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Conditionality for EU Compliance: The Turkish Case***

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Revisiting the Role of Credible EU Membership Conditionality for EU Compliance: The Turkish Case

Beken SAATÇIOĞLU*

ABSTRACT

Credible EU conditionality is theorized as a central mechanism for bringing EU candidates to comply with the political membership criteria. The literature on conditionality's domestic impact does not sufficiently explore the possibility of democratic reforms in the absence of credible conditionality. This paper tests this alternative hypothesis by studying Turkey under the rule of the AKP (2002-2009). It is argued that notwithstanding the falling credibility of the conditional membership perspective for the ruling actors after 2004, Turkish compliance persisted because it promised political benefits to the government. This finding highlights that domestic governments' belief in conditionality is not a necessary condition of compliance with the EU.

Keywords: EU Conditionality, Credible Conditionality, EU Compliance, Compliance Costs, AKP.

AB'ye Uyum için AB Üyelik Şartlılığı İnandırıcılığın Rolüne Yeniden Bakış: Türkiye Örneği

ÖZET

AB'nin şartlı üyelik politikasının inandırıcılığı aday ülkelerin siyasi üyelik koşullarını yerine getirmesi için önemli bir mekanizma olarak görülmektedir. Aday ülkelerde demokratik reformların AB şartlılığı inandırıcı olmasa da gerçekleşebileceği olasılığı yazında yeterince araştırılmamıştır. Bu çalışma bu olasılığı AKP döneminde Türkiye örneği (2002–2009) üzerinden tartışmaktadır. 2004'ten itibaren Türkiye'nin koşullu tam üyelik perspektifinin inandırıcılığı azalmıştır; ancak buna rağmen AB şartlarına uyum hükümete siyasal fayda sağladığı için sürdürülmüştür. Bu bulgu hükümetlerin AB şartlılığına olan inancının AB'ye uyum açısından bir ön koşul oluşturmadığına işaret etmektedir.

Anahtar Kelimeler: AB Şartlılığı, İnandırılabilir Şartlılık, AB'ye Uyum, Uyumun Maliyeti, AKP.

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Introduction

Since it was formally launched at the European Union (EU)'s June 1993 Copenhagen Summit, EU political conditionality has been central for the liberalization of post-Communist Central and Eastern European countries (CEECs) aspiring to EU membership. The 2004 and 2007 enlargements have seen these countries adopt – with varying speed and success – the EU's Copenhagen democracy criterion (i.e. “stability of institutions guaranteeing democracy, the rule of law, human rights, and respect for and protection of minorities”) which lies at the core of conditionality.¹¹

It is widely acknowledged that conditionality's success in eliciting compliance from EU applicants largely owes to its credibility for the ruling parties in candidate states. Conditionality is a strategy of “intergovernmental reinforcement by reward”² a credible EU membership perspective (one that credibly links membership to democratic compliance) is considered key to accession countries' compliance, which may otherwise not occur.

The necessity of credible conditionality for democratic compliance has been insufficiently tested in the literature. Empirical studies of conditionality's impacts have generally neglected the alternative hypothesis that EU adjustment can also happen in the absence of a credible membership perspective. Is it possible for candidate governments to comply with the political criteria even when they do not believe that this will guarantee membership? If so, what will motivate such compliance?

This paper addresses these questions by studying Turkey under the rule of the Justice and Development Party (*Adalet ve Kalkınma Partisi*-AKP) (2002-2009). Following an initial period marked by a credible membership prospect (2002-2004), AKP faced the EU's reversal of credible political conditionality due to the Union's increased emphasis on conditions other than the political criteria (i.e. the EU's “capacity to absorb” Turkey) on the one hand and increasingly questionable commitment to Turkey's full membership on the other. Indeed, it could be argued that in the post-2004 period, the credibility of Turkish accession linked to democratization hit record lows and membership became a distant target (even if it were to happen) in the context of the slow-moving, partially deadlocked accession negotiations. Two factors justify a focus on the AKP and more generally, the Turkish case. First, as stated above, the credibility of conditionality has varied under the AKP. This allows us to sufficiently test the importance of this variable for compliance by determining whether the variation before and after 2004 causes parallel changes in the dependent variable. Second, among all EU candidates competing for membership, Turkey is the strongest test case for the EU's ability to influence domestic reforms when the credibility of the link between these and membership is questionable. In general, political conditionality is least credible in Turkey since the EU's concerns about absorption capac-

¹ The terms “conditionality” and “political conditionality” are used interchangeably throughout the paper. Conditionality is essentially understood as “linkage” (i.e., linkage between compliance with the political criteria and EU accession).

² Frank Schimmelfennig and Ulrich Sedelmeier (eds.) *The Europeanization of Central and Eastern Europe*, New York, Cornell University Press, 2005.

ity and member-state reservations about membership are most intense regarding Turkey. Thus, studying AKP's fulfillment of the EU criteria allows us to reach generalizable claims about the possibility of compliance under weakly credible conditionality.

The paper seeks to explain AKP's overall trend of compliance rather than the adoption of specific reforms under the various aspects of the political criteria. Despite the variations in EU credibility, the AKP complied – if not fully – with the EU's democracy condition by legislating many of the reform measures mentioned in the European Commission's progress reports. I first analyze the EU's application of conditionality regarding Turkey to assess its credibility over time. I then introduce original compliance data for a precise quantitative measurement of the dependent variable, which so far lacks in the existing analyses of EU compliance. Last, I argue that the extent to which the AKP believed in conditionality was irrelevant to compliance. Rather, the party's adoption of political reforms was motivated by political instrumentality. The EU reform agenda promised the AKP electoral benefits and political survival on the domestic political scene, which influenced compliance throughout the period of AKP rule.

The Basis of Credible EU Conditionality

The original argument on the credibility of conditionality was developed by Frank Schimmelfennig and his colleagues. Accordingly, this hinges on two factors: (1) consistency in the EU's official application of conditionality³ and (2) a credible membership perspective.

The consistency of conditionality stems from the so-called “community context”⁴ surrounding the EU: So long as all EU candidates are asked to fulfill the same membership conditions based on the EU's constitutive liberal norms over time, and the Union's enlargement decisions are consistent with candidates' compliance, target state governments will perceive conditionality to be credible. Hence, they will come to believe that the EU does not discriminate among applicants and fulfilling the official EU membership criteria will enhance their chances of membership.

The second component of credible conditionality is realized when the EU officially commits to integrating EU applicants as full member states. This happens within the context of an ongoing accession process where the EU upgrades applicants' accession status (in parallel to their preceding compliance with the membership criteria) by offering them intermediate, official steps towards membership.

As far as EU conditionality regarding Turkey is concerned, these aspects were generally present in the period before late 2004. As acknowledged by prominent EU scholars who have studied Turkey, EU conditionality finally assumed credibility after the

³ Ibid., p. 15. See also, Karen Smith, “The Evolution and Application of EU Membership Conditionality”, Marise Cremona (ed.), *The Enlargement of the European Union*, Oxford, Oxford University Press, 2003, p.105-140.

⁴ Frank Schimmelfennig, Stefan Engert and Heiko Knobel, *International Socialization in Europe: European Organizations, Political Conditionality and Democratic Change*, New York, Palgrave Macmillan, 2006, p. 8.

Union offered Turkey official candidate status at Helsinki in December 1999.⁵ Indeed, the Helsinki announcement restored the EU's commitment to Turkey's membership which was severely damaged following the December 1997 Luxembourg European Council's refusal to grant candidate status at that time. Hence, a credible membership perspective was finally offered to Turkey. At the same time, conditionality was consistently applied in the sense that the EU's official decisions concerning Turkey systematically linked the prospect of EU accession to Turkey's need to fulfill the Copenhagen criteria (especially, the political criteria). As the December 2002 Copenhagen Council most significantly explained: "If the European Council in December 2004 [Brussels Council], on the basis of a report and a recommendation from the Commission, decides that Turkey fulfils the Copenhagen political criteria, the European Union will open accession negotiations with Turkey without delay."⁶

However, starting in late 2004, the credibility of conditionality began to fall at an increasing pace. On the one hand, the EU launched membership negotiations with Turkey only after it passed the necessary democratic legislation ensuring its sufficient compliance with the political criteria.⁷ Hence, the Union successfully signaled that democratization was central to membership. In other words, the threat of exclusion from the Community in the event of non-compliance was used effectively. Yet, the promise of membership on the basis of democratization was not so certain, leading Turkish politicians to doubt that democratic compliance would necessarily result in membership.

First, on the eve of the December 2004 Brussels Council which would decide on membership negotiations with Turkey, the EU started to place greater emphasis on the so-called "absorption capacity" requirement for accession.⁸ Since Turkey's full membership raises exceptionally high "absorption costs" for the EU,⁹ the Union's invocation of this condition effectively signaled that Turkey's accession would be far more difficult than any other EU candidate's (if it would happen at all), irrespective of Turkish compliance with the political membership criteria. Indeed, as the Commission argued in its October 2004 paper: "Turkey's accession would be different from previous enlargements because of the combined impact of Turkey's population, size, geographical location, economic, security and military potential, as well as cultural and religious characteristics."¹⁰ Specifically, the Commission acknowledged that Turkey's membership would have a substantial impact

⁵ Ibid, p. 9.

⁶ European Council, *Copenhagen European Council, 12 and 13 December 2002, Presidency Conclusions*, Brussels, 29 January 2003, para. 19.

⁷ European Council, *Brussels European Council 16/17 December 2004: Presidency Conclusions*, 2004.

⁸ First mentioned by the June 1993 Copenhagen Council, the condition was more explicitly recognized by the December 1997 Luxembourg Summit: "[T]he accession of the different applicant States will depend on the extent to which each complies with the Copenhagen criteria and on the Union's ability to assimilate new members." European Council, *Luxembourg European Council Presidency Conclusions, 12-13 December 1997*, paragraph 26.

⁹ For a detailed discussion, see, *inter alia*, Neill Nugent, "Turkey's Membership Application: Implications for the EU", *Jean Monnet/Robert Schuman Paper Series*, Vol. 5, No. 26, August 2005.

¹⁰ European Commission, *Issues Arising from Turkey's Membership Perspective*, 2004, p. 4.

on the EU's budget and "[t]he structural problems in Turkey [would] represent a major challenge for cohesion policy, of a similar scale to the [2004] enlargement."¹¹ Its recommendation on Turkey's progress towards accession (also issued in October 2004) further reflected this spirit: The concerns in several EU member states about the repercussions of Turkish membership influenced the Commission's decision that negotiations should be conducted based on stricter terms than those previously offered to other candidate states.¹² Hence, the recommendation suggested that Turkey's framework for negotiations should "reflect the specific challenges related to [its] accession."¹³ Regarding the issue of free movement of Turkish labor to the EU for instance, it mentioned the possibility of "long transition periods" and a "permanent safeguard clause", "to avoid serious disturbances on the EU's labor market."¹⁴

The December 2004 Brussels Council launched membership talks with Turkey based on its sufficient fulfillment of the Copenhagen political criteria. However, it also endorsed the Commission's emphasis on EU absorption capacity and ruled that special arrangements should be considered regarding key areas such as freedom of movement of persons, structural policies and agriculture.¹⁵ These assessments were also incorporated in the 2005 Negotiating Framework document. Clearly, the Framework reflected the persistent debate among EU member states on the desirability of Turkish accession as well as the consequences of the latter for the EU market and budget.¹⁶ It thus signaled that Turkish membership would be extremely difficult notwithstanding its democratic compliance and even if it happened, Turkey would be a second-class EU member state due to the special measures that may be adopted to safeguard EU policies.

The EU's increased focus on absorption/integration capacity was formally incorporated in the Union's general policy on enlargement in 2006. In the context of the so-called "enlargement fatigue" following the EU's May 2004 expansion (and in view of the 2007 enlargement), the December 2006 European Council endorsed the Commission's new enlargement strategy which would form "the basis for a renewed consensus on enlargement."¹⁷ Accordingly, the EU formally acknowledged that further enlargement would depend not only on candidates' respect for the membership criteria but also factors on the EU's side, namely, the Union's capacity to integrate new member states and Euro-

¹¹ *Ibid.*, p. 7.

¹² Nugent, "Turkey's Membership Application", p. 5.

¹³ European Commission, *Recommendation of the European Commission on Turkey's Progress towards Accession*, 2004, p. 7.

¹⁴ *Ibid.*, p. 5.

¹⁵ European Council, *Brussels European Council 16/17 December 2004*, p. 7.

¹⁶ Sandra Lavenex and Frank Schimmelfennig, "Relations with the Wider Europe," *Journal of Common Market Studies*, Vol. 44, No. 1, 2006, p.140.

¹⁷ European Council, *Brussels European Council 14/15 December 2006, Presidency Conclusions*, 2006, p. 2.

pean public support for enlargement.¹⁸ By explicitly introducing new formal conditions for enlargement which were not as rigorously sought of the previous EU candidates, this decision further lowered conditionality's consistency. As a result, since Turkey is the "costliest" EU candidate regarding both conditions, the credibility of the EU's linkage between membership and compliance with the political criteria (i.e., conditionality) fell further.

In the post-2004 period, in addition to lowered consistency in the EU's application of conditionality, the credibility of Turkey's membership perspective also decreased. The December 2004 Brussels Summit can be considered to be the first EU decision which questioned Turkey's prospect for full membership despite its official EU candidacy status. The Summit decided that Turkey's membership negotiations would be "open-ended" and may result in the "strongest possible bond" (short of full membership) in the case of insufficient fulfillment of membership obligations.¹⁹ The "strongest possible bond" mirrored envisaged alternatives to Turkey's full membership the most prominent of which was the "privileged partnership" status voiced by German Christian Democrats led by Angela Merkel and Austrian Chancellor Wolfgang Schüssel ahead of the Brussels Summit.²⁰

Although Turkey's membership talks were formally launched in October 2005, the Negotiating Framework that was adopted on the same day fully endorsed the Brussels Summit's conclusions. Hence, negotiations began on an open-ended basis with the possibility of a status less than membership, and one that had not been foreseen for any other EU candidate.

The credibility of the membership perspective fell further in December 2006 due to the partial freeze in membership negotiations. The suspension concerned eight *acquis* chapters following Turkey's refusal to extend the Ankara Protocol to Greek Cyprus. In addition, the EU decided that no chapters would be provisionally closed until Turkey complied with this condition. This, coupled with the subsequent deadlock over the negotiation of eleven additional chapters (six of which were unilaterally blocked by the Greek Cypriot administration and five by France), effectively slowed down Turkey's accession process. It thus became increasingly evident that negotiations would not be completed in the foreseeable future. Consequently, full membership – even if it were to happen – became a distant target for Turkey.

In summary, the EU's inconsistent application of conditionality (especially regarding the absorption capacity requirement), as well as the absence of a credible members-

¹⁸ These were explained, respectively, as the "consolidation" of the EU's existing commitments and "communication" of enlargement to the European public (Ibid., p. 2). For an extended discussion, see also the Commission's 2006 Enlargement Strategy Paper, available at http://ec.europa.eu/enlargement/pdf/key_documents/2006/nov/com_649_strategy_paper_en.pdf.

¹⁹ European Council, *Brussels European Council 16/17 December 2004*, p. 7.

²⁰ For a detailed discussion, see, Cemal Karakas, "Üye Olmadan Entegrasyon Mümkün mü? Türkiye'nin AB Üyelikinin Hukuki Dayanakları ve Tam Üyelik Alternatifleri", *Uluslararası İlişkiler*, Vol.4, No.16, Winter 2007-2008, p. 23-49.

hip perspective in the post-2004 period, led the AKP government to increasingly question the link between democratization and membership. As Turkish Prime Minister Erdoğan stated in reacting to the negotiation terms envisaged by the December 2004 Brussels Council: “Turkey is being faced with tougher criteria compared to other candidate countries. No other country had to wait for 41 years at Europe’s door. We have fulfilled all the criteria, but despite this Europeans are hesitating.”²¹

More recently, AKP members publicly voiced their disbelief in membership. In October 2010, Erdoğan once again reacted to the “various hurdles” blocking Turkey’s membership path.²² On another occasion, he revealed that his government has been informed “behind the scenes” by some “candid European ministers” about the often-mentioned reasons underlying the EU’s reluctance towards Turkish membership but that the EU should not exclude Turkey if it is not a Christian club.²³ Former AKP member and President Gül also admitted in an interview that Turkey may never have an “EU year” due partly to the “obstacles” raised by the EU on the road to membership.²⁴ Even more explicitly, Turkey’s Chief EU Negotiator Egemen Bağış argued that prejudice in Europe against Turkey constitutes the biggest obstacle on Turkey’s progress towards accession.²⁵

AKP’s Compliance: The Primacy of Domestic Political Incentives

As a center-right party rooted in the Islamist tradition, the AKP assumed power in November 2002 with promises of economic betterment and a commitment to “conservative democracy” reminiscent of the ideology of Europe’s Christian democrats. In foreign policy, the party made full integration with the EU its top priority and pledged a reformist course irrespective of the realization of EU membership.²⁶

In line with this commitment, AKP successfully led Turkey’s EU accession process by adopting six major legislative reform packages as well as several constitutional amendments, which led to the opening of membership negotiations with the EU in October 2005.²⁷ The party was re-elected in the July 2007 and June 2011 parliamentary elections, remaining officially attached to EU membership and liberal reforms.

²¹ “Turkish leader warns of terror wave if EU rejects membership”, *The Times*, 13 December 2004.

²² “EU puts up hurdles to block Turkey’s membership”, *Hürriyet Daily News*, 4 October 2010.

²³ “Susmayacağız, Fatih’in Yavuz’un kemikleri sızlar”, *Hürriyet*, 13 June 2010.

²⁴ Sedat Ergin, “Gül’den AB Çıkışı”, *Hürriyet*, 16 April 2010.

²⁵ “Turkey must overcome bias on path to EU”, *Hürriyet Daily News*, 30 April 2010.

²⁶ For an extended discussion on the AKP’s background and ideology, see William Hale and Ergun Özbudun, *Islamism, Democracy and Liberalism in Turkey: The Case of the AKP*, London, Routledge, 2010, p.3-29.

²⁷ For more information on AKP’s reforms, see *ibid.*, p.55-67.

Figure 1
Political Compliance

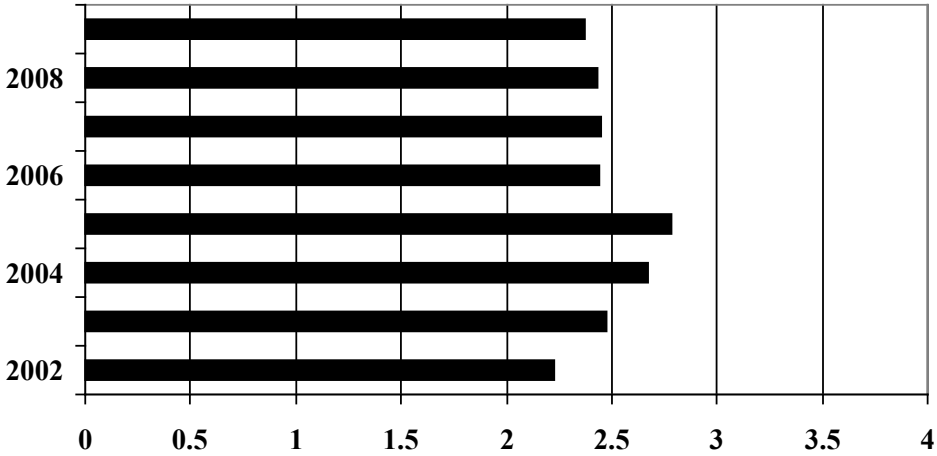


Figure 1 shows AKP’s compliance with the EU’s democracy condition for accession. It reflects the measurement of democratic compliance as the legal adoption – rather than implementation – of the political criteria. Since the Commission documents compliance, the data was extracted from the Commission’s annual progress reports on Turkey. The following ordinal scale was used to code compliance:

0 = No compliance: The government does not consider reforming or rejects reforms (i.e., no debates within the government about reforms, no draft laws, no legislation).

1 = Verbal compliance: The government supports reforms without legally binding itself (i.e., via its program, preparation of draft laws or press statements).

2 = Legal compliance (Stage I): The government finalizes a draft law and/or submits it to the parliament for a vote.

3 = Legal compliance (Stage II): The parliament debates and/or votes on the proposed law.

4 = Legal compliance (Stage III): Laws are passed by the parliament.

The compliance scores²⁸ range between 2.23 and 2.78, and converge around the median score of 2.47/2.5. While this suggests little variation among the individual scores, it is possible to differentiate two broad compliance patterns: pre-2005 increasing compliance and post-2005 stagnant compliance. These trends are consistent with the Commission’s

²⁸ These are 2.23 (2002), 2.47 (2003), 2.66 (2004), 2.78 (2005), 2.44 (2006), 2.44 (2007), 2.42 (2008), 2.37 (2009). For a detailed explanation of how the values were calculated, see Appendix.

qualitative evaluation:²⁹ Turkey's democratic compliance continued to rise under AKP (following previous reform efforts triggered by the candidacy status) but the pace of reforms slowed down starting in late 2005. The variation also mirrors the literature's analysis of EU reforms in two periods: the "golden age of Europeanization" (2002-October 2005) which lasted until the opening of EU membership talks and the period of "loose Europeanization" (October 2005-present).³⁰

What accounts for this variation? As explained above, the credibility of conditionality for the AKP was high before 2004 and fell increasingly thereafter. While it is plausible that a relatively high belief in conditional membership may have factored into the initial, rising compliance trend (2002-2005), there is evidence to suggest the irrelevance of such a belief for AKP's compliance. First, although the AKP government faced a generally credible, conditional membership perspective in the pre-2004 period, it could be argued that it anticipated the fall in credibility even before the EU's official decision at the December 2004 Brussels Summit. AKP members –especially Erdoğan–lobbied EU leaders prior to the summit and were thus aware of the divisions among member states about the desirability of Turkish membership (with German Christian Democrats pledging to block Turkey's full membership prospect if they assumed power in the 2005 election, France promising a referendum on it in October 2004 and Austria insisting on a privileged partnership). Hence, at least throughout 2004, when the Turkey debate among member states intensified in view of the Brussels summit, the AKP had reasons to doubt the link between democratic reforms and membership. Still, compliance rose from 2003 to 2004.

Second, compliance continued to rise from 2004 to 2005 despite the lowered credibility of conditionality. Third, although compliance fell from 2005 to 2006, it is not clear that this was induced by the AKP's decreased perceptions of credible conditionality since the reduced 2006 compliance (2.44) approximates the score for 2003 (2.47) when conditionality was relatively credible. Last, compliance did not decrease after 2006 when the AKP's belief in conditionality was lowest due to the European Council's adoption of a new enlargement strategy (which further reduced the consistency of conditionality) and the decreased credibility of Turkey's membership in the context of the slow-moving, partially deadlocked membership negotiations.

Consequently, it would be fair to argue that the extent to which AKP believed in conditionality did not matter for its compliance. Rather, domestic political calculations seem central to the party's reform commitment. For analytical purposes, AKP's political incentives for reforming will be discussed in two categories: electoral and survival. While the former relates to the implications of EU compliance for the AKP's electoral popu-

²⁹ European Commission, *Turkey 2005 Progress Report*, 2005, p. 41.

³⁰ Ziya Öniş and Şuhnaz Yılmaz, "Between Europeanization and Euro-Asianism: Foreign Policy Activism in Turkey during the AKP Era," *Turkish Studies*, Vol.10, No.1, 2009, p.13.

larity, the latter centers on how the EU reform process would foster the party's political standing as a party with an Islamist pedigree in Turkey's secular political environment. From the start, both incentives crucially shaped AKP's EU policy.³¹

Electorally, an EU reform agenda promised the AKP popularity both among the general electorate and among the party's narrower, religious constituencies during its initial years in office (2002–2004/5). Such a program would, on the one hand, ensure the party greater electoral support from the Euro-enthusiastic Turkish public, which was optimistic about the possibility of membership (the strongest measure of which was raising public support levels for membership). Therefore, investing in democratic reforms facilitating membership would boost the AKP's electoral power. Of course, this is not to suggest that reforming for the EU would by itself guarantee AKP's victory at the polls. Rather, the argument is that such a strategy would enhance AKP's electoral chances, all else being equal on the domestic economic front. In Turkey, electoral outcomes are by and large determined by parties' economic policies and performance.³² Seen in this context, committing to the EU membership goal becomes a crucial election issue for parties due to the prevailing economic meaning of EU admission for the Turkish electorate.³³

On the other hand, focusing on EU-led democratization would allow the AKP the opportunity to increase its share of the vote among religious constituencies that had tied their hopes of enlarged religious freedoms (i.e., removal of the Islamic headscarf ban in Turkey's public institutions) to the EU process in Turkey's secular environment.³⁴

As seen in Figure 2, public support levels for EU membership were high and rose consistently until fall 2004. This suggests Euro-enthusiasm in the sense that people were optimistic about membership,³⁵ in line with the EU's consistently pursued conditionality

³¹ Marcie J. Patton, "AKP Reform Fatigue in Turkey: What has happened to the EU Process?", *Mediterranean Politics*, Vol.12, No.3, 2007, p.342.

³² This is especially true for the AKP. Survey evidence shows that voters support AKP out of economic expectations rather than ideological/conservative beliefs. Ersin Kalaycıoğlu, "Politics of Conservatism in Turkey," *Turkish Studies*, Vol.8, No.2, 2007, p.233–252.

³³ EU membership is popular among the Turkish electorate mainly due to its perceived economic benefits. Indeed, the EU's Eurobarometer surveys (e.g., Candidate Countries Eurobarometer – CCEB 2001 and 2003.4, available at: http://ec.europa.eu/public_opinion/archives/cceb2_en.htm, and Eurobarometer 62, 2004, accessible at: http://ec.europa.eu/public_opinion/archives/eb62/eb62_en.htm) consistently show that the majority of Turkish people – more so than any other CEECs' publics surveyed – associate membership with economic wealth and jobs.

³⁴ See, e.g., Effie Fokas "The Islamist Movement and Turkey-EU Relations", Mehmet Ugur and Nergis Canefe, (eds.), *Turkey and European Integration: Accession Prospects and Issues*, London, Routledge, 2004. Her interviews with conservative/Islamist respondents and AKP members reveal that expectations about enlarged religious and other freedoms (e.g., freedom of expression) proved crucial for triggering these constituencies' support for the EU process. Ibid. at p.154–55.

³⁵ As previous public opinion research has revealed, rising support for EU membership can be taken as a sign of optimism about its likelihood: "The Turkish electorate at large has very high expectations from membership and as their expectations and optimism about the possible membership grow, their tendency to support membership also grows." Ali Çarkoğlu, "Who wants full membership? Characteristics of Turkish public support for EU membership", Ali Çarkoğlu and Barry Rubin (eds.), *Turkey and the European Union: Domestic Politics, Economic Integration and*

and a credible membership perspective (Helsinki candidacy) in this period. In contrast, consistent with the falling credibility of membership starting with late 2004, the Turkish public grows Euro-skeptical (i.e., skeptical about the possibility of membership) in the 2004-2009 period, with support levels for EU entry ranging between 42% and 59%.³⁶

Figure 2: Turkish Public Support for EU Membership

| | Membership would be “a good thing” ¹ | Membership would be “a bad thing” |
|------|---|-----------------------------------|
| 2001 | 59% | 14% |
| 2002 | 65% | 13% |
| 2003 | 67% (Spring), 67% (Fall) | 11% (Spring), 10% (Fall) |
| 2004 | 71% (Spring), 62% (Fall) | 9% (Spring), 12% (Fall) |
| 2005 | 59% (Spring), 55% (Fall) | 20% (Spring), 15% (Fall) |
| 2006 | 44% (Spring), 54% (Fall) | 25% (Spring), 22% (Fall) |
| 2007 | 52% (Spring), 49% (Fall) | 22% (Spring), 25% (Fall) |
| 2008 | 49% (Spring), 42% (Fall) | 21% (Spring), 29% (Fall) |
| 2009 | 48% (Spring), 45% (Fall) | 26% (Fall), 26% (Fall) |
| 2010 | 42% (Fall) | 32% (Fall) |

Source: CCEB (2001-2003, 2004.1) and Eurobarometer (Autumn 2004, 2005-2010), available at, respectively: http://ec.europa.eu/public_opinion/archives/cceb2_en.htm, http://ec.europa.eu/public_opinion/archives/eb_arch_en.htm.

In addition to the reduced Euro-enthusiasm among the general electorate, the AKP’s electoral incentive to invest in EU democratic reforms as an instrument of popularity among its religious/conservative support base also fell in the post-2005 period. This was induced by the European Court of Human Rights (ECHR) November 2005 decision which stated – in response to a case brought by a Turkish university student, Leyla Şahin – that the Islamic headscarf ban in Turkish public institutions did not violate Turkish citizens’ freedom of religion or education. Although ECHR is not formally part of the EU, the ruling sent a strong signal to the AKP that the EU would not incorporate the ‘headscarf issue’ as a fundamental right issue in Turkey’s overall EU reform program. The ECHR decision reversed the AKP’s earlier conviction that the path of EU reform would enable individual expressions of religious faith and Islamic identity in the public sphere³⁷

International Dynamics, London, Frank Cass, 2003, p.186.

³⁶ See, Ali Çarkoğlu and Ersin Kalaycioglu, *The Rising Tide of Conservatism in Turkey*, New York, Palgrave Macmillan, 2009, p.129; and Patton, “AKP Reform Fatigue in Turkey”, p. 355. Rising Euro-skepticism is also evident in other survey data. Eurobarometer reveals that the Turkish people’s trust in the EU has declined over the years, hitting a low 38% in Summer 2009 (Eurobarometer 71). Additionally, a 2006 national survey found that two-thirds of Turks surveyed had no expectations of full membership in the EU. Çarkoğlu and Kalaycioglu, *The Rising Tide of Conservatism*, p. 127.

³⁷ Patton, “AKP Reform Fatigue in Turkey”, p. 348.

against the opposition of the secular military-judicial establishment. Consequently, it could be argued that the ruling changed AKP's electoral calculations in the EU process. As Carkoglu and Kalaycioglu explain, "now that the ECHR helped to sever the tie between donning the [headscarf] and the freedom of conscience ..., the EU could hardly be wielded as a shield against the enemies of political Islam in Turkey. ...It was after 2005 that the AKP government began to slow down its efforts at engaging in the accession negotiations."³⁸

Hence, the rising Euro-skepticism of the post-2004 period and the ECHR's 2005 decision reduced the AKP's electoral incentives for complying with the EU. This had a direct impact on the party's reform trajectory. As Figure 1 shows, political compliance rose consistently in the 2002-2005 period, fell back to the 2003 compliance level in 2006 and stagnated after. Clearly, the electoral incentives for adopting EU reforms are not as great for the AKP as they were during its initial years in office. In the post-2004 era, the AKP was faced with constituencies which are growing skeptical about EU membership and the EU's ability to foster religious freedom (e.g., via the removal of the headscarf ban) in Turkey.

A few particular aspects of the data demand further elaboration. First, compliance rose from 2004 to 2005 despite a significant fall in public support levels for EU membership from 71% in Spring 2004 to 55% in Fall 2005. At first glance, this seems to cast doubt on the relationship between the AKP's broader electoral calculations linked to public Euro-enthusiasm and compliance. However, the argument proposed here is that there is more to the AKP's compliance than a simple incentive to please the general electorate via EU reforms. Equally important for the party's reform trajectory is the crucial motivation to use the EU agenda to appeal to a specific set of voters found in the AKP's religious base. Hence, it is the combination of incentives that shape reforms, rather than one or the other in isolation. As a result, what the 2004-2005 falling Euro-enthusiasm does is only a reduced increase – instead of a fall – in compliance compared to 2002-2004.³⁹ In addition, although support for membership falls, it was still above 50% at its lowest level in Fall 2005. This suggests that compliance still promised a certain level of electoral benefit to the AKP. At the same time, as will be elaborated below, independent from electoral calculations, the AKP faced a crucial survival incentive for fulfilling EU reforms, which additionally prevented a fall in compliance from 2004 to 2005.

Second, while compliance fell from 2005 to 2006 in response to the reduced electoral incentives, the 2006 compliance score was almost the same as the value from 2003 when these were higher. Furthermore, the 2006 value more or less persists in the subsequent period despite rising Euro-skepticism, displaying stagnation as opposed to de-

³⁸ Çarkoğlu and Kalaycıoğlu, *The Rising Tide of Conservatism*, p. 125. See also Ziya Öniş, "Contesting for the 'Center': Domestic Politics, Identity Conflicts and the Controversy over EU Membership in Turkey," *Working Paper*, No. 2, Istanbul, Istanbul Bilgi University European Institute, 2010, p.8.

³⁹ Compliance rises by 12 percentage points from 2004 to 2005 as opposed to 19 and 24 points in 2003-2004 and 2002-2003, respectively.

creasing compliance. These compliance trends seem to contradict the predictions based on electoral motives. However, as in the 2004–2005 period, the AKP’s survival incentive once again seems to be the crucial factor. This prevented compliance from falling further in 2006 and decreasing after 2006. It thus had a constraining impact on post-2005 compliance, nearly acting as a brake in the process. The fact that falling electoral incentives merely translated into stagnant compliance suggests that the government resisted the adoption of new legislation but did not withdraw previously adopted reforms. Logically, the implication is that the AKP ultimately had a powerful motive for keeping the EU reform agenda open.

Notwithstanding the shifts in electoral compliance calculations, the EU process serves as an instrument of political ‘survival’ to the AKP by giving it ‘breathing space’ as a party with Islamist pedigree in Turkey’s secular environment firmly guarded by the military and high judiciary.⁴⁰ Although the party has moderated its previously Islamist stance⁴¹ by adopting the agenda of “conservative democracy”⁴² in the model of Europe’s Christian democratic parties, its commitment to secularism has been scrutinized by Turkey’s secular elites ever since the AKP assumed power in 2002. Indeed, skepticism about AKP’s “hidden Islamist agenda” culminated in the closure case against the party in the Turkish Constitutional Court in March 2008. While the Court did not decide to close the party, it cut the party’s state funds by fifty percent on the grounds that AKP was a “focal point for anti-secular activities.” Suspicions about the AKP’s secular credentials have also emerged within the ranks of the Turkish military. While the military has transformed into a lesser political actor over the years, it did not hesitate to issue a memorandum on the Chief of the General Staff’s website in April 2007 to criticize what it saw as AKP’s Islamist activities. More significantly, since the military’s warning specifically targeted the AKP’s nomination of formerly Islamist Gül to the Presidency, it has been interpreted as a direct interference with the government’s democratic authority to nominate the presidential candidates.

Hence, in retrospect, it would be fair to argue that the EU process provides a shield for the AKP against the secular, statist forces that the party is confronted with on the domestic political scene. Democratic reforms adopted under EU conditionality directly seek to liberalize the Turkish political landscape. Measures targeting key areas such as the civilianization of politics and fundamental political freedoms (e.g., most significantly for the AKP, democratic legislation against party closings and in favor of freedom of expres-

⁴⁰ Hakan Yavuz, *Secularism and Muslim Democracy in Turkey*, New York, Cambridge University Press, 2009, p.3.

⁴¹ Founded in 2001, AKP is an offshoot of the Islamist Welfare Party (which was forced out of power by the military in February 1997 and later closed down by the Turkish Constitutional Court based on anti-secular charges).

⁴² As explained in the AKP’s 2002 Election Manifesto, this refers to the party’s pledge to promote secular democracy while preserving existing socio-cultural, moral and religious values that characterize Turkish society. See also Yalçın Akdoğan, “The Meaning of Conservative Democratic Political Identity”, Hakan Yavuz (ed.), *The Emergence of a New Turkey: Democracy and the AK Parti*, Salt Lake City, The University of Utah Press, 2006, p.49–65.

sion) strengthen the AKP's ability to survive as a center-right, conservative party without fearing anti-democratic interventions from the military-judicial establishment. To give a specific example, as a direct reaction to the April 2007 military e-memorandum, the AKP proposed, as part of its 2007 election campaign, a comprehensive constitutional reform package that would deepen "civilian" democracy. The package (which was accepted via popular referendum in September 2010) concerned 26 articles of the constitution and included key measures seeking to reduce the military's autonomy as well as accomplish judicial reform and introduce democratic checks against the high judiciary's authority to limit democratically elected parties' ability to govern via attempted party closings. While the specific constitutional amendments were not demanded by the European Commission in its progress reports, the substance of the package largely coincided with the spirit of the EU's political criteria and thus received the EU's wide support. Therefore, while the AKP's reform zeal has subsided after 2005, as this example illustrates, the party still has a strong incentive to capitalize on domestic reforms, which simultaneously favor Turkey's EU process. Indeed, the latter seems to be the principal mechanism via which the AKP can protect itself from antidemocratic statist-secularist forces.⁴³

Alternative Explanations

The principal alternative explanation for AKP's EU compliance consists of the socialization hypothesis: Could the AKP's EU adjustment have been induced by a normative process (i.e., internalization of the EU's democratic norms embedded in the Copenhagen criteria) rather than instrumental logic? A brief empirical analysis of AKP's reform policy makes this argument questionable. Basically, the intensity of the AKP's reform commitment has varied over time (as evident in the post-2005 stagnation in compliance) and among the several categories of the political criteria cited in the Commission's progress reports. While the party has shown strong commitment to reform by reducing the military's political influence, adopting judicial reform and enhancing freedom of association (principally via measures which would render the closing of political parties more difficult), as well as other issues such as enlarging the scope of minority rights and freedom of religion, its attachment to other democratic principles has not been so consistent.

Deviations from the party's formal liberal agenda have become especially pronounced after July 2007 when the AKP was re-elected with a record vote share (46.5 %) and started to rule with "an exaggerated sense of its own power."⁴⁴ In the post-2007 period, the AKP's political priorities seem to have practically shifted away from the pursuit of democratic norms.⁴⁵ This suggests that the gap between existing democratic legislation and implementation has widened, which can be taken as a sufficient measure that the

⁴³ Marcie Patton, *AKP Reform Fatigue in Turkey*, p. 356.

⁴⁴ Öniş, "Contesting for the 'Center'", p.9.

⁴⁵ For an extended discussion, see, Sebnem Gümüşçü and Deniz Sert, "The March 2009 Local Elections and the Inconsistent Democratic Transformation of the AKP Party in Turkey," *Middle East Critique*, Vol.19, No.1, 2010, p.62-68.

AKP has not yet fully internalized democracy as a norm.⁴⁶ The political attacks of the AKP leadership on peaceful democratic opposition and the media became increasingly abrasive around the time of the March 2009 local elections,⁴⁷ which raised eyebrows in EU circles. The Commission's 2010 Progress Report noted that AKP's pressures on the media "affect the exercise of freedom of the press in practice" and may result in self-censorship.⁴⁸ The EU's concerns even culminated in a specialized conference in May 2011, to tackle the restrictions over freedoms of the press and expression in Turkey (and the Western Balkans). The conference saw EU Enlargement Commissioner Stefan Fulle deliver his most critical messages to date, especially regarding the lack of transparency surrounding the arrests of prominent Turkish journalists and the confiscation of a not-yet-published book by Turkish authorities in March 2011.⁴⁹

Another explanation for AKP's sustained compliance with the EU lies in Turkey's deteriorating relations with the United States in the aftermath of the crisis over Iraq. The crisis was triggered by the Turkish parliament's March 2003 rejection of a motion, which would allow the US the right to open a northern front on Turkish soil to be used in the war against Iraq. This plunged US-Turkey relations to their lowest level since the 1970s and arguably pushed Turkey further towards the EU.

While it is plausible to assume that worsening relations with the US and the post-Iraq rampant anti-Americanism among the Turkish public may have intensified Turkey's pro-EU policy, the latter would most likely endure even in the absence of a crisis with the US. First, the seeds of Turkey's "Europeanization" were already firmly planted under the 1999-2002 coalition government which adopted key measures (especially, the August 2002

⁴⁶ The mismatch between legal rule adoption and rule execution is a good measure of weak (or non-existing) liberal democratic identity, as demonstrated by constructivist international relations literature. Hans P. Schmitz and Kathryn Sikkink, "International Human Rights", Walter Carlsnaes, Thomas Risse and Beth Simmons (eds.), *Handbook of International Relations*, London, Sage, 2002, p.523.

⁴⁷ Ersin Kalaycioglu, "Justice and Development Party at the Helm: Resurgence of Islam or Restitution of the Right-of-Center Predominant Party?" *Turkish Studies*, Vol.11, No.1, 2010, p.44.

⁴⁸ European Commission, "Turkey 2010 Progress Report", 9 November 2010, p. 21. Other issues that have not been as strongly tackled by the Commission but have nonetheless cast doubts on the AKP's normative liberal commitment include, *inter alia*, the violations of due process against political opposition forces under the so-called "Ergenekon" trials, the government's "anti-democratic" method (i.e., failure to consult with political parties and civil society on the proposed amendments) for adopting the September 2010 constitutional reform package, and the Islamization of Turkish society in the form of increased conservative pressures on non-observant Muslims (i.e., via the banning of alcoholic drinks in restaurants as well as pressures to attend the mosque prayers and fast during Ramadan) in exchange for job opportunities, etc., in institutions and municipalities controlled by AKP. Binnaz Toprak *et al.*, *Türkiye'de Farklı Olmak: Din ve Muhafazakarlık Ekseninde Ötekileştirilenler*, İstanbul, Boğaziçi Üniversitesi, 2008. As a result, some analysts have argued that Turkey is increasingly turning into a "civilian autocracy" under the AKP. Nuray Mert, "Darbe istemiyoruz, o ayrı", *Vatan*, 5 January 2010. Prominent political scientists have concluded that the AKP is using democracy instrumentally rather than having internalized it as a norm. Fuat Keyman, "Demokratsız demokrasi Türkiye'yi demokratikleştirebilir mi?", *Radikal İki*, 4 April 2010.

⁴⁹ Sedat Ergin, "AB'den tutuklu gazetecilere mesaj," *Hürriyet*, 10 May 2011.

reform package) that crucially influenced the accession process. Second, independent of disagreements with the US over Iraq in winter 2002, the Erdoğan government pledged a pro-EU policy based on domestic reforms as soon as the results of the November 2002 elections became available. Thus, AKP's domestic political calculations can ultimately be considered a more significant driver of EU compliance than relations with the US.

Conclusion

This article has tested the importance of credible EU membership conditionality for EU candidate compliance with the political accession criteria by studying Turkey. As the one case where conditionality is least credible, Turkey sheds light on the role of credible conditionality for domestic compliance with the membership conditions. The analysis of AKP's EU compliance generated three broad conclusions. First, the belief of domestic governments in the link between democratization and EU membership does not matter for their decisions to comply with the EU. Compliance can persist even if governments no longer face a credible membership perspective. The post-2004 inconsistencies in the EU's application of conditionality and the falling credibility of full membership did not prevent the AKP government from keeping a pro-EU reform agenda. Second and consequently, governments will reform under conditionality if they have domestic incentives for doing so. The AKP complied out of political incentives linked to electoral calculations and the need to 'survive' in a secular political environment as a party with a religious base and Islamist roots. Last but not least, the Turkish case confirms the relevance of explanations in the literature which highlight the instrumental nature of compliance with the EU.⁵⁰ The AKP's reform path mirrored political cost-benefit calculations more so than sociological factors. This is reminiscent of the compliance trend previously observed in former EU candidates (e.g., Bulgaria, Romania, and Slovakia).

⁵⁰ Schimmelfennig and Sedelmeier, *The Europeanization of Central*; Milada A. Vachudova, *Europe Undivided: Democracy, Leverage, and Integration after Communism*, Oxford, Oxford University Press, 2005.

Appendix

Coding Procedures

The compliance scores were calculated based on an ordinal scale ranging from 0 to 4. Since compliance is measured as legislation, the numbers on the scale correspond to the different stages of the legislative process. Scores ranging between 2 and 4 points show the concrete legal steps towards the adoption of EU-demanded laws as opposed to smaller values which at most reflect the government's non-binding commitment to compliance. The maximum score, 4, suggests that laws were adopted, thus completing the process of legislation.

Table 1: Categories of the Political Criteria

| Democracy and Rule of Law⁵¹ | Human Rights and Protection of Minorities |
|--|--|
| Parliament | Observance of International Human Rights Law - International conventions on human rights - Enforcement of human rights (ratification of international conventions) |
| Executive (including Public Administration) | Civil and Political Rights - Death penalty - Freedom from torture and fight against impunity - Prison conditions - Freedom of expression - Freedom of the press - Freedom of association and assembly - Freedom of religion |
| Civil-Military Relations (alternatively entitled as "National Security Council") | Economic and Social Rights - Gender equality - Labor rights and trade unions - Children's rights |
| Judicial System | Minority rights, Cultural Rights and Protection of Minorities - Cultural rights - Minority rights and protection of minorities |
| Anti-Corruption | |

⁵¹ The original Eurobarometer survey question is "Generally speaking, do you think Turkey's membership of the European Union would be: a good thing, a bad thing, neither good or bad?". See, also data on the same question for comparison. Transatlantic Trends, "Key Findings 2010," p.23-26, available at http://trends.gmfus.org/doc/2010_English_Key.pdf (Accessed on 27 July 2011).

Figure 1 shows the individual compliance values for the period under study (2002-2009). They were reached as a result of coding the qualitative political compliance data provided by the European Commission's yearly progress reports. Numerical codes (representing the different steps on the original scale) were assigned to the compliance information detailed in the "Political Criteria" section of these reports. In accordance with the formal definition of the political criteria ("stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities"), the Commission analyzes political compliance under two big categories entitled "Democracy and Rule of Law" and "Human Rights and the Protection of Minorities". Each of these categories further comprises sub-headings under which compliance with specific constitutive topics is discussed. Table 1 lists the components of the political criteria.

For each year, a compliance score was first calculated for the individual categories of the criteria represented in Table 1. Since rights-related (the right column in Table 1) categories further include sub-categories, their compliance scores represent the average of the compliance values assigned to each sub-category. For example, the compliance score for "economic and social rights" is the average of the compliance values calculated for "gender equality", "labor rights and trade unions" and "children's rights". Second, the scores for each category were averaged to reach a "democracy and rule of law" score and a "human rights and protection of minorities" score. Last, these two scores' average was calculated to reach a total compliance score for a given year. Table 2 shows the compliance dataset which includes the assigned scores to each individual category of the political criteria.⁵²

When calculating the average scores, simple averages were taken as opposed to weighted ones. This is because the Commission does not rank-order the given categories of the criteria; the categories are treated as equal in importance and should each be fulfilled for political compliance to occur. In addition, each year's compliance score is cumulative in the sense that it builds up on achieved compliance from the previous year. For example, if a 2002 legislation was kept in 2003, it was incorporated as 4 points in the 2003 score. If, however, it was withdrawn, it translated into 0 under the 2003 compliance value.

Examples

To illustrate how numerical codes were assigned, examples will be used. Let us assume that in 2004, the Commission discussed 25 legal issues under the "judicial system" category. 6 were adopted as legislation⁵³ (hence, 4 points each), 4 were at the parliamentary

⁵² A more detailed dataset can be obtained from the author upon request.

⁵³ All forms of legislation mentioned by the Commission were coded (i.e., entire laws, codes, specific articles in laws and the Constitution, regulations, international conventions).

stage (3 points each), 3 were only mentioned in the government's program as potential legal measures to be adopted (1 point each), 2 were finalized as draft laws only (2 points each) and 10 were neither adopted nor considered (0 point each). The compliance score for the 2004 judicial system category would be calculated as:

Total compliance divided by the number of legal issues (mentioned in the form of laws, codes, regulations, specific articles in laws and the constitution, international conventions to be adopted) raised by the Commission

Thus, in this example: $(6*4) + (4*3) + (3*1) + (2*2) + (10*0) / 25 = 1.72$

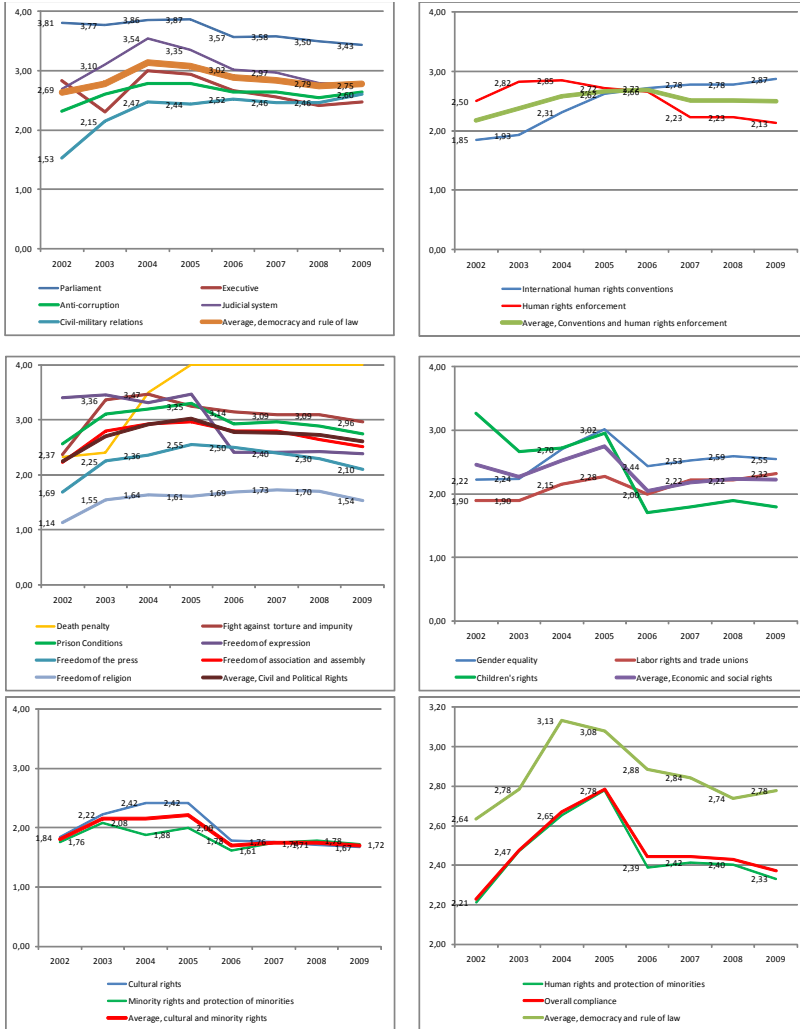
To further illustrate, the Commission's 2004 Progress Report's assessment on the judicial system included – among others - the following phrases:

- “A new Penal Code was adopted in September 2004...” (p. 24)
- “The Law of Notification was amended in March 2004” (p. 25).
- “The Commercial Code was amended in April 2004 so as to establish specialized courts to hear maritime cases” (p. 25).

Each of these phrases was given 4 points as they referred to the adoption of new or amended laws. Similarly, the phrase “... the minimum sentence under Article 159 of the Penal Code (‘insulting the state and state institutions and threats to the indivisible unity of the Turkish Republic’) has been reduced from one year to six months” (p. 30) mentioned under “Freedom of Expression” in the 2003 Progress Report was also given 4 points since it explained the adoption of an amended article. In contrast, articles or laws that were criticized by the Commission were each given 0 point since they needed to be amended or replaced by new democratic legislation. In addition, the specific laws that were demanded by the Commission but were not yet adopted were also assigned 0 point each. For example, in 2004, under the “Children's Rights” category, the Commission criticized a Penal Code article for being against the UN Convention on the Rights of the Child (p. 47) and mentioned, among others, that Articles 7 and 17 of the European Social Charter should be accepted. Each was given 0 point, hence translating in 3 legal measures to be adopted.⁵⁴

⁵⁴ Further illustrative examples are excluded due to space limitations and are available from the author upon request.

Table 2: Compliance by Categories of the Political Criteria



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