisation processes, and when necessary, intervened by means of providing necessary financial or political assistance to assure that the democratic transition in those countries was not interrupted by any problem that might occur at domestic or international level. Schmitter's (1986: 4-5) reference to the importance of the international context in the democratisation process of the Southern European countries supports this assertion. Schmitter argues that, although the transitions to democracy were predominantly explained by domestic/national variables until that time, in the case of the 'liberalisation' and/or democratisation of Southern Europe, international actors

such as 'extraregional powers' appeared to be highly supportive and therefore took important roles in terms of bolstering the transition processes.

Whitehead (1996: 271) also argues that the processes of democratic transition and consolidation were heavily influenced by the potent political and economic incentives offered by the EU. Nevertheless, as indicated by many scholars (e.g. see Linz and Stepan, 1996) the democratisation process in Southern Europe initially started at the domestic level, rather than at the international level. Only after the involvement of the EU in the later stages of democratisation of Southern Europe did the international dynamics start to play role in overall domestic change in the region. Even so, as Pridham (1999b: 62) states, the EU became a 'symbolic reference point' in the 1970s for flourishing democratisation and it was seen as a moral supporter of democratic values that had an undeniable impact on the countries that wished to become a part of it. For instance, as Heywood (1993: 6) notes, for Spain, the EC membership was one way to 'escape the traditional isolationism which has left it lagging behind its competitors and marginal to international developments'.

For democratisation to appear at the domestic level, certain conditions need to be present. In that respect, as suggested by Dahl (1998)⁴, by taking the essential and favourable conditions necessary for democratic institutions as a reference point, it can be concluded that Southern European countries had a smooth and efficient transition period since the domestic political forces within those countries in combination with strong social support for democracy reinforced new democratic ideas; therefore, the role of the EU was one of guardian waiting outside and taking action when necessary instead of being the main facilitator of the democratisation process within those countries

⁴ Dahl (1998: 84-86) formulates a number of institutions structuring the minimum requirement for large-scale democracy; these institutions include: i) elected officials (elected by citizens) who have the constitutional right to rule, and control government decisions on policies; ii) free, fair, and frequent elections under limited or no government coercion; iii) freedom of expression; iv) right to access legally to independent and non-governmental sources of information (including sources that oppose government); v) freedom of association (right to form independent associations, organisations, interest groups, and political parties).

(Kubicek, 2003: 9). In the aftermath of the collapse of the Soviet Union, the EU has been significantly involved in the transformation of ex-communist countries. The EU's principle was to disperse the ideals of prosperity and security, as well as democracy, among those countries. Most of the time the EU's involvement was characterised by being an arbitrator in the democratisation process due to its efforts at delineating common liberal democratic norms and values for domestic and international political actors, as well as developing an entrenched institutional structure surrounding these norms and values.

Moreover, it can be argued that the EU, through the use of its enlargement policy, committed itself to the stabilisation of the emerging democracies and endorsement of economic growth. The EU's enlargement requirements incorporate necessary conditions (such as implementation of political and economic reforms) to be fulfilled by those countries in due course. On the other hand, it is also important to stress the willingness of ex-communist states to become a part of Europe. This became the main drive for those countries to comply with the EU's rules and conditions by means of implementing various political and economic reforms. Currently, compliance with the EU rules is the main condition of becoming a member of the EU. As indicated by Kubicek (2003: 2), the mutual eagerness and efforts of the EU and various ex-communist countries on the improvement of democracy resulted in compliance with the democratic criteria; and the success stories belonged to countries such as Poland, the Czech Republic, Hungary and Slovenia. As suggested before, the potential EU membership accelerated the political and economic reform processes in those countries and compelled them to comply with its requirements.

More specifically, the EU, by means of political dialogue and assistance in institution building, heavily involved itself in the process of democratisation in the Central and Eastern European Countries (CEECs). The Europe Agreements which were seen as approval of the association status of CEECs

(also the further status of potential membership) provided the necessary ground for initiating democratisation processes within those countries. In this context, as Phinnemore (2006b: 39) states, the negotiations on a Europe Agreement denote 'the EC's initial response to the CEE countries' desire for closer relations and ultimately membership'. Furthermore, those Europe Agreements explicitly indicated the conditional character of membership offers by emphasising the prerequisite of compliance with its rules regarding the rule of law, respect for human rights, the establishment of multi-party political system, free and fair electoral system, as well as economic liberalisation (Pridham, 1999b: 65).

One important point to remember here is that the promotion of democracy cannot be explained only by the EU's efforts. This assumption can be proven by pointing out the countries which have not yet complied fully with the EU conditions. Kubicek (2003: 3) categorised those countries as 'reluctant democratisers' and characterised them as countries that fall behind or fail to keep up with 'political liberalisation' regardless of the EU's assistance. The commonly-known examples within this category included Slovakia under Mečiar, Croatia under Tudjman and Ukraine in the course of independence. Turkey is also argued to be one of these reluctant countries towards democratisation process, in spite of external pressure asserted by the EU. Kubicek (2003: 3) argues that it would be misleading if one investigates the role of the EU in promotion of democratisation only within the success stories; and further claims that the analysis of the relations between reluctant democratisers and the EU as democracy promoter should be taken into consideration since it creates a common ground on which the effectiveness of the impact of external actors on the diffusion of democratic norms and values, and the response of problematic countries, can be analysed from a comparative perspective.

2.4. The Democratic Principles of the EU

The EU as an organisation has always consisted of states supporting democracy. It is based on principles such as liberty, democracy and the rule of law. The creation of EU policy in favour of democracy has been articulated repeatedly in various resolutions, Commission communications, and Council conclusions. The roots of the democratic principles of the EU can be traced back to the early 1950s when the EU adopted shared values and principles of other important international organisations.

To start with, in 1948, the General Assembly of the United Nations proclaimed the adoption of the Universal Declaration of Human Rights. The Declaration then became the fundamental text for every member of the United Nations (UN) and constituted the primary text for fundamentals of basic human life with respect to an assortment of rights and freedoms. These rights and freedoms are set under different Articles of the Declaration but when taken as a whole, it is possible to identify some of the most relevant ones as: equality before the law, protection against discrimination, right to freedom of thought, right to freedom of opinion and expression, and right to freedom of assembly and association (United Nations, 1948). Along those lines, in 1950, the Council of Europe (CoE) adopted the European Convention for the Protection of Human Rights and Fundamental Freedoms, which came into force in 1953. This document, like the Universal Declaration of Human Rights, lists a number of rights and freedoms reaffirming the superiority of the fundamental rights as the indicators of 'justice' and 'peace' in the world and this is based on a country having an effective political democratic system (Council of Europe, 1950).

In addition, with the adoption of the Birkelbach Report in 1962, the European Parliamentary Assembly pronounced the political and institutional aspects of accession to or association with the European Economic Community (EEC) as part of political integration. The Birkelbach Report is seen as a

defining document in the establishment of the enlargement Acquis. It forms an 'explicit link between democracy and accession to the EEC' (McLaren, 2008: 237). This report articulates that candidate countries should show full commitment to the economic and political, as well as institutional, obligations of the EEC in order to gain membership status. Furthermore, it puts democracy and respective institutional framework on the agenda as one of the conditions for membership (Torreblanca, 2003: 10-11; McLaren, 2008: 237; Özbudun and Gençkaya, 2009: 43).

Further integration of political objectives was also seen in the Maastricht Treaty on European Union (TEU) signed in 1992 in which 'respect for human rights' was made a general principle of Community law. This change in the Community's common position was acknowledged as the opening of a new era in the European integration process. The reasons for the emergence/adoption of the TEU were predicated on various internal and external occurrences. There had been a strong motivation among the member states towards the advancement of the Single European Act by adopting new reforms consequently resulting in progression towards political integration. On the other hand, externally, the collapse of the Soviet Union and communism in Eastern Europe as well as the reunification of Germany forced the Community to reassess its international position. In light of this context, the fundamental values of the EU are stated in Article 2 of the TEU as:

'The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail' (European Union, 1992).

In relation to that, Crawford (2000: 92-93) argues that the Resolution of the Council of Ministers (Development) on 'Human Rights, Democracy and Development' of November 1991, adopted prior to the Maastricht Treaty, has been considered as an essential policy statement since it outlines four political

constituents of 'sustainable development'; namely, human rights, democracy, good governance and decreased military expenditure. The inclusion of democracy, good governance and military elements evidently indicated the broadening of the political component of the Community's legal framework. Moreover, the introduction of two policy instruments, a 'carrot' and a 'stick', verified that the Community would closely monitor and persistently assess the performances of the member and candidate states based on the measures for the respect for human rights and democracy taken by the Community itself.

These benchmarks constitute the basis of the EU's democratic norms and values. Nevertheless, it is important to highlight that with each different enlargement period the EU came to a point where setting clearer benchmarks became inevitable. It would not be possible for the EU to evaluate and measure the level of compliance of the candidate countries only by looking at its initial fundamental values. In that respect, in 1993, the Copenhagen European Council came to an agreement that the ex-communist countries, that is to say, the CEECs, would be able to achieve EU membership only if they met certain conditions. It was there and then that membership conditions which had already been set beforehand were explicitly proclaimed. The membership conditions declared at the European Council of Copenhagen in 1993 are:

- a functioning market economy with the capacity to cope with competitive pressures and market forces within the EU;
- stability of institutions guaranteeing democracy, the rule of law, human rights, and respect for and protection of minorities; and
- the ability to take on the obligations of EU membership including adherence to the aims of economic, political and monetary union (European Council, 1993).

The constituent aspects of the Copenhagen criteria have been processed and refined over time by way of legislative amendments of the European Council, the Commission and the Parliament, in addition to the laws and regulations of European Court of Justice and the European Court of Human Rights. It is also important to bear in mind that neither the conditions of membership nor the Copenhagen criteria developed over night. Although it has

always been comprehensible that EU membership has been and will continue to be open to any European country which pursues liberal democratic regime, it has taken a long time for the EU to strictly define its democratic conditions for membership.

These conditions were set for the first time in the 1970s when the membership applications of Greece, Spain and Portugal were put forward. There had not been any concern for the countries of the first enlargement period given that they were already established democratic regimes. Then again, the criteria of the 1970s only showed a gradual change and constituted a general requirement framework for the EU. Pridham (1999b: 65) argues that starting from the 1980s, the EU developed its conditions and transformed them from being 'formal criteria' into conditions on 'substantive democracy'. Therefore, it can be argued that over time, the EU had developed a more rigorous set of conditions for accession, particularly in the cases of CEECs (Pridham, 2005), and the Western Balkans, while its commitment to enlargement has significantly diminished (Phinnemore, 2006a). At this point, it is important to remember that since the Copenhagen criteria were set in 1993, there was no mechanism to regulate or monitor the compliance of old member states.

In 2001, the Commission proposed a new strategy on the promotion of human rights and democratisation process. The proposal on an evolving EU human rights policy became an innovative onset of a more efficient EU policy. With this strategy, the human rights policy not only has been placed at the centre of the EU external policy, but at the same time, with respect to democratic values, this policy has been set as a precondition for the attainment of sustainable development (European Union, 2001). For the EU, this strategy broadened its scope on human rights by extending and linking the field to the wider context of interdependence with the EU's other primary goals and activities, such as the promotion of democracy. This initiative establishes

closer and stronger links with UN standards; hence, providing a new source of reference for the European stance on democratic principles.

It can be argued that the abovementioned developments in the democratic principles of the EU are crucial steps in the progress of creating a coherent EU policy on human rights and democracy, since a coherent policy offers a valid ground for the adoption of structural democratic objectives, which in turn reinforces the EU's leverage on candidate countries in terms of promoting change and expediting the reform process within those countries. Furthermore, with these initiatives, the EU has radically advanced itself in terms of operating in consensus and displaying visible procedures and projects on democratic reforms and human rights issues. Nevertheless, the increased consensus among the member states of the EU facilitated the Union's development and enhancement of the Union's role in democracy promotion.

Central to the EU's approach, there have been other initiatives for the promotion of democracy and protection of human rights. Among them, a particular development aid programme called the European Initiative for Human Rights and Democracy (EIDHR) stands out. With the EIDHR, the EU aims to deeply integrate the democratisation and human rights policies into its entire range of EU policies and programmes, as well as providing financial support for related projects. Overall, within an international framework, these initiatives and further implementation of specific projects enhance the reforms on legislation, administration and the judiciary, which are fundamental to the progression of human rights practices, fundamental freedoms and strengthening democracy, in addition to good governance among countries. The objectives of the EIDHR for the development and consolidation of democracy, the rule of law, respect for human rights and fundamental freedoms are stated as:

- enhancing respect for human rights and fundamental freedoms in countries and regions where they are most at risk;
- strengthening the role of civil society in promoting human rights and democratic reform, in supporting the peaceful conciliation of

- group interests and in consolidating political participation and representation;
- supporting actions on human rights and democracy issues in areas covered by EU Guidelines, including on human rights dialogue, on human rights defenders, on the death penalty, on torture, and on children and armed conflict;
- supporting and strengthening the international and regional framework for the protection of human rights, justice, the rule of law and the promotion of democracy; and
- building confidence in and enhancing the reliability and transparency of democratic electoral processes, in particular through election observation (European Commission, 2009).

These particular objectives illustrate that the EU with EIDHR puts great emphasis on the importance of fundamental rights such as the right to freedom of thought, opinion, religion, expression as well as the right to freedom of peaceful assembly and association. By doing this, it aims to help civil society to be more open and pluralistic in order to improve democratic legislation and political representation which in turn will stimulate dialogue between citizens and governments. It also reinforces official dialogues on human rights issues, promotes particular instruments for sustaining the process of consolidation of democracy and contributes to the transparency of elections. All these credentials reaffirm the EU's commitment to strengthening the promotion and consolidation of democracy within an international framework and to build a democratic political culture amongst countries.

In light of this context, as in the case of the CEECs, Turkey has become subject to the EU's formal accession criteria involving its democratic principles since 1999, when it gained candidacy status. Since then the issues of democratisation and human rights have been as major features of Turkey-EU relations. The increasing importance of democratisation and human rights is argued to be a major shift in the focus of Turkey-EU relations which were predominantly concentrated around economic matters in the 1960s and 1970s (Dağı, 2001). After Turkey gained candidacy status, the issues of human rights and democratisation became the focal point of the political affairs between the two actors. It is plausible to argue that the EU's intensive involvement in

democracy promotion and intention to spread its democratic principles in non-member or candidate countries, including Turkey, has opened the space for radical initiatives and political reforms in target countries. As a result of this, and in conjunction with Turkey's ever-lasting Europeanisation/Westernisation efforts and determination to become a member of the EU, a dynamic domestic transformation process is observed at the domestic level.

When examining the EU's democratic principles and formal criteria for membership, policy areas, such as minority rights, freedom of expression, the military, and the judiciary, pose interesting case studies in the context of the EU's democracy promotion in Turkey. As will be discussed in Chapter 4 in detail, these are the policy areas that are entailed in the formal membership criteria of the EU where the EU puts its main influence mechanism of conditionality in force to trigger the political reform process in Turkey, as well as its institutional transformation policy (re)formation. These are also the policy areas which pose a great obstacle to Turkey's democratisation process where the influence of the EU is most felt at the domestic level. In particular, the EU's influence is greatly felt when examining the decision-making processes of political actors, and alterations in the institutional structure of the state, as well as evolving democratic norms and values in Turkish political system. These constitute the major parts of the pre-accession dynamics, where EU conditionality may or may not account for domestic change in Turkey. In that respect, the analysis of these problematic cases, which are individually analysed in the empirical chapters of the thesis (Chapters 5-8), is assumed to be constructive for a better understanding of the dynamics of Europeanisation at the international level and the other factors that can account for domestic transformation in Turkey at the domestic level.

2.5. Historical Record of Democratisation in Turkey

Turkey has been facing an unstable process of democratisation throughout its history. For almost every decade since its establishment, Turkey became subject to regime collapses followed by military intervention⁵ in domestic politics. In that respect, it can be argued that the democratisation of Turkey has been negatively affected by deep-rooted problems in its political system. In order to understand the dynamics of the current political culture and to explain the 'obscure historical conditions' (Schmitter, 1986: 6) impacting upon Turkey's democratisation efforts, it is necessary to portray the years of democratic experiment(s) that have taken place before Turkey was given candidacy status in 1999. This section also serves as background information for the upcoming empirical chapters (Chapters 5-8).

Turkey, born out of the ashes of the Ottoman Empire, carried its Ottoman legacy for many years. The first democratic experiments were conducted by its predominant centralist state structure under the heavy influence of state elites and bureaucracy (Ahmad, 1993: 69). Already since the creation of the Republic in 1923 by Mustafa Kemal Atatürk, the pre-eminence of European values were acknowledged by the statesmen. The main aim of Atatürk, the statesmen and the intelligentsia was to Europeanise/Westernise the country, as well as to create and shape Turkey's own political development and its democratic consolidation (Özbudun and Gençkaya, 2009: 81). As McLaren (2000: 118) states, since then, Turkish leaders have aimed to establish that 'Turkey *is* western, and more specifically that it *is* European'.

Although the direct relationship between Turkey and the EU started in 1959, statesmen under the leadership of Atatürk had attempted to europeanise/westernise and modernise the country with increasingly more

⁵ However it has been commonly argued that since the establishment of the Republic, and in the instances where the military was assigned tasks of protecting the Kemalist state and nation, the military has never attempted to form a permanent military regime. In fact, the military handed power back to the civilians when the internal or external threats were taken under control and since the main intention of military interference was to assist the re-emergence of the 'right democratic order' rather than establishing permanent military regime (Brown, 1987; Hale, 1994; Zürcher, 2004).

proactive political reforms and initiatives. Nevertheless, it was not easy at the beginning to rid the country of the 'imperial' and 'patrimonial' heritage of the Ottoman Empire. In fact, these obstacles caused an isolation of the newly established 'administrative centre', as part of the new institutional structure of the Turkish state, from the periphery, representing the local communities (Zürcher, 2010: 141). This type of isolation, in turn, instigated a relationship between the two sides based on 'control', 'cooptation', and 'regulation', instead of 'consultation', 'coordination', and 'consociation'. In spite of this isolation, the urge to transform the political structure of Turkey emerged from within the state itself. However, rather than involving 'social integration' imperatives, the scope of this transformation was centred on 'state-building' endeavours reflecting upon the very presence of the imperious statist composition of Turkish state in the early years of its establishment (Sunar and Sayarı, 1986: 166-167; Zürcher, 2010: 144).

With the establishment of the Republic in 1923, the political revolution in Turkey had begun. The main aim of this revolution was to change the former political authority, which was based on an 'imperial-patrimonial monarchy', legitimised by religion (Zürcher, 2010: 136); and to replace this political structure with secular state formation wherein the legitimacy of the state itself and its actions would be bound by the rule of law. This type of state formation would also require the protection of state sovereignty, a constitutional parliamentary system, and most importantly, the free will of Turkish citizens. The state revolution was nevertheless accepted as a 'revolution from above' that was initiated at the state-level instead of the mass-level with the intention of transforming political and cultural change, rather than the social structure of Turkey (Sunar and Sayarı, 1986: 169). In fact, the Turkish revolution was claimed to be the most 'progressive' event, both at the national and international level, in the post-war period (Ahmad, 1993: 65). Therefore, it can be argued that although very premature, the recognition of democratic values, such as the rule of law, secularism, and constitutional warranties, mirrored the

political efforts of the newly-appointed political authorities in acknowledging the superiority of European/Western standards and practices.

Nevertheless, it was not an easy task for Atatürk and his fellow statesmen to establish a democratic political setting. In fact, it took more than two decades to advance the level of democracy in Turkey. Initially, i.e. in the early days of the Republic, the political system was a state-dominant mono-party authoritarian regime, led by a single party, the Republican People's Party (CHP), composed of the state's ruling elite, the military and the civil bureaucrats (Ahmad, 1993: 62; Zürcher, 2004: 176; Zürcher, 2010: 146). It did not come as a surprise that Atatürk, the founder of the Turkish Republic, became the leader of the CHP. He was widely supported by the secular and progressivist 'intelligentsia', composed of academics, lawyers, and state officials. Following the initial aim of Europeanisation/Westernisation, the CHP, the first political party in the history of Turkey, claimed to stand for western liberal values and supported secular and nationalist policies. The party also made it clear that it would be against radical and authoritarian tendencies (Zürcher, 2004: 168). Two interviewees made a similar point by stating that the Republican People's Party has always regarded western civilisation as a symbol of a certain 'code of behaviour' that respects and promotes universal norms of human rights and fundamental freedoms (Interview, Member of Parliament, CHP Deputy#1, 2012; Interview, Member of Parliament, CHP Deputy#2, 2012).

In this new political structural composition, the military and the bureaucracy, two entities which were heavily involved in the establishment of the Republic, became the old guardians of the state, whereas the ruling political party (CHP) was seen as a new actor in politics. Although Europeanisation/Westernisation was one of the priorities since the early days, the governing elites, at times, followed rather traditional and authoritarian manners in ruling the country by using repressive measures to protect the indivisibility and homogeneity of the Turkish state. Even if the establishment of

the CHP intended it as a political party, the CHP did not become the main political authority rapidly or efficiently. In fact, although the party was given the responsibility to make political decisions, the military and bureaucracy continued to be actively present in the decision-making process, based on the fact that these two actors had deeper roots within society, making them more institutionalised than the political party, and hence more consistent, more homogenous and better integrated socially (Sunar and Sayarı, 1986: 169-170).

On the other hand, in contrast to the general democratic settings, the early political regime in Turkey was purely based on the idea of concentration of powers in the centre, which in turn held back the spread of democratic values and practices in the country. In addition to this, the insufficient and ineffective peripheral groups, and the deficiency in distribution and differentiation of political powers, widened the segregation between the centre and the periphery consequently causing unsuccessful incorporation of the state and society, as well as the adaptation of democratic political regime. In other words, the necessary bond between the 'top' and the 'bottom' was missing. The legacy of this incompetence in the political arena had undeniable impacts on the democratisation process of Turkey in later periods. As Sunar and Sayarı (1986: 172) note: 'the outcome of an elite-instigated democratisation from above was a crippled democratic regime with a short lifespan'.

The liberalisation process of Turkey started to develop in the 1950s, more than two decades after the establishment of the Turkish Republic. Despite the presence and active involvement of the military and bureaucrats in politics as the guardians of the state, political dynamics immediately changed after the transition from single-party to multi-party politics with the emergence of the Democratic Party (DP) as an opposition to the CHP. The change to the electoral system, which was to create better structures for multi-party governance and possibilities for cooperation via coalition governments, has been regarded as a major landmark in Turkey's modern political history (van der Lippe, 2005). In fact, the lack of an opposition party prior to the

establishment of the DP was seen as one of the main deficiencies in the Turkish political system (Ahmad, 1993: 102), and an obstacle for the consolidation of democracy and the spread of democratic norms and values.

Although the initiation of multi-party politics was a promising sign for Turkish democratisation, the transition to 'real' democracy did not occur with the transition to multi-party politics. As Heywood (1996: 162) argues, even if political parties are considered vital in representative democracies, in some cases, they can also destabilise the continued existence of 'open and free discourse and exchange upon which democratic institutions depend'. This was also evident in the case of Turkey. Soon after the transition to multi-party politics, the military and bureaucratic elites increased their support for the ruling party, CHP. At the same time, their support for CHP and hostility towards the newly established DP hindered the emergence of a new political discourse, which in turn made the political system resistant to multi-party politics (Sunar and Sayarı, 1986: 172; Ahmad, 1993: 102-103; Zürcher, 2004: 222).⁶

In this political setting, after its establishment, the DP proposed that the party would implement the principle of national sovereignty and would carry out its party policies based on democratic credentials (Ahmad, 1993: 103). However, after winning the elections in 1954, the political leadership of DP became more authoritarian, which caused severe obstacles for democratisation efforts in that period (Weiker, 1963: 6-11; Zürcher, 2004: 230; Jung, 2006: 136). Since the DP did not have deeply-established roots within society, it aimed to reach out to the public by utilising certain tools such as 'clientelist networks', or by attracting 'religious sentiments' and promoting 'populism' in order to conceal its institutional deficiencies (Sunar and Sayarı, 1986: 173; Ahmad, 1993: 105). At the same time, the CHP stayed in opposition and maintained its 'bureaucratic, elitist politics' while taking action against the DP by inciting the bureaucracy (both administrative and judiciary)

⁶ For a discussion on the Turkish party system, see Sayarı (2002).

and the intelligentsia. Moreover, it was also commonly known that the CHP always implied that, if necessary, it would rely on the military as the guardians of the state in order to remove the DP from power due to the DP's 'activation of traditionalism', which was perceived as the biggest threat that the DP leadership caused to Kemalist ideologies (Sunar and Sayarı, 1986: 173; Ahmad, 1993: 110). This hostility between the DP government and the CHP opposition, along with both party leaders' authoritarian tendencies, directly affected institutional transformation and policy (re)formation in Turkey.

Europeanisation/Westernisation efforts in this period were subverted and the two parties became extremely ineffective in meeting the demands and needs of the public at the domestic level. However, this had changed particularly after Turkey officially applied for an association agreement with the EEC in July 1959, shortly after Greece had applied for its association agreement in January 1959 (Özbudun and Gençkaya, 2009: 81). One of the reasons for Turkey's application for associate membership of the EEC is directly linked to Turkey's 'quest for external validation of its European credentials and a desire to participate in a community of Europeans' (McLaren, 2000: 118). An interviewee made a similar point by stating that it was for Turkey's quest for westernisation rather than economic or political benefits that Turkey has always aimed for EU membership (Interview, Member of Parliament, CHP Deputy#2, 2012). Nevertheless, the association agreement could only be completed in September 1963 due to a sudden military intervention in Turkish politics in 1961. The first military intervention in the history of the Turkish Republic was caused by the increasing authoritarian measures of the DP and the party's explicit references to religious sentiments (Ahmad, 1993: 112; Zürcher, 2010: 272). Also, the ever growing confrontation between the two parties triggered the process of military intervention, which was widely supported by the CHP, the bureaucracy and the intelligentsia. It was widely known that the military, if deemed necessary, would intervene in politics as one of the guardians of the state in order to protect the 'status quo' from the

'threat within' and persevering with Atatürk's 'path of civilisation' (Zeydanlıoğlu, 2008: 155). As Dodd points out '[T]he military's intervention was intended to effect significant changes in , though not to overthrow the system itself – and to impose, say, an authoritarian military or single-party regime – the Turkish military is frequently regarded as the guardian of democracy' (Dodd, 1983: 1).

The second attempt at transition to a fully democratic regime came after the 1961 military intervention by adopting new rules and regulations. Even if this second democratic experiment was also imposed from the top, as was the case of the first experiment, the governing elites managed to adopt a new Constitution. The 1961 Constitution clearly demonstrated that, for the first time, political actors tried to achieve the 'balance of power' by bringing certain checks and controls into the political system (Ahmad, 1993: 129). The making of a new constitution, which was totally different to the previous rulings of the Ottoman Empire, was seen as a reflection on the democratisation efforts by the ruling authorities in this period. For instance, the inclusion of the notion of 'balance of power' in the constitution not only brought dispersion and differentiation of the ruling elites' responsibilities, but also helped to establish various control mechanisms on the political parties. Furthermore, the Constitutional Court and the Senate were established for the first time in order to examine the legislative activities and to counter-balance the Assembly. Other than the change to the electoral system and the transition to multi-party politics back in 1946, among other developments in the 1960s, were the foundation of a state-planning organisation responsible for the coordination of economic development, and the establishment of the National Security Council (NSC) responsible for security-related issues (Sunar and Sayarı, 1986: 175; Zürcher, 2004: 245; Özbudun and Gençkaya, 2009: 14-16).

What is striking in that period in terms of the dispersion of democratic principles and norms is that Turkey witnessed a sudden legal change in terms of individual rights and civil liberties and associative freedoms which were clearly stated within the 1961 Constitution (Ahmad, 1993: 129). The 1961

Constitution evidently gave greater civil rights than ever before including rights for students to organise associations, rights for workers to strike, and more autonomy for universities. Thus, one can conclude that the democratic experiment of the 1960s was reasonably liberal in nature, in stark contrast to the initial periods of the Republic. The newly-established institutions made it difficult for political elites to behold sudden and radical changes in the political arena or any re-emergence of the authoritarian ruling system or concentration of power within one political party (Zürcher, 2004: 245). Furthermore, for the first time, in an environment with greater political freedoms, leftist intellectuals could unite and form their own parties which signalled the formation of a new political ideology as an alternative to the political setting formed in the early days of the Republic (Ahmad, 2003: 127). In that sense, the development of a democratic regime seemed to gain momentum in this period.

Nevertheless, it is commonly believed that Turkey did not experience a liberalisation of society in general, but only constitutional liberalisation in the 1960s. Although certain constitutional amendments were made, which resulted in the extension of certain civil and political rights, the political parties continued to use their power to curb these rights, and work for their own benefits instead of the common good of the society. In that respect, the relegation of democracy was accelerated in this period, partially due to the newly emerging party system with many deficiencies and the problematic relations between the ruling elite and the weak society (Sunar and Sayarı, 1986: 175-176), which can directly be linked to the very notion of revolution from the 'top', rather than revolution from the 'bottom'.

This also implies that, although the political re-structuring in the 1960s was significant, certain 'underlying' political structures were hard to dissolve. In fact, the social life in this period was highly politicised (Ahmad, 2003: 127). The newly-emerged ideological division between left and right had widely felt among the society and political elites. In particular, the emergence of the left had directly challenged the day-to-day politics in Turkey, since the rightist

groups became more cautious of the activities of the leftist groups and began to organise against them. Furthermore, after the establishment of the Justice Party (AP) in 1965 under the leadership Süleyman Demirel, political conditions became even more complicated both at the international and domestic level. More specifically, the unresolved Cyprus Question, the Arab-Israeli war of 1967, as well as the increasing militancy of students and workers and the struggle between labour and capital, had all made the decision-making process of the AP government more difficult, and posed potential threats to its power (Ahmad, 2003: 132).

Furthermore, more conflicts emerged on the political front in the 1970s. In particular, the distrust among political parties dramatically increased the creation of ideological divisions among political parties, as well as governmental inconsistencies and inefficiencies (Ahmad, 1993: 146-147). This period was also marked by the weakening of the Kemalist elite, the expansion of a self-governing bureaucracy, the diffusion of the ruling system, and the expansion of the clientelist network among various 'professional and social associations'. Furthermore, party politics in that period was depicted with expanding party fragmentation resulting from the introduction of proportional representation and consequent emergence of small parties and, therefore, forming a new polarisation and 'ideological confrontation' within the system. The polarisation in the party system resulted in severe difficulties with government formation, which in turn was destructive for the implementation of democratic regime (Sunar and Sayarı, 1986: 177-179; Zürcher, 2004: 258-259). As a result of this political turmoil, the military intervened in politics for a second time in 1971. The military justified its intervention based on the fact that it is the military's responsibility to bring order back into politics and protect the ideological integrity of the country (Ahmad, 1993: 148; Özbudun and Gençkaya, 2009: 18).

As a result of the above mentioned trends in the 1970s, instability in the political arena became insurmountable, leaving the political actors facing

an intensifying crisis, which also affected the institutional transformation and policy (re)formation in Turkey and slowed down the democratisation process. The military intervention of 1971 was believed to have been carried out by radical-reformist military officers who were in support of the 1961 Constitution. These officers held Demirel's government responsible for the 'anarchy' and 'unrest' in Turkey, and called for the formation of a new government 'formed within the framework of democratic principles and inspired by Kemalist ideas' (Ahmad, 2003: 134). Nevertheless, the officers' strategy to restore law and order in the country was based on the idea of defeating the leftist movements. It also became clear later on that the Constitution of 1961 and the guarantee of extended political freedoms was more difficult than anticipated for the political elites to manage on legal grounds. Against this background, the Constitution of 1961 was amended in a way so as to modify the institutions of the state and society, and to curb civil and political freedoms.

On the other hand, social democracy became an important political ideology in the 1970s and it was found to a certain extent to be responsible for the military intervention in 1980. After the military intervention in 1973, general elections were held, where the CHP, under the leadership of Bülent Ecevit, won 33.3 per cent of the votes, but failed to win enough votes to form a single-party government. As a result, Ecevit, after long deliberations with other political parties, managed to form a coalition government with the National Salvation Party (MSP) of Necmettin Erbakan in January 1974. Nevertheless, the formation of a coalition was overshadowed by increasing political terrorism and the insurgence of political violence caused by attacks of nationalist groups, such as the 'Grey Wolves' (Ahmad, 2003: 140-141). Due to this political turmoil at the domestic level, not much had been achieved in terms of democratisation or strengthening of relations with regional or international powers. The only substantial development with regard to Turkey-EU relations in the 1970s was the signing of an Additional Protocol in November 1970, which only served as the basis for the intensification of the

basis of Turkey's relations with the Community (Özbudun and Gençkaya, 2009: 81).

The political system was finally beleaguered and, for the third time in Turkish history, military intervention took place on 12 September 1980. This intervention was caused by severe threat imposed by the armed confrontation among the opposing political groups (i.e., the Radical Left and Extreme Right) (Zürcher, 2004: 263; Zürcher, 2010: 280), and by the increasing competition between 'religiously-oriented' political parties to form a government. These developments undoubtedly put the territorial integrity, the secular character and democratisation of Turkey in danger (Ahmad, 1993: 181). In the aftermath of the military intervention of 1980, the political arena became more complicated and disruptive than ever before, which resulted in a three-year long period of martial law. Therefore, in contrast to the developments in the aftermath of the 1961 military intervention, the military intervention of 1980, produced the domination of the state by the adoption of strict controls over party politics, the bureaucratic system, professional associations and even universities. Furthermore, the changes in that period involved the recurrence of concentration and centralisation of power, but this time with the addition of active participation of the military in the political arena with an emphasis on its 'strong oversight powers' (Sunar and Sayarı, 1986: 183-184).

The military mainly involved itself in politics via the 'automatic' election of General Kenan Evren to the presidency for a seven year term in the national referendum of 1982. The new constitution adopted in 1982 gave 'ultra' and indisputable powers to General Kenan Evren. Furthermore, his actions or political decisions were not under any sort of judicial review, consequently making the executive stronger than ever (Zürcher, 2004: 281). With regard to that period, Sunar and Sayarı stated that 'what is envisioned in the 1982 Constitution is a state divorced from politics and a depoliticised society' (Sunar and Sayarı, 1982: 184); also providing the military guarantee of the society's authorisation to 'justify interference' in politics by making necessary

amendments to the new constitution⁷ (Ahmad, 1993: 184; Capezza, 2009: 13; Özbudun and Gençkaya, 2009: 19).

Nevertheless, 1983 set the scene for positive developments in Turkish politics. Although the military presence was still apparent in every sense, e.g. through the banning of previous political parties from politics, retaining veto power over the establishment of new political parties and having further controls over various political activities, such as election campaigns (Ahmad, 1993: 187), the 1983 elections resulted in the success of the newly-founded Motherland Party (ANAP) under the leadership of Turgut Özal. Turgut Özal's party politics involved economic liberalisation projects with a strong emphasis on an open economy and conservative cultural values (Zürcher, 2004: 283). Although the party associated itself with another newly-founded party, the Nationalist Democracy Party (MDP), and although the military faced a serious quandary since the victory of the ANAP was not expected, the military respected the election results and agreed to transfer governmental power to Turgut Özal's ANAP. The final decision of the military to acknowledge the results of the election showed that the electoral process was becoming more legitimate (Ahmad, 1993: 188).

The 1980 intervention of the military in Turkish politics was not welcomed in Europe. In fact, even the transition to civilian government in 1983 did not stop the intensifying concerns in Europe on the democratic nature of the new political regime and its respect for human rights and fundamental freedoms (Ahmad, 1985; Dağı, 1996). Following the national elections, local elections held in 1984 also proved to be a second success for the ANAP. With the appointment of civilian officials at the local level, the political regime of Turkey became more and more civilised where the manipulation by the military

⁷ Article 15 of the Constitution of 1982 states that 'no allegation of unconstitutionality can be made in respect of laws, law-amending ordinances and acts and decisions taken in accordance with the law numbered 2324 on the law on the constitutional order' (Republic of Turkey, Constitutional Court, 1982).

forces in politics was no longer present (to a certain extent) (Sunar and Sayarı, 1986: 185; Zürcher, 2004: 283; Greenwood, 2006: 39).

However, it was soon realised that the military was disinclined to allow full freedom of action to the recently elected civilian government and continued to influence politics through various institutional and informal mechanisms (Cizre, 1997: 153). Mainly, along with the NSC, the military was authorised to check up on the civilian authorities by participating in various government bodies (e.g. having seats on the boards of Higher Education Council and the Radio and Television Supreme Council overseeing tertiary education and broadcasting respectively) (Aydın and Keyman, 2004: 19). In addition to these institutional arrangements, the military also continued its influence in politics via informal mechanisms, such as conducting undisclosed meetings with government ministers and other officials, and making public statements (Ahmad, 1993: 188; Jenkins, 2007: 344).

Soon after Özal's government was formed, it was declared that the government's ultimate aim was to attain membership in the EU. Özal's interest in strengthening relations with the EU was based on his realist view of political and economic gains of having closer ties with the European Community (EC). In fact, Özal considered that having closer political and economic ties with the EU would ultimately integrate Turkey into Europe structurally and make Turkey 'an indispensable part of Europe' (Dağı, 2001: 18). Nevertheless, the continuation of the military's influence in politics became one of the major obstacles for the normalisation of relations between Turkey and the EC/EU in this period. In that respect, relations between the two actors did not evolve immediately. Already in that period, the EC/EU made the restoration of relations conditional upon Turkey's progress in improving its records on human rights and fundamental freedoms (Dağı, 2001: 18-19). These negative developments mirrored the fact that Turkey still had to go a long way to bring its so-called democratic regime up to standards within the EU.

Nevertheless, in this period, the EC emerged as a major international actor that could impact upon democratisation in Turkey. As a response to Turkey's desire to restore its relations with the EC/EU, the EC/EU itself could effectively impose its convictions on the cornerstones of democracy regarding the protection of human rights and fundamental freedoms. In that respect, the EC/EU steadily increased its pressures on domestic change in Turkey – if Turkey deemed to continue to strengthen its relations with the EU and if it was still interested in becoming a part of the Union. Finally, in 1987, Turkey applied for EC/EU membership. However, the political turmoil and low levels of democratic consolidation in Turkey had caused concern within the EU. Therefore, the Community was reluctant to offer Turkey membership. Therefore, the EC/EU rejected Turkey's initial application in 1989 based on the argument that the country was not ready for membership due to low levels of political and economic development. More specifically, the 'anti-democratic' policies of the Turkish state and violations of human rights and fundamental freedoms were cited as the main impediment for Turkey's membership of the European Community (Özbudun and Gençkaya, 2009: 81-82).

The 1990s witnessed another period of political conflicts. First of all, a new political party called the Welfare Party (RP) appeared on the political scene in 1993. The RP became famous for its Islamist character and its rejection of Kemalist ideology which in turn hastened the contention between Islamists and Kemalists (Zürcher, 2004: 290). In December 1995, the RP became the largest party in the Turkish Grand National Assembly (TGNA) and in June 1996 the party formed a coalition government with the True Path Party (DYP). After the RP came to power, its political stances and in this period clearly indicated that Turkish secularism was under serious threat. This in turn encouraged Kemalist elites to provoke the military and the judiciary as well as academic circles, to take action against the ruling RP.

In the 1990s, the tension between Islamist fundamentalists and secularists intensified. The major debate in this period dealt with the turban

ban (a headscarf completely covering a woman's hair) in public and inside state buildings, which included universities. In 1990, fundamentalists assassinated Professor Muammer Aksoy (the President of the Turkish Law Society) and Bahriye Üçok, an theologian and left-wing politician, which was followed by the murder of Uğur Mumcu, the 'most famous living journalist' in Turkey, who widely wrote on the connections of the Islamist fundamentalists with Iran and Saudi Arabia, in a car bomb in January 1993 (Zürcher, 2004: 289-290).

Therefore, it did not surprise the public when the military made public pronouncements warning that secularism was put under threat by Islamist activities conducted by the government (Jenkins, 2007: 345). As a result of anti-secular activities carried out by the RP, the military intervened in 28 February 1997 in order to revitalise and normalise the tension between Turkish democracy and secularism (Aydın, 2007: 17-18). However, this time the military did not intervene directly, instead it mobilised public opinion against the government. This mobilisation was prompted by a memorandum prepared by the NSC emphasising the fight against political Islam. This post-modern intervention resulted in the dissolution of the government and the resignation of the Prime Minister, Necmettin Erbakan (Greenwood, 2006: 39).

Also, in the same period, and in addition to the emergence of political Islam (Zürcher, 2004: 288-289), the Kurdish question emerged as another challenge for the democratisation process (Özbudun and Gençkaya, 2009: 25). The Kurdish question posed severe concerns for the Kemalist ideology and was perceived as a fundamental threat to the nation-state as well. This situation, as expected, compelled and justified the presence of the military in domestic politics (Tocci, 2001: 22; Aydın and Keyman, 2004: 19; Bilgin, 2005: 188). In fact, the insurgency launched by the Kurdistan Workers' Party (PKK) in 1984 became one of the main reasons for the military to retain its authority in the political arena. Later in the 1990s, this insurgency expanded into a 'low-intensity civil war' and resulted in strict military administration in the south-

eastern region of Turkey (Jenkins, 2007: 345). This indicates that the military still exercised certain powers and influence over politicians, policies and domestic politics, and regarded itself as an important and indispensable political actor. Yet, Jung (2006: 143) argues that the 'political autonomy' of the military was not limited to national defence matters. Particularly in the 1990s, the 'security conception' started to expand into a wider area, where the distinction between external and internal security threats became blurred; hence, allowing the military to have an impact upon politics on a regular basis.

However, at the international level, Turkey's relations with the EU started to develop in the mid-1990s. As Öniş (2008: 37) argues, the process of actual Europeanisation started in the formal sense, in line with extensive political reforms and EU conditionality, when Turkey initiated its Customs Union (CU) with the EU in 1995. The CU was seen important and necessary for trade liberalisation in Turkey, but it was also found to be 'instrumental' for the promotion of democratisation efforts.⁸ Nevertheless, in the early 1990s, due to the EU's rejection of Turkey's membership in 1989 on the basis of the problematic nature of its democracy and democratic principles, the EU did not have substantial credibility or leverage in pushing political reforms within Turkey. Despite the positive developments of the CU, the lack of a clear and credible conditionality strategy on the EU's part, and the failure of Turkish political elites to cope with widespread economic and political deterioration, have undoubtedly raised concerns over Turkey's commitment to Europeanise its political domain (Öniş, 2008: 37). Uğur (1999) described the aforementioned developments and the troublesome relations between Turkey and the EU in 1990s as 'the anchor-credibility dilemma'.

Given this background of Turkey-EU relations, circumstances started to change progressively after the Helsinki Summit in 1999, where Turkey was recognised as a candidate country for EU membership. Without a doubt, the credibility of EU conditionality has significantly improved, and its leverage on

⁸ For the detailed information on trade liberalisation in Turkey see Öniş and Bakır (2007).

domestic change in Turkey with regard to its institutional transformation and policy (re)formation grew to a great extent. In a way, candidacy status provided sufficient incentives for Turkey to initiate the long awaited political reform process. Since then, Turkey is involved in a progressive yet rather troubled process of domestic transformation under the influence of EU conditionality. In that respect, it can be argued that the key sphere in which Europeanisation has had an impact is democratisation. The empirical chapters (Chapters 5-8) will deal with this development by looking specifically at institutional transformation and policy (re)formation of Turkey in the areas of minority rights, freedom of expression, the military and the judiciary.

2.6. Conclusion

This chapter aimed to open up the debate on the role of international organisations in democracy promotion in general and the role of the EU in particular. This debate is remarkably important to understanding the democratic template of the EU and to comprehend the ways in which the EU, as a major international actor, intends to spread its democratic norms and values, not only in its member states, but also in candidate or non-member states. The synopsis of the EU's early engagements with democracy promotion in Southern Europe and Central and Eastern Europe also provided invaluable insights on the legal mechanisms the Union developed for the dispersion of its democratic principles. More specifically, the initiation of the conditionality strategy as part of the EU's enlargement policy showed how the EU has transformed conditionality into being a major influence mechanism on domestic transformation in candidate countries within the Europeanisation framework.

This chapter also aimed to introduce the policy areas under investigation in this thesis, in connection with the democratic credentials of the EU and its formal accession criteria. Finally, this chapter incorporated a historical overview of the political landscape of Turkey from the beginning of

the Republic until the European Helsinki Summit in 1999, where Turkey was recognised as a candidate country. This historical overview is anticipated to be useful first to unveil the major political actors, political settings and embedded cultural and political norms and values in the Turkish context, which are assumed to account for the dynamics of institutional transformation and policy (re)formation in Turkey; and secondly, to distinguish patterns of the EU's involvement in Turkish democratisation between the establishment of the Republic in 1923 and Turkey's recognition as a candidate country in 1999.

The following chapter (Chapter 3) introduces the theoretical framework of the thesis. It identifies Europeanisation as the most suitable framework to reflect on the interactions between the EU and Turkey in the context of Turkish democratisation in general, and the institutional transformation and policy (re)formation in Turkey in particular.

3. Europeanisation – Theory and Practice

3.1. Introduction

Since the end of the Cold War, major international organisations, principally the EU, have proclaimed that the normative foundations of the European community are the promotion of liberal democracy and respect for human rights. In that respect, democracy promotion, particularly around Central and Eastern Europe, emerged as one of the main goals of international organisations. Enlargement became one of the main foreign policy objectives of the EU, based on the presumption that its enlargement into Central and Eastern Europe through EU accession would potentially be constructive for democratising CEE political regimes and for consolidation of democracy in the region (Sadurski, 2004; Schimmelfennig and Sedelmeier, 2004). These developments at the international level subsequently triggered the development of various influence mechanisms under the EU's conditionality strategy (Schimmelfennig et al., 2003; Vachudova, 2005).

The subject of EU enlargement, integration and democracy promotion has been robustly investigated, with multiple theoretical frameworks and concepts having been developed to explain the impact of the EU as an external actor on the democratisation processes of countries. It is in this literature that conditionality emerged as one of the most effective influence mechanisms of the EU, with respect to democracy promotion (Schimmelfennig and Scholtz, 2007). In fact, there is an extensive literature on conditionality, investigating the conditions under which the EU conditionality principle has had an impact in target countries, such as the CEECs (Schmitter, 1995; Grabbe, 1999; 2001; 2003; Phinnemore, 2000; 2010; Mattli and Plümper, 2002; 2004; Vachudova, 2001; 2005).

Yet, this study argues that this particular area of research still remains under-explored and under-theorised. Admittedly, even though the EU

conditionality strategy is commonly acknowledged as one of the most effective strategies for democracy promotion, few scholars have questioned its effectiveness with respect to institutional transformation and policy (re)formation within the scope of democratisation of target countries. This can be considered problematic given their low levels of democracy. Hence, it is important to examine to what extent and under which conditions international actors (i.e., the EU) and norms have an impact on the democratisation processes of problematic countries.

Through the study of the international dimensions of the democratisation process in Turkey, the Europeanisation process and the effectiveness of EU democratic conditionality, this thesis shall question the impact of international institutions on domestic politics and the democratisation process in general, with a specific focus on Turkish domestic politics and its democratisation process. It seeks to investigate the effects of Europeanisation, the use of conditionality by international institutions in candidate countries, and the transfer of democratic norms and values, in order to shape the democratic outcome of candidate countries on specific dimensions of democracy.

This research question therefore refers to the developing literature on Europeanisation, focusing on the impact of international organisations on domestic change and more specifically on the EU's role in promoting democratisation in non-member states/candidate countries. The literature, which focuses particularly on Europeanisation, mainly analyses how the EU has acted as an anchor for democratic reforms in candidate countries. Essentially, this literature has been explored by two main approaches from international relations – rationalist and constructivist theories – which propose different models to explain the conditions under which the EU has been effective in promoting domestic change and invigorating the democratisation process in candidate countries.

In that respect, in studies of Europeanisation, and EU conditionality, the rationalist and constructivist theories are adapted for the purpose of building a causal linkage between the impact of international organisations and the level of domestic change in candidate countries, within the enlargement process. Having identified these two theoretical approaches, competing explanations about the underlying principle, the conditions and the main mechanisms of enlargement are analysed (Schimmelfennig and Sedelmeier, 2002: 509). Furthermore, this project, based on the main research question outlined above, assumes that EU conditionality becomes effective when and if the target candidate countries comply with the EU's democratic criteria, established under the Copenhagen political criteria. Therefore, it is plausible to argue that the effectiveness of EU democratic conditionality is directly connected with democratic changes, in the form of policy changes and rule adoptions that occur within the target candidate countries.

Furthermore, it is important to note that, under the scope of studies on Europeanisation and EU conditionality, and with respect to the analytically distinctive theoretical approaches previously mentioned, the international and domestic factors are perceived as the joint testing points for the conceptualisation of particular (external) influence mechanisms on the one hand, and domestic changes within countries on the other (Schmitter, 2001; Whitehead, 2001; Schimmelfennig et al., 2002; Schimmelfennig and Seledmeier, 2005a; Schweltnus and Schimmelfennig, 2008). In that respect, this study aims to conceptualise the influence exerted by international actors (i.e., the EU) in the formation of democracy within target countries (i.e., Turkey) by following these two theoretical approaches, since they offer different but not necessarily unrelated explanations for the alterations in the democratisation process of countries.

This chapter introduces the concept of political conditionality and theoretical models relevant to this concept. It also presents a discussion on the literature on Europeanisation and theories of Europeanisation, which helps to

understand and explain the theoretical framework of this thesis. In that respect, this chapter specifically focuses on the external incentives model and the social learning models. There are three reasons for the selection of these models. Firstly, they are well-equipped to explain the process and effectiveness of conditionality. Secondly, they suggest a number of circumstances that have an impact on the effectiveness of conditionality. Thirdly, they provide clear examples to explain the diverging policy outcomes across different policy areas. Subsequently, the hypotheses that are used to analyse and examine the effectiveness of EU conditionality under the EU's enlargement policy, put forward from these theoretical models, are also presented. The chapter ends with a conclusion on the theoretical framework of this thesis.

3.2. Political Conditionality

Conditionality is a very complex phenomenon. It originates from the Bretton Woods Institutions, including the International Monetary Fund (IMF) and World Bank, and its first application dates back to 1952 (Eckaus, 1986: 242). Conditionality brought remarkable changes at the international level, since its application enabled many international organisations to use conditionality instruments to promote and protect their self-interests (Sørensen, 1993; 1995; Stokke, 1995). Through the use of conditionality, international organisations (also seen as donors) provide certain incentives (e.g. technical or financial assistance), based on the compliance of target governments or support for their self-interest, and their ability to meet and implement certain conditions and policies. Hughes et al. (2004a; 2004b) define conditionality as an interaction between multi-level actors, including an international level actor (donor) with self-interests and perceptions, and a domestic level actor (recipient). In their interactions, the donor is expected to provide certain rewards or sanctions based on the target countries' compliance or non-compliance with the conditions specified by the donor.

The first generation of conditionality is economic conditionality, and its objectives include a number of structural adjustments, such as market liberalisation, budget balance, and administrative reforms. Political conditionality is considered as the second generation of conditionality, and it combines economic and political reforms involving democratic governance, promotion of democratic norms and human rights (Stokke, 1995: 1). In general, conditionality involves certain conditions set by an international organisation, which need to be fulfilled by a target government in order to receive rewards offered by the same international organisation. The composition of these rewards is multifaceted. Along with common technical and financial aid or assistance, the rewards also include a prospective membership to an international organisation or an institution, such as the EU.

The EU uses conditionality as a strategy in its enlargement policy. In that respect, EU conditionality generally follows 'a strategy of reactive reinforcement or reinforcement by reward' scheme (Schimmelfennig and Sedelmeier, 2005a). In the case of the EU, conditionality dictates the fulfilment of the criteria set out at the Copenhagen summit and the adoption of the *Acquis Communautaire* for membership. In that respect, a candidate country should meet the main entry requirements by adopting EU conditions, which results in the restructuring of domestic policies and policy processes of the target country. To put it briefly, a target country is required to, according to EU conditions, receive the reward ('carrot'), but if it fails to reach these conditions, the EU withholds the reward ('carrot'); in some cases, the EU gives a sanction or punishment ('stick') for this failure.

It can be argued that, in the case of the EU, the use of political conditionality has evolved remarkably over the years. Previous studies on conditionality show that the effectiveness or overall impact of conditionality can vary depending on different countries, institutional settings, or policy areas, due to several factors. For instance, conditionality might generate intended outcomes for some of its objectives, rather than for others, and this outcome

might also vary in different settings (i.e., in different countries). The literature on the pre-accession process of CEEC and the literature on the European Neighbourhood Policy (ENP)⁹ offer a valuable source for an illustration of the factors which might impact upon the effectiveness of conditionality. The concerned literature posits that the success of the EU's eastern enlargement, in promoting democracy, and the EU's liberal democratic norms and values came out as a result of the strong incentives offered by the EU (Kubicek, 2003; Moravcsik and Vachudova, 2003; Schimmelfennig et al., 2003; Kelley, 2004; Schimmelfennig, 2004; 2005; Schimmelfennig and Schwellnus, 2004; Schimmelfennig and Sedelmeier, 2004; 2005a).

In the case of CEECs, the success of EU conditionality is often explained by referring to the concept of 'asymmetric interdependence' (Schimmelfennig, 2010). This explanation is directly linked with cost-benefit calculations of candidate countries. It is presupposed that the benefits of engagement in an intense cooperation with the EU would be higher than the costs of compliance, and the relative costs of compliance would be significantly lower than the costs of non-compliance, since the latter implies the possible exclusion of candidate countries from the EU (Moravcsik and Vachudova, 2003: 44).

Among the other factors impacting upon the effectiveness of conditionality is dependence on the EU both in the economic and political sense. Kubicek (2003: 17-20) contends that conditionality is more likely to work in the first place if a candidate country is economically and politically more dependent on the EU. Secondly, conditionality becomes more effective if there are no veto players at the domestic level and, in particular, if the impact of the political actors is marginal. Thirdly, conditionality becomes more effective if there are certain governmental and non-governmental actors in support of EU

⁹ There is a wide range of literature on the ENP; however this literature is not incorporated into this thesis. For a detailed analysis of the ENP and EU conditionality, see Kahraman, 2005; Schimmelfennig, 2005b; Smith, 2005; Dannreuther, 2006; Kelley, 2006; Lippert, 2007; Kochenov, 2008; Freyburg et al., 2009; 2011; Lavenex and Schimmelfennig, 2009; 2011; Bechev and Nicolaïdis, 2010.

membership, which could apply pressure to the existing authorities for compliance with EU conditions.

3.3. Europeanisation and Domestic Structures

In the literature on Europe, there is clear evidence of increasing references to the concept of Europeanisation (Featherstone, 2003: 5). The context of Europeanisation is mostly used to depict the 'adaptation of policies and policy processes', but it is also used as a 'historic phenomenon', a 'transnational cultural diffusion' and as an 'institutional adaptation' (Featherstone, 2003: 6-12). The concept of Europeanisation is defined as 'the emergence and development at the EU level of distinct structures of governance' of political, legal and social institutions that coordinate interactions among actors (Risse et al., 2001: 3). Nevertheless, as Radaelli (2000; 2003) states, despite the wide usage of the concept, which reflects the dynamism of the debate in academic circles, there is still a danger of stretching the concept to indefinable conceptual frameworks in which the term lacks a precise meaning – along with other risks of concept misformation and degreeism.¹⁰

In a similar vein, Featherstone (2003: 3) describes Europeanisation, based on both its minimalist and maximalist significance, and contends that Europeanisation can be a useful starting point in understanding the current changes in European politics, as long as it secures an accurate meaning. In a minimalist sense, Featherstone associates Europeanisation to policy-making at the European level and stresses the implications of EU-level policies in the domestic context. However, in a maximalist sense, Europeanisation is

¹⁰ By building on a range of Sartori's works (1970; 1976; 1991) on the development of a conceptual analysis, Radaelli (2000) emphasises the importance of the difference between 'intension' and 'extension' in Europeanisation research. According to this categorisation, 'intension' represents endogenous properties of the concept, while 'extension' refers to the empirical cases to which the concept is applicable. Radaelli points out that particularly in the early stages of Europeanisation research, emphasis given to extension rather than intension was much wider based on the fact that, the more the concept could be observed empirically the more the research agenda would be justified. Nevertheless, he accurately stresses that the danger of 'degreeism' that arises 'when differences in kind are replaced by differences of degrees' will also be relevant in the case of Europeanisation research, if the question of 'what is not Europeanised?' cannot be answered thoroughly (Radaelli, 2000: 4).

identified as a process of structural change, influencing both social and political actors, formal institutions, as well as ideas and interests; he suggests that 'this structural change that it entails must fundamentally be of a phenomenon exhibiting similar attributes to those that predominate in, or are closely identified with, Europe' (Featherstone, 2003: 3).

On the other hand, rather than accepting Europeanisation as a 'new theory', or an 'ad-hoc approach', Radaelli (2004: 2-3) recommends that it 'should be seen as a problem, not as a solution', and should be conceptualised as 'a set of post-ontological puzzles', a way of 'orchestrating existing concepts' in political science that lead the way to a different focus in relation to integration theories, governance theories, and other classic themes in comparative politics. Radaelli (2004) suggests that the potential of Europeanisation can be better understood if it is regarded as 'something to be explained rather than something that explains'. Radaelli also notes that although it is too soon to tell whether Europeanisation studies will be able to advance as a progressive research agenda or not, these studies are still important in terms of the information they bring to three main areas. These areas are: i) offering a way of understanding the domestic impact of international politics; ii) offering an understanding of the relationship between agency and domestic change; and iii) contributing to the formulation of research frameworks, by interlinking approaches of international governance to the models of domestic politics (Radaelli, 2004: 2-3).

Nevertheless, most scholars acknowledge that this diversity in approaches to the concept of Europeanisation is useful in building adequate conceptual frameworks, particularly in the initial stages of an emerging research agenda; others assert that this diversity (or diversification) may also lead to an intellectual segregation in the field of Europeanisation. In fact, Olsen (2002: 923) finds the research on Europeanisation 'disorderly' and claims that more academic effort should be invested in understanding the dynamics of the

contemporary European polity, rather than trying to conceptualise what Europeanisation 'really is'. Accordingly, Olsen (2002: 923) states that:

The empirical complexity and conceptual confusion should lead not to despair, but to renewed efforts of modelling the dynamics of European change. An immediate challenge is to develop partial, middle-range theoretical approaches that emphasise domains of application or scope conditions and that are empirically testable. A long term challenge is to provide a better understanding of how different processes of change interact and make institutions co-evolve through mutual adaptation.

It is argued that one reason why there is disagreement on the actual definition of Europeanisation can be related to the challenging nature of the concepts or issues Europeanisation addresses. As previously noted, it does not only refer to various practices of institution building; it also suggests the ways in which these practices are carried out, both at the EU and domestic level. In relation to this, Radaelli (2004: 6) distinguishes three main conceptual frameworks used in Europeanisation research, each focusing on a different aspect of the process: Europeanisation as 'governance', Europeanisation as 'institutionalisation', and Europeanisation as 'discourse'.

It should be noted that what these three approaches argue about Europeanisation are not contradictory with one another; yet, they are practical in the way that they develop viable links between the empirical data and the theoretical assumptions. In the absence of this identification, there could be the danger of over-estimation; the empirical evidence of domestic change and the impact of the EU, as well as the possible direction of the two (top-down vs. bottom-up), could be misinterpreted if the cause-effect links are not well-formulated within the research design on Europeanisation (Radaelli, 2004: 6).

On the other hand, Héritier (2001: 1), who sees this implication as 'transformation', argues that 'transformation not only involves policy aspects *strictu sensu*, such as the general problem-solving approach and policy instruments used, but also the administrative structures and patterns of interest mediation in which the implementation of these policies is embedded'.

In that respect, it can be deduced that the scope of Europeanisation should not be restricted to EU member states that are active in the processes, but it should also cover the accession/candidate countries, and other applicant states.

Evidently, with the EU's eastern enlargement, a new dimension has been added to the research agenda on Europeanisation. Europeanisation, in the case of the EU's eastern enlargement, has brought the concept of Europeanisation of candidate states to the forefront of the research agenda. This type of Europeanisation has also substantiated the differential impact of the EU accession process among the CEECs (Schimmelfennig and Sedelmeier, 2005a; Sedelmeier, 2006; Phinnemore, 2010), raising various questions on the impact of the EU on accession states and the effectiveness of its influence mechanisms. Nevertheless, the influence exerted by the EU, with regard to its institutions and policies, is acknowledged as one of the main driving forces of domestic change in CEECs.

The literature on Europeanisation has demonstrated convincingly that Europeanisation does exist and, to a great extent, it has been effective in its member states before their accession. Initially, Europeanisation is referred to as 'institution building at the European level', where the research has focused on the development of 'policy competences' at the EU-level. Gradually though, scholars have shifted their focus towards the effects of Europeanisation at the national level.¹¹ Yet, it became clear that the scope and the direction of domestic change in each and every member state has not been clear; instead, the domestic impact of the EU has been significantly differential, as argued by many scholars who have contributed to the debates on how much change has been the result of the EU accession process, in the institutions, policies and political processes in member states (Cowles and Risse, 2001; Héritier et al.,

¹¹ For example, Olsen (1995), Andersen and Eliassen (1996) and Rometsch and Wessels (1996) studied the influence of EU-level activities (mainly the activities of Brussels) on the national-political institutions and policy-making methods of member states. Kohler-Koch (1997) studied the Europeanisation effects at the sub-national level, by analysing the impact of the EU on regional governments, policies and outcomes. Haverland (2000) and Duina (1999) examined the domestic implementation of specific European rules and regulations; and others assessed the impact of Europeanisation process within a particular country (Bulmer and Paterson, 1987; 1989; Katzenstein, 1997; Schmidt, 1996).

2001; Featherstone and Radaelli, 2003; Bulmer and Lequesne, 2005; Graziano and Vink, 2006).

In general, the literature on Europeanisation presents a two-fold analysis on the impact of the EU on candidate states; on one hand, institutional and legal transformation is measured by the progress made by target states in the adoption and implementation of the European acquis; on the other, the financial and technical assistance offered by the EU during the accession process. Therefore, the process of Europeanisation not only requires 'legislative harmonisation' through legal rule adoption, but also influences interaction dynamics between target states and the EU, through 'interest-articulation' mechanisms. In that respect, the implementation of EU provisions relies heavily on subtle 'behavioural and organisational' characteristics in target states (Cernat, 2006: 129-135).

Although the effects of Europeanisation have had certain commonalities across the CEECs, in this particular geographical context, the process of Europeanisation has also caused diverse political and institutional outcomes in individual target states.¹² In fact, as Risse et al. (2001: 3) posit, Europeanisation entails the formation of new 'layers of politics', which interact with pre-existing ones, leading to 'distinct and identifiable' changes in domestic politics – even if these changes are perceived as 'domestic adaptation with natural colors'.

3.3.1. Europeanisation as Institutionalisation

The understanding of 'Europeanisation' as institutionalisation has significantly contributed to the development of a significant research agenda, debating on several issues, such as 'national adaptation' or different ways of (re)defining pre-existing political structures with the materialisation of a new (i.e., EU level) of governance (Harmsen, 2000: 52). This particular research on

¹² These commonalities include development of a less politicized civil service (Goetz, 2005), tempered party competition (Vachudova, 2008), and a degree of decentralisation and regionalisation (Bruszt, 2008).

Europeanisation as institutionalisation has offered a wide range of empirical insights on this subject matter. The main conceptual frameworks of this research also derived from the new-institutionalist theoretical perspectives.

The scholars who define Europeanisation as institutionalisation (Cowles et al., 2001; Olsen, 2002; Radaelli, 2003) outline the comprehensive interlocking between the two main insights of institutionalisation as: i) the formation of 'politico-administrative' models at the EU level; and ii) the readjustment of national models, as a response to the rising European polity. At this point, it should be noted that there has been a recent shift in research focus, where scholars have become more interested in the ways that EU level politics and policies are transferred and institutionalised at the domestic level, rather than looking at the creation of formal and informal models at the EU level (Radaelli, 2004). Corresponding to this assertion, Börzel (1999: 574) accurately defines Europeanisation (as institutionalisation) as 'a process by which domestic policy areas become increasingly subject to European policy-making'.

There are several ways that Europeanisation as institutionalisation has an effect on different areas at the domestic level. Radaelli (2003: 35-36) identifies these as: i) macro-domestic structures (public administration, political and legal structures, structures of representation, intergovernmental connections); ii) public policy (actors, problems, style, instruments and resources; iii) normative and cognitive structures (values, norms, discourses, narratives, policy paradigms). These areas have common ground with the dimensions where Börzel and Risse (2000) propose that the domestic impact of Europeanisation has an effect: 'polity', 'policies' and 'politics'. Equally, Héritier (2001: 3) suggests that Europeanisation engages with 'European decisions, the processes triggered by these decisions as well as the impacts of these processes on national policies, decision processes and institutional structures'.

Cowles et al. (2001: 4-5), on the other hand, distinguish 'institutions' from other 'domestic structures', and argue that Europeanisation has a separate impact on 'policy structures' and historical/cultural specific 'system-wide domestic structures'. When these differences or diverging approaches to the role of Europeanisation as institutionalisation are taken into account, Radaelli's (2003: 30) description of Europeanisation comes out as the most inclusive one. In fact, Radaelli acknowledges the shortcomings of the previous approaches and intends to shed light on the imperative features of empirical analysis. He argues that his description is acquainted with 'the importance of change in the logic of political behaviour [...], refers to process of institutionalisation [...], accommodates both organisations and individuals [...], is broad to cover variety of interests [...], and can be applied to both the member states and to other countries' (Radaelli, 2003: 30). According to this formulation, Europeanisation stands for:

processes of (i) construction, (ii) diffusion, and (iii) institutionalisation of formal and informal rules, procedures, policy paradigms, styles, 'ways of doing things', and shared beliefs and norms which are first defined and consolidated in the making of EU public policy and politics and then incorporated in the logic of domestic discourse, identities, political structures, and public policies (Radaelli, 2003: 30).

As previously noted, in general, empirical research on Europeanisation tends to focus on 'policy change' and validates the EU's external impact; while research on Europeanisation, in terms of domestic and cognitive/normative structural changes, gives greater emphasis to the role of the internal dynamics within a certain context, wherein the measurement and explanation of these domestic changes appear to be more intricate. This intricacy subsequently reflects upon the difficulty of identification and measurement of 'domestic change' and 'domestic impact', as a result of the process of Europeanisation, and develops into a common narrative in Europeanisation literature. In fact, as noted by a small number of scholars, the effects of Europeanisation are by and

large regarded as 'asymmetrical' and 'irregular' (Featherstone, 2003: 11-12).

In support of this assertion, Héritier (2001: 2) states that:

The process patterns and policy outcomes of Europeanisation have not been uniform across the member states and do not reflect either the well-defined will of a 'unified supranational actor', or a pervasive problem-solving rationality that imposes itself 'automatically' so as to increase the overall efficiency of European policy decisions in the context of a transnational interdependence of policy problems. Instead, the political reality of European policymaking is 'messy' insofar as it is uneven across policy areas and member states, institutionally cumbersome, and subject to the dynamics of domestic politics, each with its own particular logic. As a consequence, the outcomes of European policymaking tend to be much more diverse than one would expect and preclude any simplistic explanation of Europe-induced changes.

In turn, this asymmetry and the irregularity of the effects of Europeanisation necessitate a further separation between the EU-level factors/elements within a particular domestic context and the actual features of the EU's impact. Radaelli (2003: 37) critically draws attention to the possibility that changes, which occurred at the domestic level, may not be linked to the EU's impact, but instead, they may be a result of other domestic dynamics or processes. In Romania, for example, although the early post-Caeușescu governments had been better associated with democratic principles, the rule of law, and market economy than previous administrations, they were showing a 'general reluctance' to meet the demands of the transition process, particularly prior to 1996. Attempts by the Romanian governments to initiate domestic reforms failed (Phinnemore, 2001: 246). In a similar vein, Featherstone (2003: 11-12) points out that in order to link domestic change with the EU's impact, and hence in order to identify the EU as the 'prime agent' to cause change, evidence is required of 'direct causal effect'.

In the research of Europeanisation as institutionalisation, once different aspects of 'domestic change' are distinguished, the second step in empirical analysis pays attention to the identification of different impact/influence mechanisms; at the theoretical level, new institutionalist approaches are found to be appropriate to discuss these mechanisms. When examining new

institutionalist approaches, there is a clear distinction between different frameworks which explains the process of Europeanisation and related influence mechanisms, based either on the 'actors' involved or on the 'institutions' that are subject to change. These new institutionalist approaches are rationalist institutionalism, sociological institutionalism and historical institutionalism (Hall and Taylor, 1996). Rationalist institutionalism and sociological institutionalism portray 'two logics of change' and are not 'mutually exclusive'; in fact, in most instances, they occur concurrently and depict different phases in 'a process of adaptational change' (Börzel and Risse, 2000: 2).

The following section discusses the new institutionalisms, with particular emphasis on the external incentives model and the social learning model, to present the two main models that carry explanatory values for the impact of the EU on domestic changes in target states.

3.4. New Institutionalisms

The institutionalist comeback in the 1980s and 1990s produced three alternative institutionalisms – rationalist, sociological and historical – each with its own explanation of institutions and understanding of the role of institutions in politics (Pollack, 2009: 125-126). To solve the empirical puzzle on Europeanisation effects and the EU's role in domestic change, the literature has drawn on these strands of institutionalist thinking. In spite of the differences in their explanations, these institutionalisms seek to grasp the way the institutions work and their impact on politics at two dimensions – domestic and international – by analysing their role in political and social engagements (Hall and Taylor, 1996: 936-937).

Rationalist and constructivist approaches of Europeanisation both assume that the 'misfit' between European and domestic policies, institutions and political processes constitutes a necessary condition for domestic change, and that institutions mediate or filter the domestic impact of Europe, which

emanates from pressure of adaptation caused by such misfit. However, they differ in their assumptions of exactly how institutions matter (Börzel and Risse, 2003; Börzel, 2010). Nevertheless, these two approaches are found to be adequate to answer for the 'differential impact' of the EU on the institutional transformation or domestic change in target states. Although they have been criticised for conceptualising Europeanisation as a 'one-way street' (Olsen, 2002), the primary 'top-down' approach, rather than 'bottom-up' approach, came into view as a pertinent way to study the domestic impact of the EU on target states whose relationship with the EU is 'asymmetrical' (Börzel, 2010: 8).

The historical institutionalist approach, similar to sociological institutionalism, analyses the ways in which institutions influence individual behaviours with a focus on the development and changes over time (Thelen, 1999; Bulmer, 2007). It specifically looks into instances of 'institutional persistence' to change, which brings in the concept of 'path dependency', referring to a situation wherein preceding decisions shape the forms and structures of future developments (Hall and Taylor, 1996; Peters et al., 2005). 'Path dependency' is also depicted as a notion 'according to which political developments can become locked on a particular path even if the initial embarkation on that path was the result of unexpected events (Chari and Heywood, 2008: 181).

The theoretical approach of this thesis will be restricted to the application of two strands of institutionalism, which are widely utilised in the studies of Europeanisation. These strands are rationalist institutionalism and sociological institutionalism, which will be elaborated further below. As these two strands of institutionalism make different assumptions about the impact of the EU on domestic change (i.e., institutional transformation and policy (re)formation), a framework constructed around two institutionalisms makes it possible to generate competing hypotheses, which can then be tested, verified or falsified. However, the aim is not to prove one theory wrong, but to test

them against each other in order to observe if one is more suitable for explaining the differential outcome in the Europeanisation of Turkey's political structure. It is also plausible that not all institutional transformation and policy (re)formation in Turkey can be described by the same logic, and that these two theories can capture different aspects of the EU's role in domestic change through Europeanisation.

The following section discusses rationalist and sociological institutionalist strands in detail. In the beginning, their core assumptions are outlined, and followed by an overview of previous academic studies using these particular theoretical strands to identify factors involved in Europeanisation and the impact of the EU on domestic change in target states. Finally, generic hypotheses that can be deduced with regards to the impact of the EU on domestic change, and relevant evidence that is required to verify or falsify the hypotheses in question will be presented.

3.4.1. Rationalist Institutionalism – the External Incentives Model

Rationalist institutionalism draws analytical tools from 'new economies of organisation', emphasising the importance of the 'development of institutions'. These institutions emerge as a result of an attempt to reduce the 'transaction costs' of the action taken in the absence of the institution in question. From this perspective, politics is perceived as the scene of 'struggle for power' and a 'series of collective action dilemmas'. The latter image of politics involves various occasions where actors aim to maximise their preferences and benefits potentially leading to a 'collectively sub-optimal' outcome. Hall and Taylor (1996: 945) explain this outcome as the one '[...] that could make at least one of the actors better off without making any of the others worse off'. The origins of institutions are explained by the rationalist institutionalists by following a functional logic in terms of the 'effects that

follow from its existence' (e.g. see Hall and Taylor, 1996; Tallberg, 2002; Thatcher and Stone Sweet, 2002; Pollack, 2003).

In relation to Europeanisation, rationalist institutionalism indicates that the EU assists domestic change by changing 'opportunity structures' for domestic actors. The first and foremost condition here is the 'demand' for domestic adaptation as a result of the misfit between the EU and domestic norms and conditions. In the process of domestic adaptation, cost-benefit calculations of strategic actors shape the effectiveness of rule transfer (i.e., transfer of EU policies and institutions) or the EU's domestic impact. Institutions at this point may enable or constrain actions of rational actors by portraying some options as being more low-cost than others, or vice versa.

In this perspective, Europeanisation is perceived as an 'emerging political opportunity structure', which provides potential resources to some actors to wield influence, at the same time as restraining the other actors' capacity to pursue their goals. Therefore, domestic change is ensured if domestic political institutions in the target state(s) prevent domestic political actors from vetoing adaptation to EU rules and conditions (Börzel, 2010: 6). In relation to that, Börzel and Risse (2000) suggest two conditions under which Europeanisation may generate domestic change: i) presence of a certain degree of 'incompatibility' between the European and national levels; and ii) level of willingness of the institutions and actors to respond to the 'adaptational pressures'.

In that respect, the starting point of the rationalist interpretation on the EU is based on the assumption that actors (both at the EU and domestic level), who are actively involved in the related-decision making arenas, act 'strategically' to achieve their 'preferred outcome' (Aspinwall and Schneider, 2001: 7). For that reason, the rationalist institutionalist approach intends to explain Europeanisation by considering the actions of policy actors, who support or refuse to accept the changes within the national policy-making

context, emerging from the demands for policy changes originating from the EU. Attention therefore should be given to the 'reform capacity' of the national/domestic policy actors against the EU's policy demands in order to evaluate the level of 'fit-misfit' (Börzel, 1999; Cowles et al., 2001); in other words, to evaluate the level of 'match-mismatch' between the aims of the EU and the target states (Héritier et al., 1996; Héritier, 2001).

More specifically, this 'misfit' can be seen either in the form of 'policy' or 'institutional' which is generally related to the general perceptions on how domestic change (i.e., institutional transformation and policy (re)formation) is accomplished. In that respect, it can be argued that the level of 'adaptational pressure' originates from Europeanisation (i.e., EU's external pressure) is very much dependent on the level of 'misfit' between the EU and the target state. This dependency, in turn, reflects upon how much change is needed at the domestic level (Cowles et al., 2001). In fact, it can be assumed that the more similarity between the national and EU-level policy procedures exists, the less the adaptation of changes result from Europeanisation (Héritier, 2001; Knill and Lehmkuhl, 1999; 2002; Börzel, 2002).

Nevertheless, it is argued that stumbling upon 'adaptational pressures', as a result of the fit-misfit in a specific national context, does not necessarily mean that Europeanisation will trigger a change (Cowles et al., 2001). For instance, Radaelli (2003) is critical about this notion of 'fit-misfit', along with the substance of 'adaptational pressure' suggested by the institutionalist perspective for understanding the Europeanisation process; and contends that the notion of 'fit-misfit' is socially and discursively constructed. Instead, Radaelli (2003) argues that domestic actors who are particularly seeking new opportunity structures, can make good use of Europe as a force base for domestic change, albeit the absence of existing pressure from the EU.

Within the rationalist institutionalist perspective, the 'logic of consequences' (March and Olsen, 1998) is extensively emphasised to explain

the process of Europeanisation according to which actors, both at the societal and political level, are provided with new opportunities as a consequence of the 'misfit' between the EU and domestic levels. In that respect, 'Europeanisation leads to domestic change through a differential empowerment of actors resulting from a redistribution of sources' (Börzel and Risse, 2000: 2). In spite of this, it is argued that the 'capacity' of actors to take advantage of new opportunities provided by Europeanisation is dependent on two core factors: i) multiple veto points; and ii) the presence of formal institutions that will act as facilitators for the actors to pursue their interests (Cowles et al., 2001; Börzel and Risse, 2000). According to the first factor of 'multiple veto points', it is stressed that 'if the power is dispersed across political system and more actors have a say in political decision-making, Europeanisation is difficult' (Cowles et al., 2001: 9). In addition, this assumption points to the possibility that the level of domestic change may be likely to differ according to the attitudes of the existing formal institutions. In fact, institutions may make certain 'material' and 'ideational' sources available for the societal and political actors to foster domestic change; or, on the contrary, may display resistance (Börzel and Risse, 2000: 1).

Stemming from the rationalist institutionalist perspective, the external incentives model epitomises a 'bargaining' framework that represents a model of behaviour based on 'material incentives' (Schimmelfennig and Sedelmeier, 2005a). According to the external incentives model, actors substitute any form of 'information', 'threat' or 'promise' to their preferences, where their 'relative bargaining powers' emerge as the decisive factor on the outcome of the bargaining process. As previously noted, this type of interaction also follows the 'logic of consequences' (Checkel, 1998; March and Olsen, 1998). The main intention in this model is utility maximisation, where domestic actors (i.e., target states) are expected to maximise their benefits based on their fixed preferences in the process rule adoption and compliance, whilst external actors

(i.e., the EU) impose external pressure for domestic change (Checkel, 1999c: 548).

According to this model, 'reactive reinforcement' constitutes the main influence mechanism that the EU employs to exert external pressure in target states. Schimmelfennig and Sedelmeier (2002) posit that 'reinforcement', as a social structure, is exploited by a social actor (e.g. an international organisation, such as the EU) to alter another actor's (e.g. target state, such as an EU candidate state) behaviour. The expected outcome of reinforcement then should prove consistency in pro-social behaviour by means of 'reward' and 'punishment'. In this process, 'reinforcement by reward' depicts the reaction of the international organisation on the fulfilment of its conditions by the target state, by offering or withholding rewards, rather than taking any further actions that might be perceived as 'proactive reinforcement' or 'punishment' (Schimmelfennig et al., 2003: 496). If the latter two were utilised, then the process outcome would either be 'reinforcement by support', if the EU intercedes further to achieve rule compliant behaviour of the target country by means of offering additional rewards, or it would be 'reinforcement by punishment', if the EU imposes additional conditions, increasing the adoption costs for the target states (Schimmelfennig and Sedelmeier, 2005a: 10-12).

Therefore, based on the external incentives model, it can be argued that the EU as the external actor is expected to set its rules based on its liberal democratic norms and conditions, and the target states are expected to adopt these rules. This type of arrangement is supported by the rewards given by the EU in return for rule adoption and compliance by the target state. The rewards in this model can be categorised as material incentives, in the form of either a combination of technical and financial assistance, or in the form of enhanced institutional ties. More specifically, the assistance offered by the EU refers to its external programmes, such as 'Technical Aid to the Commonwealth of Independent States' (TACIS) and the 'Programme of Community Aid to the Countries of Central and Eastern Europe' (PHARE), and institutional ties refer

to the formal interaction linkages between the EU and the target state, such as cooperation, trade agreements, and ultimately, membership, as the strongest institutional tie (Schimmelfennig et al., 2002: 4).

According to the external incentives model, there are a number of factors that cost-benefit calculations of actors are dependent on. These factors include 'determinacy of conditions', 'size and speed of rewards', 'credibility of conditionality', 'veto players and size of adoption costs' (Schimmelfennig and Sedelmeier, 2005a: 10-12). Along the same line, Moravcsik and Vachudova (2003: 44-46) identify 'concessions' and 'compromises' as the two main factors impacting on the cost-benefit calculations of actors. According to their view, the balance between 'concessions' and 'compromises', reflecting the priorities of both sides during the bargaining process, would result in the compliance of the target state, if the relative weight of costs associated with bargaining process and rule adoption are lower than the costs of exclusion from the EU membership. The general findings of the empirical analysis, carried out by this model, reveal that the main determinants of conditionality strategy are 'size of adoption costs' and EU rewards, in addition to the 'credibility of conditionality' (Schimmelfennig and Sedelmeier, 2005b: 215).

3.4.2. Sociological Institutionalism – the Social Learning Model

Sociological institutionalism describes institutions not only as 'formal rules, procedures or norms', but also as the 'symbol systems, cognitive scripts and moral templates' which serve as a framework for actors; and investigates the reasons behind the adoption and diffusion of specific sets of institutional forms. From this perspective, institutions carry the same meaning as culture, which connects the 'institutional explanations' and 'cultural explanations' based on 'organisational structures', where culture is understood as collective norms and values. Thus, attaching roles to institutions, as the regulators of 'norms of behaviour', leads to the internalisation of those norms and values (Hall and

Taylor, 1996: 942-949). Whereas rationalist accounts of Europeanisation intend to explain domestic change by concentrating on the preferences of actors, sociological institutionalist perspectives assign a greater role to existing institutional arrangements in shaping the possible outcomes of Europeanisation.

Other areas of the literature on Europeanisation draw on sociological institutionalism in order to specify influence or change mechanisms based on the 'ideational and normative' processes of Europeanisation. In contrast to the rationalist institutionalist approach, sociological institutionalism uses the notion of 'logic of appropriateness' in order to explain how 'actors are guided by collectively shared understandings of what constitutes proper, i.e. socially accepted behaviour in a given rule structure' (Börzel and Risse, 2000: 8); this approach also illustrates the ways in which actors are influenced by collectively-shared understandings of what constitutes proper, socially-accepted behaviour. Therefore, these collective understandings of proper behaviour define the way that actors pursue their goals and their perception of 'rational action'. For that, meeting social expectations in a given situation becomes the driving factor for actors, rather than maximising their self interest (Börzel, 2010: 7).

This type of logic is used as 'the variant that focuses on the cognitive dimension of institutions that provide particular interpretations of the world that convey ideas and belief systems (Héritier, 2001: 4); and goes hand-in-hand with the concept of 'institutional isomorphism', to imply that institutions which interact with one another or share a similar environment have the tendency to develop 'homogeneity', in terms of their 'normative' and 'cognitive' structures (Börzel and Risse, 2008: 8). In that respect, within the sociological institutionalist perspective, domestic change originating from the Europeanisation process is regarded as 'socialisation' and a 'collective learning process' that manifests itself as new institutional ideas and belief systems (March and Olsen, 1998; Knill and Lenschow, 2001).

In this perspective, Europeanisation is perceived as the 'emergence of new rules, norms, practices, and structures of meaning' to which target states are subjected, and which they are expected to incorporate into their domestic structures. The sociological perspective presupposes different ways in which reforms are facilitated by domestic actors. For instance, domestic actors are socialised into new norms and rules of appropriateness, by means of 'persuasion' and 'social learning', by epistemic communities (also referred to as 'norm entrepreneurs'). Domestic change is therefore more likely to take place if these epistemic communities are active and if they succeed in making EU policies 'resonate' with domestic norms and beliefs (Börzel, 2010: 7).

As seen in the case of the rationalist institutionalist perspective, the importance of the existence of mediating factors is also stressed within the sociological institutionalist perspective. The two main mediating factors, which influence the level of domestic change, are identified as: i) the presence of 'norm entrepreneurs', or 'change agents', to 'persuade others to redefine their interest and identities', ii) the characteristics of the 'political culture' (whether it is built on 'consensus-building' and 'cost-sharing' or not) (Börzel and Risse, 2000: 9). In that respect, the sociological institutionalist perspective develops a dynamic understanding of 'culture', as it contextualises the concept by interlinking it to the ways it is constructed among actors, as being part of norms and identities.

With its strong emphasis on social learning, sociological institutionalism emerges as an alternative approach to rationalist institutionalism by examining the possible lack of domestic change in the ideas and interests of social and political actors, even though they are 'empowered' as a result of the 'redistribution of power resources', wherein social learning is assumed to build 'an agency-centred mechanism to induce such transformations' (Cowles et al., 2001: 12). As put forth by Bulmer and Radaelli (2004: 11), social learning can be considered an important feature of Europeanisation since it accepts the EU

as 'a platform for the convergence of ideas and policy transfer between member states'.

Nevertheless, the literature reveals that the scope of the social learning concept, in explaining policy change, is quite broad. Particularly in the research on Europeanisation, the social learning concept is divided into two parts, 'simple institutional learning' which emphasises 'absorption' on the one hand, and 'thick learning' which emphasises transformation on the other (Schmidt and Radaelli, 2004: 189). As posited by Cowles et al. (2001: 12), 'thick learning' is not common and it 'usually takes place after critical policy failures or in perceived crises when actors reassess their set of preferences [...] or even collective identities'.

Therefore, prompted by the literature on international socialisation within a constructivist framework, and, at the same time, stemming from the sociological institutionalist perspective, the social learning model epitomises a model of behaviour, based on processes of social influence, imitation, argumentation and identification (Finnemore and Sikkink, 1998; Risse et al., 1999, Checkel, 2001). It constitutes the main alternative to the external incentives model in terms of assessing the impact and effectiveness of EU conditionality on domestic change in target states. In that respect, the social learning model brings in a different dimension in terms of explaining how international institutions can influence state actors and make them comply with their rules and norms, based on sociological principles.

As previously noted, in contrast to the external incentives model, the social learning model recognises actors, not only as utility-maximisers based on their cost-benefit calculations, but also as social actors who reach their verdict based on their adaptable preferences, values and norms. This type of interaction also follows the 'logic of appropriateness' (March and Olsen, 1998; Checkel, 1998). The main intention of this model is to carry out social interactions in support of the appropriateness of norms, values and the

'content' of preferences of domestic actors. According to this behavioural model, domestic actors are expected to achieve rule adoption and compliance, provided that the norms and values demanded by the external actor are appropriate (Checkel, 1999c: 548).

Therefore, based on the social learning model, it can be argued that target states adopt rules and/or comply with the EU conditions, if they are convinced (persuaded) by the external actor; and if they are confident about the 'appropriateness' of the rules exerted by the external actor (Schimmelfennig and Sedelmeier, 2005a: 18). Similar to the external incentives model, this type of arrangement is supported by the rewards given by the EU in return for rule adoption and compliance by the target state. However, the rewards in this model can be categorised as non-materialist incentives, which can potentially affect and change the preferences of target states. Examples of such incentives include 'policy dialogues', 'knowledge', 'norm', 'learning', and/or 'persuasion' (Checkel, 2000: 4-5).

According to the social learning model, the main mechanism that is utilised in the process of bargaining is based on the interaction of various sociological factors, such as 'legitimacy', 'identity', and 'resonance' (Schimmelfennig and Sedelmeier, 2005a: 18). It is argued that these factors qualify to explain the variance of the EU's impact on domestic change in target states, as they have a direct effect on the persuasive power of the EU. Similarly, particularly for the initial transitional change, domestic factors, such as institutional arrangements, public pressure, and presence of opposition elites, have a definitive impact on the level of compliance. These factors are, in turn, directly affected by various external influence mechanisms, such as 'resonance', 'persuasion', 'advice', 'inspiration', and 'motivation' for reform process (Sadurski, 2004: 375-378). The general findings of empirical analysis carried out with this model reveal that the main determinants of conditionality strategy are 'legitimacy' and 'resonance' (Schimmelfennig and Sedelmeier, 2005b: 215).

3.5. The Europeanisation of Candidate Countries

As previously noted, as a result of the dynamic nature of European integration and enlargement processes, a new research agenda has emerged wherein new research questions on the accession dynamics and the EU's external influence mechanisms extended the scope of empirical studies. In general, it is argued that there is a differential impact when the EU's role on domestic change is compared with that of the member states on one hand, and the candidate countries on the other. In fact, as Grabbe (2003: 303) puts forward, 'the effects are likely to be similar in nature, but broader and deeper in scope' for candidate countries.

So far, the Europeanisation of CEECs has attracted much of the scholarly attention. A lot of this literature examines Europeanisation from the perspective of the accession countries and, to a large extent, problematises their experiences with domestic change in the context of EU impact. Nevertheless, the results of these empirical studies agree on the main argument that Europeanisation effects have produced 'diverse' and 'ambivalent' responses and outcomes (Hughes et al., 2002: 1; Haughton, 2007: 233). These differential outcomes are generally linked to the 'structural dissimilarities' amongst the CEECs and the ways in which EU-level governance is managed, in relation to individual candidate states. As previously noted, the EU has been, and still remains, in an advantageous position in the Europeanisation processes of candidate countries. In fact, between candidate countries and the EU, there is 'an asymmetrical relationship which gives the European Union more coercive routes of influence in domestic policy making processes' (Grabbe, 2003: 303).

As a result of this asymmetrical relationship, candidate countries in the Europeanisation process cannot influence EU policy-making. Rather, their actions (i.e., efforts to democratise, Europeanise, bring about domestic change and institutional transformation etc.) are mainly triggered by strong incentives to implement EU policies, emerging from the prospective of EU membership. In

relation to that, as noted by Schimmelfennig and Sedelmeier (2004: 661), this powerful status of the EU has provided itself with an 'unprecedented influence' on the 'restructuring of domestic institutions' and the 'entire range of public policies' in candidate countries.

The key concern in this particular research agenda is with the exploration of different influence mechanisms employed by the EU in order to transform the domestic structures of the candidate countries in the accession process. For the purpose of exploring these different mechanisms (of domestic change as a result of Europeanisation effects), attention is mainly given to the 'external governance' aspect of the EU enlargement process; where the 'external governance' is mainly concerned about 'what is exported' or 'how rule transfer happens' (Schimmelfennig and Sedelmeier, 2004: 662).

One of the main policy strategies of the EU in its enlargement process towards candidate countries is conditionality. Although the principle of 'conditionality' is initially employed by international organisations, such as the International Monetary Fund (IMF), World Bank (WB), the notion of 'democratic' or 'political' conditionality, as a mechanism/instrument to endorse social and political reforms, has been extensively used by the EU in recent years. For that purpose, the literature on Europeanisation has extensively focused on conditionality strategy (also referred to as democratic conditionality), in order to assess European integration dynamics and the EU's impact on the democratisation processes of ex-communist states (Kubicek, 2003; Vachudova, 2005; Schimmelfennig and Sedelmeier, 2005a; Pridham, 2005; Steunenberg and Dimitrova, 2007), where it is identified as the EU's main strategy to cause domestic change in target states (Börzel, 1999; Cowles et al., 2001; Featherstone and Radaelli, 2003; Radaelli, 2004).

In these studies, conditionality is accredited as the most effective influence mechanism among the other strategies of EU democracy promotion which the EU uses to induce target states to comply with certain rules and

conditions. As Pridham (2002a: 956) notes, 'among notions of international influences in democratisation, "conditionality" is the one most resonant of deliberate efforts to determine the process's outcome through external pressure'. By the same token, Checkel (2000: 1-2) points out that conditionality is a strategy by which the compliance of national governments is endorsed by international institutions, with the help of certain incentives; and this implies a mutual agreement in which target governments are expected, if not obliged, to take certain 'policy actions', whilst international institutions provide necessary technical and financial assistance. It can be argued that, in the case of the EU, conditionality strategy signifies the implementation of 'policy instruments' which triggers the compliance of the target states with the EU's rules and conditions. As a result of this process, the EU aims to ensure that target states are capable of taking responsibility for their membership and that they do not cause any additional burden on the EU (Barnes and Randerson, 2006: 351-352).

It should be noted here that democratic conditionality became particularly important with Spain's application for EU membership. At that time, the implications of the Franco regime became a huge concern for the EU, whereas, in previous rounds of enlargement, being a 'liberal democracy' was accepted as a sufficient condition for EU membership (Pridham, 2002b: 205). Nevertheless, it is after the declaration of the Copenhagen criteria in 1993 that conditionality became a 'central and proactive' component of the EU enlargement process, with its strong emphasis on the achievement of 'substantive democracy' (Pridham, 2008: 373). In a similar vein, Grabbe (1999: 7) notes that in the enlargement rounds concerning CEECs, higher standards were set for the applicants, than those required from current member states.

The formulation and inclusion of the Copenhagen criteria to the 'accession conditions' has initiated a new era for EU membership accession. As declared in the Copenhagen European Council Summit, 'accession will take place as soon as an associated country is able to assume the obligations of

membership by satisfying the economic and political conditions required' (European Council, 1993). By readjusting its accession conditions this way, the EU has provided the applicant countries with a clear indication of the costs of compliance during the accession process. Grabbe (2003: 307) perceives this aspect of membership obligations as the commitment of candidate countries 'to converge with a maximalist version of the EU policies'. More specifically, this convergence involves the acceptance and application of the *Acquis Communautaire* – the collection of the EU legislation – to the domestic legislative framework of candidate countries.

It should be noted that the Copenhagen criteria implicitly dictates two variants of conditionality: 'acquis conditionality' and 'democratic conditionality' (Schimmelfennig and Sedelmeier, 2004: 663). The 'acquis conditionality' advances as a consequence of processes and debates over 'policy substance' and 'agenda-setting', and at times, lacks clarity in legal terms, meaning that some of its parts become open to interpretation (Grabbe, 1999: 6-7); 'democratic conditionality' gives the EU the power to intervene in many 'sensitive' policy areas of the candidate states (Pridham, 2002a; Grabbe, 2003).

It is argued that the vagueness and irregularities concerning the conditionality principle creates an analytical challenge when determining to what extent Europeanisation in candidate countries has occurred as a result of conditionality, and to what extent other 'endogenous' and 'exogenous' factors have been influential during the accession process (Grabbe, 2003: 311). Furthermore, as Hughes et al. (2002: 3) note, the absence of specific 'tools', either to measure or to implement the accession criteria, also contributes to this analytical challenge. When examined from the perspective of candidate countries, it becomes clear that most of them criticise the EU for not being offered equal benefits, and for being obliged to meet additional criteria and normative standards, which were not demanded from the current member states (Schimmelfennig et al., 2002: 11). Therefore, it can be concluded that EU conditionality does not have a 'uniform logic'; instead, it varies and

transforms depending on the 'content of the acquis', the specific 'policy area', the 'country' concerned, and the 'political context' (Hughes et al., 2004b: 26).

3.6. Summary of the Theoretical Framework

The table below summarises the hypotheses and variables derived from the external incentives model and the social learning model. The table specifically allows EU-level and domestic-level variables to be scrutinised, in order to verify or falsify the hypotheses. Firstly, the external incentives model is used as a test model to examine the effectiveness of EU conditionality on institutional transformation and policy (re)formation processes. It mainly assumes that conditionality will be most effective if credibility of EU accession and the size of EU rewards are high (EU-level factors) and domestic adoption costs are low (domestic-level factor). Secondly, the social learning model is used as an alternative to the external incentives model to examine the effectiveness of EU conditionality. This model assumes that conditionality will be most effective if the legitimacy of an EU policy (EU-level factor), the identification of target government with the EU and the domestic resonance (domestic-level factors) are high. The factors associated with both theoretical models are used to explain the diverging outcomes that EU conditionality might have on different policy areas, in the context of Turkey.

<i>Table 3.1</i>	Summary of hypotheses and factors	
Hypotheses	Factors in accord	Factors in contention
<i>External incentives model</i>		
size of rewards	Extensive forms of financial and technical assistance	Absence or limited forms of financial and technical assistance
credibility	Prompt and proportionate delivery of rewards	Absence or failure of prompt and proportionate delivery of rewards
size of adoption costs	Ability to adopt rules, absence of veto players	Inability to adopt rules, presence of veto players

<i>Social learning model</i>		
legitimacy	High normative quality of the EU rules and conditions; presence of coherent presentation and ownership perception	Low normative quality of the EU rules and conditions; absence of coherent presentation and ownership perception
identity	Successful self-identification with the EU; perception of the EU as an aspirant group	Unsuccessful self-identification with the EU; absence of perception of the EU as an aspirant group
resonance	High levels of conformity between domestic rules and EU conditions	No or low levels of conformity between domestic rules and EU conditions

This chapter has introduced the theoretical framework of the thesis. The following chapter (Chapter 4) presents the research design and methodology; and discusses in detail the case selection, hypotheses, along with dependent and independent variables.

4. Research Design and Methodology

4.1. Introduction

As previously noted, most of the studies on Europeanisation mostly examine the EU's external impact on domestic change from a 'top-down' perspective; however, this study focuses on both the 'top-down' and 'bottom-up' perspectives, by examining the domestic context and the interplay between the external and internal actors together in the research puzzle. Inclusion of the 'bottom-up' approach in this analysis allows the process-tracing of domestic developments, with references to selected cases (Radaelli, 2004: 4; Haverland, 2007: 62) in order to assess the dynamics of the EU's impact on Turkey.

To begin with, this chapter discusses the case selection and research design. Secondly, it re-introduces the main research questions and identifies the chosen variables, which are based on the proposed theoretical models (see Chapter 3). This is followed with an illustration of the hypotheses and suggestions on where the research expected a change in the three different periods (1999-2002, 2002-2004, 2005-2008), and possible applications in a comparative framework. Finally, it explains the research methods and the data used in this thesis.

4.2. Case Selection and Research Design

Case selection is an integral part of a good research strategy, and it has an undeniable impact on the generalisation and reliability of the results of any case study, with regard to the realisation of 'well-defined' research objectives and outcomes. Therefore the main criteria used to select the cases in this study are based on their relevance to the main research question and the theoretical framework, for the purpose of improving the theoretical and empirical understanding of the subject being researched (Yin, 2003: 34).

Furthermore, case studies are vital for description(s) of complex events in social sciences. Also, before explaining those events, it is unavoidable to provide descriptions of the cases. In view of that, one of the advantages of the in-depth case study method is stated as the 'development of good causal hypotheses', which is seen as a supplement to good description (King et al., 1994: 44-45).

The methodology of this thesis draws on qualitative methods developed in comparative politics (Gerring, 2001) and its research design has a focus on small-N research. This thesis also embodies a qualitative case study research, and its focus is narrowed to four policy areas which, in turn, allow the researcher to carry out a comparative analysis across units and in different time periods. The case study method is adopted in this research because it is found to be the most appropriate approach for the particular research puzzle that this thesis is aiming to solve. Since this thesis seeks to assess the empirical validity of the hypotheses deducted from the literature on Europeanisation, the case study method is applied as one way of testing theory (Van Evera, 1997: 49-88).

To begin with, Turkey is chosen as the case study for this project. As previously mentioned, the main aim of this study is to explore the institutional transformation and policy (re)formation in Turkey, under the influence of the EU and its conditionality strategy. Schimmelfennig et al. (2003: 501) argues that selecting 'hard cases' are more useful to understand the conditions of the effectiveness of conditionality with regard to Europeanisation, wherein high levels of conflicts provide better opportunity to observe the scope of the impact of the EU, and conditionality strategy. In that respect, selection of Turkey as a case study is seen as constructive in terms of examining the effectiveness and limitations of conditionality as Turkey illustrates a 'hard case' where the complex internal dynamics limit the impact of the EU. By employing a case study method, the main aim is to carry out an in-depth empirical investigation, in order to evaluate theories conducted in the field of Europeanisation, as well

as to formulate hypotheses associated to Europeanisation with respect to the causal mechanisms offered by the theories under consideration.

In order to make a causal inference linking the research question and the hypotheses, this thesis conducts cross-sectoral and cross-temporal analysis (King et al., 1994: 75-115; George and Bennett, 2005: 166). The units of analysis are increased by comparing democratisation in Turkey based on four policy areas and across three different periods. The periodisation of the cross-temporal analysis is completed by examining key events in Turkey-EU relations in order to determine the beginning and end of each period. The selected timeframe for the analysis is the period from 1999 to 2008, which is divided into three phases: 1999-2002, 2002-2004, 2005-2008. This timeframe is chosen because it covers the period in which the EU has been actively involved in the Turkish democratisation process as part of its conditionality strategy.

The first phase covers the period between 1999 and 2002, and begins with the Helsinki Summit, where the Helsinki Council admitted Turkey to the position of candidate country. The beginning of the second phase (2002-2004) is marked by the election of the Justice and Development Party (AKP) as the single-party government in November 2002, which is considered as the beginning of a new era in Turkish domestic politics. The third phase (2005-2008) is marked by the decision of Brussels European Council in December 2004 to open accession negotiations for Turkey's EU membership on 3 October 2005, and covers the period in which accession negotiations were ongoing. Based on these three periods, this thesis examines the independent variables (EU level and domestic factors) to identify the causal relationship between EU conditionality and domestic change in Turkey.

2008 is found to be a logical end-point for the empirical analysis because the accession negotiations of Turkey came to a sudden halt, and no significant progress in relation to Turkish democratisation under the influence of the EU has been achieved since then. The selected timeframe allows for the

evaluation of the institutional transformation and policy (re)formation of the four areas when EU conditionality had been actively present and influential on domestic change in Turkey. Although ten years can be considered a relatively short timeframe, it has been a particularly important period during which major domestic changes occurred. It is realistic and possible to trace processes of domestic change in the selected timeframe considering the rapid development of political reforms that took place under the influence of EU conditionality.

Furthermore, the cross-sectoral analysis is employed by choosing four policy areas for the empirical investigation: minority rights, freedom of expression, the judiciary and the military. There are two main reasons for the selection of these areas. Firstly, modern conceptualisations of democracy indicate that democratic systems require effective civilian control over the military; promotion of political freedoms, such as freedom of expression; the protection of minority rights; and efficient judicial systems (Mayo, 1960; Przeworski, 1995; Dahl, 1998; Diamond, 1999). Whilst these areas form some of the key components of liberal democracies, they also constitute the policy areas which are incorporated by the EU into the Copenhagen political criteria implying the EU's formal membership accession condition; yet, at the same time, they constitute the main areas which have presented challenges for Turkey in the process of EU accession.

In order to explore the reasons of variation in these policy areas, while the causal impact of one explanatory factor on domestic change is analysed, the other factors (both EU-level and domestic level) are kept constant; the correlation between independent variables is also considered in order to eliminate the indeterminacy problem (King et al., 1994: 118). Ragin (1987: 116-118) identifies one of the main methodological tasks in qualitative comparative analysis as the preliminary coding of all the variables in the empirical analysis. In that respect, the analysis follows the 'concomitant variation measures' (George and Bennett, 2005: 153) scaling the variation of

Turkey's compliance with EU rules and conditions as 'high' and 'low', instead of 'present' or 'absent', due to the difficulty in exact specification of compliance. As a result, in order to simplify the measurement of the independent variables that are based on the competing theoretical models, a dichotomous coding is used by giving a 'high' value to show that the characteristic of the independent variable in question enables or advances compliance, and a 'low' value to indicate that compliance is stalled or halted.

In contrast to previous studies on the EU's impact on domestic change in Turkey, this thesis claims that social learning models are crucial for a complete understanding of the impact of EU conditionality in the case of Turkey. The thesis ultimately contends that social learning may have been important in other cases where the effects of EU conditionality were examined and this existing literature has missed a key piece of the puzzle in the study of the effects of EU conditionality.

In relation to that, process-tracing is one of the key methodological components in this project. The process-tracing method has been selected in order to uncover the causal paths behind the domestic change in Turkey, in relation to its democratisation process, and in order to understand the reasons behind this development (or its lack of). As King et al. (1994: 227) explain, the method of process-tracing involves 'searching for evidence – evidence consistent with the overall causal theory – about the decisional process by which the outcome was produced'. In a similar vein, George and Bennett (2005: 153) state that process-tracing can be used to find out any 'causal chain coupling independent variables with dependent variables and evidence of the causal mechanisms posited by a theory'.

In that respect, process-tracing is used as a research procedure to look at the processes by which initial conditions are transformed into particular outcome(s). In this case, the outcome is the democratisation of Turkey, under the influence of the EU. By employing this research method, it becomes

possible to carry out within-case analysis by contemplating different policy areas within Turkey, where several features of each policy are examined in order to identify and assess the linkage between the respective causal factors and final outcomes. In more detail, the process-tracing procedure is found to be useful, firstly, to operationalise and measure the independent and dependent variables; and secondly, to explore the linkage between the variables, with an emphasis on causality along with the causal mechanisms connecting the independent and dependent variables (Venesson, 2008: 227-232).

4.3. Research Question

Previous research on Europeanisation and the EU's external impact on domestic change examined questions on the 'EU's role in democracy promotion' and 'EU influence mechanisms'. The research interest in this study relates to the main determinants of domestic change in target states, particularly on the decisiveness of different EU-level and domestic-level factors, in the course of domestic change. This research argues that, in addition to EU-level factors, which can be considered as the main 'triggers' of domestic change, domestic-level factors are more decisive in terms of compliance with the EU conditionality.

Furthermore, as previously noted in the introductory chapter, the main research question (Q) of this study can be listed as:

(Q): How does Europeanisation impact upon institutional transformation and policy (re)formation in Turkey? How does it affect the political actors, institutions and cultural norms and values embedded in Turkish political system?

4.4. Operationalisation and Measurement of Variables

As discussed in Chapter 3, the causal theories of this thesis are rationalist institutionalism and sociological institutionalism, and the theoretical models applied are the external incentives and social learning models. As previously noted, hypotheses derived from these two theoretical models need not be mutually exclusive, as they can explain different aspects of external impact and domestic change. In this section, a conceptualisation of the variables and the hypotheses, which will be explored in the thesis, are discussed. It is then followed by the classification of models of interaction of variables and data collection methods.

4.4.1. Conceptualisation of Variables and Hypotheses

Dependent Variable

The dependent variable (D.V.) of this thesis is the democratisation process of Turkey. In order to explore the democratisation process, four policy areas are chosen: minority rights, freedom of expression, the judiciary and the military. In order to explore the variation on these policy areas, domestic change is divided into three groups. Firstly, rule adoption (hence, compliance with EU rules and conditions), and alignment with the EU provisions and international conventions are chosen as the first category. More specifically, this category involves the ratification of the international conventions by the Turkish Grand National Assembly, harmonisation of domestic laws and regulations and National Adaptation Programmes with the EU acquis, as part of Turkey's compliance with the legal structures of the EU.

The second category involves the transformation of institutions and capacity development, in relation to policy (re)formation. In this category, Turkey's compliance with the EU rules and norms is measured at the administrative and institutional level by exploring the policy revisions in

relevant public institutions. These revisions cover a wide range of parameters, such as technical capacity development, adoption of coordination mechanisms, in order to distinguish compatibility, and alignment at the institutional level.

Finally, the third category evaluates the overall cooperation between the domestic level and the EU-level institutions. The cooperation between these institutions is investigated in order to assess the level of compliance with the EU requirements, and to identify the levels of EU-norm diffusion and willingness of domestic institutions. The main indicators in this category can be identified as cooperative actions, such as twinning and PHARE programmes, and additional institutional links and agreements with the EU institutions.

This study assumes that the D.V. is shaped during the accession negotiation process in two distinctive ways, with the strong impact of the EU rules and conditions for membership (downward pressure/emphasis on external actor) on the one hand; and on the other, Turkey's willingness and its own efforts in complying with EU conditionality (upward pressure/emphasis on domestic actor). In addition, this study aims to verify which one of these ways has become more decisive or carries the explanatory value for domestic change in Turkey during the process of Europeanisation in the selected policy areas. As will be discussed in the following section, the model applied is tested based on four different configurations inspired by Schwellnus (2005), demonstrating the 'supply side' of the EU and the 'demand side' of Turkey.

Independent Variables

Along the lines of the external and internal dimensions of the Europeanisation process, the independent variables (I.Vs) are selected based on the division between EU-level factors and domestic factors. Table 4.1 shows the sub-division of the independent variables (I.Vs) into domestic and EU-level factors. Whilst the EU-level factors represent the EU's stance and strategies on rule adoption and compliance, as well as its strategy to trigger domestic change in candidate countries; the domestic factors epitomise the desires of

target governments in the target countries, as well as epitomising the conditions that facilitate or limit the impact of the EU.

Built on the previous literature and analysis on the transformative power of the EU, particularly in the CEECs, the variables included in the qualitative analysis are: *size and credibility of rewards*, *size of adoption costs*, *legitimacy*, *identity and resonance*. Such analysis is similar to that carried out by Schimmelfennig and Sedelmeier (2005a), where they focused on I.Vs which were covered by the external incentives model (the size of rewards and the size of adoption costs) as the main determinants of domestic change. Furthermore, Schimmelfennig and Sedelmeier did not expect any significant relationship with the main social learning models (identity and resonance), and thus a specific case study demonstrating the explanatory value of these I.Vs was found inconclusive in their case study. However, this study, as an alternative to Schimmelfennig and Sedelmeier’s previous work, integrates social learning variables to test the validity of the previous theoretical assumptions (Schimmelfennig and Sedelmeier, 2005a).

Table 4.1 Sub-division of independent variables

	External incentives model	Social learning model
EU-level	size and credibility of rewards	legitimacy
Domestic level	size of adoption costs	resonance and identity

(Table adapted from: Schimmelfennig et al., 2002; Schimmelfennig and Sedelmeier, 2005a; Sedelmeier, 2006).

The variable, *size of rewards*, is one of the factors hypothetically causing variation under the EU’s strategy of ‘reinforcement by reward’. The basic inference of *size of rewards* is that they are offered if the target state complies with the EU rules. The size of these rewards can be measured based on materialistic or non-materialistic compositions; and they can take forms of financial and technical assistance, access to the EU single market, or an access

to expertise on structural/institutional adjustments. Yet, EU membership is the ultimate reward, as it represents the highest institutional ties that the EU can offer as a reward; therefore membership is the most influential 'political instrument' which can be used in order to enforce rule compliant behaviour in the target states (Schimmelfennig et al., 2003: 496-497).

Credibility of rewards is another factor impinging on the level of compliance. Credibility can be assessed in different ways. At the outset, rewards can be considered credible if they are given in proportion to the progress achieved by target states in terms of rule compliance. Secondly, the credibility of rewards increases if they are delivered promptly after the adoption of a certain rule takes place (Schimmelfennig et al., 2002: 11).

The *size of adoption costs* is an important domestic factor, referring to the power costs of target states, due to their stance on complying with EU rules and conditions in a given policy area, where the political decisions on adoption of new rules may increase or decrease the costs of actual rule adoption (Schimmelfennig, 2005c: 4-5). For instance, as Schimmelfennig and Sedelmeier (2005a: 16) posit, there are two kinds of sources for adoption costs. The first source can be identified as 'opportunity costs' for governments, when they are deprived of alternative rewards by solely focusing on the rewards offered by the EU, which are offered in return for rule adoption. The second source can be identified as the 'welfare or power costs' for political actors, where the costs are determined based on the presence or absence of veto players in the political sphere. In that respect, the size of adoption costs may predominantly shape the final decision of target states whether to accept or reject EU rules and conditions; in fact, if the size of adoption costs increases, this may result in an obstruction of the effectiveness of credible rewards and incentives offered by the EU (Schimmelfennig, 2008: 921).

Legitimacy corresponds to the normative quality of the EU rules and conditions in a given policy area. In the process of institutional transformation and policy (re)formation, if an EU policy lacks legitimacy, then it may be openly rejected at the domestic level. In that respect, the perceived legitimacy of the EU's norms and rules at the domestic level becomes one of the decisive factors for the convergence of national policies.

As Franck (1990: 38) states legitimacy can be measured by looking at 'the clarity with which the rules communicate; the integrity of the process by which they were made and are applied, their venerable pedigree and conceptual coherence. In short, it is the legitimacy of the rules which conduces to their being respected'. In that respect, legitimacy factor necessitates the participation of relevant stakeholders such as policy-makers and national ministry representatives in the process of EU rule adoption (Mussellin, 2009). It can be argued that only with their participation in the process of EU rule adoption a high level of legitimacy can be obtained contributing to the institutional transformation and policy (re)formation in target states.

Within this context, the legitimacy of EU rules and policies depends on how determinate the rules are at the EU level. Therefore, legitimacy reflects on how the EU rules are defined (clearly or ambiguously), used (consistently or inconsistently), and whether they have a legal ground and are accepted and applied by all the EU member-states. In that respect, high level of legitimacy is expected if the community rules and policies are extensively tied to the legal foundations of the EU itself (Schimmelfennig and Sedelmeier, 2005a: 18-19).

In other words, the rules are considered to be legitimate if the related norms and conditions are coherently presented by the EU, creating an 'ownership' perception among the EU member states. In that respect, rules become legitimate if they are clearly defined and consensually shared by the EU member states, enhancing the compliance of target states (Schimmelfennig, 2006: 50).

The *Identity* factor refers to the self-identification of a target state with the consensually-shared collective identity of the EU. For the *identity* factor to be effective, it is necessary for target states to perceive the EU as the main 'aspiration group' (Schimmelfennig and Sedelmeier, 2005a: 18-20).

Resonance is another factor impacting upon the level of rule compliance. It refers to the compatibility of EU rules with older domestic rules, norms and political traditions in target states (Cirtautas and Schimmelfennig, 2010: 422). In other words, resonance refers to the extent to which there is a 'cultural match' or 'social salience' between EU demands and the domestic rules and political discourse (Sedelmeier, 2011: 16). Within this context, resonance factor shows variances in terms of generating institutional transformation or policy (re)formation based on the degree of 'openness' at the domestic level to accept or adopt new and external rules induced by the EU. Therefore, it can be argued that a high level of 'openness' to adopt new policies allows the EU policies to resonate effectively at the domestic level.

In relation to resonance, it is assumed that rule adoption (as well as adaptation to these rules) becomes more likely if there is a high level or 'fit' between EU rules and national policy norms; and if the externally imposed rules can find 'domestic salience' in target states (Linden, 2002; Schimmelfennig and Sedelmeier, 2005a; Lopez-Santana, 2006; Hopbach, 2012; Tsakatika, 2012).

On the other hand, 'stronger' resonance with existing domestic rules depends on certain factors. For instance, if the new rules exerted by external actors on a specific policy area are too different from the rules the target state employs, it can be assumed that it becomes difficult for domestic actors to socialise in adopting those new rules. In fact, resonance is likely to be missing if 'deep-rooted' policy ideas at the domestic level and new rules embedded in the EU's policies hold opposing views on certain political matters (Tsakatika, 2012: 673).

Furthermore, Trenz (2008: 276-277) argues that EU policies are likely to find resonance if target states show sufficient competency to allocate knowledge and organisational capacity for domestic transformation. In that respect, for the formation of resonance at the domestic level, it is important to have a scope of political communication, mediation, and public perception. Only with a wide scope of the above mentioned features resonance can be formed at the domestic level. Within this context, certain legacies in political regime of a target state are likely to influence the extent to which externally imposed rules and norms are accepted and become effective in shaping transformation at the domestic level.

Furthermore, it can be argued that resonance between European rules and existing rules in a domestic system is likely to be higher if the rules in question are also the priorities of the domestic actors indicating the 'fit' between the European initiatives and national norms and cultural traditions (Vukasovic, 2013: 9). In a context where resonance takes place, the EU can presumably reinforce 'existing policy paths' whilst national policies can be harmonised with that of the EU (Tsakatika, 2012: 689). Only in the presence of these factors resonance can be regarded as an important mechanism for the linkage between domestic policies and EU policies based on diffusion and exchange of ideational interests (Trenz, 2008: 279).

Based on the above discussion, the following are the hypotheses to be tested in the empirical chapters:

(H₁): Turkey's compliance with EU conditionality increases if the EU offers substantial size of rewards

(H₂): Turkey's compliance with EU conditionality increases if the EU delivers the rewards soon after Turkey's rule compliant behaviour (i.e. rule adoption in a specific policy area)

(H₃): Turkey's compliance with EU conditionality increases if Turkey faces low levels of adoption costs in the process of rule adoption

(H₄): Turkey's compliance with EU conditionality increases if the EU rules are legitimate, i.e. coherently presented and ownership perception is generated

(H₅): Turkey's compliance with EU conditionality increases if Turkey identifies itself with the EU; and shares EU's norms and values (in a specific policy area)

(H₆): Turkey's compliance with EU conditionality increases if there is a high level of institutional association and conformity between existing rules and newly introduced EU conditions.

The main body of this research focuses on 'hypothesis testing' (the impact of the independent variables on Turkish democratisation), in a primarily deductive approach. In the closing section of this study, emphasis is placed on 'hypothesis generating', by using an inductive approach. Therefore, the research intends to utilise 'retroduction', with the interaction of evidence (Ragin, 1994: 47).

4.4.2. Models for Interaction of Variables

As mentioned previously, the goal of this thesis is to analyse the institutional transformation and policy (re)formation of Turkey, by focusing on four policy areas: minority rights, freedom of expression, the judiciary and the military; and to test the explanatory values of the EU-level and domestic-level factors, based on the two theoretical models, to understand to what extent and under what conditions the EU has contributed to domestic change in Turkey. In order to carry out the analysis, partially inspired by Schwellnus's (2005) configurations, a minimal model for the Interactions of variables is formulated. As shown in Table 4.2 the model of Interaction demonstrates a two-dimensional reflection on the process outcome, in relation to the dynamics between domestic conditions and EU conditionality. The first dimension demonstrates the 'supply side' of EU conditionality and its effectiveness with respect to the 'strength' of EU rules. The second dimension demonstrates the domestic conditions based on a cost-benefit analysis. On the basis of this two-dimensional reflection, several configurations on the process outcome can be derived.

Table 4.2		Reflections on the process outcome: the relationship between domestic conditions and EU conditionality	
		Effectiveness of conditionality	
		Strong EU conditionality	Weak EU conditionality
Domestic conditions based on cost-benefit analysis	Favourable domestic conditions (benefits > costs)	Affirmative/positive/genuine Europeanisation	Social learning-driven/self-Europeanisation
	Unfavourable domestic conditions (costs > benefits)	Fractional/conditionality-driven Europeanisation	Negated/negative/simulated Europeanisation

- 1. Favourable domestic conditions and strong conditionality:** This is the best composition, since target states retain favourable conditions for rule adoption and receive necessary external incentives boosting their compliance to the highest level. Therefore, the result of this configuration is the highest degree of rule adoption and domestic change. Since it takes the essential domestic and EU-level factors into account as explanatory variables, both the external incentives and social learning models fit well into this model. This type of domestic change can therefore be described as *affirmative/positive/genuine Europeanisation*.
- 2. Favourable domestic conditions and weak conditionality:** This model presupposes that domestic change can still take place, due to favourable domestic conditions, even in the absence of strong conditionality. The outcome on domestic change may not be as significant as the previous model; nevertheless, it may represent what can be called as *social learning-driven/self-Europeanisation*.
- 3. Unfavourable domestic conditions and strong conditionality:** This model provides a single-sided and therefore imbalanced domestic change. It presupposes that partial compliance can still take place, due to strong external incentives offered by the EU; however, the lack of necessary favourable domestic conditions diminishes the pace of

transformations, thus it also diminishes the compliance of target states. This is mostly evident in the cases where target states show rule compliant behaviour based on their cost-benefit analysis, which results in partial or fractional compliance with EU rules. This type of domestic change can be described as *fractional/conditionality-driven Europeanisation*.

- 4. Unfavourable domestic conditions and weak conditionality:** This model represents a situation where both favourable domestic conditions and strong conditionality is absent, which cannot therefore result in actual domestic change, or compliance with EU rules. Thus in this case, the most probable outcome would be the abandonment of any initiatives on domestic change/transformation and absolute refusal of compliance with the EU rules. This configuration can be expressed as *negated/negative/simulated Europeanisation*.

4.5. Data Collection

Firstly, the research in this study relies heavily on documentary sources. Particularly for the theoretical discussion, academic literature on new institutionalisms, with reference to rationalist institutionalism (predominantly on the external incentives model) and sociological institutionalism (predominantly on the social learning model), are extensively used to draw attention to the current debates in specialist studies. Furthermore, academic literature has also been useful to provide the conceptual basis and empirical evidence, and in addition for the formulation of arguments and hypotheses.

Nevertheless, the core of the empirical research includes the analysis of primary sources. The EU-level primary sources include: the European Commission's Progress Reports, EU Directives, Conclusions made by the European Council Presidency, Accession Partnership Documents and the European Commission's Strategy Papers on Enlargement. At this point, it needs to be noted that the empirical analysis to a great extent relies on the

aforementioned EU-level primary sources. One of the main reasons for relying on these EU documents is that these are the major documents that provide accurate information on Turkey's democratisation efforts and weaknesses in Turkish democracy.

On the other hand, the domestic-level primary sources, in relation to the four policy areas chosen for this study, include parliamentary hearings and parliamentary committee reports, further enquiries on parliamentary proceedings, official communications of the government, National Adaptation Programme for the Adoption of the Acquis (NPAA), political party and government programmes, Law proposals and draft Law, judicial proceedings and hearings, national legislations and regulations, the Turkish Constitution, further directives, annual reports, publications and reports of think-tanks and non-governmental organisations (NGOs), and newspapers.

Secondly, additional data has been collected by interviewing political elites in Turkey. If carried out effectively, the elite interviewing technique can make a significant contribution to the understanding of the research question at hand in particular and, to the understanding of political phenomena in general. Elite interviewing is often described as the 'most effective' way to gather information about 'decision makers and decision-making processes' (Burnham et al., 2008: 231). In most cases, 'elite interviewing can be used whenever it is appropriate to treat a respondent as an expert about the topic at hand' (Leech, 2002: 663).

In that respect, a limited number of interviews with elites were conducted at a later stage of this research. The targeted 'elite' group for this thesis includes political officers from the Delegation of the European Union to Turkey, ministry-level officials from the Directorate General for Europe in the Ministry of Foreign Affairs, an eminent Member of the Foreign Affairs Committee in the Grand National Assembly, Members of Parliament (from the CHP, MHP, and AKP), and a former Minister of Foreign Affairs, as well as

researchers and experts from a number of NGOs, including the Turkish Economic and Social Studies Foundation (TESEV), Turkish Industry and Business Association (TÜSİAD), and Turktrade. The anonymised list of interviewees can be found in the Appendix of the thesis.

For the interviews, the 'semi-structured' style was chosen as this style keeps the focus of the topics constant, provides a partial structure to the interview, where a written guide can be provided prior to the interview, but at the same time it also provides the necessary flexibility for both the interviewer and the interviewee, where they can improvise on the discussion of the topics. Furthermore, this allows the interviewee to describe, explain and elaborate on their personal experiences freely and in their own words (Bryman, 2008: 438). Having a written guide, which includes a list of topics and questions prior to the interview, is a particularly useful method for steering the conversation onto topics that the interviewer wishes to find out more about (Bryman, 2008: 442-443).

During the interviews, extensive notes were made by the author on key points. In most cases, participants did not object to the digital recording of the interview. Nevertheless, a few participants requested that their names were not mentioned, and some information was given 'off the record'. These specific requests were granted by the researcher. Hence, in order to avoid inconsistent conventions for referencing, and to ensure consistency, all interviewees will remain anonymous in this thesis. The interviewees have been very informative and helpful for exploring and refining certain areas of inquiry, not only in terms of supporting the accuracy of the information gathered previously, but also for the validity of theoretical assumptions; however, the data gathered from these interviews were limited in terms of offering further insightful revelations to explore in relation to the main research question.

This chapter has presented the research design and methodology of this thesis. Having the theoretical framework and respective hypotheses and

variables identified, in Section II of the thesis, in Chapters 5-8 in particular, empirical analysis is conducted. The sequence of the empirical chapters is as follows: minority rights, freedom of expression, the military, and the judiciary. In each empirical chapter, the institutional transformation and policy (re)formation of Turkey, and the effectiveness of EU conditionality, are traced and analysed across three periods of time; these periods are 1999-2002, 2002-2004, 2005-2008.

SECTION II: EMPIRICAL ANALYSIS

Section 1 provided a contextual and theoretical foundation of Europeanisation upon which further empirical analysis on specific cases regarding EU conditionality and domestic change can be conducted. Furthermore, by linking the international dimension of democracy promotion and the role of the EU as a democracy promoter to domestic change in Turkey, Section 1 provided an account of the importance of multi-dimensional aspect of democratisation and the role of the EU as an international organisation in the spread of democratic norms and standards in target countries.

Section 2 presents the empirical analysis of the thesis. It investigates the impact of EU conditionality on the institutional transformation and policy (re)formation of minority rights (Chapter 5), freedom of expression (Chapter 6), the military (Chapter 7), the judiciary (Chapter 8), and provides a comparative discussion on the empirical findings and policy implications (Chapter 9) , and brings the thesis to a close by providing an overview of the research, the limitations and the future potential areas of research (Chapter 10).

5. The Reforms to Minority Rights in Turkey

5.1. Introduction

For almost 90 years, since the end of the First World War, international protection of minority rights has been promoted by international treaties, requiring the guarantee for the protection of minorities around Europe and the Middle East. The general principles of minority rights protection measures were developed by major international organisations, such as the United Nations (UN), the Organisation for Security and Co-operation in Europe (OSCE) and the Council of Europe (CoE); and these measures became an important integral aspect of the European Union's legal framework. As indicated in the Minority Groups International report on Turkey, these measures have been widely developed within the framework of protection of human rights and aimed to pledge 'full equality' of 'vulnerable ethnic, linguistic and religious' groups (Minority Groups International, 2007: 8). However, it can be argued that in contrast to its human rights regime, the EU's regime on minority rights has been relatively less institutionalised and it has been subject to various objections among a number of EU member states (Keating, 2004: 378). In fact, as will be discussed later, the principle of the protection of minority rights has not been incorporated into the *Acquis Communautaire*, the main legislation of the EU, which hinders the EU's credibility in this area.

The most widely known instrument on minority rights in Europe is the Framework Convention on the Protection of National Minorities (FCNM), adopted by the Council of Europe in 1995. For the members of the CoE, and the signatories to the present framework Convention, the FCNM is the 'first binding treaty on minorities' and enforces obligations on the protection of minority rights and promotion of minority cultures. However, in addition to the FCNM, the CoE has employed other instruments in order to instigate effectiveness in minority rights policy, and increase its credibility in Europe. For example, the European Convention for the Protection of Human Rights and

Fundamental Freedoms (ECHR) of 1950 unquestionably reinforces the FCNM, by providing and strengthening the legal basis for the EU's human rights and minority rights regime.

In effect, the ECHR aims to protect the universal recognition of human rights and to achieve 'greater unity' between member states in the understanding of human rights and fundamental freedoms. It can be argued that these proposals not only constituted the primary texts in Europe for the fundamental rights of basic human life, but also reaffirmed the superiority of fundamental rights as the indicators of 'justice and peace' around Europe (Council of Europe, 1950). Furthermore, the European Court of Human Rights (ECtHR) was set up in 1959 as the main body of the jurisdiction on human rights and minority rights issues, including violations of the civil and political rights specified by the ECHR. As indicated, the ECtHR's case-law 'makes the Convention a powerful living instrument for meeting new challenges and consolidating the rule of law and democracy in Europe' (Council of Europe, European Court of Human Rights, 1959).

Furthermore, the Amsterdam Treaty (1997) introduced the principle of anti-discrimination (see Art. 13); and this article became a fundamental principle of the European Union with regards to gender equality and the abolition of the discrimination derived from differences in nationalities amongst the member states (Betten and Grief, 1998: 56-59). Following this clause, in 2000, the European Council adopted an Employment and Race Directive prohibiting any discrimination based on religion, belief, gender, racial or ethnic origin in the areas of employment, education, health care, and social security (European Council, 2000). In addition, the Presidents of the European Parliament, the Council and the Commission at the European Council meeting in Nice, on 7 December 2000, signed the European Union Charter of Fundamental Rights, setting out 'in a single text, for the first time in the European Union's history, the whole range of civil, political, economic and

social rights of European citizens and all persons resident in the EU' (European Union, 2000).

The Charter focuses on the fundamental rights and freedoms previously proclaimed by the ECHR and other international conventions to which the EU member states are signatories; and in relation to minority rights, it strictly forbids any form of discrimination on the basis of 'membership of a national minority' (European Union, 2000). However, it needs to be noted that the Charter had not been legally binding until the adoption of the Treaty of Lisbon at the end of 2009. In fact, the issue of the Charter's former legal status was previously discussed at the European Council meeting in Cologne, in June 1999 (European Council, 1999), but the issue remained unresolved until 2009. Overall, the absence of a common policy on minority issues significantly hinders the legitimacy of the EU in this particular area.

On the other hand, it can be argued that parallel to its internal measures on minority rights, the EU, mainly through its enlargement policy and conditionality strategy, has had a significant impact on the institutional transformation and policy (re)formation of candidate countries, particularly in the area of minority rights. In this context, in partnership with the aforementioned international organisations, the EU has also developed a number of policy instruments and constructed a 'multi-dimensional approach' to Europeanise national minority rights regimes in candidate countries. First of all, 'respect for and protection of minorities' was accepted as a 'moral condition' for EU membership; this moral condition was then formalised in the Copenhagen criteria in 1993, ensuring the existing minority rights standards in the EU. It can be argued that the formalisation of the Copenhagen criteria significantly contributed to the legal alignment and institutional capacity development in candidate countries.

These initiatives reflect convincingly upon the EU's commitment to minority rights protection. Nevertheless, it can be argued that the non-

inclusion of the EU's minority rights clauses in the *Acquis Communautaire* raises concerns over the legitimacy of the EU in this particular area. In fact, the EU demands 'higher' standards from candidate countries, while the current EU member states remain unwilling to adopt a common policy and meet the same standards, with regards to their own minority groups (De Witte, 2000; Toggenburg, 2000; Johns, 2003: 684).¹³ As Vermeersch (2003: 9) argues, there is a 'lack of common EU policy' on minority rights, therefore the diversity of minority policies in EU member states cause high levels of ambiguity; and this also means that the EU's rules and conditions, along with its demands from the candidate countries, are vague and open to interpretation.

This outcome not only weakens the EU's legitimacy, but it also creates certain setbacks in the transformation of institutions and policy (re)formation processes in candidate countries. First of all, the vague definition of the principle of minority protection at the EU level precludes the adoption of a 'clear and common' standard for all the candidate countries. This leaves room for all the member states and candidate countries to apply their own definition of minority to their policies. This vagueness also results in the implementation of diverging legislations affecting the social and cultural rights of the minority groups at the national level. Nevertheless, Turkey's alignment with the EU's standards on minority rights is recognised as one of the objectives of the EU, in the context of Turkey's accession process, but it is also important for Turkey's own democratisation efforts.

In relation to the issues raised above, this chapter analyses the impact of EU conditionality on minority rights in Turkey during three periods (1999-2002, 2002-2004, and 2005-2008). As previously noted, the minority rights regime, or individual clauses on the protection of minority rights, is not part of

¹³ This is a fair criticism since the countries of Western Europe also experience problems on minority issues at the national level. For instance, Germany does not recognise its Turkish population as a national minority, and declares that they are 'new' to the country and are mainly 'guest workers'. France, for instance, has not signed the Framework Convention for the Protection of National Minorities and continues to pursue Republican principles of unity. Discrimination of Roma (especially in education and employment) in Slovakia and Italy also reflects on the diverging stances on minority rights among the current EU member states (Johns, 2003: 689-695; Toktaş and Aras, 2009: 706).

the *Acquis Communautaire*, and hence it does not provide the basis for legal transposition. Even so, since the decision on the Copenhagen Criteria in 1993, candidate countries are obliged to comply with the formal requirement of 'respect for and protection of minorities' (European Council, 2002); compliance with this Criteria determines the EU's decisions as to when, and whether, a candidate country should become a member, or what legal or technical actions need to be taken before granting a candidate country membership. In light of this context, this chapter examines Turkey's alignment with the EU minority rights regime, as an indication of rule adoption on substantive matters and hence as a formal aspect of Europeanisation. This chapter therefore mainly focuses on Turkey's efforts in incorporating the legal and institutional requirements, as well as international cooperation, to uncover the EU's impact on domestic change in Turkey.

The systematic analysis in each empirical chapter (Chapters 5-8) concentrates on the EU-level and domestic level factors put forward by the external incentives and social learning models. These factors are identified as: the size of domestic adoption costs, the credibility of conditionality, the size of rewards, legitimacy, identity and resonance. Since minority rights policy covers a broad field this chapter mainly concentrates on the social and cultural rights of the Kurdish ethnic minority in Turkey, and examines policy changes in relation to the social and cultural rights of Kurds. The motive for the focus on the Kurdish ethnic minority group will be explained in the following section of this chapter.

This chapter draws three main conclusions. Firstly, this chapter illustrates that Turkey has been adjusting itself to the EU's minority rights regime rather cautiously, due to the problematic of defining minorities. This is reflected in the negative normative resonance of the domestic policies, which remained constant across the three periods. Similarly, the EU's legitimacy in the area of minority rights remained low across the three periods, due to the fact that minority rights clauses were not included in the *Acquis*

Communautaire. This provides evidence which confirms the EU's vague definition of minorities and clauses on minority rights, as well as the absence of a common policy in this area.

Secondly, there is a variation in minority policy in Turkey across three periods which can be explained by combination of a number of EU-level and domestic level factors. However, since legitimacy and normative resonance with domestic rules do not show any clear explanatory value for domestic change across the three periods, they fail to explain the diverging outcomes across these three periods. Nevertheless, the analysis finds that, regardless of normative resonance and lack of EU legitimacy, Turkey still managed to put significant, but rather limited, efforts into aligning its rules and practices with those of the EU; this can be explained through conditionality-based and socialisation-based factors.

Thirdly, this chapter finds that neither the external incentives model, nor the social learning model, can fully explain the policy processes and outcomes. The analysis reveals that the size of rewards and credibility appear as the key factors in explaining fractional Europeanisation (partial adjustment instead of full transformation) in the first period (1999-2002). On the other hand, along with the size of rewards and credibility, the nature of the government and its identification with the EU, and size of domestic adoption costs appear as the key factors initiating a shift from adjustment to institutional transformation, representing positive and formal Europeanisation. Finally, in the third period (2005-2008), negative Europeanisation, no process or policy outcome change is observed; this is due to unfavourable domestic conditions and weak conditionality.

The analysis in this chapter begins with an attempt to conceptualise minority rights built on classical traditions of democratic theorising. This section aims to offer the rationale behind the selection of minority rights as a policy area subject to change in relation to Turkey's democratisation efforts

under the influence of EU conditionality. The following section provides a historical overview of the internal dynamics in Turkey, in relation to minority rights practices; and it also presents the domestic context in which Turkey is attempting to align with the EU's rules and practices in this area.

It is then followed by a discussion on EU conditionality and minority rights in Turkey. This is in order to identify how the EU engages with and approaches minority rights issues in general, and what the legal requirements of the EU are on institutional transformation and policy (re)formation in the area of minority rights from the candidate states in general, and from Turkey in particular, within the context of its enlargement policy. The final section provides an overview of the policy processes and outcomes in relation to Turkey's democratisation, by analysing certain changes longitudinally in three phases (1999-2002, 2002-2004, 2005-2008). This chapter concludes with a discussion on the results.

5.2. Conceptualisation of Minority Rights

Democratic theory suggests that democratic regimes should provide an environment where every individual gets equal chances of representation, and equal access to political, economic and cultural rights. Furthermore, 'tolerance' and 'respect for the views of political opponents' are also vital for the 'survival' of any democratic regime (Miller et al., 1998: 66). Although it can be argued that democracy assures 'popular will' through majority rule, it is equally important that democracy guarantees the basic rights of every individual, including the rights of any minorities. Successful democracies are inclined to protect minority rights, by means of meeting the essential notion of majority rule. In this context, majority rule implies that a particular governing body has received more than fifty per cent of the votes. This leaves the issue of the protection of minority rights in the hands of various 'interest associations' and 'social movements', since they are able to provide a platform where different

segments of society, such as an alienated minority, can have the opportunity to express their preferences (Schmitter and Karl, 1991: 78-79).

Having this political setting not only supports inclusive citizenship, as one of the essential rights of democracy, but it also discourages the exclusion of minorities from society. In fact, inclusive citizenship and equal representation can be considered as two important and essential elements of a liberal democracy. Nevertheless, this requires that democratic regimes should have the institutional basis to protect these elements of democracy, and it is this institutional basis that allows for the protection of minority rights regardless of 'how singular or alienated' that minority might be (Democracy Web, 2011a).

Following the argument that the protection of minority rights is an essential element of a liberal democracy, it can be said that Turkey has shown severe deficiencies in this policy area. In addition, there has been a significant divergence between Turkey and the EU, in terms of portraying and characterising minorities, due to the differences in the ways that each party assigns minority status to certain groups depending on their ethnic, racial or religious backgrounds (Kramer, 1999: 34-35; Kramer, 2000: 40).

For analytical purposes, minority rights will be conceptualised based on a 'group-specific approach' (Schwellnus, 2005). By adopting a 'group-specific approach', firstly the general human rights principle will be narrowed down to a particular 'cluster', where 'targeted' specific minority groups will be examined. Secondly, 'state action' endorsing the 'identity, welfare and the security' of specific minority groups will be reviewed (Schwellnus, 2005: 54-55).

In this chapter, based on this 'group-specific' approach, the Kurdish ethnic minority is selected as the 'targeted' minority group that will be under examination. The Kurdish ethnic minority represents an interesting but also a complex 'targeted' group to examine in the context of Turkish democratisation. Firstly, the Kurdish minority in Turkey has not been given a legal status since

the Treaty of Lausanne, also known as the treaty defining the borders of the modern Turkish state in 1923. Since the Kurdish community in Turkey lacks legal status as a national minority, their social, cultural and linguistic rights are severely restricted. As Cornell (2001: 31) points out, many westerners describe the situation of the Kurdish community in Turkey as a matter of 'oppression' and 'denial of rights' by a 'majority group' (i.e., Turkish people) of an 'ethnic minority'.

Nevertheless, as part of the EU accession process, consecutive Turkish governments have been making legislative and institutional amendments to existing laws and regulations, in order to improve their lives in Turkey as an ethnic minority. However, as will be discussed in detail later in the chapter, it can be noted that the Kurdish minority still experience a number of discriminations, based on various socio-cultural motives; and the efforts of the governments have not been sufficient to provide them with their full minority rights. In fact, the problematic nature of the Kurdish minority and the suppression over their minority rights in Turkey are considered as the 'main obstacle to its (Turkey's) aspirations to full integration with European institutions' (Cornell, 2001: 31). The EU, on the other hand, challenges this 'conventional minority regime' of Turkey, and through its pre-accession framework, requires Turkey to establish a 'better treatment' of minorities in Turkey (Toktaş and Aras, 2009: 706-707). In this context, the analysis will be on the cultural and citizenship rights of Kurdish minorities, which concern the use of their native language, education and broadcasting rights.

5.3. Internal Dynamics of Turkey Concerning Minority Rights

Turkey, a nation born out of the ashes of the Ottoman Empire, has often been distinguished as being an 'intersection' between Eastern and Western culture (Yıldız, 2007: 792). Throughout the existence of the Ottoman Empire, the state (the 'centre') classified each religious group or community as a separate nation. This system of classification is referred to as the 'millet' (nation) system (Çağaptay, 2003a: 614; Küçükcan, 2003: 475). The millet system was first implemented when the Ottomans conquered Istanbul in 1453, and this resulted in the rise and appreciation of 'tolerance' and 'accommodation' of different cultures (Davison, 1988: 44). From the very first day, the founding leader of the Republic of Turkey, Mustafa Kemal Atatürk, changed the Islamic ideology embedded in the nation and 'imposed a strict secular nationalism in an effort to westernise the country' (Yıldız, 2007: 794). Atatürk's goal was 'to create a modern, rational state with institutions and laws which would facilitate the development of capitalism in Turkey' (Ahmad, 1991: 3-4).

The recognition of the Republic of Turkey in 1923 by the Treaty of Lausanne signified a turning point in the history of Turkey. The Treaty was signed by Turkey and the Allied Forces, including France, Italy, Britain and Greece (after the downfall of the Greek forces) and the Treaty was put under the guarantee of the League of Nations. The Treaty legalises a broad range of issues, including Turkey's traditional minority regime. It can be argued that Turkey's traditional minority regime was created as a result of a dynamic transition, occurring under the 'foundational legal framework' of the Treaty of Lausanne and in conjunction with the nation-building strategies of the state regarding minorities in Turkey.

In the Treaty, minorities were defined on the basis of their religious identity. According to the Treaty, only non-Muslim communities were

recognised as minorities, and they were granted numerous rights including, 'the right to use their own language, the right of political and civic equality, the right to establish religious, educational and social welfare institutions, and the right to freedom of religion, travel and migration (Hurewitz, 1956: 122). This resulted in the exclusion of various ethnic, linguistic and racial groups, such as the Kurdish community, from gaining minority status. In many ways, the Treaty of Lausanne, which is still legally binding in Turkey, falls behind in terms of incorporating the existing international standards on minority rights (Minority Groups International, 2007: 10). It can also be argued that there is a disparity between the legally-established minority rights and their implementations in the regime itself; the Kurdish issue evidently reflects upon this disparity.

In many ways, Turkey's traditional minority regime is restrictive in character and it fails to implement the rights guaranteed under the Treaty of Lausanne. At the same time, the state hesitates to extend the social and cultural rights of the Kurdish ethnic minority and explicitly refuses to legalise their minority status, even though this became one of the major obstacles during Turkey's EU accession process. Instead, the state is keen to retain control in determining the particulars of its minority regime, even to the extent where they might not completely fulfil the EU's accession conditionality, which could be considered as an important triggering factor for the democratisation process of Turkey. It can be argued that the state manipulates any reform attempts with regards to the social and cultural rights of the Kurdish ethnic minority through political tactics and domestic legal measures, which are restrictive by nature. As Toktaş and Aras (2009: 705) argue:

Turkey's minority regime is therefore the result of a dynamic process, which has a legal foundational base on the one hand, and state preoccupation with controlling minorities, which is backed by societal strategies, on the other. In the resulting situation, one may talk of the ongoing conflicting situation between the *de jure* and *de facto* habitat of minority rights in Turkey.

5.3.1. The Kurdish Question

The roots of the Kurdish 'ethnic' question go back to the early Republican period. Since its establishment in 1923, the Republic of Turkey, along with the ideologies of Atatürk, such as Kemalism,¹⁴ has followed insistent 'assimilationist' policies towards the Kurdish community. This can be explained by the 'model of [a] nation' ideology that Atatürk adopted – in this, the nation is one which is civic and whose 'maxim' is based on its Turkish identity (Aslan, 2009: 3). In that respect, one of the most important principles of the Republic emerged as the 'unity' of Turkish identity and culture, with anyone who lives in the territory of the Turkish state to be accepted as a Turkish citizen and referred to as a 'Turk', in spite of their ethnic origin (Cornell, 2001: 34). However, this principle of 'Turkish national conception' was soon to be compared to the 'fascist ones triumphing Europe in the 1920s and 1930s' (Cornell, 2001: 34). It is argued that this form of national identity suppresses the ethnic origin of individuals; thus, it clashes with people's former identities. By and large, the main historical causes of the Kurdish issue are seen as the deficiencies in state and nation-building initiatives, with regard to their authority and power (İçduygu et al., 1999: 994).

Nevertheless, it is important to acknowledge that the Kurdish community living in Turkey has not lost its own identity mainly due to demographic reasons (the Kurdish people are the largest non-Turkish speaking community), geographical reasons (they are mainly located in the south and south-eastern region of Turkey, hence located in peripheries, away from the administrative centre), and social-structural reasons (they are mostly indigenous groups and are organised along 'tribal and feudal' lines) (Cornell, 2001: 35). There are around 12 million Kurdish people living in Turkey. They are either Sunni Muslims or Alevis, and they mostly speak a language called

¹⁴ Kemalism was presented as a state ideology in the 1930s. In spite of several structural changes over time, Kemalism has continued to be a 'hegemonic cultural memory' to the present day. It has been commonly accepted as a 'political discourse', defining political margins, and as a 'standard' of political enunciation, in the public realm (Çolak, 2006: 599). For further on the different versions of Kemalism see Aydın (2004).

'Kurmandji', in addition to other dialects such as 'Zaza'. Their social organisation is based on tribal and feudal principles, where they are ruled by the tribal leader, called the 'agha', and the tribes are mostly tied together by 'kinship ideology' (Ergil, 2000; Cornell, 2001).

In the early days of the Republic, governments adopted laws aiming to create a 'homogenous' national unit at the individual level, by enforcing 'detrribalisation'. For the Republican regime, tribes represented 'backwardness' in social structures and the tribal leaders represented the actors or power centres that could challenge the 'expansion of state authority' in the peripheries (Aslan, 2009: 4). Since then, the Kurdish community lagged behind the rest of the Turkish population in social, political and economic development. This lagging took place because while the 'aghas' were neglecting or refusing to follow the policies of the central government (in order to preserve their authority and power), the government did not pay sufficient attention on their region, therefore decreasing the likelihood of the socio-economic development of the Kurdish community (Cornell, 2001: 35-37).

On the other hand, having suppressed several Kurdish uprisings in early years of the Turkish Republic, the actual 'question' on the Kurdish issue started to escalate, particularly during mid-1980s with the creation of 'guerrilla movements'. The expansion of the separatist activities of the Kurdish people coincides with the adoption of a new (and probably the most liberal in the history of Turkey) Constitution in 1961, after the military coup of 1960. This Constitution made substantial amendments to the protection and improvement of democracy, the rule of law, freedom of expression and human rights. It was in this context that the Kurdish activist organisations started to point out their 'oppressed' minority rights and advocated for the separation of their state from that of Turkey, thus encouraging the rise of 'Kurdish nationalism'. Among their demands, there was a demand for the reformation of their society with the promotion of equal treatment in social and economic spheres, along with the establishment of a 'socialist system' (Cornell, 2001: 38).

Particularly since the 1970s, the rise of Kurdish nationalism became a highly contested political crisis in Turkey; this rise is attributable to the separatist movements of Kurdish guerrilla groups, such as the Partiya Karkerên Kurdistanê, also known as the Kurdistan Workers' Party (PKK) (Robins, 1993). Two of the major reasons for the rise of Kurdish nationalism were the politicisation of the PKK and the launch of the 'guerrilla wars' in mid-1980s (İçduygu et al., 1999: 994). The war that took place between 1984 and 1999 was commonly viewed by the West as a 'national liberation movement' in response to the 'oppression' and the denial of the rights of the Kurdish ethnic minority by the Turkish state.

In fact, the main drive for the Kurdish uprisings was the desire for 'self-determination'. After the military coup in 1980, the military stayed in power for three years and within this time, it interpreted the Kurdish manifestations of 'self-determination' (along with separatism) as an imminent threat for the country. In that respect, the military did not tolerate any forms of rights or freedoms that challenged the 'national integrity' of the Turkish state; among these rights were the speaking in Kurdish language, the listening to Kurdish music, or any other forms of expressions of 'Kurdishness'. This resulted in a serious 'cultural contestation' within Turkey (Aslan, 2009: 2). Particularly in the 1980s, restrictive laws on the cultural rights (stated above) of the Kurdish people were quite common.

In relation to that, in the early 1970s, the Kurdish minority, who were living in the south-eastern region of Turkey, started to migrate to the western region. With this migration trend, there had been a sudden increase in 'enrolment in higher education' and, simultaneously, it created awareness amongst the Kurdish people of the differences between the two regions of the country, with respect to their social, cultural and economic rights (Cornell, 2001: 31-39). In the same line with these assertions, İçduygu et al. (1999: 994) assert that:

In fact, Turkey's Kurds are faced with a plethora of options which may ameliorate their admittedly unsatisfactory conditions. Understanding these options and the context in which they exist is essential to explain present and future possibilities regarding the Kurdish question. The appeal of various possible solutions to Kurds' problems (and hence Turkey's problems as well) depends, among other things, on the identity of the Kurds in question and that identity's strength and salience.

Such politicisation of the Kurdish issue reinforced the 'hard-line' policies of political actors in the state governance and the military. These political actors perceived the extension of the cultural rights of the Kurdish community as a 'subtle prelude to autonomy and territorial secession' (Aslan, 2009: 6). Particularly, with the adoption of a new constitution in 1982, following the military intervention in 1980, individual rights had been severely limited in Turkey (Hale, 2003: 110). In fact, Article 13 of the 1982 Constitution proclaimed that the fundamental rights and freedoms of Turkish citizens can be restricted by law, in order to protect the integrity of the state (Kili and Gözübüyük, 2000a: 266). On the other hand, the Turkish Penal Code included numerous clauses (see Article 159 and Article 312) on fundamental rights and freedoms that were mostly in support of severe legal punishments in cases of public insults on the 'moral character of Turkishness' or encouragement of antagonism on the grounds of class, race, or religion (Turkish Grand National Assembly, 2004).

The 1982 Turkish Constitution, drafted under military supervision, adopted the doctrine of the unity and indivisibility of the Turkish state, of its territory, and of its people. As Baban (2005: 54) argues, with this doctrine, Turkey has adopted a 'republican version' of 'civic nationalism', emphasising the unity of nation by not allowing cultural diversity. Therefore, it can be argued that the definition of a minority has been strictly shaped by the Turkish state doctrine of the indivisibility of the Turkish nation and state; furthermore, it is openly expressed in Article 10 of the Constitution that: 'all individuals are equal without any discrimination before law, irrespective of language, race, colour, sex, political opinion, philosophical belief, religion, sect, or any such

consideration' (Hale, 2003: 117). Based on this clause, Turkey rejects any demands for the recognition of rights for ethnic minorities, such as the Kurdish community, by emphasising the equality of all Turkish citizens given by the constitution. This in turn stimulates the arguments of the Kurdish people who are not given a legal status as an ethnic minority group and it therefore also builds hatred amongst the ethnic minority groups, as their linguistic and cultural rights are highly restricted.

Re-transition to multi-party politics in the aftermath of 1983 did not result in the immediate 'relaxation' of the cultural rights of the Kurdish community. The activities of the PKK and the Kurdish 'armed resistance' strengthened the state's 'intolerance' on any form or manifestation of Kurdishness (Aslan, 2009: 6). Furthermore, in 1983, Law 2932 confirmed that Turkish holds the position of the mother tongue of all Turkish citizens; and this Law banned the use of Kurdish language in public spheres. However, in 1991, Law 2932, banning the use of Kurdish language in public or private, was repealed by the ANAP government and, as a result, the practice of Kurdish speeches, songs and music became legalised. However, when examining the broadcasting and education in languages other than Turkish, this practice was banned in Turkey until the reform package of 2002. Also, the Turkish Constitution and the Political Parties Law proscribe the establishment of ethnic political parties. In fact, the Constitutional Court has closed several political parties on this ground, such as the People's Labour Party (HEP), The Party of Democracy (DEP) and The People's Democratic Party (HADEP) (Özbudun, 2000: 143-144).¹⁵

Nevertheless, in the 1990s, things started to change. Law 2932 (the law that banned use of Kurdish language in public and private) was abolished

¹⁵ The political parties mentioned above were allegedly formed to resolve the Kurdish question in Turkey. The first in line, the HEP, was mainly composed of former members of the Social Democratic Party (SHP), who were expelled from the party after their participation in an International Conference about the Kurdish question in Paris; the party was formed in June 1990 and banned in July 1993; secondly, the DEP was formed in May 1993 and banned in June 1994; and thirdly, the HADEP was formed in May 1994 and banned in March 2003 (Ntvmsnbc, 2009).

in 1991. Furthermore, the rhetoric of high-level state officials on the Kurdish issue showed a gradual relaxation in attitudes towards the Kurds. For instance, in 1991, the Deputy Prime Minister, Erdal İnönü, stated that Kurdish citizens should enjoy their 'cultural identity' fully. In a similar vein, in 1992, the Prime Minister, Süleyman Demirel, proclaimed his recognition of the 'Kurdish ethnic presence'. Despite these instances of the relaxation of attitudes, overall restriction on the socio-cultural rights of the Kurdish community prevailed. This was mainly due to the lack of 'integrated state response' to the demands of the Kurdish community on the liberalisation of their socio-cultural rights. The initiatives of the political actors failed to ease the restrictions on Kurdish linguistic and cultural practices, due to the resistance of state officials to cultural policy changes (Yeğen, 2007: 137).

In addition to these laws, another major concern emerged from the continuing practice of the death penalty in Turkey. In contrast to the EU practices, Turkey had continued to practice death penalty until 2002. It was stated in the Penal Code that death penalties could be applied in certain cases, such as homicide, criminal acts against the state, particularly during war, and in instances where there were attempts to separate part a territory from the state (Hale, 2003: 118). However, although the death penalty was still a legal practice, no executions had been approved by the Parliament since 1984. Finally, in 2002, the Turkish Parliament signed a European Convention protocol abolishing the death penalty 'in all circumstances', including during wars. The European Commission regarded this move as a 'significant step on its way to becoming a fully fledged democracy' (BBC News, 2004).

In fact, policy analysts have commented that the signing of the European Convention protocol marked a major step in the application of an 'extensive programme of human rights reforms' carried out by Turkey, in order to reach its long desired goal of the membership of the EU (BBC News, 2004). As a result of this protocol, the death penalty was replaced by life imprisonment without parole. This change coincided with the capture of

Abdullah Öcalan, the former head of the Kurdish militant organisation the PKK, who was formally sentenced to death in 1999 for his role in the guerrilla war against Turkey; according to a report by the US Department of State, the war, which lasted longer than 16 years, had resulted in more than 30,000 casualties.

Although until recently, the activities of the PKK had been conquered or at least suppressed, it can be argued that the Kurdish problem has not actually been resolved; the ongoing problems with the Kurdish minority still pose an important obstacle for the democratisation process of Turkey within the context of EU accession negotiations. In fact, the Kurdish ethnic minority still complains about the 'state imposed restrictions' on their social and cultural minority rights; thus illustrating that certain legislative shortcomings currently exist in Turkish politics.

In many ways, it is timely for Turkey to re-evaluate its stance on the social and cultural rights of the Kurdish ethnic minority under the scope of its minority regime. First of all, it can be argued that with the capture of the leader of the PKK, Abdullah Öcalan, domestic conditions became appropriate for the Turkish state to change its rhetoric on the matter of subject. The first step towards this end would be the disconnection between the previously highly-associated 'Kurdish problem' and 'PKK terrorism' in the public realm. The second step should then be the extension of social and cultural rights of the Kurdish minority by carrying out the necessary reforms with respect to: the use of their language; educational rights; television and radio broadcasts; name/surname rights; and moderation/tolerance of political parties representing the Kurdish minorities (Cornell, 2001: 43-46; Aslan, 2009).

The next section focuses on EU conditionality with regards to minority rights in Turkey and aims to shed light on the conditionality-compliance relationship with respect to the EU's credibility and Turkey's social resonance in a wider perspective.

5.4. EU Conditionality and Minority Rights in Turkey

It can be argued that in the case of Turkey, the EU conditionality strategy, as part of its accession framework, has been in effect since 1999. In this policy area, the EU conditionality that is in force over the three periods mainly concentrates on minority rights, cultural rights and the protection of minorities. On legal grounds, the accession conditionality and relevant requirements concerning minority rights mainly involves the ratification of the concerned charters and conventions, provided that minority rights policy is not included in the *Acquis Communautaire*. Furthermore, the conventions of the CoE are also considered as part of the EU's accession framework strategy. On the other hand, at the institutional level, EU conditionality and relevant requirements involve institutional transformation and their capacity-building, in order to enhance their cooperation for the effective implementation of legal provisions in this area.

Following the Helsinki Summit in 1999, where Turkey was granted candidacy status, the European Commission released the first Accession Partnership (AP) Document in March 2001. The AP aims to identify the political reforms that Turkey is expected to carry out and implement as a prerequisite for the opening of accession negotiations (Rumford, 2002: 52). In that respect, the AP is intentionally designed as a road map (see Table 5.1) for Turkey to follow, in order to recognise the priority issues to be undertaken as short-term and medium-term measures. For instance, in the case of minority rights, in the short-term, the AP of 2001 emphasised the need for stronger legal enforcement for the protection of human rights and the development of a comprehensive approach to enhance social and cultural opportunities for all citizens. In the medium-term, the same AP called for a review of the constitution, with a view that it would guarantee fundamental freedoms for all citizens, and for the ratification of the International Covenant on Civil and Political Rights (European Council, Accession Partnership, 2001).

In due course, the European Council revised the AP in May 2003. In the AP of 2003, the EU reiterated its requirements in the AP of 2001, with particular emphasis on the guarantee of fundamental freedoms without any discrimination and the ratification of the International Covenant on Civil and Political Rights, as well as the International Covenant on Economic, Social and Cultural Rights. As previously noted, the EU's detailed requirements involved Turkey's legal and institutional alignment, and institutional capacity-building for the effective implementation of concerned legal provisions, constituting an important part of its conditionality regarding minority rights in Turkey. Within the context of minority rights, the Kurdish issue was acknowledged in relation to social and cultural rights.¹⁶ According to Kırışçi (2004a: 284) the European Commission decided to tackle this particular area by referring to minority rights as 'cultural rights', in order to avoid convoluted definitional disparities between Turkey and the EU with regards to the Kurdish ethnic minority.

Yet again, the AP was revised for a second time in January 2006, after the opening of accession negotiations in October 2005. In contrast to the former APs, the AP of 2006 had a more comprehensive approach on the issue of minority rights. In fact, the requirements became more meticulous and demanding. As in the case of former APs, the AP of 2006 required Turkey to review its Constitution and other relevant legislation, in order to guarantee its alignment with the European Convention on Human Rights, as well as with the principles of the CoE's Framework Convention for the Protection of National Minorities. The AP of 2006 also underlined the need for legal and institutional alignment of national institutions, in line with the practices of the EU Member States (European Council, Accession Partnership, 2006).

In addition to the AP documents, the EU monitors Turkey's progress with the support of its own institutions. For instance, the European Commission uses its annual progress reports (also known as regular reports) to evaluate

¹⁶ The AP of 2001 referred to the condition concerning the minority rights of the Kurdish ethnic community as 'ensuring cultural diversity and guarantee rights for all citizens irrespective of their origin' (European Council, 2001b).

Turkey's overall performance in meeting the EU demands per annum. In general, the progress reports stress the negative aspects of Turkey's accession process, by underlining the weaknesses and listing the shortcomings on a specified issue and providing a comparative assessment of the progress made in relation to Turkey's fulfilment of the Copenhagen criteria, in connection with the previous year's report. In the period of 1999-2008, the European Commission released ten reports on the progress of Turkey. It can be argued that these reports are highly important for Turkey's self-evaluation; in the fullness of time, these reports have become more extensive each year, providing a comprehensive and detailed assessment of minorities and their social and cultural rights in Turkey (Toktaş and Aras, 2009: 707).

Table 5.1	EU requirements on minority rights in Accession Partnerships	
	<i>EU Requirements</i>	<i>Date and Timescale</i>
	Strengthen opportunities for legal redress against all violations of human rights	2001 Accession Partnership (Short-term)
	Remove any legal provisions forbidding the use by Turkish citizens of their mother tongue in TV/radio broadcasting	2001 Accession Partnership (Short-term)
	Develop a comprehensive approach to reduce regional disparities, and in particular to improve the situation in the south-east, with a view to enhancing economic, social and cultural opportunities for all citizens	2001 Accession Partnership (Short-term)
	Guarantee full enjoyment by all individuals without any discrimination and irrespective of their language, race, colour, sex, political opinion, philosophical belief or religion of all human rights and fundamental freedoms	2001 Accession Partnership (Medium-term) 2003 Accession Partnership (Priorities 2003/2004)
	Review of the Turkish Constitution and other relevant legislation with a view to guaranteeing rights and freedoms of all Turkish citizens as set forth in the European Convention for the Protection of Human Rights; ensure the implementation of such legal reforms and conformity with practices in EU Member States	2001 Accession Partnership (Medium-term)
	Ratify the International Covenant on Civil and Political Rights and its optional Protocol and the International Covenant on Economic, Social and Cultural Rights	2001 Accession Partnership (Medium-term) 2003 Accession Partnership (Priorities 2003/2004)

Ensure cultural diversity and guarantee cultural rights for all citizens irrespective of their origin. Any legal provisions preventing the enjoyment of these rights should be abolished, including in the field of education	2001 Accession Partnership (Medium-term)
Ensure cultural diversity and promote respect for and protection of minorities in accordance with the European Convention on Human Rights and the principles laid down in the Council of Europe's Framework Convention for the Protection of National Minorities and in line with best practice in Member States	2006 Accession Partnership (Short-term)
Guarantee legal protection of minorities, in particular as regards the enjoyment of property rights in line with Protocol No 1 to the European Convention on Human Rights	2006 Accession Partnership (Short-term)
Ensure effective access to radio/TV broadcasting in languages other than Turkish. Remove outstanding obstacles, particularly with regard to local radio and regional private broadcasters	2006 Accession Partnership (Short-term)
Adopt appropriate measures to support the teaching of languages other than Turkish	2006 Accession Partnership (Short-term)

5.5. Assessment of the Policy Process and Policy Outcomes

In the following sections, the impact of EU conditionality on minority rights in Turkey is examined across three periods. The first phase of analysis (1999-2002) starts with the decision of the European Council at the Helsinki Summit in 1999, where Turkey was granted EU candidacy status. The end of the first phase (also the beginning of the second phase, 2002-2004) coincides with the early general elections held in Turkey, where the Justice and Development Party (AKP) established the first single party government to come into power since 1987. The third phase (2005-2008) of analysis starts with the opening of accession negotiations and covers the period where accession negotiations were actively pursued. The analysis will focus on the selected six variables (size of rewards, credibility, size of domestic adoption costs, legitimacy, identity, and resonance) in these specified periods, in order to identify the causal relationship between EU conditionality, institutional

transformation and policy (re)formation in Turkey, in the area of minority rights.

5.5.1. Phase I: 1999-2002

Since 1999, Turkey's candidacy status has marked the beginning of a 'strategic mutual transformation' in the country (Tanlak, 2002). This transformation involved a series of major reforms and an inherent change in the nature of Turkish democratisation. Almost certainly, the attainment of candidacy status was perceived as a 'belated' reward for Turkey, and this triggered the rapid institutional transformation and policy (re)formation in many policy areas, including minority policy. Therefore, it can be argued that in this period, the reward of candidacy became an important push factor for the initiation of a series of political reforms. In addition to the reward of candidacy, Turkey gained the right to benefit from the EU's pre-accession strategy. This strategy aimed to 'stimulate and support' Turkey's reform process, where Turkey was provided with a 'single framework' for the management of all the pre-accession financial assistance offered by the EU (European Council, 1999b). These factors were hence seen as a reflection of the substantial rewards on offer, in return for Turkey's fulfilment of its promising reform initiatives.

This positive correlation between EU conditionality and Turkey's compliance had shown an increasing trend in the first half of this period. For instance, in June 2001, in the 40th Turkey-EU Association Council meeting in Luxemburg, the EU declared its confidence in Turkey's satisfactory political reform process, and encouraged Turkey to continue further on its legal and institutional alignment with the EU, within its pre-accession framework. At the same meeting, the EU also decided in favour of Turkey's participation in additional 'Community programmes', which in turn granted Turkey 'full access'

to TAIEX¹⁷ offices, as well as the formation of 'joint consultation mechanisms' to transact business on issues related to the Customs Union (Council of the European Union, 2001). It can be argued that the offer of tangible rewards in the early days of Turkey's candidacy had created a positive attitude among the leading political parties towards the attainment of full EU membership. This effect was mainly caused by the presence of strong incentives to meet the EU accession requirements by the ruling political parties. In a short period of time, these political parties became robustly committed to the prospect of becoming a member of the EU (Keyman and Öniş, 2004).¹⁸

In this period, the coalition government of the Democratic Left Party (DSP), the Nationalist Movement Party (MHP), and the Motherland Party (ANAP) carried out a series of legislative and constitutional reforms in order to comply with EU conditionality. Although, in the early days, the general trend in attitudes towards the EU membership had been positive among the coalition partners, it soon became apparent that the institutional transformation and policy reformation could not be pursued without certain setbacks, which were mainly caused by the deteriorating relations between the three political parties. Soon after they had formed a government, the ideological differences between the coalition partners became apparent. This in turn had an undeniable impact on their perceptions of the prospective EU membership, and on their ability and willingness to accept the EU as an aspirant group. Despite the improving attitudes to the prospect of EU membership in the second half of this period, the initial negative outlook reflects the failure of the self-identification of the coalition partners with the EU, which is an important domestic factor impacting upon the overall institutional transformation and policy (re)formation in Turkey.

¹⁷ TAIEX is the Technical Assistance and Information Exchange instrument, which comes under the management of the Directorate-General Enlargement of the European Commission. TAIEX provides technical assistance and expertise with regard to the 'approximation, application and enforcement' of EU legislation (European Union, 2012a).

¹⁸ The prospect of EU membership had at all times represented a chance for Turkey to modernise/westernise and to integrate itself into the European community in general (Keyman and Öniş, 2004).

For instance, at the beginning, the leading coalition partner, the DSP (a nationalist-left party) was often reluctant to promote closer relations with the EU and it was inclined to take 'hard-line' policies towards EU membership. Nevertheless, with the efforts of the party leader Bülent Ecevit, the general views on EU membership showed positive developments in the DSP; the party, along with its coalition partners, gradually became engaged in the political reform process (Kirişçi, 2004a: 284-293). Similar to the DSP, the MHP, the second coalition partner and an ultra-nationalist party, was also reluctant towards the prospect of EU membership. Due to its ideological stance, the MHP perceived the EU requirements on the extension of the cultural rights of the Kurdish minority as a serious threat to the sovereignty and the integrity of the Turkish state (Arıkan, 2003: 70; Kirişçi, 2004a: 284-293; Keyman and Öniş, 2004: 183). Hence, the party remained reluctant to identify itself with the EU and refused to show full commitment to compliance with EU conditionality. An interviewee made a similar comment by stating that within the context of ethnicity and beliefs any conditionality imposed on the Kurdish issue by the EU would put the integrity of the Turkish state at risk (Interview, Member of Parliament, MHP Deputy, 2012).

The third coalition partner, the ANAP, a centre-right party, proved to be the most pro-European of the coalition partners. Since the beginning of its establishment, the ANAP¹⁹ had been a strong advocate for liberal stances in politics, as well as in economics. For the ANAP, the 'gradual liberalisation' of Turkish politics constituted one of the main policy goals; and so the ANAP took various initiatives, such as transformation of Turkish economy from a closed economy to an open-market economy with an emphasis on developing Turkey's potential economic and political influence globally, as a means of becoming a part of the European common market (Ergüder, 1991: 164-167).

¹⁹ The ANAP was established as a political party in 1983 by Turgut Özal. In October 2009, it was merged into the Democratic Party and was considered as a 'centre-right' party with nationalist views. The ANAP was in support of restrictions on the role of the government in the economy, and favoured private capital and enterprise (Kalaycioğlu, 2002).

It was also under the ANAP government of Turgut Özal that Turkey applied for full EEC membership in 1987. In this context, ANAP remained the only coalition partner which successfully identified itself with the EU. However, since the government was composed of three political parties, their mutual identification with the EU as an aspirant group turned out to be unsuccessful. Consequently, in this period, self-identification was an important domestic factor for determining the outcome of Turkey's institutional transformation and policy (re)formation remained inconclusive.

On the other hand, other internal dynamics, such as the emergence of Kurdish separatism in the early 1990s, had continued to have a destructive impact on the reformation of minority rights policy in Turkey in this period. The emergence of Kurdish separatism and terrorist activities created major domestic turmoil for the governing parties; hence, any reform, in order to meet the requirements of the EU in the period of 1999-2002, was initially perceived as costly for the DSP-MHP-ANAP coalition. In fact, the proclamations on the separation of the Kurdish nation from the Turkish mainland forced governing parties to undertake a 'state-centric' approach towards the Kurdish issue in the 1990s, thus resulting in restricted minority rights amongst the Kurdish ethnic minority living in Turkey (Kirişçi, 2004a; 2004b; Kirişçi, 2007).

Nevertheless, the capture of the PKK's leader, Abdullah Öcalan, in 1999 relatively reduced the rule adoption costs in the area of minority rights. Although the PKK terrorist attacks had not stopped since Öcalan's arrest, their intensity had drastically slowed down after his capture. In the aftermath of these developments, the political setting became more suitable for the initiation of the reform process in general, and the liberalisation of the social and cultural minority rights of the Kurdish community in particular (Kirişçi, 2004a: 284). For instance, a 'visible relaxation' was seen on the Kurdish question as a result of the governing elites' adoption of a more 'moderate' stance on the minority rights of the Kurdish community (Kirişçi, 2007: 4).

Within this political context, firstly, in October 2001, the DSP-MHP-ANAP coalition carried out a number of democratic reforms, which resulted in significant amendments to the Turkish Constitution. Secondly, the coalition government continued its legal alignment efforts, by adopting the relevant legislative measures to enforce and implement the constitutional amendments. Their efforts were not restricted to the aforementioned initiatives. The coalition partners successfully prepared 'Harmonisation Laws', aiming to transform the constitutional changes into 'concrete actions', in order to bring Turkish Law in the same line with the *Acquis Communautaire*. In that respect, it is argued that the period of 1999-2002 set the scene for a 'profound and momentous change' in Turkish politics under the leadership of the DSP-MHP-ANAP coalition (Öniş, 2003: 9).

With the constitutional amendments in 2001, first of all, the restriction on the use of any language forbidden by law was taken out of the Constitution. This was followed by a second constitutional reform package in August 2001, which abolished the use of the death penalty in peacetime, revised the Anti-Terror Law, and authorised broadcasting in languages other than Turkish. In addition to these significant changes in the socio-cultural rights, mainly concerning the Kurdish community, one major change took place with the adoption of a third reform package where the law on teaching in languages other than Turkish was amended, in order to allow for private teaching in Kurdish (Aydın and Keyman, 2004: 36; Müftüler-Baç, 2005: 22).

This period had also been demanding for the EU. In 2001, due to Turkey's considerable efforts in making constitutional amendments as part of the EU's prerequisite for membership, the EU reciprocated and continued to effectively carry out its legal responsibilities, as part of the pre-accession framework offered to Turkey. For instance, the EU continued to work on the completion of its 'internal procedures' to accommodate Turkey into the additional Community programmes, as well as the adoption and implementation of a single framework for financial assistance to Turkey. These

two liabilities also form the two important components of rewards offered by the EU, subject to Turkey's overall compliance performance. This resulted in the European Council decision in December 2001 to apply PHARE²⁰ procedures in the EU-Turkey financial cooperation and the approval of Turkey's participation in additional Community programmes as of 2002, which was the year when the Framework Agreement was completed (Tanlak, 2002: 5). Furthermore, the conclusions of the European Council on the Framework Agreement, regarding Turkey's participation in Community programmes, stated that Turkey was granted permission to apply for financial assistance to participate in programmes such as MEDA²¹ to implement cooperation measures for the promotion of economic and social development in Turkey (European Council, 2001a).

In spite of these major political reforms carried out between 1999 and 2002, in its annual progress report, the European Commission declared that no significant progress had been achieved on the Kurdish question. In fact, in its 2002 Regular Report, the European Commission concluded that 'Turkey has made noticeable progress ... [but] does not fully meet the political criteria (European Commission, 2002); as a result, the Commission made the opening of accession negotiations conditional upon the effective implementation of both the constitutional changes and political reforms.

In that respect, the reform efforts of the DSP-MHP-ANAP coalition government, in order to comply with the EU rules and conditions in the area of minority rights, did not result in affirmative/positive Europeanisation; instead, the government's efforts resulted in fractional Europeanisation. Fractional Europeanisation only signifies Turkey's partial adjustment to the EU's rules and

²⁰ PHARE is the Programme of Community aid, mainly to the Central and Eastern European Countries, which was later extended to include other applicant countries from the western Balkans. PHARE is the main financial instrument of the pre-accession strategy and has two main priorities: institutional and capacity-building, and investment financing (European Union, 2007a).

²¹ The MEDA programme aims to achieve the objectives of the Euro-Mediterranean Partnership and is designed to assist Mediterranean non-member countries, such as Turkey. One of the most highly relevant objectives of the MEDA programme for Turkey is almost certainly the reinforcement of political stability and democracy, and the strengthening of human rights and the rule of law in Turkey (European Union, 2007b).

practices, instead of complete institutional transformation and policy (re)formation. This was mainly due to strong conditionality, but unfavourable domestic conditions also impeded the strong and credible external incentives offered by the EU. Among those unfavourable domestic conditions were the domestic opposition, in the form of veto players including the military and nationalist political elite as well as low levels of domestic resonance resulting from the irreconcilable definitional differences between Turkey and the EU on the notion of 'minority'.

5.5.2. Phase II: 2002-2004

The early general elections held in November 2002 signalled the opening of a new era for Turkey. As a result of the elections, the Justice and Development Party (AKP), a newly-founded political party (its predecessors being the Welfare Party (RP) and the Virtue Party (FP), gained the majority of the votes, and formed the first single party government that had come to power since 1987. The elections in 2002 differed from the previous elections, not only because of the formation of a single party government, but also because of the fact that the only party apart from the AKP that passed the ten percent threshold²² was the Republican People's Party (CHP), which happened to be the only opposition party in the Parliament. Furthermore, a 'troubled economy'²³ in this period was also identified as one of the reasons for the 2002 general election results. It is also argued that, unlike the previous general elections, the 2002 elections were closely monitored by non-state actors, such as civil society organisations, and national pressure groups, as well as international organisations such as the International Monetary Fund (IMF) and the EU. It is argued that these non-state actors played a significant role in the

²² The legislature, composed of the Grand National Assembly of Turkey, has 550 members who are elected for a four-year term by a system based on proportional representation. In order to participate in the distribution of seats, a political party is required to obtain a minimum 10% of the votes cast at the national level, in addition to a specified percentage of votes in the contested district (Turkish Grand National Assembly, <http://www.tbmm.gov.tr/>).

²³ Turkey heavily relies on foreign investment for economic growth. In 2001, Turkey faced a serious economic crisis due to the mismanagement of budget deficits by the government and the heavy reliance of the Turkish banks on high-yield bonds as a primary investment, which came as a result of continuing inflation (Özatay and Sak, 2002; Özkan, 2005).

Turkish general election process by emphasising the need for a 'strong and stable government' in Turkey and by serving as 'discursive reference points' in favour of the political parties who were shaping their agenda before the general elections (Öniş and Keyman, 2003: 96-97).

AKP's election as the ruling party had been very controversial. Even then, AKP had often been associated with a political islamist ideology which is mostly considered as anti-Western and/or anti-EU (Güneş-Ayata, 2003; Öniş and Keyman, 2003; Nasr 2005; Tank 2005). In fact, attributable to its Islamic roots, a general concern emerged among governing and non-governing political parties that AKP would pursue its Islamic ideology when it came to power. However, AKP continuously denied the accusations on its Islamic identity and argued that it would not challenge the secular character of the Turkish state. Furthermore, the AKP insisted on presenting itself as a market-liberal, conservative-reformist and pro-European government (Özel, 2003; Dağı, 2008; Karakaş, 2011). This approach undeniably helped broaden its appeal among public (Çağaptay, 2002a); and this helped the AKP to win the votes of EU supporters, liberals, and the Turkish industry (Karakaş, 2011: 15).

In a similar vein, Öniş and Keyman (2003) highlighted that AKP's main political stance has been concentrated on mainly three themes of 'competence, integrity, and democracy'; and its discourse has focused on 'the protection of individual rights and freedoms'. During this period, AKP concentrated on carrying out domestic reforms that would lead the way to EU membership. In this period, the AKP successfully built up its support in the governing and non-governing circles. The AKP's agenda was clearly aimed at winning public confidence based on three principles; firstly, creating a state which is democratic, transparent, accountable, and contributing to the development of a free-market economy; secondly, encouraging innovation, enterprise and investment, as well as achieving financial stability and effective industrialisation; and thirdly, promoting social justice, in the sense that every Turkish citizen will be treated 'individiously' on the grounds of their 'religious

affiliation' or 'ethnocultural identity', indicating a 'full equality of respect and recognition' (Öniş and Keyman, 2003: 101).

On the side of the opposition, the CHP, with its static ideology, more centralised institutional structure and 'top-down decision-making' system, stayed rather ambivalent regarding the prospect of EU membership. At the same time, the CHP's efforts as the main opposition party in debating the solutions to the economic and political problems remained rather limited, showing the lack of enthusiasm or confidence within the party itself by showing its passivity (Öniş and Keyman, 2003). In the 1990s, the CHP's attitude towards EU membership was regarded as 'Euro-enthusiastic' simply because of the idea that EU membership would contribute to Turkey's political, economic and social development, with particular regards to the liberalisation of its overall political regime, the strengthening of its democracy and of civil society (Güneş-Ayata, 2003: 213-214).

However, after the 2002 elections, the CHP's position towards the EU changed considerably and it took a rather nationalistic (although not as radical as the MHP's nationalism) and pessimistic stance, due to the accession negotiation dynamics and certain demands of the EU throughout the process. Unlike the CHP, the AKP showed its absolute commitment to 'EU-related reforms'. For instance, soon after the AKP came in power, it had to complete the task of 'obtaining a date' for the opening of accession negotiations in the Copenhagen Summit of the European Council, in December 2002 (Öniş and Keyman, 2003). For the AKP, EU membership would not only bolster the Turkish democracy, but it would also provide Turkey with instruments to guarantee economic growth and political stability, in addition to the guarantee of the widening of religious and personal freedoms (Çağaptay, 2002a). In that respect, the AKP government claimed it would fully support the EU's economic and democratic standards, as well as the implementation of the legal and institutional regulations set out by the EU.

The period that started after the election of the AKP witnessed the improving attitude of the EU towards Turkey, which was realised in the form of the presentation of a stronger accession strategy for Turkey, including an increase of technical and financial assistance, as well as active involvement and assistance in harmonising Turkey's legislation with that of the EU. In that respect, the EU successfully reflected upon its 'deeper commitment' to Turkey's eventual EU membership (Kirişçi, 2004c). Furthermore, at the Copenhagen European Council in December 2002, the EU acknowledged Turkey's determination to enhance the reform process by addressing priorities specified in the 2001 Accession Partnership document, through the recent adoption of legislative packages under the new government; moreover, the EU advised the government to further combat the outstanding deficiencies in the field of the political criteria for ascension, with particular reference to legislation and implementation (European Council, 2002).

With regard to the financial assistance that the EU offered to Turkey, the Council stated that the EU would 'significantly' increase its pre-accession financial assistance for Turkey, in order to assist Turkey towards membership; with regards to this point, the Council requested that the Commission would prepare a proposal on a revised Accession Partnership. Finally, although the EU welcomed the gradual reforms in Turkey as indicated in the Presidency Conclusions, the Council remained hesitant on setting a definite date for the opening of accession negotiations. Based on that, the Council decided to review the Commission's progress report on Turkey scheduled for 2004 and, on the basis of the Commission's further recommendations, it would set a firm date for the opening of accession negotiations (European Council, 2002).

In this context, the AKP rapidly and effectively carried out the necessary reform process to fulfil the Copenhagen criteria, followed by an amendment on the Accession Partnership in 2003, which explicitly stated Turkey's deficiencies in the political sphere. Nevertheless, the revision of the Accession Partnership document also provided more detailed recommendations,

to meet the objective of providing support for Turkey's pre-accession preparations based on the Council's recognition of Turkey's progress in complying with the political criteria (European Council, 2003).

In that respect, the AP of 2003 reaffirmed the EU's promise of increasing the financial assistance available to Turkey. It was after this amendment to the AP in 2003 that the AKP government developed a new/updated National Programme for the Adoption of the Acquis (NPAA) as a response to the requirements of the EU. The reform measures incorporated in the NPAA of 2003, which were adopted by the AKP government, were in line with the conditions specified by the Accession Partnership document; thus this illustrated the compatibility of the reforms that were foreseen in the NPAA with the AP, proving the AKP's determination in complying with the Copenhagen political criteria (Republic of Turkey, Ministry for EU Affairs, 2003). Further in this period, another major event took place at the Brussels Summit in December 2004. The major point of this summit was the discussion on the adoption of six different pieces of legislation in Turkey and the decision of the Commission in the same line with the Commission report and further recommendations by the Commission, where it was declared that Turkey had sufficiently fulfilled the Copenhagen criteria based on the progress the country had made (European Council, 2004).

While these international level developments generated favourable conditions for Turkey's compliance with EU rules and conditions in the area of minority rights, favourable domestic conditions also played a significant role in Turkey's high performance on compliance. As stated previously, the end of PKK terrorism in the period of 1999-2002 opened a new era in Turkey with respect to the reforms concerning minority rights, particularly the cultural rights of the Kurdish minority. This newly-emerging moderation was furthered during the period between 2002 and 2004. The elimination of PKK terrorist activities and Kurdish separatist movements significantly reduced the rule adoption costs of the government and accelerated the reform process on minority rights.

In terms of complying with EU conditionality, the AKP government effectively handled the reforms of their socio-cultural rights despite the stance of nationalist opposition parties on the extension of the rights of the Kurdish minority. The AKP government, with a seventh reform package in its first term, further amended the law on broadcasting by allowing general broadcasting of public and private radio stations and television channels. Furthermore, the AKP government made necessary amendments to the law that tackles issues regarding education (particularly the teaching of languages other than Turkish). Furthermore, with these reform packages, the AKP removed various discriminative measures and restrictions on the individual freedoms of the Kurdish community. Among these reforms were the abolition of death penalty, including during wartime (Müftüler-Baç, 2005: 26); the removal of Article 8 of the Anti-Terror Law, which criminalised the 'propaganda against the indivisible unity of the state'; removal of the Article 16 of the Registration Law, which prohibited giving names/surnames to children that contradict the 'national culture' and 'Turkish customs and traditions' (Aslan, 2009: 13).

Although far from resulting in fundamental changes in the minority policy, the reforms carried out by the AKP resulted in the radical extension of socio-cultural rights of the Kurdish community and thus became the beginning of a 'gradual' transformation of the 'notion of citizenship' (Keyman, 2010: 322-324). In that respect, it can be argued that the reduction in the rule adoption costs for the Turkish government (the AKP government), in the period of 2002-2004, was still valid due to the unchanged domestic conditions.

On the other hand, the full commitment of the AKP government to comply with the EU rules and conditions, hence their making the necessary constitutional changes and further legislative amendments, also indicate that the costs associated with rule adoption remained low in this period. In that respect, it can be argued that the AKP did not face any similar constraints that the previous coalition government that the DSP-MHP-ANAP had faced in the period between 1999 and 2002. In other words, by securing a majority

government, the AKP was able to carry out the reform process as quickly as possible in the absence of a coalition partner with ideological differences. In this environmental context, it was less difficult for the AKP government to pass major legislative changes thus complying with the EU rules and conditions (Müftüler-Baç, 2005: 24).

Furthermore, in its Regular Report on Turkey in 2004, the European Commission stated a more positive attitude to the progress achieved in the field of Kurdish rights and Turkey was rewarded by the setting of a date for the opening of accession negotiations (European Commission, 2004). Therefore, it can be concluded that the AKP's pro-EU stance and liberal approach on the highly-contested issue of the extension of socio-cultural rights of the Kurdish minority and the absence of veto players, resulted in the presence of favourable domestic conditions and low levels of domestic costs. This was also complemented by strong and credible EU rewards thus giving the rise to high levels of compliance with the EU rules and conditions in the area of minority rights. This phase therefore showed an affirmative/positive Europeanisation where strong and credible external incentives coalesced with favourable domestic conditions for institutional transformation and policy (re)formation in the area of minority rights.

5.5.3. Phase III: 2005-2008

The opening of negotiations on 3 October 2005 was a promising start for the governing AKP, the political elites as well as to the general public in Turkey. However, due to internal and international changes, the hopes of almost everyone vanished and more importantly the political reform process, in relation to Turkey's institutional transformation and policy (re)formation in almost all policy areas, came to a halt. For instance, at the international level, the dispute over the Cyprus issue (i.e., Turkey's hesitation to provide access to the Republic of Cyprus to use Turkish ports and airports) (Hakura, 2006) and the EU's decision to suspend the opening of eight chapters in the Acquis

Communautaire have accelerated the conflicts between the two parties and slowed down the political reform process.

Contrary to the theoretical assumption of the increase in the credibility of conditional rewards after the opening of accession negotiations, in Turkey this gave rise to an exactly opposite outcome, due to the unfavourable domestic conditions that took place in this period. In fact, after 2005, Turkish public support for EU membership drastically decreased due to the attitudes of EU member states and their criticisms of Turkey. In support of this, an interviewee openly stated that public perceptions toward the EU had become extremely negative in this period, and the majority of the public had perceived the EU as being 'disingenuous' and 'unfair' (Interview, a high ranking official from the Undersecretary of the Ministry of EU Affairs, 2012).

Furthermore, according to a poll carried out by the International Strategic Research Organisation (USAK)²⁴ in November 2006, only 50% of the Turkish people were supportive of Turkey's EU membership bid, whereas it had been 75% at the end of 2004 (USAK, 2006). It was also in that period that discussions on Turkey became important in the 'pre-referendum' environment in countries such as France and the Netherlands, where referenda would take place for the approval of the European Constitution (EurActiv, 2005).

Nevertheless, after the opening of 'concrete' accession negotiations in June 2006, a new negotiation framework was adopted consisting of 35 chapters in total; each chapter had to be opened and closed by the European Council unanimously. Even though this was a promising starting point, in December 2006, with the suspension of eight chapters in Acquis Communautaire by EU Foreign Ministers, the reform process drastically slowed down. The AKP government perceived this move as unjust to Turkey and inconsistent with the previous decisions of the EU with regards to Turkey. In spite of these negative developments, Recep Tayyip Erdoğan eagerly

²⁴ International Strategic Research Organisation (USAK) is an independent think-tank based in Ankara. Further information on USAK can be found at: <http://www.usak.org.tr>.

reaffirmed his party's commitment to full EU membership and claimed that the foreign policy objectives of his party regarding EU membership remained the same and compatible with EU conditions, as well as Turkish state policies (Hürriyet, 2006).

However, just before the re-election of the AKP in July 2007, its decision in the election of a new president heightened domestic turmoil. The crisis took place due to the fact that the AKP leadership did not nominate their presidential candidate until the last minute, thus suggesting the highly likely candidacy of Recep Tayyip Erdoğan. Despite this likelihood, after the demonstrations of thousands of secular people in April 2007, the then Foreign Minister Abdullah Gül's name came forward as an alternative and he finally stood as the AKP's candidate. Although the first round of voting in April was enough to secure Gül's presidency, the main opposition party, the CHP, boycotted the first round of voting in the Grand National Assembly. The CHP's complaint concerning Gül's candidacy was upheld and the Constitutional Court annulled the first round of elections on the grounds that 'a quorum had not been present' (Morelli, 2011: 5). Therefore, Prime Minister Erdoğan called early elections for July 2007 and, with almost 47% of the vote, the AKP secured a parliamentary majority (total 341 seats out of 550), and was able to elect Abdullah Gül as the President of the Republic in August 2007 (Tezcür, 2007: 1-4).²⁵

After its re-election, the AKP, under the leadership of Recep Tayyip Erdoğan, once again put forward its foreign policy objective as full membership to the EU. Right after the AKP victory, Erdoğan stated that the AKP will 'press ahead with reforms and the economic development that we have been we have

²⁵ Abdullah Gül's presidential candidacy was highly controversial on many accounts. Firstly, Gül's membership to AKP, a political party closely affiliated with Islamic values, has been one of the main reasons for the negative public response to his candidacy (Çavdar, 2007). Secondly, many secularists have been tentative about Gül having roots in Islamist movements in the past, and his wife wearing a head scarf, which is commonly considered as symbol of 'Islamism and backwardness'. Thirdly, Gül's presidency was considered highly controversial due to the possible disruption to the 'balance of political power' since AKP has already been controlling the Prime Ministry and the Parliament, and by electing Gül as the President, AKP would also assume the Presidency, hence gaining a supreme control in the political front (Migdalovitz, 2007).

been following so far' and further said that 'we will continue to work with determination to achieve our European goal' (BBC News, 2007a). On the European side, the Commission President José Manuel Barroso commented on the election results saying: 'This comes at an important moment for the people of Turkey as the country moves forward with political and economic reforms. Prime Minister Erdoğan has given his personal commitment to the sustained movement towards the EU. I wish him every success with his new mandate' (EurActiv, 2007).

However, the relationship between Turkey and the EU stalled for a second time due to the slowed reform process as a result of domestic turmoil surrounding allegations that the AKP was trying to establish an Islamist state. As one interviewee put it, in the post-2007 period, the political power primarily focused on domestic affairs, which had a 'counter-balancing' effect on the political reforms (Interview, Member of Parliament, CHP Deputy#1, 2012). In March 2008, the chief prosecutor of the Supreme Court of Appeals, Abdurrahman Yalçinkaya, filed a court request to the Constitutional Court to close the AKP, based on its anti-secular activities. If the Constitutional Court would have decided to bar the AKP based on these allegations, this would have resulted in EU accession negotiations being put on hold. The EU closely monitored the court case and at times posited its opinion by emphasising the fact that a party closure in a democratic setting, particularly if the country in question is a candidate country, would not be in line with the democratic credentials of the EU. On this particular issue, the Enlargement Commissioner Olli Rehn stated that: 'In a normal European democracy, political issues are debated in the parliament and decided through the ballot box, not in the court rooms' (EurActiv, 2008).

This period clearly illustrated the ups and downs in the Turkey-EU relationship and the dramatic decrease in the progress of the political reform process in Turkey was attributable to the domestic and the EU-level events. Given that, it can be argued that the final phase of this period came with the

adoption of a critical report on Turkey by the European Council in May 2008, re-emphasising the EU's concerns on the lack of reforms made, the AKP's closure case and the necessity of fostering of reforms. In that respect, the Turkish government was recommended to 'resolutely' carry out further reforms that are crucial for Turkey's democratisation process and its accession to the EU.

Contrary to the fruitful period of 2002-2004, it is possible to see that in the period of 2005-2008 neither Turkey nor the EU performed well in terms of reward-compliance linkage. This alteration in performance can be explained by several reasons. Firstly, changes in the attitudes of several EU member states and the 'mixed signals' they sent to Turkey concerning the alternative outcomes of the accession negotiations, such as 'privileged partnership' instead of 'full membership', had a dramatic impact on Turkey's eagerness to continue the reform process and negatively affected public opinion on EU membership. Secondly, in this period, the AKP government, which came into power after the general elections in 2002 and was re-elected in 2007, showed a 'reform fatigue', in other words, an unexpected 'retreat from its political agenda on the 'EU-demanded democratic reform measures' after the opening of accession negotiations (Patton, 2007; Grigoriadis, 2009). In support of this, an interviewee stated that due to the conflicts among its member states with regard to Turkey's candidacy in this period, the EU failed to take strategic decisions and therefore could not provide credible conditionality. The closure case in turn became a 'matter of survival' for AKP, and shifted the governing party's focus on its own internal dynamics (Interview, a former Foreign Minister of Turkey, 2012).

Moreover, a number of member states have opposed Turkey's EU membership such as, France, Germany, Austria, the Czech Republic, the Netherlands, Luxemburg and Denmark. The main opposition comes from Germany and France, and, following them, the Czech Republic and Austria; they have explicitly stated their opposition to the membership of Turkey and

have suggested alternative solutions to bind Turkey to the EU, such as the 'privileged partnership' primarily developed by the German Christian Democrats (Kramer, 2006: 26).²⁶

Although the European Council, in December 2004, decided to open negotiations with Turkey on 3 October 2005, the year 2005 was filled with suspicion. On the Austrian part, the presidency argued for an alteration in the negotiations in support of an alternative solution to membership. In the same line, Germany took the same stance when Angela Merkel, the Chancellor of Germany, suggested the term 'privileged partnership', instead of full membership as the strongest deal that can be offered to Turkey. On the other hand, in order to begin the accession negotiations prior to October 2005, France attempted to introduce a new condition, which had to be fulfilled, concerning the 'recognition of Cyprus' (Aydın, 2006: 1-6).

At the domestic level, it was argued that the sudden change in the pace of reforms after the opening of accession negotiations occurred due to the AKP government's 'private gains', since AKP started to 'cater' to the 'demands' of its core religious support groups. The AKP's initiatives in that respect included the party's attempts to allow the wearing of headscarves in public offices and universities, facilitating the attendance of Islamic clerical school graduates in universities, and reforming the Higher Education Board (YÖK) with an aim to weaken its tie with the secular state elites (Schleifer, 2006; Uğur and Yankaya, 2008: 594-595). These changes in the policy agenda of the AKP drastically changed the direction of the democratisation reforms and the prospects of full EU membership for Turkey.

²⁶ On the subject of opposition to Turkey's membership to the EU, McLaren (2007: 275) studied the attitudes of EU citizens to Turkey's candidacy to the EU based on theories of 'rational economic self-interest' and 'group-level interests and concerns'. The findings of this study indicate that Turkish candidacy is more likely to produce concerns among EU citizens in relation to 'symbolic' issues such as 'threats to culture, way of life' instead of economic issues. In a similar vein, an interviewee argued that one of the main reasons for the EU's sceptic attitude to Turkey's candidacy can be linked to the existential arguments surrounding Turkey's religious identity (Interview, a Turkish activist, journalist and professor, 2012).

Another important domestic factor in the slowdown of reforms was the re-emergence of nationalist opposition towards the AKP's 'concessions' over 'the Cyprus issue and the rights of ethnic/religious minorities' and, in line with the demands of the EU, the concessions over the rights of Kurdish people (Schleifer, 2006; Uğur and Yankaya, 2008). In addition to that, the re-emergence of Kurdish separatist movements and PKK terrorism in the course of 2006 triggered the resurgence of hard-line nationalist oppositions to the extension of the socio-cultural rights of the Kurdish community. As a result, the AKP's policy towards the Kurdish problem lost its pre-election liberal and pluralistic vision, and it became costly for the government to carry out the necessary reforms in this particular area (Öniş, 2009).

Before the general elections in 2007, nationalist opposition groups, including political parties such as the MHP and the CHP, as well as the military, created a threat to the 'support base' of the AKP. In that respect, the AKP moderated its views from its previous full support of EU membership to a more moderate, restrained 'state-centric' and 'security-oriented' discourse on 'democratisation demands and minority rights'. Furthermore, the legislative proposal of the AKP on the criminalisation of adultery, aiming to support and protect family unity and to ensure gender equality, resulted in intense reactions domestically and internationally. This issue therefore negatively affected the relations between the EU and Turkey to a great extent, since the EU perceived this attempt as Turkey introducing 'Islamic elements' into its legal system (Aydın, 2006: 24).

In that respect, Uğur and Yankaya (2008: 595-596) note that 'having benefited from the legitimacy enhancing engagement with EU institutions and member states for two years, it [the AKP] has shifted attention to new policy ventures expected to bring higher returns in terms of support and legitimacy'. All these domestic developments caused a decrease in the pace of progress in the reform process; this was the result of the retreat from the previously reformist attitude of the government and consequently the reform initiatives of

the AKP's political agenda. In that respect, the AKP failed to show its previous enthusiasm in making legislative amendments, thus explaining its weak performance in complying with the EU rules and conditions in this period.

Surprisingly however, a final attempt at pushing through reforms came from the AKP with the launch of several reforms in the area of minority rights in 2008. In January 2008, the first 24-hour Kurdish television channel in the history of the Turkish Republic started broadcasting; and In November 2008, departments on Kurdish language were opened at the Universities of Dicle and İstanbul, providing proof of the significant extension of the social, cultural and educational rights of the Kurdish minority (Öniş, 2009: 32). An interviewee explained that before the political reform process, the social and cultural rights of the Kurdish minority were very limited. However, the reforms permitting the first Kurdish television channel to broadcast, provided 'semi-collective' rights for the Kurdish minority, which are extremely important for the democratisation process (Interview, a high ranking official from the Undersecretary of the Ministry of EU Affairs, 2012).

Nevertheless, it can be concluded that despite the mixed signals of several EU member states, the pro-enlargement EU member states continued to support Turkey's reform efforts under the AKP government. These member states that had been in favour of Turkey's full EU membership were 'constructively critical' of Turkey's reform initiatives, by forcing the AKP to continue with the democratisation reforms and they attempted to emphasise that (despite all the alternative solutions to accession process of Turkey), the 'membership prospect' was still on the agenda of the EU. However, the AKP's declining enthusiasm for the carrying out of reforms and the divergences among the EU member states with regard to Turkey's membership had an adverse effect on the reward-compliance linkage.

As a result, Turkey was not successful as in complying with the EU rules and conditions. At the same time, the EU was not successful in showing

its full commitment to the accession process, in terms of providing Turkey with the necessary incentives (for example, some member states tried to change the ultimate reward of full membership to a privileged membership instead) to accelerate the reform process and hence accelerate the democratisation process of Turkey, thus significantly lowering the credibility of the EU rewards. An interviewee made a similar point on the EU's diminishing commitment to the accession process by indicating that the 'carrot' of membership or conditionality became invisible in this period (Interview, Ambassador, Directorate General for Europe, Ministry of Foreign Affairs, 2012). To conclude, unfavourable domestic conditions and weak EU conditionality, with respect to factors such as the legitimacy of EU rules and the credibility of the EU rewards, endangered the process of democratisation in Turkey and resulted in a negated/negative Europeanisation.

5.6. Discussion of the Results

This thesis argues that Turkey's democratisation process cannot be assessed without taking into account the impact of the EU and its conditionality strategy; and that Europeanisation has had a definite impact on the institutional transformation and policy (re)formation in Turkey. Nevertheless, the way that the EU impacts upon political actors, institutions and cultural norms and values, embedded in the Turkish political system, varies across policy areas and different time periods. As the analysis on minority rights has shown, Turkey's institutional transformation and policy (re)formation in this particular area did not show a steady and continual progress across three periods, and there are several international and domestic-level factors that can explain the diverging policy processes and policy outcomes. The detailed list of intervening factors of institutional transformation and policy (re)formation can be found in Table 5.2 which will be discussed below.

It can be argued that the non-linear progress of Turkey's democratisation and domestic change, in relation to minority rights policy, can

be seen as evidence for the different dynamics of domestic change in Turkey following the pre-accession strategies of the EU. First of all, an analysis of the first period (1999-2002) shows that the EU effectively utilised conditionality as its main influence mechanism. Secondly, the dynamics that accounted for the degree of domestic change were mainly the material incentives offered by the EU and the EU's credible conditionality. At this point, the material incentives mirror the substantial rewards offered by the EU, in return for Turkey's compliance with its rules and conditions; whereas the EU's credible conditionality epitomises the EU's capacity to adopt effective influence mechanisms at the early years of domestic change, as well as its significant progress in determining the requirements and delivering sizeable rewards.

Hence, in accordance with the external incentives model, sizeable rewards and credible conditionality can be verified as the main triggering factors for the initiation of institutional transformation and the policy (re)formation of minority rights in Turkey in the first period (1999-2002). From the theoretical point of view, the external incentives model assumes that these factors can cause a rule compliant behaviour in target countries, hence they can account for domestic change in Turkey, in relation to the pre-accession strategies of the EU. This line of reasoning provides evidence of the effectiveness of the EU conditionality strategy and results in Europeanisation at the domestic level.

Nevertheless, as discussed in Chapter 4, there are different levels of Europeanisation, provided that there are other aspects that should be considered when assessing the direction and pace of domestic change. If the above conditions were taken as granted, regardless of other factors, this would lead to a model of interaction where favourable domestic conditions, in conjunction with strong conditionality, would result in positive and formal Europeanisation. This assumption would then indicate a complete institutional transformation and policy (re)formation of the specified policy area. However, the analysis on minority rights shows that there are other factors, mainly at

the domestic level, that can account for an atypical process and policy outcome in this period. These factors can be identified mainly as being the nature of the government and its identification with the EU, and the negative normative resonance, as put forward by the social learning model, as well as high domestic adoption costs, put forward by the external incentives model.

First of all, since the form of the government (consisting of coalition partners with diverging ideologies), the strength of the government and its identification with the EU in the first period remained low, this hindered the establishment of the favourable domestic conditions necessary for domestic change. Secondly, due to lack of positive normative resonance of domestic rules, the domestic factors and political setting became exceptionally unfavourable. Finally, the size of domestic adoption costs were high, reflecting on the sensitivity of the policy area, the presence of veto players and the limited state capacity to carry out reforms, due to the unsuitable political environment. In turn, these domestic factors impinged upon the effectiveness of conditionality, the timing of formal rule adoption and the further compliance with EU conditions in the context of Europeanisation. Therefore, instead of positive and formal Europeanisation, this period showed a fractional Europeanisation entrenched by unfavourable domestic conditions and strong conditionality. As a result, only partial adjustment and alignment with EU rules and practices could be achieved, instead of complete institutional transformation and policy (re)formation which would be the result of positive and formal Europeanisation.

A number of factors that account for the actual domestic change in the first period (1999-2002) have shown differences in the second period (2002-2004). Although international factors, including size of rewards and the credibility of EU conditionality, remained high and did not show any variance; domestic factors, such as the size of domestic adoption costs and the nature of the government and its identification with the EU, have shown variances, which can explain the diverging process and policy outcome of positive and

formal Europeanisation. In conjunction with the factors put forward by the external incentives model, including the size of rewards (high value), credibility (high value), and size of adoption costs (low value), the social learning model's factor, concerning the nature of the government and its identification with the EU (high due to AKP's successful pro-European stance and party policy), provides sufficient favourable conditions for institutional transformation and policy (re)formation in this period.

The non-linear progress of Turkey's democratisation and domestic change, in relation to minority rights policy in the third period (2004-2005), becomes even more critical. In fact, the majority of the international and domestic factors show variances signalling to yet another divergence in the process and policy outcomes. Compared to the previous two periods, the size of rewards, credibility and size of domestic adoption costs (of the external incentives model) show opposite values (low, low, and high respectively) in this period. Furthermore, although the nature of the government and its identification with the EU remains the same, hence constituting favourable domestic conditions, it is apparent that there was no significant policy outcome in this period. This outcome can be attributed to the dominance of unfavourable domestic conditions and extremely weak conditionality, the outcome of which is negative Europeanisation.

From the theoretical perspective, the analysis of minority rights has shown that neither the external incentives, nor the social learning model can individually explain the diverging process and policy outcomes. In fact, the cross-period analysis reveals that while the external incentives model is more productive for assessing the first period (1999-2002) and the outcome of fractional Europeanisation (partial adjustment to the EU rules and practices), the second period (2002-2004) can be explained both by the external incentives and social learning models.

The decisive factors, which can explain the diverging outcome of positive and formal Europeanisation (successful transformation and (re)formation) in the second period, are the size of domestic adoption costs (external incentives), and the nature of the government and its identification with the EU (social learning). The final period can also be explained by the two theoretical models, since neither favourable conditions (except the nature of government and its identification with the EU), nor strong conditionality were present. This outcome can be deduced by examining the lack of political will/determination of the government (hence, its capacity to carry out reforms) and lack of consensus among EU member states on Turkey’s membership prospect.

<div> <div>Table 5.2</div> <div>Intervening factors of institutional transformation and policy reformation</div> </div>			
Period	1999-2002	2002-2004	2005-2008
Size of rewards (EU-level)	High (significant technical and financial rewards in return of national compliance and alignment with the EU legal and administrative framework)	High (significant rewards in return of national compliance and alignment with the EU legal and administrative framework)	Low (insignificant or no rewards); mutual deterioration of relations, negative perception of accession requirements and national progress)
Credibility (EU-level)	High (effective conditionality; significant progress in the determinacy of requirements and delivery of rewards; membership perspective)	High (effective conditionality; significant progress in the determinacy of requirements and delivery of rewards; membership perspective)	Low (ineffective conditionality; double standards, confusion; indeterminate requirements and unsuccessful delivery of rewards; diminishing or no membership perspective)
Size of domestic adoption costs (Domestic-level)	High (sensitive topic in this period; presence of veto players; unsuitable, undemocratic political environment)	Low (increasing benefits of legal and institutional alignment' increasing financial and technical assistance; prospect of opening of accession negotiations)	High (costs of compliance overweight the rewards; impact of diminishing or no membership perspective; limited incentives to proceed with institutional transformation and policy (re)formation)
Legitimacy (EU-level)	Low (vague clauses on minority rights; less institutionalised clauses; no incorporation in the Acquis; no common EU policy on minority rights)	Low (vague clauses on minority rights; less institutionalised clauses; no incorporation in the Acquis; no common EU policy on minority rights)	Low (vague clauses on minority rights; less institutionalised clauses; no incorporation in the Acquis; no common EU policy on minority rights)

Identity (Domestic-level)	Low (failure of the coalition partners in self-identification with the EU; diverging ideologies, different perceptions on the prospective EU membership)	High (successful identification of the ruling party with the EU; EU as an aspirant group)	High (successful identification of the ruling party with the EU; EU as an aspirant group)
Resonance (Domestic-level)	Low (diverging categorisation of minority status; incompatible domestic policy on minority rights with the EU conditionality)	Low (diverging categorisation of minority status; incompatible domestic policy on minority rights with the EU conditionality)	Low (diverging categorisation of minority status; incompatible domestic policy on minority rights with the EU conditionality)
OUTCOME	Conditionality partially effective; the external incentives model explains insignificant policy outcome Fractional Europeanisation	Conditionality effective, both models explain the policy outcome; compliance Positive Europeanisation	Conditionality ineffective, size of adoption costs determining factor; no policy outcome Negative Europeanisation

The next chapter deals with the empirical analysis of the institutional transformation and policy (re)formation of freedom of expression in Turkey.

6. The Reforms to Freedom of Expression Laws in Turkey

6.1. Introduction

In the period preceding the establishment of the European Union (EU), there had been several legal initiatives, which brought about significant change in the right to, and the protection of, freedom of expression in the European continent. First of all, in 1948, the United Nations adopted the Universal Declaration of Human Rights (UDHR) outlining the 30 fundamental rights of all people to live freely as individuals. In the UDHR, freedom of expression and freedom of information (i.e., to seek, receive and impart information) are accepted as two of the most important fundamental rights that people should be able to exercise without fear of reprisal. Regarding freedom of expression, Article 19 of the UDHR states that 'everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers' (United Nations, 1948).

The UDHR is commonly seen as the first attempt at the international level in acknowledging fundamental human rights, which certainly have had a huge impact on the improvement of national and international human rights law. As Hannum (1995: 289) puts forward, the UDHR transpires as the 'foundation of much of the post-1945 codification of human rights'. Since then, the right to freedom of expression has been incorporated in various human rights conventions and agreements, including the European Convention on Human Rights (ECHR), and the International Covenant on Civil and Political Rights (ICCPR). It can be argued that at present the UDHR not only represents a 'common standard of achievement' on human rights, but also a 'declaratory of customary international law' (Reisman, 1990: 867). It also provides a basis

for 'moral, political and legal influence' on human rights law on the global scale (Hannum, 1995: 289).

On the other hand, in 1950, the Council of Europe declared the Convention for the Protection of Human Rights and Fundamental Freedoms, which prepared the ground for increasing freedom of expression across Europe (Council of Europe, 1950). It has been widely referred to as the 'jewel in the crown of the Council of Europe' (Council of Europe, 2012). The Convention states the aim of attaining better unity between its members with the help of acknowledging the promotion and protection of human rights and fundamental freedoms. The Convention also reaffirms the necessity of having an effective political democracy in order to maintain human rights and fundamental freedoms by collective enforcement. All the Member States of the EU are signatories to the ECHR. However, although Individual Member States are signatories to the Convention, the EU in its organisational capacity has not signed the Convention. Regardless of this fact, the Convention still has a strong impact on the practices of freedom of expression within the EU. Furthermore, Article 10 of the Convention, corresponding to Article 19 of the Universal Declaration of Human Rights, supports everyone's right to freedom of expression, without being subject to impediments by public authorities; at the same time, the Convention explicitly states that the exercise of the freedom of expression should be disposed to several conditions, limitations or even penalties set down by law. Article 10 proclaims that:

- (1) Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.
- (2) The exercise of these freedoms, since it carries with duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the protection of disorder or crime, for the protection of health or morals, for

the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary (Council of Europe, 1950).

On the other hand, in 1999, the Cologne European Council decided that the fundamental rights, which are applicable at the EU level, should be incorporated into a charter, in order to give them 'greater visibility' (European Council, 1999a). In that respect, based on the general principles set out in the ECHR and those derived from the 'constitutional traditions' that are common to the EU Member States, the charter was prepared by a convention consisting of a representative from each Member State and the European Commission, along with members of the European Parliament and national parliaments. It is called 'the Charter of Fundamental Rights of the European Union' and was formally proclaimed in December 2000 in Nice by the European Parliament, the Council and the Commission.

However, the charter was given a binding legal effect equal to the Treaties only after the Lisbon Treaty was came into force in December 2009. The Charter includes not only the fundamental rights that apply to all EU citizens, but also the economic and social rights which are contained in the Council of Europe Social Charter and the Community of Fundamental Social Rights of Workers. Furthermore, the Charter also reflects on the principles derived from the case law of the Court of Justice and the European Court of Human Rights. Article 11 of the Charter states that:

- (1) Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers.
- (2) The freedom and pluralism of the media shall be respected (European Union, 2000).

It can be argued that the EU has shown a strong commitment to the protection of the political rights and freedoms of people living in its member states, which materialised in the adoption of extensive legislation within the EU. Apart from the Charter, the EU has also incorporated its principles on freedom

of expression in the 23rd chapter of the *Acquis Communautaire* – ‘the body of common rights and obligations’ binding all the Member States together within the EU (European Commission, 2012a). This chapter, along with the development of the EU as an area of ‘freedom, security and justice’, highlights the importance of Member States having solid legal frameworks and reliable institutions to underpin coherent policies and to ensure respect for fundamental rights (European Union, 2012b). In Article 11 of the EU’s Explanatory Screening of the Chapter on the Judiciary and Fundamental Rights, it is stated on the freedom of expression that:

- (1) Scope under Community law equivalent to the protection provided by Article 10 of the ECHR – freedom of expression, as embodied in Article 10 of the ECHR, is recognised as a general principle of law the observance of which is ensured by the ECJ;
- (2) Derogations are permissible only if they are in accordance with law, pursue a legitimate aim and are necessary in a democratic society, that is to say be justified by a pressing social need and in particular, proportionate to the legitimate aim pursued;
- (3) Commercial use of freedom of expression – freedom of expression may be limited to an examination of the reasonableness and proportionality of the interference when the exercise of the freedom does not contribute to a discussion of public interest and it arises in a context in which the Member States have a certain amount of discretion (e.g. in a field as advertising);
- (4) Right to information – the right of access to documents of the institutions is guaranteed to any citizen of the Union and any natural or legal person residing or having its registered office in a Member State (European Union, 2006).

Nevertheless, it should be noted that the right to freedom of expression is not absolute in itself. It has been recognised by the drafters of these major human rights declarations that freedom of expression can be limited in a number of circumstances, in order to protect legislative aims. These may include the ‘protection of an individual’s reputation, public order, national security, health and morals’ (Council of Europe, 1950; United Nations, 1966).

In relation to the issues raised above, this chapter analyses the impact of the EU on freedom of expression in Turkey, in three periods of time used in the

previous chapter (1999-2002, 2002-2004, 2005-2008). As the main argument of this thesis goes, the EU has an undeniable impact on Turkish democratisation in general, and on institutional transformation and (re)formation of national policies in particular. The EU considers freedom of expression as one of the 'pillars' of democracy and as a precondition for membership application, it has set high standards on the protection of freedom of expression in the *Acquis Communautaire* and the EU's fundamental values of justice, freedom, and security (European Union, 2012b). In that respect, as part of its pre-accession framework, the EU has required Turkey to comply with the formal rules and requirements to reform its legislation and practices on freedom of expression, as stated in the Copenhagen criteria, and to align its legal framework with that of the EU. In other words, Turkey is expected to adjust its national legislation in accordance with the *Acquis Communautaire*, which requires an extensive reform agenda to bring the national legislation to the same level as that of the EU member states, not only in terms of rule adoption, but also in terms of implementation.

There are several factors that account for actual domestic change and the effectiveness of EU conditionality on domestic transformation in Turkey. In order to identify the main dynamics of domestic change in the area of freedom of expression, the systematic analysis in this chapter concentrates on several factors (both at the EU-level and domestic level) put forward by the external incentives and social learning models. As noted in the previous chapter, these factors are identified as: the size of domestic adoption costs, credibility of conditionality, size of rewards, legitimacy, identity and resonance. As it will be discussed further below, since political freedoms cover a broad policy area, this chapter mainly concentrates on freedom of expression in Turkey and looks into the differences between Turkish and EU regulations in this field.

This chapter finds first that Turkey has been struggling to align its rules and practices on freedom of expression with the EU's own practices; and the

country had failed to achieve complete institutional transformation and policy (re)formation in the area of freedom of expression by the end of the third period. Nevertheless, in the first period (1999-2002), Turkey managed to partially adjust itself to the EU's approach on freedom of expression; whereas in the second period (2002-2004), domestic change became more observable, due to favourable domestic conditions and the continuation of strong EU conditionality. Therefore, as was the case for minority rights, the combination of favourable domestic conditions and strong conditionality brought about positive Europeanisation in this period. Unfortunately, this did not last long, due to a downturn affecting changes both at the domestic and the international level. In the third period (2005-2008), domestic conditions became highly unfavourable, and there had been a sharp decrease in the strength of conditionality, making it less influential for the concerned period.

Secondly, in contrast to the minority rights policy, the EU has shown a high level of legitimacy in the area of freedom of expression, since clauses regarding freedom of expression have been successfully integrated into the *Acquis Communautaire* – representing the presence of a common policy at the EU level. Therefore, the high level of EU legitimacy in the area of freedom of expression is taken as constant across the three periods. Nevertheless, as a cross-period analysis reveals, there are diverging outcomes and the constant high value of EU legitimacy in the area of freedom of expression can account for favourable conditions at the EU level, contributing to the strength and effectiveness of conditionality, but it cannot fully explain the differences in domestic change, and the impact and effectiveness of EU conditionality across the three periods.

Thirdly, this chapter finds that neither the external incentives model, nor the social learning model, can fully explain the policy processes and outcomes. Whilst the size of rewards, credibility and strong conditionality appear as the key factors in explaining partial adjustment in first period (1999-2002), the difference between the first and the second period can be explained

by the addition of successful identification of the government with the EU. This positive domestic condition, along with low levels of domestic adoption costs, to a great extent explains the positive shift from partial adjustment to a better alignment, and on-going institutional transformation and policy (re)formation. This is considered as evidence for positive Europeanisation in the second period (2002-2004). However, even if the target government's identification remains the same, in the third period (2005-2008), its capacity to carry out reforms, as well as its political will and reform determination, have diminished significantly. This came as a result of unfavourable changes both at the domestic and EU level. This has resulted in negative Europeanisation; hence, no process or policy outcome is observed, due to unfavourable domestic conditions and weak conditionality in the final period.

The analysis in this chapter begins with an attempt to conceptualise freedom of expression, built on classical traditions of democratic theorising. This section aims to offer the rationale behind the selection of freedom of expression as a policy area which is subject to change in relation to Turkey's democratisation efforts under the influence of EU conditionality. The following section provides a historical overview of the internal dynamics in Turkey, in relation to practices on freedom of expression, and aims to present the domestic context in which Turkey intends to align itself with the EU's rules and practices in this area. It is then followed by a discussion on EU conditionality and freedom of expression in Turkey, in order to identify how the EU engages with and approaches political freedoms in general, and freedom of expression in particular. The discussion will also analyse what the legal requirements of the EU are on institutional transformation and policy (re)formation in the area of freedom of expression from Turkey, particularly within the context of its enlargement policy. The final section provides the policy processes and outcomes in relation to Turkey's democratisation, by analysing certain changes longitudinally in three phases (1999-2002, 2002-2004, 2005-2008). The chapter concludes with a discussion of the results.

6.2. Conceptualisation of Freedom of Expression

Freedom of expression is one of the vital institutions of democracy. Liberal democracy not only protects the civic liberties of people, but also provides substantial freedom for people to express their opinions. It can be argued that a democracy cannot be consolidated when there are no significant political freedoms. As is mostly indicated, freedom of expression constitutes one of the sub-components of political freedoms and its existence, and/or non-existence, proves to be an essential test for the level of democracy (Mayo, 1960; Dahl, 1998; Held, 2006).

Following Diamond's (1999: 8) line of reasoning on freedoms as 'minimalist conceptions' of democracy, it is useful to break this principle into sub-components. Among them are certainly the 'freedom of speech', the 'freedom of assembly' and the 'freedom of organisation'. These political freedoms are accepted as the 'touchstone' of a democratic system; hence, their existence is seen as the most essential test of the 'extent' of democracy within a country (Mayo, 1960: 66). In fact, Dahl (1998: 46-53) introduced 'essential rights' and 'general freedoms' as two of the advantages of a democratic system and labelled 'freedom of expression' as one of the core political institutions in democracy. These trends not only denote the potency of democratic political systems to guarantee accessibility and implementation of fundamental rights, but also their ability to provide a system where people can enjoy ample range of freedoms (Dahl, 1998: 46-53).

In order to explain the dangers of suppressing opinions, John Stuart Mill, who contributed to the foundation for the 'marketplace of ideas' principle which has served as justification for the 'liberal approach' to freedom of expression, wrote in his famous work *On Liberty* that:

The opinion which is attempted to suppress by authority may possibly be true. Those who desire to suppress it, of course deny its truth; but they are not infallible. They have no authority to decide the question for all mankind, and exclude every other person from the means of judging. To refuse a hearing to an

opinion, because they are sure it is false, is to assume *their* certainty is the same thing as *absolute* certainty [...] There is the greatest difference between presuming an opinion to be true, because, with every opportunity for contesting it, it has not been refuted, and assuming its truth for the purpose of not permitting its refutation. Complete liberty of contradicting and disproving our opinion, is the very condition which justifies us in assuming its truth for purposes of action; and on no other terms can a being with human faculties have any rational assurance of being right (Mill, 2011: 33-35).

In that respect, it can be argued that freedom of expression is one of the most fundamental of all freedoms and one of the basic foundations of democracy. Without freedom of expression a democracy cannot exist, due to the fact that it guarantees people to express their opinions without being subject to interference from the state. It is freedom of expression which creates a common ground, where people can freely discuss any political matter and share their opinions, express their concerns and advocate for changes if necessary. Freedom of expression also creates a chance for minority groups to be heard, which is highly important for their full inclusion as citizens within a given society (Democracy Web, 2011b). In that respect, freedom of expression not only enables participation in political life, but it also makes a more balanced representation possible.

Following the argument that freedom of expression is one of the vital institutions of democracy, it can be argued that Turkey has had many shortcomings in terms of providing the necessary legal protections for the full enjoyment of this political freedom. Although, in principle, Turkey's perception on freedom of expression, hence its social salience, has been in line with the EU's own perception, the practices of freedom of expression, and particularly the imperfections at the implementation level, indicate that there are certain divergences between Turkey and the practices of the EU Member States.

The problematical nature of Turkey's alignment with the EU in this area can directly be linked to the internal dynamics in Turkey concerning the right to freedom of expression. Nevertheless, as part of its pre-accession process,

Turkey has been attempting to make necessary legislative and institutional amendments to guarantee the rights of its citizens to freedom of expression. However, it can be argued that the right to freedom of expression has still not been fully guaranteed (or implemented) effectively, particularly in areas of political relevance.

In this context, the analysis in this chapter focuses on specific articles in the constitution directly linked with the practices of freedom of expression; and it particularly looks at the differences between the procedures of the European Court of Human Rights and Turkish courts, regarding the matters on freedom of expression. This comparison is deemed useful to explore how EU conditionality is accepted and assimilated in a problematic policy area, such as freedom of expression, and to pinpoint any issues that might remain unaltered, even after being subject to the exposure of the EU's external impact. This assessment is also useful for answering the main research question of the thesis, that is, how Europeanisation impacts upon the institutional transformation and policy (re)formation in Turkey and how the EU influences specific cultural norms, values and practices embedded in Turkish political system.

6.3. Internal Dynamics of Turkey Concerning Freedom of Expression

It can be argued that freedom of expression has undergone a troubled historical development in Turkey. Modern Turkey, emerging from the disintegration of the Ottoman Empire, had carried the Ottoman legacy for many years. In the first years of its establishment, Turkey became predominantly a centralist state under the heavy influence of elites and bureaucracy. According to Sunar and Sayarı (1986: 166-167), the urge to transform the political structure of the country emerged from within the state itself and the scope of this transformation included 'state-building' endeavours, rather than 'social integration'.

Mustafa Kemal Atatürk, the founding leader of modern Turkey, adopted a new model of a nation which is civic and whose 'maxim' is based on its Turkish identity (Aslan, 2009: 3). In that respect, the new nation was intended to be secular, nationalist, unified and centralised, with a culturally and ethnically homogenous population (Cornell, 2001: 34). It is argued that, in the early years of the establishment of the Republic, Atatürk had tried to control the practices of freedom of expression, in order to create a notion of national unity. In fact, it can be argued that in the early years of the Republic, by enabling authoritarian legislative provisions and favouring the protection of the state against citizens, Turkey refused to follow liberal democratic measures which consequently had a negative impact upon the practices of freedom of expression.

Furthermore, as Gündüz (2001: 27) points out, 'separatist terrorism' has been the one prominent reason for Turkey's continuously strict policy on freedom of expression, due to threats it has posed on the integrity of the Turkish state. In particular, the activities of the PKK, which has been waging an insurgency in south-eastern Turkey for the last three decades, has exerted an enormous impact on restrictions related to freedom of expression. In this context, the criticising of state policies, the ethnic Kurdish minority and conflicts in south-eastern Turkey, and the role of the military became a few of the most sensitive topics, and any attempt to express opinion on those topics has been subject to strict limitations (Müftüler-Baç, 1998).

As indicated in the report of Human Rights Watch on violations on free expression in Turkey, this internal security threat not only affected the territorial integrity of the state, but it also impacted the human rights practices of the individual. This was followed by the adoption of an Anti-Terror Law in 1991, by which non-violent expression, mainly concerning issues with political relevance, such as the debate on the Kurdish issue, was severely repressed, and many writers and intellectuals were imprisoned on these grounds (Human Rights Watch, 1999).

As it is often pointed out, the 'repressive actions' on freedom of expression in Turkey are directly linked with its 'antiquated' legal system and restrictive constitution, which are explicitly reflected in Turkey's rather authoritarian past. In fact, the present constitution was introduced in 1982, after the military coup of 1980, mostly written by military officials. The significance of this constitution is that it had replaced the constitution which was adopted in 1961, after the coup of 1960, and which was far more liberal in scope. Along with the 1982 Constitution, Turkey's Penal Code also poses a great limitation on the practice of freedom of expression. The Penal Code itself is based on the Italian Penal Code of 1889 and was adopted in 1926. It places strong emphasis on an 'omnipotent state' and the ideology of Kemalism (Panico, 1999: 3).

Two interviewees shared a similar opinion on the point that one of the main reasons for extensive state-imposed restrictions on fundamental freedoms was the Constitution of 1982, which was drafted with a 'pro-coup mindset'. The amendments by the AKP government to the Constitution of 1982 in 2002 were extremely valuable for reducing the restrictions over freedoms and for the democratisation process in general (Interview, Member of the Foreign Affairs Committee of the Parliament, 2012; Interview, a Representative from the Turkish Industry and Business Association, 2012).

Particularly since Turkey became a candidate country for EU membership in 1999, major steps have been taken to reform human rights practices and political freedoms. In this context, it became clear to political circles that the Turkish Constitution should be revised in accordance with contemporary democratic standards, for instance with regard to freedom of expression, which is regarded as one of the most important touchstones of EU membership. In that respect, starting from 1999, Turkey rapidly initiated legal adjustments, whilst changing its national laws and regulations. With these changes, the ideology of Kemalism and idea of a supreme state lost its importance to a

certain extent, and this reasonably took pressure off the practices on freedom of expression (Human Rights Watch, 1999).

Evidently, the judicial ruling of the European Court of Human Rights have played a significant role in reforming individual rights concerning freedom of expression in Turkish legislation. Whilst reforming its legislation on political freedoms, Turkey has taken into account these rulings and has initiated its first attempts to transform its institutions and reform policies related to freedom of expression, in addition to other political freedoms within a democratic understanding (Batum and Kalaycıoğlu, 2001: 24-25). In that respect, in 2000, an Inter-Party-Conciliation Committee and a Constitution Committee in the Turkish General Assembly started to work on constitutional amendments (European Commission, Regular Report, 2000), which are still in progress as part of Turkey's democratisation efforts.

6.4. EU Conditionality and Freedom of Expression

EU conditionality concerning freedom of expression has been in effect since 1999, the year when Turkey was granted candidacy status. Mainly, the accession conditionality and the relevant requirements concerning freedom of expression involve the adoption of the *Acquis Communautaire*, the ratification of aforementioned charters and the conventions. On the legal grounds, the conventions of the CoE are also considered as part of the EU's accession framework strategy. In support of this, one interviewee stated that Turkey recognises these charters and the conventions of the CoE as the main 'anchors' in this field. As part of its harmonisation process, Turkey intends to build its reform initiatives in the area of freedom of expression and the judiciary based on these 'anchors', which is considered vital for Turkish democratisation (Interview, Researcher at the Turkish Economic and Social Studies Foundation, 2012). On the other hand, at the institutional level, EU conditionality and its relevant requirements involve institutional transformation and capacity-

building, in order to enhance their cooperation for the effective implementation of legal provisions in this area.

As a matter of fact, EU conditionality regarding the practice of freedom of expression in Turkey has shown a great degree of legitimacy and credibility. It is not only the requirements of this particular area which are incorporated into the EU’s legal framework and the Chapter 23 of the Acquis Communautaire, but also the conditions and specific recommendations made by the EU representatives have given clear indications to the Turkish government, and have guided the government on the reform process.

Nevertheless, in addition to the Regular Reports, the Accession Partnership Documents and the statements of the European Parliament are the other important policy documents that expose what the EU more or less expects from candidate countries. In fact, in the case of Turkey, guarantees and practices of freedom of expression came out as one of the problematic issues in these reports. More specifically, as can be found in the Accession Partnerships, EU conditionality on freedom of expression in Turkey specifically requires constitutional and legal alignment of practices of freedom of expression with the EU’s own practices of political freedoms. For the detailed list of requirements on freedom of expression in the APs, see Table 6.1.

Table 6.1 EU requirements on freedom of expression in Accession Partnerships	
EU Requirements	Date and Timescale
Strengthen legal and constitutional guarantees for the right to freedom of expression in line with Article 10 of the European Convention of Human rights; Address in that context the situation of those persons in prison sentenced for expressing non-violent opinions	2001 Accession Partnership (Short-term)
Pursue and implement reforms concerning freedom of expression including freedom of the press; Lift legal restrictions in line with the European	2003 Accession Partnership (Priorities 2003/2004)

<p>Convention on Human Rights (Articles 10, 17, and 18);</p> <p>Remedy the situation of those persons prosecuted or sentenced for non-violent expression of opinion;</p> <p>Implement legal provisions on the right to re-trial following the relevant judgement of the European Court of Human Rights</p>	
<p>Ensure the exercise of freedom of expression, including freedom of the press, in line with the European Convention on Human Rights and in accordance with the case law of the European Court of Human Rights;</p> <p>Continue to remedy the situation of those persons prosecuted or sentenced for non-violent expression of opinion</p>	<p>2006 Accession Partnership (Short-term)</p>

6.5. Assessment of the Policy Process and Policy Outcomes

In the following sections, the impact of EU conditionality on freedom of expression in Turkey is examined across three periods. As discussed in previous chapters, the first phase of analysis (1999-2002) starts with the decision of the European Council at the Helsinki Summit in 1999, where Turkey was granted EU candidacy status. The ending of the first phase (also the beginning of the second phase, 2002-2004) coincides with the early general elections held in Turkey, when the Justice and Development Party (AKP) established the first single government that had come to power since 1987. The third phase (2005-2008) of analysis starts with the opening of accession negotiations and covers the period where the accession negotiations were actively pursued. The analysis will focus on the selected six variables (the size of rewards, credibility, the size of domestic adoption costs, legitimacy, identity, and resonance) in these specified periods, in order to identify the causal relationship between EU conditionality and institutional transformation and policy (re)formation in Turkey in the area of freedom of expression.

6.5.1. Phase I: 1999-2002

First of all, the incorporation of the Chapter on the Judiciary and Fundamental Rights, Chapter 23 in the Acquis Communautaire of the EU proves the high level of legitimacy of the EU on its conditions concerning this

particular area. The incorporation of this chapter in the Acquis shows that the EU has successfully developed a consensual norm on the fundamental freedoms in general and the freedom of expression in particular; and it proves that this area is fully integrated into its legal system, which is shared by the member states. In that respect, it can be considered that the EU requirements on the practices of freedom of expression in the candidate countries became legitimate as they are clearly defined and coherently integrated in the EU legal framework, and as such they strengthen the likelihood that the target governments will comply based on these legitimate rules.

On the other hand, when examining Turkey's own practices in the area of the freedom of expression, one can see that there is a clear divergence within the legal framework and actual policy implementation. Although the principles that rest in the heart of the Turkish Constitution, and the human rights principles of the EU in relation to freedom of expression, show a great degree of commonality, the actual implementation of certain clauses in this particular area show a considerable divergence. As a result of Turkey's authoritarian past, the glorification of a superior state over all citizens and their individual freedoms, and various internal security threats, the practices of freedom of expression in Turkey are restricted and severely punished by the judicial organs. Due to these divergences between Turkey and the EU, it can be argued that the level of conformity between the principles integrated in the Turkish Constitution and the newly introduced EU rules and norms has shown a low value, hence resulting in low resonance along with domestic salience in this policy area.

On the other hand, electoral support for pro-Islamist and ultra-nationalist parties significantly increased in 1990s (Çarkoğlu, 2002). In this period, right after the fall of the minority government in November 1998, President Süleyman Demirel placed the Democratic Left Party (DSP) leader, Bülent Ecevit, in charge until the general elections of April 1999. As a result of the general elections held in April, the DSP and the Nationalist Movement Party

(MHP) became the two biggest parties; together with the Motherland Party (ANAP), they formed a coalition and received a large vote of confidence by the Parliament in June 1999. Since the initiation of the new government, the coalition partners had been involved in serious legislative activities, which resulted in the adoption of new laws and regulations in the areas essential for the democratisation of the country. Nevertheless, it can be stated that the identity factor shows a low value in this period, due to low levels of self-identification amongst the coalition partners with the EU, as a result of their ideological differences, as noted in the previous chapter.

The analysis of the size of domestic adoption costs, associated with reforms on the freedom of expression, is multifaceted. In this period, PKK terrorism became a major factor, increasing the size of domestic adoption costs on improving rights to freedom of expression. As Kirişçi (2004a: 275) points out, the government adopted a hard-line policy in this period, particularly on the Kurdish issue, which in turn negatively affected the practice on freedom of expression, based on the argument that it may raise the potential threat to the national security of the state. For instance, the Commission's Regular Report of 1999 on Turkey noted that, in spite of the positive gestures made by the authorities, the situation regarding freedom of expression had remained worrying (European Commission, 1999). After the capture of Öcalan, the situation worsened.

Due to the nature of the Kurdish problem and the symbolic role of Öcalan in activities of the PKK, the Ministry of Justice called on the Governors to identify and take legal action against associations, foundations, publications, organisations and individuals who were likely to take initiatives in favour of Öcalan or participate in separatist propaganda. Another restrictive measure was taken in April 1999, when the Public Relations Department of the Ministry of Interior issued a circular prohibiting the use of certain terminology potentially in support of 'separatist propaganda' or advocating for separatism or terrorism in relation to the Kurdish question in press releases and

publications; this was followed by an increase in sentences in relation to the abuse of freedom of expression in May by the General Penal Board of the Supreme Court of Appeals (European Commission, 1999).

Nevertheless, in 2000, Turkey had shown 'positive' development in terms of embarking on the transformation of Turkish society, by means of political reforms, necessary for accession to the EU. Among those, were the signature of two major international instruments in the field of human rights – the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights. However, the Commission underlined the fact that, although Turkey had the 'basic' features of a democratic system, it had been failing in implementing the necessary institutional reforms (European Commission, 2000).

One of the reasons for this can be linked to the inability of the Government to protect the balance between improving its human rights record and providing more freedom of expression on the one hand, and respecting and protecting the founding principles of the Republic of Turkey, such as territorial integrity and secularism, on the other. To achieve this balance, the Supreme Board of Co-ordination for Human Rights prepared a report in July, covering a new 5-year development plan (also known as 'Demirok report'), to identify the political reforms which needed to be carried out in order to comply with the Copenhagen criteria. This report was then evaluated, and adopted as a reference and working document by the government in September; it set the priority objectives with respect to human rights, including the development of freedom of thought and expression and the establishment of a Human Rights Department under the Prime Minister (European Commission, 2000).

As stated previously, the EU provides a common policy on the right to and protection of freedom of expression. Since the EU adopted and incorporated various norms and conditions on freedom of expression in its legal framework, and the *Acquis Communautaire*, it provides clear and explicit

demands or prerequisites which are required from the candidate countries in this particular area. Furthermore, through the use of its official tool, the AP, the EU states its expectations in terms of Turkey's rule adoption and further implementation in the policy area of freedom of expression. For instance, in the AP document of 2001, as a short-term priority, the EU required the strengthening of the legal and constitutional guarantees for the right to freedom of expression, in line with Article 10 of the European Convention of Human Rights; and, in that context, addressing the situation of those persons in prison who have been sentenced for expressing non-violent opinions (European Council, 2001b).

As a response to the AP of 2001, Turkey prepared the National Programme for the Adoption of the Acquis (NPAA) in March 2001. In practice, the NPAA includes the list of the issues included under the reform process and gives references to the areas that the Turkish government is planning to amend or change in accordance with the EU's criticisms and requirements. For instance, in the NPAA of 2001, it was stated that the Turkish Government gives particular importance to the alignment of practices of freedom of expression with the EU Acquis and the practices in the Member States; as well as the enhancement of the freedom of expression in light of the criteria referred to in Article 10 of the ECHR, including those concerning territorial integrity and national security (Republic of Turkey, Ministry for EU Affairs, 2001).

It can be argued that in this period, the government showed its commitment to institutional transformation and policy (re)formation of the freedom of expression in Turkey. This came into effect, with a number of amendments made to the Turkish Constitution of October 2001, followed by the adoption of legislation to enforce and implement these amendments (Kirişçi, 2004a: 277). In fact, these reforms aimed to strengthen guarantees in the field of human rights and fundamental freedoms, but also limit capital punishment. After these constitutional amendments, in November 2001, a new Civil Code was adopted by the government, and these constitutional changes

were followed by the introduction of the 'Harmonisation Laws' planned to transform the changes in the Constitution into 'concrete action', to bring Turkish Law in line with the *Acquis Communautaire*.

As indicated in the Commission's Regular Report of 2001, developments took place after the adoption of the package of thirty-four amendments to the 1982 Constitution in October 2001, including the addition of new provisions on the freedom of expression. For instance, in Articles 13 and 14 of the Constitution, a number of restrictions, which limited the practices of freedom of expression, were removed; and the principle of 'proportionality' (i.e., any limitation of the rights protected must be proportionate) was introduced. Secondly, the government accelerated its efforts to finalise a proposal for legislative changes aiming at the implementation of constitutional amendments with respect to freedom of expression, including changes to Articles 159 (concerning insults aimed at the parliament, the army, the republic and the judiciary) and 312 (concerning incitement to racial, ethnic or religious enmity) of the Penal Code and the Articles 7 and 8 (disseminating separatist propaganda) of Anti-Terror Law (European Commission, 2001).

On the other hand, with respect to international conventions on human rights, in April 2001, Turkey signed Protocol 12 of the European Convention on Human Rights on the general prohibition of discrimination by public authorities; however, the country failed to make any progress in acceding to a number of other human rights instruments, such as the UN International Covenant on Civil and Political Rights and the UN International Covenant on Economic, Social and Cultural Rights. Furthermore, the Commission has criticised Turkey for its violations on provisions of the ECHR in 127 cases. The Report also touched upon the official data indicating that there had been a significant number of journalists, writers, intellectuals, and politicians detained for expressing views and opinions. According to the data, in 2000, around 160 people had been sentenced under Articles 159 and 312 of the Penal Code, and Article 324 of the Anti-Terrorist law (these figures in 1999 were 347 and 1317

respectively). Furthermore, in January 2001, around eighty journalists were imprisoned for political activities or for alleged infringements of various laws (European Commission, 2001).

It can be argued that in the later years of this period, the domestic environment became more suitable for political actors (i.e., government, political elites and the military) to accept certain overdue changes that would dramatically affect the composition of their institutional structures. Apart from factors such as legitimacy, identity, resonance and the size of adoption costs, one other factor that encouraged those changes can be identified as the size and credibility of rewards. For instance, as indicated before, the beginning of this phase was marked with the Helsinki Summit where Turkey was granted candidate status, consequently becoming eligible for receiving financial and technical support as part of the EU's pre-accession strategy.

Following that, in June 2001, the EU declared Turkey's eligibility for participating in 'Community programmes' that granted Turkey full access to TAIEX offices, for the purpose of transacting business related to the Customs Union (CU) (Council of the European Union, 2001). In December 2001, the Council decided to apply the PHARE procedures to EU-Turkey financial cooperation (Tanlak, 2002: 5), hence permitting Turkey to apply for financial assistance by participating in the MEDA programme which is aimed to implement cooperation measures for the promotion of economic and social development (European Council, 2001c).

In this period, the efforts of the coalition government to transform the institutional structures and to reform the policy regarding freedom of expression have not been a very successful. Instead of a complete domestic transformation, the political reforms on freedom of expression showed only a partial adjustment in Turkey to adapt to the rules and practices of the EU on freedom of expression. Therefore, Turkey's partial adjustment to the EU

represented a fractional Europeanisation, signifying the model consisted of unfavourable domestic conditions and strong conditionality.

6.5.2. Phase II: 2002-2004

After the adoption of a major constitutional reform in October 2001, three more reform packages were adopted in February, March and August 2002, under the leadership of the DSP-MHP-ANAP coalition. In fact, the adoption of these reform packages illustrated Turkey's political leaders' grit regarding further alignment with the values and standards of the EU, as part of Turkey's membership application process. Nevertheless, it is important to stress that these reforms were adopted during very troublesome political and economic conditions, after long public debate, including intensive negotiations and deliberations amongst the political parties, civil society, economic and academic circles.

As noted in previous chapters in August 2002, the DSP-MHP-ANAP coalition government decided to call early elections in November 2002. As a result of the general elections, the Justice and Development Party (AKP) gained the highest number of votes and formed a single-party government in November 2002. The election campaign of the AKP had been openly pro-European, supporting Western democracy discourses. This strategic campaign helped the AKP to gain the most votes from different parts of the society, which resulted in its significant victory in the general elections (Jung, 2006: 130). When examining the identity factor, one can determine that the AKP was more successful in terms of self-identification with the EU. It was the AKP's main foreign policy goal to promote the EU's economic principles and democratic standards, and to implement its legal and institutional framework. As part of its discourse, the AKP stressed the importance of democratic consolidation and focused on the principles of the EU as stated in the Copenhagen Criteria, thus initiating a speedy reform process with the intention of 'obtaining a date' for the opening of accession negotiations (Öniş and

Keyman, 2003). With respect to freedom of expression, in its party programme, the AKP referred to the necessity of making constitutional amendments, guaranteeing respect for and the protection of individual rights and freedoms, as well as amendments to relevant laws and the institutional capacity development of a functioning and independent judicial system. In that respect, the AKP openly advocated the protection of governance based on the rule of law, and accepted freedom of expression and thought as indispensable elements of a democracy (Justice and Development Party, 2002).

After the constitutional reforms of October 2001, which strengthened guarantees in the field of human rights and fundamental freedoms, three new sets of reform packages were adopted in February, March and August 2002 respectively. In particular, the reform package of August 2002 was important due the fact that it widened freedom of expression in Turkey. Nevertheless, in spite of these positive developments, the Commission in its Regular Report of 2002 raised its concern on the actual practices of freedom of expression and stressed that, between October 2001 and June 2002, there were 95 applications made to the European Court of Human Rights (ECtHR) concerning the violation of freedom of expression in Turkey. As a matter of fact, Turkey's failure in implementing those changes became evident when the authorities had not executed ECtHR judgements and had not ensured the payment of just reimbursement ordered by the court as well as erasing the consequences of criminal convictions violating the ECHR (European Commission, 2002).

In February 2002, a number of legal amendments were made pertaining to freedom of expression. Among those were amendments to Articles 159 and 312 of the Penal Code, and Articles 7 and 8 of the Anti-Terror Law. According to the first amendments to Article 159, prison sentences were reduced from six to three years for insulting to the state and to state institutions and threats to the indivisible unity of the Turkish Republic and fines were abolished which previously been imposed for criticising Turkish laws. However, the actual definition of the offence remained the same. With the

second amendment, the scope of provision was changed as: expressions of criticism of the institutions are no longer subject to penalties, unless they are intended to 'insult' or 'deride' those institutions (European Commission, 2002).

The problem with this amendment was related to the notion of intention, as it is vaguely defined and can be interpreted in many different ways; hence, the amendment may jeopardise the implementation of this Article in certain cases which are subject to it. As for Article 312, the description of the offence has changed and the notion of 'incitement [...] in a way that may be dangerous for public order' was added to the original description of the offence 'incitement to hatred on the basis of differences of social class, race, religion, sect or region'. With this additional phrase in Article 312, a new type of criminal offence was introduced, namely insulting 'part of the people degradingly and in a way that hurts human dignity', which is punishable by six months to two years imprisonment (European Commission, 2002).

Following that, the Council adopted a revised AP in May 2003. In the revised AP, the Council stated that Turkey is expected to 'pursue and implement reforms concerning freedom of expression including freedom of press'. Furthermore, Turkey was expected to lift any legal restrictions in line with the ECHR and remedy the situation of those people prosecuted or sentenced for non-violent expression of opinion; as well as to implement legal provisions on the right to re-trial following the relevant judgements of the ECtHR (European Council, 2003). After the renewed priorities set in the AP of 2003, the AKP government accelerated the reform process by adopting new harmonisation packages. Over the previous year, four major packages of political reforms were adopted in total that carried great political significance. Following the reforms of the seventh harmonisation package, in July 2003, the government introduced new measures, particularly in the areas of the freedom of expression, the freedom of association and civil-military relations, by a series of amendments made to the Penal Code, the Law on Associations, and

the Law on the Establishment and Trial Procedure of Military Courts. Although these amendments were far-reaching in the areas stated above, the amendments made in the area of freedom of expression did not bring dramatic changes, and the authorities failed to effectively implement any legislative amendments in this area (Algan, 2008: 2245).

Throughout this process, the Turkish public to a great extent displayed full support for the political reforms which were aimed at bringing Turkey in line with the values, standards and practices of the EU. In the meantime, the AKP government continued its efforts to achieve its main objective of complying with the Copenhagen political criteria in time, by setting up a 'Reform Monitoring Group' overseeing the implementation of reforms. In 2003, the Commission made a positive assessment of the government's objectives and the positive stance of the public towards radical political reforms; however, it stressed that in spite of these positive developments, the reforms had failed to produce practical effects and their implementation remained slow and uneven.

In the course of 2004, Turkey swiftly responded to the requirements of the EU and took significant political measures. Among the measures taken in 2004 were the introduction of a new Penal Code, a new Civil Code (to be entered into force in April 2005), along with further amendments to the Anti-Terror Law and the Press Law. These changes were aimed at reducing restrictions or the number of prosecutions and convictions in cases related to freedom of expression. Furthermore, as indicated in the Freedom House report on Turkey, after the constitutional amendments made in 2004, the principle of the primacy of international and European human rights conventions over domestic law were enshrined in the Constitution (Freedom House, 2005).

In spite of these promising changes to civil and political rights, prosecutions and punishments towards non-violent expression of opinion were still exercised in this period. As stated in the Commission's Regular Report of

2004, the Turkish government failed to guarantee the deletion of criminal records of those who were prosecuted. This reflected the limited impact of reforms and the ineffective implementation of legal changes. For instance, although Article 159 was amended previously, the same article has been used to prosecute those who criticise the state institutions in a non-violent way (European Commission, 2004). This exercise showed that the legal arrangements failed to provide the Turkish legal system's alignment with the ECtHR's approach on similar cases.

As a result, due to the lack of progress in reforms concerning freedom of expression, the Committee of Ministers of the Council of Europe adopted an 'Interim Resolution on Freedom of Expression' where Turkey was repeatedly encouraged to effectively implement those legal changes and was expected to enhance the direct effect of ECHR in the interpretation of the amended Turkish law. Nevertheless, acknowledging the progress achieved by Turkey since 2001 in the area of constitutional and legislative reforms, in June 2004, the Parliamentary Assembly of the Council of Europe lifted the monitoring procedure, which had been applied since 1996. However, it was made clear that Turkey would still be subject to 'post-monitoring procedure' solely focusing on a number of areas where Turkey was expected to pursue its obligations under the ECHR (European Commission, 2004).

In terms of the size of domestic adoption costs, it can be argued that due to the increasing benefits of legal and institutional alignment, along with increasing financial and technical assistance, domestic costs showed a low value for this period. In this period, the EU's attitude towards Turkey with regard to its democratisation process, along with political reforms and legal amendments in line with the EU standards and practices, significantly improved and showed a consistently positive stance. This became evident when the EU presented a stronger and clearer accession strategy for Turkey and also with the inclusion of additional financial and technical assistance, hence a 'deeper commitment' to Turkey's accession process (Kirişçi, 2004c).

These positive developments can therefore be regarded as tangible indicators of the size and credibility of rewards, showing a high value. In other words, it can be argued that the substantial and credible rewards offered by the EU helped the Turkish government to comply with the EU rules and conditions, in terms of ensuring that the necessary legal and constitutional changes, and rule adoptions were made. Therefore it can be argued that although certain criticisms were made on Turkey's reform progress, along with rule adoption and implementation, the prospect of membership was a tangible reward to keep in the picture, as well as the immediate delivery of additional financial assistance to encourage the Turkish government to carry on with political reforms (European Council, 2002). At the end of this period, despite the existing shortcomings, the EU found Turkey's efforts in the political reform process and in aligning its practices with the practices of the EU member states satisfactory; in December 2004, at the Brussels Summit, the EU announced a start-date for formal EU accession talks, which was set for 3 October 2005 (European Council, 2004).

In contrast to the previous period, the AKP government has successfully identified itself with the EU and shown a great degree of political will and determination to meet the pre-accession criteria of the EU. The incentive provided by the prospect of EU membership and of the opening of accession negotiations became one of the triggering factors for domestic change in this period. Together with low domestic adoption costs, and strong EU conditionality, this period showed an on-going improvement in terms of institutional transformation and policy (re)formation in the area of freedom of expression. In that respect, combined with more favourable domestic conditions, strong conditionality assisted Turkey in complying with the EU rules and conditions. In that respect, the combination of favourable domestic conditions and strong conditionality resulted in positive Europeanisation in this period.

6.5.3. Phase III: 2005-2008

The period of 2002-2004 showed a remarkable level of development in terms of adopting and implementing the EU rules, values and standards, particularly in the area of freedom of expression. The AKP government had made a series of constitutional amendments, along with the adoption of harmonisation packages and put forward further initiatives to be achieved from 2005 onwards. Having strong public support for the political reforms to attain EU membership, along with the absence of veto players towards reforms on freedom of expression, the AKP's job to transform the freedom of expression became less troublesome and more suitable for drastic changes. The European Council in December 2004 decided to open accession negotiations with Turkey on 3 October 2005, and set out the framework and requirements for starting accession negotiations with Turkey.

Turkey was firstly to enact six pieces of legislation, which particularly enhanced human rights and the functioning of the judiciary; and secondly, Turkey was expected to sign the Additional Protocol, extending the existing Association Agreement with the EU to all new Member States. Fulfilment of these requirements by Turkey resulted in the opening of accession negotiations. However, in spite of these favourable conditions and good start to the negotiations, they came to a halt rather quickly. As noted in the previous chapter, the dispute over the Cyprus issue between Turkey and the EU, and the EU's decision on suspending the opening of eight chapters in the *Acquis Communautaire*, brought the membership accession talks to a standstill. On the other hand, the increasing threat of the resurgence of PKK terrorist activities caused further impediments to the political reforms (Narlı, 2009: 459).

Among the domestic and international factors impacting upon Turkey's compliance with EU conditionality, which did not change in this period, are legitimacy and identity factors. As indicated previously, despite the different

time periods specified here, the EU's position on freedom of expression remains constant, and therefore the legitimacy of the EU rules and conditions in this area are considered high in this period. Since the target government (i.e., the AKP single party government) that was subject to EU conditionality in this period remained the same as in the previous period, the identity factor can be considered high for this period.

Nevertheless, the changes in Turkey's level of compliance with the EU conditions on freedom of expression in this period, and Turkey's reluctance in continuing with the political reform process, signal that there are other internal and external factors which can cause obstruction. As Patton argues, the main external change came with the emergence of 'modalities of the EU behaviour toward Turkey' (Patton, 2007). These modalities mostly stem from the recent 'division' between the EU member states regarding Turkey's membership (i.e., debates on privileged partnership as an alternative to full membership). This problem went together with difficulties on the EU's enlargement capacity, implying that the EU may not accept new members if its absorption capacity hinders the integration momentum and hence the effective functioning of the Union itself (Kramer, 2006: 25-27). In contrast to the previous periods, between 2005 and 2008, the size and credibility of rewards showed a low value.

On the other hand, in terms of the internal dynamics, altering public opinion on the EU accession constitutes an important point of concern. After 2005, Turkish citizens' perception on the EU membership followed a Eurosceptic stance. This in turn, negatively impacted upon AKP's commitment in Turkey's democratisation process. In addition to that, the nationalist political elites disputed the desirability of the EU membership by pointing out the dangers posed to the social traditions and the territorial integrity of the country, which unquestionably triggered wide-spread suspicion over the prospects of Turkey's membership to the EU (Hakura, 2006).

In the course of 2005, there had been a significant decrease in the number of people sentenced for the expression of non-violent opinion, due to the adoption of a new Penal Code. Particularly, the sentences for offences committed through the media were removed from many, but not all, of the Articles in relevant laws. Furthermore, the scope of Article 125 on defamation has been limited and the reasoning on offences against fundamental national interests was deleted from Article 305. Nevertheless, there are a number of articles which were not covered in the recent amendments still posing a great threat to freedom of expression resulting from their vague definition referring to offences, such as criticising symbols of state sovereignty, the reputation of state organs and national security. In practice, Article 301 of the new Penal Code (former Article 159 of the old Penal Code 'insulting the State and State institutions) had been widely used by the judiciary (European Commission, 2005a).

For example, in August 2005, the novelist Orhan Pamuk was subject to a court case under Article 301, due to remarks he had made to a Swiss newspaper regarding the killings of Armenians and Kurdish people in Turkey. In October 2005, Hrant Dink, a journalist of Armenian origin and the editor of the bilingual Armenian-Turkish weekly newspaper, *Agos*, was convicted under the same article and was given a suspended six month prison sentence in relation to an article he had written on the Armenian Diaspora. Furthermore, in September 2005, Emin Karaca was convicted under Article 301 in relation to an article he wrote, in which he criticised the previous actions of the military. As the Commission points out, these cases should be handled carefully by the judiciary and should be considered carefully as to whether the concerning expressions in these individual cases incite 'violence, armed rebellion or enmity' (European Commission, 2005a).

When examining the internal and external changes which brought the political reform process to a halt, one can conclude that the size of domestic adoption costs increased in the third period for the AKP government to proceed

with the legal changes, particularly in the area of freedom of expression. Although the government has attempted to continue with political reforms on the freedom of expression, the continuation of punishments for non-violent expression of opinions, and particularly punishments on freedom of press and imprisonment of journalists in this period, signalled the problematic nature and unfavourable conditions for domestic change in Turkey. Following these changes, in January 2006, a revised AP was adopted, setting out updated priorities that Turkey was expected to address in this period. In the revised AP, the priorities concerning freedom of expression essentially remained constant. The AP of 2006 noted in particular that Turkey was expected to 'ensure the exercise of freedom of expression, including freedom of press, in line with the European Convention on Human Rights and in accordance with the case law of the European Court of Human Rights' (European Council, 2006).

On the other hand, throughout 2006, the authorities had focused on the implementation of the new Penal Code, the Code of Criminal Procedure and the Law on the Enforcement of Sentences following their coming into force in 2005. In particular, the Ministry of Justice played an important role in updating the circulars addressed to prosecutors in January 2006. In November 2006, the Commission in its Regular Report of 2006 stated that the political reform process has significantly slowed down since the opening of accession negotiations. The report pointed out that although there had been some progress in the area of freedom of expression, the implementation of the new legislation by the judiciary had shown a mixed picture and freedom of expression in line with European standards has not yet been guaranteed by the present legal framework (European Commission, 2006a).

In that respect, it can be concluded that the overall assessment of the EU on the progress made by Turkey has been critical. It cannot be denied that Turkey has gone a long way to align itself with the standards and the practices of the EU, and to meet the obligations of membership; however, due to undesirable domestic factors and an absence of strong EU conditionality, not

much has been achieved in this period. In its Regular Report of 2007, the European Commission reiterated its concerns on the ineffectiveness in implementing the legal and constitutional amendments in relation to freedom of expression, particularly on the restrictive jurisprudence established in 2006 by the Court of Cassation on Article 301. In fact, the increase in the number of people prosecuted in 2006 (almost double compared with 2005) indicates the continuation of conflicting practices in Turkey regarding freedom of expression (European Commission, 2007).

In the NPAA of 2008, Turkey identified certain legislative and administrative measures to implement, following a revised Accession Partnership document in February 2008. Mainly, it was stressed that, in the framework of freedom of expression and ECHR, measures will be taken not to penalise expressions, which are in the form of criticism, but do not include violence. This statement can be regarded as evidence of almost a decade of inconsistency between Turkey and the EU in terms of implementing case laws on freedom of expression (Republic of Turkey, Ministry for EU Affairs, 2008). In April, the Turkish parliament finally adopted amendments to Article 301 of the Turkish Criminal Code with the intention of strengthening safeguards for freedom of expression in Turkey. The amendments mainly changed the working of the article, the implementation of which remains problematic. These amendments to Article 301 read as follows:

- A person who publicly degrades the Turkish nation, the State of the Republic of Turkey, the Turkish Grand National Assembly, the Government of Turkey and the judicial bodies of the State, shall be sentenced to a penalty of imprisonment for a term of six months to two years;
- A person who publicly degrades the military or security organisations of the State shall be sentenced to a penalty in accordance with the first section;
- The expression of an opinion for the purpose of criticism does not constitute an offence;
- The conduct of investigation for such offence shall be subject to the permission of the Minister of Justice (European Commission, 2008).

In this final period, it was particularly difficult for the AKP government to carry out political reforms associated with freedom of expression. In addition to the lack of credibility on the part of the EU, unfavourable domestic conditions, such as a lack of political will on continuation of political reforms and high domestic adoption costs, have also contributed to the negative Europeanisation in this period, signifying inconsequential process and no policy outcomes. In that respect, it can be concluded that Turkey failed to comply with the EU rules and conditions on freedom of expression in this period; hence, it could not pursue institutional transformation and policy (re)formation.

6.6. Discussion of the Results

Following the argument that freedom of expression is a vital component of a liberal democracy, it can be argued that since the beginning of the Republic, Turkey has failed to protect and promote this civic right. In fact, due to authoritarian and strict legislative measures, taken in the early years of the Republic, the practices on freedom of expression have been under the strict control of the state; and the EU's ability to transform the institutional structures and reform policies on freedom of expression has been limited, due to the embedded strong state character in Turkish politics and the lack of political will to change the state's stance on granting political freedoms to its citizens. Nevertheless, as part of its democratisation process, which gained significant momentum after Turkey was declared as a candidate country in the Helsinki Summit in 1999, Turkey has attempted to reform this policy area under the influence of EU conditionality. The EU, on the other hand, through its conditionality mechanism has increased political attention to freedom of expression practices in the context of its enlargement policy and demanded coordination of certain provisions laid down by the EU laws and regulations concerning the effective pursuit of freedom of expression in candidate countries.

Turkey's institutional transformation and policy (re)formation in the area of freedom of expression has been one of the most challenging areas in the context of political reforms. The analysis of freedom of expression has shown that there are great divergences between Turkey and the EU within the legal and practical boundaries regarding freedom of expression. Even if the EU has presented a common policy on freedom of expression, which is highly institutionalised at the EU level mirroring the EU's strong legitimacy in this particular policy, the assimilation of conditionality on freedom of expression at the domestic level has been insufficient, particularly due to the lack of normative resonance of domestic policies. There are a number of factors that impinged upon the effectiveness of conditionality, the timing of formal rule adoption, and further compliance with the EU conditions, hence, impinging also on domestic change in the context of Europeanisation. These factors are found to be useful to explain the diverse process and policy outcomes when compared cross-periodically and cross-sectorally. It can be argued that the uneven development of Turkey's democratisation and policy change in the area of freedom of expression can be seen as evidence for inconsistencies between international and domestic level factors, which have shown variation between three time periods (1999-2002, 2002-2004, and 2005-2008). A detailed list of the intervening factors impacting upon institutional transformation and policy (re)formation of freedom of expression can be found in Table 6.2, which will be discussed below.

First of all, the analysis of the first period (1999-2002) shows that the conditionality strategy was effective, mainly accounting for the partial adjustment of Turkish laws and regulations on freedom of expression and its partial alignment with the EU laws and regulations, in accordance with the procedures of the European Court of Human Rights (ECtHR). Secondly, the factors that account for unfavourable conditions, posing a risk to domestic change in the first period, can be identified as the lack of identification of the governing coalition party with the EU and the sheer size of domestic adoption

costs associated with political reforms on freedom of expression. On the other hand, strong conditionality, due to the sheer size of rewards and credibility of the EU in this period, can be considered as the main factors that can account for the strength of EU conditionality in this period. In that respect, this period has shown only a fractional Europeanisation, instead of a complete domestic transformation.

In the second period (2002-2004), however, while some of the factors, such as size of rewards and credibility remained the same, a number of factors have shown variance, including the size of domestic adoption costs, and the nature of the government and its identification with the EU. In that respect, the lower size of adoption costs and pro-EU stance of the AKP government have successfully contributed to the favourable domestic conditions in this period. This, in turn, increased the opportunities for a complete institutional transformation and policy (re)formation, instead of a partial adjustment to meet the EU rules and conditions. In that respect, this period has shown positive Europeanisation.

The third period (2005-2008) has shown a sharp decrease in Turkish democratisation in general, and the institutional transformation and policy (re)formation of the entire domestic policies in particular. This result shows that neither favourable domestic conditions, nor the strong conditionality necessary for a successful domestic change, were present to enforce rule adoption and compliance with the EU. For instance, both the size of domestic adoption cost and credibility have shown opposite values (high and low respectively) which constitute part of the cause for negative Europeanisation in this period. On the other hand, even if the identification of the governing party, the AKP, remained the same, the lack of political will and domestic political turmoil, coupled with ambiguities at the EU level, have significantly reduced Turkey's determination for further democratisation under the influence of the EU. In that respect, no significant process or policy outcome could be accomplished in this period.

From the theoretical point of view, similar to the outcome of the analysis on minority rights, the analysis on freedom of expression has also shown that neither the external incentives nor the social learning model can individually explain diverging process and policy outcomes cross periodically. The cross-period analysis of freedom of expression reveals that, while the external incentives model accounts better for assessing the first period (1999-2002) and the outcome of fractional Europeanisation (partial adjustment to the EU rules and practices), the second period (2002-2004) can be explained both by the external incentives and social learning models.

The decisive factors, which can explain the diverging outcome of positive and formal Europeanisation (successful transformation and (re)formation) in the second period, are size of domestic adoption costs (external incentives) and the nature of the government and its identification with the EU (social learning). In a similar vein, the final period can also be explained by the two theoretical models, since neither favourable conditions (except the nature of government and its identification with the EU), nor strong conditionality were present; therefore both models might carry explanatory value for the outcome of negative Europeanisation. Nevertheless, this outcome can be specifically attributed, firstly, to the lack of political will/determination of the AKP government, as well as its capacity to carry out political reforms; and secondly, to the lack of consensus among EU member states on the prospect of Turkey's membership in the EU.

Table 6.2 Intervening factors of institutional transformation and policy reformation

Period	1999-2002	2002-2004	2005-2008
Size of rewards (EU-level)	High (significant technical and financial rewards in return of national compliance and alignment with the EU legal and administrative framework)	High (significant rewards in return of national compliance and alignment with the EU legal and administrative framework)	Low (insignificant or no rewards); mutual deterioration of relations, negative perception of accession requirements and national progress)
Credibility (EU-level)	High (effective conditionality; significant progress in the determinacy of requirements and delivery of rewards; membership perspective)	High (effective conditionality; significant progress in the determinacy of requirements and delivery of rewards; membership perspective)	Low (ineffective conditionality; double standards, confusion; indeterminate requirements and unsuccessful delivery of rewards; diminishing or no membership perspective)
Size of domestic adoption costs (Domestic-level)	High (sensitive topic in this period; presence of veto players; unsuitable, undemocratic political environment)	Low (increasing benefits of legal and institutional alignment' increasing financial and technical assistance; prospect of opening of accession negotiations)	High (costs of compliance overweight the rewards; impact of diminishing or no membership perspective; limited incentives to proceed with institutional transformation and policy (re)formation)
Legitimacy (EU-level)	High (clear and comprehensive clauses on freedom of expression; highly institutionalised character; incorporation in the Acquis; common EU policy on freedom of expression)	High (clear and comprehensive clauses on freedom of expression; highly institutionalised character; incorporation in the Acquis; common EU policy on freedom of expression)	High (clear and comprehensive clauses on freedom of expression; highly institutionalised character; incorporation in the Acquis; common EU policy on freedom of expression)
Identity (Domestic-level)	Low (failure of the coalition partners in self-identification with the EU; diverging ideologies, different perceptions on the prospective EU membership)	High (successful identification of the ruling party with the EU; EU as an aspirant group)	High (successful identification of the ruling party with the EU; EU as an aspirant group)
Resonance (Domestic-level)	Low (glorification of 'omnipotent' state; restrictive political freedoms due to internal threats)	Low (internal political conflicts; restrictive measures particularly on subjects with politics relevance)	Low (internal political conflicts; restrictive measures particularly on subject with politics relevance)
OUTCOME	Conditionality partially effective; the external incentives model explains insignificant policy outcome Fractional Europeanisation	Conditionality effective, both models explain the policy outcome; compliance Positive Europeanisation	Conditionality ineffective, size of adoption costs determining factor; no policy outcome Negative Europeanisation

The next chapter deals with the empirical analysis of institutional transformation and policy (re)formation of the military in Turkey.

7. The Reforms to the Role of the Military in Turkey

7.1. Introduction

Western democracies in today's world make use of 'civilian power' as a measure of 'progress towards democracy' (Kohn, 1997: 140); furthermore, they acknowledge civilian control over the military as a fundamental condition for the endurance of a democratic regime. Since the end of the Cold War, a number of international organisations and multilateral security organisations developed their defence diplomacy by introducing a new framework on the promotion of 'democratic civil-military' relations (Cotter and Forster, 2004: 31-40). As will be discussed below, the EU cannot be considered as one of these organisations, since it fails to provide a single framework or common policy on democratic governance of the security sector or civilian control of military. In that respect, the EU heavily relies on the legal frameworks and policy benchmarks of various international organisations, and adopts their standards as indicators of its own stance in this particular area.

For instance, the OSCE can be identified as one of the most important international organisations adopting standards for democratic governance of the security sector and for civilian control over the military. Primarily, the OSCE adopted a Code of Conduct on Politico-Military Aspects of Security in 1994. The Code is significant due to its provisions on democratic control of military; and it is known to be the 'clearest defined' and widely acknowledged agreement within the OSCE, which identifies the essential norms and standards on democratic control of the armed forces (Drent, 2006: 80-81).

Most importantly, the OSCE Code accepts democratic control of the military as an 'indispensable element of stability and security' and stresses that the integration of the security forces with civil society is vital for the 'expression of democracy'. Furthermore, Article VII of the Code states that 'each participating State will at all times provide for and maintain effective

guidance to and control of its military, paramilitary and security forces by constitutionally established authorities vested with democratic legitimacy (par. 21). In addition, it states that 'each participating State will provide for its legislative approval of defence expenditures' (par. 22) and 'each participating State, while providing for the individual service members' exercise of his or her civil rights will ensure that its armed forces as such are politically neutral' (par. 23) (OSCE, 1994).

Secondly, NATO is an international organisation carrying out activities that promote liberal values and contribute to the democratic control of defence forces. For instance, with the Peace for Partnership (PfP) programme, NATO assists its member states in reforming their security sectors, particularly on the establishment of constitutional frameworks enshrining democratic control over military and parliamentary accountability (NATO, 1994). The PfP's main objective is to 'promote a democratic change' in civil-military relations by carrying out necessary reforms. Principally, the PfP gives strong emphasis to the support for democratisation of concerning countries for the purpose of integrating them into 'Western security structures' (Szemerényi, 1996: 64-67). In that respect, the notion of democratic governance of the security sector emphasises the importance of influence mechanisms to prove external control over military structures, in order to designate them into the Western security structures in Western Europe.

Furthermore, NATO also provides support to applicant countries that need to establish coordinated civilian control of the military to become members (Burk, 2002: 20). For that purpose, NATO set up a 'Membership Action Plan' for its prospective members with the objective of assisting their transformation in the defence sector. In that respect, this action plan serves as a formal programme for the applicant countries. The requirements and conditions of the plan include a wide range of issues, such as human rights, security policy, and democratic governance of the defence sector (NATO, 1999). In many respects, NATO provides detailed and clear benchmarks on

'democratic-style civil-military relations'. For a detailed list of NATO benchmarks, see Table 7.1.

Table 7.1	NATO's criteria on 'democratic-style civil-military relations'
<p><i>'a clear division of authority between the Head of State and the Head of Government and the latter's security-sector ministers enshrined in a written constitution or public law and designating who controls the military, promotes officers in peacetime, has emergency powers in crises and the authority to declare war;</i></p>	<p><i>legislative oversight of the defence organisation – primarily but not exclusively exercised through 'the power of purse' – which (a) goes beyond perfunctory (rubber stamp) approval of what the executive proposes, and (b) engages, through committees, the main opposition parties, and (c) is supported by knowledgeable parliamentary staff and 'outside' expertise;</i></p>
<p><i>peacetime governmental or executive oversight of general staffs and commanders through defence ministers, with the ministry clearly responsible for all key choices and about the size, shape, equipment and deployment of the armed forces;</i></p>	<p><i>a popular perception of civilian and democratic control of the armed forces, with (a) military staffs clearly answerable to civilian office holders [...] and (b) those civilian office-holders themselves clearly accountable to the elected representatives of the society-at-large'.</i></p>
<p><i>Source: Drent et al., (2001) 'Organising National Defences for NATO Membership, The Unexamined Dimension of Aspirants' Readiness for Entry', Harmonie Papers No. 15, Groningen. P.8.</i></p>	

In complementing the aforementioned initiatives on democratic governance of the security sector, in 2002, the UN established the 'United Nations Development Programme' emphasising the necessity of having democratic governance of the security sector to guarantee people's safety, to prevent the military from having coercive power, and assurance of military accountability. For a detailed list of the UN Development Programme's objectives see Table 7.2.

Table 7.2	United Nation's principles of democratic governance in security sector
Civil-military relations must be based on a well-articulated hierarchy of authority between civil authorities and defence forces, on the mutual rights and obligations of civil authorities and defence forces, and on a relationship with civil society based on transparency and respect for human rights	Information about security planning and resources must be widely available, both within government and to the public. Security must be managed using a comprehensive, disciplined approach. This means that security forces should be subject to the same principles of public sector management as other parts of government, with small adjustments for confidentiality appropriate to national security
Security organisations should operate in accord with international and constitutional law and respect human rights	Civil authorities need to have the capacity to exercise political control over the operations and financing of security forces
Ultimate authority on key security matters must rest with elected representatives	Policy-makers must place a high priority on fostering regional and local peace
Security personnel must be trained to discharge their duties professionally and should reflect the diversity of their societies— including women and minorities.	Civil society must have the means and capacity to monitor security forces and provide constructive input into the political debate on security policy
<p><i>Source: Drent et al., (2001) 'Organising National Defences for NATO Membership, The Unexamined Dimension of Aspirants' Readiness for Entry', Harmonie Papers No. 15. Groningen. P.8.</i></p>	

Last but not least, the Council of Europe (CoE) comes into the picture as a strong advocate of pluralistic democracy, human rights and fundamental freedoms, and the rule of law. In that respect, CoE membership is often regarded as confirmation of a country's democratic credentials. In relation to the democratic governance of the security sector, in 2005, the CoE issued a Recommendation on the 'democratic oversight of the security sector in member states'. The Recommendation emphasises the importance of subordination of the armed forces to national democratic institutions, and the necessity of 'civilian command authority' over the operations of the armed forces; additionally, it proposes actions for strengthening the legislation on and the practice of democratic governance of the defence sector within CoE member states (Council of Europe, 2005).

Although the EU has been involved in the promotion of democratic governance of the security sector, its contribution to providing clear benchmarks (i.e., a formal document setting out the rules and conditions) has been quite limited. Rather than having a comprehensive policy and legal framework on democratic control of the security forces, the EU relies on the formal documents, Recommendations or the Codes that are provided by other regional organisations such as the UN, OSCE, NATO, and CoE. On the other hand, the only main reference to democratic governance of the security sector amongst EU-level agreements can be found in the Commission's 2003 Communication on Governance and Development. This Communication links democratic governance to the development in the usual course of events and further indicates that 'security system reform'²⁷ (SSR) is central to good governance. According to the principles of SSR, 'effective management, transparency and accountability' are the compulsory measures for a highly-developed security system (European Commission, 2003a). Furthermore, in 2006, the European Commission identified the main objective of SSR as the explicit contribution 'to strengthening of good governance, democracy, the rule of law, the protection of human rights and the efficient use of public resources' (European Commission, 2006b).

Moreover, the European Commission for Democracy through Law (also known as the Venice Commission), which serves as the CoE's advisory on constitutional matters, prepared a study on democratic control of the armed forces in 2007. This study aims to evaluate functional approaches, mutual political rules and standards on the democratic control of the armed forces; and it is in support of the idea that democratic control over the military is an important aspect of democracy, since it serves for the alignment of the interests of the military on one hand and of the democratic society on the

²⁷ According to the Organisation for Economic Cooperation and Development's (OECD) Development Assistance Committee (DAC), SSR should aim for: i) the establishment of effective governance, oversight and accountability in the security system; ii) improved delivery of security and justice needs; iii) development of local leadership and ownership of reform processes; and iv) sustainability of justice and security service delivery (OECD, 2007).

other, in order to guarantee and protect the democratic constitutional values of nation states. It is also stated in this study that the control of the military by civilians helps to condense the 'civil-military gap', which in turn facilitates 'confidence, cooperation and coordination' between civilians and the military, and promotes the integration of the two entities under the roof of a democratic society (Council of Europe, 2007).

Based on the aforementioned official documents that the UN, OSCE, NATO, CoE promote, it can be concluded that civilian supremacy over the armed forces, and transparent and accountable legislation are considered by major international organisations as the fundamentals of democratic control over the security sector; and that the absence of such control may cause severe hazards for the consolidation of democracy. It can be argued that these organisations are in a better position in terms of providing tangible guidelines on what democratic governance of the security sector entails and in terms of specifying the norms and standards on the subject, and the organisations, which provide the EU with a reason for requiring democratic governance of the defence sector from prospective member states (Hänggi and Tanner, 2005); whereas the EU itself fails to provide those guidelines on democratic governance of security sector. In fact, although the official documents of the EU give references to civilian control of the military, within the framework of democratic governance of security sector, these references appear to be detached from one another, consequently calling attention to the EU's deficiencies in providing a comprehensive framework for its member states; and in the case of its enlargement policy, where the EU demands certain changes in reforms from candidate countries to align with the EU's own standards and practices in this particular area.

Therefore, it can be argued that, as in the case of minority rights, the non-inclusion of concrete rules and conditions by the EU on civilian control of the military or democratic governance of the security sector in its main body of law (i.e., the *Acquis Communautaire*), raises concerns over its legitimacy in

this policy area. The EU, in the absence of a common policy, illegitimately demands political reforms from candidate countries as part of their pre-accession framework. This legitimacy problem also jeopardises the institutional transformation and policy (re)formation of candidate countries. Nevertheless, the EU recognises Turkey's alignment with its standards on democratic governance and civilian control of the military as one of the main objectives in the context of Turkey's accession process.

In relation to the issues raised above, this chapter analyses the impact of EU conditionality on civilian control of the military in Turkey in three periods (1999-2002, 2002-2004, and 2005-2008) by focusing on the legal and institutional developments, as well as international cooperation. Similar to the minority rights regime, democratic governance of the security sector and civilian control of the military are not incorporated into the *Acquis Communautaire*. This can be considered as a reflection on the lack of common policy and of a solid basis for formal and legal transposition of domestic rules. Nevertheless, this chapter examines Turkey's alignment with the EU on the issue of civilian control of the military as an indication of rule adoption on substantive matters, hence the formal aspect of Europeanisation. This chapter therefore mainly focuses on Turkey's efforts to incorporate the legal and institutional requirements on civilian control of the military, as well as international cooperation to uncover the EU's impact on domestic change in Turkey.

In order to assess the factors impacting upon the effectiveness of EU conditionality, in relation to the institutional transformation and policy (re)formation in the area of the military, the systematic analysis concentrates on the EU-level and domestic level factors put forward by the external incentives and social learning models. To reiterate, these factors are identified as: the size of domestic adoption costs, the credibility of conditionality, the size of rewards, legitimacy, identity and resonance. Furthermore, since democratic governance of the defence sector, and more specifically civilian control of the

military, covers a broad field, this chapter mainly examines the process and policy changes of the three main components of civil-military relations in Turkey, which are: the powers of the National Security Council, the presence of military representatives in public bodies, and the military budget transparency.

This chapter finds first that civil-military relations has been one of the most challenging policy areas for Turkey to fully transform its institutions and reform its policies in line with the EU's own rules and practices. The military has always had great autonomy in Turkey. It was not only the major player in the nation-state building process, but the military was also the guardian of the state, responsible for the protection of the unitary and secularity of the nation. Furthermore, the military has enjoyed power in political affairs, and became an ordinary player in Turkish politics. Nevertheless, this dominance entirely conflicts with the rules and norms that the EU has set out in relation to civil-military relations and democratic governance of the security sector. In that respect, it can be argued that normative resonance on civil-military relations has carried a negative (low) value across the three periods, reflecting on the contradictory norms and practices in this policy area.

On the other hand, similar to its policies on minority rights, the EU's legitimacy in the area of civil-military relations was weak; hence its legitimacy remained low across the three periods. The main reason for the EU's low level of legitimacy lies in the fact that its *Acquis Communautaire* does not include any specific clause on civil-military relations or the democratic governance of security sector. This, in turn, mirrors the lack of a common policy at the EU level in this particular area. Therefore, legitimacy and normative resonance with domestic rules do not show any clear explanatory value for domestic change across the three periods. Therefore, both legitimacy and normative resonance fail to explain the diverging outcomes across the three periods. Nevertheless the analysis finds that regardless of normative resonance and lack of EU legitimacy, Turkey still managed to put important, but rather limited efforts, in aligning its rules and practices on civil-military relations with that of

the EU, which can be explained through conditionality-based and socialisation-based factors.

Secondly, this chapter finds that neither the external incentives model, nor the social learning model can fully explain the policy processes and outcomes. Whilst size of rewards and credibility appear as the key factors in explaining fractional Europeanisation (partial adjustment, instead of full transformation) in the first period (1999-2002), in conjunction with these factors, the nature of government and its identification with the EU and size of domestic adoption costs in the second period (2002-2004) also contribute to explaining the shift from adjustment to institutional transformation, which is mirrored in positive and formal Europeanisation. On the other hand, in the third period (2005-2008), negative Europeanisation was seen, which can be explained by unfavourable domestic conditions and weak conditionality. The combination of these factors, hence, did not produce any process or policy outcome on civil-military relations in the third period.

The analysis in this chapter begins with an attempt to conceptualise democratic governance of the security sector and civilian control of the military built on classical traditions of democratic theorising and formal documents provided by the major international organisations including the UN, OSCE, NATO and CoE. This section aims to offer the rationale behind the selection of the civilian control of the military as a policy area subject to change, in relation to Turkey's democratisation efforts under the influence of EU conditionality. The following section provides a historical overview of the internal dynamics in Turkey regarding civil-military relations; and aims to present the domestic context in which Turkey is attempting to align with the EU's rules and practices in this area.

It is then followed by a discussion on EU conditionality and the role of the military in Turkey in order to identify how the EU engages with and approaches civil-military relations in general; and what the legal requirements

of the EU are on institutional transformation and policy (re)formation in the area of the civilian control of the military in candidate states in general, and from Turkey in particular, within the context of its enlargement policy. The final section provides the policy processes and outcomes in relation to Turkey's democratisation by analysing changes longitudinally in three phases (1999-2002, 2002-2004, 2005-2008). This chapter concludes with a discussion of the results.

7.2. Conceptualisation of Civil-Military Relations

In history, one of the primary concerns of human governance has been the achievement of the 'subordination of military forces' to a 'political authority' (Kohn, 1997: 140). Civilian control of military, in other words, the subordination of military power to a civilian authority is an important component of liberal democracies along with civic pluralism, protection of the rule of law, an independent judiciary, as well as the protection of minority rights and fundamental political freedoms (Diamond, 1999: 3-4; 10-12).

Dahl (1998: 148-149) identifies the 'control of military and police by the elected officials' as one of the 'essential' conditions for democracy to endure. The 'control of [the] military and police by elected officials' is placed under the essential conditions of democracy, since democratic political institutions cannot develop and persist under the influence of the military and police. It is also considered that military control over a democracy is the biggest internal hazard, in view of the fact that both the military and the police can attempt to control politics within a society by means of 'physical coercion'. In that respect, it is very important to limit the power of the military and the police and restrain those entities by democratically elected officials (Dahl, 1998: 148-149). In a similar vein, Kohn (1997: 142) stresses that civilian control involves a decision-making process in which decisions on national security should be made by the 'popularly elected' and 'approved officials' beyond of armed forces.

The foundations of civilian control can be listed as 'democratic governance and the rule of law', 'accountability to public institutions', 'effective counter-veiling power' and a 'military tradition committed to neutrality'. Civilian control is commonly accepted as a necessary, but not a sufficient, precondition for a democratic system. For a functioning democracy, a 'stable and legitimate' governmental structure, along with the rule of law and civil liberties, is essential for the perseverance of effective democratic governance (Hänggi and Tanner, 2005).

The second foundation lies in the functional state apparatus that defines the methods by which the military is put under civilian control. One of these methods involves the military's transparency and its accountability to the legislature which reinforces the military's identification with the people by encouraging public discussion and mutual trust on matters concerning the military, such as defence policy, military budget and military operations. The third foundation focuses on counter forces, such as the militia and the police, which can curb the likelihood of the military itself violating civilian control. The final foundation is the 'abstinence' of the military from intervening in politics. It is fundamental for democracies to work without the direct or indirect involvement of the military in politics, i.e. through dictatorship or the overthrowing of the government; thus, it necessitates the military's neutrality in political platforms, letting the constitutional and legitimate process of the governing work on its own (Kohn, 1997: 144-146).

For the consolidation of democracy (in other words, the construction of a more accountable, representative and receptive democracy), it is necessary to disperse political power, particularly by limiting the impact of military in political affairs. In that respect, for an efficient and legitimate democratic government, deterring the military from becoming involved in the political sphere is highly crucial. As Diamond (1999: 113) argues, 'democracy cannot be consolidated until the military becomes firmly subordinated to civilian control and committed to the democratic constitutional order'.

Within the same line of reasoning, Przeworski (1995: 46-48) argues that if the power of the military is not curbed, then the military may potentially act as a separate state within a democratic state, which in turn may create domestic problems regarding the functioning of the democracy since military intervention in politics has a restrictive impact on the operation of democratic institutions. In a similar vein, Hänggi and Tanner (2005: 8) indicate that the absence of democratic control of the military has a detrimental impact on internal and external security, as well as on the political and economic development of countries in the process of transition. Therefore it is highly important to attain civilian control over the military if the aim is to have a democratic political system, where institutions are not limited or influenced by the ideologies supported by the military.

From an institutional perspective, the general principles of democratic governance of the security sector involve civilian, parliamentary, judicial and public control of the security sector. This includes a constitutional and legal framework consisting of management of security sector by civilian governments and the oversight of related laws and budgets within the jurisdiction of civilian courts and with the participation of civil societies in the process of national debates on security issues (Hänggi and Tanner, 2005: 15). In a similar vein, Cizre (2004: 110) identifies the underlying principles of democratic governance of the armed forces as a 'clear constitutional division of authority between the civil and military sectors, parliamentary control of the defence budget' and in order to ensure political neutrality 'governmental discretion over the professional, institutional and political activities of the military' is required. This, according to Cizre, corresponds to the necessity of having an executive control over the military, along with the parliamentary supervision of the government in power and the military itself (Cizre, 2004: 110).

As previously noted, for analytical purposes, democratic governance of the defence sector, and more specifically civilian control over the military, in

Turkey will be examined in connection with three components: the powers of the National Security Council, the presence of military representatives in public bodies, and the military budget transparency. Although the military has been an indispensable actor in Turkish politics from the very first day of the establishment of the Republic, as part of the EU accession process, the powers of the military and its impact on politics have been significantly curbed. In order to better understand the impact of EU conditionality on the institutional transformation and policy (re)formation of Turkey in the area of civil-military relations, the next section provides a detailed overview of the culturally embedded character of the military in relation to the role of the state and Kemalist ideology.

7.3. Internal Dynamics of Turkey Concerning Civil-Military Relations

During the nation-building process, the founder of the Republic of Turkey, Mustafa Kemal Atatürk, and his closest ally, General İsmet İnönü, regarded the military as a vital 'partner' that would intervene if it was deemed necessary to safeguard the 'unitary' and 'secular' character of the state (Greenwood, 2006: 38). In fact, Karabelias (1990: 130) notes that 'the military institution has been the leading force behind the transformation of the social, economic and political structure of the Turkish state'. It was Atatürk's aim to create a new nation that is homogeneous and indivisible, in which the unity of all citizens would be protected. He believed that 'national heterogeneity' encouraged separate identities within the Ottoman Empire, thus limiting social integration and resulting in the dissolution of the Empire itself (Bora, 1998: 39-42). It is based on the idea that Turkey adopted so called 'French conception of civic nationalism and citizenship', which indicates that everyone would be bound to the state through the bond of citizenship, regardless of their ethnic or religious background. (Tocci, 2001: 2-3).

There are different conjectures on the formation of the Republic. While it is sometimes speculated that Mustafa Kemal Atatürk formed a 'secular-democratic republic', wherein the civilian and the military spheres were disengaged from one another (Heper and Itzkowitz-Shiffrinson, 2005: 237); it is often argued that modern Turkey inescapably inherited 'hierarchical lines' from the Ottoman Empire, causing the continuation of close 'military-state ties' in the early years of Republic (Narlı, 2000: 108). This heritage thus assigned the military a permanent role in society; and as Narlı (2008: 108) argued, 'the military became not only the Republic's defenders, but also the guardians of secularism and the six principles of [Kemalist tradition of Atatürk]'.²⁸

So far, when the military's presence within Turkish politics has been discussed, Kemalist sentiments within society surface in the form of nationalist expressions. Kemalism constitutes the underlying dogma for the importance of the military in Turkey. Since its establishment, the military has been seen as the guardians of the Kemalist nation state and the Republic of Turkey. The military henceforth has not been regarded as a threatening actor within politics by Turkish citizens (Jenkins, 2007: 339). On the contrary, the 'ultimate justification' of the political influence of the military has been directly linked to its 'guardianship' of the national interest; and its primary goal has been the protection of national unity (Cizre, 1997: 154).

Therefore it can be argued that the military has been perceived as an entity that protects the preferences of secular Turkish citizens and that suppresses the extreme religious and separatist acts which may potentially put the social and territorial integrity of the state in danger. Furthermore, since the military has been regarded as the sole provider and guarantor of internal and external security in Turkey,²⁹ most of Turkish society never questioned its

²⁸ Kemalism was adopted as the ideology of the new Turkey in 1931. Kemalism has six principles: Republicanism, Nationalism, Populism, Etatism, Secularism and Reformism (Pfaff, 1963; Narlı, 2000; Capezza, 2009). For a detailed analysis of the six principles of Kemalism see Karpas (1959).

²⁹ Article 35 of the Turkish Armed Service Internal Service Code of 1961 states that the 'duty of the armed forces is to protect and safeguard Turkish territory and the Turkish Republic as stipulated by the constitution' (Jacoby, 2004: 133).

presence within active domestic politics (Özbudun, 2000: 151), until relatively recently. The military has always influenced governments in power either directly or indirectly. It has justified its presence in the political domain by 'appealing to the national interest and its role in maintaining unity' (Çandar, 1999: 131).

Therefore, it can be concluded that the military has always enjoyed considerable power in Turkish politics. For most of the time, the military presence in Turkish politics is perceived as the 'refusal of subjugation to civilian rule' and the 'protection of its institutions against reprisals for its role in past authoritarian governments' (Türkmen, 2008: 152). In that respect, the military's exceptional role in politics has always been a 'major obstacle' for Turkey's integration into the EU; and this even became a major issue during the EU accession negotiations (Narlı, 2000: 107). However, the EU accession process has changed this tendency to a certain extent. It has become clear to the Turkish public and the Turkish government that the military's involvement in politics is not compatible with the EU's principles, such as the civilian control and democratic governance of the military. In fact, Turkey has been required to fulfil the Copenhagen criteria to become a member of the EU and 'the democratic control of military in Turkey' has been one of the most important conditions of the political criteria (Güney and Karatekelioğlu, 2005: 440-411).

To conclude, the above discussion has suggested that since the establishment of the Republic, the military has enjoyed a great level of power in politics with the enforcement of a specific interpretation of the Kemalist nation-state. At times, this involvement has been judged by regional organisations such as the EU as being undemocratic and sometimes as violating basic human rights. The EU, in that sense, through its conditionality strategy and its external influence mechanisms has been trying to reform Turkey in the area of civil-military relations with the intention of aligning Turkey to the practices of the EU member states. Nevertheless, the impact of the EU on the reform process in the area of civil-military relations in Turkey

has only been a push factor rather than the reason for actual change (Faltaş and Jansen, 2006: 14).

In a similar vein, Heper and Itzkowitz-Shiffrinson (2005: 244) explained this conditionality-compliance dichotomy in the area of civil-military relations as, 'a combination of a type of self-restraint exercised by the military, civilians' changing their conduct of politics, and more recently the military following suit as well as the "carrot policy" of some international organisations'. This argument can be justified based on the fact that certain domestic variables, such as social resonance and domestic adoption costs, have not been compatible with the practices and expectations of the EU. In that respect, it is important to understand the Turkish context, i.e. Turkish political culture and institutional behaviour in order to better assess the effectiveness of EU conditionality on the reforms of civilian control of the military in Turkey.

The next section focuses on the concept of EU conditionality on the democratic governance of military in Turkey and aims to shed light on the conditionality-compliance relationship with respect to the EU's credibility and Turkey's social resonance in a wider perspective.

7.4. EU Conditionality and Democratic Governance of Security Sector

As part of its democracy promotion agenda, the EU carries out activities on reforming the security sector of its neighbours or third countries. The rationale behind these activities has roots in the EU's argument that political and economic liberalisation in modern democracies cannot be accomplished if the defence and security sectors of countries are under- or un-reformed, and if the military is not under civilian control. However, even if the EU has been successfully involved in promoting security sector governance within its region, it fails in supplying a comprehensive policy framework on security sector governance. When examining the *Acquis Communautaire* of the EU (which accumulates the overall legislation, legal acts and decisions inclusively, thus

constituting the main body of the European Union law) it can be argued that democratic governance of security sector or the principle of civilian control over the military are not thoroughly incorporated into the *Acquis*.

Even if the aforementioned principles are somehow incorporated within the requirements of the EU as part of the compliance with the Copenhagen political criteria, the criteria themselves leave room for a vague interpretation of what they actually mean. In fact, concepts of democratic governance of the security sector or civilian control of the military and the armed forces are not used explicitly, and the criteria themselves fail to provide clear and credible guidelines on how to achieve these requirements. For instance, the information on the democratic governance of the security sector or civilian control of the military is only mentioned by the EU when this information is incorporated into the European Commission's Regular Reports, which are the only official documents stating the EU's expectations on this matter.

On the other hand, when it comes to the EU's internal dynamics, it can be seen that the EU is not fully involved in the defence programmes or agendas of its individual members. As previously mentioned, this leaves plenty of room for manoeuvre, in which the EU can potentially manipulate the candidate countries based on its own advantage while not using the same forceful action towards its own member states. This can support the argument that the EU loses its credibility when it comes to providing clear, coherent and tangible guidelines in the area of civil-military relations, which consequently obscures the process of the compliance of candidate countries (Hänggi and Tanner, 2005).

Nevertheless, in addition to the Regular Reports, the Accession Partnership Documents and the statements of the European Parliament are the other important policy documents that expose what the EU more or less expects from the candidate countries. In fact, in the case of Turkey, the subordination of the military to democratic control came out as one of the

problematic issues in these reports. More specifically, as can be found in the Accession Partnerships, EU conditionality on civilian control of the military in Turkey specifically requires good governance, institutional stability, democratic control, transparency and accountability of the military. For the detailed list of requirements in the APs, see Table 7.3.

<div> <div>Table 7.3</div> <div>EU requirements on the military in Accession Partnerships</div> </div>	
EU Requirements	Date and Timescale
Align the constitutional role of the National Security Council as an advisory body to the Government in accordance with the practice of EU Member States	2001 Accession Partnership (Medium-term)
Adapt the functioning of the National Security Council in order to align civilian control of the military with practice in EU Member States	2003 Accession Partnership (Priorities 2003/2004)
Continue to align civilian control of the military with practice in EU Member States; Ensure that civilian authorities fully exercise their supervisory functions, in particular as regards the formulation of the national security strategy and its implementation; Take steps towards bringing about greater accountability and transparency in the conduct of security affairs Establish full parliamentary oversight of military and defence policy and all related expenditure, including by external audit	2006 Accession Partnership (Short-term)

Although the EU fails to put forward a common policy on the democratic governance of the security sector and civilian control of the military, it nevertheless presents a detailed account of the preconditions to be fulfilled by Turkey as part of its pre-accession framework. Before analysing the changes with respect to the driving forces behind the institutional transformation and policy (re)formation of the military in Turkey, it is necessary to provide an outline of the EU’s requirements for democratic governance of the military in Turkey. This outline presented in Table 7.4. is composed of the requirements set mainly by the European Commission and the European Parliament.

Table 7.4

EU conditionality on democratic governance of military in Turkey**Standard requirements:**

- The Chief of Staff should be accountable to the Defence Minister;
- There should cease to be military representatives on the High-Audio-Visual Board (RTUK) and the High-Education Board (YÖK);
- There should be full parliamentary control of the defence budget, including auditing, which means a lifting of the 'secrecy clause' and bringing extra-budgetary funds into the defence budget;
- The functioning of the State Security Courts should be brought fully in line with European standards, particularly with regard to the defence rights and the practice of principle of fair trial.

Commission's requirements whose 'implementation' and the 'interpretation of alignment' to EU practice is important:

- Alignment of the functioning of the National Security Council to EU practice;
- Abolition of the informal mechanisms through which the armed forces in Turkey exercise influence.

More extensive requirements stated in the European Parliament's Reports:

- The adoption of a new constitution in which civilian control over military is enshrined as it is in most EU states;
- Abolition of political tasks of the military, including think-tanks;
- Application of EU norms of company law, competition policy and financial accountability to businesses with military connections.

Source: Drent, Margriet (2006) 'EU conditionality concerning Turkish civil-military relations', in S. Faltas and S. Jansen (eds.) Governance and the Military: Perspectives for Change in Turkey, Papers of a project managed by the Centre for European Security Studies (CESS) in co-operation with the Istanbul Policy Centre (IPC): 69-86.

In European democratic constitutional states, the control of politics lies with the government and the parliament. Based on this, Turkey is expected to eliminate the role of the military as a political actor; hence limit its impact on political affairs. In that respect, any military task that involves political matters should be directed to the government. However, as noted above, the EU's expectation on the 'alignment to European practice' of civilian control of military is equivocal and misleading since there is not a single European practice, but several different practices. It is therefore not legitimate to demand alignment with European practices which do not necessarily correspond to a particular form. Hence, it becomes necessary to adopt broader requirements instead of too specific conditions which can be widely applied to any candidate country. It is particularly for this reason that the EU

incorporated its conditions on the democratic governance of the defence sector and civil-military relations from other international organisations mentioned previously and created a set of basic standards and norms on what is known as 'democratic civilian control' (Drent, 2006: 78-80).

7.5. Assessment of the Policy Process and Outcomes

In the following sections, the impact of EU conditionality on civilian control of the military in Turkey is examined across three periods, as was the case with the previous empirical analysis. The first phase of analysis (1999-2002) starts with the decision of the European Council at the Helsinki Summit in 1999, where Turkey was granted EU candidacy status. The ending of the first phase (also the beginning of the second phase, 2002-2004) coincides with the early general elections held in Turkey where the Justice and Development Party (AKP) established the first single-party government that had come to power since 1987. The third phase (2005-2008) of analysis starts with the opening of accession negotiations and covers the period where accession negotiations were actively pursued. The analysis will again focus on the selected six variables (the size of rewards, credibility, size of domestic adoption costs, legitimacy, identity, and resonance) in these specified periods in order to identify the causal relationship between EU conditionality, and institutional transformation and policy (re)formation in Turkey in the area of civilian control of the military.

7.5.1. Phase I: 1999-2002

Based on the reviews in the previous sections, it can be asserted that in the area of civil-military relations, the legitimacy of the EU, particularly on democratic governance of the defence sector and democratic control of the military, has been predominantly low; and this effect has been valid for the three periods under examination. This is mainly due to the fact that the EU has

not developed a common consensual norm on democratic control of the military that is incorporated into its legal system. Rather than having its own policy, the EU heavily relies on the formal documents of major international organisations such as the OSCE, NATO, the UN, and the CoE. It can be argued that while the current members of the EU enjoy a high level of autonomy over their national legislations in relation to civilian control of the military, the EU illegitimately demands that candidate countries align their practices on civil-military relations with its own general practices.

On the other hand, when examining Turkey's own practices in the area of civil-military relations, one can see a great difference between Turkey and the practices of the EU member states. In contrast to the general norms of the EU on democratic governance of the defence sector and democratic control of the military, the military in Turkey enjoyed great power not only in security issues, but also politically. Therefore, it can be concluded that the level of conformity between the pre-existing domestic conditions in Turkey and the newly introduced EU rules and norms is low, hence leaving resonance along with 'domestic salience' low in this policy area. Clearly, the absence of strong and collective norms on the democratic governance of the defence sector, coupled with the strong presence of the military in domestic politics, in contrast to the EU member states' own practices, significantly reduced the favourable conditions for rule adoption in this particular area regardless of the three periods under examination.

As indicated in previous chapters, the coalition government that was in power after Turkey gained its candidacy status at the Helsinki Summit in 1999 was composed of three political parties, the DSP, the MHP and the ANAP. The ideological differences between the coalition partners were apparent from the beginning of the coalition partnership when the three of them came to power. In fact, the reluctance of the MHP, an ultra-nationalist party, to adopt the reforms demanded by the EU and their negative attitude to EU membership in general caused severe setbacks in the alignment of Turkey's own practices

with that of the EU. The DSP on the other hand was showing medium-level efforts to engage fully with the reform process, due to its hard-line policies particularly on matters concerning the national security of the country.

Given that, it was only the ANAP, a centre-right party that became a strong advocate of EU membership. The ANAP's leader, Mesut Yilmaz, was the only politician in government who confronted the role of the military in politics. According to Mesut Yilmaz, the main obstacle for Turkey's accession to the EU was caused by 'national security syndrome' which hindered constitutional amendments on the military-related issues demanded by the EU (Cizre, 2003: 213; Bilgin, 2005: 191). In that respect, it can be stated that the identity factor shows negative stances in this period due to the low levels of self-identification amongst the coalition partners as a result of their ideological differences. Nevertheless, the coalition partners managed to have a rather moderate pro-European perspective and remained committed to carry out reforms to attain full membership to the EU regardless of disputes amongst themselves.

On the other hand, an analysis of the size of domestic adoption costs associated with reforms on civil-military relations is a complex one. The military has always been a political actor in Turkey. Its presence and direct involvement in political affairs has always been a point of concern for the EU. As one interviewee put it, the issues of civil-military relations and the role of the military in Turkish politics have always been kept in a 'closed-box' in Turkey. It was not until the Helsinki Summit that this box was finally opened (Interview, Political Officer on Public administration and security sector reform, political affairs, CFSP, press and information section, Delegation of the European Union to Turkey, 2012).

Starting with the Commission's 1998 Regular Report on the progress of Turkey, the EU specifically demanded constitutional changes which would limit the power of the NSC and bring more accountability and transparency to the

defence budget (European Commission, 1998). The guardianship role of the military in Turkish politics in particular increased the size of the adoption costs in this area, along with the internal security concerns which emerged in the early 1990s, such as the Kurdish problem, the terrorist activities of the PKK and the resurgence of political Islam; these concerns consistently kept the military in the political domain, hence the role of the military created a controversial environment when the EU accession process is taken into account.

However, it should be noted that the size of the adoption costs became lower after the Helsinki summit. The main reason for this can be explained by the EU's decision on declaring Turkey as a candidate country in 1999. In fact, after Turkey gained its candidacy status, the military started to change its strategy on certain issues involving national security, and amended its policies and adopted more positive approach towards EU membership, but never fully disappeared from the political arena, due to the sensitive security matters affecting the national interests of the country as a whole, i.e. those that affected the secularist character of the country and its territorial integrity. Nevertheless, immediately after their term started, the DSP-MHP-ANAP coalition partners began to readjust the structure and the power of the military, in accordance with the standards and practices of the EU. For instance, with the constitutional amendments in June 1999, military judges were banished from the State Security Courts. This was then followed by an amendment to Article 118 of the Turkish Constitution in favour of raising the number of civilian members in the NSC with the inclusion of a Minister of Justice and other deputy ministers; this was accompanied by an amendment on the recommendations of the NSC, where the statement suggesting that something was a 'priority consideration' (therefore recommended by the military) was removed and the actual obligation of the NSC was changed into the 'notifying' of the Council (Jenkins, 2007: 346).

Following the constitutional changes, the Commission in its Regular Report of 2000, evaluated Turkey's institutional transformation and policy

reformation in the area of civilian control of the military as unsatisfactory and recommended that 'civilian control of the military still needs to be improved' (European Commission, 2000). In relation to the alignment of the institutional structure of the military, the same Report noted that 'contrary to EU, NATO and OSCE standards, instead of being answerable to the Defence Minister, the Chief of the General Staff is still accountable to the Prime Minister' (European Commission, 2000). It is often argued that the military's independent power base³⁰ in this period created certain setbacks for policy (re)formation in this area, in a way increasing the domestic adoption costs by acting as potential veto players in the political arena (Capezza, 2009: 14). Furthermore, the EU also drew attention to the problematic nature of the wide impact that the military had in Turkey, by emphasising that important institutions, such as the Council of Higher Education in charge of controlling the activities of higher education institutions, and the Higher Education Supervisory Board, still appoint one military official selected by the Chief of General Staff (European Commission, 2000).

As a response to the EU requirements on civilian control of the military in the AP of 2001, in March 2001, Turkey prepared the National Programme for the Adoption of the Acquis (NPAA). In practice, the NPAA includes a list of the issues under the reform process and gives references to the areas that the Turkish government is planning to amend or change in accordance with the EU's criticisms and requirements. In relation to civilian control of military forces, the NPAA of 2001 set up a medium-term action plan aiming to transform the institutional structure of the military. According to the proposal, in the medium-term, Turkey would review the relevant articles of the Constitution and other legislations in order to transform the institutional structure and functions of the National Security Council, which, at that time, acted as a constitutional body providing consultations on national security

³⁰ In this period, the military had retained an independent power base by being directly accountable to the prime minister's office instead of being subordinate to a civilian defence minister (Capezza, 2009: 14).

matters (Republic of Turkey, Ministry for EU Affairs, 2001). It can be argued that the intention for a 'review' reflects Turkey's reluctance to adopt and implement EU conditionality on civilian control of the military, due to high levels of domestic adoption costs which would otherwise result in solid references to the alignment of the NSC's with the practices of the EU member states as part of its NPAA.

In this period, as part of its political reform agenda, the DSP-MHP-ANAP coalition made a number of amendments to the Constitution, which were followed by the adoption of legislation for the enforcement and implementation of the concerning constitutional amendments (Kirişçi, 2004a: 277). The amendment of the Constitutional Court appears as one of the major changes in relation to civilian control of the military. With this particular amendment, the role of the military was significantly curbed; in fact, according to the amendment, the military would no longer be able to act upon allegations of 'unconstitutional acts prior to the review that would be conducted by the Constitutional Court' (Capezza, 2009: 14). The same period witnessed the acceptance of 'Harmonisation Laws' as a second stage in the alignment of Turkish Law with the practices within the EU. These efforts were often regarded as significant reform initiatives and signs of the instigation of a 'momentous change' in Turkish politics (Öniş, 2003: 9).

The Commission in its Regular Report of 2001 welcomes the first steps of political reforms on civilian control of the military, but finds these initiatives, particularly the constitutional amendments on the composition of the NSC, insufficient and further requires the effective implementation of the preceding rule adoptions. In that respect, the Report specifically states that:

As part of the constitutional reform package, the provision of Article 118 concerning the role and the composition of the National Security Council has been amended. The number of civilian members of the NSC has been increased from five to nine while the number of the military representatives remains at five. In addition, the new text puts emphasis on the advisory nature of this body, stressing that its role is limited to recommendations. The

Government is now required to 'evaluate' them instead of giving them 'priority consideration'. The extent to which the constitutional amendment will enhance de facto civilian control over the military will need to be monitored (European Commission, 2001).

It can be argued that in the second half of the first period, the domestic environment became more suitable for the political actors (i.e., the government, political elites and the military) to accept certain overdue changes that would dramatically affect the composition of their institutional structures. Apart from the factors that are examined thus far, one other factor that contributed to the positive changes can be identified as the size and credibility of rewards. Theoretically, any target government in a candidate country is more likely to adopt and implement EU rules and norms if the EU delivers substantial rewards, i.e. financial and technical assistance, in return for their compliance (Schimmelfennig et al., 2003: 496-497). In addition to that, these rewards are considered credible if and when they are given in proportion to the progress achieved by the target governments, and if they are delivered promptly after the rule adoption (Schimmelfennig et al., 2002: 11).

As indicated in the previous chapters, this phase was initially marked with the Helsinki Summit where Turkey was granted its candidate status and consequently becoming eligible to receive financial and technical support as part of the EU's pre-accession strategy. Following that, in June 2001, the European Council declared Turkey's eligibility to participate in 'Community programmes' that granted Turkey full access to TAIEX offices for the purpose of transacting business related to the Customs Union (CU) (Council of the European Union, 2001). In December 2001, the Council decided to apply the PHARE procedures to EU-Turkey financial cooperation (Tanlak, 2002: 5) hence permitting Turkey to apply for financial assistance by participating in the MEDA , aimed to implement cooperation measures for the promotion of economic and social development (European Council, 2001c). In that respect, the size and credibility of rewards carried a high value for the first period.

To conclude, the institutional transformation and policy (re)formation of civil-military relations did not show a complete change in the first phase. Although the DSP-MHP-ANAP coalition had successfully initiated certain changes, aiming to increase civilian control over the military and to curb the military's presence and influence in politics, their ideological differences have caused certain setbacks and negatively affected their identification with the EU, and also increased the size of domestic adoption costs. These two factors, in turn, caused unfavourable conditions for domestic change. Nevertheless, the EU successfully offered tangible and timely rewards in this period which, despite the EU's lack of legitimacy on civil-military relations, contributed to strong conditionality. Therefore, with the combination of unfavourable domestic conditions, and strong conditionality, only partial adjustment referring to fractional Europeanisation could be achieved in this period.

7.5.2. Phase II: 2002-2004

In 2002, just before the Justice and Development Party (AKP) took office, the EU found Turkey's efforts to reform civilian control of the military insufficient. Therefore, in the second period, EU representatives were compelled to force the new government to address Turkey's shortcomings in civil-military relations. Contrary to everyone's expectations, political affairs changed drastically at the domestic level. Although the election of the AKP as a single-party government caused widespread concern among military, political and civilian circles due to the party's alleged Islamist roots (Doğan, 2005: 429; Jenkins, 2007: 348), the party rejected any accusation of its supposed Islamist identity (Çağaptay, 2002b; 2002c) and insisted that they would not challenge the secular character of the Turkish state.

In that respect, as noted in previous chapters, when examining the identity factor, one can determine that in contrast to the previous coalition government, the AKP, as a single-party government, was more successful in terms of its self-identification with the EU. For instance, one of the AKP's main

foreign policy goals was to promote the EU's democratic principles; and as part of the party's discourse, regularly stressed the importance and further need for democratic consolidation in Turkey. It is often argued that the AKP was successful in wisely curbing the powers of the military and its influence on political affairs; and AKP's justification was based on its efforts to open accession negotiations with the EU as soon as possible. In fact, the election campaign of the AKP had been pro-European and in support of the discourses of Western-style democracy. Its strategic election campaign helped the AKP to get most of the votes from across different sections of the society, which resulted in its decisive victory in the general elections (Jung, 2006: 130).

Therefore in this period, the AKP initiated a speedy reform process with the intention of 'obtaining a date' for the opening of accession negotiations (Öniş and Keyman, 2003). More specifically on the subject of civilian control of the military, the AKP, in its party programme, emphasised that the key action in curbing the influence of the military on political matters would be Turkey's alignment with the EU's democratic norms and principles (Çağaptay, 2003b: 214). Parallel to the Commission's Regular Report of 2001, in the Regular Report of 2002, a similar emphasis was given to the implementation of the rules on civilian control of the military that had been recently adopted. In relation to this issue, the Report stated that the constitutional amendment, introducing changes to the composition and role of the National Security Council, had been put into practice. Nonetheless, these changes do not appear to have modified the way in which the National Security Council operates in practice (European Commission, 2002). Based on this effect, in December 2002, the European Council in Copenhagen demanded that the Turkish government should promptly take action in identifying the remaining shortcomings in this area, and should produce an action plan aiming towards the adoption and implementation of the necessary legislation (Drent, 2006: 75).

Following that, with the adoption of a revised AP in May 2003, the Council advised Turkey to 'adapt the functioning of the National Security Council in order to align civilian control of the military with practice in the EU Member States' (European Council, 2003). It is often argued that the aforementioned advice comprises a better approach in contrast to the Commission's former advice in the AP of 2001 concerning civilian control of the military, which arguably underestimated the distinctiveness of the role of the military in Turkey. In fact, the advice of 2002 sees the actual problem of the NSC's role in Turkey in a broader perspective, rather than following a similar approach of the AP of 2001, which was rather 'formalistic' and 'legalistic' (Drent, 2006: 74).

Furthermore, this period set the scene for the introduction of a number of harmonisation packages. For instance, the seventh harmonisation package was introduced in August 2003; this package included new measures to reform the NSC, in order to accomplish institutional transformation and policy (re)formation in alignment with the practices of the EU Member States. Turkey's respective responses to the EU's formal requirements in this policy area further involved the enhancement of the accountability and transparency of the Turkish armed forces. In that respect, the AKP government made significant efforts to preserve an impartial dialogue with military officials which demonstrated the government's determination in the democratisation process and respective political reforms in this period. This was followed by TGNA's decision on the composition of the NSC. According to the TGNA's decision, the NSC would be supervised by a civilian member instead of a military official (Capezza, 2009: 14). Among the other changes were additional clauses on the defence budget and the control of defence expenses (Müftüler-Baç, 2005: 27); this also included the abolition of the unrestricted access of the military to civilian agencies and the authority to check on the implementation of NSC recommendations (Jenkins, 2007: 347).

Nevertheless, there had been certain setbacks on the reforms concerning civilian control of the military in this period. In particular, EU conditionality failed to enforce reforms concerning the status of the Chief of Staff (of the Turkish Armed Forces). As previously noted, the Chief of Staff is directly accountable to the Prime Minister in Turkey (Heper, 2005: 222). The EU has criticised this institutional arrangement of the Turkish Armed Forces and demanded that the Chief of Staff should instead be responsible for the Ministry of Defence. This EU requirement was strongly criticised by the military and the military acted as a veto player on this particular issue. This in turn resulted in the postponement of the reform process on civilian control of the military.

In terms of the evaluation of Turkey's institutional transformation and policy (re)formation concerning civilian control of the military, the Commission in its Regular Report of 2003 noted that in spite of Turkey's noteworthy efforts, the EU detected a number of problems at the implementation level. The EU also commented that 'the armed forces in Turkey [still] exercise influence through informal mechanisms' (European Commission, 2003b). The Report specifically highlighted that despite the legal arrangements around the NSC's operation, auditing of the defence budget and expenditures was still subject to 'restrictions under Article 160 of the Constitution under which the confidentiality of the national defence is foreseen' (European Commission, 2003b). This statement was also repeated in the Strategy Paper and Report on Continued Enlargement which was issued in 2003, where the Commission on behalf of the EU noted more on the issue of accountability and emphasised that 'full parliamentary control over military expenditures must be ensured both in terms of approving the budget and in terms of auditing' (European Commission, 2003c).

Furthermore, in May 2003, Arie Oostlander, the Rapporteur of the European Parliament on Turkey prepared a report providing political evaluation of the Commission's Regular Reports and Turkey's progress respectively. In

this report, Oostlander made a radical call for the termination of the NSC in its current structure. Furthermore, he also called for the adoption of a new Constitution instead of the revision and review process of the existing 1982 Constitution based on the assumption that the changes required by the EU are so fundamental that the amendment of the current Constitution will not suffice by any means. Given that, the European Parliament's report stated that:

the army maintains a central position in the Turkish state and society; notes with regret that the army's excessive role slows down Turkey's development towards a democratic and pluralist system, and advocates that Turkey must take the opportunity of its present government with its strong parliamentary support to elaborate a new political and constitutional system, which guarantees the principles of a secular system without military supremacy above civil institutions, so that the traditional power of the bureaucracy and the army (the 'deep State') can resume the forms which are usual in the Member States (European Parliament, 2003).

Turkey's response to the requirements of the EU came in the form of various measures adopted in the course of 2003-2004. First of all, with the amendment on the Law on Public Financial Management and Control, the extra-budgetary funds in the Ministry of Defence's annual budget would be dissolved by the end of 2007 (Greenwood, 2006: 35). In the final stage of this period, in January 2004, a new Regulation was adopted redefining the duties, functioning and composition of the NSC, which was followed by the removal of secrecy clause from the constitutional provisions governing the work of the Court of Audit. Furthermore, the institutional structure of the Turkish Armed Forces has significantly changed with an amendment disempowering the General Staff to select a member to take charge in the Higher Education Board. One significant change came in June 2004 on the institutional transformation of civilian control of the military, when the system of State Security Courts was completely abolished (Greenwood, 2006: 35).

By looking at these reforms on civilian control of the military, it can be argued that the AKP government successfully contributed to the institutional transformation and policy (re)formation in Turkey as part of its overall

democratisation. EU conditionality has been a key factor in shaping the process outcome in this period. The government in this period used the prospective EU membership as an influential tool to trigger political and public support for constitutional and legislative amendments which resulted in the lessening of the military's impact on politics. As acknowledged in the Regular Report of 2004, this was reflected in the successful alignment of civil-military relations with the EU. However, as previously indicated, these positive developments did not necessarily guarantee full abolishment of the Turkish Armed Force's (TAF) control in politics. In fact, it is noted that the TAF continued to exercise political influence through various informal channels. More specifically, the concerning points in the Regular Report of 2004 were referred to as the 'provisions on the basis of which the military continues to enjoy a degree of autonomy' and 'legal and administrative structures which are not accountable to civilian structures' (European Commission, 2004). In that respect, the EU promptly requested the full exercise of the civilian authorities' supervisory functions to be practiced in order to assert full civilian control of the military.

After taking these official documents into account, it can be argued that Turkey's compliance with the EU rules on civil-military relations has been rather troubled. It is therefore difficult to come to a clear-cut conclusion on the factor of the size of adoption costs, since domestic adoption costs are derived from the power costs of target governments and the presence of veto players (Schimmelfennig, 2005c: 5-6). In more concrete terms, civil-military relations became one of the hardest areas for the AKP government to reform, since the guardianship role of the military has been highly institutionalised by means of constitutional and legal arrangements, and by having its roots going back to the independence of Turkey in 1919.

Nevertheless, the changes at the domestic level, i.e. the PKK's disengagement from terrorist activities in this period, led to decreasing influence of the military in politics, along with changing strategies of the military itself. The military, for example, adopted a more moderate stance on

the prospect of EU membership; and as a result, the military got less involved in crucial political decisions. This decreased the costs associated with the reforms and rule adoptions in the area of civil-military relations. The military was well aware of the fact that if it pursued any assertive public statements regarding the AKP or its alleged Islamist agenda, this would most certainly delay the opening of accession negotiations and would also endanger the military's 'public prestige' (Jenkins, 2007: 348-349). When all these factors are taken into account, it can be concluded that the adoption costs in this period remained at a medium level.

In this period, the EU's attitude towards Turkey, with regard to its democratisation process along with political reforms and legal amendments in alignment with the EU standards and practices, has significantly improved and shown a constant positive stance. This became evident when the EU presented a stronger and clearer accession strategy for Turkey also with the inclusion of additional financial and technical assistance hence a deeper commitment to Turkey's accession process (Kirişçi, 2004c). These positive developments can therefore be regarded as tangible indicators of the size and credibility of rewards, showing a high value. In other words, it can be argued that the substantial and credible rewards offered by the EU helped the Turkish government to comply with the EU rules and conditions in terms of making necessary legal and constitutional changes and rule adoptions for the institutional transformation and policy (re)formation of civilian control of the military.

For instance, in this period, the EU's attitude towards Turkey's membership did not show variance in terms of offering its most important reward, full membership, as the strongest institutional tie with the EU itself. Although Turkey was expecting to get a date for the opening of accession negotiations early in this period, in December 2002, at the Copenhagen Summit, the EU decided to review Turkey's democratisation process with respect to its requirements on further rule adoption and implementation. As a

result, the EU considered that the prospect of full membership was likely for Turkey and immediate delivery of additional financial and technical assistance as encouraging for the process, hence triggering factors for the Turkish government to continue its reform efforts (European Council, 2002). Nevertheless, at the end of this period, despite the existing shortcomings, the EU found Turkey's efforts in aligning its civil-military relations with the practices of the EU member states satisfactory and, in December 2004, at the Brussels Summit, the EU announced a start-date for formal EU accession talks as 3 October 2005 (European Council, 2004).

In contrast to the first period, in this period, the AKP was more successful as the governing party in carrying out reforms in relation to civil-military relations. As a single party government, the AKP was not only successful in terms of identifying itself with the EU, but had also benefited from favourable domestic conditions which helped the party itself to effectively comply with the EU conditions on civil-military relations. More specifically, having the powers of the military curbed to a certain degree, the AKP could manage to reduce the role of the military as a veto player, hence increasing the chances of making further changes at the domestic level. In that respect, the size of domestic adoption costs was significantly lower than in the previous period. With the combination of favourable domestic conditions and strong conditionality, this period has shown an affirmative/positive Europeanisation, hence, successful institutional transformation and policy (re)formation in the area of civil-military relations.

7.5.3. Phase III: 2005-2008

Although the previous period ended with a promising development on the institutional transformation and policy (re)formation in the area of the military, this period witnessed a dramatic down-turn in terms of Turkey's domestic transformation all policy areas. This came as a result of reciprocal disagreements between Turkey and the EU. As noted in previous chapters, the

dispute over the Cyprus issue (i.e., Turkey's hesitation to provide access to the Republic of Cyprus to use Turkish ports and airports) (Hakura, 2006) and the EU's decision on suspending the opening of eight chapters in *Acquis Communautaire* have accelerated the conflicts between the two parties and slowed down the political reform process.

As previously noted, legitimacy and identity factors are among the domestic and international factors impacting upon Turkey's compliance with EU conditionality, which did not change in this period. In fact, despite the different time periods specified here, the EU's ownership on the principles of democratic governance of the defence sector and civilian control of the military remains constant, therefore the legitimacy of EU rules and conditions in the area of civil-military relations is considered low in this period. The identity factor is considered high, as in the case of previous period, since the target government subject to EU conditionality in this period (the AKP government) remained the same, and its approach to the EU did not show any variance.

In contrast to the previous period, between 2005 and 2008, the size and credibility of rewards showed a low value, which does not support the theoretical presumptions of the external incentives and social learning models. It can be argued that the changes in Turkey's level of compliance with EU conditions on civil-military relations in this period, as well as its reluctance to continue with the political reform process, signalled that there were other internal and external factors that caused this obstruction. Among the external factors causing this obstruction were the changes in the EU's attitude towards Turkey and Turkey's membership application, and the EU's declining absorption capacity (Patton, 2007). On the other hand, among the internal factors were the significant change in Turkish public opinion on EU accession, and diminishing political will of the AKP government in carrying out the reforms demanded by the EU. As Çağaptay (2009: 2) points out, as soon as actual talks of EU membership began in 2005, the AKP became 'reluctant to take on

tough, potentially unpopular reforms mandated by the EU, making the accession seem less and less a likely reality'.

Furthermore, the appointment of General Yaşar Büyükanıt as the Chief of the Turkish General Staff (TGS) in August 2006 marked a new era for civil-military relations in Turkey. Starting from the first day of his term, Büyükanıt made public statements on the role of the military in Turkey and the threat posed by Islamic fundamentalism (Jenkins, 2007: 339). These developments were perceived as illustrating how the military's high profile in politics was being retained through internal mechanisms which were tied in with the public statements of major military officials on Turkey's political and security matters, including the 'danger of weakening laicism, Kurdish separatism and Cyprus issue' (Narlı, 2009: 460).

For instance, among those informal mechanisms that the military imposed, a clear illustration of its influence on domestic politics came with the appearance of the so-called 'e-memorandum'. On 27 April 2007, the Turkish General Staff posted a statement on its website announcing the following statement: 'Some circles who have been carrying out endless efforts to disturb fundamental values of the Republic of Turkey, especially secularism, have escalated their efforts recently', and they stated that the 'fundamentalist understanding [of the government] was eroding the very foundation of the Turkish Republic and the ideas that it was founded upon' (BBC News, 2007b). The AKP, along with various Islamists, regarded this statement from the military as an 'internet coup'. In addition to this, due to the closure case opened against the AKP on constitutional grounds, the party became defensive in its policy actions and started a prosecution process against nationalist and Kemalist circles (Capezza, 2009: 19).

Furthermore, the opposition of the military to the election of Abdullah Gül as the President of the Republic of Turkey and its explicit warning via its announcement on the internet was considered as a postmodern intervention in

politics. The AKP used this intervention as a strong argument against the democratic credentials of the country and managed to strengthen its votes and position within the society. As Toktaş and Kurt (2008: 6) indicate the election victory of the AKP is considered as a public's remonstrance against the military's involvement in the political realm. In contrast to 2006, the period following the electoral victory of the AKP, the military showed a low profile in politics. One of the reasons for this change is explained by the military's dissatisfaction with the outcome of the e-memorandum as it was intended to warn the government and the Prime Minister Erdoğan's against attempts to keep the military out of the political sphere by making public statements (Narlı, 2009: 463).

When examining the internal and external changes that brought the political reform process to a halt, one can conclude that the size of domestic adoption costs were extremely high for the AKP government to proceed with the legal changes, particularly regarding changes to civil-military relations, which resulted in the AKP government's failure to proceed with its political reforms in this area. As a response to the AP of 2006 which provided a detailed list of the EU's requirements on civilian control of the military, a few constitutional amendments were made in 2006. For instance, legal amendments were made on the Law of the Court of Auditors and the publication of the military expense report (which was formerly prepared and undisclosed by the Court itself) was brought under the regulation of the Council of Ministers (Narlı, 2009: 455).

Due to the lack of political reforms in this period, the Commission in its Regular Report of 2006 found Turkey's political reform process insufficient. The report pointed out that the short-term priorities on civilian control over the military specified in the AP still remain to be fulfilled (European Commission, 2006a). In that respect, it can be concluded that the overall assessment of the EU on the progress made by Turkey has been critical. It cannot be denied that Turkey has gone a long way to align itself with the standards and the practices

of the EU and meet the obligations of membership; however, due to undesirable domestic factors and the absence of strong EU conditionality, not much has been achieved in this period. Although certain amendments had been made to provide for a democratic and civilian control of the military and to curb its influence in politics, it is still clear that the social and political salience of the role of military contradicts the EU's own norms and principles. This again leaves us with the conclusion that as in previous periods, the resonance factor remains low in the period of 2005-2008.

Furthermore, in 2007, the European Council criticised Turkey concerning the setbacks on the transparency of its defence budgeting. In relation to the defence budgeting, in the same year, the Commission stated in its Regular Report that 'the Constitution, and EU harmonisation reforms enable the Court of Auditors to carry out external ex-post audits of military expenditures and properties' and 'no progress has been made in terms of strengthening parliamentary oversight of the military budget and expenditure' (European Commission, 2007). On the other hand, in late 2008, the tensions between the military and the AKP government escalated. In October 2008, the AKP government opened a trial against 86 people as members of an ultra-nationalist group called Ergenekon based on the accusations that they were organising a series of attacks and a possible military coup against the government. This trial therefore set the scene for a power struggle between the AKP government and the military hence decreasing the already troubled trust between the two entities. Jenkins (2007: 354) summarises this period by saying that:

In early 2007 Turkey appeared to be heading for a period of sustained uncertainty against a backdrop of a slowing economy, fading hopes of EU accession, rising nationalism and increasing tensions with the Kurds of northern Iraq. In such an environment, and in the continued absence of a political party able to challenge the JDP, many Turks will once again look to the country's military not only as a force for stability but also as the de facto opposition to the government.

As pointed out in the 2008 Regular Report by the European Commission, the armed forces continued to exercise significant political influence, although a certain level of political control over the military was applied. It is further stressed that the members of the National Security Council (NSC) and other individual senior members of the military have continued to express their opinion on domestic and international policy issues on a regular basis. The report further underlined that no changes have been made on military-related issues, such as: the Turkish Armed Forces Internal Service Law and the Law on the National Security Council; strengthening parliamentary oversight of the military budget and expenditure; and ensuring full supervisory functions over the military (European Commission, 2008).

This period has been particularly disappointing both for Turkey to comply with the EU conditions and for the EU to provide credible and strong conditionality. Turkey failed to show its full commitment to carrying out the political reforms as part of its pre-accession strategy, and the EU failed to provide the necessary incentives to trigger institutional transformation and policy (re)formation in Turkey. Therefore, the combination of unfavourable conditions and weak conditionality has resulted in no process or policy outcome, which is associated with negative Europeanisation.

7.6. Discussion of the Results

The last decade of the 20th century has brought the issue of civil-military relations to the core of political studies, tackling issues such as national security, democratic governance of defence sector and influence of military in politics, especially in countries that are democratising or in the process of reform completion for the purpose of granting membership to various regional or international organisations. On the other hand, since the beginning of their relations, the EU has always criticised the ineffective civilian control of the military in Turkey. Within the context of EU accession and in the light of the Copenhagen political criteria, Turkey has been strictly required to

establish a 'civilian control of military forces' and restrict the military's impact on Turkish politics. Overall, the prospective EU membership has unquestionably been the 'strongest catalyst' for democratic reform in Turkey (Gordon and Taşpınar, 2004: 6). This chapter identified potential factors that can explain the conditions under which Turkey adopted or failed to adopt EU rules on the civilian control of the military. The analysis focused on the adoption of EU rules concerning the role of the military and was divided into three phases (1999-2002, 2002-2004 and 2005-2008). Primarily, it can be concluded that each phase has shown differences in terms of rule adoption, which mirror changes in the civil-military relations under the influence of EU conditionality and vary due to differences in domestic and international factors.

Overall, the analysis on the institutional transformation and policy (re)formation of the civilian control of the military in Turkey yields several empirical and theoretical conclusions. Firstly, the empirical analysis shows that although significant progress has been achieved towards civilian control of the military since the beginning of the reform process in the 2000s, the role and the responsibility areas of the National Security Council (NSC) in particular remain practically unchanged. Prompted by the existence of significant internal and external security threats, the NSC continued to function as a power centre wherein military officials enjoy a significant degree of autonomy over decisions concerning the national security; hence, these officials are heavily involved in the political decision-making process along with the political parties. Secondly, despite the changes in the composition of the NSC (i.e., changes in the number of the civilians taking part in the NSC), certain official appointments indicated that military personnel retained their strong presence and control over security matters. Thirdly, the tradition of the guardianship role of the military in Turkey remained intact as is evident in the cases of the informal mechanisms being employed by the Turkish armed forces, in addition to its continuing ability to have political influence over security related issues.

One important element that needs to be addressed here is the autonomy and the centralised organisational structure of the military, constituting the two foundational qualities of Turkey's security framework. Within the state mechanism, the military has enjoyed great power until recently. Even if the recent reforms in this area limited the power of the military to a great extent, the military bureaucracy still assumes a decisive role in domestic politics and influence over core policy areas; but they did not have a definite impact upon the complete civilianisation of the policy-making process in the security sector. The current decisive role of the military in politics helps the organisation to be immune to democratic governance and civilian oversight. It can be concluded that the key component and determinant of democratic civilian oversight of the military emerged as the government's power and capacity to utilise the means to achieve this democratic governance of the security sector. However, for the parliamentary oversight mechanisms to function properly there are certain preconditions that need to be met: the increase of legislative power of the parliament on security-related issues, the development and the framework of security policies and strategies by the parliament, and the formulation of the defence budget and expenditure by the parliament.

However, it can be concluded that the EU has failed to stimulate an 'all-encompassing' political reform process regarding civil-military relations in Turkey. The ineffectiveness of EU pressure comes from its lack of legitimacy in the area of democratic governance of the security sector since the norms on civilian control of the military do not have a fully institutionalised character in the EU. In fact, the *Acquis Communautaire*, the main body of EU laws, does not include a chapter on civil-military relations which shows that the EU lacks the ability to validate its requirements from the candidate countries that are in the process of accession negotiations. Therefore, the legitimacy of the EU rules and conditions on the issue of civil-military relations fails to explain Turkey's compliance with the EU rules and norms since it shows a low value for all three

periods; hence this lack of legitimacy falls short in explaining the differences in Turkey's level of compliance in the three different periods as it was a constant factor. This assertion is reflected in Turkey's efforts to carry out political reforms particularly between 1999 and 2004, inclusive of the first two phases.

As in the case of the legitimacy factor, the resonance of policies on civil-military relations has shown a low stance in all three periods. In the social learning model, the resonance variable refers to the legacy of the Turkish state, Kemalism and the military, and the conformity of the pre-existing rules and norms in the area of civil-military relations with that of the EU. Since the beginning of the creation of the Republic, the military has enjoyed great autonomy in Turkey and became the guardian of the state which safeguarded the unity and secularity of the nation. It was the leading actor in transforming the social, political and economic structure of the country. Due to its guardianship role, the military has quite often stepped into political affairs hence it became a conventional figure in politics. This involvement of the military in the political affairs of the Turkish state entirely conflicts with the EU's norms and practices. The EU is a strong advocate of the non-involvement of the military in politics and the respective democratic control of the military by civilian authorities. This contradiction between the already existing norms in Turkey and the norms and practices in the EU member states proves that the resonance factor cannot provide any explanation to the variance in Turkey's compliance in all three phases. Nevertheless, this factor might account for Turkey's failure to fully comply with EU demands on the role of the military.

On the other hand, one other factor that emerges as one of the domestic level factors contributing to the explanation on Turkey's compliance with the EU rules is identity, which represents target government(s)' association with the EU as an aspiring group, in addition to their internal dynamics within the social learning model. Between 1999 and 2002, Turkey carried out significant reforms on the role of the military. However, when compared to the period after 2002, one can see that the level of achievement

remains significantly low. This may be a result of the level of identification of the ruling government, the DSP-MHP-ANAP coalition. The coalition partners had a troubled start from the moment that they came to power due to their ideological differences and their divergent perceptions on the role of the military. While the DSP and the MHP stayed more moderate on the role of the military, the ANAP emerged as the only coalition partner that challenged the military's involvement in politics, which in turn made any proposal on reforming the military structure more costly to implement. However, this negative aspect of identification disappeared when the AKP came into power in 2004. As a single-party government, the AKP did not involve itself in any ideological dispute with coalition partner(s). In fact, the AKP used the prospect of EU accession as a tool to mobilise its supporters and projected its commitment to obtain a date for the opening of accession negotiations as one of the important foreign policy objectives. At the same time, the AKP put its pre-European character to the front as a strategic attempt to suppress various accusations on its Islamist character.

Furthermore, the analysis shows that there had been strong conditionality for the first and second phases. This can be explained by a combination of factors, which give strength to the impression that conditionality is effective. More specifically, both the size and credibility of the rewards offered by the EU strengthened the conditionality applied in these phases. The tangible and timely rewards, i.e. candidacy status, financial and technical pre-accession support, eligibility for participating in community programmes and opening of accession negotiations, have altogether provided a necessary catalyst for effective external pressure on domestic change in Turkey. Although these conditions are necessary for the effectiveness of conditionality, the outcome of domestic change cannot be fully achieved if these factors are not combined with favourable domestic conditions. In the first phase, the favourable domestic conditions necessary for a complete transformation (hence for positive Europeanisation) were missing. Firstly, the

domestic adoption costs in relation to civil-military relations were significantly high in the first period. Secondly, the identification of the DSP-MHP-ANAP coalition government was also problematic, due to the ideological differences between the coalition partners which negatively affected the favourable domestic conditions; therefore reducing the likelihood of having positive Europeanisation in the first period. Instead, as a result of the combination of unfavourable domestic conditions and strong conditionality, Turkey could only partially adjust its policies on civil-military relations with that of the EU and its compliance remained deficient. In that respect, the first period showed only a fractional Europeanisation in the area of civil-military relations.

On the other hand, favourable conditions were present in the second phase, which can explain the deviation in the process and policy outcome. First of all, by forming a single-party government, the AKP used the advantage of not having coalition partners which might have had ideological differences. In that respect, the AKP was more successful in terms of identifying itself with the EU compared to its predecessors. This evidently has contributed to the favourable conditions at the domestic level which is argued to be necessary for a complete domestic transformation, hence a positive Europeanisation. However, this factor cannot explain the deviation between the first and second period in terms of the process and policy outcome.

Another factor that should be taken into account, which can explain the deviation, is the size of domestic adoption costs. In the area of civil-military relations, any change in the rules for the purpose of aligning with the EU rules and conditions is costly for the target governments. This is mainly because of the position of the military in the Turkish state. It is a highly institutionalised entity with an extremely strong support system, relying on the Turkish citizens. Even if all the domestic factors would be favourable for the rule adoption and hence compliance, this fact would increase the size of adoption costs to a certain extent, which is evident in all three phases. Nevertheless, particularly in the second period, the EU as an alternative security provider persuaded the

military to leave the political arena, hence forming a 'conductive environment' for impeding reforms (Tocci, 2005: 73-83). Therefore, the AKP government has made great progress in terms of aligning its civil-military relations with the practices of the EU member states due to combining factors, such as the EU conditionality and relatively favourable domestic conditions in the second phase.

In the third phase, neither a strong conditionality, nor favourable domestic conditions were present. This eventually led to no significant process or policy outcome in this period, hence, resulting in negative Europeanisation. More specifically, any combination of factors, which bring about strong conditionality (i.e., sizable and credible rewards, legitimacy) or domestic factors for a favourable environment necessary for domestic change (i.e., low domestic adoption costs, and resonance), were missing in this period. For instance, the relations between Turkey and the EU significantly deteriorated soon after the opening of accession negotiations.

The pre-accession framework of Turkey and the enlargement agenda of the EU have been negatively affected by political matters, such as the Cyprus issue and the EU's absorption capacity, as well as the negative stance of major EU countries on Turkey's membership, including Germany, France and Austria. These matters have weakened the conditionality applied to Turkey in this period. No significant or tangible rewards were given, and, on the contrary, the EU, by suspending the opening of eight chapters in *Acquis Communautaire*, discouraged any possible reform progress under the leadership of the AKP. However, these were not the only issues that have caused the negativity over Turkey's domestic change. At the domestic level, it was seen that the AKP was also struggling to cope with the EU demands and its attention was divided over other domestic matters which has caused the AKP to move its focus away from political reforms and EU membership.

These factors irrefutably prevented any concrete attempt for Turkey's institutional transformation and policy (re)formation in all of the policy areas. Furthermore, the domestic adoption costs associated with civil-military relations were significantly high, due to the role of the military in politics in this period. Even if its role in politics has been significantly curbed in the second period, particularly after the AKP was re-elected as the ruling party and Abdullah Gül's election as the President of the Republic of Turkey, have stirred nationalist reactions from various circles including a large portion of the public and the military itself. The military has shown its reaction by making public statements indicating that the military would step in if deemed necessary for the sake of protecting the secular character of the Republic. These changes had a direct impact on the AKP's efforts or initiatives on continuing with political reforms in this period.

As previously noted, due to unfavourable domestic conditions, combined with strong conditionality, the first phase has shown a fractional Europeanisation of civil-military relations. However, the situation started to change in the second period, when the domestic conditions became relatively more favourable compared to the first period. In that respect, the combination of favourable conditions and strong conditionality has resulted in positive Europeanisation. On the other hand, the third period has shown a negative Europeanisation, due to unfavourable domestic conditions and weak conditionality. The outcome of each period is summarised in Table 7.5. It can be concluded that the empirical findings of the analysis on reforms on the role of the military in Turkey reveal that neither the external incentives model nor the social learning model are fully compatible with the specific case of Turkey in the area of the civil-military relations and on the civilian control of the military.

In that respect, the findings are in support of the argument that there is a need for further and alternative investigation on the other forms of formal and informal influence mechanisms that may trigger or limit the reforms in the

specified area. Nevertheless, it became clear that the external pressure of the EU is not the only causing factor for the overall political change in Turkey. In fact, the reforms carried out on civil-military relations within the three time periods have been the result of the interconnection between the EU accession process and the developing domestic atmosphere. As a result of these reforms, the power of the military has been noticeably restrained and its authority in some civilian institutions and influence in politics has been diminished to a great extent (Aydınlı et al., 2006: 77). In sum, the picture presented in this chapter is a complex one; and it defies easy conclusions on the strength of the EU's influence mechanisms and its impact on the reform process of Turkey. As seen in the analysis, the EU's leverage varies across policy areas and different time periods and, even when the influence of the EU is strongest, the analysis shows that the domestic politics and domestic factors must still be taken into account.

Table 7.5 Intervening factors of institutional transformation and policy reformation			
Period	1999-2002	2002-2004	2005-2008
Size of rewards (EU-level)	High (significant technical and financial rewards in return of national compliance and alignment with the EU legal and administrative framework)	High (significant rewards in return of national compliance and alignment with the EU legal and administrative framework)	Low (insignificant or no rewards); mutual deterioration of relations, negative perception of accession requirements and national progress)
Credibility (EU-level)	High (effective conditionality; significant progress in the determinacy of requirements and delivery of rewards; membership perspective)	High (effective conditionality; significant progress in the determinacy of requirements and delivery of rewards; membership perspective)	Low (ineffective conditionality; double standards, confusion; indeterminate requirements and unsuccessful delivery of rewards; diminishing or no membership perspective)
Size of domestic adoption costs (Domestic-level)	High (sensitive topic in this period; presence of veto players; unsuitable, undemocratic political environment)	Low (increasing benefits of legal and institutional alignment; increasing financial and technical assistance; prospect of opening of accession negotiations)	High (costs of compliance overweight the rewards; impact of diminishing or no membership perspective; limited incentives to proceed with institutional transformation)

Legitimacy (EU-level)	Low (vague clauses on civilian control of the military; less institutionalised clauses; no incorporation in the Acquis; no common EU policy on civilian control of the military)	Low (vague clauses on civilian control of the military; less institutionalised clauses; no incorporation in the Acquis; no common EU policy on civilian control of the military)	Low (vague clauses on civilian control of the military; less institutionalised clauses; no incorporation in the Acquis; no common EU policy on civilian control of the military)
Identity (Domestic-level)	Low (failure of the coalition partners in self-identification with the EU; diverging ideologies, different perceptions on the prospective EU membership)	High (successful identification of the ruling party with the EU; EU as an aspirant group)	High (successful identification of the ruling party with the EU; EU as an aspirant group)
Resonance (Domestic-level)	Low (embedded military culture; influence of Kemalism ideology; the military as 'guardians of the Republic')	Low (embedded military culture; influence of Kemalism ideology; the military as 'guardians of the Republic')	Low (embedded military culture; influence of Kemalism ideology; the military as 'guardians of the Republic')
OUTCOME	Conditionality partially effective; the external incentives model explains insignificant policy outcome Fractional Europeanisation	Conditionality effective, both models explain the policy outcome; compliance Positive Europeanisation	Conditionality ineffective, size of adoption costs determining factor; no policy outcome Negative Europeanisation

In the next chapter the empirical analysis of the institutional transformation and policy (re)formation will turn to the judiciary in Turkey.

8. The Reforms to the Judiciary in Turkey

8.1. Introduction

'In the modern world, [...] freedom to choose one's governor is the hallmark of a democracy' (Keong, 2010: 229). However, Keong's statement on the freedom of choice does not guarantee a functioning democracy; in fact, there are various elements, both necessary and essential, which are required for the achievement of a functioning democracy. In that respect, the protection and promotion of the rule of law can be considered as one of the necessary elements for building a democracy. This element can only be provided if there is a neutral institution, which ensures the enforcement and equal delivery of the rule of law and justice. In all democracies, this neutral institution is known as the judiciary. In this sense, the judiciary is often seen as the 'lynchpin of a democratic society and the rule of law' (Tiede, 2006: 129). Nevertheless, there are several conditions impacting upon the ability of the judiciary to fulfil its role in democracies. Mainly, it depends on whether the judiciary is an independent and impartial institution (Larkins, 1996: 606). As Keong (2010: 230) rightly points out 'a judiciary that is not independent would not be able to fulfil such a role, and would provide a weak foundation for democracy and its associated attribute (i.e., the rule of law) to flourish'.

There are a number of international and regional human rights treaties that recognise the right to a free trial and judicial independence as a hallmark of democracies. These treaties tend to provide the necessary principles and obligations on the rule of law and efficient legal systems for developing, transition or developed countries in the world. Although these treaties do not bestow an exact meaning of an independent judiciary, they sufficiently present a number of international and regional guidelines and instruments identifying the basic principles on the independence and impartiality of the judiciary (Autheman, 2004: 1). However, it needs to be noted that these treaties are not always binding, except on their member states. They intend to provide

advanced support for the principle of an independent and impartial judiciary; and, although indirectly, they also provide International and regional courts and commissions on human rights³¹ with sufficient provisions with which these bodies can elucidate the minimum standards on judiciaries.

To start with, the foundations of the principle of judicial Independence and right to fair trial lie in the Universal Declaration of Human Rights (UDHR) of 1948. Article 10 of the UDHR states that 'everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him' (United Nations, 1948). Although originally the UDHR was not binding, it eventually gained some binding effect. Secondly, the provisions of the UDHR on the independence and impartiality of the judiciary are further expanded in the International Covenant on Civil and Political Rights (ICCPR). The ICCPR recognises the right to a fair trial by an independent judiciary both internationally and regionally, and it provides obligations for its signatories and binds them legally. Therefore, the signatories of the ICCPR are required to comply with the principle of judicial independence and impartiality. In its Article 14 (1), the ICCPR provides that '... in the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent, and impartial tribunal established by law...' (United Nations, 1966).

Furthermore, the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) in its Article 6 (1) states that 'in the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law' (Council of Europe, 1950). This Convention is a reflection on its signatories' aim to enforce rights stated in the Universal Declaration, the further realisation

³¹ For example, the European Human Rights Courts, the UN Human Rights Committee, the Inter-American Human Rights Commission and Court, and the African Human Rights Commission (Autheman, 2004: 1).

of basic human rights and fundamental freedoms, and their practice in the political realm.

It needs to be noted that these three documents do not provide a clear definition of the right to a fair trial or of judicial independence and impartiality. Although they provide minimum standards that need to be achieved for an effective judicial system in the context of democratic governance, they fail to provide clear benchmarks which identify domestic courses of action and harmonisation on judicial independence. In that respect, they can be regarded as 'declaratory instruments', which are not legally binding, but which introduce widely recognised standards on all-embracing human rights topics; these instruments, by and large, represent common clauses in international law, particularly those adopted in the framework of the UN (International Commission of Jurists, 2007: 7).

Nevertheless, there are a number of recommendations that have been adopted in order to clarify the governmental instruments on judicial integrity which shed light on the notion of judicial independence as assured under the UDHR and the ICCPR. Firstly, the UN Basic Principles on the Independence of the Judiciary in 1985 summons member states to guarantee judicial independence in legal or constitutional provisions and draws attention to common standards on the independence of the judiciary. These common standards include 'separation of powers', 'technical competence', 'judicial qualifications', 'judicial selection', 'conditions of service', 'security of tenure', 'training', 'immunity', and 'judicial discipline' (Autheman, 2004: 3). For instance, the first principle of the UNBP of 1985 states that, 'the independence of the judiciary shall be guaranteed by the State and enshrined in the Constitution or the law of the country. It is the duty of all governmental and other institutions to respect and observe the independence of the judiciary' (United Nations, 1985).

On the other hand, following the initiatives of the UN, the Council of Europe has also aspired to clarify the general principles on judicial independence as assured under the ECHR and characterised under the case law of the European Court of Human Rights (ECtHR); and the CoE furthermore adopted a Recommendation on the Independence, Efficiency and Role of Judges in 1993. As Autheman (2004: 4) posits, with this recommendation, the CoE aimed 'to present in a coherent, synthetic manner the set of principles and elements that constitute "judicial independence" including the separation of powers, constitutional guarantees of independence, the jurisdiction of ordinary courts, freedom of expression and association, ethical standards, objective and transparent selection and disciplinary processes and judicial access to information'. In that respect, the Court has been standing for 'everyone's right to legal protection by an independent and impartial tribunal for all disputes regarding civil rights and obligations' (Uzelac and van Rhee, 2009: 1). The ECtHR is particularly important in defining the boundaries of judicial independence in Europe. According to the case law of the ECtHR, judicial independence is two-fold and looks at both the personal and institutional independence of the judiciary; and its main criteria for the assessment of independence involves the 'manner of appointment and length of tenure of members', 'guarantees against outside pressures', and 'the appearance of independence' (Autheman, 2004: 12).

As in the case of the military and provisions on civil-military relations, the EU relies heavily on the legal frameworks and policy benchmarks offered by a number of international and regional organisations, and uses the guidelines and standards that are provided in the international and regional treaties. Nevertheless, the EU has successfully incorporated its provisions on the judicial matters in its *Acquis Communautaire*, but these provisions do not always clearly state the demands and requirements of the EU in the area of the judiciary. Although the incorporation of the judiciary in the *Acquis* significantly increases its legitimacy in the area of the judiciary, this, however, does not

necessarily bring about clear requirements on judicial independence and impartiality. As Smilov (2006: 320) argues, in fact, a universal application of the principle of judicial independence remains as a 'myth' in the EU.

Therefore, it can be argued that although the EU has high levels of legitimacy in the area of the judiciary, the lack of having clear benchmarks and requirements on judicial independence cause severe impediments to the institutional transformation and policy (re)formation processes in candidate countries. In relation to the issues raised above, this chapter analyses the impact of EU conditionality on the judiciary in Turkey in three periods (1999-2002, 2002-2004, 2005-2008). As in the case of freedom of expression, the EU has shown a strong commitment to establishing institutions that protect and promote the rule of law in its member states, which are materialised with the adoption of extensive legislation within the EU. Furthermore, the principles of judicial independence and impartiality are incorporated in the 23rd chapter of the *Acquis Communautaire*, legally binding all the Member States within the EU (European Commission, 2012a). This chapter underpins the importance of having a common policy on 'freedom, security, and justice' based on integrated and cohesive legal frameworks necessary for the reliability and effectiveness of institutions ensuring respect for civil rights within the EU (European Union, 2012b).

Furthermore, the Copenhagen Criteria also provide additional requirements that concern judicial independence and impartiality. The Copenhagen criteria specifically require '[...] stability of institutions guaranteeing democracy, the rule of law [...]' (European Council, 2002). Therefore, it can be argued that the Copenhagen Criteria entail the establishment and effective functioning of the institutions that serve for democratic governance. In light of this context, this chapter examines Turkey's alignment with the EU's rules on the judiciary. This chapter therefore mainly focuses on Turkey's efforts towards incorporating the legal and institutional

requirements, as well as international cooperation, to uncover the EU's impact on domestic change in Turkey in the area of the judiciary.

As in the previous empirical chapters, the analysis in this chapter concentrates on the EU-level and domestic level factors put forward by the external incentives and the social learning models. These factors are: size of domestic adoption costs, credibility of conditionality, size of rewards, legitimacy, identity, and resonance. Since the judiciary covers a broad field within democratic governance, this chapter intends to restrict the focus of analysis on the judiciary's independence and impartiality as these constituents are among the most important aspects of Turkey's democratisation required by the EU.

This chapter finds first that, although sharing the same principles on judicial independence and impartiality with the EU, Turkey has struggled to meet the demands and requirements of the EU in terms of transforming its judicial institutions and (re)forming its judicial practices. This in turn has created problems in terms of the resonance of existing rules in Turkey with EU rules. Although the constitutional provisions mirror the compatibility between the Turkish rules and the EU's rules, the failure to implement these rules in practice significantly reduces the level of social salience and resonance of the policies on the judiciary in Turkey. Moreover, although the EU's legitimacy in this area remains high across the three periods analysed here, it is also observed that high levels of legitimacy do not always result in clear benchmarks on the concerning area. In that respect, it is observed that the lack of clear benchmarks have put successful and complete institutional transformation and policy (re)formation at risk in the area of the judiciary.

Secondly, this chapter finds that neither the external incentives nor the social learning model can explain the diverging process and policy outcomes in different periods on its own. Firstly, strong conditionality combined with unfavourable domestic conditions in the first period of time can explain the

fractional Europeanisation outcome. The key factors that explain this outcome are the sizeable and credible rewards for strong conditionality, and the lack of identification and high domestic adoption costs resulting in unfavourable domestic conditions. Secondly, strong conditionality combined with favourable domestic conditions in the second phase mirror positive Europeanisation as the process and policy outcome. This diverging outcome can mainly be explained by the changes at the domestic level where the key factors appear as low levels of domestic adoption costs and the identification of the government with the EU. Lastly, the third period shows that no significant process or policy outcome was achieved due to weak conditionality and unfavourable domestic conditions in this period.

The analysis in this chapter begins with the conceptualisation of the judiciary, and judicial independence and impartiality based on classical traditions of democratic theory. This section provides the rationale behind the selection of the judiciary as a policy area that is exposed to institutional transformation and policy (re)formation in relation to Turkey's democratisation efforts under the influence of EU conditionality. The following section provides a historical overview of the internal dynamics in Turkey in relation to the judicial practices; and aims to shed light on the domestic context in which Turkey seeks to align with the EU's rules and practices in the area of the judiciary. It is then followed by a discussion on EU conditionality and the judiciary in order to identify how the EU engages with issues on the judicial independence and impartiality in relation to the accession framework of candidate countries. It also provides the legal instruments of the EU on the institutional transformation and policy (re)formation in the area of the judiciary. The final section provides the policy processes and outcomes in three phases (1999-2002, 2002-2004, 2005-2008). This chapter concludes with a discussion on the results.

8.2. Conceptualisation of the Judiciary

Many scholars of political science have so far emphasised factors such as 'modernisation', 'socialisation', 'economic development', 'civil society', and 'social capital' as being the most important determinants of 'political' and 'civil' rights (Lipset, 1959; Cohen and Arato, 1992; 1997; Putnam, 1993; Linz and Stepan, 1996). Although these studies have not identified the role of the judiciary as an important factor for the protection of fundamental political rights in a democratic political system, it would be misleading to argue that these scholars have ignored the analysis of judicial independence so far. In fact, a number of relatively recent studies have examined different aspects of the importance of the independence of judiciary and its implications on political and human rights (Cross, 1999; Keith, 2002a; 2002b). These studies particularly focus on the measurement of judicial independence and influence of 'constitutional provisions' and 'judicial power provisions' on political and human rights; and emphasise that for an efficient and legitimate democratic government to exist, an institutionalised and functioning judicial independence is crucial.

Modern representative democracies require a wide range of autonomous organisations and associations to create and preserve pluralistic civil society. These autonomous organisations and associations are therefore entitled to assure equal considerations given to individuals and to protect their rights and interests (Dahl, 1998: 117-118). In these democracies, constitutional stability emerges as a key component of the political system since it implies the adoption of a supreme constitution constraining and balancing existing political authorities, protecting human and minority rights, and assuring the supremacy of rule of law. In that respect, having a constitutional state implies a state of 'justice' requiring a 'legal and judicial' system (Diamond, 1999: 12).

Therefore, it can be argued that democracies should allow a distribution of power within politics and advocate the establishment of a system with checks and balances between the legislature, the executive, the judiciary and the administrative bureaucracy. In fact, an institutionalised and functioning independent judiciary is a necessary condition for democratic legitimacy for the protection of political rights (Russell and O'Brien, 2001). It can be argued that even if institutions, such as political parties, executives, supremacy of rule of law, active civil society and non-governmental organisations, along with media and functioning economy, should exist within a democracy, the presence of independent judiciaries is still required to assure the rights of individuals, or minority or majority groups against any political oppression imposed by the rulers as an essential determinant of a democratic political system (Howard and Carey, 2004: 284).

An efficient and impartial judiciary which is able to provide the rule of law constitutes one of the key components of the political and social structure of democracies. For the consolidation of democracy (in other words, building a more accountable, representative and receptive democracy), it is necessary to disperse power in politics, particularly by increasing the independence and impartiality of the judiciary. In that respect, a judicial system in a democracy should have a high level of institutional coherence, capacity and autonomy (Diamond, 1999: 75). As Boies (2006: 58) argues, 'judicial independence and judicial supremacy work together in an attempt to guarantee that the rule of law will not be eroded by the political pressures in existence at any particular point in time'. The main conditions of having an effective legal system within democracies include: independent and impartial judges and prosecutors; sufficient financial and technical resources; and clearly-formed laws, which are democratic in nature. In that respect, for a functioning democracy, a 'stable and legitimate' governmental structure, along with the rule of law and civil liberties, is essential for the perseverance of effective democratic governance (Hänggi and Tanner, 2005).

Furthermore, it can be argued that the judiciary is one of the important mechanisms for safeguarding democracies since the judiciary acts as a control mechanism for the separation of powers between the executive and the legislature, by operating certain checks and balances over the two branches of the government. It is also important to note that the independence of the judiciary is vital for a functioning democracy since it contributes to the protection of the rule of law, as well as the rights of citizens. Judicial independence therefore produces greater political and civil rights, and liberties in democracies (Howard and Carey, 2004: 286). As previously noted, for analytical purposes, the impact of the EU on the judiciary will be analysed by focusing on judicial independence and impartiality. By focusing on these components, the intention is to trace their process in three different time periods with respect to the impact of the independent variables that are introduced by the theoretical models of this study.

8.3. Internal Dynamics of Turkey Concerning the Judiciary

As noted in previous chapters, after the establishment of the Republic of Turkey in 1923, the founder of the Republic, Mustafa Kemal Atatürk, initiated an array of reformist initiatives and he pointed to the west as the destination of the new and modern Turkish nation. One of the first reform initiatives in this period was the adoption of the Civil Code and the Code of Obligations of Switzerland in 1926. This Civil Code of Switzerland was considered as the most recent and the most reformist civil act at that time in Europe. Also, in 1926, a new Criminal Code was adopted from the Italian Criminal Code, which was then replaced after sixty years in 2005 in order to include principles of the EU. Again in 1926, a new Code of Commerce was enforced, influenced by German and Swiss laws. The entire legal system of Turkey is based on the Roman and Continental systems; and its fundamental principles promote secularity, equality among citizens, the independence and

impartiality of the judiciary, the rule of law, as well as the protection of human rights and freedoms (Tuncay, 2007: 242-243).

The functioning of the Turkish judicial system is regulated by Articles 9, 36, 37 and 40 of the Turkish Constitution, where the 'independence of the judiciary', the 'right to a fair trial' and 'guarantee of lawful judgement' are preserved (Aydın and Çarkoğlu, 2004: 13). Furthermore, 'separation of powers' is one of the principles of the Turkish political system; and the principle of judicial independence is guaranteed in the Turkish Constitution. In line with this principle, Article 9 of the Constitution states that judicial power is and should be exercised by independent courts on behalf of the nation. Article 138 also indicates that the rule of law can only be sustained by the independent functioning of the judiciary; and there shall be no other organ or authority that may command the jurisdiction of the courts or the judges. Furthermore, Article 142 of the Constitution states that the organisation, duties and jurisdiction of the courts, their functioning and trial procedures shall be regulated by law (Republic of Turkey, Constitutional Court, 1982). Despite these guarantees, the principle of independence is challenged by a number of constitutional provisions which provide for an overpowering bond between the executive and the judiciary, particularly when administering the selection, training and appointment of the judges (Aydın and Keyman, 2004: 42).

In the early days of the Turkish Republic, Turkey persistently followed the strong state tradition since the Ottoman Empire times, where the notion of the state as the absolute authority was widely recognised (Heper, 1985; Özbudun, 1994). In view of that, even after the establishment of the Republic, the political arena was subjugated to the control of elite military officials, high-level bureaucrats and the judiciary (Özbudun, 1994: 191; Heper and Keyman, 1998: 259). Nevertheless, with the transition to multi-party democracy in 1946, the state elite (consisting of the aforementioned groups) and the political elite (consisting of the newly-established political parties) started to clash over the general interests of the nation and the welfare of the state. Although both

groups aimed for the same objective, their attitude differed significantly. The state elite, including the judiciary, followed the Kemalist ideology and perceived themselves to be the guardians of the state and the national interest (Özbudun, 1994: 196-197).

In that respect, the judiciary in Turkey constitutes one of the important factions within the state elite. Its primary goals include the protection of the state (Sütçü, 2011: 2); the identification and promotion of a new legal system in a democratic setting (Scheppelle, 2005); and the endorsement of the democratic regime (Shapiro, 1986: 155). When examining the history of the judicial system of Turkey, one can see that the constitutions of 1961 and 1982 play important roles in terms of defining the scope and the role of the judiciary. As discussed previously, prior to the 1960s, Turkey had been ruled by the Republican People's Party (CHP) from the beginning of the establishment of the Republic in 1923, until 1950, four years into the transition to multi-party politics in 1946. As a single-party rule that dominated Turkish politics in this period, the CHP was in control of the political scene and of the state bureaucracy (Shambayati and Kirdiş, 2009: 770).

In 1946, Turkey adopted a multi-party system with the inclusion of Democrat Party (DP) in the upcoming elections. Ahmad (1977: 162-163) argues that the military intervention in 1960 occurred due to the DP's failure to adhere to Kemalist reforms, and to respect the state's main institutions and the military, and its failure to keep close ties with the courts, judges, universities and the press. In this context, the 1961 Constitution clearly reflects the guardianship role of the judiciary, standing against the political elite and the judgements of the political authority in that period (O'Donnell, 1999: 38; Sütçü, 2011: 2).

It can be argued that, in some ways, the intervention of 1960 aimed to reunify the political actors in order to continue with the modernisation process and the consolidation of democracy. Constitutional lawyers were then asked to

prepare a new constitution in the aftermath of the intervention by the military. Heper (1985: 89) notes that the constitution makers were committed to carrying on with the principles of electoral democracy, but at the same time, they had the intention of continuing with revolution and transforming society; and in this context, the 1961 Constitution was seen as a 'last-ditch effort by the bureaucratic intelligentsia to set the substantive, as well as the procedural rules of the political game in Turkey'. The 1961 Constitution recognised the judiciary as a 'semi-autonomous' institution 'beyond the reach and control of the government' (Aybay, 1977: 24); and the judiciary's role in this system was defined in terms of protecting the autonomy of the political institutions. In that respect, the judiciary was highly involved in politics in this period and it exercised judicial reviews of the decisions of the political authorities (Stone Sweet, 2000; Guarnieri and Pederzoli, 2002) reflecting on its primary responsibility of protecting the secular character of the state.

Therefore, it can be claimed that the 1961 Constitution strengthened guarantees of the independence of the judiciary and expanded the internal autonomy of the judiciary itself and the power of its individual organs. The newly established Supreme Council of Judges was given the responsibility of carrying out internal judicial affairs, including the appointments and promotions of the judges. In addition, the Council of State, a system of administrative courts, was reformed and given additional responsibilities, such as the assessment of all administrative acts (Kili and Gözübüyük, 2000b). However, the military intervention of 1980 complicated the civilian transformation of the political system. The reasons for the intervention of 1980 were generally connected to the military's loss of faith in various civilian institutions, including the political parties, the state bureaucracy, the judiciary, the universities and civil society. From the military's point of view, these institutions were unable to represent the interests of the nation. Hence, the military took power and direct control of the making of a new constitution. In the process of constitution-making, the aforementioned actors and institutions

were deliberately excluded; and the responsibility was solely given to the military officers, high-level bureaucrats and law professors (Shambayati and Kirdiş, 2009: 773).

It can be argued that the 1982 Constitution envisaged a more 'direct' role for the military and the judiciary for the prolongation of the 'civilising mission' set in motion in the early years of the Republic. In contrast to the 1961 constitution, the 1982 constitution's general characteristics referred to the purpose of the state as the transformation of the nation, the state's commitment to protecting its hegemony and dominance over political institutions. In this context, the role of the judiciary was defined as an 'administrative attaché of state elites [in] overseeing the political arena' (Shambayati and Kirdiş, 2009: 778), with state elites being the members of the executive and the legislative as well as the high bureaucracy and the military.

Along with secularism, the role of EU membership reflects on one of the main roles of the courts in candidate countries like Turkey, where the idea is to transform society through 'civilising missions'. In that respect, along with other high courts in Turkey, the Turkish Constitutional Court has been carrying out the objective of judging political actors based on their commitment to what is known as Kemalism, in a way, extending the powers and the reach of the state, rather than limiting its authority and command. In that respect, the simplistic version of the main role of the Turkish Constitutional Court (TCC) and other high courts is to 'regulate the political arena and to facilitate the transformation of the society through state action' (Shambayati and Kirdiş, 2009: 767).

Currently, the independence of the judiciary is at risk due to the legacy of its guardianship role of the state and the close association the judiciary has with the executive. There are several ways through which the executive influences the workings of the judiciary in Turkey. Although the principles of

independence and impartiality are enshrined in the constitution, the practices reveal that these principles are widely undermined. Among the most problematic issues regarding this includes the role of the High Council of Judges and Prosecutors in controlling the career paths of the judges and prosecutors in Turkey.

Furthermore, the institutional set up of the High Council of Judges also major risk for the independence of the judiciary. Since the High Council is chaired by the Minister of Justice, and one of its board members is the Undersecretary of the Ministry of Justice, the executive and the judiciary are strongly linked with each other, which increases the 'risk of political partiality' (Kırca, 1996: 105-110; Aydın and Keyman, 2004: 42). Apart from the composition of the High Council, it is also important to note that the Ministry of Justice established an inspection board for administrative tasks and has a personnel directorate that the High Council should comply with, which implies that the decisions of the High Council are reviewed by the executive, which contradicts with the notion of judicial independence and the principle of the rule of law (Aydın and Keyman, 2004: 42).

Furthermore, another issue that puts judicial independence at risk in Turkey is identified as political favouritism. For instance, particularly at the point of entry in the judicial career, the Ministry of Justice is highly involved, as the Ministry itself is in charge of conducting written and oral exams which potentially lead to groundless appointments of candidates in the judiciary. This in fact also reflects the deficiencies in the independence of the judiciary, starting at the entry level for the judicial profession (Aydın and Keyman, 2004: 42-43).

It is argued that the EU can trigger the institutional transformation and policy (re)formation of the judiciary in Turkey in two ways. Firstly, the EU can provide effective and sufficient incentives through financial and technical assistance to improve the institutional structures and the administration of the

judiciary; and secondly, but most importantly, through expert training to make an ideological change in the mindset of judicial personnel. As Aydın and Keyman (2004: 45) argue that one way of achieving this is through the improvement of the education system concerning the judiciary. They point out that the current education system fails to provide learning based on analytical reasoning and that it should be reformed 'Inspired by the practices in other European countries', which would help Turkey to align its practices with those of the EU, and enhance the expertise of the judiciary on EU law and international human rights.

It is argued that this could be achieved with the EU's assistance to Turkey by developing better quality in law education, by establishing exchange programmes for students, and through twinning programmes, which would make the expertise of the EU member states available to candidate countries. In fact, as one interviewee put it, the twinning programmes were particularly beneficial for Turkey since these programmes made expert cooperation possible; and as a result of the profound collaboration between the EU experts and Turkish officials, many amendments could be made in the structure of institutions and policies could be reformed (Interview, Political Officer on Legal Issues, Political affairs, CFSP, press and information section, Delegation of the European Union to Turkey, 2012).

In support of this, another interviewee stated that the extensive education programmes on the European Human Rights Law, supported by the EU, have significantly contributed to the training of judges and prosecutors, and helped to eliminate many anti-democratic judicial practices, particularly in the area of human rights. As a result of these education programmes, judges and prosecutors started to refer to the EU law, which can be considered crucial for the transformation of the judiciary in Turkey (Interview, Member of the Foreign Affairs Committee of the Parliament, 2012). It is also further suggested that, within the pre-accession framework of Turkey, Turkey's participation in two EU programmes, firstly, the Framework Programme for

Judicial Cooperation in Civil Matters, and secondly, AGIS, a framework programme to enhance cooperation between the judiciary and professionals in criminal matters, would be beneficial for Turkey to promote networking and exchange experience, information and best practices (Aydin and Keyman, 2004: 44-45). Overall, it can be argued that these initiatives could enhance the administrative and judicial capacity in Turkey, which is crucial for the reinforcement of the *Acquis Communautaire*.

8.4. EU conditionality and the Judiciary in Turkey

Justice, liberty and security are among the major issues at the top of the EU's agenda. From the very beginning of the integration process, the EU has comprehended the importance of having compatible judicial systems among its member states, in order to make its own judicial practices operational and effective at the community level. In the area of the judiciary, the EU therefore aims to ensure that all EU citizens have the same access to justice throughout the EU. In fact, in order to attain judicial cooperation that involves all the member states and in order to deal with their complexities and incompatibilities on judicial matters, the EU is inclined to develop an action plan concerning 'better access to justice', 'mutual recognition of judicial decisions' and improved 'convergence' in procedural law (European Commission, 2012b).

Given this dependency of the EU on judicial restructuring in its member states, the reform of the judiciaries in the candidate countries, carried out under their pre-accession preparations, became vitally important (Kochenov, 2008: 232); and over the course of its integration process, the EU has made significant improvements in this policy area, which are materialised in the form of the adoption of extensive pieces of legislation. As Petrov and Kallnichenko (2011: 326) argue, without the Europeanisation of the judiciaries in candidate countries, neither the *Acquis Communautaire* nor the European norms and values on the judicial independence can be promoted.

In the broadest sense, the EU policies concerning the judiciary and fundamental rights intend to develop the EU as an area of 'freedom, security and justice' (European Union, 2012b). As previously mentioned, the presence of an independent, impartial and efficient judiciary is of great importance to provide this area within the EU. The EU's strategic objectives on the reform of the judicial system in candidate countries mainly include cooperation in the field of freedom, security, and justice, the consolidation of democratic values and institutions, the protection of human rights and fundamental freedoms, and efficient and democratic institutions and policy-making instruments (Pottakis, 2009: 351).

It is generally argued that for the safeguarding of the rule of law it is essential to have a functioning judicial system providing 'impartiality', 'independence', 'integrity' and a high standard of 'arbitration'. As the EU puts it forward, to obtain these characteristics, it is required to eliminate any external influence over the judiciary and provide necessary and adequate technical and financial assistance, and professional training. Similarly, in this particular area, the EU promotes effective anti-corruption policies within Member States as it constitutes one of the major challenges on the stability of democratic institutions and the rule of law. For the deterrence of corruption, the EU requires that each Member State has a 'solid' legal framework and 'reliable' institutions, guaranteeing respect for fundamental rights and freedoms as stated in the Community Acquis and the Fundamental Rights Charter (Delegation of the European Union to Turkey, 2012).

It can be argued that the incorporation of a chapter on 'Judiciary and Fundamental Rights' (Chapter 23) in the Acquis Communautaire, the main body of common rights and obligations binding all the Member States is a major step for the EU's legitimacy in this area. This Acquis chapter mainly stresses the importance of the independence of the judiciary and regards 'impartiality, integrity and a high standard of adjudication by courts' fundamental for protecting the rule of law. In that respect, the EU stresses that

the law applied within Member States should be subject to equal methods, and checks and balances, provided by the judiciary and independent from all institutions, including the government (European Commission, 2012b). Furthermore, in light of the considerable increase in judicial cases and workload, along with the latest enlargement of the Union to 27 Member States, necessary measures were taken in the Nice Treaty in 2001 to improve the general operation of the judicial system of the European Union. The main reforms in this area concerned the composition and the strengthening of the Court of Justice and the Court of First Instance, the division of jurisdiction between these two courts, and their rules of procedure (European Commission, 2012b).

Nevertheless, it must be noted that there are a number of official documents in which the direction of the judicial reforms for the candidate countries in the context of pre-accession was specified. First of all, although vaguely stated, the Copenhagen political criterion of democracy and the rule of law can be identified as the main criterion in relation to the importance of the judicial reforms in candidate countries. In fact, the criterion mainly focuses on the stability and efficiency of the judicial institutions where it reads as 'stability of institutions guaranteeing [...] the rule of law' (Copenhagen European Council, Council Presidency Conclusions, 1993). This, in turn, is argued to be detrimental for providing clear indications on what the EU requires in terms of judicial reforms in candidate countries (Smilov, 2006: 320-321).

However, more specific statements and requirements on the judicial reforms were later on provided in the Commission's Regular Reports, Composite and Strategy Papers followed by the Accession Partnership documents, and the Action Plans for Strengthening of Administrative and Judicial Capacity. Although they have structural differences, all these documents emphasise the importance of the (re)formation of the national judicial structures and the improvement of their structural weaknesses in candidate countries. Although the recommendations and specific requirements

are at most times not clearly defined, these assessment tools are considered to be useful in terms of providing a general discussion on the judicial reforms and sufficient information for drafting a national response by the candidate countries, in the course of their pre-accession process (Kochenov, 2008: 244).

Furthermore, as part of its pre-accession framework, the EU provided Turkey with an Accession Partnership (AP) document in 2001, which was then revised in 2003 and 2006. The AP is regarded as a roadmap for recognising the priorities as well as short-term and medium-term measures need to be taken on political reforms including in the area of the judiciary. The document sets the objectives that are the centre stage on the reform of the judiciary, as well as the objectives that are high on the reform agenda. The substantial list of priorities and tasks that Turkey is expected to undertake can be found in Table 8.1. In addition to the APs, the Regular Reports issued by the European Commission provide a formal assessment tool for candidate countries where their annual progress in meeting the EU’s requirements is evaluated by the EU.

Table 8.1 EU requirements on the judiciary in Accession Partnerships	
EU Requirements	Date and Timescale
<p>Improve the functioning and efficiency of the judiciary including the State security court in line with international standards;</p> <p>Strengthen in particular training of judges and prosecutors on European Union legislation, including in the field of human rights</p>	<p>2001 Accession Partnership (Short-term)</p>
<p>Strengthen the independence and efficiency of the judiciary and promote consistent interpretation of legal provisions related to human rights and fundamental freedoms in line with the European Convention on Human Rights;</p> <p>Take measures with a view to ensuring that the obligation for all judicial authorities to take into account the case-law of the European Court of Human Rights is respected;</p> <p>Align the functioning of State security courts with European Standards;</p> <p>Prepare the establishment of intermediate courts of Appeal</p>	<p>2003 Accession Partnership (Priorities 2003/2004)</p>

<p>Ensure consistent interpretation of legal provisions, including the new penal code, related to human rights and fundamental freedoms by all judicial authorities in line with the European Convention on Human Rights and its related case law;</p> <p>Ensure the independence of judiciary, in particular as regards the High Council of Judges and Prosecutors and the appointment of new judges and prosecutors;</p> <p>Ensure equality of arms between the prosecution and defence during criminal proceedings, including layout of courtrooms;</p> <p>Continue the training of judges and prosecutors on the application of the European Convention on Human Rights and the case law of the European Court of Human Rights;</p> <p>Strengthen the efficiency of the judiciary through, in particular, reinforcing its institutional capacity and adopting a new code of civil procedure;</p> <p>Proceed with the establishment of regional intermediate courts of appeal</p>	<p>2006 Accession Partnership (Short-term)</p>
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It can be argued that the pre-accession reform of the judiciary stands out in many respects from the reforms of other branches of power for many reasons. Following the argument that judicial independence and impartiality are vital elements of an effective judicial system and necessary for the functioning of democracies, it can be argued that Turkey has been experiencing structural and legal problems in terms of providing a strong and properly functioning judiciary. On the other hand, EU conditionality on the judicial system of Turkey has revealed a complex picture.

Although the pre-accession strategies generated an exceptional momentum for judicial reform, the EU failed to ensure that the accession conditions with respect to the judicial reforms were clearly defined and consistently applied across the EU, both to the current Member States and the candidate countries. In fact, it has been noted in the EU monitoring programme of the Open Society Foundation (OSI) that 'the Union itself needs a more comprehensive approach to the reform question'; and that there are few specific standards on the organisation and functionality of the judiciary and that the expert support system remains 'uncoordinated' and 'ineffective' (OSI, 2002). In the case of Turkey, it can be argued that although the requirements and conditions on judicial reform are incorporated into the EU's legal

framework and the *Acquis Communautaire* (Chapter 23), the standards and specific recommendations made by the EU institutions have not provided clear indications for the Turkish government. This has had direct implications for Turkey's democratisation efforts and judicial reforms.

On the other hand, although the main principles of judicial independence and impartiality are embedded in Turkey's political culture, and they are in alignment with that of the EU's principles, the current practices in Turkey show that these principles are frequently neglected. This negligence, arising from the incompetence and politicisation of the judiciary, in turn causes severe threats to the protection and promotion of the rule of law in Turkey, which also creates challenges for Turkey's compliance with EU conditionality. As previously noted, since the Copenhagen criteria require the stability of institutions guaranteeing democracy and the rule of law, it became a formal requirement for Turkey to meet the needs of democratisation and the rule of law by transforming its judicial structure and to ensure its effectiveness. Turkey was therefore specifically required to solve the problems of the politicisation, independence and impartiality of the judiciary; and deal with its systemic problems by introducing new standards for higher quality of judicial practices and by harmonising its judicial procedures with that of the EU (Uzelac and van Rhee, 2009: 2).

More specifically, the EU's main criticism exerted on Turkey in terms of its judicial practices is directly linked with the 'independence' and 'impartiality' as well as the deep-rooted structure and procedures of the judiciary (Türkmen, 2008: 155). This is evident in the report prepared by advisors Karl Bjornberg and Ross Cranston on behalf of the EU Commission, in which they explicitly stated that 'to an unacceptable degree, judicial independence in Turkey appears to be threatened by potential interference of the Ministry of Justice despite the various constitutional guarantees' (European Commission, 2005b). Nonetheless, the institutional transformation and policy (re)formation in this area are not only important for Turkey's democratisation process, but also for

the EU itself. In fact, as is evident in the cases of accession to the EU, the EU became directly dependent on the way the national judiciaries function in the new Member States. This dependency can be explained by referring to the equality principle in terms of the effective delivery of justice among the individual Member States; and also by emphasising the importance of accepting the EU's fundamental principles on the judiciary and their implementation. In that respect 'the reform of the judiciary in the candidate countries can be viewed as an activity virtually internal to the EU' (Kochenov, 2008: 228-229).

8.5. Assessment of the Policy Process and Policy Outcomes

In the following sections, the impact of EU conditionality on the independence and impartiality of the judiciary in Turkey is examined across three periods, as was the case in the previous empirical chapters. The first phase of analysis (1999-2002) starts with the decision of the European Council at the Helsinki Summit in 1999, where Turkey was granted EU candidacy status. The ending of the first phase (also the beginning of the second phase, 2002-2004) coincides with the early general elections held in Turkey where the Justice and Development Party (AKP) established the first single-party government to come to power since 1987. The third phase (2005-2008) of analysis starts with the opening of accession negotiations and covers the period where the accession negotiations were actively pursued. The analysis will again focus on six variables (size of rewards, credibility, size of domestic adoption costs, legitimacy, identity, and resonance) in these specified periods in order to identify the causal relationship between EU conditionality and institutional transformation and policy (re)formation in Turkey in the area of judicial independence and impartiality.

8.5.1. Phase I: 1999-2002

Recall that after the fall of the minority government in November 1998, a general election was held in April 1999, where the DSP and MHP became the two parties with the largest share of votes; together with the ANAP, the DSP and MHP formed a coalition government in June 1999. The coalition government made a swift start on legislative activities with the intention to adopt new laws and regulations necessary for the progression of democratisation in Turkey. However, as noted in the previous chapters, the ideological differences between the partners caused certain setbacks on political reforms and negatively affected the government's identification with the EU. Nevertheless, the coalition partners managed to have a rather moderate pro-European perspective in this period and they remained committed to carrying out reforms to attain full membership to the EU, regardless of disputes amongst themselves.

On the other hand, recall that the domestic conditions in this period were not suitable for significant legislative changes. Following the formation of the coalition government, a serious financial crisis hit Turkey in November 2000 and another crisis in February 2001. The crises caused serious difficulties on the political front. The ideological differences between the partners resulted in their unsuccessful attempts to design domestic policies to cope with the consequences of the unexpected financial downturn. There were also public debates on the issue of the headscarf ban in universities and the influence of the military, as well as the secularist bureaucratic circle, on the issue of the headscarf ban. The issue of 'concessions' on minority rights, including the socio-cultural rights of the Kurdish minority, caused further tensions between national political actors and European political elite (Aydın and Çarkoğlu, 2004: 6-7). Furthermore, due to the emergence of Kurdish separatism and terrorist activities, the state's capacity to fully engage in EU-induced reforms was limited, and any political reform in order to meet the EU's requirements in this

period were considered to carry high domestic adoption costs for the coalition government.

One of the main issues with regard to the judicial reforms in this period appeared as the EU's requirement on the main legislative change in the functioning of the Turkish judicial system concerns the reform of the State Security Courts (SCCs). SCCs in Turkey deal with crimes with political relevance. In previous years, the European Court of Human Rights stressed that the presence of a military judge in the SCC committee infringed upon the European Convention of Human Rights. Given that, the European Court reassessed judgements on thirteen cases put forward by individuals between 1994 and 1995. In nine of these cases, the Court concluded that the individuals were not given the right to have their trial by an 'independent and impartial tribunal' as a result of the fact that they were judged by a military judge in the SCC (European Commission, 1999).

Nevertheless, in June 1999, just after the coalition government came into power, several constitutional and legal amendments were made in order to remove the military judge in the SSC, based on the recommendations of the European Commission. The Turkish Grand National Assembly (TGNA) adopted those constitutional amendments and they entered into force at the end of June 1999. Consequently, the military judge serving in the SSC in Ankara, who was also in charge of the trial against the PKK leader Abdullah Öcalan, was replaced by a civilian judge immediately after the constitutional amendment. This change in the structure of the SSCs was welcomed by the European Commission and seen as a promising improvement in the overall functioning of the judicial system of Turkey (European Commission, 1999).

It is also important to note that the coalition government made a number of proposals on the functioning of the judicial system, including a draft Penal Code banning the death penalty, a draft law called the 'Law on the prosecution of civil servants and other public officers' which facilitated the

prosecution of public officers, and a draft law amending the Code of Criminal Procedure so that it included new procedures on witness protection, payment of compensation to witnesses, physical examination and genetic analysis. Furthermore, the government also proposed to improve the current training programmes for judges and prosecutors (European Commission, 1999). These proposals mirror the coalition government's swift efforts in meeting the EU's demands. However, real success of alignment with the EU's rules and practices cannot be achieved with such proposals. In that respect, the constitutional amendments in 1999 can be considered successful in terms of rule adoptions, but not sufficient since their implementation remained problematic.

For instance, following the constitutional reforms, the European Commission in its 2000 Regular Report stated that Turkey had shown a 'positive' development in terms of embarking on transforming Turkish society by means of political reforms necessary for accession to the EU. However, the Commission underlined the fact that, although Turkey had the 'basic' features of a democratic system, it had been failing to implement the institutional reforms. More specifically, the Commission noted on the judiciary matters that the new procedure facilitating the prosecution of civil servants was an 'encouraging' development; however, the draft laws on the functioning of the judiciary proposed in the previous reports were still 'pending' and stated that no further improvement had been achieved in terms of regulating the State Security Courts (European Commission, 2000).

More specifically, in its 2000 Report, the Commission noted various positive developments. Among these was first the increase in the number of judicial personnel fitting the existing needs of the extra staff by the Ministry of Justice. Secondly, the adoption of a new law on the prosecution of civil servants and state officials (as proposed in the previous report) was accepted as an encouraging development by the Commission. Thirdly, the Ministry of Justice had made significant progress in terms of ensuring the compliance of the proposed legislations with the Copenhagen criteria concerning issues such

as the establishment of a judicial police and the creation of an Ombudsman's office. Fourthly, the Commission welcomed the induction of training programmes for judges and prosecutors covering issues such as the measures for the effectiveness of the judiciary, alternative measures for imprisonment, human right issues and the EC Law (European Commission, 2000).

However, the Commission criticised Turkey based on its slow progress in taking measures to increase the efficiency of the judicial system. Furthermore, other important draft laws, such as a draft Penal Code and law amending the Code of Criminal Procedure, remained to be adopted; and the question of the SSCs still had not been addressed based on the evidence that no further amendments had taken place after the removal of the military judges from these Courts and due to the incompatibility with the standards existing in the EU on the functioning, powers and responsibilities and other provisions relating to the proceedings of these Courts (European Commission, 2000).

As stated previously, since the EU adopted and incorporated various norms and conditions on the judiciary in its legal framework, and in the Acquis, it thus provides a legitimate policy on the independent and effective functioning of the judiciary across the three periods. However, the vagueness on the EU's requirements, specifically on judicial independence and impartiality, has caused severe problems for reforms of the judiciary in Turkey. Nevertheless, as part of its pre-accession framework, the EU states its expectations in terms of Turkey's rule adoption and further implementation in the policy area of the judiciary through the Accession Partnership (AP) Document. For instance, the AP of 2001 made a strong connection between Turkey's 'alignment' and the EU's 'conditionality'. As a medium-term priority, the EU required the strengthening of the independence and efficiency of the judiciary, and the alignment of legal provisions concerning human rights and fundamental freedoms, in accordance with the European Convention on Human Rights (European Council, 2001b).

As a response to the Accession Partnership of 2001, Turkey prepared the National Programme for the Adoption of the Acquis (NPAA) in March 2001. In practice, the NPAA includes the list of the issues under the reform process and gives references to the areas that the Turkish government is planning to amend or change in accordance with the EU's criticisms and requirements. For instance, regarding the concerns raised by the EU in the Commission's Regular Report, the NPAA replied in 2001 by stating that the Turkish Government gives particular importance to the improved functioning and effectiveness of the judiciary, and it plans to review the constitutional provisions on the SSCs and the Act on the Establishment and Procedures of the State Security Courts; to introducing a constitutional provision to establish legal defence as one of the fundamental elements of the judicial process; to reviewing provisions infringing upon the independence of the judiciary; and to providing regular training on human rights and the decisions of the European Court of Human Rights for Turkish judges and prosecutors (Republic of Turkey, Ministry for EU Affairs, 2001).

With this NPAA, the government clearly showed its commitment to reforming the judicial structure of Turkey in a way indicating the willingness of Turkey to align its own judicial practices with that of the EU. Given that, it can be concluded that the DSP-MHP-ANAP coalition reasonably carried out political reforms which resulted in significant amendments to the Turkish Constitution in October 2001, followed by the adoption of legislation to enforce and implement these amendments (Kirişçi, 2004a: 277). In fact, these reforms not only aimed at strengthening guarantees in the field of human rights and fundamental freedoms, but also limiting capital punishment; and in November 2001, a new Civil Code was adopted. Subsequently, these constitutional changes, followed by the 'Harmonisation Laws', planned to transform the changes in the Constitution into 'concrete action' to bring Turkish Law in line with the Acquis Communautaire. In that respect, it can be argued that the

period of 1999-2002 set the scene for 'momentous change' in Turkish politics under the leadership of the DSP-MHP-ANAP coalition (Önüş, 2003: 9).

Following these developments, the 2001 Regular Report of the Commission notes that there had been significant changes to the judicial system. Firstly, the constitutional and legal amendments on the restructuring of the SSCs that had been adopted in 1999 entered into force. As a result of these amendments, all the members of the SSCs are appointed only from the civil judiciary, which eliminates the presence of a military judge in the SSC committee. However, the Commission raised concerns about the independence of the judiciary in practice. The 2001 Regular Report notes that the pressures exerted on judges and prosecutors (particularly the ones who serve in the prosecution of state officials) is still causing problems. The Report also touches upon the impartiality of the judiciary by referring to the fact that the Supreme Board of Judges and Prosecutors was chaired by the Minister of Justice, which raises the question of the actual 'separation of powers' between the judiciary and the executive (European Commission, 2001).

Furthermore, in terms of the effective functioning of the judiciary, the Report stresses that in addition to the training courses offered by the Centre for Education and Training of Judges and Prosecutors, there had been other initiatives including a Greek-Turkish co-operation initiative to train judges in EC law. In fact, in September 2001, sixteen members of the Turkish Constitutional Court had visited the European Court of Human Rights which was accepted as a positive development in terms of the reformation of the judicial system in Turkey and increasing its efficiency (European Commission, 2001).

It can be argued that in the later phases of the period 1999-2002 the domestic environment became more suitable for the political actors, i.e. for the government, the political elites and the military, to accept certain overdue changes that would dramatically affect the composition of their institutional structures. Apart from the factors, such as legitimacy, identity, resonance and

the size of adoption costs, one other factor that encouraged those changes can be identified as the size and credibility of rewards. As indicated before, this phase initially began with the Helsinki Summit where Turkey was granted its candidate status, consequently becoming eligible for receiving financial and technical support as part of the EU's pre-accession strategy. Turkey's participation in community programmes including the MEDA programme and its access to TAIEX and PHARE procedures have provided sufficient incentives, hence, increased the size and credibility of the EU rewards in this period (European Council, 2001c).

To conclude, the institutional transformation and policy (re)formation of the judiciary showed a relatively good degree of change in the first phase. The coalition government initiated certain legislative changes in order to increase judicial independence and impartiality after their term of service commenced. Although the ideological differences between the coalition partners negatively affected their identification with the EU, as well as their success in designing a political agenda for domestic change, all three partners were in agreement with a reform agenda on the judiciary. Nevertheless, due to unfortunate domestic turmoil, any reform initiative carried high domestic adoption costs in this period. In that respect, high domestic adoption costs, in addition to the lack of identification with the EU, have created unfavourable conditions for domestic change. Nevertheless, the EU's strong conditionality in this period pushed forward certain changes and resulted in Turkey's partial adjustment to the EU's rules and practices in the area of the judiciary, which can be classified as a fractional Europeanisation.

8.5.2. Phase II: 2002-2004

Due to the political turmoil that took place in the previous phase and the failure of the coalition government in responding to the domestic downturn, the DSP-MHP-ANAP government had to call for early general elections in August 2002. As a result, the AKP won the elections by a large margin and

became a single-party government in November 2002. Compared to the coalition government in the first phase, the AKP did better in identifying itself with the EU. In fact, the AKP had an observable pro-European stance as evident in its party programme. This pro-European approach of the AKP definitely helped the government to focus on the Institutional transformation and policy (re)formation and carry out political reforms as required by the EU.

For instance, with regards to the judiciary, in its party programme, the AKP highlighted that respect for and the protection of individual rights and freedoms can only be obtained by constitutional guarantees, laws and an independent judicial system; and declared that the party will work for the protection of governance based on the rule of law where the existence of an independent judiciary is vital for the projected legal system work. Therefore, the AKP proposed 'the establishment of the maximum confidence in the justice system which is the guarantee for the social order' as one of its priorities for 'democratic reformation' within Turkey (Justice and Development Party, 2002).

This period started with a downbeat evaluation of the European Commission on the reforms on the judiciary, due to the failure of the government's implementation of the recently adopted rules in this area. The European Commission's Regular Report of 2002 focused in particular on the problematic nature of the State Security Courts, which continued to function even after the recent legislative changes. Although their operation had been altered after the adoption of a number of legislative amendments and their jurisdiction had been limited, their powers, responsibilities and functioning had not been brought in line with the EU standards (European Commission, 2002).

Based on this, in December 2002 the European Council in Copenhagen demanded that the Turkish government should promptly take action in identifying the remaining shortcomings in this area and should produce an action plan aiming the adoption and the implementation of the necessary legislation (Drent, 2006: 75). Following that, in May 2003, the Council adopted

a revised Accession Partnership Document. In the revised AP, the Council states that Turkey is expected to 'strengthen the independence and efficiency of the judiciary, promote consistent interpretation of legal provisions, take measures to respect the case-law of the European Court of Human Rights, and align the functioning of State Security Courts with European standards' (European Council, 2003).

Although the demands and requirements of the EU on judicial independence and impartiality remained unclear, after the renewed priorities set in the Accession Partnership Document in 2003, the AKP government accelerated the reform process by adopting new harmonisation packages. Over the previous year, four major packages of political reforms were adopted that carried great political significance that impinged upon controversial issues in the Turkish political context. Following the recent reforms, in July 2003, with the seventh harmonisation package, the government introduced new measures, particularly in the areas of the freedom of expression, freedom of association, civil-military relations, through a series of amendments made to the Penal Code, the Law on Associations, and the Law on the Establishment and Trial Procedure of Military Courts.

Although these amendments were far-reaching in the areas stated above, the amendments made in the area of judiciary did not bring dramatic changes. In fact, so far, the priorities stated in the previous Accession Partnership Document were dealt with in relation to the NPAA of 2001. The only amendments concerning the judiciary in this harmonisation package include the Law on the Court of Accounts, and the Law on the Establishment, Duties and Trial Procedure of Juvenile Courts, which only concerned the institutional structure of the judicial system itself rather than its independence, impartiality or the efficiency in operation (Republic of Turkey, Ministry of Foreign Affairs, Secretariat General for EU Affairs, 2007). This can be considered as a reflection on the problem of politicisation of the judiciary and

the continuance of the Kemalist legacy, where the judiciary predominantly acted as the guardians of the state.

Throughout this process, the Turkish public to a great extent displayed full support for the political reforms aimed at bringing Turkey in alignment with the values, standards and practices of the EU (Aşık, 2012: 147).³² In the meantime, the AKP government continued its efforts to meet its main objective of meeting the Copenhagen political criteria in time by setting up a 'Reform Monitoring Group' overseeing the implementation of reforms. In 2003, the Commission made a positive assessment of the government's objectives and positive stance of the public towards radical political reforms; however, it stressed that in spite of these positive developments, the reforms had failed to produce practical effects and their implementation remained slow and uneven (European Commission, 2003).

Nevertheless, for the opening of accession negotiations with the EU, it was necessary for the AKP government to continue with political reforms, including the reforms on the judicial system in Turkey. In that respect, the AKP's response to the requirements of the EU came in the form of various measures adopted in the course 2004. Among the measures taken in 2004, the introduction of a new Penal Code, a new Civil Code (to be entered into force in April 2005) and the abolition of State Security Courts stand out as major changes to the Turkish judicial system. Particularly, the SSCs, comprising both military and civilian judges working on cases against the integrity of the state, were subject to allegations of human rights abuses and absence of fair trial. The abolition of the SSCs was widely accepted as a positive development by the EU. Furthermore, after the constitutional amendments made in 2004, the principle of the primacy of international and European human rights conventions over domestic law were enshrined in the Constitution (Freedom House, 2005).

³² Çarkoğlu (2003: 173) reports that by the end of 1990s, Turkish public support for EU membership was quite high. In fact, around 64% were in favour of EU membership whereas 30% were against it.

On the other hand, the 2004 Regular Report stated that important changes had been made to the judicial system of Turkey. First of all, the European Commission welcomed the abolition of SSCs and their replacement with Serious Felony Courts. Furthermore, the revised Article 90 of the Constitution, regarding the supremacy of the European treaties over Turkish domestic legislation, was seen as a positive development since the revised Article obliges Turkey to apply rules according to the international agreements in cases where there is conflict between the domestic and international legislations. The adoption of a new Penal Code in September 2004 (replacing the existing 80-year-old Penal Code) significantly improved the judiciary's compatibility with the modern European standards in line with the recent developments of criminal law in many European countries (European Commission, 2004). It can be argued that the abolition of the SSCs constitutes clear evidence for the institutional transformation of the judiciary in this period, which is deemed necessary for Turkey's overall democratisation efforts under the influence of the EU.

Moreover, over the course of September-October 2003 and in July 2004, two expert advisory missions on the functioning of the judicial system in Turkey took place. The results and recommendations of the second visit showed that Turkey had made significant progress in less than a year. The Ministry of Justice had organised numerous meetings with judges and prosecutors to discuss and work on the suggestions made in the first advisory report, and had presented a comprehensive action plan for the implementation of the proposed changes. Furthermore, as in the previous period, the judges and prosecutors had played a significant role in terms of the implementation of political reforms. The courts had continued to apply the proposed reforms and had delivered judgements in line with the amended provisions, stemming from the harmonisation packages adopted so far (European Commission, 2004).

After taking these official documents into account, it can be argued that Turkey's compliance with the EU rules on the judiciary has been rather stable

in this period. It is therefore easier to come to a clear-cut conclusion on the factor of the size of adoption costs, since the cost is derived from the power costs of target governments and the presence of veto players (Schimmelfennig, 2005c: 5-6). In more concrete terms, the judiciary became one of the 'less troubled' areas for the AKP government to reform, since the amendments made and rules adopted in this area do not contradict with the established rules in this area; and the willingness of the courts to implement new regulations has decreased the adoption costs, as they did not act as veto players, but rather they acted as supporters of the judicial reforms. When all these factors are taken into account, it can be concluded that the adoption costs in this period remained at a low level.

At the same time, in this period, the EU's attitude towards Turkey with regard to its democratisation process, along with political reforms and legal amendments in alignment with the EU standards and practices, has significantly improved and shown a constant positive stance. This became evident when the EU presented a stronger and clearer accession strategy for Turkey, and also with the inclusion of additional financial and technical assistance hence a 'deeper commitment' to Turkey's accession process (Kirişçi, 2004c). These positive developments can therefore be regarded as tangible indicators of the size and credibility of rewards, showing a high value. In other words, it can be argued that the substantial and credible rewards offered by the EU helped the Turkish government to comply with the EU rules and conditions in terms of making necessary legal and constitutional changes and rule adoptions.

For instance, in the period 2002-2004, the EU's attitude towards Turkey's membership did not show variance in terms of offering its most important reward, full membership as the strongest institutional tie with the EU itself. In December 2002, at the Copenhagen Summit, Turkey was expecting to get a date for the opening of accession negotiations; even if this was not achieved, the EU reaffirmed its intention to review its decision again in 2004

based on the Commission's Regular Report. Therefore, it can be argued that, although certain criticisms were made on Turkey's reform progress along with rule adoption and implementation, it was a tangible reward to keep the prospect of membership in the picture, as well as the immediate delivery of additional financial assistance to encourage the Turkish government to carry on with political reforms (European Council, 2002). At the end of this period, along with reforms in policy areas, the EU found Turkey's efforts in aligning its judicial system with the practices of the EU member states satisfactory and in December 2004, at the Brussels Summit, a start-date for formal EU accession talks was set as 3 October 2005 (European Council, 2004).

To conclude, in contrast to the first period, as a single-party government, the AKP was more successful in carrying out reforms in the judiciary, as was the case of the other policy areas. In that respect, the AKP could identify itself with the EU, which contributed to the favourable domestic conditions necessary for a complete institutional transformation and policy reformation. Furthermore, with low levels of domestic adoption costs and higher levels of state capacity for domestic change, Turkey could benefit from the strong conditionality effectively. In that respect, with the combination of favourable domestic conditions and strong conditionality, this period set the scene for flourishing institutional transformation and policy (re)formation in the area of the judiciary; and as a result, positive Europeanisation was observed.

8.5.3. Phase III: 2005-2008

The period of 2002-2004 showed remarkable development in terms of adopting and implementing the EU rules, values and standards, particularly in the area of the judiciary. The AKP government had made a series of constitutional amendments, along with the adoption of harmonisation packages, and put forward further initiatives to be achieved from 2005 onwards. Having strong public support for political reforms to attain EU membership, along with the absence of veto players towards reforms in the judiciary, the AKP's job to

transform the judicial system became less troublesome and more suitable for drastic changes. The European Council in December 2004 decided to open accession negotiations with Turkey on 3 October 2005 and set out the framework and requirements for starting accession negotiations.

Turkey was firstly to put six pieces of legislation in action, particularly enhancing human rights and the functioning of the judiciary, and secondly, the country was expected to sign the Additional Protocol, extending the existing Association Agreement with the EU to all new Member States. Fulfilment of these requirements by Turkey resulted in the opening of accession negotiations. However, as noted in previous chapters, in spite of these favourable conditions and positive start, the negotiations came to a halt rather quickly. Particularly, the dispute over the Cyprus issue, and the EU's decision to suspend the opening of eight chapters in the *Acquis Communautaire* obstructed the accession talks in this period. On the other hand, the increasing threat of the resurgence of PKK terrorist activities caused further impediments on the political reforms, by changing the priorities in the political agenda and by diminishing the political will of the government to continue with political reforms (Narlı, 2009: 459).

Nevertheless, Turkey has attempted to make further progress on judicial reforms in this period. In fact, Turkey took a significant step with the entry into force of the Penal Code, the Code of Criminal Procedure, the Law on Enforcement of Sentences and the Law on the Establishment of the Regional Courts of Appeal in June 2005. These changes then introduced various measures making it easier to convict members of the state security services for human rights violations, provided for tougher penalties for torturers, and criminalised genocide, crimes against humanity and the trafficking of people; these changes were accepted as a positive development from the European circles (Karakas and Green, 2010: 1). In fact, the abovementioned changes allowed the judiciary to adopt European standards in line with the laws in many European Member States. However, these changes did not directly

impact upon the overall institutional transformation or policy (re)formation of the judiciary in this period.

In fact, the European Commission's Regular Report of 2005 reiterated the same concerns that were raised in previous Regular Reports regarding the independence of the judiciary. This area remains particularly problematic and therefore similar judgements had been made by the Commission. In fact, one of the main reasons for this is due to the continued heavy involvement of the Ministry of Justice, predominantly in the process of the recruitment of judges and prosecutors, which undermines the independence of the judiciary (European Commission, 2005a). The heavy involvement of the Ministry of Justice in the workings of the judiciary thus significantly reduces the institutional independence of the judiciary and constitutes one of the major obstacles in the political reforms.

Considering that the involvement and control of the Ministry of Justice over the judiciary could not be restrained with the legislative and constitutional changes made so far, it can be concluded that the reforms in relation to the judicial independence and impartiality have created high levels of domestic adoption costs; and that the politicisation of the judiciary is still a matter of concern. Following these developments, in January 2006, Turkey adopted the revised Accession Partnership, setting out renewed priorities that Turkey was expected to address in its preparations for accession. In the 2006 Accession Partnership document, the priorities in the area of the judiciary were set as:

- Ensure consistent interpretation of legal provisions, including the new penal code, related to human rights and fundamental freedoms by all judicial authorities in line with the European Convention on Human Rights and its related case law;
- Ensure the independence of the judiciary, in particular as regards the High Council of Judges and Prosecutors and the appointment of new judges and prosecutors;
- Continue the training of judges and prosecutors on the application of the European Convention on Human Rights and the case law of the European Court of Human Rights;

- Strengthen the efficiency of the judiciary through, in particular, reinforcing its institutional capacity and adopting a new code of civil procedure (European Council, 2006).

Throughout 2006, the authorities had focused on the implementation of the new Penal Code, the Code of Criminal Procedure and the Law on Enforcement of Sentences following their entry into force in 2005. In particular, the Ministry of Justice played an important role in updating the circulars addressed to prosecutors in January 2006. In November 2006, the European Commission in its 2006 Regular Report of Turkey stated that the political reform process in general has significantly slowed down since the opening of accession negotiations. The report pointed out that although there had been some progress in the area of judicial reform, the implementation of the new legislation by the judiciary had shown a mixed picture and the independence of the judiciary had remained problematic and still needed to be further established (European Commission, 2006a).

In that respect, it can be concluded that the overall assessment of the EU on the progress made by Turkey has been critical. It cannot be denied that Turkey has gone a long way to align itself with the standards and the practices of the EU and meet the obligations of membership; however, due to undesirable domestic factors and the absence of strong EU conditionality, not much has been achieved in this period. In the 2007 Regular Report, the European Commission stated that Turkey had successfully continued its efforts to modernise the judiciary by means of information technology. The results of the National Judicial Project, set up to increase the efficiency of the judiciary, had shown positive results from the judges' point of view. Furthermore, the continuation of the implementation of adopted legislation and continued use of IT has contributed to this outcome. However, the Commission also stressed that there had been tensions in the relations between the government and the judiciary over the course of 2007, which had not been conducive in terms of having a smooth and effective functioning judicial system (European Commission, 2007).

For instance, in July 2008, the Turkish Constitutional Court (TCC) fined the governing Justice and Development Party (AKP) for undermining the secular basis of the Turkish Republic. There was a general consensus that the AKP would become the next party (and the nineteenth since 1982) to be closed by the TCC (Shambayati and Kirdiş, 2009: 767). Although the TCC agreed that the AKP had acted against the secular order of the state and acted against the Constitution, the charges put against the AKP were balanced due to the AKP's efforts to integrate Turkey into the European Union. In relation to this, a closure case opened against the AKP on constitutional grounds. The AKP became defensive in its policy actions and started a prosecution process against nationalist and Kemalist political elite (Capezza, 2009: 19). Right after this incident, in October 2008, the AKP government opened a trial against 86 people as members of an ultra-nationalist group called Ergenekon, based on accusations that the group were organising a series of attacks and a possible military coup against the government. This trial therefore set the scene for a power struggle between the AKP government and the military, hence decreasing the already troubled trust between the two entities.

In the NPAA of 2008, Turkey identified certain legislative and administrative measures to implement following a revised Accession Partnership document in February 2008. First of all, the Ministry of the Interior had started to prepare a 'Judicial Reform Strategy' and a 'Strategic Plan' in order to strengthen the independence, impartiality and efficiency of the judiciary. Secondly, new measures were added to the NPAA including works on establishment and operation of new courts, the spread of specialised courts, the strengthening the technological infrastructure and an increase in the number of judges, prosecutors and other judicial staff to improve the functionality and the efficiency of the judiciary (Republic of Turkey, Ministry for EU Affairs, 2008).

As pointed out in the 2008 Regular Report by the European Commission, the draft judicial reform strategy prepared by the Ministry of Justice was found

to be comprehensive, covering various issues related to the independence, impartiality, efficiency and effectiveness of the judiciary, as well as improvement of its professionalism, its management system and confidence-building initiatives within the judiciary itself. Despite this positive initiative, the Commission also noted that there had not been any development with respect to the establishment of the regional courts of appeal, which should have been operational by June 2007. Other concerns mentioned in the report include the impartiality of the judiciary based on the fact that, on some occasions, senior members of the judiciary had made political comments in the public domain which might have compromised their impartiality in prospective cases. Another concern mentioned in the same report is on the independence of the judiciary, where no progress had been made on the composition of the High Council of Judges and Prosecutors (European Commission, 2008). To conclude, the work to date on the draft judicial reform strategy had been a positive development, but the Ministry of Justice still needed to continue the consultations with concerning stakeholders, such as civil society, and build the necessary support base for the strategy to work.

This period has been particularly disappointing both for Turkey to comply with the EU conditions, and for the EU to provide credible and strong conditionality. Turkey failed to show its full commitment to carrying out the political reforms as part of its pre-accession strategy, and the EU failed to provide the necessary incentives to trigger institutional transformation and policy (re)formation in Turkey. Therefore, the combination of unfavourable conditions and weak conditionality has resulted in no process or policy outcome, which is associated with the negative Europeanisation in this period.

8.6. Discussion of the Results

This chapter was designed to determine the potential factors that explain the effectiveness of EU conditionality on the institutional transformation and policy reformation in the area of judicial independence and impartiality in Turkey. It also intended to find out the conditions under which the Turkish government has been more likely to adopt EU rules, in order to comply with the membership conditions. The results of the empirical analysis show that each phase has shown differences in terms of formal rule adoption, hence, the type of Europeanisation, mirroring the changes in the Turkish judicial system under the influence of EU conditionality. The detailed list of the factors impacting upon the effectiveness of EU conditionality and the institutional transformation and policy (re)formation of the judiciary in Turkey can be found in Table 8.2, which will be discussed next.

Firstly, the empirical analysis reveals that although significant progress has been achieved in the area of the judiciary since the beginning of reform process on the structure, efficiency, and the functioning of the judicial system in the early 2000s, the changes concerning the independence and impartiality of the judiciary remained limited. The factors that can account for the partial domestic change in the first period can be associated with strong conditionality. In fact, the EU, by offering sizeable and credible rewards, has provided Turkey with sufficient incentives to initiate political reforms, including reforms on the judiciary. However, this period did not result in a complete institutional transformation and policy reformation in this policy area. This can be explained by the unfavourable domestic conditions, such as the lack of identification of the coalition government with the EU and high levels of domestic adoption costs.

Nevertheless, the second period was more positive in terms of the domestic conditions and, due to this change, the second period set the scene for a more successful domestic change in combination with the continuation of

a strong EU conditionality. In that respect, with the addition of factors such as the successful identification of the AKP with the EU, and relatively lower levels of domestic adoption costs, the single-party government has managed to make significant changes to the institutional structure of the judiciary. In that respect, the process and policy outcome of this period was a step closer to complete transformation, which can be regarded as positive Europeanisation.

Thirdly, the changes both at the EU and domestic level mirror yet another diverging outcome in the third period. As a matter of fact, EU conditionality became weaker compared to the previous phases due to the anomalies in attitudes between the EU Member States towards the possible membership of Turkey to the EU. In that respect, the EU, by giving mixed messages to the Turkish government in this period, has escalated the Eurosceptic stance of the Turkish public and political circles, which negatively affected the AKP's political will to continue with political reforms. On the other hand, the AKP's political agenda has changed due to party politics and other political turmoil related to the escalation of PKK terrorist activities in this period. In that respect, the priority that the AKP set for its policies has significantly changed and the political reforms necessary for the EU accession lost their substance to a great extent. In that respect, no significant process or policy outcome could be achieved in this period, which can be regarded as negative Europeanisation.

When the theoretical models are taken into consideration, it can be seen from the empirical analysis that neither the external incentives model nor the social learning model can account well for describing the process and policy outcomes across the three periods. In fact, the isolation of one theoretical model from the other can only provide a partial explanation for the effectiveness of EU conditionality and domestic change in Turkey. In that respect, as argued in the previous empirical chapters, this outcome requires a more balanced approach to the Europeanisation of different policy areas in candidate countries. The debate over Europeanisation, hence, points to a

direction where the focus should be on differentiation between the domestic level and EU-level factors, instead of factors categorised under different Europeanisation models.

Table 8.2 Intervening factors of institutional transformation and policy reformation			
Period	1999-2002	2002-2004	2005-2008
Size of rewards (EU-level)	High (significant technical and financial rewards in return of national compliance and alignment with the EU legal and administrative framework)	High (significant rewards in return of national compliance and alignment with the EU legal and administrative framework)	Low (insignificant or nor rewards); mutual deterioration of relations, negative perception of accession requirements and national progress)
Credibility (EU-level)	High (effective conditionality; significant progress in the determinacy of requirements and delivery of rewards; membership perspective)	High (effective conditionality; significant progress in the determinacy of requirements and delivery of rewards; membership perspective)	Low (ineffective conditionality; double standards, confusion; indeterminate requirements and unsuccessful delivery of rewards; diminishing or no membership perspective)
Size of domestic adoption costs (Domestic-level)	High (sensitive topic in this period; presence of veto players; unsuitable, undemocratic political environment)	Low (increasing benefits of legal and institutional alignment'; increasing financial and technical assistance; prospect of opening of accession negotiations)	High (costs of compliance overweight the rewards; impact of diminishing or no membership perspective; limited incentives to proceed with institutional transformation and policy (re)formation)
Legitimacy (EU-level)	High (incorporation in the Acquis; but vague benchmarks on the judicial independence and impartiality)	High (incorporation in the Acquis; but vague benchmarks on the judicial independence and impartiality)	High (incorporation in the Acquis; but vague benchmarks on the judicial independence and impartiality)
Identity (Domestic-level)	Low (failure of the coalition partners in self-identification with the EU; diverging ideologies, different perceptions on the prospective EU membership	High (successful identification of the ruling party with the EU; EU as an aspirant group)	High (successful identification of the ruling party with the EU; EU as an aspirant group)
Resonance (Domestic-level)	Low (embedded guardianship role of the judiciary; influence of Kemalism ideology)	Low (embedded guardianship role of the judiciary; influence of Kemalism ideology)	Low (embedded guardianship role of the judiciary; influence of Kemalism ideology)
OUTCOME	Conditionality partially effective; the external incentives model explains insignificant policy outcome Fractional Europeanisation	Conditionality effective, both models explain the policy outcome; compliance Positive Europeanisation	Conditionality ineffective, size of adoption costs determining factor; no policy outcome Negative Europeanisation

9. Discussion of Results

9.1. Introduction

In recent years, the EU has made significant efforts to transform into an important international actor in the political domain. Among changes in the EU's political transformation an emphasis has been given to democratisation, human rights and the rule of law greater than before (Kubicek, 2003). As part of its enlargement policy, the EU incrementally introduced new democratic political conditions into its policy towards candidate countries. After the introduction of these conditions, candidate countries became formally subject to an assessment on democracy and democratisation in connection with the EU's democratic principles; the failure of which would result in their exemption from EU membership (Pridham, 2002a; 2005).

In the meantime, EU conditionality – an indispensable aspect of domestic change in candidate countries under the influence of the EU – has undergone substantial advancement over time, comprising extensive democratic requirements (Grabbe, 1999). Particularly in the case of CEECs, EU conditionality became a central and proactive component of enlargement process; and hence, a *sine qua non* factor in the study of the EU enlargement and EU democracy promotion, which in turn evoked a growing interest in academic world and political circles in the last decade (Linz and Stepan, 1996; Pridham, 1999b; Smith, 2003; Sadurski, 2004; Schimmelfennig and Sedelmeier, 2004).

In the literature on Europeanisation, scholars widely contended that EU does not have a uniform impact on domestic change in candidate countries. On the contrary, the EU's impact is found to be differential seeing that the effectiveness of its conditionality varies across different national settings, ultimately producing diverse domestic responses (Hughes et al., 2002; Grabbe, 2003; Haughton, 2007). In a similar vein, Turkey presents itself as a complex

case study when analysing the impact of the EU on institutional transformation and policy (re)formation in the context of the 'Europeanisation of candidate countries'. The main criterion for the choice of Turkey as a case study in this thesis is due to the conflict between EU conditions and the state of democracy in Turkey. This selection can be justified on methodological ground. In fact, as Schimmelfennig et al. (2003) the selection of problematic cases facilitates the investigation of the causal linkage between EU conditionality and domestic change in target countries; and helps to verify the factors contributing to the effectiveness of conditionality, which is found to be more influential in problematic cases than in easier cases. In that respect, the selection of Turkey as a case study is seen as constructive in terms of examining the effectiveness and limitations of conditionality as Turkey illustrates a 'hard case' where the complex internal dynamics limit the impact of the EU. In support of the aforementioned arguments, this thesis illustrated that indeed EU conditionality has from far uniform effect on Turkey; and in relation to Turkish democratisation process, it has produced diverse domestic responses across policy areas subject to it.

Influenced by the previous studies on democratisation of CEECs, this thesis was set out to explore the impact of EU conditionality on the institutional transformation and policy (re)formation in Turkey across four policy areas: minority rights, freedom of expression, the judiciary, and the military, central to the core liberal democratic principles of the EU. Europeanisation offers different ways to understand how the EU has an impact on domestic change and how it contributes to the democratisation process in national contexts. In the context of democratisation, institutional transformation is seen as the establishment of new institutional structures or the restructuring of political principles in the realm of domestic politics. Policy (re)formation in turn implies normative changes in the policies of a target country as a result of its engagement with the EU's pre-accession framework, substantiating the elements of EU membership accession negotiations. In order to address the

degree of difference on the impact of EU conditionality on Turkish democratisation, this thesis raised and answered an important question: *How does Europeanisation impact upon institutional transformation and policy (re)formation in Turkey? How does it affect the political actors, institutions and cultural norms and values embedded in Turkish political system?*

The theoretical background of the analysis (Chapter 3) incorporated the discussion on the effectiveness of EU conditionality in the literature on EU enlargement and Europeanisation. In relation to this matter of subject, the specified literatures provided extensive debates on different models of interaction such as rationalist and sociological institutionalism to investigate individual or combinations of factors that impinge upon the effectiveness of EU conditionality when explaining the impact of international organisations on domestic change in target countries (Schmitter, 1995; Grabbe, 1999; 2001; 2003; Vachudova, 2001; 2005). In a similar vein, this thesis focused on the external incentives model and the social learning model stemming from the aforementioned institutionalisms to assess the impact of EU conditionality on domestic change and responses in Turkey. Thereafter, the systematic analysis presented in Chapters 5-8 has taken into account and scrutinised the interaction between identified domestic and external factors in accordance with these models in order to provide a thorough examination by providing specific patterns of actions from Turkey's exposure to Europeanisation and institutional transformation processes.

This in turn, provided a basis for the development of two sets of theoretically derived hypotheses (Chapter 4). The theoretical framing of the research has fitted the combinatorial style, as its theoretically derived hypotheses assumed that different values of the independent variables resulted in different outcomes (i.e. different types of Europeanisation). These factors were identified as the size and credibility of rewards, size of adoption costs, legitimacy, identity, and resonance. This thesis thereafter has investigated the causal relevance of these different sets of explanatory factors

(both domestic and EU level), which were assumed to be influential upon the effectiveness of EU conditionality.

In this context, when considering domestic changes with regard to institutional transformation and policy (re)formation of the selected policy areas, it can hardly be concluded that Turkey has succeeded in achieving complete transformation due to EU conditionality. In fact, the analysis revealed that EU conditionality has only been a triggering factor, and its effectiveness has been limited at certain points in history due to critical domestic factors which at times made the EU's conditionality strategy imperceptible for the Turkish political context (Chapters 5-8).

The main empirical findings are chapter specific and they were summarised within the final section of respective empirical chapters (Chapters 5-8). The next section will synthesise the empirical findings to answer the main research question of the thesis. It will provide the key theoretical findings and the conditional configurations necessary for the institutional transformation and policy reformation in Turkey, and present the indications on hypotheses regarding the causal relationship between the effectiveness of EU conditionality and Turkey's compliance.

9.2. Empirical Findings

The key factor that underlined Turkey's democratisation in the process of EU accession was identified as 'conditionality'. However, as this thesis revealed, Turkey's responses to EU conditionality has not been unified across different policy areas. Turkey's response to conditionality was directly influenced by prevailing ideas about the EU as a regional hegemon, historical legacies and compliance with its principles. By carrying out extensive reforms on minority rights, freedom of expression, the military and the judiciary, Turkey considerably accommodated the EU rules and conditions in political arena, but failed to fully transform its institutions and reform its policies. The analysis of the policy processes behind the change in these areas revealed that

unfavourable domestic conditions such as the historical legacies, strong and centralised state, lack of political will to concede all the EU rules and conditions distorted the ways in which main political actors approached EU conditionality and pursued unremitting domestic change. This ultimately affected the policy outcomes as well as the institutional transformation in Turkey.

According to the mechanisms of change tested in this thesis, from the external incentives model domestic change is seen as the outcome of political actors' responses to sizeable and credible EU rewards (Schimmelfennig, 2005c; Schimmelfennig and Sedelmeier, 2005a). These two variables constitute two important elements of strong conditionality, which is one major factor to achieve complete transformation and/or domestic change. In the case of Turkey, sizeable and credible rewards assisted Turkish democratisation to flourish in the first and second phases. Nonetheless, as previously discussed in Chapters 5-8, these mechanisms of change did not vary across policy areas since political reforms across all policy areas were carried out under the same EU reward scheme. The material incentives offered by the EU in return for Turkey's compliance and the EU's credible conditionality epitomising the EU's capacity to adopt and implement effective influence mechanisms and delivering sizeable rewards in a timely manner supported the hypotheses generated from the external incentives model, implying that Turkey's compliance with EU conditionality increases if the EU offers substantial rewards (**H₁**); and if the EU delivers the rewards soon after Turkey's compliant rule behaviour (**H₂**). For instance, in the first and second phases, size and credibility of rewards showed a high value due to extensive material incentives provided by the EU, and the lack of which resulted in weak conditionality in the third period. Nevertheless, these variables did not have explanatory power to clarify diverging process outcomes isolation from other variables and they needed to be assessed in combination with domestic level factors necessary for attaining complete transformation.

On the other hand, the analysis revealed that the size of domestic adoption costs was another crucial factor, either contributing to favourable or unfavourable domestic conditions necessary for domestic change. It is hypothesised that Turkey's compliance with EU conditionality increases if Turkey faces low levels of adoption costs in the process of rule adoption (**H₃**). The analysis across policy areas revealed that any rule adoption was considered costly in the first phase due to political turmoil and lack of political consensus among coalition partners at the national level. In fact, as the literature on Europeanisation suggests if the power is diffused in domestic political context, it is highly unlikely to achieve domestic consensus necessary to cope with EU conditionality (Börzel and Risse, 2004).

In addition to that, the presence of veto players such as the army and bureaucracy also increased the size of domestic costs in this period and made it difficult to achieve consensus among coalition partners (Chapter 7). This in turn, created unfavourable condition for domestic change in relation to policies in question. Among the issues increasing the domestic adoption costs were the PKK terrorist activities posing a serious threat to the sovereignty and integrity of the Turkish state (Chapter 5), the lack of political will to grant extended political freedoms (Chapter 6), the highly institutionalised character of the military in politics (Chapter 7), and strong control of the executive over the judiciary (Chapter 8). Nonetheless, in the second phase, the size of rewards exceeded the size of adoption costs and domestic political context became more suitable for domestic change. Particularly after the replacement of the coalition government by a single-party government, domestic consensus could be achieved which positively affected the political reform process.

On the other hand, the social learning model presupposes that the effectiveness of EU conditionality depends on the legitimacy of EU rules, domestic resonance of the newly introduced rules, and the identification of the target government with the EU. The findings revealed that these variables did

not account well for the process outcome in the selected policy areas independently.

For instance, in relation to legitimacy factor, it is observed in Chapters 5 and 7, that the EU's policies on minority rights and the military lack legitimacy because the EU fails to present common policies in these areas which are consensually shared among its member states; and the accession requirements on these policy areas are not institutionalised appropriately at the EU level. It was also observed that legitimacy in isolation from other factors did not produce more compliance as an outcome when the four policy areas are compared. In fact, as discussed in Chapter 6 and 8, the EU's legitimate policy on freedom of expression or the judiciary did not result in better or wider compliance, and institutional transformation and policy (re)formation in Turkey when compared to the EU's policies on minority rights and the military which lack legitimacy.

Additionally, no evidence was found at the domestic level suggesting that ineffective responses of target governments to the EU requirements in the areas where the EU lacks legitimacy negatively affect process and policy outcomes. For instance, even if the EU's policies on minority rights, the democratic governance of the security sector, and civil-military relations had low values on the legitimacy factor, it is observed that both the DSP-MHP-ANAP coalition government in the first period, and the AKP government in the second and third periods, had made constitutional and legal amendments in order to meet the EU's requirements and comply with the EU rules in these areas as part of its accession framework. In that respect, the hypothesis on legitimacy implying Turkey's successful compliance in relation to coherently presented EU rules where the EU creates an ownership perception (**H₄**) cannot be supported or opposed in isolation from other factors.

Furthermore, the findings for different time periods showed that identification of the target government with the EU provided a necessary and

favourable condition for domestic change; therefore supported the hypothesis that Turkey's compliance increases if Turkey identifies itself with the EU and shares its norms and values (**H₅**). For instance, the reform process carried out between 1999-2002 by the coalition partners of DSP-MHP-ANAP was less successful and more problematic when compared to the periods of 2002-2004 and 2005-2008 due to the low level of identification of the coalition government and high levels of ideological diversification in the first phase; whereas the latter two phases showed high levels of identification due to AKP's successful identification with the EU as a single-party government. The low levels of self-identification of DSP-ANAP-MHP coalition hindered the establishment of the favourable domestic conditions necessary for domestic change. However, this factor did not show variance cross-sectorally but showed a discrepancy cross-temporally.

Finally, if individually assessed, the normative resonance factor also falls short in explaining the process or policy outcomes in the Turkish context. Resonance (or its lack of) can form perceptions at the domestic level towards the newly introduced EU rules. It was hypothesised that Turkey's compliance would increase if there is a high level of institutional association and conformity between existing rules and newly introduced EU conditions (**H₆**). All the policy areas (Chapters 5-8) analysed in this thesis showed low values on the resonance factor. For instance, in the case of minority rights, Turkey and the EU do not share the same understanding on minorities. Whilst Turkish definition of minority is strictly shaped by the Turkish state doctrine of indivisibility, the EU has a more uniform and accommodating definition of minority. Turkey's rejection of recognition of ethnic minority groups as minorities significantly jeopardised the introduction of new rules by the EU; and the existing rules continued to reduce normative resonance.

In a similar vein, the existing rules and practices on freedom of expression, the judiciary, and the military also lack normative resonance. Freedom of expression and the judiciary lack normative resonance due to the

strict state control over fundamental freedoms stemming from the creation of national unity in the very first days of the Turkish Republic; and due to existing constitutional provisions limiting the independence and impartiality of the judiciary and providing an overpowering bond between the executive and the judiciary. The military lacks normative resonance because it has always been a major actor in politics and has been seen as the guardians of the state, responsible for the protection of the unity and secularity of the nation, which contradicts with the norms that the EU set out in relation to civil-military relations. Observing that resonance factor constantly remained low throughout three phases and across policy areas, the diverging process and policy outcomes could not be explained by this factor in isolation from other factors.

As the general findings in relation to the model of interaction of variables revealed (Chapter 4), it was actually favourable domestic conditions that ultimately impacted upon the democratisation process. Only in the presence of these conditions and in combination with strong conditionality, a complete institutional transformation and policy (re)formation could be achieved, which was reflected in positive Europeanisation. Without these favourable conditions, this complete domestic transformation cannot be achieved since strong conditionality in the absence of these favourable conditions can only result in partial adjustment of policies at the national level. In that respect, this combination can only produce fractional Europeanisation. In order to achieve positive Europeanisation it is necessary to have both favourable domestic conditions and strong conditionality.

In that respect, the findings necessitate a re-assessment of explanatory powers of individual factors with regard to the theoretical highlights of Europeanisation, since these findings not only challenge the current studies on Europeanisation of candidate countries (Hughes et al., 2002; Grabbe, 2003; Schimmelfennig and Sedelmeier, 2004; 2005a; Haughton, 2007), they also raise questions on the strength of the EU as an important external actor on domestic change. Starting from the presumption that the most decisive factors

that lie in the heart of democratisation are positioned at the domestic political domain, it can be claimed neither the external incentives nor the social learning models can account well to explain this outcome. Rather than choosing one model over the other, a more balanced approach on theoretical grounds should be adopted. In that respect, it can be deduced that the focus of theoretical investigation on Europeanisation and EU conditionality should not be on examining the explanatory power of the external incentives and the social learning models; instead, the research should focus on how independent variables stemming from both models interact with each other.

To conclude, it needs to be noted that the EU has engaged in a lengthy, public and political deliberation with Turkey to make Turkish democratisation possible by offering prospective membership. This prospective provided Turkey to have access to expending variety of political, economic and social opportunities to change the embedded state character, institutional structures, policy reforms, which interminably has diminished the development of democratic practices in the political domain. This in turn, created a complex interdependence between Turkey and the EU throughout Turkey's accession negotiations, and provided the EU an asymmetrical power to induce political reforms which has been thought to help consolidating democracy at the national level. Through conditionality, the EU has possessed an institutionalised framework which helped the EU to diffuse political pressures with intent to make progress on democratisation at the domestic level (Pridham, 1999). In a way, prospective EU membership has helped significantly to the stabilisation of political, economic and social developments at the domestic level more than any other international commitment (Schmitter, 1995); and significantly altered the institutional structures and policies in Turkey even if the final result is yet to be seen.

All in all, having discussed the empirical findings, it is also important to discuss their policy implications to better understand how the analytical results can potentially be applied 'on the ground'. The identification of the policy

implications of the findings is important to show how this research may influence the debate with Europeanisation discourse and how the findings may affect the practice in this field. In that respect, the next section will present a brief synthesis of the policy relevance of key findings from this thesis.

9.3. Policy Implications

As presented in Chapter 2, the literature on democracy promotion by international organisations reflects that EU has been associated with positive form of democracy promotion (Laffan, 1998; Carothers, 1999; Sadurski, 2004). The EU, by providing support, incentives, and reward expedites the process of democratisation in target states. In support of these arguments, the overall findings associated with Turkey and Turkish democratisation reaffirmed the key functioning of the EU as an international organisation in the spread of its democratic principles and the development of these principles through its conditionality strategy in the cases of candidate countries. Regardless of the extent of its impact, the EU is an important actor for Turkish democratisation; and the dynamics of domestic transformation of Turkey cannot be fully understood if the ways in which the EU generates incentives for political reforms at the domestic level in relation to its pre-accession framework are not considered.

In Chapter 2 it is also revealed that studies on democratisation that do not incorporate the international dimension fail to adequately address the dynamics of domestic change in countries which are directly exposed to external impact (Schmitter, 1995; 2001; Whitehead, 1996; 2001). In fact, in the case of democratisation and liberalisation of Southern Europe in 1970s, it is observed that international actors such as extra-regional powers had been highly supportive of this transformation (Schmitter, 1986); and in this context the EU has become a symbol for flourishing democratisation and moral supporter of democratic values (Pridham, 1999b). It is definitely a prerequisite of the EU that any candidate country should have a democratic political system

to be a part of it. In fact, Turkey's application for EU membership resulted in the EU's utilisation of conditionality strategy to produce political regime change since EU membership is restricted to fully functioning democracies. In that respect, through its conditionality strategy, the EU exerts external influence to trigger such a change at the domestic level, which makes the EU an influential external actor (McLaren, 2008).

Nevertheless, this deduction needs to be linked to the diverging domestic politics of individual target countries in the process of EU accession. In fact, although there can be certain similarities between candidate countries, nonetheless, every country has its own political culture and different historical facts. Therefore, some candidate countries might differ in terms of their 'openness' to Europeanisation and their adaptation to externally induced domestic change might be more challenging compared to others (Laffan, 1998). In a similar vein, as Risse et al. (2001: 3) posit, Europeanisation entails the formation of new 'layers of politics', which interact with pre-existing ones, leading to 'distinct and identifiable' changes in domestic politics – even if these changes are perceived as 'domestic adaptation with natural colors'. In this context, the EU's impact can only be far from uniform when taking these domestic factors into consideration. This thesis has used empirical findings to show that the current EU conditionality is not making the anticipated external impact. The theoretical arguments for this justification suggest the need for the EU's policy review on conditionality which will enable diversification to work for target countries by taking into consideration of their unique political culture and historical legacies.

On the other hand, the findings regarding the importance of domestic factors when explaining the actual institutional transformation and policy (re)formation in relation to Turkish democratisation are to be considered as hypotheses complementary to theories of democratisation accepting their earlier assumptions. In relation to this literature, in the case of Turkish democratisation, the utilisation of Europeanisation framework helped to

describe the domestic factors and the international factors that contributed to democratisation in the country in question which at the same time happened to be in the process of EU accession negotiations. For instance, in line with the actor-oriented literature on democratisation (Rustrow, 1970), it is observed that domestic political elites play a significant role in democratisation in Turkey, as these actors are responsible for showing sufficient political will to change the political landscape of the country. This, however, is not an unexpected result, as the dominant approach within literature on democratic transitions to a great extent gives emphasis to the role of political actors in explaining any regime change at the domestic level. According to this, democratisation is determined by the decisions of major political actors wherein old political elites are considered to be the biggest potential threat to this process (O'Donnell and Schmitter, 1986; Di Palma, 1990; Karl, 1990).

This deduction however leaves many aspects of political interactions in the process of democratisation unexplained. For instance, it is still an unresolved matter whether the end result of partial or complete domestic change is attributable to the political actors as the main decision-makers at the domestic level or to the constraints they faced due to the embedded state character and structural differences (Doorenspleet and Mudde, 2008). In either way, it is observed that Turkish political actors seemed to have approached the conditionalities imposed by the EU in a rather selective manner; and used the state to protect their own interests at different points of democratisation. Nonetheless, without their political will and favourable domestic conditions, any externally induced democratisation efforts and imposed conditionality are destined to be inconclusive.

Furthermore, in the theory and research on democratisation, it is argued that 'the possibility of differential structural causation – that the structural causes of the transitions towards democracy' should be pursued (Muller, 1995: 995). In that respect, this thesis, by structuring the discussion on the basis of the common internal-external and structure-agency debates,

has contributed to the literature on democratisation and showed how in the context of Europeanisation, Turkish democratisation is structurally caused and influenced by the interactions of internal and external actors.

As previously noted in Chapter 2, whilst the literature on democratisation acknowledges internal factors as the most important ones during the transition phase, the same literature also acknowledges the role of the external factors and their contribution to democratisation, what is actually seen as a domestic phenomenon. In relation to this literature, one important factor that grabs the attention in the case of Turkey and external factors is the factor of regional hegemon. Regional hegemon is seen as an external (f)actor implementing neutral or moderate pro-hegemon foreign policy within target countries to stimulate transition to democracy or democratisation at the national level (Doorenspleet and Mudde, 2008). With regard to Turkey, the EU as an international actor and as the regional hegemon in question, took an important role, as it often positively interfered in democratisation in Turkey by providing substantial aid which can be linked to the asymmetrical relation between the two based on Turkey's membership application. This in turn, made the EU an indispensable actor impacting upon the institutional transformation and policy (re)formation in Turkey.

To conclude, the findings of this thesis certainly generate further questions for policy-makers both at the EU level and domestic level on the dynamics of institution-building and policy (re)formation as well as dispersion of EU level practices on democracy as rule adoption in national settings. The findings also point to different avenues of research for academics who investigate the emergence and development of new policies and institutional set-ups in specific national contexts as a result of direct exposure to the EU's impact through its conditionality strategy. These issues will be tackled in the next, also the concluding chapter of this thesis.

10. Conclusion

10.1. Introduction

Turkey's association with the EEC/EU has a long history, covering a period of more than half a century. Some would argue that the current Republic of Turkey was born out of the 'ashes of the Ottoman Empire' (Ergil, 2000; Nas, 2005) and became the 'sick man of Europe' (Livanios, 2006; Tarifa and Adams, 2007). Since the first day of its foundation, Turkey wanted to be part of Western civilisation. Hence, it always turned its face to Europe. It is in this European conjuncture that Turkey's political will and intention to become a part of the EC/EU emerged already in 1959 when Turkey applied for EC membership. Turkey's EC application also marked the beginning of its very long and compelling journey to Europeanisation/Westernisation.

The European Council of Helsinki in 1999, where Turkey was granted candidacy status marked a new era in Turkey-EU relations. In this period, the enlargement policy became an important instrument for the EU to exert its influence on Turkey during accession negotiations to align Turkey's domestic rules and practices with its own rules, norms and conditions by providing necessary rewards and incentives. Whilst doing this, the EU explicitly made it clear to Turkey that its accession is at all times conditional upon a wide range of requirements including the requirements and standards of democracy. In that respect, particularly with reference to its accession criteria, also known as the Copenhagen Criteria, the EU closely engaged with the institutional transformation and policy (re)formation in Turkey in the areas directly linked to democratic principles, and influences the rule adoption and domestic policy-making processes of political actors at the national level.

Thereafter a considerable political reform process was initiated in Turkey which soon turned into substantial institutional transformation and policy (re)formation despite some political setbacks. As indicated previously,

prospective EU membership has become one of the leading factors for Turkey to undertake drastic political reforms as required by the EU. As Vachudova (2005: 108) puts it 'the greater the benefits of membership, the greater the potential political will in applicant countries to satisfy intrusive political and economic requirements'. This assessment seems appropriate in many ways as without the prospective benefits of accession or financial and technical assistance provided within the pre-accession framework, Turkey would have failed dramatically at achieving democratisation the way it did within a very short period of time. In many ways, the EU's approach to democracy promotion has become instrumental in its efforts to induce political reforms; and its conditionality strategy has become the main 'triggering factor' of domestic change in Turkey.

In this context, this thesis presented a thorough assessment of the impact of the EU on the process of domestic change in Turkey in the course of its EU accession process by conducting cross-sectoral analysis of minority rights, freedom of expression, the military, and the judiciary in relation to the democratic principles of the EU. In this context, these policy areas were selected as case studies to shed light on the process of domestic change in Turkey and its alignment with the EU based on their relevance for the main research question and for the theoretical framework. They also served the purpose of improving the theoretical and empirical understanding of how Europeanisation impacts on domestic change in target countries and the ways in which the Europeanisation of different policy areas affects the policy-making of political actors and institutions as well as cultural norms and values embedded in national political systems as they are exposed to external influence. The empirical analysis thereof involved the process-tracing of: i) structural changes to the institutions; ii) policy processes; iii) the extent of EU involvement; and iv) the effectiveness of conditionality across three time periods, 1999-2002, 2002-2004, and 2005-2008 and across policy areas.

Scholars recently have been involved in a lively debate on the nature and relative importance of the diffusion of democratic and liberal norms by the EU to the candidate states in the process of accession negotiations. These scholars tend to question whether this diffusion of democratic values are driven mainly by external or internal forces, and whether the most effective measures are those that are carried out through the mechanisms of conditionality (Sadurski 2004: 375). Consequently, a significant number of theories and concepts, aimed to explain the role of the EU in the democratisation of candidate countries can be found in the Europeanisation literature. In that respect, the theoretical framework of this thesis was framed around the external incentives model and the social learning model which were found to be the most suitable theoretical models when assessing the effectiveness of conditionality as an important mechanism of democratisation. On the whole, the analytical investigation was designed as the hypotheses-testing qualitative study of the conditions under which the EU has had an effective impact on democratisation in Turkey. After reviewing the literature on democratisation and EU conditionality, and taking into consideration the insights from the external incentives and the social learning models, two sets of measures and four types of interactions of variables, which the prior research have shown to be relevant to effectiveness of conditionality, have been developed.

The empirical analysis of the chosen policy areas revealed that the conditionality on those policy areas involve a wide range of issues related to the democratic principles of the EU, and they reflect on how important it is for the EU to spread its democratic credentials to the candidate countries. Firstly, as part of the pre-accession framework, the EU requires candidate countries to adopt its *Acquis Communautaire* comprising the main body of EU law, and demands the ratification of relevant international conventions in specific policy areas. The adoption of the *Acquis Communautaire* mirrors the EU's strict policy to align on a legal basis the laws of the candidate countries at the domestic

level with that of the EU. That type of legal alignment is found to be useful to regularise the practices at the national level and reflects the highly institutionalised character of certain policy areas.

Methodologically, this thesis presented a qualitative case study research examining the causal relationship and conditions of the impact of EU conditionality on domestic change in Turkey. In order to facilitate this framing and taking into account the research objective, by using small number of cases and collected qualitative data, an in-depth empirical analysis was conducted by utilising the process-tracing method as a suitable data analytical strategy. This method is found to be useful in examining complex patterns of interplay between independent variables across policy areas and across time. To simplify the research and minimise the patterns of outcomes, four types of Europeanisation are defined. Following that, the independent variables were dichotomously coded by giving either high or low values, indicating their role in domestic change. Subsequently, combination of factors (both domestic and EU level) was associated with the corresponding outcome (i.e. different types of Europeanisation), which subsequently constituted the results of the conducted empirical analysis revealing the necessary factors/conditions for institutional transformation and policy (re)formation in the targeted policy areas, thus allowing the test of hypotheses stemming from the external incentives model and the social learning model.

In order to conduct the empirical analysis, a wide range of qualitative data relevant to Europeanisation and EU conditionality have been tested against the sequence of events (i.e. domestic change and democratisation) in Turkey and the EU. The general narrative of Turkey's domestic situation was presented at the outset of the empirical analysis, listing the main conflicts between the democratic practices in Turkey and the EU's democratic requirements, depicting the main conditions of EU conditionality across policy areas, providing empirical evidence for the values of domestic and EU level factors (i.e. independent variables), and evaluating the impact of EU

conditionality. Therefore, in order to answer the main research question as to what the real policy changes have been in the context of democratisation in Turkey, this thesis assessed the overall policy changes across three time periods to attain the general picture of the current state of democratisation in Turkey.

The next section will present an overview of the contribution of this thesis with respect to the research topic and results of the empirical analysis. This is useful on portraying how these may impinge on the further understanding of the subject, theory and policy in question.

10.2. Contribution of the Thesis

Principally, the academic contribution of this thesis has been to the literature on Europeanisation and EU conditionality. Through the in-depth analysis of the interactions between the EU conditionality and Turkey's domestic change, this thesis displayed the factors relevant to the success of EU conditionality and factors that cause or limit the institutional transformation and policy (re)formation in Turkey; and built new models for interaction of these factors indicating diverse process outcomes, hence different types of Europeanisation.

Second, this thesis has gone beyond the borders of the existing studies (both theoretical and comparative) on Europeanisation and EU conditionality by broadening the number of policy areas (cross-sectoral analysis) and time periods (cross-temporal analysis) and by applying a much stronger analytical framework. Whilst previous studies on Europeanisation and EU conditionality (Héritier, 2001; Knill and Lehmkuhl, 1999; 2002; Börzel, 2002, Schimmelfennig and Sedelmeier, 2005a) utilise a similar theoretical framework, this thesis goes further in capturing the broad range of primary data, a thorough data processing and analytical methods and a better suited research design allowing the scope of independent variables that produce different outcomes.

Third, the findings of this thesis mainly contribute to the relevant academic literature by proposing causal mechanisms associating domestic change with EU conditionality. In addition to that, the findings also contribute to policy-oriented research in general since it aims to expose the actual divergence of the impact of EU conditionality and compliance problems of target countries. In that respect, it can be used as a guide for the policy makers both in the EU and target countries to better understand the conditionality-compliance dichotomy and its implications in actual policy-making.

Fourth, the contribution of this thesis has been to the broader academic work on the EU's role in democracy promotion in its region. The literature presupposes that international organisations trigger democratisation within target countries through their conditionalities in support of their liberal democratic values and norms (Kubicek, 2003; Smith, 2003). The same literature also points out that international organisations, in order to achieve this, should be designed to have enforcement mechanisms to obtain such changes at the domestic level (Schimmelfennig and Sedelmeier, 2002; Schimmelfennig et al., 2003; Vachudova, 2005). This thesis, instead, claims that democratisation in target countries cannot be achieved only through these external influence mechanisms and through conditionality; and based on the analytical results, it argues that this can only be achieved if these external mechanisms are combined with favourable domestic conditions based on the fact that without sufficient pro-democracy pressures at the domestic level, any externally induced democratisation is destined to be insufficient.

Lastly, this thesis makes a significant contribution to the recently widening literature on EU candidate countries' compliance with the EU's democratic criteria. The narrative in this thesis provided careful analysis of conditionality-compliance dichotomy and the factors pertinent to it in a candidate country (i.e. Turkey) which has not been discussed in detail in the academic literature which predominantly analyses these trends in CEECs (Risse

et al., 2001; Hughes et al., 2002; Sedelmeier, 2006; Haughton, 2007). In that respect, the analysis of Turkey, with particular emphasis on policy areas reflecting upon the democratic credentials and process of democratisation can be considered as a significant contribution and an exemplar for a new path for academic work stressing the intertwined link between Europeanisation and democratisation. In fact, to generate achievable policy strategies and domestic change with regards to democratisation, there is need for more case studies at the national level to allow further assessment of local dimensions of the subject. Exploring the following as future research strategies can facilitate the attainment of this goal.

To sum up, this thesis investigated the dynamics of domestic change and impact of EU conditionality and presented an in-depth study of Turkish democratisation, subsequently making considerable contributions to the literature on Europeanisation and the literature on democratisation. Nonetheless, this thesis has encountered several limitations; and only after taking these limitations into account, new directions for a fruitful future research can be drawn. The following section will discuss the limitations of this thesis, and in relation to these limitations, the subsequent section will highlight potential future research areas to develop the current research further.

10.3. Limitations of the Thesis

As previously stated, this thesis has offered an evaluative perspective on the institutional transformation and policy (re)formation in Turkey under the influence of EU conditionality. In this empirical research, whilst conducting analysis of the specified topic, a number of limitations were encountered, which need to be considered.

First, this thesis presented a case study and conducted cross-sectoral and cross-temporal analysis. Case studies are commonly considered as unique, their findings cannot be generalised easily. In that sense, one limitation that might immediately be recognisable is that the findings of this thesis may not

be generalised to other cases. As a candidate country to the EU, Turkey poses a unique case where its background, geopolitical condition, its culture, and demographics are different to that of the previous candidate countries such as the CEECs. The specific findings on the internal dynamics in Turkey cannot be easily generalised if and when compared with other country cases.

Nevertheless, in spite of Turkey's patchy road towards EU accession and its different cultural background, it is difficult to think of a candidate country being able to adopt the required reforms as part of the EU accession framework, where country-specific historical legacies, political culture, and political dynamics among political elites, do not play an important role. In that respect, Turkey must be considered an important case because it does not only offer an interesting case study to explore externally influenced democratisation, it also presents an important case for the understanding of the importance of domestic politics, which ultimately appears to be the most decisive factor shaping the process and outcome of democratisation. Therefore, in order to overcome this challenge and to have a wider impact than that of only being a thorough explanation of the specific case of Turkey, and to increase the chances of having a wider scope on the generalisation of the findings, this thesis has incorporated a strong theoretical discussion on Europeanisation into the case study research design.

Second, as a direct consequence of the methodology of the thesis, the cross-sectoral and cross-temporal empirical analysis might have certain limitations in the sense that the empirical analysis in this thesis only covers four different policy areas and a relatively short time span. As indicated in Chapter 4, the selection criteria for these policy areas was chosen based on the modern conceptualisations of democracy, and in relation to the EU's formal membership accession conditions as stated in the Copenhagen political criteria. Nonetheless, as indicated in Chapter 2, there are a number of institutions structuring the minimum requirements for democracies including free and fair elections under no government coercion, freedom of association, and

engagement with strong civil society (Dahl, 1998). Given that, the analysis of democratisation in Turkey or in any other candidate country can be extended to cover these institutions. This in turn, may allow the researcher to compare the effectiveness of EU conditionality on democracy with an analysis covering a wider spectrum of policy areas.

Furthermore, the selected time frame for the empirical analysis covers the period from 1999-2008, which is divided into three phases (1999-2002, 2002-2004, 2005-2008). This is the period in which the EU had been actively involved in the institutional transformation and policy (re)formation of Turkey and influenced the domestic change through its conditionality strategy. Particularly due to the broad nature of Europeanisation and democratisation as the phenomena under investigation, only a limited number of policies and a moderately short time frame could be examined in the empirical analysis of this thesis, which as one would expect, might have caused an analytical limitation.

Third, this thesis only tested the variables stemming from two major theoretical models within the Europeanisation framework: the external incentives model and the social learning model, which were developed by Schimmelfennig and Sedelmeyer (2005a) to investigate the Europeanisation process of the Central and Eastern European countries in particular. In that respect, as previously noted, the theoretical framework of this thesis remained exclusive of an approach from historical institutionalism. Although the external incentives model and the social learning model have strong explanatory value, the findings of the analysis imply that, path dependency and relevant set of concepts such as critical junctures, historical legacies, and political culture might also have impacted upon the institutional transformation and policy (re)formation of Turkey under the influence of the EU. Thus the exclusion of historical institutionalism in the evaluation of the effectiveness of EU conditionality might have caused a theoretical limitation.

Although the aforementioned limitations might seem problematic when assessing the current research, these limitations might be turned into new potential future research areas and a value can be added to them in order to include recommendations for future action. The next section will outline these points demonstrating how future research could fill in the gaps recognising and responding to the aforementioned limitations and taking the present thesis further on.

10.4. Recommendations for Future Research

Although this thesis has extensively analysed the democratisation process in Turkey across four policy areas, which are considered as the core principles of democracies, the research findings did not paint a complete picture of the state of democratisation in Turkey. For future research of this topic, while this might not be an easy task, it can be attempted to focus on other policy areas in relation to democratic principles. This could not only create a new empirical setting, where the scope of democratisation would be advanced further, but it could also potentially reveal more. Therefore, a logical extension to this thesis would be to investigate the process of domestic change in other policy areas, which can show whether there are any other divergences in the process and policy outcomes in the Turkish national context with regard to the effectiveness of EU conditionality and domestic responses of the policy-makers in Turkey.

In the literature on democratisation there are a number of concepts and frameworks which solely focus on a number of mechanisms of democratisation apart from conditionality. In the literature, in addition to conditionality mechanism within Europeanisation framework, another identified mechanism of democratisation is listed as modernisation. The modernisation theory which perceives democracy as a function of social and economic development within a country, identifies main social conditions in support of a democratic system as economic development, level of education and

industrialisation (Lipset, 1959). In fact, several scholars have also proved the causal relationship between economic development and level of democracy by utilising a number of indicators and approaches (Diamond, 1994; Przeworski, 1995). These studies on modernisation as a mechanism of democratisation adopt a framework which emphasises the importance of domestic, bottom-up, societal and political conditions of democratisation in contrast to conditionality framework which emphasises the importance of international and top-down mechanisms of democratisation (Schimmelfennig and Scholtz, 2007). Acknowledging that there are alternative mechanisms of democratisation, a fruitful avenue for future research would be the comparison of the strengths of these alternative approaches in explaining the institutional transformation and policy (re)formation in target countries.

On the other hand, as the research in this thesis has focused on Turkey, and Turkish democratisation under the influence of the EU, one avenue of research would be to utilise the research design and methodology of this thesis on the Europeanisation of policy areas and impact of EU on democratisation in other current and prospective candidate countries as well as the ENP countries. This would provide a wider spectrum of knowledge in terms of how the EU matters for the spread of democratic principles in different national contexts, and how the individual candidate countries perceive the EU and respond to the external pressures imposed by EU through its conditionality strategy.

This in turn, might allow the researcher to include other theoretical models such as historical institutionalism which is better equipped to capture the path dependency and relevant set of concepts such as critical junctures, historical legacies, and political culture in order to provide better explanations for the diverging domestic responses to the externally induced democratisation efforts by international actors. Therefore, another avenue of research would be to develop a wider theoretical framework, with the inclusion of a historical institutionalist approach to Europeanisation. By doing so, the explanatory value of three strands of institutionalisms can be tested against each other, which

would potentially introduce new variables related to the concepts such as path dependency, historical legacies and political culture.

Last but not least, as indicated in the previous section, the short-time span of the empirical analysis might be seen as an analytical limitation. Nevertheless, it can be argued that an in-depth investigation of the short-term processes of domestic change under the influence of EU conditionality is a necessary opening for a long-term assessment. In that respect, a longer-term assessment of the impact of EU conditionality on democratisation in Turkey can be considered as a natural prolongation to the current research.

10.5. Conclusion

Returning to the starting point of this thesis, the institutional transformation and policy (re)formation of Turkey along with its everlasting democratisation process is currently subject to debate within the EU since it is one of the most problematical candidate countries in the history of the EU's enlargement; hence there is a serious need to rethink the dynamics of domestic change and Europeanisation effects across policy areas within domestic political domain. This thesis has pointed to problems with the current situation in Turkey and it has shown that, while the institutional transformation and policy (re)formation of minority rights, freedom of expression, the military, and the judiciary has developed fairly positively, some discrepancies in these areas still prevail.

The findings reveal that particularly after 1999, while Turkish democracy has gone through a subtle alignment in adapting to the EU's own democratic norms and values as well as the EU practices, the overall political culture or the political thinking in Turkish national context has not been transformed to any great extent. The EU has certainly triggered the transformation of institutional structures and (re)formed policies and policy practices in Turkish political domain, which intended to bring the functioning of these institutions and policy implementations up to the EU standards. Although

Turkey made significant constitutional and legal amendments to meet the EU's formal accession requirements, it failed to effectively respond to the EU's adaptational pressures. This ultimately jeopardised the process of its domestic change. Turkey's ineffective response can be linked to the very nature of the existing national institutions, strong centralised state and political ethos, and their ability to form, delay or completely obstruct the externally induced democratisation efforts. Even if EU democratic conditionality has provided a greater scope of political freedoms, social and cultural rights of minorities, and democratic governance in Turkey in relation to the civil-military relations and judicial independence, pre-existing domestic structures, where the institutional core of the state and the role of the political elite are predominantly important, became the main reason for the lacking of democratic features.

To conclude, the act of creating a consolidated democracy based on truly developed state capacity and political will – or institutional transformation and policy (re)formation in accordance with the principles of a supranational organisation such as the EU – is a complex social phenomenon. This process can neither be degraded to a constant *modus operandi* nor can it be considered a matter of statistical estimation or assessment specifying either a complete success or complete failure. Instead, it is a matter of an adaptation and conversion requiring even more than financial or technical aid, social and political commitment, and above all a genuine and authentic change of frames of mind. For it to become possible, all citizens, and the governing and political elite in the first place, should view the domestic transformation and democratisation as important mutual benefits in the common interest of the society as a whole, and one deserving pre-eminence. This, at the end, should become a shared goal for Turkey and the EU, which can be achieved and cultivated in cooperation for the benefit of both parties.

Evidently the EU's external influence on its own is not (and will not be) sufficient to prompt change for Turkish democratisation to be successful in the future. Instead, a real and democratic change can only be achieved if the

mindsets of the political elite and the system-wide policy structures are altered in a way to accept and actually implement any democratic norms and rules necessary for the endurance of a stable democratic system in Turkey. With the current lack of political will and declining EU support, any reform necessary to change ideology and policy structures in the Turkish national context is likely to impede over Turkey's ever-lasting journey to have a functioning democracy and to become a member of the EU, which is anything but complete. The remaining residual question therefore is whether Turkey is really willing to get involved in a real institutional and political evolution to constructively transform its political ethos with or without the prospect of EU membership. Only with an answer to this question we can find out whether Turkish democratisation serves as a means for other ends or as an end in itself.

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Appendix – Interview List

Interview (2012) Member of Parliament, CHP Deputy#1, Ankara, Turkey.

Interview (2012) Member of Parliament, CHP Deputy#2, Ankara, Turkey.

Interview (2012) Member of Parliament, MHP Deputy, 2012, Ankara, Turkey.

Interview (2012) Official from the Undersecretary of the Ministry of EU Affairs, Ankara, Turkey.

Interview (2012) Former Foreign Minister of Turkey, Ankara, Turkey.

Interview (2012) Ambassador, Directorate General for Europe, Ministry of Foreign Affairs, Ankara, Turkey.

Interview (2012) Member of the Foreign Affairs Committee of the Parliament, Ankara, Turkey.

Interview (2012) Representative from the Turkish Industry and Business Association (TÜSIAD), Istanbul, Turkey.

Interview (2012) Researcher at the Turkish Economic and Social Studies Foundation (TESEV), Istanbul, Turkey.

Interview (2012) Political Officer on Public administration and security sector reform, political affairs, CFSP, press and information section, Delegation of the European Union to Turkey, Ankara, Turkey.

Interview (2012) Political Officer on Legal Issues, Political affairs, CFSP, press and information section, Delegation of the European Union to Turkey, Ankara, Turkey.

Interview (2012) Turkish activist, journalist and professor, Istanbul, Turkey.