DOMESTIC POLITICS OR EU INFLUENCE: WHAT IS DRIVING TURKEY'S CONSTITUTIONAL REFORMS?

BY

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THESIS

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Abstract

Since its current constitution was promulgated in 1982 Turkey has passed 17 amendment packages with more than 100 individual changes made to the constitution. Most of this constitutional reform has happened since the European Union (EU) announced that Turkey had achieved candidate status for eventual membership in the Union in 1999. Many scholars attribute Turkey's democratization, of which constitutional reform is an important part, to the EU's decision to open its doors to Turkey. However other scholars argue that reform is driven primarily by Turkey's domestic political parties, and that while the EU plays a role in Turkey's reform process, that reform is secondary to the changing domestic political landscape. In this thesis I examine the constitutional reforms passed in 2001, 2004, 2007, 2008, and 2010 in order to address the question of whether EU influence or domestic politics is the primary driver of constitutional change in Turkey. I will demonstrate that while both lines of argument are true, each has its limits. During the 1999-2005 period the EU served as the primary driver of constitutional change in Turkey, but by 2005 Turkey had enacted the majority of the constitutional reforms required by the EU, and thus post-2005 domestic political parties were the primary drivers of further constitutional change.

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Introduction

Turkey's current constitution has been amended seventeen times with more than 100 individual changes since it was put into place by the ruling generals during the last military coup in 1982. Many of these constitutional reforms have been heralded as steps away from the generals' authoritarianism and towards a freer, more pluralistic democracy. During the same time period Turkey applied to accede to the European Economic Community (1987), signed a customs union agreement with the European Union (1995), was officially recognized as a candidate for full membership (1999), and has begun negotiations on one-third of the policy chapters necessary for accession to the EU (2005). Since the EU is often portrayed as a "normative power" (Manners, 2002) that projects its norms beyond its borders, and since the constitutional changes have coincided with Turkey's progress towards accession, one might be tempted to link the two and point to Turkey's constitutional changes as evidence of the EU's democratizing influence. However, a rival line of scholarship argues that domestic politics, rather than outside EU influence, has been the driving force behind Turkey's democratization (Tocci, 2005).

I propose to explore the question of whether the EU or Turkish domestic politics has been the primary driver of Turkey's democratization as it has played out in the constitutional reform process. Turkey's Europeanization project, begun by Kemal Atatürk in the early days of the Republic, is closer to completion that it has ever been, yet questions still remain about whether Turkey will ever be a part of the European Union. For example, Turkey's former EU Affairs Minister Egemen Bağış made waves in a recent speech by claiming that European prejudice would keep Turkey from ever joining the EU (Yackley, 2013). In the same vein, Turkey's

alignment as a Western- or Eastern-oriented country has been a frequent subject of scholarship, and is again in the headlines now with news articles about Turkey's recent decision to purchase a long-range missile defense system from China, rather than the US or an EU country (Hurriyet Daily News, 2013). Related to these is the question of the extent to which the EU exerts influence on non-member third countries. Accession is one of a number of ways that the EU attempts to pull its weight in the international community without having hard power capabilities. However, in Turkey's case it is far from clear how successful these attempts have been, especially in light of the government's response to this past summer's protests. Finally, the role that constitutional change plays in democratization has been debated as well. While many of the changes to Turkey's constitution have been hailed as steps towards a Western-style democracy, some have argued that constitutional change on its own, without other institutional structures like a functional rule of law regime are just so many words on paper.

The question of the EU's influence on Turkey's constitutional changes is also a timely one. Turkey is currently in the process of writing an entirely new constitution, and on October 16th 2013 the European Commission published its 2012 Progress Report on Turkey, wherein it noted that "positive steps have been taken in terms of work on a new constitution … [which] 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" (European Commission, 2012). These suggestions for what the new constitution "should" include show that the EU has an active interest in shaping the new constitution. Also, Reuters reports that on October 22nd "EU governments are to consider the Commission's report … and debate whether to start talks on a new policy area or chapter" (Nienaber & Hudson,

2013). This decision was supposed to happen in July of 2013 but was delayed because of the Gezi Park protests in June and July 2013, which themselves were an expression of discontent with the status quo. Clearly there is an appetite for change both among the Turkish polity and on the EU's part, and the new constitution will be measured according to the extent to which it furthers democratic changes in Turkey.

Part of what makes Turkey's bid to join the EU unique is that we are still talking about it today at all. Turkey's relationship with European institutions stretches back to its inclusion in the Council of Europe in 1949 and its status as an associate member of the EEC in 1963. In 1987 Turkey applied for membership in the EEC, but it took twelve years before the EU accepted it as a candidate member in 1999. A further five years passed before the first accession chapters were opened in 2005, and now eight years later only thirteen of the thirty-five chapters have been opened, and in only one of those thirteen have negotiations been concluded. This protracted accession process, while no doubt frustrating to the parties involved, provides a unique window into the way that the EU affects the internal processes of change that prospective members must undergo in order to meet the Copenhagen criteria for admission into the Union (Ugur, 2010).

In this thesis I will examine the roles that the EU and domestic political parties have played in Turkey's constitutional changes over the past thirty years. The European Union has adopted the Copenhagen criteria as necessary conditions for accepting new members. These criteria require that a country guarantee democracy, the rule of law, human rights and respect for and protection of minorities, but do not define these terms or set out measurable standards or benchmarks to allow a candidate country to know when it has satisfied this criteria. Observers tend to agree that

Turkey has made progress on democratization, but that still more progress is required. But how should this progress be measured? I propose that constitutional changes can serve as a proxy for Turkey's democratization efforts.

An ideal study would examine all the legal reforms passed by Turkey over the past 15 years, in order to catch every positive change towards greater democratization. However, the sheer number of laws passed in that time, together with the fact that the Turkish government maintains its official register of laws in Turkish, not in English, make such an examination outside the scope of this thesis. The subset of constitutional reforms, on the other hand, is more manageable in number and constitutional changes are more likely to be discussed and translated in English-language publications, making a focus on these reforms more practical than looking at all legal reforms Turkey has passed. More importantly, though, constitutional changes alter the structure within which non-constitutional legislative change happens. For example constitutional changes that affect the judicial system, present in the 1999 and 2010 amendment packages, change the relationship between the judicial branch and the other branches of government. A more independent judiciary can more strongly influence the type of legislation that the parliament puts forth by using its power of judicial review. On a related note, constitutional law supercedes normal legislation. A constitutional change can override a pre-existing law, but the legislature cannot pass a law that contradicts the constitution, especially when the judicial branch can exercise its power of judicial review independent of the influence of the legislature or the executive branch. In addition, the relative difficulty of changing the constitution compared to amending the broader legal code makes the changes that were passed especially noteworthy. They require a greater amount of support both among the legislature and in the population at

large and are more difficult to undo. Thus the changes made to the constitution are evidence of a serious commitment on Turkey's part to achieve particular aims, and can be studied as a proxy for Turkey's overall project of democratization.

The European Union clearly plays an important role in the reforms Turkey has passed since the promulgation of its current constitution by the ruling generals during Turkey's most recent period of military rule. The question is, how big of a part in that process does the EU play? In an attempt to address this question I will analyze several of the largest and most significant of the constitutional reforms passed by Turkey since its current constitution was put into place and compare those to the pressures the EU brought to bear on Turkey as evidenced though the Accession Partnership documents published by the European Council during that same time. I will also look at the Turkish National Programmes for the Adoption of the Acquis to see how they reflect Turkish attitudes to this process over time. Analysis of these documents will allow a conclusion to be drawn about the extent to which the EU has been the driver of constitutional change in Turkey, or whether in fact domestic political actors have been the primary drivers of constitutional reform.

Turkey's constitution differs in a number of ways from the US constitution. The most easily noticed difference is in size; while the US constitution is approximately 8100 words long the Turkish constitution is 36,800 words long. With this difference in size comes a difference in specificity. The Turkish constitution goes into much greater detail in laying out features of Turkey's legal and political system than the US constitution, which paints a broad picture of the scope and duties of the government and then leaves the details for sub-constitutional legislation.

The beginning of the Turkish constitution also sets it apart from its US counterpart. The first three articles establish that Turkey is a Republic; that the Republic is secular and social, based on the rule of law and Atatürk's vision; and that the Republic is indivisible and its official language is Turkish. The fourth article then establishes the inviolability of the first three articles, declaring that neither can these first three be altered, nor can amendments be made to other parts of the constitution that would violate the principles established in the first three articles. This allows for the possibility that a duly-enacted amendment which met all other requirements for its passage could be held "unconstitutional" if it alters some provision in one of the first three articles. It is unconstitutional to even propose such an amendment, according to Article 4. Either the president or members of parliament can submit constitutional amendments (or other legislation) to the Constitutional Court for review either on procedural grounds or for violating the principles in Articles 1-3. This happened in the case of the 2008 amendments, which I will explore below.

Unlike the EU or some European countries, in Turkey the constitution may be amended piecemeal, without rewriting the entire document. That is, provided the proper amendment procedure is followed, Turkey can add or subtract individual articles to the constitution, or change the wording of existent articles, without needing create an entirely new constitution. The procedure for amending the constitution, according to Article 175 of the Turkish Constitution, is as follows. Any proposed amendments to the constitution must be submitted to the parliament by at least one third of the MPs. The proposed amendments are then debated and voted upon. If the amendments pass by more than a two-thirds majority in the parliament they may become law without being submitted to a public referendum. If the amendment passes in parliament with

more than a three-fifths majority but less than a two-thirds majority, it must be submitted to a referendum. If it passes the referendum with more than fifty percent of the popular vote it becomes law. The president has the option to block an amendment, which would then require a new two-thirds majority vote. An amendment (or any other law which has been passed by parliament) can be referred to the constitutional court, which has the power to annul laws deemed unconstitutional. So to recap, a proposed amendment must secure two-thirds of the votes in parliament or be submitted for a simple-majority popular referendum. The president can send amendments back for reconsideration, but parliament can overcome his opposition. However if the constitutional court annuls an amendment its decision is final.

Literature Review

That Turkey has made important steps towards democratic consolidation is universally agreed upon. That more progress is required to complete that process and thus to fulfill all EU accession criteria is likewise agreed by scholars and commentators. But the causal question 'What is the primary driver of Turkey's democratic reforms?' is a tangled one. Tocci points out that the "correlation between political reforms and relations with the EU" (Tocci, 2005, p. 74) makes it tempting to draw conclusions about causation. And Hale cautions that it is "obviously impossible to make an exact assessment of the role of the EU accession process in improving Turkey's human rights regime," (Hale, 2011, p. 330-331) and by extension its overall progress towards democratic consolidation, given the impossibility of examining the counterfactual situation where Turkey was not a candidate member during this same period of time. Partly, no doubt, because of these difficulties, scholars are divided over how to interpret the reforms that Turkey has made.

The majority view is that Turkey's democratization is directly attributable to outside pressure from the EU. The EU has been credited with extending its democratic norms beyond its borders through its use of a number of soft power mechanisms. Primary among those is 'conditionality', whereby the EU makes access to its internal market, ultimately realized by membership in the Union, conditional upon third countries achieving certain economic and political benchmarks known collectively as the Copenhagen criteria. According to these scholars, EU conditionality has been the primary driver of democratic reform in Turkey (Schimmelfennig & Sedelmeier, 2004).

However, a minority of scholars disagree with this interpretation and suggest that while the EU has certainly played a role in Turkey's democratization process, primary credit should be given to internal domestic actors, rather than external pressure from the EU. These scholars argue that in the Turkish case conditionality has been less effective than claimed by the first group, and that in the absence of certain domestic conditions conditionality is insufficient to produce democratic reform. The internal domestic actors who are primarily portrayed as being key drivers of the democratic process are political parties, although other lines of scholarship discuss the roles that the military and civil society groups have played in the democratization process (Tocci, 2005).

In what follows I will explore these two views, beginning with the theory of conditionality. I will then give an overview of the body of scholarship that has its foundations in conditionality, before examining scholars on the other of the question. I will explore in depth the specific critiques of conditionality, and finally give an overview of the scholarship that assumes that internal actors are the primary drivers of democratization.

External incentives model of EU conditionality

Schimmelfening and Sedelmeier assert that their external incentives model best explains "rule transfer from the EU to the CEECs and the variation in its effectiveness," (Schimmelfennig & Sedelmeier, 2004, p. 663) and most other scholars seem to agree. Rule transfer here refers to the adoption by candidate countries of the EU's economic, political, legal, and social norms, often, although not necessarily only, through legal reforms.

Before EU negotiations begin, there exists a "domestic status quo" or "domestic equilibrium" (Schimmelfennig & Sedelmeier, 2004, p. 664) which represents the current state of affairs within the candidate country. This includes the political parties in government, the balance of power between various actors (for example the civilian government, the military, NGOs, and business interests), as well as the legal and political regime currently in place. The assumption is that this domestic equilibrium differs to some extent from EU laws and norms, otherwise there would be no need for an accession process. However, once the accession process begins, the EU "upsets [the] domestic equilibrium by introducing (additional) incentives for compliance with EU rules into the game" (Schimmelfennig & Sedelmeier, 2004, p. 664). These additional incentives represent the rewards of the accession process, "ranging from trade and co-operation agreements via association agreements to full membership" (Schimmelfennig & Sedelmeier, 2004, p. 663).

This upset of the domestic equilibrium can take two forms. The EU can of course exert direct pressure on the candidate country through talks and negotiations directly with the government. But the EU can also indirectly exert pressure for change by changing the balance of power between domestic actors within the candidate country. The EU accession process "changes the

domestic opportunity structure in favor of domestic actors with independent incentives to adopt EU rules and strengthens their bargaining power vis-à-vis their opponents in society and government" (Schimmelfennig & Sedelmeier, 2004, p.664). This means that domestic actors who already favor adoption of at least some of the reforms necessary to meet the Copenhagen criteria now have another source of credibility for their arguments. However, the authors are careful to point out that ultimately "rule adoption requires the authoritative decision of the target government, which seeks to balance EU, domestic, and other international pressures in order to maximize its own political benefits" (Schimmelfennig & Sedelmeier, 2004, p.664). Although the accession process can have an impact on the balance of power between political actors within a candidate country, it is ultimately up to the government in power to make the changes required by the EU. The authors summarize their position by asserting that "a state adopts EU rules if the benefits of EU rewards exceed the domestic adoption costs. In turn, this cost—benefit balance depends on *(i) the determinacy of conditions, (ii) the size and speed of rewards, (iii) the credibility of threats and promises, and (iv) the size of adoption costs*" (Schimmelfennig & Sedelmeier, 2004, p.664).

Schimmelfennig and Sedelmeier expand each of these factors in the cost benefit analysis a government performs when deciding whether to adopt EU rules into hypotheses. First, "*the effectiveness of rule transfer increases if rules are set as conditions for rewards and the more determinate they are.*" This means that the clearer the rule is and the longer or more strongly it has been established, the more likely a candidate country is to adopt it. If on the other hand a rule is not clearly defined or is relatively new, a candidate country may try to manipulate "the interpretation of what constitutes compliance to [its] advantage" or the EU may "claim unjustly

that it has not been fulfilled and … withhold the reward" (Schimmelfennig & Sedelmeier, 2004, p. 664). Second, "*the effectiveness of rule transfer increases with the size and speed of rewards*." Thus membership is more likely to motivate a candidate country than association or a "privileged partnership". Also the sooner a country may expect to gain its reward, the more likely it is to implement the rule in a timely fashion, rather than waiting for a future administration to make the necessary changes. Third, "*the likelihood of rule adoption increases with the credibility of conditional threats and promises.*" That is to say, the candidate country has to believe that the EU is capable of delivering the promised rewards, that it is committed to delivering the rewards if the necessary conditions are met, and that the EU will withhold the rewards if the candidate country fails to meet the necessary conditions. Fourth, "*the likelihood of rule adoption decreases with the number of veto players incurring net adoption costs (opportunity costs, welfare and power losses) from compliance.*" That is, the more actors there are who are able to impede the adoption of EU rules, and the greater the adoption costs are for those actors, the less likely rule adoption is to take place (Schimmelfennig & Sedelmeier, 2004, p.665-667).

This framework works differently, however, depending on what types of EU rules are being adopted. The authors distinguish democratic conditionality from acquis conditionality thusly: "Democratic conditionality concerns the fundamental principles of the EU, the norms of human rights and liberal democracy," whereas "acquis conditionality concerns the specific rules of the acquis communautaire" (Schimmelfennig & Sedelmeier, 2004, p. 669). Generally speaking a country must have broad democratic fundamentals in place before it begins to adopt the minutiae of EU regulations. After all, meeting EU environmental and education standards will not suffice

for a country to join the EU if it does not hold fair elections or provide its citizens with basic human rights like freedom of speech or freedom of religion. Thus the authors assert that in the phase leading up to the opening of accession negotiations, democratic conditionality is the main avenue for EU rule adoption, while after accession negotiations have begun democratic conditionality takes a back seat and acquis conditionality takes the forefront.

This distinction is highly relevant because the effectiveness of the EU at inducing rule adoption differs between these two spheres of conditionality. In democratic conditionality, the effects of which will be the subject of this thesis, the credibility of the EU's commitment and the adoption costs to the candidate country's government are argued to be the largest determinants of the success of EU rule transfer.

This was the foundation of the external incentives model of conditionality in 2004. In response to political developments and criticisms of this model, which I explore below, Schimmelfennig reexamined the model in 2008. While he defends the earlier overall conclusions of his model, his focus in this second article shifts somewhat in light of subsequent developments in EU—candidate country relations. This second iteration of the model focuses more on the domestic political conditions that can either induce or hamper rule adoption. "There is widespread agreement in the literature that a credible conditional EU membership is indeed a necessary condition for the EU to bring about substantial domestic change. In order to be effective, however, EU conditionality has to fall on fertile domestic ground … most generally, the effectiveness of political conditionality depends on an interaction of international (EU) and domestic actors" (Schimmelfennig, 2008, p. 918).

In this article he deals more with the domestic conditions necessary for EU conditionality. This is an important because it comes at least in part as a reaction to Turkey's slow accession progress. "The emphasis on 'integration capacity', the exit options contained in the EU's Negotiating Framework for negotiations with Turkey, and the fact that future enlargements may be put to a referendum in France and possibly other countries … are likely to reduce the credibility of the membership perspective on which the effectiveness of EU political conditionality has been based in the past" (Schimmelfennig, 2008, p. 919).

However, what is holding Turkey back is not, Schimmelfennig argues, the lack of credible EU commitment to Turkey's accession, but rather the conflict over Cyprus. After the failure of the Annan plan to reunify the island in 2004, the political price the Turkish government would pay to give ground on the issue became too high, while the long timeframe of the accession negotiations allowed the government to put off reforms since the "high political costs could not be balanced by immediate rewards" (Schimmelfennig, 2008, p. 932). This is significant because he allows more room for the role that domestic politics plays in democratic consolidation, while maintaining that the EU is still the primary driver of democratic political change in candidate countries. But he maintains that this is in line with the "core hypothesis of the external incentives model of political conditionality," namely that "credible and high EU incentives as well as political costs of the target governments" are the conditions necessary for EU rule adoption (Schimmelfennig, 2008, p. 932-933).

It is important to explore the external incentives model of political conditionality since a number of authors either implicitly or explicitly use it as a foundation to build other arguments.

In terms of civil-military relations, Gürsoy argues that although reforms have not completely brought the military under civilian control, what progress has been made is due to the EU. Indeed, "it was the pressure of the accession criteria that started the process of reform in the first" place (Gürsoy, 2011, p.306). Earlier reforms were the direct result of EU pressure, she argues, while in the reforms since 2007 "the EU played an indirect role by empowering civilians against the generals who made the website announcement of April 2007" (Gürsoy, 2011, p.306).

In addition, Heper argues that the EU drove democratic changes with respect to civil-military relations. "Following Turkey's designation by the EU as a 'candidate' country, governments in Turkey felt themselves obliged to further liberalize and democratize the political regime in conformity with the EU acquis" (Heper, 2005, p.37).

In terms of foreign policy, Müftüler-Baç argues that changes in Turkish foreign policy have been the result of domestic political changes that themselves were driven by the EU accession process. "Turkey's goal of EU membership has enabled Turkey to adopt a series of political reforms, at an increasing pace since 2002" (Müftüler-Baç, 2011, p. 286). As these political reforms went into effect, they changed the domestic balance of power between various domestic political actors, which in turn allowed for new foreign policy approaches to be put into practice. "As the social groups that were previously excluded from political dynamics increased their power, the preferences of these actors were reflected in foreign policy choices. The EU's impact on the

democratization process has been the most effective too in bringing about this transformation" (Müftüler-Baç, 2011, p. 286). . Thus the EU is driving changes in the domestic balance of power, which in turn results in different foreign policy choices than were made in the past.

Müftüler-Baç also wrote in 2005 that "Turkey's EU candidacy since 1999 has stimulated the Turkish political and legal reforms and intensified the Europeanization process in Turkey" (Müftüler-Baç, 2005, p. 18). She also directly links the EU's power to induce democratic reform to its use of conditionality. The article provides an overview of the reforms passed between 1999 and 2004.

Critiques of the external incentives model

Tocci attributes democratic change in Turkey to the confluence of external pressure and internal circumstances. She observes that although there were reforms passed prior to 1999, meaningful and systematic changes only started around the same time that Turkey was granted candidate status. Since meeting the Copenhagen criteria for membership requires that a candidate country bring its laws into compliance with European standards for democratic governance and economic stability, the accession process is generally correlated with reforms in candidate countries. However, while "[a] straightforward explanation of domestic change in Turkey would be the linear relationship, driven by EU conditionality, between externally demanded conditions that are accepted domestically by adopting policy (constitutional, legal and administrative) reforms," she suggests that "a set of reasons suggests that such a linear relationship does not and probably could not in itself drive an extensive reform process in Turkey (or indeed in any other country)" (Tocci, 2005, p. 76).

Tocci then proceeds to critique the idea that EU conditionality drives reform in Turkey on a number of grounds. She first discusses the costs and benefits of reforms necessary to meet the Copenhagen criteria. Fundamentally, evaluations of costs and benefits of compliance must be made by the domestic political actors within the candidate country, and only when a majority of these domestic actors come to see the benefits of accession outweighing the costs will meaningful reform happen. Thus external pressure from the EU presents the member state with opportunities for reform, but the reform will only take place once domestic actors have been convinced that the benefits of that reform outweigh its costs (Tocci, 2005, p. 76-78).

She then examines the benefits of accession, noting that "the very existence of an ongoing debate on the desirability of Turkey's membership is understandably received in Turkey as evidence of the lack of a clear and consistent EU strategy and commitment. This in turn reduces the perceived objective value of promised EU benefits" (Tocci, 2005, p. 77). This is to say that the lack of commitment on the part of the EU reduces the value of the benefit of membership to the extent that the uncertainty exists. A 10% chance of obtaining a benefit of 100 is worth 10, whereas an 80% chance of obtaining a benefit of 50 is worth 40. Although the eventual benefits of membership in the EU are large, the greater the perceived uncertainty regarding Turkey's ability to achieve membership, the greater the discount to the value of those benefits will be.

On a related note, Tocci discusses the time inconsistency inherent in EU conditionality. The EU demands that reforms be completed (that costs be incurred) before membership (the benefit) is granted. This time lag both decreases the present value of the benefit and creates space for domestic actors to put off required reforms until the delivery of the benefit is nearer. In Turkey's case the long timeframe of the negotiations reduces the pressure domestic actors feel to implement reforms. In 2005 Tocci wrote that "even if accession negotiations begin in 2005, membership itself is expected to occur at least a decade later" (Tocci, 2005, p. 78). This extended timeframe is clearly a limit on the power of EU conditionality to induce domestic reforms.

Tocci identifies three further limits on EU conditionality; the lack of ability to induce reforms at a sustained pace over the course of Turkey's accession process, the lack of specificity of the Copenhagen criteria (including the varying degrees of compliance with the criteria among

existing EU members), and the weakness of the EU's monitoring capabilities. (Tocci, 2005, p. 78-79).

After making these critiques of EU conditionality, Tocci then summarizes other scholars' work regarding the role that political parties (especially the AKP), civil society, and the military have played in the reform process. She concludes that rather than being the trigger of reforms in Turkey, the EU acts as an anchor for domestic actors to use as leverage in order to enact reforms. Essentially the EU provides political cover and sometimes leverage for domestic actors to enact reforms, but is not itself the cause of those reforms. "However, the precise form and timing of domestic change is intricately linked with the launch of Turkey's accession process." Reform "is occurring because the endogenous process of change within the Turkish institutional, political, economic and social context is interlocking with the external dynamics embedded in the accession process" (Tocci, 2005, p. 74). The EU accession process is providing the conditions for reforms that might not otherwise have happened, but domestic actors are the ones actually realizing those conditions.

Dimitrova also argues that domestic actors have provided the underlying impetus for Turkey's reforms. She acknowledges that "conditionality remains the most favored EU policy tool" for inducing reform in candidate third countries (Dimitrova, 2011, p. 229). However, she argues that external pressure from the EU on its own is not enough to induce reform in Turkey's case. Unlike in the Eastern Enlargement of the post-Soviet countries, Turkey already has a functioning market economy. What is needed in Turkey's case is not economic reform, especially since Turkey's economy was sufficiently harmonized with the EU's to sign a customs union

agreement in 1995, but rather political reform to ensure the rule of law and democratic accountability. As a large country with a strong market economy, Turkey presents the EU with a different series of conditions than the post-communist countries of the last enlargement did. In this instance, the success of the EU's conditionality-based approach to Turkey "depends on the actual combination of credibility of external incentives and domestic actors' preferences" (Dimitrova, 2011, p. 229). That is to say, EU conditionality will only produce democratic reform if 1) domestic political actors believe the EU will deliver on its promises (credibility) and 2) the promised benefits of EU accession align with those actors' domestic preferences. Thus, when democratic reform happens, it is driven primarily by domestic political actors, with EU pressure being secondary. However, Dimitrova does not go in depth into who these domestic political actors who have the power to drive (or potentially impede) democratic change are.

Baudner also argues that the conditionality approach "misrepresent[s] the processes of change within state and society" (Baudner, 2012, p. 922). Turkey's political developments are "strongly determined by the character of domestic power positions, social cleavages and, in particular, the interests of political parties" (Baudner, 2012, p. 922). That is to say, domestic political actors, rather than external EU pressure, are driving Turkey's democratization.

He argues that EU accession provides resources that domestic political actors can draw upon for political advantage. "Some actors choose to embrace these resources as they offer gains in the political struggle, whereas other actors reject them as they entail a loss of equivalent domestic resources … their acceptance by political parties is motivated by obtaining resources and advantages in the competition with other domestic parties and in pursuing [their] own (possibly

diverging) policy purposes" (Baudner, 2012, p. 924). Thus political actors do not adopt EU reforms because they are more European, or because the EU said so, but because they can use those reforms to their benefit to outmaneuver their political opponents.

Political parties can also strategically commit to Europeanization reforms that align with their own preexisting policy aims. He argues that domestic political actors who are disadvantaged under the current political regime in a candidate country have strong incentives to embrace Europeanization reforms once three criteria are filled. First, "European norms must be supportive of the interests of domestic actors" (Baudner, 2012, p. 925). That is, they must broadly align with the actor's own policy preferences. Second, "they must offer domestic actors an advantage in the political system of the state in question, or must be perceived to do so" (Baudner, 2012, p. 925). So even if the domestic actor's preferences align with EU norms, the domestic actor must gain some political benefit by publicly aligning itself with the EU accession process. Finally, "these actors must also be prepared to accept modifications of the political programme imposed by EU norms, possibly even against the resistance of important parts of the electorate or membership of the party in question" (Baudner, 2012, p. 925). In order for the actors to adopt EU norms, they must be willing to restructure the political order within their country, even if such restructuring runs against the preferences of core parts of their electorate.

When these three conditions are fulfilled, parties may "value EU accession negotiations as leverage to promote their own policy aims which are then framed in terms of EU standards or presented as fulfillment of EU accession criteria" (Baudner, 2012, p. 925). EU standards can be used as cover to promote domestic actors' own preferences. They can also be used to upset the

domestic balance of power or to undercut political opponents. "EU negotiations offer new opportunities for disadvantaged actors with scarce domestic power positions and, at the same time, threaten the power resources of actors which have invested in their relation to domestic policy-constraining powers" (Baudner, 2012, p. 926). Here Baudner is specifically talking about the military as a policy-constraining actor and the AKP's passage of political reforms under the accession process rubric to limit the military's role in the political process. But while the AKP also used "the declaration of the aim of EU accession [to] provide[] a legitimizing element 'allowing it to shake off domestic and international suspicions of an alleged Islamism agenda', … the human rights discourse adopted by the AKP left room for an interpretation that was not always in line with EU understanding" (Baudner, 2012, p. 928). So the AKP used the EU accession process to strengthen its power against the military and the secular establishment which suspected it of having an Islamist agenda, while at times not fulfilling the EU's vision of reform on human rights.

Baudner goes on to further explore the AKP's use of and deviation from EU norms to flesh out his argument that EU pressure for change is subject to political conditions and the preferences of political parties in candidate countries. The transformative power of Europe is "much more indirect than in persuasion and conditionality approaches and [is] subject to its function in the domestic context of a cleavage-ridden society" (Baudner, 2012, p. 936). This accounts for both the adoption of EU rules in the absence of immediate rewards and for the adoption of reforms that have little to do with EU accession once the process has begun.

Political parties as drivers

A number of other articles also claim, either explicitly or implicitly, that political parties are the primary agents of reform in Turkey. Kalaycıoğlu, for example, sets out to "examine this process of the democratization of the political regime in Turkey vis-à-vis the role played by the EU perspective of Turkish political elites" (Kalaycıoğlu, 2011, p.265). His entire analysis of the constitutional amendments passed since the current constitution was promulgated centers around the political parties in the governments that passed the reforms. He narrates the entire reform process through the actions of the political parties in power when the reforms are passed.

Noutcheva and Aydin-Düzgit argue that "[w]here and when domestic political actors have seized the opportunities arising from the EU's conditional offer of membership … democratic institutional change has occurred [as seen in] Turkey between 2000 and 2005. Domestic empowerment, however, has not worked evenly in all political environments and its effects have been counteracted by the ruling elites' domestic incentives for partial reform or non-reform [as seen in] Turkey after 2005" (Noutcheva & Aydin-Düzget, 2012, p. 60). When a "credible EU accession perspective" is present it helps encourage domestic political elites to enact democratizing reforms. But even then reforms are only undertaken when the EU pressure aligns with the domestic actors' internal agendas. When either the EU's credibility begins to weaken or the domestic actors' preferences are not aligned with EU demands, reforms either do not happen at all or are only undertaken selectively to enhance the domestic political actors' standing.

Hale likewise sees the EU's influence in the reforms leading up to the opening of accession negotiations, but not thereafter. "[T]here can be little doubt that the need to conform to the

Copenhagen criteria had a powerful effect in boosting the effort for reform, especially … up to 2004" (Hale, 2011, p. 331). But the lack of reforms after 2004, coupled with "the resumptions of reforms in 2010 weakens [the] assumption of a neat linkage between the Turkey—EU relationship and human rights improvements in Turkey" (Hale, 2011, p. 331). The EU did not change its demands after 2005, but Turkey made little headway in terms of reforms until 2010, and even those reforms have been criticized as focusing mainly "on changing the composition of the Constitutional Court and the High Council of Judges and Prosecutors, and the political party closure clauses, and appear to have more to do with a potential closure case against the AKP before the national elections of 2011" (Kalaycıoğlu, 2011, p.275) than with genuine democratic reform. This disconnect leads Hale to conclude that "domestic political priorities took precedence over external ones" (Hale, 2011, p. 331) and thus that, at least after 2005, domestic political actors have been more influential in the democratic reform process than the EU.

To summarize, there are two main bodies of scholarship on the question of what is driving Turkey's democratic changes. Some scholars argue that the EU has provided the primary impetus for change in Turkey. Prominent in this school of thought is the external incentives model of EU conditionality, which states that the EU offers rewards to prospective members based on the candidate countries enacting democratic and regulatory reforms. Governments in candidate countries will adopt EU rules so long as the EU commitment to rewarding the candidate countries remains credible and the political costs to the governments are not too high (Schimmelfennig & Sedelmeier, 2004).

On the other hand, a number of scholars have criticized this model and argued that in fact domestic political actors, primarily political parties, are the real drivers of democratic reform in candidate countries. These critiques include the argument that EU rules are only adopted when they align with domestic actors' preexisting preferences, which places primacy in the hands of domestic political parties. In addition in Turkey's case, while the EU's demands have remained constant, the pace and the content of reforms has varied, weakening the apparent link between EU pressure and domestic reform in Turkey. At the same time, authors in this second camp have been careful to point out that the EU has still played a role in Turkey's reforms. It can be seen as creating the conditions for domestic actors to adopt reforms, or providing a potential source of leverage and legitimacy for domestic actors whose preferences align with the EU. (Tocci, 2005). This study aims to be a part of this larger debate.

Methodology

I used a qualitative approach consisting of a series of small case studies, which I then analyzed together to observe larger trends over time. For my case studies I chose the constitutional amendment packages passed in 2001, 2004, 2007, 2008, and 2010. These five represented the largest packages by number of amendments aside from the 1995 package. I did not include the 1995 package in this study because of difficulties with the data collection that I explain below. These packages also comprised the vast majority of changes related to the Copenhagen political criteria. A few other small amendment packages were made in the years since Turkey became a candidate member in 1999, but the bulk of those changes were administrative (lowering the minimum age to run for parliament (2006) or changing the national governing body of sports (2011)). The amendment packages that dealt with democratization were however related to the Copenhagen criteria and thus shed light on the changes that have happened that the EU cared about. The amendment packages I chose also covered a large enough amount of time to include major domestic political changes and changes in the relationship between Turkey and the EU. Thus these changes are large enough in terms of number of changes, span a long enough period of time, and address core issues that were sometimes broadly supported by the political parties and sometimes the subject of bitter partisan fights, so that by analyzing them together I have been able to competently address my research question.

Data

The first source of data I utilized were the texts of the amendments themselves. These are available from the Turkish government's website going back to 1999. I then assembled a list of official results from parliamentary elections going back to 1991 to help determine which parties where in the government when each set of amendments was passed. This list was not always definitive, however, since sometimes groups would split off from or combine with established parties after an election. The Kurdish parties were the primary, although not the only, examples of this. Turkish election law requires a party to receive at least 10% of the national vote in order to receive seats in parliament. This high threshold keeps regional and single-issue parties out of parliament and has prevented Kurdish politicians from running as a party; instead Kurds run as independents and the form their party after the new parliament has been sworn in. Thus the official election results never include Kurdish parties. I corrected for this by finding news articles detailing party positions and votes at the time the amendments were passed, as detailed below.

The next set of data I examined were the accession documents published by Turkey and the EU. These included Accession Partnership Agreements and Annual Progress Reports from the EU and Turkey's National Programmes for the Adoption of the Acquis. All of these documents are available on the Turkish government's website.

I then looked for statements and position papers published directly by the political parties themselves. When available these primary source documents were extremely helpful, but I was not able to find very many of them. I suspect that this lack is due at least in part to the nature of

such documents; position papers are published on current events to help sway public opinion or defend a party's position, but once the particular event or vote has passed these documents often cease to hold much relevance. For example, what difference does it make what the Republican or Democratic positions on healthcare reform were ten years ago, now that the Affordable Care Act is in the process of being implemented? What matters for today's political discourse is how the ACA is being implemented and whether it should be repealed.

The final set of data I collected was from news articles detailing party statements and positions at the time the amendment packages were passed. I also used these articles to verify which minority parties were in parliament when the various amendments were passed, as mentioned above. The use of news articles as data points was not without its challenges, however.

The first problem with using news articles is that the Turkish press is subject to both direct and indirect pressure from the government. A few examples include the 2009, $2.5 billion tax fine against the Doğan Media Group which was portrayed by the governing AKP's opponents as retaliation for the Group's critical coverage of the AKP generally and Prime Minister Erdoğan in particular (Arsu & Tavernise, 2009). Then during the protests against the government in the summer of 2013 all the main news outlets refused to broadcast coverage of the protests in what was widely seen as an act of self-censorship to avoid angering Erdoğan and the AKP. Turkey also tops the list of countries with the most journalists in prison (Beiser, 2013). These are just a few specific examples but they highlight the overall difficulties of using Turkish news articles in this thesis.

A second concern is that the Turkish media is generally viewed as extremely partisan. I asked a number of Turks which news organizations were reputable and relatively non-partisan. The responses I got from my queries uniformly stated that there is no non-partisan news in Turkey, only higher and lower quality partisan outlets.

I chose to use news outlets, however, because of a lack of alternative sources for my data. I used the most prominent news outlets I could find in each case, and I only drew data from factual "news" pieces, not from opinion columns. Also, which parties were in government at any given time and how those parties voted are basic questions of fact that even the most partisan spin cannot obscure. In looking for position statements I tried to find the least partisan-seeming articles that I could, but here too partisanship is less of an issue than it first seems. A partisan outlet is more likely to give space to its affiliated party, so those can be good sources for party positions. As far as intimidation from the government, that may have influenced the number of outlets giving coverage to opposition views, but I was generally able to find sources that would explain why the opposition voted the way that it did and that carried quotes from opposition leaders. In addition, I corroborated the data I got from news sources with the general picture painted by scholarly articles, the English-language press, and Wikipedia, thus ensuring that the news articles were telling the same general story as everyone else. All in all I do not believe the Turkey's press restrictions and lack of freedom compromised my research.

I was constrained, however, by a diminishing number of sources the further back in time I went. I wanted to include the 1995 amendments in this study, but the government's online records only go back to 1999, and I was unable to find any news organization that had an electronic archive

that went further back than the mid-2000s. While not technically insurmountable, these restrictions made it much more difficult to find credible sources for data for amendments prior to the 2001 package, and so I ultimately decided not to include the 1995 package. While the 1995 package would have provided an interesting counterpoint to the rest of the data, coming as it did at the end of the 30-year process of fulfilment of the Ankara Agreement criteria, its exclusion does not affect the validity of the thesis since it took place four years before Turkey became a candidate member of the EU. Its inclusion would have allowed me to look at the effect the EU had on Turkey prior to Turkey's candidate status, but it does not limit my ability to look at the EU's effect once Turkey because a candidate member.

Main Argument

I expect my study to align with the literature that argues the domestic political actors, rather than outside influence from the EU, has been the primary driver of constitutional change in Turkey. To being with, amendments are proposed by political parties, debated and voted on by parties, and ultimately pass or fail as a result of the actions of political parties. The EU does not write the changes or pass the bills that become constitutional amendments in Turkey. So at a very basic level domestic politics is responsible for whatever legislative changes happen in a country, including the constitutional amendments that have helped promote democracy in Turkey.

Secondly, Turkey's progress on democratic reforms has not always lined up with its progress on European accession. Between 1999 and 2005, the EU recognized Turkey as a candidate country for membership, told Turkey that it needed to enact reforms in order to fulfill the Copenhagen criteria for membership, and then opened membership negotiations. During that same time Turkey passed a substantial number of constitutional amendments and other legislative overhauls that taken together represented major progress towards democratization fulfilling the political Copenhagen criteria. If one were to confine the study to just this time period, it would seem that the EU exercised a tremendous amount of influence over the process of constitutional reform. However after accession negotiations began Turkey's progress towards accession slowed, as did the pace of democratic reforms. Public support for joining the EU declined as well, and Turkish politicians began to make anti-EU statements. At the same time major upheavals in domestic politics, like the 2007 constitutional crisis, occurred. The Copenhagen criteria have been the same since the beginning, but the domestic political landscape in Turkey has shifted, and the pace of democratic and constitutional reform has slowed. This suggests that domestic politics

(the changing variable) have had more to do with changes in the pace and scope of constitutional reform than outside pressure from the EU (the unchanging variable).

The progress between 1999 and 2005 can also be explained in terms of the primacy of domestic actors in the constitutional reform process. The changes that happened during that earlier period that fulfilled EU demands happened because during that time domestic political parties' interests aligned with the EU's interests. So long as domestic political pressures were aligned with outside pressure, the changes that happened were ones that the EU demanded. But once domestic political actors' interests diverged from the EU's, the rate of changes decreased and the changes that did happen were less likely to align with the demands of the EU.

All this is not to say that the EU does not matter, or that it has not influenced Turkey's democratization. However, I predict that my study will bear out the preceding arguments that the primary driver of Turkey's constitutional changes has been domestic politics, rather than EU pressure.

Case Studies

In what follows I will present my data in chronological order. I will begin with charts summarizing the demands made in the EU's Accession Partnership documents, Turkey's responses in its National Programmes for the Adoption of the Acquis, and the changes subsequently made to individual articles in the constitutional amendment packages that align with the EU's demands. These will be followed by text summaries of the relevant portions of the Accession Partnership documents and the National Programmes for the Adoption of the Acquis. I will then explore the constitutional amendments passed in each period. My overview of each amendment package will include a summary of the substance of the amendments, a list of the parties in parliament when the amendments were passed, a description of each party's vote and the reasons for their votes, and the a summary of the EU's response in the annual Progress Report that covered that year. I will repeat this pattern with each series of accession documents and each of the five amendment packages I have chosen for examination in this thesis, ending with the description of the amendment package passed in 2010.

2001 Accession Documents

The 2001 Accession Partnership document set out a number of areas Turkey needed to improve in before it would satisfy the Copenhagen criteria for membership in the EU. Resolving the Cyprus problem topped the list, followed by expanding protections on the freedoms of expression, association, and assembly. The document states that Turkey must take steps to eliminate torture and improve practices regarding pre-trial detention, as well as provide for

redress for people whose human rights have been violated. It also highlights the necessity of improved training programs for law enforcement officials and judges and prosecutors. It states that Turkey must improve the functioning and efficiency of the judiciary system and reform the State Security Courts. It should maintain the de-facto moratorium on capital punishment in place at the time. Turkey must also remove restrictions on the use of the Kurdish language and take steps towards improving the general social and economic situation in the southeast (Council of the European Union, 2001).

Table 1.

EU Demands (2001)	Turkey's Pledges (2001)	Constitutional Amendments (2001)
Freedom of expression	+	Preamble,13,14,26,28,31
Freedom of association	+	33,34,49,51,55
Pretrial detention	+	19,20,21,22,23
Redress for HR violations	+	40
Judiciary & State Sec. Courts	+	36,46,74
Death penalty	+	38
National Security Council	+	118
Discrimination	+,*	41,66
	Changes unrelated to EU	86,87,89,94

+ is a positive commitment to change according to EU demands
* is a statement that Turkey currently has sufficient protections or has already made relevant changes

Turkey's 2001 National Programme for the Adoption of the Acquis committed the country to making improvements largely in line with the 2001 Accession Partnership Agreement. It pledges to review the provisions of the constitution on human rights and the freedoms of expression and dissemination of ideas, science, the arts and the press, as well as enhance protections of the freedoms of association and peaceful assembly. In that vein Turkey pledged to

enhance constitutional safeguards for non-governmental organizations and review constitutional provisions that restrict the rights of labor unions and associations, as well as the freedom of association more broadly. It pledges to fight torture and to review articles of the constitution related to pre-trial detention and the State Security Courts. It pledges to strengthen opportunities for redress for the victims of human rights violations. It states that the functioning and effectiveness of the judiciary will be improved by reviewing the constitutional provisions on the State Security Courts, establish a constitutional right to a fair legal defense, review provisions that infringe on the independence of the judiciary. Turkey will also restructure the Supreme Council for Judges and Public Prosecutors and review the legislation on the functioning of the Military Courts and to review the Act on the State of Emergency. It will consider abolishing the death penalty. The Programme asserts that Turkish is the national language of the Republic of Turkey, but allows that use of other languages (Kurdish) shall not be prohibited so long as those other languages are not used for the purposes of separatism and division. Turkey also pledges to alleviate regional disparities in terms of economic, social, and cultural opportunities. It will reinforce anti-discrimination provisions of the constitution, particularly regarding women. It plans to review the constitution as a whole and to undertake amendments necessary to bring the constitution into conformity with the European Convention on Human Rights and Fundamental Freedoms. It also pledges to review the National Security Courts and reexamine the State of Emergency law (Council of Ministers, 2001).

2001 Constitutional Amendments

The 2001 package contained 34 different amendments affecting a broad array of topics. The amendments broadly targeted human rights failings in the 1982 constitution. Many of the provisions that had restricted the exercise of fundamental rights and freedoms were changed, as were provisions governing what types of abuses could be prosecuted. Pre-trial detention periods were shortened, protections against search and seizure were strengthened, and the right to a fair trial was enshrined in the constitution. Restrictions on the use of the Kurdish language were removed, as were other restrictions on freedom of communication more broadly. The death penalty was restricted. Restrictions on freedom of association were removed and the right to unionize was extended to public workers. Equality between the spouses in a marriage was established as a constitutional principle. Party closure was made more difficult, and a provision that had barred constitutional review over laws passed during the military rule following the 1980 coup was removed. In addition, the article covering the controversial National Security Council was amended to include greater civilian representation on the Council and to provide that the Council's statements to parliament were strictly advisory (Türkiye Büyük Millet Meclisi, 2001).

Three other proposed amendments failed to achieve the support necessary to be included in the final package. These amendments would have established the supremacy of international agreements over domestic laws, changed the article on banning politicians (which would have allowed Erdogan into parliament,) and sped up the process for eliminating parliamentary immunity from prosecution for non-political crimes (Gönenç, 2004).

Parties

Parties in parliament when the 2001 package was passed were the DSP, the MHP, the ANAP, the AKP, the SP, and the DYP (Gönenç, 2004). The final package passed with the votes of 474 of the 499 MPs in office at that time (Gönenç, 2004).

EU

The 2001 Progress Report describes the constitutional amendments in positive terms, but is careful to highlight that without subsequent implementing legislation, reforms on paper will not satisfy the accession criteria. It also mentions that challenges remain, as the 2001 amendment package failed to fully resolve issues like civilian control over the military. It states that "though it is beginning to make progress in some areas, Turkey does not yet meet the Copenhagen political criteria and is therefore encouraged to intensify and accelerate the process of reform…" Its overall tone is laudatory in terms of the reforms that were accomplished but cautionary since Turkey has not yet fully brought its laws and its constitution into harmony with European standards (Commission of the European Communities, 2001).

2003 Accession Documents

The 2003 Accession Partnership Agreement begins by stating that Turkey must resolve the disputes surrounding Cyprus. It lists a number of international agreements which Turkey should either sign or ratify. It states that Turkey needs to implement measures to fight torture and to

guarantee in practice the right for detainees to access a lawyer. Turkey must also guarantee in law and practice the full employment of human rights and fundamental freedoms without discriminating against anyone. It should pursue and implement reforms concerning the freedoms of expression, especially of the press, and it must remedy the situation of people prosecuted for non-violent expression of opinion. It must implement reforms concerning the freedoms of association and assembly, and provide for retrials based on judgments of the ECtHR. It must adopt and implement provisions concerning the exercise of the freedoms of thought, conscience and religion, and guarantee cultural rights for all citizens, including removing restrictions on the use of the Kurdish language. Turkey must adapt the function of the National Security Council to align with the objective of civilian control of the military. It must strengthen the independence and efficiency of the judiciary and establish intermediate courts of appeal. It should extend training of law enforcement officials on human rights and torture, and should strive to reduce regional disparities (Council of the European Union, 2003).

Table 2.

EU Demands (2003)	**Turkey's Pledges (2003)**	**Constitutional Amendments (2004)**
Pretrial detention	*	
Discrimination	+,*	10,15
Freedom of expression, press	+*	30
Freedom of assembly	*	
Freedom of thought, religion	*	
National Security Council	*	
Judiciary & State Sec. Courts	+	17,38,90,143
	Changes unrelated to EU	87,101,160

+ is a positive commitment to change according to EU demands
* is a statement that Turkey currently has sufficient protections or has already made relevant changes

Turkey's 2003 National Programme for the Adoption of the Acquis begins by listing Turkey's accomplishments since the previous Programme was published. Turkey had at that point abolished the death penalty and established comprehensive legislative and administrative measures against torture. The right to trial in light of the decisions of the ECtHR had been introduced and the state of emergency in the southeast had been lifted. Protections of the freedoms of thought, expression, and press had been expanded. Trade union rights had been advanced and gender equality, cultural diversity and protection, minority cultural rights, and the right to learn and broadcast in other languages had been expanded. Legislation concerning non-Muslim communities had been improved, and the National Security Council had been reformed. Numerous international conventions and protocols had been signed and ratified, and legislation implementing those conventions and protocols had been passed.

The Programme then proceeds to list areas where further reform is needed. It pledges to review and expand legislation on the freedoms of thought, expression, the press, association and assembly in order to bring them into conformity with universal norms. Provisions on broadcasting and learning languages other than Turkish will be implemented. Legislation related to the prevention of torture and the right to an attorney will be implemented. The Programme also pledges to intensify and expand training for law enforcement and judicial officials. It states that reform to the judicial and penal systems is ongoing and will continue to be a focus of governmental efforts. The government will also continue to fulfil its obligations stemming from all international agreements regarding the protection of the freedoms of thought, conscience, and religion, and will simplify legislation regarding freedom of worship. The government will make

ensuring gender equality a particular priority and will also implement provisions on learning and broadcasting different languages and for the protection of disabled people and children. The Programme states that the functioning of the National Security Council was redefined through constitutional and legislative amendments and that those amendments will be implemented in the near term. The Programme also pledges to sign more international protocols (Council of Ministers, 2003).

2004 Constitutional Amendments

The 2004 constitutional reform package eliminated several references to the death penalty from the constitution, thus abolishing the last legal vestiges of capital punishment in Turkey. The package included an amendment that established the supremacy of international laws and treaties over conflicting domestic laws. It also eliminated a provision governing the State Security Courts, thereby abolishing the courts entirely. It also eliminated a provision that prevented the military budget from being audited by parliament and removed a source of military influence on the Higher Education Council, thus taking steps towards limiting the military's role in civilian governance and bringing it closer to civilian control. Finally, press freedom was enhanced through additional wording that broadened protections from government interference and women's equality was advanced by the addition of a provision that explicitly guaranteed equal rights for women and men (Türkiye Büyük Millet Meclisi, 2004).

Parties

The parties in parliament when this amendment package was passed were the AKP and the CHP. Both parties voted in favor of the amendment package, thus securing more than the 2/3 majority required for the amendments to go directly into effect, without requiring a referendum.
The AKP voted for this amendment package because the 1982 constitution needed to be changed. Although the death penalty had previously been abolished, the AKP stated that this amendment package was necessary to cleanse the constitution of all remaining references to capital punishment. Furthermore this package promoted equality between men and women and other reforms that the AKP saw as necessary updates to the "coup constitution" (NTVMSNBC, 2004).

The CHP voted for these amendments for two reasons. The party released a statement saying that the primary focus of this amendment package is to get closer to the European Union. The party had always supported the goal of EU membership, and this package brought Turkey closer to that goal. The second reason for the CHP's support of these amendments is that apart from EU membership, the amendments were necessary in their own right to modernize the 1982 constitution. However, the CHP also supported the amendment limiting parliamentary immunity, which it accused the AKP of blocking from inclusion in the final amendment package (NTVMSNBC, 2004).

EU

In the 2004 Progress Report the amendments are reviewed in terms of a broader push since 2001 towards adoption of EU norms. The report states that a strong consensus exists between the AKP and the CHP on pursuing accession to the EU, and thus a number of reforms related to the accession process have been passed over the previous few years, including both constitutional and legislative changes. While the report speaks in positive terms about the changes that have been made, it is also careful to highlight areas where reforms on paper had not (up to that point) been put into practice, or where further reforms were needed (Commission of the European Communities, 2004).

2005 Accession Documents

The 2005 Accession Partnership document calls on Turkey to continue to pursue reform of public administration to ensure greater efficiency, accountability, and transparency. It also states that Turkey must ensure effective, transparent, and participatory local government. Turkey must establish a functional Ombudsman system. It should continue to bring civilian control over the military into line with EU practice and should take steps towards bring about greater accountability and transparency in the conduct of security affairs. To this effect Turkey must establish full parliamentary oversight over military and defense policy, including the ability to audit the defense budget, and must abolish the competency of military courts to try civilians. It calls on Turkey to ensure the independence of the judiciary and in particular the High Council of

Judges and Public Prosecutors. Turkey should also ensure equality between prosecutors and the defense and take steps to strengthen the judiciary overall, including establishing regional intermediate courts of appeal. Turkey should furthermore fully commit to the fight against corruption and should limit the scope of parliamentary immunity in line with European practice. It should strive to promote human rights and strengthen the fight against torture. It must ratify protocols to a number of international agreements and implement legal provisions on the right to retrial in line with the relevant judgments of the ECtHR. It must guarantee in law and practice the full enjoyment of human rights and fundamental freedoms by all citizens without discriminating against anyone. It must intensify the fights against torture and corruption. It must enhance the opportunities for effective legal defense, including establishing access to legal aid and interpreting. It must ensure that the exercise of the freedoms of expression and the press is in line with the ECHR and caselaw of the ECtHR. It must continue to resolve the situation of people prosecuted for non-violent expression of opinion and must implement all reforms concerning the freedoms of association and peaceable assembly. It must also implement reforms to prevent excessive use of force by security forces. It should address difficulties faced by non-Muslim religious minorities and must adopt and implement provisions concerning the exercise of freedom of thought, conscience, and religion by all individuals and communities. Turkey must also take steps to promote the protection of women's and children's rights. It must ensure full trade union rights as well as minority rights, especially with respect to minority languages. Turkey must address regional disparities and resolve the Cyprus problem (Council of the European Union, 2006).

Table 3.

EU Demands (2005)	Turkey's Pledges	Constitutional Amendments (2007)
Ombudsman		
Civil-military relations		
Judiciary & military courts		
Human rights		
Discrimination		
Access to justice		
Freedom of expression, press		
Freedom of association		
Freedom of religion		
Women's & children's rights		
	Changes unrelated to EU	77,79,96,101,102

2007 Constitutional Amendments

The 2007 amendments took place against a background of political and constitutional crisis. In the run up to the presidential election in May, Prime Minister Erdoğan was widely believed to be planning to run for president. This elicited considerable consternation among the military and civilian secular elite, who pressured the AKP not to nominate Erdoğan for the presidency. The AKP relented and instead nominated foreign minister Abdullah Gül. Gül was also an unpopular choice among the secular elite since his wife wears a headscarf, but nonetheless the AKP held the presidential election on April 27. The opposition CHP and DP boycotted the vote, and on the same day the military posted what has come to be known as the "e-memorandum" on its website. The e-memorandum was viewed as a threat by the military to intervene again in the political process should Gül be elected, but the AKP voted for Gül anyway and the military never made good on its threat.

After Gül was elected president based on a majority vote by the AKP the CHP appealed the election to the Constitutional Court on the grounds that a 2/3 quorum of PMs was required in order to hold a presidential election. Four days later, on May 1, the Constitutional Court issued a controversial ruling annulling the results of the April 27 election and ruling that in fact a 2/3 quorum was necessary in order to have a valid election.

On May 6 another round of voting was held, and again the CHP boycotted the election and Gül was elected with less than 2/3 of the MPs casting a vote. On May 9 Gül withdrew his candidacy, which triggered a constitutional clause requiring early elections, which Prime Minister Erdoğan announced on May 10. On May 11, the AKP passed the 2007 constitutional amendment package, with the CHP again boycotting the vote.

The amendment package changed the length of the president's term from seven years to five years, and more significantly changed the method of selection of the president from a parliamentary vote to a direct election. It also shortened the government's tenure from five years to four, and established a 1/3 quorum for all parliamentary business (Türkiye Büyük Millet Meclisi, 2007).

A separate amendment which was not part of the above-described package lowered the minimum age to be elected to parliament from 30 to 25.

Parties

The parties in parliament when the amendment package was first passed were the AKP, the CHP, and the DYP and the ANAP. The amendment package was proposed and passed by the AKP, with all opposition parties boycotting the vote on May 11. On May 25 the amendment package was vetoed by outgoing-President Sezer. On May 31 the AKP voted to override the presidential veto, with the opposition again boycotting the vote. Since the AKP on its own had fewer than 2/3 of the seats in parliament, the amendment package was then scheduled for a referendum vote in October. The referendum passed with 69% voting in favor and 31% against.

In the interim the AKP called an early parliamentary election, in which it took 341 seats, the CHP took 99 seats, the MHP took 70 seats, and the Kurdish party DTP got 20 seats after its candidates ran as independents. The AKP then renominated Abdullah Gül, who was voted into office on August 28 after the MHP decided not to boycott the election. Thus when the referendum actually happened the parties in parliament were the AKP, the CHP, the MHP, and the DTP.

The AKP proposed and supported this amendment package because, according to Prime Minister Erdoğan parliament reached a point of gridlock. These amendments were put forth in order to break that gridlock and ensure the future functioning of parliament as it was envisioned (Sabah, 2007).

The ANAP supported these amendments because they represented a big step forward for democracy. Turkey was changing from a bureaucratic to a democratic country in which the people have a direct say in who becomes president. It would have been better if these reforms were prepared more slowly, but despite the haste the reforms were for the good of the country (Sabah, 2007).

The CHP opposed these changes on the grounds that they were purely partisan moves by the AKP to capture the presidency. In a statement the CHP said that the constitution should be changed systematically, not piecemeal all of a sudden (Milliyet, 2007).

The MHP opposed these changes on the grounds that they were pushed through by the AKP, rather than as a result of a constitutional committee with representation from all parties. However, the MHP said that it was up to the people to decide in a referendum whether they supported these changes (Vatan, 2007).

EU

In the 2007 Progress Report the EU was generally critical of Turkey on all areas of fundamental rights. It points out that President Sezer vetoed a number of political reforms that the EU had been calling for and that poor relations between President Sezer and the government had inhibited the reform agenda. However, it did note approvingly that the political and constitutional crisis was ultimately resolved through free and fair elections, and that when the AKP won the parliamentary elections it committed to implementing EU-demanded reforms.

Regarding the army's e-memorandum, the Report states that "[d]espite public comments from the army and attempts to interfere in the political process, the outcome of the spring 2007 constitutional crisis reaffirmed the primacy of the democratic process" in Turkey. It reported the 2007 constitutional amendments without taking a position on them (Commission of the European Communities, 2007).

2008 Accession Documents

The 2008 Accession Partnership document calls on Turkey to reform public administration with respect to efficiency, accountability, and transparency and to strengthen local administrations. Turkey should adopt and implement legislation to establish a fully operational Ombudsman system and to strengthen civilian control over the military. Steps should be taken towards bringing about greater accountability and transparency in the conduct of security affairs, including the establishment of full parliamentary oversight over the military and defense budgets. Turkey should limit the jurisdiction of military courts to cases involving the military duties of military personnel. It should ensure the independence and representativeness of the judiciary, and especially the High Council of Judges and Public Prosecutors. It should proceed with the establishment of regional intermediate courts of appeal. It should also continue the fight against corruption, especially by limiting politicians' immunity. It should ratify the UN Convention against Torture and fully comply with the ECHR and the judgments of the ECtHR. It should take steps to fight torture and to establish legal aid programs. It should revise and implement legislation on the freedoms of expression and the press and remedy the situation of people prosecuted for non-violent expressions of opinion. It should continue the implementation

of all reforms concerning the freedoms of association and assembly and should implement measure to prevent the excessive use of force by security personnel. Turkey should strengthen civil society, increase protections for the freedom of religion, fight violence against women and strengthen protections for children. It should ensure full trade union rights and guarantee in law and practice the full enjoyment of rights and freedoms of all individuals without discriminating against anyone. It should ensure the protection of minority rights, especially language rights, and should improve the economic, social, and cultural situation in the southeast. It should also work towards a solution to the Cyprus problem (Council of the European Union, 2008).

Table 4.

EU Demands (2008)	**Turkey's Pledges (2008)**	**Constitutional Amendments (2008) (2010)**
Ombudsman	+	74
Civil-military relations	*	
Judiciary & military courts	+,*	23,125,144,145, 146,147,148,149, 156,157,159
Access to justice	*	
Freedom of expression, press	*	
Freedom of association	*	51,53,54
Freedom of religion	*	%10,42
Discrimination	*	
Women's & children's rights	+,*	10,41
	Changes unrelated to EU	20,84,94, 128,129,166

+ is a positive commitment to change according to EU demands
* is a statement that Turkey currently has sufficient protections or has already made relevant changes
% these changes were framed by the AKP as advancement of the freedom of religious expression, education, and equal rights for women, but they did not address any of the EU's stated demands in those areas

The 2008 National Programme for the Adoption of the Acquis begins with a list of the things Turkey has accomplished since its last Programme. Turkey has established comprehensive

legislative and administrative measures against torture and has completely abolished the death penalty. The freedoms of thought, expression, and the press have been expanded according to the ECHR and ECtHR caselaw. Constitutional provisions concerning associations, foundations, and the rights to assembly and demonstration have been advanced. Legislation has been amended to reinforce gender equality and to effectively fight violence against women and children. Cultural diversity and the cultural rights of all citizens have been guaranteed, including the right to broadcast and learn in different languages. Restructuring projects have been carried out to further the principle of the separation of powers with respect to the executive branch. Improvements on legislation regarding non-Muslim communities have been put into place and numerous international conventions have been ratified. The Programme states that Turkey has largely completed the reforms necessary to meet the political standards of the Copenhagen criteria, and now must focus on implementing those reforms.

The Programme then pledges to establish a fully effective Ombudsman Institution and states that work continues on a variety of other judicial reforms. The role of the National Security Council has been redefined and the military budget is now subject to audit by the Court of Auditors. The functionality and efficiency of the judiciary will continue to be improved, the right to a retrial with respect to judgments from the ECtHR will be implemented, and the High Council of Judges and Public Prosecutors will be reformed. Regional Courts of Appeal will begin operation and measurew to ensure equality between the prosecution and the defense will be taken. Progress on eliminating torture will continue to be made, as will the facilitation of access to legal aid and prison reform. With respect to the freedoms of expression, association, and peaceable assembly, implementation of the reforms already passed will continue. The enjoyment of all fundamental

rights and freedoms by individuals without discrimination will continue to be strengthened, as will protections of women's and children's rights. Efforts to implement full trade union rights will continue, as will work on the reduction of regional disparities (Council of Ministers, 2008).

2008 Constitutional Amendments

The constitutional change passed in 2008 was small in size, but large in effect. Only two articles were amended, but the changes ignited a storm of controversy over what exactly secularism means in Turkey (CHP leader Baykal slams AK Party, MHP in group address, 2008). The words "and in utilization of all forms of public services" were added to the fourth paragraph of Article 10, which so amended read "State organs and administrative authorities shall act in compliance with the principle of equality before the law in all their proceedings and in utilization of all forms of public services." Additionally Article 42 saw the addition of the phrase "No one can be deprived of the right to higher education due to any reason not explicitly written in the law. Limitations on the exercise of this right shall be determined by the law." The amended paragraph thus read "No one should be deprived of the right to higher education due to any reason not explicitly written in the law. Limitations on the exercise of this right shall be determined by the law. No one can be deprived of the right to higher education due to any reason not explicitly written in the law."

The effect of these changes was to lift Turkey's decades' old ban on women wearing headscarves in public universities (Türkiye Büyük Millet Meclisi, 2008).

Parties

The parties in parliament when this amendment package was voted upon were the AKP, the CHP, the MHP, the DTP, and the DSP. The amendment package was proposed by the AKP and supported by the MHP and the DTP and voted against by the CHP and the DSP.

The amendment package passed with more than 2/3 of the votes in parliament, and thus became law without having to be referred to a public referendum. After it passed the CHP appealed the amendments to the Constitutional Court on the grounds that they violated the secular principles of the constitution. The Constitutional Court agreed and annulled both amendments.

The AKP proposed this amendment package as a further step in the consolidation of Turkish democracy and a reinforcement of the principle of secularism. Erdoğan said that this was an attempt to put into force universal legal principles regarding equal access to higher education, and that any attempt to frame it otherwise was false (Today's Zaman, 2008).

The MHP supported this amendment package on the grounds that it promoted the principle equality already enshrined in the constitution. They said that equality before the law should be understood not just in terms of whom the law applies to, but more broadly that the organs of the state must be equally open to all people and must provide the same services and opportunities to all people (Mynet Haber, 2008).

The CHP opposed this amendment package on the grounds that lifting the headscarf ban ran contrary to the principle of secularism enshrined in Turkey's constitution. In addition they claimed that lifting the ban would create schisms in universities and create tension and separatism. They more accused the AKP of trying to turn back the clock on Atatürk's reforms and of attempting to Islamicize the country and pointed to this reform as evidence of the AKP's intent to turn Turkey into an Islamic state (Today's Zaman, 2008). After the vote the CHP referred the amendments to the Constitutional Court in a successful bid to get them annulled on the grounds that they violated the constitution's secular principles (British Broadcasting Corporation, 2008).

The Kurdish DTP party supported the amendments, arguing that prohibitions on certain styles or types of dress limited people's freedoms and disrespected certain beliefs. Religious people who chose to wear the headscarf should be respected and lifting the headscarf ban eliminated a type of discrimination from the law (Today's Zaman, 2008).

EU

In the 2008 Progress Report this amendment package is briefly described, but since both amendments were ultimately annulled by the Constitutional Court the Report does not offer commentary on them directly. At another point the Report criticizes the government for "not [putting] 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" (Commission of the European Communities, 2008).

2010 Constitutional Amendments

The 2010 amendment package included changes to 27 articles of the constitution. A 28th change was proposed but failed to receive the necessary votes in parliament to be included in the referendum (Bianet, 2010). This large package included amendments affecting a number of different areas. In the area of human rights it expanded upon prior protections for children, disabled people and the elderly, and added protections of personal data. It also established the office of a national ombudsman, which serves to facilitate citizens' complaints against the government and is common in European countries, as well as providing for the right to petition the ombudsman. It also established an individual right to petition the Constitutional Court "on the grounds that one of the fundamental rights and freedoms within the scope of the European Convention on Human Rights which are guaranteed by the Constitution has been violated by public authorities." It also transferred jurisdiction for civilian and some military cases from military courts to the civilian judiciary. In addition it expanded the rights of unions to engage in certain types of collective action. It also removed immunity from prosecution for participants in the 1980 coup (Türkiye Büyük Millet Meclisi, 2010).

These generally positive changes were however accompanied by a number of much more controversial amendments. The number of members of both the Constitutional Court and the Supreme Council of Judges and Public Prosecutors were increased, and selection to both bodies

was placed under increased governmental control. Some procedural rules of the Constitutional Court were changed, as were the eligibility requirements for membership to the Court (Türkiye Büyük Millet Meclisi, 2010).

There were additionally a few small changes that were neither hailed as improvements in human rights necessary for membership in the EU nor assailed as attacks on the independence of the judiciary by an increasingly entrenched and authoritarian government. These changes included lifting restrictions on international travel by people under investigation, procedural and membership changes in the parliament and changes to the functioning of the Supreme Military Council (Türkiye Büyük Millet Meclisi, 2010).

Finally, the amendment that failed to pass through parliament and thus was not included in the referendum package would have made party closures more difficult (Bianet, 2010).

Parties

The parties in parliament when this amendment package was voted upon were the AKP, the CHP, the MHP, and the BDP. The amendment package was proposed and voted for by the AKP (Tuysuz, 2010), voted against by the MHP, and boycotted by the CHP and the BDP (Ciddi, 2011). 27 of the 28 proposed amendments passed with less than 2/3 of the votes in parliament and were therefore submitted to a public referendum as a whole. The CHP appealed the entire package to the Constitutional Court, but the Court only made minor changes to the articles relating to judicial reform before approving the package for a referendum vote. The package

passed the referendum with 58% voting for it and a voter turnout of 73% (European Commission, 2010).

The AKP proposed and voted for this amendment package. They argued that contrary to the assertions of the opposition, this package was broadly supportive of the aim of democratic consolidation. They fiercely denied that the point of the package was to strengthen their own political position, and asserted that these reforms were good for the democratic functioning of the country as a whole. They represented a blow to the anti-democratic regime established by the 1982 constitution (CNN Türk, 2010).

The CHP portrayed this package as an attack on the democratic structure of the Turkish government. In a letter posted on the CHP's website its head Kemal Kılıçdaroğlu argued that in proposing this amendment package the AKP was undercutting the foundations of the rule of law and of democracy in Turkey. By attempting to bring the judiciary under the control of the government, the AKP undermined the foundations of the rule of law and the basic separation of governmental power. He further argues that the government unilaterally prepared these amendments without seeking any sort of input or consensus from the opposition parties or society at large, and thus society has been deprived of the opportunity to weigh in on the individual amendments. By passing the package as a partisan bill and then putting it up for a single up-down vote by the public, the AKP is ensuring that people must either vote for the antidemocratic amendments that increase its power over the judiciary or reject the positive amendments that improve Turkey's human rights protections. In light of these concerns the CHP boycotted the parliamentary vote on the amendments, attempted to have the package annulled by

the Constitutional Court on the grounds that it undermines the basic idea of the rule of law that the constitution is founded upon, and when the Constitutional Court failed to do more than require changes to two of the amendments, the CHP encouraged its supporters to reject the amendment at the ballot box (Kılıçdaroğlu, 2010).

The MHP voted against the amendment package on many of the same grounds that the CHP opposed it. However, the MHP said that they did not support the CHP's tactics as an oppositional party. Rather than refuse to participate they would take part in the democratic process and thus register their opposition to the bill. The MHP also took issue with the CHP's decision to refer the package to the Constitutional Court in an attempt to annul it, rather than simply allow the public to decide through a referendum. Society should decide (which it ultimately did, since the Constitutional Court refused to annul the entire package,) rather than the courts. They also stressed the fact that the AKP did not seek any consensus in producing the amendments, and asserted that the constitution, which represents and protects all members of society, should be amended with input from all sides of society, rather than as a partisan project. The MHP encouraged its constituents to vote against the package in the referendum, but allowed for the possibility of its passage by stating that it would accept society's decision either way.

The BDP boycotted the parliamentary vote because the proposed changes to the constitution did nothing to address Kurds' demands for reform. Chief among these demands was a change in the threshold number of votes required for a party to receive seats in parliament. Currently a party must receive at least 10% of the national vote in order to receive any seats in parliament. This high threshold has kept Kurdish parties from running for parliament; Kurdish parliamentarians

must run as independents and then band together to create a voting block after they have been elected. The BDP thus boycotted the parliamentary vote and encouraged its supporters to do the same in the referendum, and voter turnout for the referendum was indeed lowest in the primarily Kurdish southwestern provinces of the country (Herzog, 2010).

EU

The EU's response to this amendment package in its 2010 Progress Report can be characterized as somewhat supportive. Effort was made to highlight the ways in which this amendment package furthered Turkey's accession process and constituted a move towards harmonization with the Copenhagen criteria. But nearly every positive mention was accompanied with the caveat that more progress needs to be made, or that further changes will be required. The following paragraph both summarizes the overall reporting on the constitutional changes and provides an example of the emphasis put on the necessity of further progress.

"With regard to fundamental rights, progress has been made. Constitutional amendments bring important changes in the area of data protection, trade union rights, women and children's rights. However, further significant efforts are needed in most areas, in particular freedom of expression and freedom of religion. Turkey's approach to minority rights remains restrictive" (European Commission, 2010).

Analysis

The Council of the European Union's Accession Partnership documents for Turkey lay out sets of goals that are divided into short- and medium-term objectives. The lists are fairly broad; for example the first Accession Partnership of 2001 includes geopolitical aims (resolving the Cyprus problem,) constitutional issues (strengthening guarantees of fundamental rights,) and more practically oriented aims (creating better training regimens for law enforcement and judicial officers) (Council of the European Union 2001). In what follows I will focus on the constitutional issues raised by the Council since constitutional reform is the subject of this thesis. I wish to acknowledge here, however, that the Accession Partnership documents lists goals beyond the scope of constitutional reform, and thus that constitutional reform is only part of the overall picture of relations between Turkey and the EU.

2001: The Beginning

The 2001 Accession Partnership lists a number of constitutional issues that needed to be addressed before the Council would certify that Turkey had made enough progress on the Copenhagen criteria for membership negotiations to begin. The short term goals begin with strengthening protections for freedom of expression and bringing those protections in line with Article 10 of the European Convention on Human Rights.[1] The Accession Partnership

[1] Article 10 states:
1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.
2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for

specifically notes in this context the situation of people imprisoned for expressing non-violent opinions. Next come strengthening protections of freedom of association and peaceful assembly and the related development of civil society. The Council called on Turkey to take measures to fight torture and to align pre-trial detention practices overall with the European Convention on Human Rights. Furthermore the Council called on Turkey to provide legal avenues for redress against violations of human rights and to improve in general the functioning of the judiciary. Under this latter heading the Council specifically highlighted the State security courts as needing reform. Finally for the short term goals the Council mentions maintaining the moratorium on the death penalty and removing language restrictions in broadcasting.

The medium-term reforms called for by the Council include guaranteeing "full employment by all individuals without discrimination… of all human rights and fundamental freedoms," especially the freedoms of thought, conscience, and religion. The Accession Partnership also calls on Turkey to make in the medium term whatever constitutional reforms are necessary to bring protections of fundamental rights and freedoms up to the level of the European Convention on Human Rights, to abolish the death penalty, to reform the National Security Council, and to ensure cultural rights and diversity for all citizens (Council of the European Union, 2001).

Turkey's response to this list of EU demands was its 2001 National Programme for the Adoption of the Acquis. In this document the Turkish government went into great depth explaining the changes it intended to make in the short- and medium-terms to fulfill the terms set out by the EU. The Programme has sections dedicated to each of the specific demands set out in the Accession

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the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

Agreement. The section on the political Copenhagen criteria begins with "freedom of thought and expression", under which Turkey pledged to review provisions on human rights and freedoms in general and in particular those related to the expression and dissemination of ideas, science, the arts and the press. Under "freedom of association and peaceful assembly, and the civil society" Turkey promised to review any articles of the constitution relevant to the rights to association and collective action and to strengthen protections for NGOs and "the institutions for social and economic democracy". Under "pre-trial detention" Turkey promised to review the specific provisions of the constitution on pre-trial detention. In terms of "improving the functioning and effectiveness of the judiciary, including the State Security Courts", Turkey stated that it would review the constitutional provisions on the functioning of those courts, as well as enshrining the right to a legal defense in the constitution. The government furthermore promised to review articles of the constitution pertaining to the death penalty and the use of languages other than Turkish in broadcasting, while still maintaining that the sole official language of the Republic of Turkey is Turkish. The government also promised to align the constitution overall with the European Convention on Human Rights and Fundamental Freedoms. It also promised in a separate section dedicated to the National Security Council to review the status and functioning of that body (Council of Ministers, 2001).

In recounting these provisions in such detail I wish to highlight the extent to which the 2001 Programme addressed the specific recommendations in the Accession Partnership. The Programme had dedicated sections explaining concrete steps it intended to take to fulfill each demand of the Accession Partnership. Many of the titles of these sections were pulled directly from the Accession Partnership, and the protections of fundamental rights and freedoms and the

reform of the National Security Council were each discussed in more than one place. The length and the level of detail in the Programme suggest that the Turkish government was highly motivated to fulfill the conditions laid out by the European Union in 2001.

The constitutional amendment package of 2001 also closely follows the reform agenda laid out in the 2001 Programme. The 34 amendments passed included the removal of restrictions on freedoms of speech, press, and association, including broadcasting in languages other than Turkish. Constitutional provisions on pre-trial detention and the death penalty were revised and the right to a fair trial was enshrined in the constitution. The provisions governing the National Security Council were revised to allow greater civilian representation in and control over the Council. Equality between the spouses in marriage was also established as a constitutional right (Türkiye Büyük Millet Meclisi, 2001).

Although the 2001 reform package did not go as far in some areas as the EU had asked for (the package restricted but did not eliminate the death penalty, for example,) the reforms that were passed were predominantly in areas that the EU had highlighted as needing specific attention in the 2001 Accession Partnership. Of the three proposed amendments that did not pass in 2001, only one was related to EU demands (it would have recognized the supremacy of international agreements over domestic laws.) The other two failed amendments involved domestic political concerns; they would have lifted a restriction that prevented Erdoğan from becoming prime minister when the AKP came to power in 2002 and limited parliamentary immunity from prosecution. The overall alignment of the amendment package with the goals set out in the National Programme for the Adoption of the Acquis, which in turn followed very closely the

demands laid out by the Council, suggests that in 2001 the demands made by the EU as conditions for membership were in fact major motivating influences for constitutional reform in Turkey.

The fact that the final package passed with the support of 95% of the votes in parliament also indicates that support for the EU-inspired amendments crossed partisan lines. Had the vote been closer, it would be easier to make the argument that domestic politics was the driver of these reforms because some parties would have seen advantages in adopting a pro-EU stance, while others would have opposed it. This voting pattern in fact plays out in later amendment packages, but in 2001 there was almost no partisan disagreement reflected in the final vote in which 474 of the 499 MPs in office at that time supported the package. Thus an examination of the 2001 data set suggests that the EU was in fact the major driver of reform at that time, since the amendments that passed fulfilled specific pledges that Turkey had made in response to EU demands, and there was very little partisan disagreement in the final vote totals for the amendments.

2003-2004: Pre-Negotiation

The 2003 Association Partnership document published by the Council sets out a number of areas that the EU determined at that time still required work on Turkey's part. However, there were far fewer items that specifically targeted constitutional reform than in the 2001 Association Partnership. Areas that were related to constitutional reform included guarantees for people accused of crimes to have access to legal counsel and "in law and practice the full enjoyment of human rights and fundamental freedoms by all individuals without discrimination" (Council of

the European Union, 2003). They also included implementing reforms in the areas of freedom of expression and the press, especially by bringing the constitution in line with the relevant provisions of the European Convention on Human Rights and addressing the situation of people imprisoned for non-violent expression of opinion. The Accession Partnership also highlights the freedoms of thought, conscience and religion; cultural diversity and cultural rights; and access to broadcasting in other languages than Turkish. It calls for reforms to bring the National Security Council under civilian control and to reform the judicial system, especially the State Security Courts (Council of the European Union, 2003). Overall however there are fewer constitutional provisions in the 2003 Partnership document, and several of those simply reiterate demands made in 2001. In addition, the many of the demands made in 2003 are less targeted than those in 2001.

Turkey's 2003 National Programme for the Adoption of the Acquis responds by highlighting the progress made since 2001. The opening paragraphs of the section on the political Copenhagen criteria explain in detail all the changes, constitutional and otherwise, that Turkey had made in response to the 2001 Association Partnership. The list is long, and I will not go through it here since it reiterates everything I discussed above (Council of Ministers, 2003). But the tone comes across as slightly defiant; the EU made a long list of demands in 2001 that Turkey fulfilled, and now it is being called upon to enact further reforms, this time spelled out in less detail than before. However, the Programme then elaborates on reforms it intends to make in nine general areas, which again mirror the sections of the Accession Partnership. Fewer of these relate to constitutional reform, however, since many reforms called for by the EU had already been passed in 2001.

That being said, the 2004 constitutional amendment package did address many of the remaining concerns listed in the 2003 Accession Partnership. It eliminated the last references to the death penalty from the constitution. It included an article that established the supremacy of international laws and treaties over domestic laws. It abolished the State Security Courts and took steps to bring the military under civilian control. It also expanded protections of the freedom of press and explicitly guaranteed women equal rights to men (Türkiye Büyük Millet Meclisi, 2004). It was also, like the 2001 amendment package, passed with broad support in parliament. In 2004 the AKP and the CHP were the only two parties in parliament, and both supported the amendments. Partisan divisions over the package were minor compared to what was to come. The CHP complained that the AKP had blocked an amendment that would have limited parliamentary immunity, but again this was a domestic concern rather than an EU-driven one, and it did not prevent the CHP from supporting the final package which did reflect EU preferences.

Up to this point all the data points in the same direction. The EU made demands in its Accession Partnership documents, Turkey acknowledged those demands in its National Programmes for the Adoption of the Acquis, and then passed constitutional amendments addressing those demands. When some of the reforms passed in 2001 were criticized in 2003, Turkey passed further reforms in 2004 that addressed the EU's criticisms. Both the Annual Progress Reports of 2001 and 2004 acknowledged the effort Turkey expended to meet the criteria laid out in the Accession Partnerships. The Progress Reports each time, however, emphasized that while substantial improvements to the legal code (both the constitution and sub-constitutional legislation) had

been made, implementation of the legal changes was necessary in order to bring the reality in practice into alignment with the aims laid out in the legal reforms.

Post-2005 Accession Documents

In 2005 the EU formally opened accession negotiations with Turkey, beginning a new chapter in EU-Turkish relations. The Council published a new Accession Partnership document, which made a few new demands including establishing an Ombudsman system, and in terms of enhancing civilian control over the military, the specific request that the parliament be allowed to audit the military budget. Many of its provisions, however, rehash issues raised in previous Accession Partnership documents. Calls for transparency in government, independence and efficiency in the judiciary system, and protection of freedoms of expression, the press, religion and conscience all echoed earlier demands. Many of the issues in the 2005 document are more broadly worded than in previous versions, calling on Turkey to continue to ensure implementation of changes that had already been made or to do things like "promote human rights (Council of the European Union, 2006)." Overall the 2005 Accession Partnership makes fewer demands relating to constitutional issues, instead preferring to encourage continued implementation of changes that had already been made.

These general tendencies continued in the 2008 Accession Partnership. While some specific constitutional changes were requested, like the establishment of a national ombudsman, many of the issues highlighted were raised in broader terms. For example, under the heading "freedom of religion" the Accession Partnership stated that Turkey must "Take the necessary measures to

establish an atmosphere of tolerance conductive to the full respect of freedom of religion in practice" (Council of the European Union, 2008). These general pronouncements reflect the fact that the majority of the constitutional changes necessary to meet the EU's demands were made in the 2001 and 2004 amendment packages. What remained, from the EU's point of view, was to put the changes into practice. Without widespread and effective implementation, the constitutional changes remain just so many words on paper.

On the other side, Turkey did not publish a new National Programme for the Adoption of the Acquis in response to the 2005 Accession Partnership document, and the section of its 2008 Programme on the Copenhagen political criteria begins with the assertion that "Turkey has completed comprehensive constitutional and legislative reforms and has taken necessary steps rapidly in order to implement these reforms" (Council of Ministers, 2008). The Programme then lists the many specific reforms Turkey put into place to meet the EU's demands. The introduction to the political criteria section concludes by stating that what was now needed was not more reforms, and not even implementation of reforms, but *improvement* of the implementation that was already in progress. Following the introduction is a series of sections responding specifically to areas identified in the Accession Partnership document. Many of the issues, however, are addressed by stating that implementation of reforms on that particular issue will continue. In fact the word "continue" appears 56 times in this section (Council of Ministers, 2008).

The 2008 Programme makes clear that by that point Turkey considered itself to have successfully passed the vast majority of reforms called for by the EU and resented the EU's

continued focus on issues that Turkey considered settled or that at least actively being pursued. The shift in tone between the pre- and post-2005 Accession Partnership documents suggests that the EU also recognized that most of its specific constitutional grievances had been addressed in the amendment packages, but that it remained frustrated by the lack of societal changes that would reflect a sincere desire by the government to put many of these reforms into practice. As I will explore in the next section, the amendments passed after 2005 also represent a change from the 2001 and 2004 amendment packages and reflect the fact that most of the required constitutional reforms had been passed by the time accession negotiations between Turkey and the EU began.

Post-2005 Constitutional Amendments

The constitutional amendments passed after accession negotiations were opened in 2005 are much more focused on domestic political concerns than the previous amendments were. Of the remaining three amendment packages I will examine, those of 2007, 2008, and 2010, only some of the 2010 amendments were linked to specific demands made by the EU in the Accession Partnerships.

The 2007 constitutional amendments represented a direct response by the AKP to the domestic political situation in 2007. The military and some segments of society were unhappy with the AKP's presidential picks, and the Constitutional Court invalidated the first presidential election because since the CHP boycotted vote, a quorum of MPs had not been met and thus the vote was invalid. In response the AKP called for an early general election and passed the 2007

amendment package, which changed the method of selecting the president from a parliamentary vote to a direct public election and also established a constitutional 1/3 quorum for all parliamentary business. Neither of these changes had been called for in the Accession Partnership documents, and both were direct responses to the parliamentary impediments thrown up by the CHP.

The 2008 amendment package lifting Turkey's decades-old ban on headscarves in public universities was also not directly related to the EU's demands, although the AKP did argue that it improved women's rights and strengthened equal access to education. However, after the Constitutional Court invalidated the amendments on the grounds that they represented a threat to secularism, the EU did not protest. The 2008 Progress Report describes them but does not use the types of positive language seen in the 2001 and 2004 Progress Reports, although it does reprimand Turkey for failure to consistently implement reforms (Commission of the European Communities, 2008).

While the 2007 and 2008 amendment packages were not directly related to the EU's demands for reform, the 2010 amendment package did include amendments that addressed some of the demands seen in the post-2005 Accession Partnership documents. An office of the ombudsman was established, protections of women were strengthened and protections of children and the disabled were made more explicit. The package also included amendments eliminating military courts' jurisdiction over civilian cases and expanding protections of trade unions (Türkiye Büyük Millet Meclisi, 2010). These changes did reflect prior EU demands, but a number of other changes were included in the package that had little to do with EU demands. Changes to the

makeup and functioning of the Constitutional Court and the Supreme Council of Judges and Public Prosecutors were portrayed by the opposition parties as a power grab by the AKP, which in turn characterized those amendments as falling under the EU's general admonition to reform the judiciary and strengthen Turkish democracy.

Results

All of these post-2005 amendment packages were proposed by the AKP and voted against (and sometimes boycotted) by the CHP and other opposition parties. This represents a sharp change from the pre-2005 amendments which enjoyed broad parliamentary support and did not require referenda to become law. At the same time, the post-2005 amendments were much more focused on domestic concerns, while the pre-2005 amendments largely made changes demanded by the EU. Since the post-2005 amendments were more focused on domestic politics and the subject of much more bitter partisan fights, it seems clear that those amendment packages were primarily driven by domestic political concerns. Having made that conclusion, it is reasonable to apply that logic backwards in time and attribute the earlier amendments primarily to domestic political actors as well. This was the conclusion I expected to come to before I conducted my analysis of the data. In the earlier period, domestic political pressure aligned with the EU's demands, and thus EU-related reforms were passed. After accession negotiations were opened in 2005, the domestic political scene shifted and thus domestic pressures were not aligned with EU demands, resulting in amendment packages unrelated or at best only partially related to the accession process.

However, I believe the analysis of my data leads to a somewhat different conclusion. During the 1999-2005 time period, the EU was the primary driver of constitutional change in Turkey. Only once the bulk of the changes the EU demanded had been fulfilled did domestic politics begin to have a greater effect on constitutional change.

The first two amendment packages I examined, in 2001 and 2004, were almost completely dedicated to making changes that the EU spelled out in the 2001 and 2003 Accession Partnership documents. In fact amendments proposed in 2001 that would have addressed domestic, rather than EU, concerns did not receive enough votes to be included in the final amendment package. The fact that EU-related amendments received broad cross-partisan support while amendments addressing domestic concerns were contested and ultimately failed to pass in 2001 mirrors the overall process of constitutional reform examined in this thesis. Reforms driven by domestic politics were uniformly contentious, whereas EU-driven reforms were broadly supported by both main and opposition parties.

In 2010, when EU-related reforms were included in a package together with reforms of more domestic importance by the AKP, the CHP's opposition was focused on the domestic-facing reforms rather than the EU-related ones. The CHP boycotted that vote because of its concerns with the domestically driven amendments, and criticized the AKP for not allowing separate votes on each set of amendments. But the CHP's problems with the domestic amendments outweighed its support for EU-driven amendments in the package. However in 2004 the CHP did support that year's amendment package, even though the AKP blocked inclusion of a domestically-focused amendment that the CHP had tried to include. Again, when the EU was the primary driver of constitutional change domestic political interests were subsumed by the drive towards fulfilling the EU's criteria, but after the majority of the EU's constitutional demands had been met and its continued demands were much less specific, domestic politics took over as the primary motivator of support for or opposition to constitutional change.

A close reading of the accession documents coming from both Turkey and the EU also supports the conclusion that the EU was the primary driver of reform prior to 2005, whereas after 2005 the EU took a back seat to domestic politics. The 2001 and 2003 Accession Partnership documents both spell out specific constitutional issues that the EU wanted Turkey to address. The 2001 and 2003 National Programmes for the Adoption of the Acquis likewise offer specific pledges for reform, at times worded almost identically to the demands of the Accession Partnerships. After the 2004 constitutional amendment package was passed, however, the 2005 and 2008 Accession Partnership documents focus much less on constitutional issues. They introduced a few new demands, like the establishment of an office of the ombudsman, and they made more broadly worded demands, like the promotion of human rights, but there were fewer references to constitutional issues overall after the 2004 amendments. In the same vein the 2008 National Programme for the Adoption of the Acquis makes fewer concessions in terms of reforms that Turkey still needs to make. The beginning of the document highlights all the reforms already passed, and the remainder generally pledges to continue implementing or to improve the implementation of those reforms. The implicit message is that by that point Turkey had already passed almost all of the original reforms that the EU had asked for, and therefore gave less weight to the EU's continued, less-specific demands for constitutional reform.

To summarize, an examination of all of these documents together reveals a sharp break in the process of constitutional reform around the time that accession negotiations were opened in 2005. Prior to that point the EU asked for reforms in specific constitutional areas, Turkey acknowledged the EU's concerns and then passed reforms that addressed those concerns. Reforms related to issues of purely domestic concern were not included in the final amendment

packages, and when those final packages were put up for votes they received broad support from across the political spectrum. During this period the EU was the primary driver of constitutional reform, and the political parties buried their differences in order to fulfill the EU's demands. However once the EU's demands had largely been fulfilled by the amendments passed in 2001 and 2004, domestic politics took primacy. After 2004 the EU's demands for constitutional reform were much fewer and less specific, and, having made the reforms they felt necessary to fulfill most of the EU's demands, Turkish political parties began to use the constitutional reform process to fulfill their own domestic goals. Amendment packages passed after 2004 were much less focused on EU concerns and much more domestically contentious, as they were primarily driven by domestic political concerns.

In conclusion I must divide my initial prediction into two parts. The first part was that the slowing of the accession process and the dearth of EU-oriented reforms while other domestically related reforms were passed shows that Turkey's domestic politics have been primarily responsible for driving constitutional reform since 2005. Having analyzed the data, I concur with this part of the prediction. However, the second part of my prediction, that since domestic politics was the primary driver of constitutional change after 2005, it should logically be seen as the driver pre-2005 as well, I now disagree with. This study suggests that the EU was the primary driver of constitutional reform prior to 2005, since all the amendments that were passed addressed EU concerns and the amendment packages of 2001 and 2004 were supported by parties from across the political spectrum, and neither of these two things were the case after 2005. It was only after the EU-driven reforms had largely been completed that domestic politics became the primary driver of constitutional reform.

Conclusion

A division exists in the scholarship on Turkish-EU relations between authors who attribute Turkey's democratization in general, and constitutional reform in particular, primarily to the influence of the EU or to domestic political parties. Scholars in the first group led by Schimmelfennig and Sedelmeier generally subscribe to the external incentives model of EU conditionality, wherein the EU offers rewards to candidate countries in order to induce democratic reforms in those countries, with the process ultimately ending in membership in the EU for the candidate countries (Schimmelfennig & Sedelmeier, 2004). On the other hand, scholars such as Tocci who attribute primacy to domestic political actors call attention to the variations in the pace of reform which suggest that domestic political actors only pursue EU-oriented reforms when those reforms happen to also advance the actors' domestic political goals (Tocci, 2005).

This study focuses specifically on Turkey's constitutional reforms passed since it became a candidate country in 1999. My initial prediction was that an examination of the accession documents, the reforms, and the political parties' positions on those reforms would concur with the second school of thought described above, that Turkey's constitutional reform was primarily driven by domestic political actors. However, my results indicated that the EU was the primary driver of reform during the early years of Turkey's candidacy, up through the 2004 amendment package. After that reform package, the majority of the EU's demands for constitutional change had been addressed, and subsequent reforms were primarily driven by domestic political concerns.

This suggests that in the right circumstances, the EU can exert a powerful influence in third-countries' democratization efforts as Schimmelfenning and Sedelmeier argued. However, that influence is not unlimited. In Turkey the limit was reached after the government passed the majority of the constitutional reforms that the EU had initially called for. But Turkey is a unique case. Never before has the EU attempted to incorporate a country as large as Turkey. The smaller post-Soviet countries of the Eastern Enlargement are the usual point of comparison for Turkey's accession process, but the comparison is imperfect at best. Apart from sheer size, the post-Soviet countries dealt with massive social and economic collapse after the Soviet Union disintegrated. While Turkey has had its fair share of economic woes, it has not had to rebuild its entire political and economic infrastructure from scratch; Turkey's founding as a modern country happened nearly 100 years ago. In addition to these structural issues, Turkey differs from previous enlargements in terms of religion and culture. Whether 'European identity' extends to Muslims with cultural and economic ties to the Middle East seems doubtful today. Schimmelfennig and Sedelmeier's external incentives model of conditionality has hit its limits in Turkey, and beyond those limits Tocci's arguments about the primacy of domestic political actors better describe Turkey's process of constitutional reforms post-2005. Ultimately both domestic politics and EU pressure have influenced the course of Turkey's democratization broadly and its constitutional reforms in particular, but to different extents during different time periods.

Schimmelfennig and Sedelmeier's external incentives model of conditionality is correct with respect to Turkey's constitutional reforms, but only up to a point. At the beginning of Turkey's

accession process the demands from the EU were clear, and Turkey passed constitutional reforms aimed at fulfilling the conditions set by the EU in order to attain the immediate incentive of beginning accession negotiations and eventually the longer-term incentive of full EU membership. The reforms passed in 2001 and 2004 set the stage for the EU to open negotiations in 2005 in a process aligned with the description in the external incentives model of conditionality.

Prior to 2004 the EU set conditions for Turkey in the Association Partnership documents, published in 2001 and 2003. In each of those years Turkey published a National Programme for the Adoption of the Acquis that promised to fulfill the demands made in the Accession Partnership documents. Then Turkey followed through, in 2001 and 2004, with amendment packages that addressed the bulk of the issues raised by the EU. After the 2004 amendment package had been enacted, the demands listed in the EU's Accession Partnership documents of 2005 and 2008 were much less about constitutional reform and more about the application of those reforms in practice. Turkey's 2008 National Programme for the Adoption of the Acquis as well focused much less on how it would fulfill the EU's demands and much more on how it had in fact already met most of the EU's demands for constitutional change. And the constitutional reforms passed after 2004 reflected this, largely addressing domestic political issues that were not part of the EU reform agenda. However it was not until the EU reforms had largely been made that the focus shifted to domestic concerns.

Tocci et al. are therefore also correct in arguing that domestic politics have driven democratization and constitutional change in Turkey, but only in the period since the 2004

amendment package was passed. This alternate line of argument in the literature largely emerged after 2004, after the EU-driven constitutional reforms were already complete. From that point on, domestic politics were the driving force behind Turkey's constitutional changes, as shown by the level of partisan fighting over the post-2004 amendment packages as well as the number of amendments passed that did not specifically address EU concerns. However this alternative to the external incentives model of conditionality does not fully explain the data from my 2001 and 2003-2004 case studies, that is the alignment of EU demands, Turkish pledges, and amendments passed with broad support from across the political spectrum.

To summarize, once the constitutional reforms demanded by the EU had been made by Turkey, subsequent reforms were driven by Turkish, rather than EU, interests. Thus by examining the elements of constitutional change in Turkey, this thesis agrees with the external incentives model described above, that EU demands were the primary driver that constitutional change. This was only true, however, so long as substantial EU demands were yet to be met. Once the bulk of the changes asked for by the EU had been achieved after the 2004 amendments, there was little left for the EU to ask for and thus subsequent changes were driven primarily by domestic political actors. So in a sense this thesis splits the difference between the two main interpretations of EU-Turkish relations; so long as the EU was calling for constitutional change it was the primary driver, but after those changes had been made primary agency reverted to the domestic political actors, whose concerns are revealed in the substance of the subsequent, post-2005 amendments as well as the partisan fights surrounding the votes on those amendment packages. Thus both arguments in the literature are shown to be right in a limited sense when it comes to Turkey's constitutional reforms.

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Appendix: Party Acronyms and Platforms

Parties currently in government:

AKP	Adalet ve Kalkınma Partisi	Justice and Development Party	Moderate Islamicist
CHP	Cumhuriyet Halk Partisi	Republican People's Party	Kemalist
MHP	Milliyetçi Hareket Partisi	Nationalist Movement Party	Nationalist
BDP	Barış ve Demokrasi Partisi	Peace and Democracy Party	Kurdish

Additional parties in government when the 2001 amendments were passed:

DSP	Demokratik Sol Parti	Democratic Left Party	Social Democratic
ANAP	Anavatan Partisi	Motherland Party	Nationalist
SP	Saadet Partisi	Felicity Party	Islamicist
DYP	Doğru Yol Partisi	True Path Party	Conservative