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1. Introduction

Within the contentious debates on the enlargement of the European Union (EU), sweeping reform process pursued by candidate countries emerges as the most challenging and prominent issue on the agenda. The EU or rather the European Commission stands as the main external pressure for political, economic and legal reforms in these countries. The driving force behind this Europeanization process, where the EU penetrates into domestic politics through ‘rule transfer’, is the ultimate goal of becoming a member of the Union. The rule transfer, through the transposition of EU legislation into domestic law and adoption of EU institutional structure or the transformation of domestic politics according to EU standards stimulate *institutionalization* process in the candidate country (Schimmelfennig and Sedelmeier 2004). It is the net benefits of membership that provide an internal justification for arduous reforms in these countries. From 1993¹ onwards, every successive enlargement wave of the Union underlined the importance of this domestic political change in pursuit of EU membership.

With the membership carrot, the EU has an inimitable instrument to promote reform in countries at its door. On the road to its largest enlargement² in 2004, conditionality emerged as the most prominent reform mechanism in Union’s enlargement policy. The conditional acceptance of a member to the EU eliminated the problems encountered by the Mediterranean enlargement of 1980s where the absence of dominant EU standards caused major impediments in the management of affairs after membership. The employment of ‘carrot-stick’ instrument during the negotiations enables the EU to gain an advocate of European, democratic and liberal values while preventing unforeseen hurdles afterwards. Examination of conditionality in the EU context, with its complex and diverse structure in various *acquis* related goals, projects a distinctive feature. It creates an environment of exchange between the negotiating parties where the EU offers concrete prospect of membership if the candidate puts into practice EU driven reforms on liberal democracy, rule of law and functioning market economy. It is vital to note that unlike in any other international organization, EU conditionality benefits are not only comprised of financial assistance but also involve symbolic statue acknowledgement of political and economic stability of membership which encourage candidate countries to carry out reforms. Nevertheless, enlargement conditionality sometimes falls short in initiating the necessary domestic change. In such cases, the countries’

¹ In the 1993 Copenhagen European Council Summit, the Union established the relevant accession criteria i.e. the Copenhagen criteria which must be fulfilled by any country wishing to join the Union then on.

² The fifth enlargement wave of the EU has dramatically increased the number of member states from 15 to 25. The membership of former communist countries of Central and Eastern Europe increased the importance of an efficient enlargement policy during the negotiations.

internal dynamics emerge as an important factor which impedes the effect of conditionality in the reform process (Steunenberg 2005; Schimmelfenning 2004). Therefore, when analyzing the impact of conditionality it is crucial to examine the nature of political structure in the relevant candidate country.

The appeal of EU rewards as a part of enlargement conditionality has stimulated unprecedented domestic policy change starting with the membership of the Mediterranean countries and afterwards in the conventional regimes of Central and Eastern European countries. Among these, Turkey's Europeanization process to integrate into European political and economic arena stands as one of the most prominent cases of the Union's role in stimulating domestic change. The history of Turkey-EU relations includes two military coups – which shaped the nature of political system in Turkey-, the collapse of the Soviet Union, the effects of the Cyprus impasse and discussions within the EU over a wider or a deeper Union. However, the Union's concrete impact on Turkey's internal reforms took place only with the candidacy status received at the 1999 Helsinki Summit. The candidacy status provided the key external drive for the governments to pursue reforms in areas that were previously considered as confined (Bac 2005; Tocci 2005).

Over the years, Turkey has placed itself as an ally of Western values and directed its policies towards European norms as a legacy of the formation of the Republic. Although this has been the case, the tradition sometimes fell short in establishing an effectual liberal democratic political system in line with the Union. As a result, the prospect of EU membership not only provided the exogenous force for internal change but also assisted the arguments of those who have been in favour of amplifying the quality of the regime through a concrete reform process (Bac 2005). Hence, Turkey's most remarkable adjustment to European norms took place when the country progressed closer to membership with the 1999 Council conclusions. The country's tough reform process gained substantial momentum in 2002 leading to the opening up of negotiations in October 2005. Through out this period, nine reform packages have been adopted, including 261 new laws in two years, on behalf of EU accession criteria (Commission Progress Report 2004). Some of these reforms have touched upon policy areas where strong state tradition persisted until very recently. The carrot of membership enabled various Turkish governments, from coalitions to the current single-party rule, to engage in a series of constitutional and legislative amendments in search of moving the political and economic system closer to norms set by the Union. The impact of EU conditionality in this process goes without question. However, there are serious concerns on the implementation and success of these reforms. At present, some areas still stay immune to

change or the reforms that have been undertaken do not meet the required level creating a malfunctioning political and economic structure.

With this paper, we aim to analyze the extent to which the Turkish government has been successful in putting the EU stimulated reforms into practice and why there are still some areas which stand against reforms. Therefore, it basically examines the success and shortcomings of conditionality in the Turkish case. For such analysis, it first of all puts forward the political and economic reforms that have been adopted since 1999. After that it examines major bottlenecks which are frequently mentioned in the Progress Reports of the Commission and the underlying reasons such as certain pressure groups that oppose the reform process. The paper argues that the failure of the enforcement of specific domestic reforms stem from the absence of “separation of powers” in a political environment of lack of transparency, corruption and populism coupled with deficiency of rule of law which eventually places collective interests of the state above the individual’s. The effect of the reform process will be explored with regard to three sections of the Copenhagen criteria; political, economic and the ability to implement the *acquis*. Analysis of Turkey’s reform process is an important case when the region and the Union’s relations with the region as a part of the Barcelona process, are taken into consideration. Therefore finally, we will provide policy advice to MPCs (Mediterranean Partner Countries) - which are in close relation with the EU- from the Turkish reform experience showing the difficulties that the country has been facing from time to time with respect to the sweeping reform process.

2. Europeanization of Turkish Democracy

Turkish experience of adapting the Copenhagen criteria initiated significant debates on the structure and stability of domestic institutions and their correlation with EU rules. The process gained pace with the Customs Union membership which presented Europeanization of Turkish market forces. As the EU began penetrating further into the political realm in late 1990s handling accession requirements became ever more important. The first two features of these conditions presented critical issues which require complete attention; a liberal democracy and functioning market economy that underlines the ability to cope with competitive pressure and market forces. In light of EU accession conditions, this section deals with Europeanization of Turkish democracy.

The political criteria of the 1993 Copenhagen Council Conclusions refer to six fundamental aspects; democracy, rule of law, human rights and respect for and protection of minorities, regional issues and international obligations. Given the difficulty in assessing the degree of these elements, the member states requested from the Commission to measure the

extent of progress in candidates according to certain benchmarks, rules and norms. Hence, there are two fundamental documents, Accession Partnership and Annual Progress Reports, that monitor the course of adopting the *acquis* and set short and medium term policy goals for successful implementation. According to these reports, Turkish experience presents a comprehensive adjustment process which has been shaped by nine reform packages. Over eighteen months until October 2001, Turkey pursued the first most comprehensive constitutional reforms in the history of its constitutional order with amendments to 34 articles of the Constitution (Magen 2003). Subsequent to 2001 reforms, three more packages were adopted by the Parliament where the latter became known as the “mini democracy package”. One of the most fundamental of these amendments took place on anti-state thoughts and opinions from the fifth paragraph of the preamble of the constitution which led to the trial and conviction of many intellectuals. Prior to amendments, those who possessed thoughts and opinions contrary to Turkish national interests, Turkey’s national and territorial integrity could face trials. With the 2001 revision, only “activities” that are against these provisions could be exempt from legal protection. Moreover Article 13, which previously allowed restrictions on fundamental rights and freedoms in pursuit of protecting the integrity of the country, was also amended to remove these restrictions. Article 14, which used to limit the exercise of rights to prevent endangering of the state, was revised to only include activities that aim to destroy the democratic and secular system of the Republic.

In addition to various constitutional adjustments, Turkey went under a series of legislative changes to its controversial Penal Code. Article 159, titled “insult to the State and to State institutions and threats to the indivisible unity of the Turkish Republic” was revised to reduce prison sentences and abolish fines imposed for criticising Turkish laws (Magen 2003). Later on, the same article was adjusted to exclude written, vocal or visual criticism of the military, state institutions, Parliament, the government, the justice system or Turkish identity unless they were intended to insult or deride these institutions (Magen 2003). Article 312 of “incitement to hatred” offence, Articles 7 and 8 of the Anti-Terror law were revised as well to reduce sentences for certain offences and shorten bans on broadcasting which might encourage terrorist propaganda (Magen 2003). Although there was not enough effort on strengthening the position of the women in the society within this reform process, various changes were undertaken in that area too. To prevent violence against women and allow gender equality in marriage, changes to civil and penal code were implemented which for instance removed the title of the husband as the “head of the family” and increased sentences for rape and sexual assault.

Another fundamental constitutional change took place in ‘Language and Cultural Rights’ article which previously prohibited the use of any language banned by law to express and disseminate thought in search of protecting the unity of the state.³ Within this scope, articles on political participation were revised to ease the integration of ethnic and religious-based minority groups into the political arena. Further constitutional amendments to cultural life, individual freedoms, freedom of association and peaceful assembly, civil society, the functioning and efficiency of the judiciary, abolition of death penalty and civil-military relations were undertaken as a part of reform packages (Bac 2005). At the end, until 2004 a total of nine constitutional reform packages were approved and adopted by the Turkish Parliament which not only expanded the scope of democracy but more importantly changed the institutional structures of National Security Council, Higher Education Board, and the High Audio Visual Board and even brought an end to the deeply rooted State Security Courts.⁴

Turkey’s Europeanization process gained pace and attracted both international and domestic attention with various reform packages from 2001 to 2004. Adopted in order to fulfil the accession conditions of the Union, the reform packages are an evident proof of the effect of the Union’s conditionality tool. The reforms are generally scattered around ongoing bottlenecks in the democratic political structure: equal legal protection of social, cultural and political rights for all citizens irrespective of religious and ethnic origin, the role of the military in politics, freedom of expression, freedom of association and peaceful assembly. The prospect of membership coupled with internal pressures for political reform stimulated the broad adjustment process that Turkey underwent from 2001 to 2004. The following chart offers a summary of reforms carried out in line with the negotiations.

³ See Article 26 of the Constitution before amendment.

⁴ The number of civilian members of the National Security Council (NSC) was increased from five to nine in the 7th Constitutional Package. The position of Secretary General of the NSC has been occupied by a civilian from then on and the Council has met every two months instead of every month. The 8th Package removed the Chief of Staff’s representative from the Higher Education Board (YOK) and the 9th Package removed the NSC’s Secretary General Representative from the High Audio Visual Board (RTUK). See Bac 2005.

Table 1: 2001-2004 Turkish Political Reforms

<u>Reform Package</u>	<u>Subject of Major Reforms</u>	<u>Accession Partnership Requirement</u>
1 st Constitutional Package	Freedom of thought and expression	Strengthen legal and constitutional guarantees for the right of freedom of expression in line with Article 10 ECHR.
1 st Constitutional Package	Cultural life and individual freedoms.	Remove provisions prohibiting the use of languages other than Turkish
New Civil Code	Gender equality	Promote equality between men and women
1 st Constitutional Package	Freedom of Association and Peaceful Assembly and Civil Society	Strengthen legal and constitutional guarantees in these areas and encourage development of civil society
1 st Constitutional Package	Pre-trial detention	Align procedures on pre-trial detention with the provisions of the ECHR and the recommendations of the Committee for the Prevention of Torture
1 st Constitutional Package	Efficiency and functioning of the judiciary	Improve the functioning of the judiciary in line with international standards. Particularly the training of judges and prosecutors on EU law and human rights.
2 nd Constitutional Package	Constitutional amendments including the recognition of the use of Kurdish language in publications, tougher provisions on the banning of parties, better access to defence lawyers for criminal suspects, compensation fines in cases of torture or ill-treatment and easier criteria for establishing NGOs.	
3 rd Constitutional Package	Abolish death Penalty	Abolish the death penalty, sign and ratify Protocol No. 6 ECHR
4 th Constitutional Package	Implement previous reforms	The need for credible and effective implementation and enforcement
5 th Constitutional Package	Retrial of all cases decided in State Security	Align the functioning of State Security Courts with European

	Courts	standards and 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.
6 th Constitutional Package	Adopt Protocol 6 of the ECHR and convert all death sentences to life imprisonment and abolish Article 8 of the Anti-Terror Law ⁵	
7 th Constitutional Package	Revisions on the structure of the National Security Council	Adapt the functioning of the National Security Council in order to align civilian control of the military with practice in EU member states
8 th Constitutional Package	Ten more amendments to the Constitution. Most important ones being the priority given to supranational treaties over domestic law and closing down of State Security Courts. Other than these, articles revised in favour of freedom of press also emerge as vital developments	Pursue and implement reforms concerning freedom of expression including freedom of press
9 th Constitutional Package	Revisions to Higher Education Board and High Audio Visual Board	
Source: Bac 2005; Magen 2003; EU Directorate General of the Ministry of Justice		

The scope of reforms laid out in Table 1 is a concrete proof of the democratization road covered by Turkish government especially after 2002. Nevertheless the successive turn of events after the last constitutional reforms has demonstrated that there are still major bottlenecks in Europeanization of Turkish democracy. An analysis of Commission reports reveals that in certain areas the Turkish government fails to adopt necessary measures for putting the reforms into practice. Freedom of expression, prevention of torture and

⁵ Article 8 of the Anti-Terror Law used to state that “*written and oral propaganda and assemblies, meetings and demonstrations with the aim of damaging the indivisible unity of the State of Republic of Turkey, the nation and its territories are forbidden. Those conducting such an activity are to be punished by a sentence one to three years’ imprisonment.*”

discrimination, freedom of association, freedom of religion, and freedom of cultural rights is areas that major human rights infringements still take place. A powerful civil society, independent judiciary and civil democratic control of armed forces are other important elements that need to be confronted to improve the conditions of democracy in Turkey. The next section outlines deficiencies in Turkey's EU initiated reform process and examines the reasons behind the implementation failure.

3. Shortcomings in Turkish Democratization Process

Turkey has come a long way in the Europeanization of its democracy. The necessity to implement accession conditions evidently stimulated change in Turkish politics establishing the drive for a more democratic society. Nevertheless, major barriers still exist in sufficiently implementing these reforms. Various human rights infringements, serious problems in the judicial system and regional differences hamper the substance of democracy obscuring accession negotiations. Such cases have been put forward many times by the Commission in the progress reports. According to the 2000 Progress Report the banning of political parties on the basis of separatist and religious movements, serious problems in the implementation of minority rights⁶ or the violation of major freedoms threat the existence of a sufficient liberal democratic system in Turkey (Commission Progress Report 2000). Adverse prison conditions and the exercise of cultural rights independent of ethnic origin stood out as vital issues in the 2001 Report. Furthermore, the 2002 Report drew attention to the inefficiency of judiciary and especially minority rights infringements, a result of the Foundations Law.⁷ The right to organize and the right to collective bargaining including the right to strike were and still are problematic issues in the exercise of economic and social freedoms in Turkey (Commission Progress report 2004). In this context, further administrative restrictions on freedom of

⁶ The case of Khalki Seminar is an issue that frequently stands out in the progress reports. The Khalki Seminar was established in 1844 as the main school of the Eastern Orthodox Church's Ecumenical Patriarchate of Constantinople. With the establishment of Republic in Turkey in 1923, the school adopted the seven grade system. However in 1971, the closure of private schools in Turkey due to the fact that articles of "Private University Law" were found unconstitutional, led to the enforced closure of the seminar as well. The seminary section of the school still remains closed while the high school is open with no students. The situation of the school has received a lot of international attention from the EU and the US. However, in the absence of strong determination and consensus for solving the bottlenecks the future still remains very ambiguous for the Seminar.

⁷ According to the 1936 Foundations Law the trustees of the foundations in Turkey had to declare the sources of their income with the aim to control the secular structure of the state. However, in 1960s minority foundations began to face bureaucratic obstacles when acquiring new properties. The situation deteriorated with the 1974 decision of the Appeal Court which stated that the declarations made by minority foundations in 1936 were in fact Charters and any property acquired after the declaration had no legal validity. This obviously meant that those properties had to be returned to their former owners. The law was revised in 2002 in the context of harmonization of Turkish law with the EU law to allow the acquisition of real estate by minorities only with the permission of the Committee of Ministers. The policies of the Turkish governments towards minority foundations have clearly been in violation of ECHR provoking serious criticisms from the European Commission. Nevertheless, a very recent development has taken place which allows foreigners to set up foundations and acquire property without permission. The law has come into effect as of February 2008 therefore its sufficient implementation still remains to be seen.

association hamper Turkey's fundamental right records in this area. The 2004 Progress Report emphasizes administrative provisions which give permission to governors to restrict public activities in the interest of public order or to regulate the use of slogans and the text on banners preventing the exercise of right to association (Commission Progress report 2004). The fact that such provisions still exist evidently demonstrates the lack of determination on the side of successive governments since 1999 to create the necessary grounds for the exercise of these rights⁸.

Problems encountered in the implementation of cultural rights are another major concern in the Progress Reports. Prohibitions on the exercise of certain cultural rights like the use of languages other than Turkish are issues that the government has not been able to resolve. In this context difficulties in the use of Kurdish language have become an eminent problem in the exercise of cultural rights. The ban on the use of Kurdish was revised in 2004 allowing radio and TV broadcasting in dialects other than Turkish (Commission Progress report 2004). Thus, the need to extend the application of this law still stands in front of the Turkish government mainly due to the fact that the Kurds are the largest minority in Turkey. However, in spite of such efforts the general perception of the governments on the rights of those in the periphery as a threat to the unity of the state and the nation is perhaps the main reason behind the implementation failure.⁹ Exercise of cultural rights emerges as one of the most problematic issues on the democratization agenda. For instance, deficiencies in the educational programmes teaching Kurdish language is a vital issue that needs to be confronted by state authorities.¹⁰ Such restrictions in quest of state protection derogate people's primary rights endanger the nature of human rights and democracy in Turkey. In the case of other freedoms and rights- freedom of opinion, expression and the right to fair trial- the Turkish government has not been able to meet up to the expectations with the reforms that it has pursued over the course of years.

⁸ The incidents at the 2008 May Day rally in Istanbul which attracted international criticism is an important proof of the government's position towards the exercise of such collective rights. On that day, the police utilized excessive force (water cannons and tear gas) to prevent labour unions from gathering and disperse them from the main square of Istanbul. The tension between the demonstrators and the police on May Day 2008 has also been criticized at the European Parliament 2007 Report on Turkey. See <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&language=EN&reference=P6-TA-2008-0224>

⁹ The closure of Art TV in 2004, a local television channel in Diyarbakir, on the grounds that it had violated "the principle of the indivisible unity of the state" shows that the passing of a law is not adequate in generating recognition for cultural rights by state authorities (Progress report 2004). Another controversial revision on Turkish Radio and Television Corporation (TRT) Act which would generate more space for the exercise of cultural rights, took place among the rejections of major opposition parties, Nationalist Movement Party (MHP) and Republican People's Party (CHP) in mid-May 2008. (Radikal May 2008). The act is a very fundamental step in allowing the exercise of cultural rights since it enables broadcasting in Kurdish by the state television channel, TRT. Although it could be interpreted as a sign of change in state policy towards freedom of expression and minority rights, its genuine application still remains unclear.

¹⁰ Currently, Kurdish can only be learned through private educational institutions. However, such courses were all closed down in 2004 leaving no opportunity to learn Kurdish in the public or private schooling system.

In addition to the shortcomings stated above, violation of freedom of expression is probably the most important and debated issue in the current scope of Turkish democracy. The articles under certain provisions of the Turkish Criminal Code that penalize expression of non-violent opinions pose serious concerns both for liberal domestic groups and the EU. Distinguished writers, intellectuals have been prosecuted under the criminal code and in particular the infamous article 301 which penalised insulting “Turkishness”, the Republic and the organs and institutions of the state. The 2007 Progress Report underlines the fact that the number of people prosecuted under article 301 has almost doubled from 2005 to 2006 (Commission Progress Report 2007). This increase provoked both internal and external pressure for change to improve the content of human rights notion and stability of democracy in Turkey. Consequently, the article was amended by the Turkish Parliament on April 2008 to include the following changes; the phrase insulting “Turkishness” was replaced by “Turkish People, Republic of Turkey, Grand National Assembly, and Turkish Government”, permission of the justice minister is required to file a case, reduction of the maximum penalty from three to two years (Ozcan 2008). The government’s hesitant position to revise Article 301 whilst receiving a lot of critiques from the EU raised questions on the existence of strong determination for sufficiently applying the conditions for membership. Although it is just one article of the criminal code, article 301 became the symbol of deficiencies in Turkish democracy highlighting areas in which the government stays reluctant to pursue a satisfactory reform process. The recent revision of the article is undoubtedly a pleasant development but whether it will be a sufficient one still remains very ambiguous.

The position and impact of military in politics is another vital matter in Turkey’s democratization process. For the EU such influence of the military in politics is a serious threat to the content of democracy raising questions on Turkey’s Europeanization. In the latest progress report, the Commission expressed its disapproval on the interference of General Staff in the presidential elections of Abdullah Gül¹¹ by issuing a memorandum. The memorandum was perceived as a major hindrance in the operation of politics at the same time demonstrating the strong position of the military as a pressure group in the political arena. The military has been an essential part of Turkish politics since the fall of the Ottoman Empire. Turkey’s transition to the republican regime was the work of former military members rather than the outcome of a grass root political process. Therefore, it stands not only as a powerful pressure

¹¹ The General Staff issued a memorandum after Gül failed to obtain two thirds of the majority in the first round of voting for presidential elections. The memorandum stated that the presidential elections had focused on the secular structure of the state and that Turkish Armed Forces (TSK) was and would always be a party to the protection of the notion of secularism in Turkey. Thereby, TSK bluntly asserted its concern against secularism in the presidential elections and underlined its position as a party in determining the direction of politics. Nonetheless, Gül came out as the 11th president of the Republic in the third round.

group but also presents the key guardian of fundamental values of the Republic. Hence, military's involvement in shaping the content of politics in Turkey has left its finger prints in the political structure to this day.

4. Analyzing the Political Structure

The comprehensive adjustment process with nine Constitutional packages and various legislative reforms is the concrete proof of Turkey's strives for EU membership. However, the lack of sufficient implementation of the reforms obviously hampers the progress the country pursues in applying the democratic accession criteria. To understand the reasons behind this failure, it is crucial to examine the nature of political power in Turkey. With the 1999 Helsinki Summit Turkey began adjusting its democratic structure to European standards. At first coalition, later on single party government pursued Turkey's membership goal. Nonetheless, the existence of ingrained lacks has raised questions on why the current government, which has been in power for six years, has not been able to implement reforms to proceed successfully in the negotiations.

The structure of the political system and the notion of political power have been a determining factor in this sense. The outline of traditional domestic politics in Turkey is very far from the grass root notion and dominated by the realist approach of the "Sacred State". According to this approach, the definition of state offers an independent entity which derives its legitimacy from its own existence rather than the society itself (Heinrich 2007). For this reason, the state elite utilize politics as a mean to educate the public in pursuit of protection of the "Sacred State" (Heinrich 2007). This tradition, inherited from the Ottoman state structure, persists as a part and parcel of the republican state system. In this tradition, politics and rule of law emerge as tools to prevent the state from disintegrating with its unitary nation and territory rather than as elements of social order. Taking into consideration Turkey's top down transition to democracy, the realist approach of the state has dominated the way politics is carried out in Turkey for many years. It is for this reason that there is a clash between the new order introduced by the EU and the status quo which eventually obstructs the desired effects of reforms.

Turkey's transition to democracy began with a single party regime under the Republican People's Party (CHP). The party policies, which at the same time defined the content of state structure, became the central feature of deeply-rooted institutions. Statism, populism, nationalism, republicanism, secularism and revolutionism constitute six main aspects of this ideology. According to the statist ideology, the state regulates the country's general economic activities also engaging in areas where private enterprise is not willing to do

so, or where private enterprise has proven to be inadequate, or if national interest requires it. In the application of the principle of statism, the state emerges not only as the principal source of economic activity, but also as the owner of the major industries of the country. Populism, on the other hand, stands as the drive for the establishment of unity and national identity to create a supreme value of Turkish citizenship. In addition to these, the notion of secularism generates a state structure devoid of religion in the public sphere. These six fundamentals had been vital in establishment of the republic in the first years, after the fall of the Ottoman Empire. Over the years all of these six fundamentals, known as the Six Arrows, came to be recognized as unchangeable and sacrosanct dominating the nature of state structure event to this day.

In the realist state structure, the existence and deployment of certain rights evidently cause conflict as internal and external dynamics push for more democracy i.e. the limitation of state's power over individual freedoms. Sweeping reforms, stimulated by the EU accession process, have created such a political atmosphere in Turkey. The clash caused by the contradiction between the content of political system and reforms have resulted in serious implementation failures. Nevertheless, the means to compensate for such a loss has been on the agenda of the Justice and Development (AKP) government since 2002 but effective measures have still not been taken. When considering the fact that the current government, has been in power as the sole party one would expect implementation deadlock to be overcome. When AKP came to power it not only possessed the effective enforcement tools a majority government has at hand but also the international and domestic groups had been in favour of change in Turkey with a high support for EU membership. The election of AKP in 2002 with 35.7% of the votes had removed the unstable environment of coalition governments and created the basis of suitable setting for change in Turkey. In the first months of the government, the party faced serious opposition from the political elite including the military, for its members had previously taken part in parties which were banned by the Constitutional Court for posing a threat to the secularist structure of the state. Therefore, with its victory in 2002 elections the eyes were turned on AKP with the fear of a secret agenda to weaken the secular structure of the state. To many people's surprise, the party had been able to adopt major reforms partly with the impetus initiated by previous governments (Bac 2005). Later on as the political and economic environment began to improve a rather dynamic atmosphere for reforms was produced. Military portrayed a cooperative attitude towards the government in quest of EU membership, a goal introduced with the republican regime. Whilst keeping an eye on the secular political structure, the boosting economy under the AKP government was also a positive development for many. Hence, the party took over a vast EU

reform agenda which it deployed rather quickly. Nevertheless recognition of Turkey as a candidate country in 2005 has resulted in the slowing down of the effect of conditionality in Turkey's membership process invoking criticism from powerful pressure groups in Turkey such as TUSIAD (Turkish Industrialists' and Businessmen's Association). Although the government- with the majority of the seats in the Parliament- has been able to pass a high number of revised legislation moving the country closer to its candidate status, deeply-rooted deficiencies in the exercise of freedoms hampers the success of the government in realizing the concrete Europeanization of Turkish democracy. Within this scheme, there seems to be three major bottlenecks in the course of politics in Turkey which prevent the existence of adequate reform process: insufficiencies in rule of law; the state centric nature of the Constitution and the AKP government's loath position in putting the reforms into practice. These features which are mutually reinforcing result in deficiencies in Turkish democracy. In the absence of solution options for these bottlenecks, restrictions on the exercise of fundamental rights and freedoms would not only continue to cause democratic deficit but also impede the flow of negotiations between Turkey and the EU.

The nature of the Constitution is one of the underlying factors which diminish the effect of conditionality in the political reforms. The Turkish Constitution, with relevant legislation, has been constructed in such a way that creates an absolute state and gives complete power to those who have been elected. The Constitution, which serves to preserve the integral state structure, diverges from its ultimate goal as the instrument for consultation in cases of conflict between the liberal institutions of the state whilst placing the interest of the individual above all. The rationale of the 1982 Turkish Constitution differs from these characteristics as it is the outcome of the 1980 coup d'état bringing members of the military back into the political arena. For this reason, it does not embrace pluralism but rather defends the integrity of the state (Heinrich 2007). This feature of the Constitution endangers its impartiality, a sine qua non factor for the establishment of a liberal democratic regime (Heinrich 2007). Under these circumstances, constraints on the exercise of certain rights emerge as the only way to guarantee "the indivisibility of the state with its territory and nation". Therefore, empowering the branches of the state in a way that societal, political and cultural diversities are all dispersed in the dominant ideology has been one of the defining features of both the Turkish Constitution and the political system. Consequently, the absence of protection of liberal values by the Constitution has had a jeopardizing effect on the reforms resulting only in the mere adoption of laws without sufficient implementation.

The impact of EU membership conditionality has liberalized the political arena to a certain extent in Turkey. The opening up of markets to external competition and a developing

notion of civil society strengthened the atmosphere of change. Eventually, this dynamic environment brought about discussions on the need to amend the Constitution to generate more room for liberalizing the state structure. Nevertheless, the government has failed in utilizing this opportunity for change. The AKP government has not been able to show adequate effort in fulfilling its role to amend the Constitution by bringing influential stakeholders of the society together to get their opinions on improving weak areas of Turkish democracy. Rather than initiating debate over how to develop a more civilian Constitution, the government chose to concentrate on issues which have been perceived as being contrary to the secular nature of the state, a defining notion of the Turkish state.¹² It is a widely accepted fact that at the beginning, AKP had embraced the EU reform process by passing laws in controversial areas regardless of the fact that they might have been contrary to the status-quo. Nonetheless despite such progress, the government's persistent policies which sometimes challenged secularism led to the formation of cleavages in the society hampering the successful implementation of reforms. This cleavage has not only divided the society but also diminished public support for EU initiated reforms due to the common perception that the Union stands in favour of this polarization. Moreover, the party's core electorate which differs from the majority of the society with more conservative and religious based preferences is actually the key underlying reason behind AKP's failure in putting certain reforms into practice. Consequently, the government's failure in creating a collaborative atmosphere for liberalizing the Constitution and facilitate debate between different groups has been detrimental to the success of political reforms in Turkey.

A Constitution dominated by one ideology stands as the main obstacle in front of Turkey's EU facilitated democratization. Therefore, it is extremely crucial that the Constitution undergoes a serious revision. This sweeping change could only remove the barriers in front of exercise of certain rights. Nonetheless, for a stable liberal democracy it is very crucial that not only exogenous but also endogenous pressures support this constitutional change. Currently, this encouraging atmosphere is available in Turkey if the government takes over the responsibility to facilitate debate and reconciliation between all stakeholders in the society. Such a position is required when one considers the clash of interests in Turkey's reform process. The reforms have never been the consequence of an internal pressure but rather the outcome of external drives as the EU or the IMF. Therefore, there is a certain

¹² The government's policy towards the headscarf issue is as one of the most debated problems in the context of secularism in Turkey. The ban on wearing headscarf in high schools, universities and public institutions has been the reason why criticisms, both in favour and against the ban, have been raised by different groups within the society. Nonetheless, the government's attitude which led to the polarization of the society into two groups, "moderate Islamists" and "secularists", has endangered both progress in the negotiations and support for EU membership.

amount of resistance to reforms in pursuit of protecting the status-quo. To overcome this deadlock, it is extremely crucial that the government shows a decree for change which would enable convention in the society. Currently, the government has been hesitant to establish a debate environment because of the fact that it has been at the centre of various crises raised by the headscarf issue or the case filed against AKP by the Constitutional Court. Such crises result in the formation of cleavages in the society moving Turkey away from the reform momentum towards internal political instability.

Public perception towards political reforms emerges as one of the determining factors in explaining AKP's adverse attitude in the creation of a suitable atmosphere for successful reforms. According to a public opinion survey conducted by the Turkish Economic and Social Studies Foundation (TESEV) the majority of public generally perceive fundamental rights and freedoms as indispensable (Carkoglu 2002). Freedom of religion, prevention of torture, freedom of expression, equal treatment before the law, exists among the respected rights. However, public support decreases for rights that are usually perceived as belonging to "another group". In the scope of fundamental rights some areas are seen as the rights of those who are not part of the majority. This means those in the periphery would require rights different from the mainstream, which in the Turkish case is understood as a potential risk to the integral nature of the state.¹³ Needless to say, such a public perception limits the manoeuvre of any government for reforms in these areas when elections are taken into account. For instance, according to the same survey, 56% of the participants did not support the lifting of the ban on broadcasting in languages other than Turkish even if it was the only condition in front of EU membership (Carkoglu 2002). Moreover, the same attitude is seen towards learning of the mother tongue of a minority group where 58% voted against a law which would permit courses in other languages (Carkoglu 2002). It is vital to note that such laws have been adopted by the Parliament regardless of the negative public opinion.¹⁴ However, the passing of the law has not been sufficient for the implementation process. The government's hesitant position to resolve the impediments in front of the enforcement stage of the reforms raises serious doubts on whether Turkey can adequately Europeanize its democracy.

¹³ For instance, freedom of cultural rights has usually been associated with the Kurdish population. Therefore, ongoing conflicts between the PKK (Kurdistan Worker's Party) and Turkey obstruct public's perception of minority rights making it even with separatist acts. Furthermore, disputes between Greece and Turkey and past memories have also been complicating solution options for the Greek minorities.

¹⁴ Probably the most important of these reforms was the abolition of death penalty. According to the TESEV survey 54% of the people were against the lifting of death penalty since at that time, the PKK (Kurdish Worker's Party) leader Abdullah Ocalan was arrested and condemned to death. Nevertheless, the reform oriented government succeeded in abolishing penalty by the courtesy of EU membership carrot.

Persisting restraints in front of sufficient adoption of the political accession criteria has brought concerns on the ability of the government to sustain Turkey's membership goal. Nevertheless, it is crucial to point out that in addition to the government's reluctant position severe flaws in the judicial system stand as a major setback in the reform process. The EU accession criteria have stimulated a massive adjustment process but the judiciary stands as the most exploited and less reformed mechanism within this scheme. The cumbersome and redundant system of the judiciary decreases its efficiency in bringing solution to cases of conflict. In addition to this, the politicization of the judicial system is also a vital problem that hampers its impact. Powerful groups aim to exploit the content of rule of law in a way that serves only to their benefit. Cases of corruption in the judiciary evidently result in the loss of confidence in rule of law which is actually the ultimate instrument to bring comprehensive and enduring change to the status-quo.

The centralized political nature, in the absence of an instrumental judicial system, is one of the main reasons why major infringements of democracy still take place. Such a state structure impedes the development of the notion of individual since the central state dominates the political and societal arena. The notion of centralized state results in the supremacy of collective issues such as protection of religion, national unity and national identity which eventually preside over individual issues like education, health, employment and rights in the absence of economic well-being. According to Mousseau, in such centralized states unless economic inequalities are curbed freedoms could never be guaranteed (Mousseau 2006). The reason is that unlike in a state protected economy, decentralized market forces foster political and especially individual rights by satisfying the essential needs of the individual. Hence, the next section will be examining the ability of Turkey to adopt a liberalized market economy according to the Copenhagen criteria to which would not only foster the economy but also strengthen the basis of democracy in the country.

5. Liberalization of Turkish Economy

Until early 1980s Turkey had practically a closed and highly protected economy with narrow interests constructed around clientelism. A slow changing process began with the privatization of certain state sectors under the Motherland Party (ANAP) government. The real thrust came, however, with the customs union membership in 1996 which started the genuine liberalization of Turkish economy. According to the 1998 Regular Report "Turkey had received most of the hallmarks of a market economy and the proven considerable potential for growth and the shown great adaptability, especially in the context of the customs union,....should enable Turkey in the medium term to acquire a viable market economy able

to withstand the pressure of competition” (Commission Regular Report 1998). With the candidacy status in 1999, Turkey began putting more effort into improving its economy in pursuit of membership. Hence, not only Copenhagen economic criteria gained importance but also the application of Maastricht criteria was being discussed in Turkey. However, sufficient attempts for transition from state regulated economy to a liberal market one, did not take place until the 2001 financial crisis. This fact was captured by the Commission in its 2001 progress report as “...over the period 1995-2000, no progress was made in catching-up with the EU” (Commission Progress Report 2001). Eventually, the government decided to adopt a through reform program abandoning the crawling peg regime and floated the currency. The economic program undertaken shortly after the crisis can be seen as the first considerable step in reaching the EU standards on economic issues. For this reason the program, jointly prepared by Kemal Dervis, the then newly appointed minister of economy, and the IMF, was heavily inspired by the EU economic accession criteria. The success of the program was an important step towards Turkey’s membership. For instance, tight monetary and fiscal policies pursued during and after Kemal Dervis’s cabinet post, reduced the inflation to almost 7% in late 2006, its lowest level in 30 years. Even though at the time of writing this paper inflation is still out of reach of the Maastricht Criteria with 10.6%, Turkey seems to be on a decent path as far as inflation is concerned. Nevertheless, issues like public procurement, the independency of regulatory agencies, privatization of state owned enterprises, state aid policies especially on tobacco and sugar, and FDI figures still stand out in the Progress Reports and Accession Partnerships of Turkey as bottlenecks that need to be dealt with for a successful economic reform process. Turkey has followed a successful reform process in critical sectors like insurance, creation of regulatory agencies, or the Central Bank. However, there are still major lacks which will be outlined by the next section.

6. Economic Reforms: What Turkey still lacks?

After the 2001 economic crisis, the first step in the economic program was to give the Central Bank of Turkey (CBT) “instrument independence” with the amendment in CBT Law (Ozatay 2005). Since then article 4 of CBT law states that “the primary objective of the Bank shall be to achieve and maintain price stability. The Bank shall determine at its own discretion the monetary policy that it shall implement and the monetary policy instruments that it is going to use in order to achieve and maintain price stability.” This amendment eventually enabled the separation of the CBT and the Treasury which meant that CBT was no longer forced to supply credit to the Treasury to finance budget deficits which was known to be inflationary. Instrument independence allowed CBT to concentrate on reducing inflation

which had then reached 80%, making price stability its first and foremost goal. Successive reforms in the CBT law have given the Central Bank a considerable amount of independency. However, there are still some issues that need to be amended for a better management of CBT. For instance, the Bank still lacks goal independence because of the fact that it “shall determine the inflation target with the government and shall in compliance with the said target adopt monetary policy” (Article 4 II b). This article has been criticized for not only being incompatible with the Treaty and the Statute but also because it presents an undemocratic structure (Ozatay 2005). The undemocratic structure evidently endangers the establishment of an effective CBT. There are also other areas which infringe the independency of the Bank creating room for government interference. Consent of the Council for membership to international finance and economic organizations¹⁵, external political influence on the Board¹⁶, lack of clearly defined mandate for the Audit Committee¹⁷, the right of the Prime Minister to have operations and accounts of the Bank audited¹⁸ emerge as issues that impair the independent nature of the bank. The fact that there is room for government intervention in the operation of the Bank results in inconsistent policies which generate a clientelist environment. The nature of political power in Turkey is the underlying factor that explains the government’s stance to interfere. In every successive government, from left to right wing parties, coalition to majority, those who had been elected devised policies to exploit economic means to their advantage. For this reason, institutions like the CBT face the danger of being the instrument for power struggle among successive governments, a feature detrimental for a successful reform regime.

The end to the crawling peg regime came in 2001 when the CBT announced that it would float the Lira. Even though this was a premature announcement due to the CBT running out of reserves to cover the sudden demand for foreign currency, it was in line with EU exchange rate policies. Under the floating exchange rate regime the Lira lost almost 50% of its value in 2001. Strong economic indicators in the subsequent years however helped restore confidence in the Lira. Hence, the currency reform, of deleting 6 zeros from the Lira and introducing the New Turkish Lira, further stabilized the exchange rates. The confidence in the currency caused it to appreciate boosting imports and creating a current account deficit much larger than the EU countries. The financing of the current account deficit however seemed to improve from 2001 to 2007 as the weight of short term financing decreased and long term financing and FDI increased. With the international financial crisis that came about

¹⁵ Article 3 of the CBT law

¹⁶ Article 15 (3) of the CBT law

¹⁷ Article 24 of the CBT law

¹⁸ Article 42 of the CBT law

in late 2007, the situation was reversed as both FDI and long-term financing decreased and CBT reserves are used to finance the current account deficit (Yuksel 2008). Soaring commodity prices, the deterioration in expectations due to recent political events, such as the case filed against AKP, and poor communication strategy on the government's part, all contributed to the capital outflow experienced in 2008. Keeping in mind that the CBT reserves are only limited, the sustainability of the current account deficit remains a big problem in the Turkish economy in which the government remains reluctant to take action.

Prudent fiscal policies along with increased fiscal transparency have also been major contributions to achievement of the Maastricht criteria. Moreover, with new laws in place on public procurement, financial management and financial control, fiscal policies have met international standards (Commission Progress Report 2003). As a result, Turkish public debt to GNP, which was 78% in 2001 declined to an impressive 38% in 2008 well below the threshold given by the EU criteria (Official Gazette 2008). These policies included not only increasing public sector income through more efficient tax collection and the reduction in the size of the informal economy, but also decreasing public spending. Hence, extra-budgetary funds have practically become non-existent as the fiscal burden was lifted with each passing year. Turkey's economic program which lasted soon after the crisis in 2001 until May of 2008, set ambitious "primary surplus" targets for each year. Although, the AKP government had trouble meeting the target in 2003 and 2007 both due to election-related spending, it was either reached or missed by a small margin for all other years since 2002 (Tepav 2008). In addition to this, the much needed social security reform has passed through the Parliament in March 2008 and is expected to relieve the burden on the Treasury in the medium term (Kanlı 2008).

The creation of independent regulatory agencies has also been a vital adjustment in strategic but cumbersome sectors. For instance, the establishment of the Banking Surveillance and Regulatory Agency (BSRA) in 2000 was the starting point of the reforms in the financial sector. Nevertheless, the banking crisis that broke out in February 2001 undermined its early operations revealing the unhealthy structure of the sector. With the crisis, it became apparent that the government had used state banks for non-commercial objectives like agricultural support causing them to end up duty losses (Togan 2004). Moreover, as the banks found themselves financing public deficits they became very vulnerable to changes in interest rates (Togan 2004). Additionally, the problems related to legislative, regulatory and institutional framework of the sector proved the urgent need to reform it. Therefore in the aftermath of the crisis, the BSRA was crucial in imposing some heavy restrictions on the banks regarding their capital adequateness and liquidity. Some consolidation took place as nonviable banks were

taken over by the Savings and Deposits Insurance Fund while other non-profitable banks were simply sold to larger banks. With this adjustment, the number of banks operating in Turkey went from 89 in 2000 to 47 in 2005 (Commission Progress Reports 2000, 2005). Moreover, the new banking supervision law passed in 2005 has further guaranteed the strength of the sector. With these reforms the Turkish banks are currently recognized as the most profitable in the world (Tufan 2007). As far as the state owned banks are concerned a sufficient privatization process is in line: Vakif Bank was fully privatized in 2005 and Ziraat and Halk Bank are in the process of being privatized.

As a successful reform process began taking place in the banking sector it drew attention to other areas where an efficient and independent regulatory agency was required. Energy sector, which prior to the reforms was state-regulated and inefficient, was one of these sectors that went under a comprehensive restructuring. The key breakthrough came with the establishment of Energy Market Regulation Agency (EMRA). The EMRA was established with the aim to compose a viable, stable and transparent energy market, which functions to as per to the provisions of private law, and within a competitive environment. Its main duty is to ensure the independent regulation and supervision of the market in order to provide sufficient electricity, natural gas, petroleum and LPG of good quality to consumers, at low cost, in a reliable and environment friendly manner (Ozkoc 2008). However, there are certain obstacles in front of complete independency of the EMRA preventing it from fulfilling its duties. According to Ozkoc¹⁹, regardless of the fact that eliminating political pressure and risks in front of local and foreign energy investments was the main aim, the Agency has not been fully unbundled from the political environment. The impact of political struggles on the functions of the EMRA evidently threatens the formation of a competitive energy market. This also poses a major problem in liberalizing the sector and eventually, the sufficient implementation of *acquis* related reforms. The second major obstacle in front of the energy sector is the resistance of monopolistic companies to liberalised structure²⁰ (Ozkoc 2008). In this scheme, delay in the privatization of electricity sector because of its state regulated structure points to major deficiencies in the energy sector. The tradition of state control in these sectors comes from the formation of the republic after the fall of the Ottoman Empire. The state elite, at the time, aimed at setting up institutions that would establish an independently functioning state. To this day, the tradition of statism persists in crucial sectors -like the energy- raising serious questions on their ability to compete with external markets. Sufficient political willingness

¹⁹ Hasan Ozkoc is a senior gas expert in International Markets Monitoring Group of Natural Gas Market Implementation Department of the EMRA.

²⁰ For example, the reluctance of Turkish Oil Pipelines Corporation (BOTAŞ) against gas release methodology is an important setback in this sense.

and more importantly merit managers at decision making level in the market are the key prerequisites for a liberal and competitive energy market (Ozkoc 2008). These kinds of absences obviously hamper the realization of sector-specific reforms pursued with regards to the EU accession process.

The problems encountered in the privatization of state enterprises in the absence of an effective competition policy pose serious concerns on the existence of a liberal market economy in Turkey. The Accession Partnerships have continuously put forward the need to privatize certain vital sectors in Turkey like tobacco, sugar and agriculture (Accession Partnership 2003; 2006). In this context, it must be noted that a successful privatization and competition policy go hand in hand. Nonetheless, the implementation of both of these features has been lagging to a great in the Turkish context. First of all, Turkey's privatization experience has been a rather recent and fragmented process. Certain sectors like manufacturing had been cushioned with high tariff barriers and import restrictions under decades of state protection. Therefore, state monopolies have deteriorated the functions of these strategically important sectors. Although, there have been serious adjustments since 1980s mainly in utility-like sectors as telecommunications and electricity, major deficiencies still exist even in these sectors. The lack of an effective competition policy stands out as the most crucial problem in Turkey's inadequate privatization process. For this reason, if the government fails to implement a successful competition policy, the privatization process would eventually intensify the imperfectly competitive nature of these sectors (Mumcu 2002). To counteract this weakness, the establishment of a Competition Authority has been a fundamental step. Ambiguities in the application of the Competition Law, regardless of the fact that it is largely compatible with the EU rules, point to implementation problems in these sectors.

Turkish Competition Law rules out three wide range of activities; agreements and concerted practices that restrict competition; abuse of dominant position and monopolization; mergers and acquisitions (Mumcu 2002). The fact that the law excludes public entities is quite problematic not only because state controlled enterprises still play a non negligible role in Turkish economy but also it leaves too much room for interpretation. For this reason, the Competition Authority has chosen to interpret the silence of the Law on this matter in certain cases but without a uniform application procedure. For instance, in a case against the Turkish Sugar Factories Incorporated (TŞF) it was claimed that TŞF was in violation of economic efficiency and profitability considerations when it sold its output below cost (Mumcu 2002) leaving private producers out of the market. Consequently, the Competition Board found TŞF as being in a dominant position in the sugar market. Nonetheless, the silence of Turkish

Competition Law on the issue of public undertakings has been a major concern both for the privatization process and successful implementation of competition policy. Public undertakings are protected from the application of Competition Law by a special legislation (Karataş, 2001). Therefore, the impact of Competition law on the reform process of these sectors has been unsatisfactory and the role of Competition Authority still remains very ambiguous.

Another reason behind problematic privatization in Turkey is the long history of state domination in important sectors causing them to become cumbersome and uncompetitive in the international arena. This environment has been the result of an economic history of “state intervention creating many vested interests, favoured players, and a culture of doing business that is based on soliciting special treatment from the central government” (Mumcu 2002). The case of telecommunications sector could be provided as an illustrative example. Until 1994, telecommunications services were provided by state-owned PTT (Turkish Mail and Telegraph Organization). In 1995 Turk Telekom (TT) was established as a state economic enterprise which is a national monopoly with exclusive rights to all fixed-line voice operations and all telecommunications infrastructures except mobile (Akdemir 2007). Nevertheless, the breaking point in liberalizing the sector came with the establishment of Telecommunication Authority in 2000. Since then the Authority has taken important steps to open up the sector to external markets by issuing new service licences (Akdemir 2007). However, the fact that licences are issued only to service providers but not to network providers still makes TT a monopoly in the sector. The case of telecommunications sector points out to the deeply rooted nature of state tradition even after certain reforms have been pursued. In the case of privatizing the telecommunication sector unless additional licences are issued to other network providers TT will continue to remain as a monopoly (Akdemir 2007). As a result it becomes particularly difficult to completely reverse decades of malfunctioning in such crucial sectors. In this scheme, the key to successful liberalization lies as a major challenge especially when there are serious setbacks in the application of competition law to all economic agents including the state itself.

The problems encountered in FDI flows to Turkey appeared in the accession partnerships for the first time in 2003. One of the main reasons for this delay was the fact that Turkey adopted OECD’s FDI definition only in 2001 and afterwards it was included in the new Turkish FDI law of 2003. Therefore, Turkey’s FDI record became a determining factor of economic criteria only after then. Such a deficiency has obviously led to an undervaluation of FDI inflows to Turkey (Yilmaz 2005). Despite the adoption process and the removal of

certain obstacles Turkey still falls short in attracting the expected amount of investment.

Table 2 provides a comparison with recent members of the EU.

Table 2: Foreign Direct Investment intensity - Average value of inward and outward Foreign Direct Investment flows divided by GDP

	<i>Bulgaria</i>	<i>Czech Republic</i>	<i>Lithuania</i>	<i>Hungary</i>	<i>Poland</i>	<i>Slovenia</i>	<i>Slovakia</i>	<i>Croatia</i>	<i>Turkey</i>
2001	2.6	4.7	1.9	4	1.5	1.3	3.7		1
2002	2	5.8	2.6	2.5	1.1	2.4	7.8		0.3
2003	5.3	1.3	0.6	2.2	1.2	2.7	3.6		0.4
2004	6.5	2.7	2.3	2.8	2.6	1.8	3.6	1.9	0.5
2005	7.7	4.7	2.7	4.5	2.3	2.1	2.7	2.6	1.2
2006	8.9	2.6	3.5	16.5	4.1	2.1	4.1	4.2	2

Source: Eurostat

There seems to be four main constraints which obstruct attractiveness of Turkey for investors. First of all, interested firms refrain from investing in Turkey mainly because of the absence of a clearly articulated policy framework coupled with insufficient clarity of legal and judicial system which evidently weakens the respect for the rule of law (Yilmaz 2005). The unpredictable investment procedures are an important put off factor for investors. For example Cargill Inc., a US based company, began starch-based sugar investment in Turkey in 1990. The sugar market in Turkey is composed of starch-based sugar and traditional beet sugar where 80% of the traditional beet sugar market is dominated by state-owned production (Yilmaz 2005). Cargill obtained the required investment certificates to start processing starch-based sugar until the beet sugar producers filed cases against the company. After arduous judicial actions, the court ruled that the permission obtained was inappropriate and in contradiction with the Constitution (Yilmaz 2005). Insufficiently defined and continuously changing rules are important impediments in front of the investment environment. In addition to these, patronage relations when dealing with investment procedures and government allocations based on personal ties not only effect investments, inevitably creating an uncompetitive environment, but also distort the legal process. There are also severe competition related constraints between state-owned, local companies and fully foreign owned firms. In such cases the failure of regulatory bodies to fully enforce the competition law sends negative signs to investors. Although Turkey has not been able to completely translate its FDI potential into valid FDI projects, establishment of Coordination Council for the Improvement of the Investment Climate (YOIKK) and Prime Ministry Investment Support and Promotion Agency have been important developments to assess constraints in front of

investments, and especially assist international investors in the local arena. Nevertheless, the impact of these kinds of coordinating bodies is contingent upon satisfactory progress in the enforcement of competition policy and rule of law.

As for the non-banking financial sector in Turkey, it remains as the Achilles heel of the financial sector with insurance companies, pension funds, leasing and factoring firms. Even though there have been major developments, the sector is still underdeveloped compared to the EU countries. One reason for this is historically low savings rate in Turkey. Countries with hyperinflation memories tend to have low savings rate because of the fact that individuals fear their savings will be diminished over time as local currency loses its value. Turkey's savings rate at roughly 18% is much lower than that of other emerging market economies such as Brazil, 25%, S. Korea, 32%, and China, nearly 40% (World Bank 2007). Therefore, savings cannot be handed over to pension funds due to the fact that investments and pension funds can not invest savings in the capital markets resulting in undercapitalized funds and markets. As a solution option the AKP government has to show adequate effort to establish a sustainable inflation rate to increase confidence in local currency.

The capital markets, another area that stands out in the Commission reports, have experienced growth in the past six years but they still remain heavily undercapitalized. The volatile nature of the Istanbul Stock Exchange, the largest exchange in Turkey, is the fundamental reason behind its undercapitalization. Instabilities in the markets caused by a lack of decoupling between Turkish economy and its politics, poor regulation on investor security and transparency, have over the years resulted in poor public perception of the capital markets. Limited diversity of the instruments traded on the markets also emerges as a concern in the efficiency of the exchange market. The establishment of the Derivatives Exchange has been a major development in this area but currently the exchange suffers from disinterest of both the public and the industry. This is caused partly by an absence of advertising campaign to introduce and promote the derivative markets and partly by the lack of initiatives from the government on using the derivatives exchange to hedge against future risk. Corporate bonds are still extremely rare but the issuance of Turkish Lira dominated corporate bond for the first time in 2006 should be noted as welcoming news in fulfilling the EU goal (Commission Progress Report 2006).

Another development in the non-banking financial sector took place in the insurance market. This latent market has come into foreign radar as Turkey experienced high growths in the past few years. Even though the market is still underdeveloped when compared to the size of the economy, the insurance market certainly shows remarkable signs of potential (Benfield 2007). Law No:26117 which aims to measure and evaluate the capital requirements of

insurance, reinsurance and pension companies was passed through the Parliament in 2006 and represents Turkey's ambitions in catching up to EU standards in the sector. Moreover, the Turkish Insurance Law approved in July 2007 is the latest and most comprehensive attempt of the government to improve the regulatory framework and bring insurance business further in line with international practices. Nevertheless, the EU Progress Reports still outline the need for improvement in the insurance sector. The 2007 progress report suggests that "overall the alignment of insurance legislation is limited." and "enforcement capacity independence and co-ordination are at an early stage" (Commission Progress Report 2007). Thus, according to the EU, the enforcement of insurance regulations and the independence of the regulating body, the General Directorate of Insurance and the Insurance Supervisory Board, is a quite problematic in realizing an efficient insurance market.

As mentioned before the independence of regulatory agencies like BSRA, EMRA, Competition Authority, or General Directorate of Insurance has been put forward many times in the Commission Progress Reports which hinders the liberalization of relevant sectors. The key solution option is to enable these institutions to choose their own board of directors. However, the practice in Turkey currently is to have the institution elect candidates and have the government (usually the prime minister or sometimes the president) appoint from among those candidates. This semi-independence results in semi-autonomous institutions and adversely affects the implementation of regulations which in the case of insurance industry is very much evident. The fact that the enforcement capacity of the regulating body is limited by the cumbersome judicial system in Turkey stands as a severe problem. For instance, the companies that are accused of insurance malpractice often take their cases to court however; the extremely slow operation process on the case eventually invalidates its effects. Hence, more often than not the cases are closed from statutory limitations. The same problem is also encountered with respect to the Competition Law. In that case, the lag of collection of fines emerges as a serious impediment (Mumcu 2002). The fact that in cases of an appeal the fines do not become due until after the decision of the Council of State obviously impedes the enforcement of the law (Mumcu 2002).

Chronic unemployment in Turkey is another issue that has been projected in the Commission Progress Reports on Turkey. There is seemingly a paradox between job creation and unemployment; even though more and more jobs are being created in a growing economy, unemployment rates have been on a hike since the 2001 crisis. This paradox, however, can easily be explained by using labour demand and supply. Basically, newly created jobs are not adequate to meet the growing labour participation rates. In other words, the young population is growing faster than the number of jobs being created resulting in

increased unemployment. As with all economies in transition, there also is a skill-mismatch between labour demand and labour supply. In order to remain competitive and efficient most new companies are hiring workers who have some kind of proficiency in their line of work. However, the individuals, who are out of jobs, have no such skills for they are usually under-educated. This obviously points out to the need for an education reform in Turkey especially in the area of vocational education²¹. Consequently, not only universities should adapt to the changing needs of the private sector, but access to education must become available to the whole public through the improvement of public schooling. The fact that women labour participation still remains much lower than the rest of Europe is a sign of reforms needed in this area (Turkish Statistical Institute 2008). This lack usually stems from a cultural obstacle in public perception on women employment coupled with the lack of access to education for women. The AKP government has recently addressed this issue in their medium term plan mentioning an employment package soon to be released that will give employers incentives for hiring women. Nonetheless, the government has not come up with a comprehensive education reform agenda as far as resource allocation is concerned.

The legacy of state domination emerges as the most evident problem in Turkish economy. Important service sectors like telecommunication, electricity, have been regulated by state enterprises resulting in inefficient and high-priced deals for the public. Nevertheless, EU conditionality has facilitated a convergence process towards liberalization in these sectors. Within this scheme, Turkey will need to open up these services and industries to competition which account to 65% of its GDP (Togan 2004). As mentioned before, liberalization in some important service sectors has already begun. However, in industries like agriculture there are still many things to be done. The agriculture sector, an outstanding issue in the Progress Reports, requires an efficient reform process. Various subsidies, grants, exemptions, and especially price support system are issues on top of the agricultural reform agenda. The fact that Turkish agriculture makes up about 14% of the GDP compared to 1.7% in the EU, shows that a significant and through transformation is urgently required. As it is for any sector that needs to be removed from state control, the implementation and enforcement would require an efficient and sound institutional capacity. For this reason, the institutional ability of Turkey to implement the *acquis* emerges as a determining factor in the success of EU initiated reform process. The next section will be dealing with this part of the accession criteria.

²¹ A slow but a comprehensive reform process has begun in Turkey in vocational education with the help of EU funds. Numerous projects aiming to improve the quality of vocational education in Turkey are being carried out with the participation of schools, NGOs and public institutions. Turkey's participation in the Leonardo da Vinci programme, a part of the Commission's Lifelong Learning Programme, has been a promising development in this area. For details on the projects, www.ua.gov.tr

7. Turkish Experience of implementing the *acquis communautaire*

The section of the progress reports titled “Ability to implement the *acquis communautaire*” evaluates Turkey’s capacity to adopt the relevant chapters of the EU law ranging from the four freedoms to justice and home affairs. Although, the reports go into details of thirty-three chapters, Turkish experience on all of the chapters will not be examined here. It is important to note that the drive for reform has not been to the same degree in every chapter. For instance, the adoption process is fairly low in chapters that have been frozen due to the Cyprus problem²². In other sections such as taxation only medium-term goals stand out in the Accession Partnerships. The beginning of accession negotiations initiated the formation of EU departments in almost all related ministries and even in local administrations to facilitate progress in implementation process. Turkey’s participation in the Technical Assistance Information Exchange (TAIEX) through the Secretariat General for EU Affairs (ABGS) has been a practical instrument to extend the adoption, application and enforcement of the *acquis*. The present situation reveals that even though legislation transfer is quite high, there are serious impediments in the application and enforcement process.

There is an ongoing process of adopting Turkish legislation according to the *acquis*. Currently, Turkey has successfully finished negotiations in the science and research chapter and opened seven more chapters to negotiation; company law, intellectual property law, statistics, enterprise and industrial policy, trans-European networks, consumer and health protection and financial control (ABGS 2008). When compared to the other candidate’s-Croatia- negotiation status with two chapters provisionally closed and fourteen chapters open to negotiation, Turkey seems to be proceeding rather slowly (EC Enlargement 2008). Several issues frequently appear in the progress reports and accession partnerships with respect to *acquis* implementation. Counterfeiting of trade marks, piracy, enforcement of competition policy, reforming the agricultural system, improvement of safety record of the Turkish fleet, a competitive energy market and consumer health hinder the transformation of relevant Turkish legislation according to the *acquis*. (Accession Partnerships 2003; 2006; 2007).

It would be a mistake to claim that Turkey has not improved its record in these areas. The beginning of accession negotiations has definitely created a thrust for adjusting the contents of Turkish legislation. The pre-accession financial assistance offered by the EU and projects carried out accordingly has notably been significant mechanisms in achieving the

²² In 2006, the EU decided to freeze eight chapters of Turkish negotiation process; free movement of goods, freedom to provide services, financial services, agriculture, fisheries, transport policy, customs union and external relations. The decision was taken due to the fact that Turkey does not allow Greek Cypriot vessels to access to its ports. Cyprus debacle evidently provoked crisis between the Commission, Greek Cypriot government in Cyprus and Turkey. It seems like until a solution to the divided position of the island is found, these chapters of the *acquis* will remain halted and an obstacle in front of Turkish membership.

adjustment process. The establishment of Secretariat General for EU affairs, the Turkish National Agency, participation in Community Programmes - like framework programmes, Jean Monnet, Competitiveness and Innovation Programme- and projects funded under these not only assist the adoption process of the *acquis* but also prepare the government structure and public perception to EU norms. However, the fact that Progress Reports still outline deficiencies in these areas demonstrates that adequate implementation measures are not yet in place. The main obstacle in front of the harmonization process lays in the unstable political structure generated by secular-Islamist tensions and defined by the strong position of the state.

A closer look at the obstacles which hinder Turkey's capacity to implement the *acquis* reveals that a systematic deficiency pattern exists in almost all areas. A state centric political environment shaped by personal ties rather than autonomous decision making procedures stand in the way of attempts to change the status quo. Currently, the state structure is dominated by patron-client networks which prevent coherent and autonomous institutionalization hindering the application capacity of existing institutions (Heper 1998). These patron-client relations get in the way of proficient decision-making resulting in outcomes that usually favour one privileged group rather than the common good of the society. As a result, state economic enterprises become the ultimate means of political patronage for certain powerful groups. Eventually, the rules and regulations of these economic sectors merely exist to support the status quo and resist any change which would reallocate political power to different groups. The instruments of government like social policy, agriculture and energy, get exploited by the ruling party away from the benefit of the public. Preventing such results becomes only possible by a "developmental state" with "infrastructural power" where state actors possess the ability to act autonomously and have the power to penetrate into society through negotiation and cooperation even though it might not correspond to preferences of any particular segment of the society (Onis 1992). To put this solution into practice a responsive government is vital which Turkey currently lacks.

Turkey's ability to implement the *acquis* has been obstructed by two key factors; the lack of strong will on the government's side and the legacy of clientelist political structure. The deficiencies in the enforcement of political and economic reforms have been put forward in the previous parts of this paper. Regardless of the fact that serious adjustments took place, the institutional structure still remains cumbersome preventing the adequate application of laws. For this reason a strong government with a firm desire to carry out such reforms, not only the passing of the laws, is what Turkey needs at the moment. However, the AKP government has chosen to focus on issues that are of interest only to their core electorate. This policy stands as the principal factor behind the slowing down of the reform process in

Turkey's quest for membership. Despite Ali Babacan's, the chief negotiator of Turkey, firm belief in Turkey's progress towards EU membership quoted as "Turkey is ready to start negotiations in four, five more chapters", the mere issuing of laws does not seem to ensure their implementation (CNN Turk 2008). The government has to fully advocate the norm that the object of becoming an EU member necessitates the adoption of EU norms in all state affairs. For this reason, the solution for Turkey's congested membership road lies in strengthening the will of the government to enforce implementation of the reforms coupled with an effective judicial system which should apply to each and every actor of regardless of their position within the state.

8. Turkish Reform Process: An Advice to Mediterranean Partner Countries (MPCs)

Since the candidacy status received at the 1999 Helsinki Summit, Turkey has utilized the chance to pursue a sweeping reform process stimulated by the membership carrot. These reforms, to a great extent, have strengthened Turkish democracy and economy through the adoption of the Copenhagen criteria. Regardless of certain lacks in the reform process, the impact of the Union and its main tool, conditionality, has been accepted as the main driving force behind Turkish Europeanization process. Nevertheless, Turkey is not the only country in the region that is a subject of the EU sphere of influence. The Euro-Mediterranean Partnership or the so-called Barcelona Process, started in 1995, was the first step taken by the member states to reinforce their relations with the countries in the Mashriq and Maghreb regions i.e. Algeria, Egypt, Israel, Jordan, Lebanon, Morocco, the Palestinian Authority, Syria and Tunisia. Although the Barcelona Process does not involve a membership tool as an endgame, it has the aim of creating a Mediterranean alliance based on dialogue, cooperation and convergence through economic and financial aid, political and security cooperation and socio-cultural cooperation. When the proximity of the region to the Union is taken into consideration with the growing interdependency of the international arena, the Barcelona Process becomes ever more important. This stance has been supported by the current EU Presidency, the French government, immediately after they took over the presidency. On July 2008, the leaders of the region issued a Joint Declaration at the Paris Summit agreeing to hold biennial summits and issue a political declaration and a list of concrete regional projects (Delegation of the European Commission to Turkey 2008). According to the declaration, the Euro-Med Parliamentary Assembly (EMPA) will be the legitimate parliamentary expression of the partnership and the Anna-Lindh Euro-Med Foundation will be contributing to cultural aspects of the initiative. Among the discussions over a Union for Mediterranean, the process

sets out short and long term priorities for the partner countries such as de-pollution, maritime issues, civil protection, energy and education.

With the unique and ambitious nature of the partnership, the EU aims to work closely with partner countries to provide support for their economic transition and domestic reform process whilst at the same time taking into consideration each country's specific needs and characteristics. Consequently, the nature and impact of the reform process in these Mediterranean countries requires closer attention as the EU desires to strengthen the form of alliance. In this context, Turkish reform process provides a concrete example as a Muslim, Mediterranean country in close relationship with the EU. The findings of the Turkish reform experience could enlighten the reform process these countries would go under. With this paper we have drawn attention to three key issues in the Turkish experience; suitable democratic political structure, willingness of the government to follow and implement reforms and liberalization of the economy through competition and openness.

A favourable democratic political environment is perhaps, the most vital feature for reforms. In the Turkish case, the EU has been a powerful external pressure mechanism to stimulate the change that the country followed. Nevertheless, the existence of only external pressure is not adequate for the realization of these reforms. Influential domestic groups and NGOs emerge as instruments that facilitate debate on issues that need to be adjusted according to European standards. They not only possess the power to pressurize the government for change but also create awareness in the public for reforms. In 1980s, civil society was almost negligible in Turkey, devoid of ability to draw attention to societal problems. The political atmosphere was pro-collective identity which underlined the integrity of the state rather than the well-being of the individual. However, as Turkey opened up its economy to external markets the need for reforms surfaced. Under these circumstances the growing notion of civil society laid the grounds for creating an accessible domestic environment. While the civil society- namely NGOs that drew attention to violation of freedoms or environmental problems- raised awareness, the need to create room for political participation also emerged. The public, rather than being indifferent to government policies, understood their power in bringing change to areas that they were concerned about. Thus political participation and an influential civil society emerge as two features that are sine quo non for a sufficient reform process. Nevertheless, these features might sometimes run contrary to the status quo provoking opposition from those in power. Therefore, to avoid resistance to change that it is beneficial for the society, an effective judicial system is essential. A judicial system that advocates liberal democratic values and protects fundamental freedoms would sustain the implementation of domestic reforms.

Willingness of the governments to pursue and support change in the country is a prerequisite for the success of domestic reforms. The pressure of the civil society has to be supported by government thrust to implement and enforce the changes which otherwise, would only be a mark of good will. Amending the Turkish constitution has been put forward as an essential need to fully enforce fundamental rights by many domestic groups. However, as mentioned before, the AKP government has not been able to create the appropriate environment for consultation among various groups in the society. Hence, certain political and economic reforms were merely adopted without sufficient enforcement. Currently, all of the democratic and regulating institutions that are essential for a liberal democratic regime are available in Turkey which means that enforcement is possible when the government shows sufficient desire for change. The desire for change on the government's part mostly involves reversing the corrupted system and eliminating populist approaches in the state structure. The history of ruling parties in Turkey shows that these parties, rather than supporting change, have chosen to exploit the system to the benefit of those in power. It is for this reason that prevention of clientelism in the operation of state affairs by an effective government emerges as a key factor for an influential change environment.

A liberal market economy has a harmonizing effect by creating a competitive economy that would survive in the EU markets and moving the socio-political structure away from collective identity to individual well-being. Turkey has gone under a serious economic reform process after the 2001 crisis with which inflation was reduced, independent regulatory agencies were established making the country an attractive site for foreign investors. The 2001 reform package, shaped according to EU standards, has been influential in the generation of this suitable environment reinforcing Turkey's membership bid. Nevertheless, what is crucial at this point is the preservation of this change momentum through a sustainable reform implementation and growth process. Reforms that are implemented accordingly has initiated growth to a certain extent but the sustainability of this environment is extremely crucial which otherwise would be futile. Within this scheme, the independency of the regulatory agencies, an effective competition policy and a powerful notion of rule of law are sine quo non for not only sustaining economic growth but also for maintaining the renovation power of reforms.

9. Conclusion

This paper has aimed to analyze how successful EU enlargement conditionality, i.e. EU stimulated reform process, has been in the Turkish case. It puts forward what really lies beneath the reforms that have been adopted by the Turkish Parliament since 1999. While

certain areas that went under comprehensive revisions still fail to perform up to EU standards due to implementation problems, other areas of the political system stay immune to change. Difficulties in the functioning of regulatory agencies, corruption or populist policies in vital sectors like energy, breaches of fundamental freedoms, insufficient judicial system come up frequently in the Commission reports as matters that Turkey needs to deal with. Therefore, with this paper, we have examined what Turkey has done with respect to relevant sections of the Copenhagen criteria presenting reasons of deficiencies which hamper the negotiation process. The lack of constitutional base for amendments, the legacy of statist structure supported by certain pressure groups which resist change, absence of government support for trench out reforms and the need for productive consensus environment among all state institutions and influential groups are the main findings that this paper have presented with regards to Turkish membership.

Over time internal crisis raised doubts about Turkey's ability to keep on the reform momentum. The headscarf issue, the case filed against AKP by the Constitutional Court or corruption in sectors that require administrative permission like telecommunication, energy or construction, have consumed the reform energy of both the government and public support which would move Turkey closer to its membership objective. Currently, central sectors like energy, telecommunication or manufacturing systems require merit managers to overcome the effects of populist policies and cumbersome bureaucracy. Certain powerful groups – military, farmers, fishermen, populist statesman- stand in the way of change which would alter the status quo and introduce European norms contrary to conventional values. Nevertheless, it is not only internal turmoil that cause Turkey to stray from it membership ideal. Commissioners, MEPs, heads of member states that deliver speeches against Turkish membership evidently decrease public support²³ for the EU and the reforms. European scepticism about Turkish membership causes a backlash creating a public that is distrustful of the EU. Such environment eventually limits the government's manoeuvre for reforms.

All these deficiencies have been identified by scholars and influential NGOs throughout the reform process since it gained pace in 1999. Tackling these bottlenecks by endorsing the necessities of the membership is the sole responsibility of the party which has received 46% of the votes in the last elections. Although the European Commission might sometimes convey a rather ambiguous stance in various political accession criteria, an embedded liberal democracy notion is what Turkey needs at the moment. Unlike what we currently have in Turkey, it is particularly crucial that democracy should not be the instrument

²³ Turkish public support for EU membership showed a drastic decline from 62% in Spring 2007 to 49% in Autumn 2007. (Euroactive 2008)

of governmental power. Market forces should be established to compete with the Union's single market and not to be exploited to the benefit of those in power. A potent government that enforces democracy without special treatment can only facilitate the righteous placement of all the forces in the society, from the military to minority groups. It is only under these circumstances that the reform energy in the country can be preserved. The decision²⁴ of the Constitutional Court about the AKP government has, to some extent, provided an impetus for revitalizing the reform process but its applications still remain to be seen. We believe that the road to successful reforms can only be established and maintained by the existence of a constructive and conciliatory dialog between the stakeholders of the society. It is sine qua non for the MPCs to generate this consensus environment if they aim to implement effective reforms. Nevertheless, the way the current Turkish government handles internal crisis not only raises doubts on whether it can sustain the requirement of EU conditionality but also leads us to question its true agenda on the EU membership.

²⁴ The Constitutional Court filed a case against the AKP to ban the party for anti-secular activities. The Court accused the party for aiming to create of an Islamist state by stealth and engaging in activities that attacked the foundations of democracy. After an intense waiting period that sharpened divisions in Turkey, the Court decided only to impose financial penalty to the party which meant that the state aid will be cut implying wrongdoings but not sufficient enough to ban.

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