

**CONSTITUTIONAL CHANGE IN TURKEY: THE (DE)LIMITED  
EFFECT OF EUROPEANIZATION**

by  
GÜLÇİN ÖZÇOLAK

Submitted to the Graduate School of Social Sciences  
in partial fulfilment of  
the requirements for the degree of Master of Arts

Sabancı University  
August 2020

**CONSTITUTIONAL CHANGE IN TURKEY: THE DE(LIMITED)  
EFFECT OF EUROPEANIZATION**

Approved by:

Asst.Prof. OYA YEĞEN .....  
(Thesis Supervisor)

Prof. SENEM AYDIN-DÜZGİT .....

Asst. Prof. SELİN TÜRKEŞ-KILIÇ .....

Date of Approval: August 11, 2020

GÜLÇİN ÖZÇOLAK 2020 ©

All Rights Reserved

## ABSTRACT

### CONSTITUTIONAL CHANGE IN TURKEY: THE (DE)LIMITED EFFECT OF EUROPEANIZATION

GÜLÇİN ÖZÇOLAK

EUROPEAN STUDIES M.A. THESIS, AUGUST 2020

Thesis Supervisor: Asst. Prof. OYA YEĞEN

Keywords: Europeanization, constitutional change, Central and Eastern European countries, Turkey and the European Union

The EU is a transformative actor, in the sense that its conditionality has been successful in inducing a change in the candidate states' institutions and norms, including their main constitutional framework. The experience of Central and Eastern European countries during their accession process has been the main source in the literature in conceptualizing the process of Europeanization. However, the recent experience of countries such as Hungary and Poland under authoritarian populist governments, show that reversal from the European values may emerge after becoming members of the EU. Although the EU has mechanisms to safeguard its values, it has not been able to cease their de-Europeanization process. This thesis builds on the conceptual framework on Europeanization and de-Europeanization with a focus on constitutional change in Turkey, throughout its uniquely long accession process. This thesis evaluates the EU-Turkey relationship within the framework of Europeanization through the EU's conditionality and traces Turkey's de-Europeanization process in post-2005 with a focus on recent constitutional changes.

## ÖZET

### TÜRKİYE’DE ANAYASAL DEĞİŞİM: AVRUPALILAŞMANIN KISITLI ETKİSİ

GÜLÇİN ÖZÇOLAK

AVRUPA ÇALIŞMALARI YÜKSEK LİSANS, AĞUSTOS 2020

Tez Danışmanı: Asst. Prof. OYA YEĞEN

Anahtar Kelimeler: Avrupalaşma, anayasal değişiklik, Orta ve Doğu Avrupa ülkeleri, Türkiye ve Avrupa Birliği

Avrupa Birliği, koşulsallığı ile aday ülkelerin kurumları, normları ve anayasal çerçevelerinde değişimi tetiklemede başarılı olması bakımından dönüştürücü bir aktördür. Orta ve Doğu Avrupa ülkelerinin adaylık süreçlerindeki deneyimi literatürde Avrupalaşma sürecinin kavramsallaştırılmasında ana kaynak olmuştur. Fakat, yakın zamanda Macaristan ve Polonya gibi ülkelerin otoriter ve populist hükümetlerinin yönetimleri altındaki deneyimleri, Avrupa Birliği’ne üye olunduktan sonra Avrupa değerlerinden geri dönüşün olabileceğini göstermektedir. Avrupa Birliği’nin değerlerini koruması için mekanizmaları olmasına rağmen bu ülkelerin Avrupa’dan uzaklaşma (de-Europeanization) süreçlerini durduramamıştır. Bu tez uzun vadeli aday devletin bir örneği olarak Türkiye’ye odaklanarak Avrupalaşma (Europeanization) ve Avrupa’dan uzaklaşma (de-Europeanization) üzerine kavramsal çerçeve üzerine kuruludur. Bu tez Avrupa Birliği-Türkiye ilişkisini Avrupalaşma çerçevesinde, Avrupa Birliği’nin koşulsallığı üzerinden ve Türkiye’nin adaylık sürecinde Avrupa’dan uzaklaşma (de-Europeanization) sürecini yakın zamanlardaki anayasa değişikliklerine odaklanarak değerlendirmektedir.

## ACKNOWLEDGEMENTS

I would like to thank my dear thesis supervisor Asst.Prof. Oya Yeğen for supporting me with her valuable feedback all the way through my thesis. Whenever I was confused, she was always there to help clarify. She encouraged me to write about a topic which I was not familiar with and contributed to my learning process by providing a different point of view in the EU-Turkey relationship. I believe that I learned a lot under her supervision and am very happy to come across her during my studies at Sabanci University.

I would like to thank Prof. Meltem Müftüler-Baç for her guidance with her valuable comments and Prof. Senem Aydın-Düzgit for answering my questions patiently during lecture breaks (before pandemic) and zoom lectures, and for contributing to my thesis during our online thesis meetings.

I would also like to thank Asst. Prof. Selin Türkeş-Kılıç, my mentor during undergraduate years. I believe meeting her was one of the most important turning points in my life as she was the first academic that introduced me European studies and gave me encouragement since my time at Yeditepe University.

I would like to thank to my dear friend Serra for helping me from overseas during the last days of my thesis submission.

Finally, many thanks to my dear mother Özgül, for believing in my success and supporting me to the fullest through my life and during these tough times. This process would have been meaningless without you. I'm also thankful to my furry companion, Barut, for patiently waiting for my attention with his toys during the long hours of studies at home.

*To my mum...*

## TABLE OF CONTENTS

<b>LIST OF TABLES .....</b>	<b>x</b>
<b>LIST OF ABBREVIATIONS .....</b>	<b>xi</b>
<b>1. INTRODUCTION.....</b>	<b>1</b>
<b>2. THEORETICAL FRAMEWORK: EUROPEANIZATION OF CENTRAL AND EASTERN EUROPEAN COUNTRIES' CON- STITUTIONS .....</b>	<b>5</b>
2.1. Introduction .....	5
2.2. Different Understandings of Europeanization- A literature review ....	8
2.3. Europeanization through the EU's Conditionality .....	11
2.4. EU Membership and Constitutional Changes in Central and Eastern Europe .....	15
2.5. De-Europeanization and its Expressions in the Member States .....	22
2.6. Judicial, Political and Social safeguards: The EU's Article 7 Proce- dure and Beyond .....	25
2.7. Conclusion .....	28
<b>3. HISTORICAL BACKGROUND OF TURKEY AND EUROPEAN UNION RELATIONS IN THE CONTEXT OF CONSTITU- TIONAL CHANGES .....</b>	<b>29</b>
3.1. Introduction .....	29
3.2. The History of Constitution Making in Turkey .....	30
3.3. Constitutional Changes in Turkey During the 1980s and 1990s .....	32
3.4. The EU-induced Constitutional Reform in Turkey Between 1999-2005	37
3.5. Conclusion .....	43
<b>4. CONSTITUTIONAL CHANGE IN TURKEY:2006-2017.....</b>	<b>45</b>
4.1. Introduction .....	45
4.2. Selective Europeanization (2007-2013).....	46



4.2.1. Constitutional Crises and the 2007 Amendments .....	46
4.2.2. <i>The 2010 Constitutional Amendment</i> .....	52
4.2.3. <i>Failed constitution making process (2011-2013)</i> .....	57
4.3. De Europeanization Trends in Constitution Making.....	59
4.3.1. <i>The 2016 Constitutional Amendment</i> .....	61
4.3.2. <i>The 2017 Constitutional Amendment</i> .....	62
4.3.3. <i>Drafting the 2017 Constitutional Amendments</i> .....	63
4.4. Conclusion .....	67
<b>5. CONCLUSION</b> .....	<b>69</b>
<b>BIBLIOGRAPHY</b> .....	<b>71</b>

## LIST OF TABLES

Table 2.1. Candidate Countries and their Candidacy Dates .....	13
Table 2.3. Constitutional Changes in the Czech Republic, Slovakia, and Slovenia .....	19
Table 2.5. Constitutional Changes in Poland, Hungary, Latvia, Lithuania, and Estonia .....	21

## LIST OF ABBREVIATIONS

<b>DSP</b> Democratic Left Party .....	38
<b>ECHR</b> European Convention on Human Rights.....	15, 37
<b>ECtHR</b> European Court of Human Rights .....	36
<b>EU</b> European Union .....	1
<b>HRW</b> Human Rights Watch.....	61
<b>MGK</b> National Security Council.....	38
<b>PiS</b> Poland's Law and Justice Party .....	23
<b>RP</b> Welfare Party .....	34
<b>TAF</b> Turkish Armed Forces.....	47

## 1. INTRODUCTION

The European Union (EU) has been considered a successful agent of change, which through its enlargement policy is able to apply its conditionality effectively to transform the countries which have membership objectives. During their accession process in the 1980s, Greece, Portugal, and Spain shifted their political system from authoritarianism to democracy. Likewise, at the end of the cold war, democratization is observed in the former communist countries. Since the new millennium, the EU went through new crises. The September 11 attacks, and other attacks carried out by Islamist groups in the European continent challenged the ideals of a cosmopolitan Europe. The rejection of the proposed Constitutional Treaty, economic crisis in the Eurozone and the refugee crisis posed further challenges related to its security and economy (Ziya Oniş 2020). However, the recent developments in the European continent indicate an ‘existential crisis’ for the EU since a reversal from the European values is observed in some of the former communist member states, such as Poland and Hungary. Those countries do not have an objective to withdraw from the EU but, do weaken Union from within by threatening its core values. While the unexpected developments weakened EU’s credibility over its member states, the gap between the democratic and non-democratic member countries deepened as authoritarian tendencies emerged (Ziya Oniş 2020). For instance, in March 2020, the Hungarian Parliament accepted a new law, giving extraordinary powers to the prime minister, contradicting the EU’s democratic values (Dam 2020).

As of mid-2020, the global pandemic introduced a new layer of the previous crises for the EU, which will certainly be analyzed in future European studies. The health crisis allowed Poland and Hungary to further oppress the opposition and push for controversial changes and once again showed that the EU cannot exert influence to reverse these trends (Erlanger 2020). It is a very difficult time to safeguard the European values through unanimity since a certain number of member states struggle to maintain their own health and economic systems as well, forcing them to revert to national politics (Leonhardt 2020). Although the Eurocrats recently introduced a ‘pandemic recovery deal’ to safeguard the rule of law in the member

states by tying the EU's conditionality to economic measures, the package does not provide a definite solution for the authoritarian systems (Kelemen 2020*b*).

At this point, it is important to note that the reversal from the European values is not only observed within the EU borders since it is also observed in candidate states, such as Turkey and Serbia. The ever changing dynamics of the EU-Turkey relationship provides us an opportunity to examine EU's transformative role in different periods and more importantly observe Turkey's reversal from the European values in recent years (Oniş and Kutlay 2017). Although the developments in Turkey do not cause an existential threat to the EU since it is a candidate country but have important ramifications for Turkey's domestic challenges and its relation with the EU (Ziya Oniş 2020). Similarity between Turkish and Hungarian cases as well as other member states that are increasingly adopting illiberal practices, and challenging European values and indicates that the EU's transformative power through its conditionality could be weakened not only by its members but, also by the candidate states (Oniş and Kutlay 2017). Therefore, this thesis adopts the 'de-Europeanization' concept to frame this reversal, which could be observed in both the member and candidate states. In order to show how this transformation indicates a reversal, the thesis first examines 'Europeanization' as a 'top-down' process, where political transformation is the result of alignment with the EU requirements and European norms. The illiberal practices observed in member states like Hungary, Poland and Romania have manifested itself as constitutional crises and raised concerns about constitutional capture. Informed by how the EU accession process led to constitutional change in new member states (i.e. former communist countries) that failed to consolidate a constitutional democracy, this thesis examines a similar transformation in the Turkish case.

Oniş and Kutlay (2017) argue that 'de-Europeanization' process took place in member states like Hungary because it was very much affected from EU's internal crises and the Europeanization process generated a backlash domestically, bringing populist parties to power and presenting an alternative to constitutional democracy model long championed by the EU (Oniş and Kutlay 2017). The EU was not influential to un-trigger these developments in Hungary partly because the judicial and political safeguards cannot exert enough pressure to reverse these trends. Although the EU was able to respond more quickly to attempts of constitutional chapter in Poland, the future of its actions remains unclear (Blauberger and Michael 2016).

This thesis traces Turkey's constitutional transformation under periods of Europeanization (1999-2005), Selective Europeanization (2006-2013) and De-Europeanization (2013-2017) borrowing the conceptual differentiation provided by

Yılmaz (2016). In order to observe this transformation and reversal, this thesis relies on constitutional amendment bill proposals and their reasonings as well as parliamentary deliberations from and the EU's progress reports, as its primary sources. Previous studies have analyzed EU-led constitutional changes in Turkey (Oder 2012; Oney 2018; Ozbudun 2015; Yanaşmayan 2017), an important contribution of this thesis is the examination of more recent constitutional changes during the de-Europeanization in Turkey. A contextual analysis of the 2017 constitutional changes by analyzing the parliamentary proceedings that occurred before the adoption of the sets of amendments that switched Turkey from a parliamentary system to executive-presidential system. Additionally, by tracing the constitutional developments in Turkey in three distinct periods, this thesis is able to show how the changing EU-Turkey relations contributed to changes in Turkey's constitutional domain.

In chapter 2, I build my theoretical framework upon the Europeanization of the former communist countries' constitutions, by first identifying different understandings of Europeanization together and investigating how EU's conditionality brings Europeanization. Second, I examine more recent developments after accession in member states such as Poland and Hungary where legislative and constitutional changes carried out by populist autocrats led to "constitutional capture" and assulting the EU's fundamental values. These reversals indicate the EU's weakened leverage over its member states since it could not effectively apply its mechanisms, such as Article 7, to protect its values. Turkey, as a candidate country, has similarities with the former communist countries since Europeanization did not guarantee internalization of these values.

In Chapter 3, I discuss the prime years of the Europeanization process in Turkey by tracing the history of constitutional changes and how relations with the EU impacted these developments. This chapter focuses on the Europeanization process in the aftermath of Turkey's formal application of membership to the EU, which accelerated when the EU declared Turkey's candidacy in 1999 and was able to induce change in the country. In this period, constitutional changes were in line with the European requirements and reflected an effort to adapt to European values.

In Chapter 4, I evaluate the period after 2005 when relations between the credibility of the EU's conditionality vis-à-vis Turkey, weakened. The constitutional amendments adopted in 2007 and 2010 are products of the Selective Europeanization period and reflect the ruling party's agenda and interests instead of accession requirements. The work of the Constitutional Conciliation Committee between 2011 and 2013, was important in the sense that it suggested early on that Europeanization was able to steer change but having failed to introduce a constitutional draft, it also reflected

how this motivation was no longer impactful to generate change and instead could be instrumentalized by political actors that wish to conceal other partisan interests (Yanaşmayan 2017).

Next, this chapter focuses on Turkey's recent constitutional changes through parliamentary deliberations that took place in 2017 to understand Turkey's de-Europeanization process; the parliamentary proceedings that took place between December 10, 2016 and April 16, 2017 to evaluate whether and to what extent parliamentarians operated in the Europeanization context in these deliberations. The thesis argues that the 2017 amendments were an end-point in Turkey's de-Europeanization process. The parliamentary deliberations indicate the EU's de(limited) impact over Turkey's recent constitutional changes and with those changes the reversal from the European values became more visible in Turkey <sup>1</sup>.

---

<sup>1</sup>All translations, including transcriptions, are mine unless stated otherwise.

## 2. THEORETICAL FRAMEWORK: EUROPEANIZATION OF CENTRAL AND EASTERN EUROPEAN COUNTRIES' CONSTITUTIONS

### 2.1 Introduction

The end of the Cold War was a defining moment for the European continent as the European Union (EU) re-structured its relationship with the former communist countries and introduced the Copenhagen Criteria<sup>1</sup> for the potential new members from Central and Eastern Europe. Although scholars such as Haughton (2007, 243) argue that changes related to democratization and marketization might have occurred without the EU, this influence depended on the domestic political elite's receptiveness and motivation as well as the clarity of EU requirements and credibility of rewards. Nevertheless, as a result of the 2004 enlargement, a number of countries joined European Union but the discussion on the extent of the EU's "transformative power" ensued (Haughton 2007). The scholarship that examines the changes that took place in the Central and Eastern European countries have applied the concept of Europeanization to explain this transformative process. Similarly the literature on EU-Turkey relations, has applied the concept of Europeanization taken as the

"impact of the EU on the policies, politics, institutions, societies and discourses of EU member states and candidate countries" (Aydın-Düzgit and Kaliber 2016)<sup>2</sup>

---

<sup>1</sup>The Copenhagen criteria, in other words the political conditions of EU accession as introduced in 1993 include 'stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities' (Schimmelfennig 2003, 497).

<sup>2</sup>Besides its usage for member states and candidates states, Europeanization has also been employed for EU's European Neighborhood Policy (ENP) partners.



However, as this section explores, Europeanization as a concept has come to denote different meanings, including but not limited to the change brought about by the EU “ (Schimmelfennig and Sedelmeier 2008). Following the EU’s decision to declare Turkey as a candidate country in 1999, the country embarked on extensive constitutional reforms (Aydın-Düzgit and Kaliber 2016). In fact, the early Europeanization process in Turkey can be traced by looking at the EU harmonization packages and constitutional amendments where the fulfillment of Copenhagen criteria has been a mobilizing tool for political elites (Ozbudun 2015; Yılmaz 2016).

As the next two chapters will outline this trend of incremental constitutional change where we could observe “the positive effects of the EU on Turkey’s democratization” process has stagnated (Ozbudun 2015) and de-Europeanization, which will be clarified below, has also manifested itself in the constitutional domain. With respect to Central and Eastern European countries that became EU member states, in terms of the substances of constitutional change, because the ex-ante conditions differed the Europeanization process has been specific for each country. What is particularly noteworthy is that after their membership to the EU, some of these countries experienced constitutional crises and democratic backsliding. Öniş and Kutlay (2017) through the examples of Hungary and Turkey demonstrate the weakening of the EU’s transformative capacity. Accordingly, in both cases de-Europeanization is related to disappointment with the EU that stems from its internal crises. However in the Turkish case, the EU’s “internal crisis of solidarity” helped further erode the EU’s credibility of commitment (Öniş and Kutlay 2017).

In both cases, charismatic leaders and their electorally strong political parties were able to instrumentalize these lost promises to weaken checks and balances and embrace illiberal practices. The availability of authoritarian models, ie. China and Russia with a strong executive have further weakened the EU’s anchor role. In the case of Hungary, the EU has been inefficient to employ its normative power or other forms of leverage and despite the threat of invoking (activated in September 2018) Article 7, the legal mechanisms available to enforce the EU’s values, specifically the rule of law <sup>3</sup> have failed to reverse the de-Europeanization trend. Similar to Hungary, other member states like Poland (Konciewicz 2016) and Romania (Müller 2015) have witnessed attempts at “constitutional capture”, defined as systematically weakening checks and balances in order to acquire full control of the political system (Müller 2014, 2015) and the EU’s ability to influence these developments have been much limited.

---

<sup>3</sup>See the European Parliament resolution from September 12, 2018, which among other issues call attention the functioning of the constitutional and electoral system, the independence of the judiciary and protection of rights: [https://www.europarl.europa.eu/doceo/document/TA-8-2018-0340\\_EN.html?redirect](https://www.europarl.europa.eu/doceo/document/TA-8-2018-0340_EN.html?redirect)

Scholars have identified parallels between the member states, Poland and Hungary, and Turkey (Szymanski 2017, 2019). The similar patterns we can observe in an “insider” country such as Hungary and an “outsider” country such as Turkey, also call into question the EU’s declining role as a norm-setter and its weakened transformative power (Oniş and Kutlay 2017)<sup>4</sup>. In both member and candidate states, the constitutional developments that have helped pave the way for divergence from EU norms, specifically with regard to erosion of rule of law, point to the weakening of the EU’s transformative capacity. Unlike the member states of Poland and Hungary, Turkey’s path from Europeanization to de-Europeanization took place during its prolonged candidacy.

The objective of this chapter is to tease out different understandings of Europeanization and to explore the link with constitutional change before engaging with more contemporary developments in some of the member states, most notably in Hungary and Poland that have been considered as manifestations of “de-Europeanization”. Before assessing the delimited effect of Europeanization in Turkey’s constitution in the next chapters, this chapter explores the changes incurred by the Central and Eastern European countries in the constitutional domain, by employing the concept of Europeanization. The objective in this section is to understand to what extent the EU candidate states experienced EU-induced constitutional change and critically assess the role of Europeanization in this process. With reference to Hungary, Poland and Romania, the final section will explore cases of “constitutional capture” in new member states and outline the EU’s legal tool kits in case of non-compliance within the union. It suggests that the EU’s transformative power can diminish after accession, just as it can when EU accession becomes unlikely, in the case of Turkey.

---

<sup>4</sup>V-Dem differentiates between electoral, liberal, participatory, deliberative, and egalitarian principles of democracy and accordingly find that although both Hungary and Turkey have undergone autocratization, their manifestation according to these principles differ, see the graph for comparison: <https://www.v-dem.net/en/news/autocratization-hungary-and-turkey/>

## 2.2 Different Understandings of Europeanization- A literature review

In the literature, we can find different understandings of the concept of Europeanization. A broad definition that is commonly accepted (Güney and Tekin 2015; Radaelli 2000; Yanaşmayan 2017; Yılmaz 2016). Accordingly, Europeanization refers to “ processes of a) construction, b) diffusion and c) institutionalisation of formal and informal rules, procedures, policy paradigms, styles, ‘ways of doing things’ and shared beliefs and norms which are first defined and consolidated in the EU policy process and then incorporated in the logic of domestic (national and subnational) discourse, political structures and public policies”. It refers to a different process than what is experienced with convergence, harmonization, and political integration (Radaelli 2000). It is not like convergence because Europeanization refers to a process whereas convergence and harmonization are potential outcomes of this process. Alternatively, Europeanization may lead to divergence and competition. It is not the same as political integration because Europeanization is not interested in understanding the process of building a supranational entity but investigating “what happens once EU institutions are in place and produce their effects” (Radaelli 2000).

In fact, the literature on Europeanization developed after the 1980s as scholars began to study the phenomena beyond the European integration theories and developed a research agenda with the objective of bringing domestic politics into the study of European integration (Radaelli 2004). The book edited by Green-Cowles, Risse and Caporaso (2001) defines Europeanization as “the emergence and development at the European level of distinct structures of governance on the domestic structures of governance” and find this process leads to distinct changes in member states, what the authors call “domestic adaptation with national colors (p.1).”<sup>5</sup>

Börzel and Risse (2000) similarly define Europeanization as a process by which European integration impacts domestic change and argue that the differential impact of Europe is not simply about “adaptational pressures” but also determined by the incompatibility between European and domestic processes and factors that facilitate change, namely domestic actors and institutions. Their argument is based on the understanding that for domestic changes to occur, in response to Europeanization, there must be a misfit between domestic level and European level processes, policies and institutions. Even with its minimal definition understood as “response to the policies of the European Union,” the scope of what is meant by Europeanization

---

<sup>5</sup>Europeanization defined as such treats it as an independent variable that influences domestic processes and institutions (Börzel and Risse 2000, 3).

is broad as it applies beyond the European boundaries because we can employ the concept to study the process experienced in the candidate countries (Featherstone 2003). The debate over whether Europeanization is an exclusively top-down process, has been one of the most extensive ones in the theoretical literature (Bulmer 2007).

In contrast to this top-down perspective, Europeanization as a concept can be employed to study the two-way nature of the process (Börzel 2002). This approach takes into consideration not just “the process of downloading European Union (EU) directives, regulations and institutional structures to the domestic level.” but also “up-loading to the EU, shared beliefs, informal and formal rules, discourse, identities and vertical and horizontal policy transfer (Howell 2002).” It is a “two-way process”, rather than just a bottom-up process that involves; “evolution of European institutions as a set of new new norms, rules and practices.” or a top-down process that refers to; “impact of these new institutions on political structures and processes of the Member States (Börzel 2002).”

Europeanization as it emerges and develops at the European level as a distinct structure of governance, interacts with other levels of governance, national and sub-national. The interaction may well go both ways, but those who study ‘Europeanization from above’ it may refer to politics, policies and polity in domestic level but besides the impact on formal institutions, it also influences informal institutions and collective understandings (Risse, Caporaso, and Green-Cowles 2001). By conceptualizing Europeanization as a process that works toward both Member state and the EU, Börzel (2002) outlines a dynamic and interactive multidimensional process. Olsen summarizing different conceptions of Europeanization, that the most commonly used and empirically studied conception is the one that concerns the effect of the EU on the member states (Olsen 2002).

Similarly, in the edited book, Featherstone (2003) traces the different uses of the concept and argues that the most common usage of the term involves what he defines as “institutional adaptation” that refers to domestic adaptation that is directly or indirectly the result of EU membership. Yet, over time Europeanization has acquired “many faces” (Olsen 2002). Besides its usage to study the domestic impacts of European level institutions, Olsen identifies that the concept is also used to explain “relations with non-European actors and how Europe finds a place in a large world order” (Olsen 2002). Differently, ‘Europeanization’ understood as “changes in external boundaries” ties to the EU’s enlargement process whereas the extent to which Europe becomes a unified entity refers to the usage of the term understood as political unification.

According to Radaelli (2000) conceptual stretching occurs when the term ‘Euro-

peanization' is applied to a wide area of study. 'Modernization', 'cultural change', 'administration', 'identity', and 'policy change' can be explained within the scope of Europeanization. However, analyzing Europeanization at the 'policy-level' provides a more rigorous research agenda (Radaelli 2000). Outside of the political science literature, for example in the anthropology discipline, Europeanization is understood as the reflection of these changes within the political culture and involves "a strategy of self-representation and a form of identification of people" (Fowler and Borneman 1997).

It is a process but also a spirit and a vision that has evolved further since World War II when the continent was forced to redefine itself. According to their understanding, it is distinct but also driven by the European Union which refers to "a continental unit of a novel order". In the international relations literature, there has been an effort to separate this broader "cultural encounter" of Europeanization from the EU-induced change (Flockhart 2010). Professor Helen Wallace introduced the term 'EU-ization' which specifically focuses on the EU-centered process to distinguish it from the broader concept of 'Europeanization' (Wallace 2000). Accordingly 'EU-ization' refers to changes resulting from demands of the EU accession process but mostly scholars have refrained from applying this concept to study the impact of the EU and instead introduced new terms or have referred to Europeanization (Haughton 2007).

Having identified that the literature on Europeanization does indeed suffer from conceptual stretching but its most commonly used understanding refers to change at the domestic level that come about as a result of the development of European level identities, policies and institutions; we can also observe that most of the scholarship has focused on the changes triggered by the dynamics of European integration and examine the effect of the EU on member states and applicant countries (Featherstone 2003; Olsen 2002). Similarly, the literature has produced different causal mechanisms to explain the domestic change generated by the process of Europeanization. Börzel and Risse (2000) synthesize these different explanations into two logics of domestic change that highlight different facilitating factors when the Europeanization process exerts adaptational pressure: logic of consequentialism and logic of appropriateness. According to the 'logic of consequentialism', 'Europeanization' is identified as an opportunity for the political actors to consolidate their interests since strategic calculations shape the process (Risse and A.Börzel 2000).

Scholars who subscribe to this framework (rational choice institutionalism) examine the formal institutions and the veto points in the institutional structure to help explain how the rational actors deal with opportunities and constraints. Theoretically

grounded on sociological institutionalism, the ‘logic of appropriateness’ account regards ‘Europeanization’ as a socialization and learning process and examines agents of change and the political culture in which they operate to explain how European norms and values are received by domestic actors and domestic change occurs in response to these adaptational pressures (Risse and A.Börzel 2000). These two pathways are not mutually exclusive and the impact of EU conditionality and norms can both account for the process of domestic change.

This thesis operating within the conceptual framework of Europeanization, for the sake of methodological clarity, adopts its most common understanding as one of a “top-down” process with impact on new member and candidate countries’ domestic polity, policies and policy. However, as the next chapters will reveal the use of this concept in the Turkish context may overstretch it as well (Soyaltın and Börzel 2012). That is because although the EU as an external actor played an important role in stimulating constitutional change in the period up till 2006 (Ozbudun 2015) its conditionality helped “domestic actors gain or hold political power”, fading over time resulted “in selective and differential domestic changes” (Soyaltın and Börzel 2012). Here, because the constitutional domain is the focus of investigation regarding the Europeanization process in Turkey first before its declaration as a candidate country, later within the context of accession negotiations and finally in the context of stagnated EU accession process, identifying precise mechanisms of EU-induced domestic change (or lack thereof) is difficult. However, Europeanization remains as a useful framing tool to explain its delimited effect in the constitutional domain.

### **2.3 Europeanization through the EU’s Conditionality**

The accession process of Greece, Spain, and Portugal led the European Community to reconsider its conditionality tool. After the end of the Cold War, the EU’s relationship with the former communist countries started to develop through various trade agreements, such as Europe Agreements. The EU used the trade agreements as leverage to reinforce its requirements of “rule of law”, “human rights”, “multi-party system” and “free and fair elections” and to legitimize its decisions of either to suspend or continue the assistance for the countries (Pridham 2007). In the 1990s, EU’s political conditions developed but initially these did not address concerns such as democratization, constitution making, liberal democracy norm or state capacity problems. In 1993, the EU adopted the Copenhagen Criteria to clarify the mem-

bership conditions for the future applicant states of Central and Eastern European countries and to provide assurances to member states who opposed eastward enlargement (Grabbe 2002). According to the European Commission;

“The accession criteria, or Copenhagen criteria are the essential conditions all candidate countries must satisfy to become a member state. These are the political criteria (stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities), economic criteria (a functioning market economy and the capacity to cope with competition and market forces), administrative and institutional capacity to effectively implement the *acquis* and ability to take on the obligations of membership” (Commission 2016b)

However, the Copenhagen criteria did not identify specific democratic institution it sought from candidate countries (Pridham 2007). By mid-1990s, the EU had received membership applications from former communist states including Hungary, Poland, Romania, Slovak Republic, Latvia, Estonia, Lithuania, Bulgaria, Czech Republic, and Slovenia (Commission 2001). At the time; when the EU began to first exercise its political conditionality systematically (1997-1998) through the European Commission’s progress reports and the European Commission’s opinion (*avis*) on the merits of the country’s application for the Central and Eastern European countries, democratic transition was over but democratic transformation was still ongoing (Pridham 2007).

Lavenex and Schimmelfennig (2011) identify three models of the EU’s ‘democracy promotion’: linkage, governance, and leverage. While the linkage is about assisting the civil society organizations to strengthen the countries’ democratic structures, the governance model underlines collaboration. Lastly, the leverage model is precisely related to political conditionality; as much as the EU is satisfied with the candidates’ transformation along with its expectations, there is a rewarding mechanism in which the ‘membership’ is the final reward. The EU was able to transform the Central and Eastern European countries because it was able to offer membership as a reward. As a result, the EU’s enlargement policy became its most successful foreign policy tool due to the political conditionality (Lavenex and Schimmelfennig 2011).

The two main frameworks- rational choice and sociological institutionalism, based on two different logics on how EU-induced domestic change takes place, provide different explanations for how the Europeanization process occurs. Accordingly, the key difference between the logic of consequentialism and logic of appropriateness is whether EU-led change occurs through a cost-benefit calculation based on EU

Table 2.1 Candidate Countries and their Candidacy Dates

Turkey: 10.12.199
Montenegro: 17.12.2010
Serbia: 01.03.2012
North Macedonia: 16.12.2005
Albania: 27.06.2014

conditionality <sup>6</sup> or whether through social learning whether domestic actors socialize into norms, practices and understandings (Atıkcı 2010).

The accession of the former communist countries in 2004 was important not only to evaluate the extent of the EU’s influence over the candidate states (Müftüler-Bağ and Gürsoy 2010) but a chance to observe a rare development in the near region of the EU which is the success of the ‘Europeanization’ in the former communist countries during their candidacy (Börzel 2011). In the literature, the ‘External Incentives Model’ has been the most commonly accepted framework developed to explain when EU’s conditionality leads to domestic change. According to Schimmelfennig and Sedelmeier (2005), it has more explanatory power than the social learning model. This model has been articulated first to explain ‘Europeanization’ in the Central and Eastern European countries. According to this framework;

“the EU drives Europeanization through sanctions and rewards that alter the cost–benefit calculations of governments in candidate countries” (Schimmelfennig and Sedelmeier 2020). .

Candidate states make their calculations based on “the size of the EU’s rewards, the determinacy of the conditions, the credibility of conditionality, and the size of the adjustment costs of compliance” (Schimmelfennig and Sedelmeier 2020).

With respect to democratic conditionality (as opposed to *acquis conditionality*), the authors argue that it is the initial level of democracy in the candidate countries and hence adoption costs that help determine the effectiveness of the EU’s ability to transfer rules. Among Central and Eastern European countries, cases when membership prospects were credible, “it was the size of domestic political costs of incumbent governments that shaped their response to EU demands” (Sedelmeier and

---

<sup>6</sup>Besides conditionality, scholarship that subscribes to rational choice assumptions have also identified domestic empowerment and lesson-learning as distinct mechanisms (Tekin and Güney 2015). However, conditionality has been the most utilized mechanism to explain change in accession countries (Yanasmayan 2017)



Schimmelfennig 2004). Rewards, one of the conditions that influence a candidate country's cost-benefit calculation, may be different for each. For example, if EU offers association is the ultimate reward, it will not as effective as a more sizable one like membership. Rewards also become more effective as accession negotiations come to its conclusion (Schimmelfennig and Sedelmeier 2020). Veebel (2009) mentions the EU's different types of conditionalities; besides the 'positive conditionality', which is associated with 'carrots' offered as a reward the country, the EU can alternatively apply 'negative conditionality', in other words 'sticks', which involves withdrawing its support in case of non-compliance by the state. Veebel (2009) also highlights how conditionality can be 'unilateral', as experienced during the Cold War era, or 'multilateral' after the 1990s when the OSCE, NATO, and EU exert conditionality simultaneously.

More than a decade after, Schimmelfennig and Sedelmeier (2020) applied the external incentives model to post-accession developments in Central and Eastern Europe (also to the Southeast European countries currently in the accession process). In terms of compliance with democratic norms, while there is no overall democratic deterioration, individual countries, namely Hungary and Poland have experienced backsliding and EU institutions have not been able to reverse the trends because of lack of credible sanctions. With respect to democratic conditionality (as opposed to compliance with *acquis*), the EU's credibility to use sanctions after accession is low and as the external incentives model predicts, EU institutions have not been able to affect non-compliance. When the authors examine countries currently in accession process, first they identify the conditions are more demanding than the ones expected from Central and Eastern Europe, especially with stronger weight placed for democracy and the rule of law and second, when EU's conditionality credibility has weakened, its ability to influence political developments in the candidate state has also decreased.

According to Schimmelfennig and Sedelmeier (2020) the Turkish case demonstrates most clearly this relationship between the credibility of the EU's conditional membership promise and the EU's impact on the candidate country's overall political development. To recap, the EU's conditionality evolved and became a vital tool for the EU to 'Europeanize' the countries that have membership objectives. The Central and Eastern European countries have become a special case to study 'Europeanization' since they have a distinct history compared to the Western European countries, hence, the change in their domestic politics became more obvious. In the following section, I discuss the Europeanization process in Central and Eastern European countries vis-à-vis constitutional changes.

## 2.4 EU Membership and Constitutional Changes in Central and

### Eastern Europe

Early accounts of the post-communist countries' membership to the EU was considered a story of success for the Europeanization process. Arguing that it is difficult to measure the impact of the EU's conditionality and the prospect of EU accession, in general, on constitution-making in Central and Eastern European countries, Morlino and Sadurski (2010) posit that with the exception of Hungary, the post-communist constitutions had been established before the prospect materialized. Moreover, it is difficult to assess to what extent these processes have been informed by common European norms and influenced by the European Convention on Human Rights ECHR and the work of the Venice Commission, as opposed to EU conditionality. However, we can also observe that there have been constitutional amendments introduced in the post-communist countries, which have addressed the EU's political criteria with respect to democratic conditionality (EU's fundamental political principles and norms, human rights and liberal democracy) as opposed to acquis conditionality.

Morlino and Sadurski (2010) identify three categories related to the need to align constitutional texts with membership to the EU. The first includes those constitutional changes introduced before the final stages of the accession and refers to those provisions adopted with the objective of providing a constitutional mandate to the national authority to negotiate with the EU about accession. For example, the so-called European provision in the Polish constitution which states "The Republic of Poland may, by virtue on international agreements, delegate to an international organization or international institution the competence of organs of State authority in relation to certain matters'" is an example of how accession goals drove constitutional change. The second type of change related to EU membership refers to those amendments that were introduced before the accession and helped align it with EU requirements. The 2002 amendments in Hungary is cited as an example of this type of EU impact. The third category on the impact of EU accession on the constitutional structures of Central and Eastern European countries refers to those amendments, which are introduced after the accession as part of the process of adapting to evolving EU law. Hence, the example given by the authors, the amendment in Poland about the European arrest warrant was not a prerequisite of EU membership. Overall, the impact of accession to the EU is more visible in the case of candidates and prospective candidates.

According to Morlino and Sadurski (2010), the EU with financial and technical sup-

port has encouraged constitutional reforms in Albania but this influence had been much weaker in Serbia where there was strong opposition to EU accession. EU-induced constitutional change is not exclusive to new members from Central and Eastern Europe. For example, Finland which became an EU member in 1995, in order to allow integration to the EU, it adopted amendments that redesigned the division of competences between Parliament, the Government and the President and changed the constitution to involve the parliament in EU affairs. In that sense, EU membership led Finland to broaden parliamentary features of the Finnish constitutional system (Salminen, Lavapuro, and Ojanen 2014). In a counter-intuitive way, the prospect of EU membership led Finland to provide stronger guarantees of rights and freedoms that are enforceable through courts and provide the same protections for EU and non-EU citizens. Therefore, in the case of Finland, it was not EU conditionality but in fact, concern of the shortcomings of European rights standards that led it to carry out constitutional change. When Finland adopted a new constitution in 2000, it offered the country an opportunity to clarify its obligations under EU membership as well other international obligations and how these interact with Finland's sovereignty but still the constitution did not obviously specify the constitutional importance of EU membership. Before the 2000 constitution, Finland specifically prohibited judicial review.

But according to Lavapuro et al. 2014, the increased significance of European courts (European Court of Human Rights and European Court of Justice forced Finland to reconsider it and introduced judicial review in the new constitution. A constitutional amendment in 2012 introduced changes such as the addition of a provision that states that Finland is a member of the EU and defined the parliamentary procedure to transfer significant powers to the EU and identified the prime minister as the authority that represents Finland in the European Council. Looking at Finland's experience of EU-induced constitutional change allows us to observe a number of important matters. First, Europeanization in the constitutional domain is not necessarily restricted to the pre-accession period. But without conditionality, this type of EU-led change can only be understood through the logic of appropriateness. In the case of Finland, we can observe that parliamentary form of government and judicial review, both features common in the European continent, have been adopted in Finland after its accession to the EU. Constitutional changes related to the technicalities of integration may indeed be necessary but it is up to the country to pursue its own approach to restructure its sovereignty.

EU-induced constitutional change is not exclusive to new members from Central and Eastern Europe. For example, Finland which became EU member in 1995, in order to allow integration to EU, it adopted amendments that redesigned the

division of competences between Parliament, the Government and the President. There is a strong relationship between national constitutions and the EU (law and treaties). Examining the experience of old member states (EU-15), Claes (2007) argues that the member states' constitutions provide the basis of the 'EU-law and the member states' constitutions correspond to the EU's constitutional values such as human rights, democracy and the rule of law, and help provide legitimacy to EU and ensure compliance with constitutional requirements that protect these values. She observes that "in some Member States, the text of the national Constitution has been amended in order to allow for the transfer of powers to the European Union, to comply with the requirements of membership, or in order to adjust the concrete constitutional arrangements to the new circumstances" but the relationship is both ways, leading to constitutional change at the European level as well (Claes 2007). However, the idea of establishing a constitution for Europe has been abandoned after 2007.

Chapter 35 of the EU's '*acquis communautaire*' on the 'other issues' includes the constitutional matters. One should first note that reforming the national constitutions is not a 'must' in the accession process, candidates may prefer to reform their constitutions to strengthen their eligibility for membership, or because legislative changes that may necessitate constitutional change. The substance of constitutional reforms is unique to each country and depends on the area which should be addressed; while some of the countries amend their 'minority rights', to fulfill democratic criteria, others align with the 'EU-law' to fulfill *acquis* criteria (Keil and Dzankic 2019). The countries have different amendment procedures and the political situation may add another layer that makes it difficult to compare how relevant changes are adopted (Claes 2007). Likewise, the constitutional changes are subject to the countries' political conditions the domestic political elites' interests. In his analysis of constitutional change in Eastern European countries Roberts (2009) examines whether they have adopted amendments to conform to EU standards. Examples he cites include changes related to the functioning of the courts, property rights, and more broad changes related to adherence to international obligations that would allow for EU integration (Roberts 2009).

The communist Soviet regime had affected Central and Eastern European countries' political structures. Thus, their revised/newly adopted constitutions emphasize a break with the past and provide a framework which asserts main principles of liberal democracy such as rule of law, separation of powers, protection of rights and liberties, including guarantees for private ownership and political pluralism (Albi 2005). The EU's Eastern enlargement began in 2004 with ten former communist

countries, continued with the accession of Romania, Bulgaria, and Croatia <sup>7</sup>. Safeguarding the principles of ‘constitutional democracy’ was a pre-accession condition for the former communist countries and the principles were determined by the EU’s political criteria (Halmai 2018). Some of these countries adopted a wide-range of constitutional amendment packages as part of their transformation in preparation for EU membership. These were Slovakia, Czech Republic, and Slovenia (See Table 2.3). The constitutional amendment process in Slovakia was not difficult since it only necessitated three-fifths of the majority to ratify the changes. At the end of the 1990s, there were constitutional changes regarding checks and balances and the procedure of presidential elections but the fundamental changes were made in 2001 that included reforms in the areas of “public administration, local government, and judiciary” (Albi 2005).

As Haughton (2007) shows through the example of Slovakia the change depends on whether the domestic political elite is receptive to it. But in cases where there were “clear and unambiguous judgments requiring clear and measurable change,” constitutional changes were introduced as a response (Haughton 2007). For example, in order to address the Commission’s negative reports on judicial independence and weak anti-corruption measures, the Slovak constitution went through a comprehensive constitutional change in 2001. However, despite the calls from the EU about providing constitutional guarantees for minority rights and some positive developments, it has not led to constitutional change in this area (Harris 2004; Haughton 2007). When compared to Slovakia, the ratification process of the constitutional changes in the Czech Republic was more complex because both the senators and deputies’ approval were needed in the parliament. Unlike the Slovak constitution, the amendments in the Czech constitution established international law as superior to its domestic law (Albi 2005). Yet, not all former communist countries adopted extensive constitutional changes, some introduced more limited changes. However as Roberts (2009) argues with respect to Macedonia and Ukraine, even when the accession prospects were distant, conforming to EU standards was an objective in pursuing constitutional change.

In other EU candidate countries, especially Poland and Hungary the extent of the constitutional reforms was much more limited (See Table 2.5). In Poland, the constitutional amendments were directed at harmonizing the provisions of the national law to international law (Albi 2005). The EU, via the Copenhagen criteria, was the main motivator in Poland’s democratic transformation since the beginning of the

---

<sup>7</sup>The potential candidate states of the EU are Kosovo and Bosnia and Herzegovina (BiH). See the information of the countries’ memberships and candidacy (potential candidacy) - retrieved from the website of the Turkish Ministry of Foreign Affairs Directorate for EU Affairs <http://www.mfa.gov.tr/default.en.mfa>. See Table 2.1 for the list of candidate countries

Table 2.3 Constitutional Changes in the Czech Republic, Slovakia, and Slovenia

Czech Republic	<p>2001: The 'Euro Amendment' improved the power transfer procedure that made it easier to authorize the EU and harmonized the 'domestic legal structure' with the international law</p> <p>2003: a constitutional act is adopted to allow referendum on EU Accession No EU induced changes were introduced to the constitution after 2003 (Kühn 2019)</p>
Slovakia	<p>2001: A comprehensive 'EU-Amendment' enabled Slovakia to become a part of Western Bloc; the EU and NATO (Bobek and Michal 2019)</p>
Slovenia	<p>1997: Amendment to Article 68 related to Acquisition of Land by Foreigners</p> <p>2003: Amendments to Art. 68 and Art. 47 The latter simplified the system of preventing the "extradition of a national citizen". More importantly, introduced Article 3- the so-called "Europe Clause" which allows Slovenia to transfer its sovereign rights to an international organization and allows for referendum to adopt a new international treaty (Bardutzky 2019)</p>

1990s. However, Poland's transformation process was difficult domestically due to the concerns about weakening sovereignty. Although it was easy to implement the changes regarding minority rights and the rule of law, eliminating capital punishment to fulfill the EU's requirements was disapproved by a sizeable majority of the society(Włodarska-Frykowska, Klonowski, and Agata 2019)<sup>8</sup>.

In Hungary, the constitutional changes that can be associated with EU membership goals took place in 2002 to become a member of the EU. Only four-fifths of the majority was needed to adopt the constitutional changes in Hungary, and the amendments were limited in as the membership requirements were met at the lowest (Albi 2005). Latvia, Lithuania, and Estonia (see table 2.5) had challenges in amending their constitutions since a referendum was required to change the clauses on 'sovereignty' and 'independence', and there was a lack of public support for the EU membership. Hence, fulfilling the membership conditions has been difficult for these three Baltic states (Albi 2005).

<sup>8</sup>Eliminating death penalty in Poland, did not require constitutional amendment. When Poland signed ECHR-Protocol No:6 in 1997, it abolished it. In 2006, when Poland sought to reintroduce the punishment, it was very much criticized by European officials (The Human Rights House Association, 2006).

Romania also amended its constitution as part of its EU accession process. The 2003 amendments aimed to strengthen checks and balances by establishing and empowering political and judicial institutions such as the Constitutional Court, Ombudsman, and the Superior Council of the Magistracy (Iancu 2019). In Bulgaria, the constitution was substantially rigid that changing certain parts of it was not possible because of the communist party's implementations (Magalhaes 1999). Although the EU was not involved when Bulgaria adopted a new constitution after the end of the Cold War in 1991, it was influential during the subsequent amendments introduced to its post-communist constitution. The amendments in 2003, 2005, 2006, and 2007 were essentially linked to the country's membership objectives (Belov and Tanchev 2019). Croatia's accession process started in 2003 and 2010, the constitutional amendment introduced a new chapter named 'European Union' to indicate the harmonization of the national law with the EU law and afford the legal basis for its membership (Mataija, Goldner-Lang, and Đurđević 2019).

Apart from these Central and Eastern European countries, we can observe constitutional changes in Western Balkan states. Certainly, it is not possible to argue that all constitutional change is tied to EU membership goals. Here, recent experience of Macedonia offers a different example where the constitutional amendment was a product of not the EU conditionality but a necessary change to satisfy an EU member that could potentially block its accession. In 2019, Macedonia changed its name to the 'Republic of North Macedonia' after holding a referendum. The constitutional change was approved in the parliament. The main reason for this change was about Macedonia's long-standing conflict over its official name with Greece could potentially challenge Macedonia's accession to the EU (BBC 2019). Following this, the Greek Prime Minister Alexis Tsipras declared that he encourages the EU to take the necessary action for Macedonia's membership (Constantine 2020).

Yet, in recent years, the EU's conditionality no longer receives much support and enthusiasm from candidate countries in Western Balkans. However, different than other candidate countries, in the case of candidate-country Macedonia and potential candidate states, Bosnia and Kosovo, EU has been involved in post-conflict constitution-building (Galyan 2014). The Europeanization process has been much slower in as these countries and are experiencing a "Europeanization fatigue" and come to doubt the EU's objectives. Moreover, because of went through unfavorable developments such as the backslide in democracy and rule of law is becoming more dire, and the craccession perspective is no longer perceived as very credible (Zweers 2019). The Europeanization process has been much slower as these countries went through unfavorable developments such as the backslide in democracy and rule of law, and their membership goals weakened (Zweers 2019). Europeanization is chal-

Table 2.5 Constitutional Changes in Poland, Hungary, Latvia, Lithuania, and Estonia

Hungary	<p>1989-1990: The constitutional changes were directed at advancing ‘democracy’ and ‘rule of law’. No new constitution was adopted after the transition.</p> <p>2002: Hungary’s membership objectives led to a wide-ranging constitutional change. It stipulated that Hungary was an EU member state and guaranteed a commitment to European unity. Amendments restructured the division of powers between the parliament and the government in EU matters and changed voting rights to allow participation in EU-wide elections. Another set of amendments in December 2002, most significantly amendment-making rules were changed.</p> <p>2010: A reversal in Hungary’s constitutional achievements and constitution-making process- a new constitution entered into force in 2012 (Albi 2005; Sulyok et al. 2019).</p>
Poland	<p>2 April 1997: A new constitution entered into force, it included the so-called ‘European clause’ and provided a legal basis for accession to the EU.</p> <p>8 September 2006: An amendment (Article 55(1)- on extradition of Polish citizens) directly associated to the EU membership, specifically to allow implementation of the European Arrest Warrant. (Kawczyńska and Biernat 2019).”</p>
Latvia	<p>1996: Constitutional amendments structured the Constitutional Court.</p> <p>1998: Constitutional amendments regarding human rights and freedoms were introduced.</p> <p>2003: Constitutional amendments, which were directly related to the EU accession process strengthened rule of law, individual rights, and democracy (Statkus and Krūma 2019).</p>
Lithuania	<p>2003: A constitutional act entered into force (rather an amendment to the main text of the constitution), giving constitutional basis for Lithuania’s membership to the EU (Švedas and Jarukaitis 2019).</p>
Estonia	<p>2003: An amendment increased the election of local government’s representative bodies to 4 years.</p> <p>2003: Estonia held a referendum that would allow the parliament (Riigikog) to ratify the treaty for the accession to the EU. It entered into force in 2004 (Laurand et al. 2019).</p>



lenged from within by the member states that are drifting away from the EU's core values, in a process referred to as 'de-Europeanization' by observers of this phenomenon.

## **2.5 De-Europeanization and its Expressions in the Member States**

With a closer study of the Turkish case Kaliber (Kaliber 2014) highlights the common methodological and analytical elements of the literature on Europeanization and modernization theory. Accordingly, the Europeanization literature describes

“a similar evolutionary and linear sequence of development and modernization defined mainly as a process of technical adaptation to the EU model” (p. 32)

whereas in fact, this process is not irreversible. Overall, the literature agrees that 'Europeanization' refers to how European norms, policies, and institutions have an impact on domestic affairs, whereas 'de-Europeanization' has come to denote turning away from the

“European system of norms, values and policy expectations” (Aydın-Düzgit and Kaliber 2016).

De-Europeanization defined with more specific focus on the European Union refers to

“reversal from EU rules, norms and values and a process of de-aligning from the EU” (Murphy 2019),

and problematizes the EU's weakening capability to affect countries' domestic affairs. The process of 'de-Europeanization' is observed not only in the member states like Hungary but also candidate states like Turkey, and others closer to accession such as Western Balkan states (See Table 2.1). It is observable in two different ways:

First, the EU's normative power declines as it becomes incapable of influencing the target country through its policies, norms, and institutions, and secondly, the EU's rules and practices are questioned by the country. This process is not only an obstacle in adopting the EU reforms, but it also threatens the already implemented ones as it could result in losing the achievements (Aydın-Düzgit and Kaliber 2016). According to scholars Senem Aydın Duzgit and Alper Kaliber, de Europeanization, for pre-accession countries is more than backsliding as it (2016);

“refers to those cases where policy change, in whichever direction, is incurred without, with minimal or with largely negative reference to the EU/Europe, hence outside the normative/ political context of the EU ” (Aydın-Düzgit and Kaliber 2016)

However, the most clear manifestations of de-Europeanization can be observed in member states. In 2010, Viktor Orban came into power in Hungary with a majority and PM Orban's party and coalition partner were able to adopt a new constitution despite the criticism he received from the EU institutions <sup>9</sup>. The changes granted more power to the country's executive branch and re-structuring the state institutions such as the constitutional court (Sedelmeier 2014). In Hungary, four-fifths of deputy votes were needed to adopt a new constitution. One of the first changes made by the newly elected government was to ease the procedure to dominate the constitution-making process (Scheppelle, Halmai, and Lane 2012). The constitutional changes that were made without general consent moved Hungary closer to a model of 'competitive authoritarianism' (Bogaards 2018). Poland's Law and Justice party (PiS) came to power in 2015 with an electoral triumph. Poland's ruling party, which embraces a similar ideological affinity to Orban's Fidezs has followed a similar pattern (Hanley, Dawson, and Sean 2018). For example, a new bill adopted in 2015 undermined the power of the constitutional court and deepened the political crisis in Poland (Thoburn 2016).

Although critics have characterized these developments as “dismantling of the constitution” (Wróblewska 2020) and “constitutional capture” (Koncewicz 2016), in fact these have been the results of “non-constitutional changes to the constitutional order”. Moreover, the Polish government like its Hungarian counterpart sees itself as the vanguard of the EU's transformation based on a sovereignist objective. The recent report of Freedom House identified that across Central Europe, the Balkans,

---

<sup>9</sup>see the European Parliament's resolution on 16 February 2012 that address the new constitution that entered into force in 2012: <https://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P7-TA-2012-0053&language=EN&ring=B7>

and Eurasia, there is significant decline in democracy scores. For the first an EU-member- Hungary is no longer classified as democracy the democracy monitor. Candidate countries, Serbia and Montenegro are also no longer in the list of democracies (RFERL 2020). The constitutional developments in Hungary and Poland are examples of ‘de-Europeanization’ in the EU member states and the EU is "for playing the role of a passive spectator" <sup>10</sup>. While it is beyond the scope of this thesis to explain why this reversal transformation took place in the member states, the Europeanization process itself is identified by some as allowing “politics of resentment” to grow. Accordingly “The incessant pressure of Europeanisation and catching up with what was thought to be a superior Western standard provoked a backlash against the elite-driven and technocratic politics” (Konciewicz 2016). Blokker (2014) finds that the EU accession process which strengthened the technocratic judicial control when these countries were merely new democracies, created a backlash against legal constitutionalism.

In the name of protecting their “constitutional identity”, autocratic governments in Poland and Hungary, have been defying EU law and the EU’s core values (Pech and Kelemen 2019). For example, when Hungary adopted the “Stop Soros Law” and related constitutional amendments in 2018 that declared that protection of Hungary’s constitutional identity and Christian values was a duty of all state institutions in the 2018 constitutional amendments, it did so by appealing to Article 4(2) which Hungary claims to allow Hungary to override EU laws because of its national identity <sup>11</sup>. The notion of constitutional pluralism which has been put forward as a concept to approach the conflict between EU and state courts, have become tools to abuse by emerging autocrats like Orban. In response to the 2018 amendments and the package of laws that prohibited the settlement of migrants in Hungary, the EU Commission began infringement procedures in July 2018 and later referred Hungary to the Court of Justice of the EU. The next section reviews the legal tools available to the EU in addressing breaches to its core values and evaluates the extent to which the EU has been able to affect domestic developments in member states.

---

<sup>10</sup> After the new constitution entered into force, Hungary introduced a change to lower the retirement age, this led the EU bring an infringement action and forced Hungary make legislation in line with EU law and close the infringement action, see [https://ec.europa.eu/commission/presscorner/detail/en/IP\\_13\\_1112](https://ec.europa.eu/commission/presscorner/detail/en/IP_13_1112). Another infringement action was brought in 2012 regarding the independence of the national data protection authority and the central bank, see [https://ec.europa.eu/commission/presscorner/detail/en/IP\\_12\\_395](https://ec.europa.eu/commission/presscorner/detail/en/IP_12_395). In the case of Poland, European Commission opened infringement procedure against Poland in 2017 over a change that allows different retirement ages for judges, see [https://ec.europa.eu/commission/presscorner/detail/en/IP\\_17\\_2205](https://ec.europa.eu/commission/presscorner/detail/en/IP_17_2205). In 2018 for undermining the independence of Supreme Court judges, see [https://ec.europa.eu/commission/presscorner/detail/en/IP\\_18\\_4341](https://ec.europa.eu/commission/presscorner/detail/en/IP_18_4341) and in 2019 for the disciplinary regime it introduced, see [https://ec.europa.eu/commission/presscorner/detail/en/IP\\_19\\_1957](https://ec.europa.eu/commission/presscorner/detail/en/IP_19_1957)

<sup>11</sup> Art 4(2) states ‘The Union shall respect the equality of Member States before the Treaties as well as their national identities, inherent in their fundamental structures, political and constitutional, inclusive of regional and local self-government’.

## 2.6 Judicial, Political and Social safeguards: The EU's Article 7

### Procedure and Beyond

There are different mechanisms and tools available to the EU that can help safeguard democracy and rule of law in EU member states. First, there are the traditional judicial tools which can provide for EU law enforcement. This can be enforced by the Commission before the European Court of Justice via bringing infringement procedures for breaches of the EU law (Kelemen and Blauburger 2017)<sup>12</sup>. The other alternative judicial mechanism is bringing litigation by private parties in national courts. Müller (2015) argues that these judicial instruments may not be sufficient. First of all, proceedings must be based on EU law which may not necessarily address rule of law and democracy concerns comprehensively. The European Commission, a politicized institution may not be willing to use its powers. Although private parties may try to challenge backsliding developments in national courts, access to courts may be restricted and more problematically such incremental response “case- by-case enforcement” may likely be inadequate to address an on-going process of democratic backsliding (Kelemen and Blauburger 2017). Second, the EU can utilize political safeguards against democratic backsliding. Sedelmeier (2017) distinguishes between those that rely on material sanctions- namely Article 7 of the Treaty on European Union (TEU) and those that rely on social influence, ie. “dialogue, persuasion, and shaming”.

The rule of law, democracy, and human rights are the general principles outlined in Article 2 in the TEU. However, in a circumstance where the EU's norms are violated by the member states, the EU is restricted in its ability to exercise such a surveillance mechanism for adherence to core values. This led to the debates about ‘Copenhagen Dilemma’ (Kochenov 2017). Article 7 is the only available safeguard for EU's values and authorizes the EU to penalize the member states in case of violation. The article's ‘preventive arm’ was operationalized with the Nice Treaty in 2003, before the accession of the former communist countries. In that sense, the introduction of Art 7. at a time when the EU was in the enlargement process, signaled its lack of confidence in the pre accession conditionality (Schepelle 2017). As it stands today, in case of a breach, Art. 7 specifically allows for sanctions such as suspension of EU voting rights. It has been first activated against Poland in 2016 (Schepelle 2017). In 2017, the European Commission determined a significant violation of the

---

<sup>12</sup>Articles 258 of the Treaty on the Functioning of the European Union (TFEU) defines the conditions for bringing infringement procedures against EU member states for their failure to comply with EU law requirements.

rule of law principle in Poland and decided to operationalize Article 7 because of concerns related to the absence of “an independent and legitimate constitutional review and judicial independence”<sup>13</sup>. In 2018, this procedure was operationalized against Hungary for concerns related to “the functioning of the constitutional and electoral system” among others such as judicial independence, corruption, and rights and freedoms<sup>14</sup>.

There are a number of reasons for why the EU may not use Art.7 effectively. First, voting rules for establishing breach and deciding on the sanctions are quite demanding. Second, member states in the name of national sovereignty are not inclined to use such measures and party politics constrain the European Parliament’s ability to respond to developments of concern (Sedelmeier 2017). Moreover, it is not only the European Commission that is empowered to activate Art.7, other member states, and the European Parliament may also take action. As Schepelle (2017) explains “perhaps it is precisely this attempt to spread responsibility for European values across EU institutions that has resulted in the paralysis we have witnessed even while Member States attack the basic values of the European project. To sanction any Member State, the vast majority of, and in the case of sanctions, all Member States must act together, just as the vast majority of MEPs must also agree, but no institution bears the primary responsibility for starting the process or ensuring that the record is compiled to sustain the charges”. In short, political safeguards that include material sanctions, in other words, Art.7 of TEU may not be sufficient. An alternative tool is to use issue linkage and increase material leverage over member states to force compliance with its demands (Sedelmeier 2014). An example of such issue linkage is making negotiations with the International Monetary Fund depend on reversing changes that weakened the independence of Hungary’s central bank.

Based on insights from literature on the EU’s accession conditionality, Sedelmeier (2017) argues that the extent to which the EU can achieve results by applying material sanctions against illiberal governments is very limited. Instead he advocates for alternative political safeguards that rely on persuasion ie a pre-Article 7 procedure of the 2014 rule of law framework that provides for a structured dialogue between the European Commission and the member state in question. Such formal engagement that brings about publicity to the development in concern, according to Sedelmeier (2017), allows for the EU to exert social pressure. The European Commission in 2014 introduced a rule of law framework” that would respond to systemic threats

---

<sup>13</sup>See the European Commission’s press brief on the adoption of a decision under Art 7(1), [https://ec.europa.eu/commission/presscorner/detail/en/IP\\_17\\_5367](https://ec.europa.eu/commission/presscorner/detail/en/IP_17_5367)

<sup>14</sup>In the case of Hungary, it was the European Parliament, not the European Commission that activated Art.7(1), see [https://www.europarl.europa.eu/doceo/document/TA-8-2018-0340\\_EN.html](https://www.europarl.europa.eu/doceo/document/TA-8-2018-0340_EN.html)

to liberal democracy in member states and determine whether there is a threat to the rule of law in an EU country <sup>15</sup>. The “pre-Article 7 Rule of Law framework” is structured on persuasion but according to Sedelmeier (2017) because the process is quite public, it may also bring about elements of social pressure. However, recent research (Closa 2019) points out that the European Commission does not favor applying Article 7 straightforwardly, instead favors negotiating with the member states to find a solution.

Although, the EU had confronted challenges to its core values before such as the in the case of Austria’s “Haider Affair”, the underlying motivation of the revision of the Art. 7 TEU with the Nice Treaty was the authoritarian past of the Central and Eastern European candidate countries (Halmai 2018). The developments in Hungary after 2010, Poland after 2015 as well as in Romania where EU actually had relative success in its response (Sedelmeier 2014) reveal the weakness of the Copenhagen criteria and show that there is a gap between membership obligations and accession conditions (Halmai 2018). This is expressed as the Copenhagen Dilemma which refers to the EU losing its capacity to influence post-accession developments but some critics argue that part of the problem rests with the fact that besides general requirements on democracy and capacity, Copenhagen criteria is not developed to facilitate Europeanization (Agh 2018). It is noteworthy that challenges to EU values from member states have operated in the domain of constitutional politics. These insights on the EU’s ability and capacity to bring about domestic changes and reversals in these gains in member countries are instructive to conceptualize de-Europeanization and understand its expressions in the case of Turkey, a long time candidate country, where similarly clear manifestations of de-Europeanization take the form of disregard to constitutional norms and abuse the constitutional change process.

---

<sup>15</sup>See the rule of law framework, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex>

## 2.7 Conclusion

Initially, the Europeanization process of the post-communist countries' constitutions appeared successful. However recent developments in new member states (former communist countries) where illiberal policies have undermined constitutional rights and freedoms and core values of the EU, including a fundamental constitutional principle-rule of law have been formulated as cases of 'de-Europeanization' (Agh 2018). While it is not possible to coherently identify the underlying reason for these reversals in different member states, we can observe the EU's weakened influence after their membership. Although the EU has judicial and political safeguards that it can activate in case of breach to its fundamental values, as Sedelmeier (2017) argues, social influence offers a promising tool for the EU. As the following chapter examines constitutional changes in Turkey within the context of the EU-Turkey relationship and the period in which the Turkish constitution went through a Europeanization process before providing an analysis of the constitutional developments in the period of 'selective Europeanization' which began in the post-2005 period until 2011 and de-Europeanization from 2011 onwards (Yilmaz 2016).

### **3. HISTORICAL BACKGROUND OF TURKEY AND EUROPEAN UNION RELATIONS IN THE CONTEXT OF CONSTITUTIONAL CHANGES**

#### **3.1 Introduction**

Historically, we can trace Turkey's constitutional development to late Ottoman when rights and liberties were first recognized. Although this was cut short, a constrained constitutional government was established between 1876 and 1878. Following the war of independence, the Turkish Republic was established by Mustafa Kemal Atatürk in 1923. While outside actors may have been influential in the Ottoman era's constitutional developments, when we observe the constitution-making process in Turkey, we can observe that domestic actors were the most significant in shaping the Turkish constitutional development. In this section, the thesis explores how the constitution-making process in Turkey became an issue beyond domestic developments as the relations with the EU developed. The EU-Turkey relations took a more concrete turn when Turkey applied for full membership in 1987. As a result, the EU became an external actor and had an impact on the constitution-making process.

When the constitutional changes in Turkey are evaluated within the framework of 'Europeanization through the EU's conditionality', the effect of the EU's conditionality depends on the period of the EU-Turkey relationship. The Europeanization process of the Turkish constitution started in 1987, with Turkey's membership application and was initiated by the domestic actors who were enthusiastic to build a dialogue with the EU. Although Turkey was not granted candidacy status then and the EU's conditionality was ineffective, the constitutional reforms between 1987 and 1995 were a consequence of the Turkish political elites' objective to maintain the relations with the EU. In 1999, with Turkey's candidacy, the EU succeeded in



transforming the Turkish constitution through its conditionality power as the constitutional changes were promoted in the context of fulfilling the EU requirements for the membership. Therefore, from 1999 to 2005, the Europeanization of the Turkish constitution was accelerated as the amendments and the legal reform packages were in line with the European requirements. However, due to the external and internal factors, the Europeanization process in Turkey started to decline after 2005 and the EU-Turkey relationship shifted to another direction as the EU's conditionality began to lose its ability to stimulate domestic change.

### **3.2 The History of Constitution Making in Turkey**

The Turkish constitution-making has a long history as it dates back to 1876 when the first Turkish-Ottoman constitution was adopted. It was the same time when the European countries were forming their constitutions. The constitution of 1876 granted rights and freedoms to the Ottoman subjects and created a legislative branch to limit the powers of the sultan. The second Constitutionalist era began after Abdulhamid II was overthrown as a result of the March 31 incident. During this period, the constitutional system corresponded to Western Europe's constitutional monarchies in terms of power balance between the sultan and the legislative assembly. However, the 'second constitutionalist era' ended when the Ottoman Empire entered the First World War. The 1921 Constitution was formed under a new dynamic, by the leaders of the independence movement led by Mustafa Kemal Atatürk (Ozbudun 2011b). The 1921 constitution was a short, wartime constitution and became a symbol of the Turkish War of Independence (Versan 1964). While the 1921 constitution mainly emphasized sovereignty, it was amended in 1923 to declare Turkey as a republic (Kaya 2011).

Turkey's constitution-making process that began in 1921 was followed by the adoption of a new constitution in 1924. With 1961, and 1982 constitutions along with important revisions such as the 1971 amendments, Turkish constitutional development went through important changes where the involvement of the armed forces played a key role in these turning points. The 1924 constitution was the keystone of the newly established republic as it had nationalist and reformist sentiments. The constitutions of Poland and France influenced its content. Via constitutional amendments in 1928, secularism was established as a governing principle and the women acquired the right to vote and get elected (Kaya 2011). In summary, the influence

of ideas and institutions from the European continent played a role in shaping the new framework. But the weak checks and balances allowed concentration of power before and after Turkey adopted a multi-party system.

The limited checks and balance and a powerful legislative branch controlled by a majority party allowed the ruling party to take authoritarian steps (Ozbudun 2011*b*). In response, there was a military takeover on May 27, 1960, and a constituent assembly that included coup organizers as well as elected and non-elected civilians drafted the 1961 constitution. When compared to the previous constitution, the new constitution recognized an expansive list of social and civil rights. According to scholar Bayar (2016), on the one hand, the Constitution of 1924 was an instrument to establish a new state and form a new nation; on the other hand, the Constitution of 1961 aimed to protect the revolutionary Kemalist values that modernized Turkey and enabled the country to become closer to the Western principles (Bayar 2016).

During the formation of the 1961 Constitution, the Istanbul Committee evaluated the constitutions of Italy and Western Germany to understand how they established democracy after they overthrew their authoritarian rulers and as a result, the 1961 Constitution aimed to establish and protect political liberties and rights in Turkey (Giritli 1962). However, the liberal democracy provided by the 1961 constitution did not last long. On the account of political mobilization and economic problems, the military intervened in 1971 that aimed to stabilize the political atmosphere by restricting freedoms of the 1961 constitution (Ahmad 1981). Following the 1971 “coup by memorandum”, the constitution was amended. The amendments restricted the civil freedoms and the right of the courts’ judicial review, empowered the executive (Ozbudun 2011*b*). Furthermore, the military’s power in Turkish politics was expanded (Kaya 2011).

Within the context of economic crisis, political instability, and increased violence, another coup d’état was carried out by the military in 1980. The military leadership believed that the progressive 1961 Constitution was to blame for the challenges of the 1970s and carried out an unrepresentative process to adopt the 1982 Constitution. This constitution emphasized state authority instead of individual liberties. Furthermore, different institutions were introduced to check the powers of the elected officials such as the National Security Council (NSC). Another one was the Higher Education Board (YÖK) that put universities under control. The president was granted more powers over the judiciary. Such features of the constitution were criticized by scholars, domestic political actors, and international observers. Different political parties and the members of civil society like the Association of Turkish Businessmen and Industrialists (TÜSİAD), Turkish Bar Associations (TOBB) and,

the Union of Turkish Chambers of Trade and Industry (TOBB) demanded changing the constitution or adopting a new one. While it is not within the scope of this thesis to exhaustively discuss how the domestic demand pushed for constitutional change, the 1982 constitution has been amended in different instances beginning in 1987 (Ozbudun 2011*b*). The military was influential in shaping the Turkish constitution in various points of history. Besides the demand for constitutional change from Turkish interest groups and activists, the object of membership to the EU has been another dynamic in Turkish constitutional transformation.

### 3.3 Constitutional Changes in Turkey During the 1980s and 1990s

The first instance of constitutional change took place after Turkey made its official application for full membership. The 1980 military intervention had strained the relations between Turkey and the EU. For the Turkish political elite, submitting an official accession request was seen as a way to normalize the relation (Usul 2011)<sup>1</sup>. The constitutional change of 1987 did not directly refer to the EU's political conditionality. However, in 1987 when Turkey's Prime Minister Turgut Özal applied to the EU for full membership, he explained to the media that if the constitution's amendment-making rule was more flexible, it would be less difficult to carry out constitutional change and hence achieve more progress in the areas of democracy and human rights (Usul 2011). The first changes included increasing the size of the parliament, decreasing the voting age, changing the rules of constitutional change and removing the political embargo on the leaders of the political parties banned during the military rule. Unlike the other matters, the last item on political bans was approved via referendum. Oder (2012) argues that while these changes were in line with the EU dynamics, the fact removing the political bans was made conditional to referendum, reflects that the government was not sincere in its efforts to harmonize with European values.

Turkey did not receive the candidacy status in 1987 but albeit in an imprecise way accepted that Turkey could be eligible. The European Commission cited problems with democracy and human rights. Its 1989 report stated:

---

<sup>1</sup>For further historical context about the early period of Turkey's EU accession process see articles Muftuler-Bac (1998), Muftuler-Bac (2000*b*), Tekin and Guney (2015)

“Although there have been developments in recent years in the human rights situation and in respect for the identity of minorities, these have not yet reached the level required in a democracy” (Usul 2011)<sup>2</sup>

Turkish political elite began to see the Customs Union as a stepping stone in its goal of becoming an EU member. However, it did not create a significant incentive to realize changes in sensitive areas. Although the coalition government led by Tansu Ciller announced a democratization package in 1994, it could not succeed. When the European Parliament (EP) indicated that the Customs Union would not be finalized without further improvements, the Turkish government recognized the urgency of constitutional change. French Foreign Minister Alain Juppe, in his statement during the Association Council meeting, where Turkey concluded the Customs Union (March 6, 1995) argued that in order to improve the relations, Turkey had to improve its human rights record and realize constitutional amendments (Usul 2011).

The deputy prime minister, in return, pointed out the need for EU support for Turkey to achieve reforms. In 1995, the proposed amendments were ratified by the MPs and 14 articles and the preamble of the constitution were amended. This was accompanied by other legal changes, including the amendment of the Anti-Terror Law (Article 8) in October 1995. For the Turkish politicians, convincing the EP that Turkey has taken steps to improve its credentials was vital to have the Customs Union enter into force. Although these changes were well received, Turkey was not invited to the European Council meeting in December 1995 in Madrid. Besides Turkey’s problematic relations with Greece and EU entering into negotiation with Cyprus, signals from the Christian Democrats within the EU about Turkey’s fundamental cultural differences from the rest of the members, demonstrated that acquiring candidacy status would be difficult (Usul 2011).

According to Muftuler-Bac 2005, the adoption of 1995 amendments is “an important illustration of the EU’s impact on Turkey’s Europeanization” even though this was achieved in the context of the 1963 Association Agreement Turkey signed with the European Economic Community. The amendments were the first comprehensive ones introduced to the 1982 constitution. The preamble of the constitution that referred to the 1980 coup d’état was removed. Restrictions on the political activities of associations, cooperatives, and trade unions were lifted and changes allowed these organizations to engage with political parties. The academics and students were allowed to become members of political parties, which as a result of these changes, could establish their women and youth branches. Changes lowered the voting age,

---

<sup>2</sup>European Commission quoted in Usul 2011, 76

as well as the age to become a member of the political party and increased the number of members of the parliament. Furthermore, the grounds and consequences for prohibiting political parties were relaxed <sup>3</sup>.

Overall, these changes eliminated some of the restrictions on political participation and allowed civil society organizations greater autonomy (Kubicek 2002). In the general reasoning of these amendments, we do not observe a reference to the European Union or to the Council of Europe or the ECtHR's case law (Oder 2012). The reasoning calls for consensus among the domestic actors in the constitution-making process (TBMM 1995*b*). According to Ozbudun (2015), the 1995 constitutional amendments which made a precedent for interparty cooperation and compromise to realize constitutional change, were mostly motivated by domestic dynamics. Even though statements by the Turkish political elite signalled to their European counterparts that constitutional changes would improve Turkey's democracy and human rights standards (Usul 2011), it is not possible to strongly argue that it was the EU political pressure that induced change. According to Usul (2011), because at the time Turkey did not have candidacy status, there was "no real carrot" and the EU could not exert its political leverage or apply its monitoring mechanism. Yet, these changes, albeit insufficient to satisfy the domestic call for broader reform, did rectify the relations between Turkey and EU (Ozbudun 2015) and were understood to have been realized in response to European pressure (Usul 2011).

A contextual analysis of the parliamentary transcripts from the deliberations on the 1995 constitutional amendments reveal that members of the parliament were acknowledging that changes were partly to respond to European Union. For example, Şevket Kazan, a member of the Islamic political party (RP, Refah Partisi-the Welfare Party RP) in opposition, called out the advocates of reform for being untruthful about why the constitutional change was taking place. According to Kazan, the fact that its proponents were more worried about upsetting the EU officials when the changes were suspended, clearly showed that these did not aim to serve "the nation" but to enter into the European Union (TBMM 1995*a*). Mümtaz Soysal (Cumhuriyet Halk Partisi - the Republican People's Party), one of the drafters of the 1961 Constitution and the former minister of foreign affairs, pointed out to a report by the European Commission to express how the outside observers interpreted these changes and their shortcomings (TBMM 1995*a*). According to Oder (2012) while the general reasoning of the amendment proposal does not refer to Europe in any form, a report prepared by the Parliamentary Constitutional

---

<sup>3</sup>In total, the constitutional amendment package included 15 articles that were approved after intense negotiations. See Usul (2011) pp.89-95, Ozbudun (2015) pp.34-35; Ozbudun and Genckaya (2009) p.39 for more on the content of these changes.

Committee, one of the standing committees of the parliament, does include several European references.

Although the member states claimed that the Customs Union was an alternative to membership to encourage constitutional transformation in Turkey; the EU could not apply its conditionality effectively and reforms fell short of standards for democratic consolidation. While the EU could not trigger profound changes in Turkey due to its lack of conditionality, the Customs Union was instrumentalized as a leverage by the European Parliament. The parliament which was authorized to decide about the ratification of the Customs Union was satisfied with the ‘limited’ constitutional amendments (Usul 2011). On December 31, 1995, the Customs Union between Turkey and the EU came into effect. The central implication of this new link was the improvement of the trade between the EU and Turkey. Also, the external trade policy of Turkey was aligned with other related policies like consumer protection, competition, and intellectual property (Nas 2018).

In July 1997, the EU proposed ‘Agenda 2000’ and specified the political, economic, and social conditions that each candidate country, including Turkey, should comply with. The European Commission indicated in the progress report that Turkey had a multi-party political system and the Turkish administration was able to make the legislation congruent with the *‘Acquis Communautaire’* but the Commission also stated that Turkey was not eligible to become a member of the EU due to the ongoing regional problems, economic and political issues in Turkey. The EU was concerned about the Kurdish problem, the Cyprus issue, and economic instability. Furthermore, in the same year, as a part of the EU’s enlargement policy and an outcome of the Luxembourg Summit in December 1997, Cyprus and Central and Eastern European countries became candidates (Konings and Faucompret 2008).

Although France and Italy supported the candidacy of Turkey; Germany and Greece did not. Germany was opposed to Turkey’s candidacy due to its government’s ‘anti-immigration’ policy. For Greece, the reason was mainly about the Cyprus issue (Kuniholm 2001). Overall, the EU did not find Turkey’s progress sufficient since the “minor” changes were beyond the scope of the EU’s conditionality and Turkey’s membership was questionable due to the member states’ national interests. Turkish officials described the Turkish-EU relations during this era as a “sick period” (Boulton 1999). Uluc Ozulker, a notable foreign ministry official, had said that the EU’s credibility over Turkey has weakened after the Luxembourg Summit (Boulton 1999).

Just as the banning of Kurdish political parties in 1990s had received criticism from European institutions, the closing down of the Islamist Welfare Party (RP)

by the Turkish authorities raised tensions. The decision was undertaken by the Constitutional Court on the account that the party was violating the separation of politics and religion, and hence the constitution. However, the EU criticized and warned Turkey to respect principles of democracy. From the Turkish perspective, the dire need to constrain religious movements to protect secularism and continue its path to democracy to align with the EU standards presented a “double-edged sword” (Müftüler-Baç 2000*a*). Although the EU was critical about the Welfare Party’s closure case, in its 2003 decision, the Court established by the Council of Europe, i.e, the European Court of Human Rights (ECtHR ECtHR) did not find that the closure violated the Convention (HRW 2008). Relations between Turkey and the EU further deteriorated due to the domestic issues, mostly related to the ongoing military campaigns against the PKK (Kurdistan Workers’ Party) which heightened human rights violations and exposed state repression against activists and pro-Kurdish parliamentarians (Usul 2011).

Considered as the most sensitive issue, it was more difficult to carry out political reforms in this area and moreover, the absence of credible commitment to Turkey’s EU bid did not incentivize the Turkish political elites to push for further changes. The Europeanization process was stalled and the problematic relationship between Turkey and the EU continued for two more years until 1999 (Müftüler-Baç 2005). The breakthrough in the EU-Turkey relationship came in 1999 when the Commission suggested that Turkey was eligible to be a candidate state since some of the necessary political conditions of the Copenhagen Criteria were met. According to the European Commission’s annual progress report, protection of minorities and human rights were still problematic areas. But in terms of democratization and judicial independence, there has been some progress (Commission 1999).

The Helsinki Summit in 1999 accepted the suggestion of the Commission and officially announced Turkey’s candidacy, which has helped stimulate political and legal reforms and boost the country’s Europeanization process (Müftüler-Baç 2005). The accession negotiations did not begin immediately because not all of the political aspects of the Copenhagen Criteria were met. The process of Turkey’s adoption of the European values began after the Helsinki Summit, as the country was supported with financial tools and integrated into pre-accession programs (Müftüler-Baç 2016*a*). Before entering the new decade, Turkey’s relations with the EU had entered a new phase as it was a crowning moment when Turkey’s candidacy status was officially recognized.

### 3.4 The EU-induced Constitutional Reform in Turkey Between

#### 1999-2005

The period from 1999 when Turkey's candidacy was officially announced, till 2006 is recognized as the period when we can observe the EU's positive impact on Turkey's political Europeanization process (Müftüler-Baç 2005; Özbudun 2015; Usul 2011). In an effort to start accession negotiations, Turkey adopted several democratization packages and changed its constitution. This required Turkey to meet Copenhagen political criteria (Hale and Özbudun 2010). The prospect of membership helped increase the pressure for democratization from civil society groups (Müftüler-Baç 2005). With the declaration of Turkey's official candidacy status, the relation entered into a formal framework, the Accession Partnership Document and progress reports came to constitute the center of its accession process (Usul 2011).

Following Turkey's candidacy in 1999, there were two instances of constitutional amendments. Although the amendments involved a small number of articles, these rule of law related reforms had a significant impact on Turkish political affairs. With the amendment of Article 143, the structure of the state security courts was changed and the military judges and the public prosecutors were removed (Özbudun 2015). Reforming the state security courts was long demanded by the EU (Aydın-Düzgüt and Noutcheva 2012). The European Court of Human Rights, have also found Turkey to be in violation of the fair trial principles outlined in Article 6 of European Convention of Human Rights (ECHR). In the same year, Nationalization and Privatization (Art. 47), Council of State's competences (Art.155), and national and international arbitration (Art. 125) were amended during the second instance of constitutional change in 1999. During the negotiations about these amendments in the Constitutional Committee, the opposition parties were concerned about the Turkish sovereignty and challenged the amendment on 'international arbitration' as it was about consenting to the third parties' involvement in the dispute resolution (Gençkaya and Özbudun 2009).

The central point of the amendments in 1999, which were adopted by the majority of the parliament, was about building a strong market economy that would be able to compete globally. These changes can be perceived as a step to comply with the Copenhagen Criteria, which does require a market economy that is able to compete with the EU's market actors (Özbudun 2015). In 2000, the EU called Turkey to revise its constitution in compliance with the EU standards. In the Accession Partnership report, the European Commission recommended Turkey to expand Turkish



citizens' constitutional rights and freedoms (Commission 2000). The recommendation included the removal of legal prohibitions against the use of different mother tongues in Turkish conventional media. This request from the EU was criticized by the National Security Council (MGK) of Turkey, which included members from the armed forces (MGK 2018). The fear was that the decision would harm Turkish national unity by promoting Kurdish separatism (Atıkcı 2010). In summary, the EU aspired to align the Turkish constitution with European standards and to a certain extent, Turkey took the necessary steps to comply with these.

To fulfill the Copenhagen criteria by adopting the *Acquis Communautaire*, the Turkish government introduced a National Programme in 2000 which proposed 94 amendments to the existing laws and 89 new laws <sup>4</sup> (Kubicek 2005). Significantly, as Turkey assured in the National Programme document to adopt particular reforms before the EU membership, international obligations became the main motivation to revise the constitution and adopt legislative changes instead of domestic developments (Gönenc 2004). But, the leader of the Nationalist Action Party (MHP), Devlet Bahçeli, was an opponent to the reforms, primarily those about the Kurdish language education and broadcasting. Another representative from the same party told that any issue related to human rights that threatens the structure of Turkey is not open to negotiation. Turkish politicians were not aware of how the human rights issue could shape Turkish politics and be essential for its accession (Kubicek 2005).

From 1999 onwards, while not all political parties in Turkey were European Unionist, the EU was very credible in stimulating the reform process in Turkey (Okten-Sipahioğlu 2017). This is to say that the political parties in the coalition had diverse preferences as they had different political backgrounds, but did aspire for membership. For instance, both MHP and Democratic Left Party (DSP) were concerned about the EU induced reforms, especially for the issues that were perceived as 'sensitive'. Although these parties were defined as Euro-sceptic parties and were more or less critical of the EU, they did not oppose Turkey's accession (Yılmaz 2016).

The thorough changes in the constitution happened at the beginning of the 2000s. As a result of these amendments, most significantly, rights and freedoms were expanded, the death penalty was eliminated from the constitution, closing down the political parties became more difficult, the language restriction on broadcasting was removed and the State Security Courts were abolished all together. In the 2000s, the Turkish public perceived the constitution as non-democratic and overall the

---

<sup>4</sup>For more detailed information about the National Program (2000) see the report of Republic of Turkey Ministry of Foreign Affairs - Directorate for EU Affairs [https://www.ab.gov.tr/58\\_en.html](https://www.ab.gov.tr/58_en.html) and <https://www.hurriyet.com.tr/gundem/turkiyenin-avrupa-birligi-muktesebatina-uyumu-yonunde-ulusal-program-74280>

Turkish society was enthusiastic to change the constitution. Civil society was able to raise its voice and call for a change in the constitution. Moreover, the coalition governments were successful in finding common ground during the reform process (Bilgin 2008). Therefore, the 2000s were the years when massive changes were introduced to the Turkish constitution. The content and procedure of the constitutional changes in Turkey during its first period of candidacy could be evaluated within the Europeanization framework since the main objective of the constitutional changes were to align with the European norms and values through consensus.

The amendments in 2001 were an important step to comply with the European norms and in total, 34 articles were changed (Ozbudun 2007). The EU's influence was much more apparent in 2001, compared to the 1995 instance of constitutional change- precisely because the EU conditionality became more formal (Yüksel 2007). The influence of European norms is apparent in some of these changes. For example, the preamble was revised to reflect the ECHR's approach to abuse of rights (Oder 2012). Similarly, the period of arrest for collective offenses was reduced in line with the case law of ECtHR (Usul 2011). During the constitution amendment process "standards promoted by the EU and its organs were used as 'yardstick'" (Gönenc 2004).

The 2001 amendments adopted by the Turkish Grand National Assembly was a result of a cross-party parliamentary committee. The general reasoning outlined in the amendment proposal as well as the reasoning for individual amendments reflect how the EU accession process and European norms as expressed by the ECHR played a role in the adoption of these changes <sup>5</sup>. Its general reasoning states that these amendments were "inevitable" to fulfill Turkey's EU accession requirements and to carry out the necessary legislative changes to comply with these demands (TBMM 2001).

There are a number of references to the ECHR where the reasoning explains that the amendments reflect harmonization to European norms and efforts to comply with its human rights framework. The amendment also proposed to include the following provision to Art. 90 on the ratification of international agreements, "In cases where there is a conflict between laws and international treaties, the latter take precedence". The reasoning of this amendment proposal explicitly states that this change was introduced to provide a legal basis for the EU accession. However this proposal could not receive three-fifths majority and was removed from the package

---

<sup>5</sup> Obviously the absence of an European reference does not imply that there was no EU-related motivation. For example, the amendments expanded the right to petition to foreigners living in Turkey which were in the scope of reforming political rights (Ozbudun 2007). In terms of the adjustments about the foreigners, Slovenia (see table 2.3) had a similar clause during its candidacy in 1997.

(Gençkaya and Özbudun 2009). In the next round of constitutional changes of 2004, a revised version of this provision was accepted, restricting the superiority of international law to cases of “dispute between national laws and international treaties relating to fundamental rights and freedoms duly put into force”. Human rights and fundamental freedoms were the main focus of the amendments and aligning with the international treaties suggested that Turkey wanted to make progress within its membership objectives (Oder 2012; Yüksel 2007).

Following the 2001 constitutional amendments, between 2001-2004, Turkey adopted extensive reforms. A total of eight harmonization packages, Turkey introduced changes or adopted bills regarding the penal code, civil law, anti-terror law, criminal procedure code, political parties law, radio and television broadcasting and so on (Tocci 2005; Usul 2011). As a result, the Turkish government was one more step closer to fulfilling the Copenhagen political criteria. On the other hand, the accession negotiations of the Central and Eastern European countries were about to end and this was an external factor to accelerate the reform process in Turkey. Turkey did not want to be excluded from the enlargement process. The reforms during this year were also appreciated by the Eurocrats as they did not expect Turkey to have met the Copenhagen criteria yet. The three reform packages of 2003 provided some progress in terms of legislative alignment with the EU were the product of the last coalition government before the election of AKP, which for the first time after decades of coalition governments formed a single party government (Müftüler-Baç 2005). The new parliamentary arithmetic meant that the AKP was just a few seats short of the necessary majority to single handedly make constitutional changes. The first constitutional amendment introduced by the new government was not related to EU accession or European norms but introduced to allow the future prime minister to be eligible for membership to parliament. One of the founding leaders of AKP, Recep Tayyip Erdoğan had been imprisoned and was constitutionally banned from participating in parliamentary elections. The 2002 amendments therefore only served the purpose of allowing Erdoğan to be eligible and run in the 2003 by-election.

In Turkish politics, the conservative parties were usually ideologically opposed to the West and Europe. Surprisingly, the AKP as a pro-Islamist party was purportedly committed to the EU integration project. In its election manifesto in 2002, the party claimed that becoming a member of the EU was a part of Turkey’s ongoing modernization process. Apart from the EU itself, the importance of democratization was emphasized by the party twice in its election manifesto. The AKP successfully passed the constitutional amendments in 2004. These amendments were also the result of parliamentary consensus because the opposition party CHP was also motivated to fulfill EU demands for further change (Kalaycıoğlu 2011). According to

Coskun (2013), having EU membership as its goal helped AKP overcome domestic challenges outside of the parliament. A 2003 report, prepared by a Christian Democrat MP, on Turkey's progress in terms of fulfilling the Copenhagen criteria was prepared had previously identified the constitution as the main obstacle, saying that it reflected "a largely authoritarian philosophy" (quoted in Benhabib and Işiksel 2006).

These changes were introduced around the time that the EU decided to start accession negotiations with Turkey. This provided an additional boost to public support for EU membership. Kalaycıoğlu 2011 argues that the 2004 changes continued the constitutional change process that had begun with the 1995 amendments. The amendments eliminated death penalty and completely abolished state security courts. As mentioned above, the article on international treaties was revised in 2004 as well, this was one of the areas identified by the 2003 report mentioned above. Accordingly, such reorganization of competencies was a foundational requirement for membership in the European Union (Işiksel and Benhabib 2006). Another area of concern for the EU was the nature of civil-military relations in Turkey. The 2004 amendments removed the Chief of Military Staff's right to appoint a military member to the country's central education council and allowed the Chief of Accounts to audit the armed forces (Coşkun 2013). The amendment proposal directly referred to 2003 and 2002 Progress Reports to explain why these changes were required (TBMM 2004).

The eight harmonization package introduced in 2004 implemented these constitutional changes. For example, as part of the 2004 changes, gender equality was strengthened and this was followed by changes to the Penal Code in 2004 which expanded women's rights (Tocci 2005). It is clear that the 2004 amendments, which like the previous two from 1995 and 2001 "coincided with the junctures in Turkish-EU relations" were a product of the EU accession process (Kalaycıoğlu 2011). The general reasoning given in the 2004 amendment proposal directly referred to Turkey's compliance with the Copenhagen Criteria and its National Programme (TBMM 2004). At the time, the EU was in the process of drafting and adopting a new constitution for the union and in anticipation of that, the amendment proposal with respect to gender equality makes a reference to it. Similarly, the amendment proposal makes references to ECHR and Turkey's 2003 Accession Partnership documents.

The European Commission in 2004 found Turkey's progress with respect to the political criteria sufficient and therefore recommended to open the accession negotiations as promised (Tocci 2005). Romano Prodi who was the president of the Commission

in 2004 had expressed his pleasure with the reforms in Turkey (Irishtimes 2004). The decision was not only a historical turning point for Turkey but Europe as well. As stated by Jack Straw who was the UK Foreign Secretary at the time, there was a long way for Turkey to become a member of the EU and the negotiations could be expected to continue for ten years but it was worth the struggle (BBC 2005). When the EU-Turkey relations are assessed during the AKP's first term in office, we can observe that the Europeanization continued at a high speed (Oniş 2008) The ruling party supported Turkey's membership goals and its reform agenda. Its parliamentary majority also allowed it to follow the earlier achievements of the governing parties. Hence, in October 2005, the accession negotiations formally started (Oniş 2008). Although the hope for Turkey was to enter a new and dynamic reform process and to enhance the reforms, this was not the case to happen due to the unexpected developments (Ulusoy 2008). We can identify external and internal factors that impacted Turkey's membership prospects and readiness for further Europeanization of its constitutional structure.

After 2005, the Cyprus issue and the uncertainty about Turkey's membership, with Cyprus joining the bloc and holding veto power over its membership prospects led to frustration among Turkish political elite. According to Uluğ-Eryılmaz (2014), the main reason that negotiations in eight chapters could not continue was because of the developments related to Cyprus. In that sense, Turkey's membership to the EU adhered to an irrelevant factor outside the EU's conditionality. This, in return, weakened the EU's credibility over Turkey because it was no longer sufficient to stimulate Europeanization through its conditionality (Akgül-Açıkmeye 2010).

The way the EU acted towards Turkey triggered a slow-down in domestic reforms (Uluğ-Eryılmaz 2014). This is why starting from 2005, scholars have formulated EU-induced domestic change in Turkey as a cases of 'selective Europeanization' which referred to ongoing but superficial reform process that failed to exert improvements in terms of democratization. There were certain reforms that touched upon issues in the areas of rule of law, minority rights, and civil-military relations but since the EU membership remained as rhetoric, Turkey's reform agenda was not determined by the EU (Yılmaz 2014). Within the EU, states like France opposed the idea of Turkey's membership to the EU and stated its reluctance to see chapters directly associated with Turkey's membership open (İçener and Phinnemore 2016).

Also, in 2005, the European Court of Human Rights, which is not an EU institution but certainly reflects common European values and norms, made a ruling that the AKP government found to be quite controversial. A Turkish citizen (Leyla Şahin v Turkey) had claimed that prohibition of the wearing of headscarf in universities had

led to violations of her rights, protected by ECHR, namely the right to freedom of thought, conscience and religion, and the prohibition of discrimination. The court's decision was in favor of Turkey and did not find a violation, signalling to AKP government that despite the freedom of religion section criteria of EU, the union would not be championing reforms that would resolve the so-called "headscarf issue". Hence, the ruling party's calculations regarding EU reform agenda because it came to the conclusion it would not be possible to instrumentalize the EU accession process to enact changes favored by its own constituency (Saatçioğlu 2010). On the other hand, the Turkish public perceived the EU's treatment as one-sided because there was no certainty in the negotiations due to the open-ended feature of the process. The debates about establishing alternative relationships such as 'privileged partnership' with Turkey also led to a decrease in public support for the EU membership. The murder of journalist Hrant Dink in 2007 was symbolically important for the EU-Turkey relationship since it indicated that the democratic values were not internalized during Turkey's membership talks (Ulusoy 2008).

### 3.5 Conclusion

The two modern constitutions of the Turkish Republic (1961 and 1982) were adopted in extra-ordinary conditions following military take overs. In this sense, Turkey's EU membership objective promoted the normalization of the constitution-making process. The EU as an international actor was strong enough to promote changes in the Turkish constitution even when Turkey was not declared as an official candidate and this was due to the eagerness of the Turkish ruling elites and demand from civil society actors and the general public. Hence, Europeanization of the Turkish constitution from mid-1990s till 2005 was an incremental but nevertheless an impactful process. Applying the Europeanization concept defined in the theoretical chapter, we can argue that Turkey experienced a top-down Europeanization process during its first years of candidacy in the sense that changes that were introduced reflected concerns in Progress Reports and addressed areas identified in Accession Partnership documents and aimed to fulfill accession criteria.

Both in terms of content and procedure, constitutional changes reflected European values and norms, as reflected in references to ECHR in the reasoning of amendment proposals. Albeit in a piecemeal fashion, constitutional amendments and the implementation laws (harmonization packages) were introduced to comply with the EU

requirements. Moreover, constitutional change process was carried out in a consensual manner. The EU had proved to be a successful actor that effectively applied its conditionality during the former-communist countries' candidacy and in Turkey to a certain extent. Consequently, Turkey was deemed similar to Central and Eastern European countries where a process of Europeanization via the EU's conditionality had pushed for reforms in diverse areas, including constitutional politics. The EU-Turkey relationship experienced a down turn after 2005. Selective Europeanization defines domestic changes in the post-2005 period when the ruling party cherry picked reform areas, slowed-down its reform agenda and instrumentalized the EU conditionality to pursue its own domestic considerations (Yilmaz 2016). The next chapter will investigate constitutional developments that took place between 2007 and 2017 first in the context of selective Europeanization and later in the context of de-Europeanization, which refers to the reversal of Turkey's Europeanization process.

## 4. CONSTITUTIONAL CHANGE IN TURKEY:2006-2017

### 4.1 Introduction

The evert dynamic relationship between the European Union and Turkey, entered a new era after 2005. In the period between 1999-2005, the credibility of EU conditionality was high and impactful and Turkey adopted a number of constitutional amendments and introduced legislations to give effect to its reformed constitutional structure. Increasingly the perception became that Turkey was not treated fairly. The Council's decision on not opening new chapters due to the Cyprus issue, debates stemming with the EU about Turkey's place in Europe as well as increasing references to non-political criteria both in rhetoric but also in Progress Reports added to these perceptions. Consequently, the credibility of EU's conditionality weakened (Aydın-Düzgit and Noutcheva 2012) and the EU was not effective in manifesting itself as it did during Turkey's first years of candidacy (Aydın-Düzgit and Kaliber 2016).

Observers noted the Turkish government continued to make selective reforms, at times making references to EU accession even in the absence of conditionality and argued that these changes reflected domestic actors' preferences and served the incumbents interests (Aydın-Düzgit and Noutcheva 2012; Saatçioğlu 2010). The constitutional developments in 2007 and 2010 are concrete examples of selective Europeanization since certain subjects were amended but they were mainly an outcome of domestic issues instead of the conditionality's impact. For instance, although the EU welcomed Turkey's constitutional amendments in 2010, the new package introduced controversial articles that were related to neither the EU conditionality nor its values and more importantly paved the way for Turkey's de-Europeanization process in the following years.



This chapter will reveal that Turkey’s experience from Europeanization to de-Europeanization was a gradual process. Before 2013, we can identify instances when the EU factored into dynamics of constitutional change in the context of decreasing credibility of the EU incentives. For example, the formation of the Constitutional Conciliation Committee, to draft a new constitution could have steered the country back to the process of Europeanization. Since 2013, Turkey has gradually slid to authoritarianism, leading some scholars to the conclusion that it has entered a process of de-Europeanization (Müftüler-Baç 2019; Oniş 2008; Saatçioğlu 2009). This chapter will show that constitutional change developments during this period confirm this claim. Besides the controversial amendments that removed parliamentary immunity in 2016 and adopted an executive-presidential system in 2017, respect for constitutional norms eroded and following the coup attempt, Turkey lived under a state of emergency for two years. These developments helped institutionalize the political transformations that contradict the EU’s values. Between 2007 and 2017, Turkey, similar to member countries to Hungary and Poland, have turned away from Europe (Oniş and Kutlay 2017).

## **4.2 Selective Europeanization (2007-2013)**

### **4.2.1 Constitutional Crises and the 2007 Amendments**

The constitutional developments in 2007 and 2008, that came in response to the crisis over the election of a new president, the party closure case, and headscarf issue that were products of domestic dynamics, instead of outcomes of EU influence. The conflict between the secularists and islamists camps, which had played out in the mid-90s as a series of political crises, became once again intense (Zucconi 2020). The chain of events began in 2007 when Turkey’s President Ahmet Necdet Sezer’s term was coming to an end and the question of who would succeed as the new president dominated the Turkish political agenda. The anticipated natural candidate was the ruling party (AKP’s) leader, the then Prime Minister Erdoğan (Gürsoy 2011). The presidential elections where once again the military interfered albeit via a declaration affected the EU-Turkey relations. The military, suspicious that AKP is an anti-secular party (Somer 2007), feared that if the same party controlled the state’s

executive and legislative branches, its founding value would be undermined. As a compromise, the AKP nominated Abdullah Gül as their candidate, the Foreign Minister at the time. Following AKP's announcement, the army shared an online statement expressing that the armed forces TAF (Turkish Armed Forces) was "a side in this debate" (Gürsoy 2011).

In April 2007, dubbed as the e-memorandum in Turkish political history, the military emphasized its concern over the presidential elections and highlighted the importance of secularism. The military also indicated that it would not hesitate to intervene if it perceives that secularism was being breached (Hürriyet 2007). The EU's position during this crisis was limited as it only manifested itself through supporting the civil actors in Turkish politics against the military officials who declared the e-memorandum (Gürsoy 2011). The EU Enlargement Commissioner Olli Rehn advised the military to leave issues of democracy "to the democratically elected government and this is a test case if the Turkish armed forces respect democratic secularism" (Taylor 2007). Although the Turkish constitution required a parliament vote to select the new president, the tumultuous process continued during the voting session. According to the 1982 constitution, if the candidate did not receive two-thirds of votes in the first or second sessions, for the third round the simple majority was enough to elect the new president. It was clear that Abdullah Gül could be elected by the simple majority since AKP was in control of the parliament. In the parliament's first session of voting, the Republican People's Party (CHP) pursued a new strategy and refused to join the session in order to prevent the necessary parliamentary quorum. The presidential election issue became a gridlock when the opposition party CHP took the matter to the Turkish Constitutional Court (TCC) on the account that the procedure was invalid and asked the court to annul the vote. The TCC's decision on May 1, 2007, agreed with CHP's position. This meant that the ruling party's majority was going to be bypassed and it was not going to be possible to elect their candidate as long as CHP would block the vote. This was not only a judicial confrontation for the ruling party but it was also the first incidence since the adoption of the 1982 constitution, that the party with parliamentary majority 's candidate would be unable to take the presidential office (Bali 2013). To sum up, the presidential crisis triggered the polarization between the secularists and islamists, and the constitutional procedure for electing the president presented a challenge for the ruling party. In return, it sought an alternative method to elect the president.

To overcome this gridlock, AKP called for snap elections, which took place in July 2007 and came out from the elections with a triumph, by receiving 47 percent of the votes (Carkoğlu 2007; Turan 2010). According to Öniş (2010) AKP could have

turned this momentum “to re-activate a large-scale reform agenda”. But instead, having displayed its strong position among the Turkish electorate, it could act more confidently against the domestic secular establishment and ignore the EU’s anchor role (Oniş 2010). The AKP’s second term in the office remarks distancing from the EU and there are mainly two reasons for this orientation change: Firstly, the EU’s reliability had already weakened since 2005; secondly, the ruling party had received criticisms from the Euro-skeptic and nationalist domestic actors for instrumentalizing the EU requirements against Turkey’s founding values. As a result, the government’s policies shifted to safeguarding its rule since the domestic challenges, that threatened its position in political life, outweighed its membership objectives (Yılmaz 2016). In August 2007, Abdullah Gül was elected as the successor of President Ahmet Necdet Sezer with the simple majority vote (Hughes 2007). The EU evaluated the ruling party’s success in the general elections and mentioned its objectives about changing the constitution in its annual progress report:

“Following the general election a single-party AKP government was formed by Prime Minister Erdoğan and endorsed by Parliament on 5 September. The government programme includes a commitment to continue reforms. The government plans to carry out extensive constitutional reforms aimed in particular at fully aligning Turkey to international standards in the area of fundamental rights. The government reiterated its intention to push forward the implementation of the Turkish road map for EU accession presented in April 2007.” (Commission 2007).

As the report indicates, having confirmed its majority support, AKP had found itself in a powerful position to modify the 1982 constitution, which became a central item in AKP’s agenda (Höjelid 2010). Following the request of PM Erdoğan in June 2007, a group of constitutional law professors prepared a constitutional draft in a very short time frame. In fact, the idea of a new constitution was “very much in line with EU conditionality” (Oniş 2008). But rather than using an ad-hoc parliamentary committee like it was done in 1995 and 2001 and trying to push for consensus at the societal level, AKP presented its own draft and then continued to pursue changes that would serve its own constituency, leaving the adoption of a new constitution aside. These include the 2007 amendments on direct election of the president and the 2008 amendments that aimed to address the headscarf problem, that was later annulled by the TCC.

On 21 October 2007, a constitutional amendment (Law No: 5678) was approved via a referendum. The changes enabled the future president to be elected directly by

people instead of a parliament vote (Bali 2013; Ozbudun 2011*a*). Apart from the president's election procedure, the issues of parliament's term and the parliamentary quorum were also among the seven amended articles (Yeğen 2017). According to the European Commission's evaluation in its progress report;

“On 10 May 2007, the Turkish Grand National Assembly adopted a package of constitutional reforms proposed by the majority Justice and Development Party (AKP). The package introduces the election of the President by popular vote for a renewable term of five years, the shortening of the government's term of office from five to four years and the establishment of a quorum of one third for all sessions and decisions of parliament. A referendum held on 21 October endorsed these reforms. In a separate constitutional amendment, the minimum age for a person to be elected to parliament was lowered from 30 to 25 years. The new rules will not be applicable until the next parliamentary elections.” (Commission 2007).

AKP following its success in the snap election of 2007 had a chance to stimulate Europeanization since a considerable majority elected it for a second time. But, in the aftermath of the election, the issues it pursued were apart from the EU requirements (Yılmaz and Öniş 2009). Consequently, the ruling party's second term in the office, from 2007 onwards, remarks a distancing process from the EU - induced reforms since the domestic developments dominated the ruling party's agenda (Aydın-Düzgüt and Keyman 2012). The ruling party wanted to end the de-facto prohibition on wearing headscarf in universities. Encouraged by the Nationalist Action Party (MHP), AKP brought the issue to the political agenda (Kalaycıoğlu 2012).

There were other issue areas such as minority rights but, the ruling party insisted on addressing the headscarf issue that represented the fundamental religious freedoms instead of achieving a common consensus on the other issues. Although the four-fifths of the MPs voted in favor of the constitutional amendment regarding the principle of equality, and the right to an education that would provide the constitutional basis to lift the headscarf ban, CHP asked the TCC to review the constitutionality of the changes. As a result, the high court invalidated the amendments. Following the ruling party's headscarf initiation, a public prosecutor applied to TCC to outlaw AKP on the account of its anti-secular actions that infringed the secularity principle outlined in Art.2 of the constitution. It was another critical decision-making moment for the court but unlike its prior decisions on party closures, the court only fined AKP (Kalaycıoğlu 2012).

The TCC allowed AKP to continue its political life. This was a remarkable decision since the political parties which were found to be against secularism were previously outlawed from Turkish politics, with the Welfare Party (FP) being the last (Türkmen and Ozbudun 2013). The TCC's ruling on 30 July 2008 helped Turkey avoid a reaction from European bureaucracy (Yılmaz and Öniş 2009). As the closure case dominated Turkey's domestic agenda, Enlargement Commissioner Olli Rehn suggested a constitutional change to avoid any repeat of party closures (Hürriyet 2008). The Venice Commission, which is an advisory establishment within the Council of Europe (Council 2014), released a report in 2008 to examine the party closure case:

“The case against the AK Party was initiated on 14 March 2008 by the Public Prosecutor under Article 69 of the Constitution. The action called for the Constitutional Court to close down the party on the grounds that it had become a “center of anti-secular activities” and to ban 71 party officials, including President Gül and Prime Minister Erdoğan. So far, the normative basis of the Constitutional Court seems to be fully in line with both the ECHR and the Venice Commission's guidelines, which is to be welcomed. Seen from the outside, however, the most problematic element of the judgment appears to be the finding of the ten-member majority that a number of activities attributable to the AK Party and its leaders have been “in contradiction with the principle of the democratic and secular republic expressed in article 68 paragraph four of the constitution”, and that this has been done intensely and in a determined manner”, so as to make the AK party the “center” for anti-secular activities. This rests on the majority's assessment of the documentary evidence presented, on which the Venice Commission should be careful to pronounce. But reading the application, the statement of defence and the operative parts of the judgment, it seems from the outside at least very doubtful whether the majority has actually applied the high standard of proof which European standards call for.” (Sejerssted 2008).

The EU's response to the party closure can be elaborated with reference to reactions from the European Parliament (EP) and Olli Rehn who was the EU Commissioner during that time :

“The European Parliament is concerned about the implications of the AK Party closure case; expects the Turkish Constitutional Court to respect principles of the rule of law, European standards and the Guidelines on prohibition and dissolution of political parties and analogous

measures, adopted by the Venice Commission of the Council of Europe on 10-11 December 1999; asks the Turkish parliament to bring the Constitution into line with these standards on the prohibition of political parties.” (Parliament 2008).

“Let me also come back to the constitutional framework governing political parties, following the closure case of AK Party last year. It is now time that Turkey takes the necessary steps, including changes in the Constitution, to align Turkey’s legislation with the guidelines of the Venice Commission of the Council of Europe and European best practices. This is essential to respect the Copenhagen criteria as to their democratic principles, as well as to the reality of democratic secularism”(Rehn 2009).

In hindsight, the EU was able to respond to the party closure case with a single voice and it was the EU that encouraged Turkey to reconsider adopting a new constitution. Meanwhile, there was an ongoing inquiry, Ergenekon, which helped change the dynamics of civil-military relations (BBC 2013). The EU did not remain unconcerned to developments in Turkey but those developments led Turkey to be criticized on the normative basis; for instance, European elites questioned its democratic compatibility with the Union (Oniş 2008). The EU’s progress report in 2008 criticized the government’s unwilling to seek compromise with other parties and pursue further constitutional reforms:

“Overall, as concerns the legislative and executive functions, while the new President played a positive role by calling for further political reforms, the government did not put forward a consistent and comprehensive programme of political and constitutional reforms. Furthermore, the lack of dialogue and spirit of compromise between the main political parties had a negative impact on the smooth functioning of the political institutions. The work of the newly elected parliament was affected to a considerable extent by legal cases aimed at dissolution of two parties. As regards local government, the recently adopted local administration laws need to be implemented and decentralisation of powers in favour of local governments to be strengthened.”(Commission 2008).

In its 2009 Progress Report, the European Commission not only referred to the domestic developments but also the slowed-down reform process:

“The political and societal debate on constitutional reform continued. There is a growing awareness in the country that Turkey’s Constitution, drafted in the aftermath of the 1980 military coup, needs to be amended in order to allow further democratisation in a number of areas and give stronger guarantees of fundamental freedoms in line with EU standards. These include, for example, rules on political parties, institution of an Ombudsman, use of languages other than Turkish and enhancement of trade union rights. However, no consensus could be reached between political parties on constitutional reform. There was no follow-up to the draft constitutional reforms prepared in 2008 by a group of academics. Despite numerous announcements, the government did not put forward any proposal for amending the Constitution, nor did it propose any methodological approach, based on consultation, to that end. As regards EU related reforms, the decision to appoint a full-time Chief Negotiator and the adoption of the national programme were positive developments. However, little progress can be reported on effective implementation of political and constitutional reforms. The lack of dialogue and of a spirit of compromise between political parties is having a negative impact in this respect. As regards local government, most issues, including devolution of powers and strengthening of local governance mechanisms, have yet to be addressed”(Commission 2009).

AKP entered a selective reformist agenda and announced its Judicial Reform Strategy in 2009 and approved a package of constitutional changes in March 2010, to be adopted in September 2010. As these articles most significantly focused on changing the composition and selection of the Constitutional Court and the High Council of Judges and Prosecutors, as well as party closure cases, it suggested that changes were introduced to avoid a potential closure case against the AKP (Kalaycıoğlu 2011). The next section discusses these amendments and how they were received by the EU officials.

#### ***4.2.2 The 2010 Constitutional Amendment***

The EU has for a long time encouraged Turkey to reform its constitution. The 1982 document was drafted under the armed forces’ influence and in terms of its content was not deemed with the European norms and values despite the number of piecemeal changes. The party closure case in 2008 triggered the constitutional referendum in 2010 because AKP wanted to avoid a new one. But these amendments were also presented as reforms that would align the party-closure provisions in line with the EU rules (Müftüler-Baç 2016b).The ruling party introduced the

amendment package that most significantly introduced major changes to the judicial branch but also included some cosmetic changes regarding rights and freedoms. The proposed constitutional changes were a response to what AKP perceived to be institutional hurdles that have precipitated the series of domestic crises (Celep 2011; Ozpek 2012). Therefore, the 2010 constitutional change indicates a clear example of how the domestic factors determined the demand for constitutional change. Although particular articles may have also been championed by the EU, in terms of the way the changes have come about have been different from the preceding ones because the process took place without the EU's influence and was not based upon the objective of Europeanization (Oder 2012). Unlike the consensual constitutional amendments of the 1990s and early 2000s, in the case of 2010 changes, the domestic actors had sharp contrasting views in evaluating the proposed changes.

Symbolically, the referendum was held on the anniversary of the 1980 coup, September 12, and approved with 58 per cent of 'yes' votes (Arsu and Bilefsky 2010). The ruling party claimed that the constitutional amendments were about bringing Turkey one step closer to the EU, but, the main opposition party accused the EU of turning a blind eye to the real threat against judicial autonomy. The constitutional amendments eliminated the provision that barred holding the military leaders which had orchestrated the 1980 coup accountable, expanded the scope of the judicial review and empowered the TCC to receive individual application cases for human rights violations and restricted the military officials and military court's powers (Aydn-Düzgit and Keyman 2012). The Constitutional Court and the Supreme Board of Judges and Prosecutors were restructured and the office of Ombudsman was established (Kalaycıoğlu 2012). On the one hand, the amendment package was deemed positive because the changes civilianized Turkish politics; improved the civil servants' women, and children workers' rights; but on the other hand, the president's authority over the judiciary and legislative bodies increased. Most significantly, changes related to the structure and the appointment procedure of the Supreme Board of Judges and Prosecutors and the Constitutional Court were criticized for increasing the ruling party's control over the judicial branch (Arsu and Bilefsky 2010). Overall, the 2010 constitutional referendum led to important institutional changes that gradually transformed Turkey into an 'illiberal democracy'. As a result, AKP (Justice and Development Party) consolidated its power vis-a-vis former veto players in the judiciary and the military (Oney 2018). This was a significant development for the future of the EU-Turkey relations because the transformation experienced in its aftermath steered Turkey away from European values and EU accession requirements (Müftüler-Baç 2016b).



Although the 2010 constitutional changes in 2010 were directly related to domestic problems (Ozbudun 2015), the general reasoning of the amendment proposal did not refer to Europe or EU, a contextual analysis of the reasoning for specific articles did include such references (TBMM 2010). For example, the reasoning for the introduction of the ombudsman, refers to a requirement to implement Turkey's National Programme for the adoption of *acquis* and explains that a number of European countries have this institution. With respect to the establishment. Similarly, establishment of a constitutional complaint mechanism refers to the availability of this institution in other European countries and Turkey's problematic record in the ECtHR. With respect to changes introduced to the selection of the members of the Constitutional Court, it is justified on the ground that several European countries select their members via similar methods. References to ECHR and its case law are abundant articles on constitutional complaint mechanism, military justice and children's rights. The most detailed explanation is for political party closures where the proposal does not just refer to practices of European countries, case-law of ECtHR, Venice Commission's opinion on the matter but also includes a reference to "democratic standards common to all". EU Commission Progress Reports are cited several times as evidence of call for changes in these areas. Oder (2012) carries out a similar contextual analysis of the amendment proposal and the report prepared by the Parliamentary Constitutional Committee and finds out that Europe was used as a reference point for those who opposed these specific articles as well <sup>1</sup>.

The EU seemed satisfied with the constitutional changes. Following the referendum, on 13 September 2010, Commissioner Stefan Füle released a statement in support of these changes:

"The Commission welcomes the approval, by the Turkish people, of the Constitutional reforms in the referendum which took place on 12 September. It demonstrates the continued commitment of Turkish citizens to reforms in view of enhancing their rights and freedoms.... Meanwhile, we encourage the Turkish government to show utmost transparency as well as a spirit of dialogue on the substance of this implementing legislation.... Finally, the Commission emphasises that any future constitutional changes should be prepared through the broadest possible consultation, involving all political parties and civil society in a timely manner and a spirit of dialogue and compromise"(Füle 2010).

---

<sup>1</sup>Both AKP and the opposition made use of Europeanization to legitimize their position. A similar "oppositional usages of Europeanization" took place during the attempt to write a new constitution between 2011-2013 (Yanaşmayan 2017).

The European Commission also made a positive assessment of these changes in its progress report. According to the European Commission's progress report in 2010:

“The government put forward a number of amendments to the Constitution which were adopted by parliament in May and approved in a referendum in September with a majority of 58 per-cent of the votes and high voter turnout (73 per-cent). The key provisions of the package change the composition of the Constitutional Court and of the High Council of Judges and Prosecutors, restrict the authority of military courts, allow appeals against expulsion decisions by the Supreme Military Council to be brought before civilian courts, establish a constitutional base for the Ombudsman service, introduce the right to collective bargaining for public servants and allow positive discrimination measures in favour of women, children and the elderly. The government established an action plan on legislation necessary for the implementation of the constitutional amendments, and indicated its intention to consult stakeholders. However, one of the key provisions originally included in the package, which would have made closure of political parties more difficult, was dropped when it failed to secure sufficient votes in parliament. The drafting and adoption of the constitutional reforms was not preceded by a consultation process involving political parties and civil society. The main opposition Republican People's Party (CHP) lodged a petition before the Constitutional Court to annul the entire package. The Court ruled against the annulment request but amended two provisions relating to the process for appointing members of the Constitutional Court and of the High Council of Judges and Prosecutors.”(Commission 2010).

“Overall, the constitutional amendments are a step in the right direction. They address a number of priorities of the Accession Partnership in the area of the judiciary, fundamental rights and public administration. However, broad public consultation involving all political parties and civil society, with their full engagement, is needed to strengthen support for constitutional reform. The implementation of the amended constitutional provisions through legislation, in line with European standards, is key. Overall, after a significant slowdown in the reform agenda over the last few years, the government put forward a number of key constitutional reforms and specific measures, albeit of limited scope. The strained relations between key state bodies are continuing to have a negative impact on the smooth functioning of political institutions”(Commission 2010).

However, the European Parliament was more critical about the 2010 constitutional

amendments in Turkey and called out how the restructuring of the Constitutional Court and Supreme Board of Judges and Prosecutors could allow the governing AKP to consolidate its hold on power:

“The EU recently congratulated Turkey for successfully passing a package on constitutional reform. Although some of the changes in the package are indeed in line with EU standards, one cannot turn a blind eye to the changes regarding the restructuring of the Supreme Board of Prosecutors and Judges (HSYK) and the Constitutional Court. The membership of the HSYK, which oversees judicial appointments, has increased from seven to twenty-two, and that of the Constitutional Court from eleven to seventeen. Under the new Constitution, the President of the Turkish Republic is able to appoint fourteen of the Constitutional Court’s judges, while only three are democratically elected. Furthermore, in the case of the HSYK, the President of the Republic may pick four members, and the rest are elected by the judiciary. Given that the current President of Turkey is aligned with the governing AKP party, does the Commission think this is another way for the AKP to consolidate its hold on power in Turkey, and thus reduce the possibility of the party’s ‘closure’ being sought again by the judicial authorities, as it was in 2008? In light of this, what is the Commission’s response to the section of the Turkish population which supports the notion that these changes are ‘unconstitutional’ ?”(Parliament 2010).

Although the EU’s general response was to endorse the 2010 changes instead of responding critically with a single voice, the constitutional amendments were indicative of ‘selective Europeanization’ since the changes appealed to the domestic actors’ interests rather than EU’s conditionality (Yanaşmayan 2017). Despite the fact that the Europeanization process behind the pace experienced at the beginning of the millenium, still in 2010, the EU-Turkey relationship was within the context of membership. The Turkish ruling elites did seek alternative foreign policy partners and workers to build close relations with the Middle Eastern countries. This strategy was partly because the European economies have experienced a major blow from the economic crisis and the Turkish economy was more or less able to survive it (Kubicek 2011). The new goal of the Turkish foreign policy became exploring new markets (Oniş 2012). Consequently, the changing dynamics in the Turkish foreign policy introduced another layer that weakened its dedication to its membership goal (Cengiz 2014). The political developments between 2011 and 2013 further deepened Turkey’s transformation towards de-Europeanization but as the next section shows includes selective understanding of Europeanization as Turkey engaged in an effort to write a new constitution but ultimately failed to produce a new draft.

#### ***4.2.3 Failed constitution making process (2011-2013)***

The AKP was elected to its third term in office, having received almost half of the electorate's votes in the general elections of 2011. Between 2011 and 2013, the reforms continued in the areas of judiciary and civil-military relations. It is also important to note that debates about the presidential system began in this period. But, during the attempted constitution rewrite process, it was not possible to achieve consensus over the AKP's push for a presidential system. This episode combines with both the elements of 'Europeanization' and 'de-Europeanization'. On the one hand, there were de-Europeanization trends in specific policy areas and the ruling AKP adopted "discursive and societal practices" that reflected its drift from Europeanization context (Yanaşmayan 2017) such as championing conservative policies and increasing its control over the media and the internet (Yılmaz 2016). On the other hand, albeit it ultimately failed, the attempt to draft a constitution via the work of the Constitutional Conciliation Committee showed that "Europeanization continued to serve as the normative context in constitution-writing in 2011–2013" (Yanaşmayan 2017).

Drafting a new constitution in its entirety was at the forefront of AKP's political agenda as well as other political parties (Cengiz 2014), and following the new elections, the Turkish Grand National Assembly initiated a process to draft a new civilian constitution. This was not just a project of the ruling party; the civil society groups and the opposition political parties wanted to enhance civil rights and freedoms protected under the constitution and advance those European values and norms to align with the constitutions of the Western European countries (Kaliber 2012).

In 2011, the EU evaluated Turkey's constitution-making process and stated that:

"Further concrete steps need to guarantee an inclusive process with the involvement of all political parties and civil society. However, the adoption of legislation implementing the September 2010 constitutional amendments was not accompanied by broad and effective public consultation involving stakeholders in the country, despite government commitments to this (See section on the judicial system). Overall, there has been some progress in implementing the 2010 constitutional reform, notably in the field of the judiciary. A new Constitution would cement the stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities and address long-standing problems, including the Kurdish issue. Both the government

and the opposition are committed to working on a new Constitution upholding freedoms. Due attention needs to be paid to ensuring the broadest possible consultation in this work, involving all political parties and civil society.”(Commission 2011).

The Constitutional Conciliation Commission had been established in October 2011 to draft the new constitution through a pluralist process. All political parties of the parliament were represented equally and came to the table with different considerations: The ruling party was the one favoring the ‘presidential system’ and introduced it in its proposal. The main opposition party CHP (Republican People’s Party), on the contrary, wanted to protect the core structure of the 1982 constitution by maintaining the parliament’s certain powers. Both CHP (Republican People’s Party) and MHP (Nationalist Action Party) were more status-quoist in the sense that they wanted to safeguard the founding values of the state. Finally, BDP (Peace and Democracy Party) as a pro-Kurdish party prioritized enhancing minority rights (Oney 2018; Petersen and Böcu 2020; Yeğen 2020). According to the European Commission:

“Overall, positive steps have been taken in terms of work on a new constitution. A democratic and participatory process has been put in place, albeit with some limitations on transparency. The new constitution should cement the stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities and address longstanding problems, in particular the Kurdish issue. Maintaining a spirit of compromise and ensuring the broadest possible consultation remain key for the legitimacy of a new constitution. Further progress in implementing the 2010 constitutional amendments has been limited.”(Commission 2012).

The Constitutional Conciliation Commission was conceived as an initial process of discussions, followed by drafting sessions, and planned to publicize its work to receive input from the public and civil society. The final step was to re-write the draft according to received recommendations. The following year, in 2012, the Commission commenced its meetings but could only agree on 60 articles (Yanaşmayan and Petersen 2020), however, failing to produce a constitutional draft because the AKP withdrew from the meetings in 2013 (Yanaşmayan and Petersen 2020). Yanaşmayan (2017) examining the discourse of members of the commission during the deliberations find that, they have selectively used Europeanization in deliberations of the draft articles and the process had the potential to steer the country back to European

values and norms, its end result failed to achieve these goals. In its 2013 progress report, the European Commission was satisfied with the ongoing constitution-making process:

“Overall, the work of the cross-party Parliamentary Conciliation Committee continued. However, consensus was limited to 60 articles and clarity and transparency on procedure and follow-up was lacking. The Constitution will need to provide for adequate checks and balances fully guaranteeing freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. The work would benefit from consultations with the Venice Commission. Steps were taken to implement the 2010 constitutional amendments”(Commission 2013).

### **4.3 De Europeanization Trends in Constitution Making**

The Gezi Park protests that took place in 2013 were triggered by ecologist concerns but also reflected the reactions against the government’s disrespectful policies towards the people’s lifestyle (Ozbudun 2014). The government’s heavy-handed response had an impact on the EU-Turkey relationship. While Germany offered to suspend Chapter 22 of Regional Policies in the accession talks with Turkey (Paul and Seyrek 2013), the European institutions also condemned the ruling party’s reactions against the protesters (Yilmaz 2016). In its resolution, the EP stated that;

“Whereas in the early hours of Friday, 31 May 2013 the Turkish police used excessive violence in an effort to disperse a group of demonstrators, who had been protesting for weeks against the planned felling of trees for a new construction project in Istanbul’s Gezi Park in the Taksim Square area; The European Parliament expresses its deep concern at the disproportionate and excessive use of force by the Turkish police in its response to the peaceful and legitimate protests in Istanbul’s Gezi Park, and calls on the Turkish authorities to thoroughly investigate the police violence, to bring those responsible to justice and to offer compensation to the victims; warns the Turkish Government against taking harsh measures against the peaceful protesters, and urges the Prime Minister

to take a unifying and conciliatory position so as to avoid any further escalation.”(Parliament 2013).

However, this statement did not have a direct repercussions for the domestic context, because the Turkish ruling elites perceived and presented it as intervention from abroad. The Gezi Protests clearly showed the EU’s weakened impact over Turkey (Yilmaz 2016) and according to Muftuler-Bac 2019, the EU’s impact on Turkey’s reform process had a “sharp turn” from 2013 onwards (Müftüler-Baç 2019). The 2014 progress report indicated the changing dynamics in the EU-Turkey relationship as the EU was dissatisfied with Turkey’s constitution-making process and expressed its criticism towards Turkey:

“There was no progress on adopting laws implementing provisions on protection of personal data, military justice, or laws introducing affirmative-action measures to promote gender equality, which have been pending since the relevant 2010 constitutional amendments were adopted. Overall, constitutional reform process was put on hold. Yet, it would constitute the most credible avenue for advancing further democratisation of Turkey, providing for the separation of powers and adequate checks and balances guaranteeing freedom, democracy, equality, the rule of law and respect for human rights, including the rights of people belonging to minorities. Future work should build on the democratic and inclusive process, involving broad consultation that characterised the work of the parliamentary Conciliation Committee. Active consultation with the Venice Commission should be pursued.”(Commission 2014).

By 2015, the dialogue between Turkey and the EU was no longer about the membership prospects but rather it was tied to the Syrian conflict and the refugee crisis (Aydın-Düzgit and Kaliber 2016). According to the European Commission:

“As regards the political criteria, the pace of reforms slowed down, also due to protracted elections. The outgoing government made efforts to reinvigorate the EU accession process. However, this repeated commitment was offset by the adoption of key legislation in the area of the rule of law, freedom of expression and freedom of assembly that ran against European standards. Turkey’s Constitution guarantees the protection of human rights and fundamental freedoms. Implementation had considerably improved over the past few years. However, major shortcomings remain. There is an urgent need to adopt a comprehensive framework law on combating discrimination in line with European standards.”(Commission 2015).

#### 4.3.1 *The 2016 Constitutional Amendment*

In 2016, the Turkish parliament passed a constitutional amendment that came after Turkey's military operations in Turkey's South-Eastern region and enabled it to abolish the immunity of the MPs of HDP (People's Democratic Party). Although the representatives of each party were subject to the constitutional amendment, the inquiries targeted the MPs of HDP (People's Democratic Party) since they did not support the ruling party's actions in the region. The following year, in 2017, Selahattin Demirtaş who was the leader of HDP was put on trial on the alleged account of having ties to a terrorist organization (Koontz 2020). In its report, the Venice Commission which advocates and represents European values stated that;

“The Venice Commission welcomes that the Amendment does not touch parliamentary nonliability, which is an essential element of parliamentary immunity. Nevertheless, the inviolability of these Members of Parliament should be restored. The Venice Commission is of the opinion that, in the current situation in Turkey, parliamentary inviolability is an essential guarantee for the functioning of parliament. The Turkish Grand National Assembly, acting as the constituent power, confirmed this by maintaining inviolability for future cases. The current situation in the Turkish Judiciary makes this the worst possible moment to abolish inviolability”(Council 2016).

According to the Human Rights Watch (HRW), the court's decision in 2016 to arrest the HDP (People's Democratic Party's) leaders and seven members based on terrorism was a disrespect of electorates' votes and a political right of representation (HRW 2016). The EU reacted to the court's decision and emphasized the importance of parliament and democratic values in Turkey (BirGün 2016).

In the same year, Turkey experienced a coup attempt. Although the EU criticized the failed coup attempt of July 15, Turkey judged its support inadequate since the EU also disapproved of the detentions and the purge of the military and government officials in its aftermath (Norman 2016). In December 2016, the ruling party introduced a constitution draft, with MHP's support, that proposed to disempower the parliament and introduce a 'Turkish-style presidency' where all executive powers are concentrated in the office of the presidency (Bora 2017). (BirGün 2016).

The European Commission noted how the state of emergency which ultimately lasted for 18 months helped weakened the role of the parliament:



“The constitutional reform process put on hold in December 2013 was revived in February 2016. However, the discussions in Parliament’s Conciliation Committee, established with the participation of the four political groups represented in Parliament, soon collapsed due to a stalemate on a possible shift to a presidential system of governance proposed by the ruling party. In the aftermath of the attempted coup, a commission set up by AKP and opposition parties CHP and MHP, with the exception of HDP, came to a consensus on a number of constitutional changes, particularly on restructuring judicial bodies. These changes are yet to be adopted. Following the declaration of the state of emergency and its extension, Parliament’s role in the law-making process was limited. The influence of the Committees on Human Rights Inquiry and on EU Harmonisation remained limited even on draft laws with a significant impact on fundamental freedoms.”(Commission 2016a).

#### ***4.3.2 The 2017 Constitutional Amendment***

The new draft introduced 18 amendments; while the parliament was authorized to enact laws on budget, and check the presidential powers in a limited framework, the president was empowered over the state institutions (Gümüşçu and Esen 2017). Thereby, the 2017 constitutional referendum has been the most recent turning point in EU-Turkey relations that is rooted in constitutional changes. Although the 2007 and 2010 constitutional changes have not overhauled the country’s constitutional framework, both were significant steps on the path to a major transformation that helped Erdoğan consolidate and centralize its power with the 2017 amendments. During their referendum campaign, the AKP and MHP formed the ‘yes’ bloc in support of the constitutional change, while CHP (Republican People’s Party) and HDP (People’s Democratic Party) opposed it (Erdoğan and Bilgin 2018).

Both AKP (Justice and Democratic Party) and MHP (Nationalist Action Party) advocated a presidential system, arguing that under a presidential system Turkey would achieve greater progress (BBC 2017). Yet, the constitutional redesign was not a thought-out process. It took place in the post failed coup period when the country was still under a prolonged state of emergency. Having experienced intense political turmoil between 2013 and 2017, Turkish society had become more divided and the ruling party, Turkey in academic circles were aptly identified as competitive authoritarian (Gümüşçu and Esen 2017), did not seek the consensus of other parties (Quamar 2017).

Prior to the constitutional referendum, the EU official Marc Pierini declared that the constitutional change could risk Turkey's membership. From the perspective of the EU the introduced system that legitimized 'one-man rule' would make it shift further away from the EU's values (Winter 2017). On 16 April 2017, the changes were accepted with 51.4 percent of votes in the referendum (Dewan 2017; Quamar 2017). To understand the Turkish perception of the EU during the 2017 constitutional change, how the changes corresponded with European norms, and the reason for the Europeanization's limited impact in Turkey, the next section provides an analysis of the Turkish Grand National Assembly's 2017 proceedings and pay attention to the discourse adopted by the parliamentarians

#### ***4.3.3 Drafting the 2017 Constitutional Amendments***

The 2017 constitutional amendments were approved via a referendum, held on April 16, 2020. The proposal had received 339 votes, which was more than the three-fifths majority to pass the proposal but less than the two-thirds majority that was required to avoid holding a referendum (Oder 2017). Similar to other non-consensual constitutional amendments (ie. 2007 and 2010) under the AKP government, the 2017 were approved by a referendum vote in a majoritarian fashion. Moreover, the referendum was held during the state of emergency, the 'secret ballot' rule was violated and the arrested MPs were not involved in the parliament's voting session (Gotev 2017).

This section examines the parliamentary proceedings that took place between December 10, 2016 when the amendment proposal was submitted to the parliament and April 4, 2017 when it was approved by a referendum. The evaluations are informed by discourse analysis (Phillips, Harley, and Nelson 2004) because it allows us to clarify the actors' certain positions (Epstein 2010; Holzscheiter 2014). However it carries out a contextual analysis because the period covered is very short and the analysis does not provide adequate revelations about Europeanization and the-Europeanization discourse. Here, the actors are members of the parliament from different political parties that were represented in the Turkish Parliament at the time: AKP and its coalition partner MHP, and the opposition parties CHP and HDP. This is carried out by surveying the TGNA Minutes Journal (TBMM Tutanak Dergisi) during this short period and examining each instance where the parliamentarians uttered the terms "the EU", "the European Union" and "Europe" as well. The goal here was to understand how much the EU became a subject during the

constitutional debates in the parliament.

According to the Turkish Parliament's proceedings, both AKP and MHP held a more critical position against the EU when compared to CHP and HDP. MPs from AKP and MHP considered the EU to be duplicitous towards Turkey because the Copenhagen Criteria was the main obstacle for its membership and, the EU's norms of 'democracy', 'human rights', 'freedom' were far from Turkey's reality of living with terrorism <sup>2</sup>. On the other hand, the Copenhagen Criteria and the EU's norms were prioritized by CHP and HDP. For example, an MP from HDP Filiz Kerestecioğlu said:

"Now, esteemed members of the parliament. European Union does not expect different criteria from each candidate country, it expects all candidate countries to fulfill Copenhagen Criteria. Accordingly, as the political criteria, in a candidate country, stable institutions that guarantee democracy, a rule of law state, human rights and respect minority rights must exist. Whereas, when we look at today's conditions, a constitutional proposal that concerns the whole country, all of us citizens have been brought behind closed doors, hijacking it away from political parties and the people. For example, in the European Council, even a minor agreement is negotiated by deliberations for months. The constitutional (amendment) proposal that was brought to us yesterday, in fact it is not even brought to us, the members of this parliament learned about it from social media, is completely a text of sultanate and monarchy. Let alone EU conditionalities, Copenhagen Criteria, it does not even Turkey does not conform to Turkey's minimum parliamentary democracy <sup>3</sup>."

According to CHP, the initiation of the presidential system was not only a threat to Turkey's achievements with respect to the Copenhagen Criteria but also for the EU-Turkey relationship <sup>4</sup>. An MP from CHP, Öztürk Yılmaz said:

"Besides, after Turkey introduces this presidential system, as a matter of fact it throws the Copenhagen Criteria to thrash. Turkey will not be able to open new chapters and even the opened chapters could be

---

<sup>2</sup>TBMM, Tutanak Dergisi, Term 26, Legislative Year 2, Sitting 38, (12.12.2016), p. 398 TBMM, Tutanak Dergisi, Term 26, Legislative Year 2, Sitting 39, ( 13.12.2016), p. 725

<sup>3</sup>TBMM, Tutanak Dergisi, Term 26, Legislative Year 2, Sitting 38, (12.12.2016)

<sup>4</sup>TBMM, Tutanak Dergisi, Term 26, Legislative Year 2, Sitting 38, (12.12.2016), p. 480 TBMM, Tutanak Dergisi, Term 26, Legislative Year 2, Sitting 41, (15.12.2016), p.1112 TBMM, Tutanak Dergisi, Term 26, Legislative Year 2, Sitting 49, (03.01.2017), p.620 TBMM, Tutanak Dergisi, Term 26, Legislative Year 2, Sitting 70, ( 15.02.2017), p.67

closed by the EU, distancing Turkey from the EU, European Council and NATO <sup>5</sup>."

In return, the EU and Europe do not factor into the deliberations of AKP and MHP parliamentarians, showing that Europeanization became another element the polarized politics as Turkey adopted constitutional changes in 2017. After the referendum, the European Parliament Rapporteur Kati Piri stated that:

"As the proposed constitutional reform package is not in line with EU membership criteria, the report calls for the formal suspension of the accession talks if the constitutional amendments are implemented unchanged. We expect the government to take the Venice Commission recommendations seriously, as well as the fact that half of the Turkish population voted against it in the referendum." (Parliament 2017)

According to the European Commission, the constitutional changes indicated Turkey's further backsliding (Gotev 2017) not only because of the content of the amendments but also because of the political environment in which it took place:

"In the aftermath of the attempted coup, the ruling Justice and Development Party (AKP) and the Nationalist Movement Party (MHP) agreed on amendments to the Constitution, aimed at introducing a presidential system in Turkey. The constitutional amendments were subsequently approved, in January 2017, by a three fifths majority in Parliament. The parliamentary process suffered from certain procedural shortcomings. There was no genuine opportunity for open discussion with all political forces nor did it involve civil society, and was held against a background of a general ban on assemblies and rallies in Ankara and in other parts of Turkey. The constitutional changes were endorsed in a close-run referendum (51.41 per cent in favour and 48.59 per cent against) which took place on 16 April 2017, while the state of emergency was in force. The Electoral Commission and Turkish courts rejected all objections to the results of the referendum. The presidential system is set to be fully operational following the next presidential and legislative elections, due to be held in November 2019 at the latest." (Commission 2018)

The 2017 constitutional changes were an end-point in Turkey's de-Europeanization

---

<sup>5</sup>Tutanak Dergisi, Term 26, Legislative Year 2, Sitting 49, (03.01.2017)

process. The changes granted more power to the president, limited the role of the parliament, and ignored the principle of separation of powers (Esen 2017; Szymanski 2017). Firstly, the President's adherence to a political party caused a challenge to the checks and balances because the same party was in power and the judicial independence could not be safeguarded. The president became authorized to exercise its powers over the judiciary by selecting a considerable number of the members of the High Council of Judges and Prosecutors (Bostan-Ünsal 2018). With the constitutional changes, the president is empowered to affirm the state of emergency (Carkoğlu, Aytaç, and Yıldırım 2017) and the decree powers transferred to the president. Hence, the parliament's competences diminished (Gümüşçu and Esen 2017). The European Commission perceived those changes as a backsliding and indicated that:

“In April 2017, Turkey held a referendum which approved constitutional amendments introducing a presidential system. The Venice Commission assessed the constitutional amendments as lacking sufficient checks and balances as well as endangering the separation of powers between the executive and the judiciary. The referendum itself raised serious concerns for international monitors in relation to the overall negative impact of the state of emergency, the 'unlevel playing field' for the two sides of the campaigns and undermined safeguards for the integrity of the election. Turkey should use the period of adjustment to the new system in order to introduce checks and balances and to safeguard the basic principle of democracy, in line with its commitments and obligations as a candidate country and a member of the Council of Europe. In view of the far-reaching implications of the constitutional amendments and the close referendum result, the Turkish authorities also need to seek the broadest possible societal consensus on the implementation of the constitutional amendments. Turkey needs to address all the recommendations made by the OSCE/ODIHR relating to the constitutional referendum and past elections (Commission 2018). Each sovereign state has the right to decide for itself on the form of its government and state. However, in its March 2017 opinion, the Council of Europe's Venice Commission highlighted several features of the new political system which raise particular concerns with regards to the basic principles of democracy. It concluded that the constitutional amendments, which were drafted without consultations with the Council of Europe, represent a dangerous step backwards in Turkey's constitutional democratic tradition. ” (Commission 2018)

As discussed in Chapter 2, the populist parties that came into power in Hungary and Poland challenged the EU's values as they engaged in “constitution capture” via

legislative and/or constitutional changes. Similar to Hungary and Poland, scholar Szymanski (2017) claims that Turkey's experience of de-Europeanization is similar to Hungary and Poland in the sense that the constitutional reforms that took place between 1999 and 2005 remained superficial since they were only implemented to achieve membership and failed to generate an adaptation to European values. Moreover, in the Turkish case, the 2007 and 2010 constitutional changes are instances where the ruling party legitimized its objectives with reference to democratization and the EU's conditionality. This signifies a shortfall in the EU's conditionality procedure which disables the EU to prevent the reversals (Szymanski 2017).

#### 4.4 Conclusion

During the prolonged negotiations with the EU, Turkey could have taken relevant steps to deepen its Europeanization within its membership objectives. Instead, Turkey came to be identified as a 'de-Europeanized' country as it distanced itself from the European values and only appealed to Europeanization as it served the interests of the incumbents. Since the constitutional changes from 2007 onwards were either motivated by domestic developments or served the partisan interests of the ruling party and its leader. The EU was no longer central to the ruling elites' reform agenda as Turkey shifted from selective Europeanization to 'de-Europeanization'.

The 2017 amendment offers an opportunity to evaluate Turkey's transformation by applying the 'de-Europeanization' concept. Neither the EU nor its values were addressed during the process and the EU was unable to exert any influence. Moreover, as I discussed in Chapter 3, between 1999 and 2005 remarked a successful period of Europeanization because despite their different opinions the Turkish political actors found a common ground to pursue Europeanization via constitutional changes. But, my analysis indicates that the constitutional changes in 2017 took place in a polarized atmosphere in which to create a common consensus was not possible and in fact, debates about the EU and Europe contributed to divergence between the ruling party and its coalition partner and the opposition parties. Consequently, Turkey's transformation from Europeanization to de-Europeanization is associated with backlash against the EU, similar to what Hungary and Poland experienced.

Also, the external issues such as the global economic crisis and the refugee crisis had negative implications over the ongoing dialogue. Hence, the EU-Turkey rela-

tionship continued outside the membership framework. The constitutional change was always an important element in Turkey's accession process to the EU and the Europeanization process could have even produced a greater constitutional transformation. Instead, switching to an executive-presidential system during the state of emergency, Turkey moved further from European constitutional values as well and violated foundational EU norms, specifically rule of law.

## 5. CONCLUSION

The European Union has been credited as the democracy promoter in the candidate countries but recently, the EU member states (most notably Hungary and Poland) are experiencing “democratic backsliding” (Kelemen 2020a). When the member states are evaluated, the EU’s internal crises had a major impact to trigger those unexpected developments in the European continent. Although the EU implemented judicial and political safeguards, most notably activating its Article 7 procedure, it could not exert adequate pressure to reverse the-Europeanization trends.

Moreover, the recent ‘backsliding’ that the EU is experiencing in the member states became observable in the candidate countries, such as Serbia and our focus of analysis Turkey. When we compare the de-Europeanization trends in Hungary, Poland, and Turkey there are some obvious similarities as each is ruled by populist leaders with autocratic leanings who readily violate tenets of constitutional democracy and attempt to dominate and/or capture the constitutional domain. Consequently, those countries did not only end up distancing themselves from the European norms and values, but also the EU’s credibility is affected negatively because of its inability to exert influence in these member and candidate countries.

Borrowing from Yilmaz’ (2005) study that examines Turkey’s Europeanization across time, this study analyzes Turkey’s constitutional change in three periods according to variation in this process: Europeanization (1999-2005), Selective Europeanisation (2006-2013) and De-Europeanization (2013-2017). During the period covered, the Turkish constitution which had entered into force in 1982 has been amended 19 times and five of these instances involved change via referendum. It should be noted that, while all EU-induced constitutional changes were adopted in the parliament with the agreement of all political parties involved, none of the constitutional changes adopted via referendum took place in the context of Europeanization. This thesis, for each instance of constitutional amendment examined how the EU accession and European norms played a role by examining the amendment bill proposals in terms of references to the EU, other European institutions and Europe in general.



The constitutional developments in 2007, 2008, and 2010 were examples of ‘selective Europeanization’ since the changes were introduced within a limited scope and were an outcome of the domestic incidents; instead of EU requirements. Likely, the European Commission’s progress reports in 2007, 2008, 2009, and 2010 indicate Turkey’s ‘selective Europeanization’ by emphasizing the domestic conditions and limited scope of the reform process. While this thesis has focused on the credibility of the EU’s conditionality to explain why the Europeanization trend did not continue after 2005, others such as Yanasmayan (2017) and Yilmaz (2016) claim that AKP materialized the EU policies to legitimize its interests. Others such as Akgul-Acikmese (2010) and Okten-Sipahioglu (2017) tie the reversal in Turkey to the ruling party’s weakened commitment to its membership goals.

The European Commission’s progress reports between 2007 and 2017 reflect how the EU assessed the ongoing constitutional change. European Commission’s progress report of 2018 emphasizes a constitutional reversal and the non-existence of the EU in Turkey’s recent constitution-making process. The most recent constitutional amendment of 2017, further distanced Turkey as these were not just technical matters of constitutional choice but overhauled Turkey’s parliamentary system to consolidate an execute-presidential system that centralized power in the hands of the president. Without the credibility of the EU’s conditionality, Turkey approved controversial constitutional changes: 2016 amendments that removed parliamentary immunity and the 2017 that concentrated excessive powers in the office of presidency. Although, European Commission warned Turkey against going with the constitutional overhaul, it could not influence it (Commission 2017). And even though the European Commission called for suspending EU accession talks in 2019, to date no such measure has been formally introduced. As one of the MPs that voted in favor of suspending the talks expressed, “it’s impossible to make Turkey a member, especially since the new constitution has come into force, because the new constitution is anti-democratic, and that means anti-European”, the membership prospects are distant (Pangalos 2019). Turkey may not be part of “the European Union’s authoritarian equilibrium” but similar to its attitude toward its illiberal members, it is unwilling and unable to reverse the course (Kelemen 2020a).

## BIBLIOGRAPHY

- Agh, Atilla. 2018. "Decline of Democracy in the ECE and the Core-Periphery Divide: Rule of Law Conflicts of Poland and Hungary with the EU." *Journal of Comparative Politics* 11(2).
- Ahmad, Feroz. 1981. "Military Intervention and the Crisis in Turkey." *Middle East Research and Information Project (MERIP)* (93): 5–24.
- Akgül-Açıkmeşe, Sinem. 2010. "Cycles of Europeanization in Turkey: The Domestic Impact of EU Political Conditionality." *UNISCI Discussion Papers* (23): 129–148.
- Albi, Anneli. 2005. *EU Enlargement and the Constitutions of Central and Eastern Europe*. Revision of CEE Constitutions for EU Membership Cambridge.
- Arsu, Sebnem, and Dan Bilefsky. 2010. "Turkish Reforms Pass by Wide Margin."
- Atıkcı, Ece Özlem. 2010. "European Union and Minorities: Different Paths of Europeanization?" *European Integration* 32(4): 375–392.
- Aydın-Düzgit, Senem, and Alper Kaliber. 2016. "Encounters with Europe in an Era of Domestic and International Turmoil: Is Turkey a De-Europeanising Candidate Country?" *South European Society and Politics* 21(1): 1–14.
- Aydın-Düzgit, Senem, and Fuat Keyman. 2012. "EU-Turkey Relations and the Stagnation of Turkish Democracy." pp. 2–24.
- Aydın-Düzgit, Senem, and Gergana Noutcheva. 2012. "Lost in Europeanisation: The Western Balkans and Turkey." *West European Politics* 35(1): 59–78.
- Bali, Aslı. 2013. "Courts and Constitutional Transition: Lessons From the Turkish Case." *International Journal of Constitutional Law (ICON)* 11(3): 666–701.
- Bardutzky, Samo. 2019. *The Future Mandate of the Constitution of Slovenia: A Potent Tradition Under Strain*. Asser Press pp. 687–745.
- Bayar, Yeşim. 2016. "Constitution-Writing, Nationalism and the Turkish Experience." *Journal Of The Association For The Study Of Ethnicity And Nationalism* pp. 1–19.
- BBC. 2005. "EU Opens Turkey Membership Talks."
- BBC. 2013. "Dokuz Soruda Ergenekon Davası."
- BBC. 2017. "Why Did Turkey Hold a Referendum?"
- BBC. 2019. "Macedonia Parliament Agrees to Change Country's Name."
- Belov, Martin, and Evgeni Tanchev. 2019. *The Bulgarian Constitutional Order, Supranational Constitutionalism and European Governance*. Asser Press pp. 1097–1139.

- Bilgin, Mehmet Fevzi. 2008. *Constitution, Legitimacy and Democracy in Turkey*. US and Canada: Hart Publishing pp. 1–203.
- BirGün. 2016. “EU Expresses Concern Over Detention of HDP Co-Chairs and MPs.”
- Blauberger, Daniel Kelemen, and Michael. 2016. “Introducing the Debate: European Union Safeguards Against Member States’ Democratic Backsliding.” *Journal of European Public Policy* 24(3): 317–320.
- Blokker, Paul. 2014. *New Democracies in Crises? A Comparative Constitutional Study of the Czech Republic, Hungary, Poland, Romania and Slovakia*. Routledge.
- Bobek, Zuzana Vikarská, and Michal. 2019. *Slovakia: Between Euro-Optimism and Euro-Concerns*. Asser Press pp. 835–887.
- Bogaards, Matthijs. 2018. “De-Democratization in Hungary: Diffusely Defective Democracy.” *Democratization* 25(8): 1481–1499.
- Bora, Birce. 2017. “Turkey’s Constitutional Reform: All You Need to Know.”
- Bostan-Ünsal, Fatma. 2018. “Turkey at a Crossroads? The 2017 Referendum’s Challenges and Opportunities.” *Review of Middle East Studies* 52(1): 5–15.
- Boulton, Leyla. 1999. “Ties With EU Worsening, Says Turkey.”
- Bulmer, Simon. 2007. *Theorizing Europeanization*. Palgrave pp. 3–411.
- Börzel, Tanja A. 2002. “Pace-Setting, Foot-Dragging, and Fence-Sitting: Member State Responses to Europeanization.” *Journal of Common Market Studies* 40(2): 193–214.
- Börzel, Tanja A. 2011. “When Europe Hits...Beyond Its Borders:Europeanization and the Near Abroad.” *Comparative European Politics* 9(4/5): 394–413.
- Carkoğlu, Ali. 2007. “A New Electoral Victory for the ‘Pro-Islamists’ or the ‘New Centre-Right’? The Justice and Development Party Phenomenon in the July 2007 Parliamentary Elections in Turkey.” *South European Society and Politics* 12(4): 501–519.
- Carkoğlu, Ali, Erdem Aytaç, and Kerem Yıldırım. 2017. “Taking Sides: Determinants of Support for a Presidential System in Turkey.” *South European Society and Politics* 22(1): 1–20.
- Celep, Odul. 2011. “The Republican People’s Party and Turkey’s EU Membership.” *South European Society and Politics* 16(3): 423–434.
- Cengiz, Firat. 2014. “The Future of Democratic Reform in Turkey: Constitutional Moment or Constitutional Process?” *Government and Opposition* 49(4): 681–702.
- Claes, Monica. 2007. “The Europeanisation of National Constitutions in the Constitutionalisation of Europe: Some Observations Against the Background of the Constitutional Experience of the EU-15.” pp. 1–38.

- Closa, Carlos. 2019. "The Politics of Guarding the Treaties: Commission of Scrutiny of Rule of Law Compliance." *Journal of European Public Policy* 26(5): 696–716.
- Commission. 1999. "1999 Regular Report From the Commission on Turkey's Progress Towards Accession."
- Commission. 2000. "Proposal for a Council Decision on the Principles, Priorities, Intermediate Objectives and Conditions Contained in the Accession Partnership With the Republic of Turkey."
- Commission. 2001. "Enlargement of the European Union A Historic Opportunity."
- Commission. 2007. "Commission of the European Communities Turkey 2007 Progress Report."
- Commission. 2008. "Commission of the European Communities Turkey 2008 Progress Report."
- Commission. 2009. "Commission of the European Communities Turkey 2009 Progress Report."
- Commission. 2010. "European Commission Turkey 2010 Progress Report."
- Commission. 2011. "European Commission Turkey 2011 Progress Report."
- Commission. 2012. "European Commission Turkey 2012 Progress Report."
- Commission. 2013. "European Commission Turkey 2013 Progress Report."
- Commission. 2014. "European Commission Turkey 2014 Progress Report."
- Commission. 2015. "European Commission Turkey 2015 Report."
- Commission. 2016*a*. "European Commission Turkey 2016 Report."
- Commission. 2016*b*. "European Neighbourhood Policy and Enlargement Negotiations."
- Commission. 2017. "Joint statement by High Representative Vice-President Federica Mogherini and Commissioner Johannes Hahn on the Venice Commission's Opinion on the amendments to the Constitution of Turkey and Recent Events."
- Commission. 2018. "European Commission Turkey 2018 Report."
- Constantine, Alex. 2020. "Tsipras Wants EU Membership for North Macedonia."
- Council. 2014. "The Commission's Activities."
- Council. 2016. "Opinion on the Suspension of the Second Paragraph of Article 83 of the Constitution (Parliamentary Inviolability)."
- Coşkun, Vahap. 2013. "Constitutional Amendments Under the Justice and Development Party Rule." *Insight Turkey* 15(4): 95–113.
- Dam, Phillipe. 2020. "Hungary's Authoritarian Takeover Puts European Union at Risk."

- Dewan, Angela. 2017. "Turkey Referendum: What Happened and What Comes Next?".
- Epstein, Charlotte. 2010. "Who Speaks? Discourse, the Subject and the Study of Identity in International Politics." *European Journal of International Relations* 17(2): 327–350.
- Erdoğan, Emre, and Hasret Dikici Bilgin. 2018. "Obscurities of a Referendum Foretold: The 2017 Constitutional Amendments in Turkey." *Review of Middle East Studies* 52(1): 29–42.
- Erlanger, Steven. 2020. "Poland and Hungary Use Coronavirus to Punish Opposition." *nytimes* .
- Esen, Selin. 2017. "The 2017 Constitutional Reforms in Turkey: Removal of Parliamentarism or Democracy?".
- Featherstone, Kevin. 2003. *Introduction: In the Name of 'Europe'*. Oxford University Press pp. 3–342.
- Flockhart, Trine. 2010. "Europeanization or EU-ization? The Transfer of European Norms Across Time and Space." *Journal of Common Market Studies* .
- Foundation, HRH. 2006. "The Death Penalty in Poland?".
- Fowler, Nick, and John Borneman. 1997. "Europeanization." *Annual Review of Anthropology* 26: 487–514.
- Füle, Stefan. 2010. "Statement by Commissioner Stefan Füle on the Result of the Referendum in Turkey.":
- Galyan, Artak. 2014. "Learn as We Go: The European Union's Involvement in Constitution Building in the Post-Conflict Western Balkans.":
- Gençkaya, Omer, and Ergun Özbudun. 2009. *Democratization and the Politics of Constitution-Making in Turkey*. Central European University Press.
- Giritli, Ismet. 1962. "Some Aspects of the New Turkish Constitution." *The Middle East Journal* 16(1): 1–17.
- Gotev, Georgi. 2017. "Commission 'Seriously Concerned' About Turkish Constitutional Changes.":
- Grabbe, Heather. 2002. "European Union Conditionality and the Acquis Communautaire." *International Political Science Review* 23(3): 249–268.
- Gönenç, Levent. 2004. "The 2001 Amendments to the 1982 Constitution of Turkey." *Ankara Law Review* 1(1): 89–109.
- Gümüşçu, Sebnem, and Berk Esen. 2017. "A Small Yes for Presidentialism: The Turkish Constitutional Referendum of April 2017." *South European Society and Politics* 22(3): 303–326.

- Güney, Aylin, and Ali Tekin. 2015. *The Europeanization of Turkey Polity and Politics*. Routledge.
- Gürsoy, Yaprak. 2011. "The Impact of EU-Driven Reforms on the Political Autonomy of the Turkish Military." *South European Society and Politics* 16(2): 293–308.
- Hale, William, and Ergun Özbudun. 2010. *Islamism, Democracy and Liberalism in Turkey: The Case of the AKP*. London and NY: Routledge Taylor and Francis Group.
- Halmai, Gabor. 2018. "The Application of European Constitutional Values in EU Member States." *European Journal of Law Reform* 20(2-3): 10–34.
- Hanley, Licia Cianetti, James Dawson, and Sean. 2018. "Rethinking "Democratic Backsliding" in Central and Eastern Europe- Looking Beyond Hungary and Poland." *East European Politics* 34(3): 243–256.
- Harris, Erika. 2004. "Europeanization of Slovakia." *Comparative European Politics* 2: 185–211.
- Haughton, Tim. 2007. "When Does the EU Make a Difference ? Conditionality and the Accession Process in Central and Eastern Europe." *Political Studies Review* 5: 233–246.
- Holzschelter, Anna. 2014. "Between Communicative Interaction and Structures of Signification: Discourse Theory and Analysis in International Relations." *International Studies Perspectives* 15: 142–162.
- Howell, Kerry. 2002. "Developing Conceptualizations of Europeanization and European Integration: Mixing Methodologies." *ESRC Seminar Series/ UACES Study Group on the Europeanization of British Politics* pp. 1–27.
- HRW. 2008. "Turkey: Party Case Shows Need for Reform."
- HRW. 2016. "Turkey: Opposition Party Leaders, MPs Jailed."
- Hughes, Kirsty. 2007. "Abdullah Gul Elected Turkish President."
- Höjelid, Stefan. 2010. "Headscarves, Judicial Activism, and Democracy: The 2007-8 Constitutional Crisis in Turkey." *The European Legacy* 15(4): 467–482.
- Hürriyet. 2007. "Gece Yarısı Uyarısı ( Midnight Warning)."
- Hürriyet. 2008. "Rehn Warns Turkey on Closure Case Against Ruling Party."
- Iancu, Bogdan. 2019. *Romania - The Vagaries of International Gifts on Unsettled Constitutions*. Asser Press pp. 1047–97.
- Irishtimes. 2004. "Reforms Bring Turkey Closer to EU, Says Prodi."
- İçener, Erhan, and David Phinnemore. 2016. "Holding the Door Half (?) Open: The EU and Turkey 10 Years On." *Journal of Contemporary European Studies* 24(4): 446–462.

- Işıksel, Türküler, and Seyla Benhabib. 2006. "Ancient Battles, New Prejudices, and Future Perspectives: Turkey and the EU." *Constellations* 13(2).
- Kalaycıoğlu, Ersin. 2011. "The Turkish-EU Odyssey and Political Regime Change in Turkey." *South European Society and Politics* 16(2).
- Kalaycıoğlu, Ersin. 2012. "Kulturkampf in Turkey: The Constitutional Referendum of 12 September 2010." *South European Society and Politics* 17(1): 1–22.
- Kaliber, Alper. 2012. "Contextual and Contested: Reassessing Europeanization in the Case of Turkey." *International Relations* 27(1): 52–73.
- Kaliber, Alper. 2014. "Europeanization in Turkey: In Search of a New Paradigm of Modernization." *Journal of Balkan and Near Eastern Studies* 16(1): 30–46.
- Kawczyńska, Monika, and Stanisław Biernat. 2019. *The Role of the Polish Constitution (Pre-2016): Development of a Liberal Democracy in the European and International Context*. Asser Press pp. 745–795.
- Kaya, Özlem. 2011. "On the Way to a New Constitution in Turkey: Constitutional History, Political Parties and Civil Platforms." pp. 1–7.
- Keil, Soeren, and Jelena Dzankic. 2019. *The Europeanisation of Contested States: Comparing Bosnia and Herzegovina, Macedonia and Montenegro*. Palgrave Macmillan pp. 1–247.
- Kelemen, Daniel. 2020a. "The European Union's Authoritarian Equilibrium." *Journal of European Public Policy* 27(3): 481–99.
- Kelemen, Daniel. 2020b. "Europe's Faustian Union."
- Kelemen, Daniel, and Michael Blauberger. 2017. "Can Courts Rescue National Democracy? Judicial Safeguards against Democratic Backsliding in the EU." *Journal of European Public Policy* 24(3).
- Kochenov, Dimitry. 2017. "Busting the Myths Nuclear: A Commentary on Article 7 TEU." *EUI Working Papers* pp. 1–13.
- Konieczny, Tomasz Tadeusz. 2016. "Constitutional Capture in Poland 2016 and Beyond: What is Next?"
- Konings, Jozef, and Eric Faucompret. 2008. *Turkish Accession to the EU Satisfying the Copenhagen Criteria*. Routledge.
- Koontz, Kayla. 2020. "Turkey's Parliamentary Purge and the HDP's Dilemma."
- Kubicek, Paul. 2002. "The Earthquake, Civil Society, and Political Change in Turkey: Assessment and Comparison with Eastern Europe." *Political Studies* 50: 761–78.
- Kubicek, Paul. 2005. "The European Union and Grassroots Democratization in Turkey." *Turkish Studies* 6(3): 361–377.

- Kubicek, Paul. 2011. "Political Conditionality and European Union's Cultivation of Democracy in Turkey." *Democratization* 18(4): 910–931.
- Kuniholm, Bruce. 2001. "Turkey's Accession to the European Union: Differences in European and US Attitude, and Challenges for Turkey." *Turkish Studies* 2(1): 25–53.
- Kühn, Zdeněk. 2019. *The Czech Republic: From a Euro-Friendly Approach of the Constitutional Court to Proclaiming a Court of Justice Judgment Ultra Vires*. Asser Press pp. 795–835.
- Laurand, Andra, Madis Ernits, Carri Ginter, Saale Laos, Marje Allikmets, Paloma Krõõt Tupay, and René Värk. 2019. *The Constitution of Estonia: The Unexpected Challenges of Unlimited Primacy of EU Law*. Asser Press pp. 887–951.
- Lavenex, Sandra, and Frank Schimmelfennig. 2011. "EU Democracy Promotion in the Neighbourhood: From Leverage to Governance?" *Democratization* 18(4): 885–909.
- Leonhardt, David. 2020. "The Autocrat Problem."
- Magalhaes, Pedro. 1999. "The Politics of Judicial Reform in Eastern Europe." *Comparative Politics* 32(1): 43–62.
- Mataija, Mislav, Iris Goldner-Lang, and Zlata Đurđević. 2019. *The Constitution of Croatia in the Perspective of European and Global Governance*. Asser Press pp. 1139–1181.
- MGK. 2018. "About the National Security Council."
- Murphy, Mary C. 2019. "The Brexit Crisis, Ireland and British-Irish Relations: Europeanisation and or De-Europeanisation?" *Irish Political Studies* 34(4): 530–550.
- Müftüler-Baç, Meltem. 1998. "The Never Ending Story: Turkey and the European Union." *Middle Eastern Studies* 34(4): 240–58.
- Müftüler-Baç, Meltem. 2000a. "The Impact of the European Union on Turkish Politics." *East European Quarterly* (2): 159–179.
- Müftüler-Baç, Meltem. 2000b. "Through the Looking Glass: Turkey in Europe." *Turkish Studies* 1(1): 21–35.
- Müftüler-Baç, Meltem. 2005. "Turkey's Political Reforms and the Impact of the European Union." *South European Society and Politics* 10(1): 17–31.
- Müftüler-Baç, Meltem. 2016a. *Divergent Pathways: Turkey and the European Union Re-Thinking the Dynamics of Turkish-European Union Relations*. Barbara Budrich Publishers.
- Müftüler-Baç, Meltem. 2016b. "The Pandora's Box: Democratization and Rule of Law in Turkey." *Asia Europe Journal* 14: 61–77.



- Müftüler-Baç, Meltem. 2019. "Backsliding in Judicial Reforms: Domestic Political Costs as Limits to EU's Political Conditionality in Turkey." *Journal of Contemporary European Studies* 27(1): 61–76.
- Müftüler-Baç, Meltem, and Yaprak Gürsoy. 2010. "Is There a Europeanization of Turkish Foreign Policy? An Addendum to the Literature on EU Candidates." *Turkish Studies* 11(3): 405–427.
- Müller, Jan Werner. 2014. "Rising to the Challenge of Constitutional Capture."
- Müller, Jan Werner. 2015. "Should the EU Protect Democracy and the Rule of Law Inside Member States?" *European Law Journal* 21(2): 141–160.
- Nas, Çiğdem. 2018. "Turkey-EU Customs Union: Its Modernization and Potential for Turkey-EU Relations." *Insight Turkey* 20(3): 43–60.
- Norman, Laurence. 2016. "EU Officials Plan to Visit Turkey Amid Strained Ties; Ankara Has Feuded With Bloc After Crackdown Following Coup Attempt."
- Oder, Bertil Emrah. 2012. *Turkish Constitutional Transformation and the EU: Europeanisation Towards Constitutionalism?* pp. 69–99.
- Oder, Bertil Emrah. 2017. "Turkey's Ultimate Shift to a Presidential System: the Most Recent Constitutional Amendments in Details." *constitution net* .
- Okten-Sipahioğlu, Buket. 2017. "Shifting From Europeanization to De-Europeanization in Turkey: How AKP Instrumentalized EU Negotiations." *The Turkish Yearbook of International Relations* 48: 51–67.
- Olsen, Johan P. 2002. "The Many Faces of Europeanization." *Journal of Common Market Studies* 40(5): 921–952.
- Oney, Berna. 2018. "Constitutional Debate in Turkey: From Dominant Party Heresthetical Strategy to Single-Party Hegemony, Quantitative Text Analyses." *Mediterranean Quarterly* 29(3): 33–54.
- Oniş, Ziya. 2008. "Turkey-EU Relations: Beyond the Current Stalemate." *Insight Turkey* 10(4): 35–50.
- Oniş, Ziya. 2010. "Contesting for the "Center": Domestic Politics, Identity, Conflicts and the Controversy Over EU Membership in Turkey." (2).
- Oniş, Ziya. 2012. "The Triumph of Conservative Globalism: The Political Economy of the AKP Era." *Turkish Studies* 13(2): 135–152.
- Oniş, Ziya, and Mustafa Kutlay. 2017. "Global Shifts and the Limits of the EU's Transformative Power in the European Periphery: Comparative Perspectives from Hungary and Turkey." *Government and Opposition* 54(2): 226–53.
- Ozbudun, Ergun. 2007. "Democratization Reforms in Turkey, 1993-2004." *Turkish Studies* 8(2): 179–196.
- Ozbudun, Ergun. 2011a. *The Constitutional Crisis of 2007 and Its Aftermath and the Search for a New Constitution*. Palgrave Macmillan pp. 1–181.

- Ozbudun, Ergun. 2011b. *Historical Background*. Palgrave Macmillan pp. 1–181.
- Ozbudun, Ergun. 2014. “AKP at the Crossroads: Erdogan’s Majoritarian Drift.” *South European Society and Politics* 19(2): 155–167.
- Ozbudun, Ergun. 2015. *Europeanization and Turkey’s Constitutional Reform Process*. Routledge pp. 33–49.
- Ozpek, Burak Bilgehan. 2012. “Constitution-Making in Turkey After the 2011 Elections.” *Turkish Studies* 13(2): 153–167.
- Pangalos, Philip. 2019. “European Parliament Calls for Suspension of Turkey EU Accession Talks.”
- Parliament. 2008. “European Parliament Resolution of 21 May 2008 on Turkey’s 2007 Progress Report.”
- Parliament. 2010. “Parliamentary Questions.”
- Parliament. 2013. “European Parliament Resolution of 13 June 2013 on the Situation in Turkey.”
- Parliament. 2017. “Turkey: Changing the Constitution Could End Up In Freezing EU Accession Talks.”
- Paul, Amanda, and Demir Murat Seyrek. 2013. “Gezi Park One Month On: What Lies Ahead.”
- Pech, Laurent, and Daniel Kelemen. 2019. “The Uses and Abuses of Constitutional Pluralism: Undermining the Rule of Law in the Name of Constitutional Identity in Hungary and Poland.” *Cambridge Yearbook of European Legal Studies* .
- Petersen, Felix, and Gözde Böcu. 2020. *Debating State Organization Principles in the Constitutional Conciliation Commission*. Cambridge University Press pp. 1–404.
- Phillips, Cynthia Hardy, Bill Harley, and Nelson. 2004. “Discourse Analysis and Content Analysis: Two Solitudes?” *Qualitative Methods* pp. 19–22.
- Pridham, Geoffrey. 2007. “Change and Continuity in the European Union’s Political Conditionality: Aims, Approach, and Priorities.” *Democratization* 14(3): 446–471.
- Quamar, Md Muddassir. 2017. “The Turkish Referendum, 2017.” *Contemporary Review of the Middle East* 4(3): 319–27.
- Radaelli, Claudio M. 2000. “Whither Europeanization? Concept Stretching and Substantive Change.” *European Integration Online Papers* 4(8).
- Radaelli, Claudio M. 2004. “Europeanisation: Solution or Problem?” *European Integration Online Papers (EIoP)* 8(16).
- Rehn, Olli. 2009. “Turkey’s Path Towards the EU’s Progress Through Reforms.”
- RFERL. 2020. “Freedom House Drops Hungary, Serbia, Montenegro From List Of Democracies.”

- Risse, Thomas, and Tanja A. Börzel. 2000. "When Europe Hits Home: Europeanization and Domestic Change." *European Integration Online Papers* 4(15): 1–20.
- Risse, Thomas, James Caporaso, and Maria Green-Cowles. 2001. *Europeanization and Domestic Change: Introduction*. Cornell University Press pp. 1–272.
- Roberts, Andrew. 2009. "The Politics of Constitutional Amendment in Postcommunist Europe." *Constitutional Political Economy* 20: 99–117.
- Saatçioğlu, Beken. 2009. "How Closely Does the European Union's Membership Conditionality Reflect the Copenhagen Criteria? Insights From Turkey." *Turkish Studies* 10(4): 559–576.
- Saatçioğlu, Beken. 2010. "Unpacking the Compliance Puzzle The Case of Turkey's AKP Under EU Conditionality." *KFG Working Paper* (14): 2–30.
- Sadurski, Wojciech, and Leonardo Morlino. 2010. *Democratization and the European Union Comparing Central and Eastern European Post-Communist Countries*. Routledge.
- Salminen, Janne, Juha Lavapuro, and Tuomas Ojanen. 2014. "Letter from the North: Europeanization as a Catalyst of Constitutional Change in Finland."
- Schepelle, Kim Lane. 2017. "Illiberalism Within: Rule of Law Backsliding in the EU."
- Scheppele, Miklos Bankuti, Gabor Halmai, and Kim Lane. 2012. "Hungary's Illiberal Turn: Disabling the Constitution." *Journal of Democracy* 23(3): 138–146.
- Schimmelfennig, Frank, and Ulrich Sedelmeier. 2008. *Candidate Countries and Conditionality*. pp. 88–101.
- Schimmelfennig, Frank, and Ulrich Sedelmeier. 2020. "The Europeanization of Eastern Europe: The External Incentives Model Revisited." *Journal of European Public Policy* pp. 1–20.
- Schimmelfennig, Frank, Stefan Engert, and Heiko Knobel. 2003. "Costs, Commitment and Compliance: The Impact of EU Democratic Conditionality on Latvia, Slovakia and Turkey." *JCMS* 41(3): 495–518.
- Sedelmeier, Ulrich. 2014. "Anchoring Democracy From Above? The European Union and Democratic Backsliding in Hungary and Romania After Accession." *Journal of Common Market Studies* 52(1): 105–121.
- Sedelmeier, Ulrich. 2017. "Political Safeguards against Democratic Backsliding in the EU: the Limits of Material Sanctions and the Scope of Social Pressure." *Journal of European Public Policy* 24(3): 337–51.
- Sedelmeier, Ulrich, and Frank Schimmelfennig. 2004. "Governance by Conditionality: EU Rule Transfer to the Candidate Countries of Central and Eastern Europe." *Journal of European Public Policy* 11(4): 669–87.
- Sedelmeier, Ulrich, and Frank Schimmelfennig. 2005. *Europeanization of Central and Eastern Europe*. Cornell University Press.

- Sejersted, Fredrik. 2008. "Comments on the Constitutional and Legal Provisions Relevant for the Prohibition of Political Parties in Turkey." pp. 2–23.
- Somer, Murat. 2007. "Moderate Islam and Secularist Opposition in Turkey: Implications for the World, Muslims and Secular Democracy." *Third World Quarterly* 28(7): 1271–1289.
- Soyaltın, Diğdem, and Tanja A. Börzel. 2012. "Europeanization in Turkey: Stretching a Concept to its Limits?" *KFG Working Paper Series*.
- Statkus, Sandijs, and Kristīne Krūma. 2019. *The Constitution of Latvia – A Bridge Between Traditions and Modernity*. Asser Press pp. 951–997.
- Sulyok, Gabor, Nóra Chronowski, Márton Varju, and Petra Bárd. 2019. *Hungary: Constitutional (R)evolution or Regression?* Asser Press pp. 1439–1491.
- Szymanski, Adam. 2017. "De-Europeanization and De-Democratization in the EU and its Neighborhood." *Yearbook of the Institute of East-Central Europe* 15(2): 187–211.
- Szymanski, Adam. 2019. "De-Democratization: The Case of Hungary in a Comparative Perspective." *Cambridge University Press* 52(2): 272–273.
- Taylor, Paul. 2007. "EU Tells Turkish Military to Stay Out of Politics."
- TBMM. 1995a. *Tutanak Dergisi* 146(93).
- TBMM. 1995b. "General Reasoning of the 1995 Constitutional Changes."
- TBMM. 2001. "General Reasoning of the 2001 Constitutional Changes." 737.
- TBMM. 2004. "General Reasoning of 2004 Constitutional Changes." 430.
- TBMM. 2010. "General Reasoning of 2010 Constitutional Changes." 497.
- Thoburn, Hannah. 2016. "Poland is Having a Constitutional Crisis. Here's Why You Should Care."
- Tocci, Nathalie. 2005. "Europeanization in Turkey: Trigger or Anchor for Reform?" *South European Society and Politics* 10(1): 73–83.
- Torun, Zerrin, and Atilla Eralp. 2015. *Perceptions and Europeanization in Turkey Before the EU Candidacy: an Overview of History*. Routledge.
- Turan, İlter. 2010. "A Background to the Constitutional Referendum: Reinforcing the Politics of Polarization." pp. 1–4.
- Türkmen, Füsün, and Ergun Ozbudun. 2013. "Impact of the ECtHR Rulings on Turkey's Democratization: An Evaluation." *Human Rights Quarterly* 35(4): 985–1008.
- Ulusoy, Kıvanç. 2008. "Turkey and the EU: Democratization, Civil-Military Relations, and the Cyprus Issue." *Insight Turkey* 10(4): 51–76.

- Uluğ-Eryılmaz, Burçin. 2014. "The Myth of 'Europeanization' of Turkish Foreign Policy: The Cyprus Debacle as a Litmus Test." *Southeast European and Black Sea Studies* 14(3): 431–462.
- Usul, Ali Resul. 2011. *Democracy in Turkey: The Impact of EU Political Conditionality*. Routledge.
- Veebel, Viljar. 2009. "European Union's Positive Conditionality Model in Pre-Accession Process." *Trames* 13(3): 207–231.
- Versan, Vakur. 1964. "Evolution of the Rule of Law and the New Constitution of Turkey." *Pakistan Institute of International Affairs* 17(2): 122–129.
- Wallace, Helen. 2000. "Europeanization and Globalization: Complementary or Contradictory Trends." *New Political Economy* 5(3): 369–82.
- Winter, Chase. 2017. "Turkish Referendum Threatens Formal Divorce With EU."
- Wróblewska, Iwona. 2020. *Rule of Law, Common Values, and Illiberal Constitutionalism Poland and Hungary within the European Union*. Taylor and Francis Group.
- Włodarska-Frykowska, Katarzyna Dośpiał-Borysiak, Michał Klonowski, and Agata. 2019. *Value Transformation, Education, and Culture*. Central European University Press.
- Yanaşmayan, Zeynep. 2017. "Oppositional Usages of Europeanization in Turkish Coconstitution-Making: Discussions on Religious Freedom." *Turkish Studies* 18(4): 644–664.
- Yanaşmayan, Zeynep, and Felix Petersen. 2020. *Explaining the Failure of Popular Constitution Making in Turkey (2011-2013)*. Cambridge University Press pp. 1–404.
- Yeğen, Oya. 2017. "Constitutional Changes Under the AKP Government of Turkey." *Bij de Buren* pp. 70–84.
- Yeğen, Oya. 2020. *Debating the Amendment-Making Rule: The Rigidity vs. Flexibility Debate in the Turkish Constitution-Making Process*. Cambridge University Press pp. 1–404.
- Yüksel, Saadet. 2007. "Constitutional Changes of Turkey in 2001 Under the Framework of the EU Adaptation Process." pp. 153–165.
- Yılmaz, Gözde. 2014. "EU Conditionality is Not the Only Game in Town! Domestic Drivers of Turkey's Europeanization." *Turkish Studies* 15(2): 303–321.
- Yılmaz, Gözde. 2016. "From Europeanization to De-Europeanization: The Europeanization Process of Turkey in 1999-2014." *Journal of Contemporary European Studies* 24(1): 86–100.
- Yılmaz, Suhanaz, and Ziya Öniş. 2009. "Between Europeanization and Euro-Asianism: Foreign Policy Activism in Turkey During the AKP Era." *Turkish Studies* 10(1): 7–24.

- Ziya Oniş, Mustafa Kutlay. 2020. “Reverse Transformation? Global Shifts, the Core-Periphery Divide and the Future of the EU.” *Journal of Contemporary European Studies* 28(2): 197–215.
- Zucconi, Mario. 2020. *The European Union as a Guarantor in Turkey’s Democratic Evolution*. Palgrave pp. 129–65.
- Zweers, Wouter. 2019. “Between Effective Engagement and Damaging Politicisation: Prospects for a Credible EU Enlargement Policy to the Western Balkans.”
- Švedas, Gintaras, and Irmantas Jarukaitis. 2019. *The Constitutional Experience of Lithuania in the Context of European and Global Governance Challenges*. Asser Press pp. 997–1047.