

The (In)visible Hand of the EU

How the EU has affected changes in Turkey's Asylum and Refugee Policy?



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Abstract

Previous literature on the Europeanization of candidate countries has lacked careful empirical investigations into *how* the process drives domestic policies to change in line with the EU acquis. Selecting on the least-likely case of Turkey and its refugee and asylum policy, I identify that previous work has assumed that Turkey's policy shifts have been driven by rationalist cost-benefit calculations of its government. The purpose of this study has been to empirically investigate and trace the mechanisms of Europeanization in the selected case, in order to thereby contribute to knowledge on the process of Europeanization in candidate countries in general, and address to the previous research gap. Given this purpose, I have aimed to produce answers to the research question: *how has the EU affected Turkey's asylum and refugee policy after the declaration of candidacy status?* I hypothesize that a rationalist model driven by the EU's conditionality can indeed explain domestic policy changes in Turkey, but also that an alternative mechanism of socialization has been at play. Tracing the process of Europeanization through secondary sources, the results show that what started with behavioral-adaptation of domestic policy change in alignment with the EU's laws, norms and demands between 1999 and 2010, between 2011 and 2018 the Turkish asylum and refugee policies started to step away from the push power of the external incentives. Nonetheless, significant domestic policy changes continued, suggesting evidence against the rationalist conditionality model of Europeanization in this period. However, I argue that the results are not strong enough to make the claim Turkey's domestic policy change was driven by a mechanism of socialization, but rather suggest there has been initiation of a switch between the mechanisms.

Key words: *European Union, Turkey, Europeanization, asylum and refugee policies, conditionality, misfit, socialization, external incentives, social learning, logic of consequences, logic of appropriateness.*

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1. Introduction

Turkey is a country located in the major passage between Europe, Asia, and Africa. Since the beginning of the Republic's establishment in 1923, Turkey has been experiencing three different migratory movements; emigration from, transit to, and destination to. Over time, alongside the migratory movements, Turkey has gone through significant changes with respect to its asylum and refugee policies and their underlying rationales. Originally, its migration policies were built on the aim of homogenizing society, emphasizing the ethnicity of 'Turkishness'. However, after the 1980s, the aim of creating a unitary ethnic society slowly started to fade away, and the country started to welcome people who are not only of Turkish descent and culture. As a result of changes within the spheres of economy and politics, mainly due to globalization and creation of international linkages between the countries throughout the world starting from the end of the Cold War in early 1990s, Turkey experienced pressures from both the international community and domestic actors to become more open in relation to migrants. The focus in thesis is on the role that can be attributed to the European Union (EU) in that process.

Because of its strategic geographical position, Turkey has an important role to the EU in terms of asylum and migration issues, and fighting against illegal migration. As noted already by Kirisci (2004: 76), 'the EU wants to see Turkey increasingly fulfill the tasks of a first country of asylum and develop a capacity to process asylum application as well as permit those who are granted refugee status to stay on in the country.' Over the last two decades in particular, Turkey has thus initiated a drastic shift in its migration management; that is within the legal and institutional framework, mainly in the direction of an open-border management and towards more rights-based asylum and refugee policies since the beginning of the 2000s. Previous scholarly work (Aydin & Kirisci, 2013; Yildiz, 2016; Kirisci, 2004; Börzel & Soylatin, 2012; Burgin & Asikoglu, 2017) has observed significant transitions in Turkish migration management since 1999. In particular, this is true after the Helsinki Summit, at which that European Council (EC) declared Turkey as a candidate country to the EU.

The declaration of candidacy status and the later negotiation talks in 2005 (Yildiz, 2016) led to a reform process where the government's aim of complying with the EU conditionality and harmonizing with EU laws and norms seemed to make Turkey a 'textbook example' when it comes to the introduction of legislation in line with the EU *acquis* (Aydin & Kirisci, 2013: 375). But what kind of transformation process has this been? Has the Turkish government mainly adapted to the EU conditionality out of instrumental concerns, which would signal the

possible presence of what in the literature has been called the ‘external incentives model’ of EU transformative power? (Schimmelfenning & Sedelmeier, 2004; Börzel & Soyaltin, 2012; Burgin & Asikoglu, 2017). This model of EU’s transformative power vis-à-vis candidate countries emphasizes the cost-benefit calculations of the political actor implementing domestic change. Policy adaptation is thus mostly behavioral according to this model (Schimmelfenning & Sedelmeier, 2004; Checkel, 2005). This is also what previous literature concerning Europeanization in Turkey’s case claim, pointing out that it has been characterized by the external incentives model (Akçay & Yilmaz, 2012; Aydin & Kirisci, 2012; Burgin & Asikoglu, 2017; Börzel & Soyaltin, 2017).

However, these are claims that have not been carefully empirically investigated, but rather demonstrated in broad strokes in the literature thus far. To what extent can the transformation of Turkish asylum and refugee policies can be explained by behaviorally by the external incentive model of conditionality, or by a value-based social learning model of socialization? That remains an open question, and the research gap that motivates this study.

1.1 Purpose and Research Question

The purpose of this thesis, therefore, is to further understand how Turkish asylum and refugee policies have developed in the light of the country’s EU relations and to empirically investigate whether or not shifts in Turkey’s asylum and refugee policy has solely revolved around strategic cost-benefit calculations, or whether these have been effects of an internalization of EU’s rules and norms. In order to do that, the point of departure constitutes the two major theories for understanding EU conditionality and its effects: external incentive and social learning. The thesis poses the following research question: *how has the EU affected Turkey’s asylum and refugee policy after the declaration of candidacy status?* I hypothesize specifically for the case of Turkey’s asylum and refugee policy that one cannot explain the policy changes of interest solely through the external incentives model, and that there is a need to consider other factors to explain the change. A rationalist model driven by the EU’s conditionality can indeed explain domestic policy changes in Turkey, but also that an alternative mechanism of socialization has been at play.

It is significant to note two important limitations to this study that are due to the limited time available. First: it solely focuses on the external effect of the EU on a candidate country, and thereby excludes the possible influence of the EU on Member States. As pointed out by Ozer (2010), the EU’s transformative power differentiates between Member States and

candidate countries, hence we observe a different influence of the EU on candidate countries. Additionally, I exclude the influence of domestic factors, such as domestic institutions, national NGOs and other related relations with international organizations, such as UNHCR, on the developments of Turkish asylum and refugee policies. I provide broad information on domestic politics, if necessary, but I do not discuss it in detail. However, mentioning the political environment in the period in question is still necessary, in order to provide a better understanding of the relations between Turkey and the EU.

Through studying the processes of adaptation of the EU acquis on asylum and refugee policies in Turkey, described in more detail below, I find that the external incentives model is too limited. While I claim that the legal and institutional change in the field of asylum and refugee policies was indeed pushed forward by the EU conditionality, I also make an emphasis on how domestic concerns and the political environment affected the policy changes; either negatively or positively.

The structure of the thesis is as follows. In the next section, I provide the historical background of Turkey's asylum and refugee policies from 1923 to 1999, including highlights of important pieces of legislation and agreements that shaped the period before the Helsinki Summit of 1999. In section three, I discuss previous literature on the transformative power of the EU and the mechanisms of Europeanization in general, as well as previous literature on Turkey-EU relations after Helsinki specifically, which leads me to identify the research gap. In the subsequent section, I develop an analytical framework based on previous scholarly work and explain the methodology employed in order to examine my hypotheses. This is followed by the empirical analysis in section five, in which I analyze the pull factor of the EU membership prospect on Turkey's asylum and refugee policy. Here, I investigate and discuss the correspondence between the European Commission's Annual Progress Reports on Turkey, which reflects EU conditionality and the EU legislation, and the legislation developed in Turkey for three subsequent crucial time periods. Finally, I provide an answer to my research question given the empirical findings, discuss remaining limitations, and provide conclusions and recommendations in section six.

2. Historical Background: Pre-1999

2.1 Turkey's asylum and migration policy pre-1999

After the collapse of the Ottoman Empire and the establishment of the new Republic of Turkey in 1923, the new political elite shaped the country's emigration and immigration policies along with their nation-building process, which was mainly revolving around the idea of modernization and Westernization. The modernization process focused on the homogenization of the Turkish society by eliminating ethnic and cultural differences within the country. Being of Turkish descent became a tool for the government to shape society and a major ideology (Kirisci, 2000). The importance given to Turkish ethnicity and culture was reflected in migration policies, as the Turkish government only accepted people who had Turkish origin and shared the same religion to immigrate to the country (Kirisci, 2000; Icduygu & Aksel, 2013). The *1934 Law on Settlement* was one of the most important pieces of legislation in the early years of the Republic that; (1) pointed out the aim of the government to strive for homogeneity of society as a way to create one national identity (Kirisci, 2000); and (2) initiated the first steps of Turkish migration management regarding conditions for immigration (Ibid). As Memisoglu (2014: 4) states, "one of the major legal sources of Turkish immigration law for decades, only 'a person of Turkish descent and who is attached to Turkish culture' could possibly migrate and settle in Turkey or acquire refugee status."

Another piece of legislation that affected Turkey's immigration and refugee policies at a later stage was the *1951 Geneva Convention on Refugees*, which laid down the definition of the term 'refugee'¹, and the rules that applied for the host countries; one of which was the principle of 'non-refoulement'. Non-refoulement means 'no contracting state shall expel or return ('refouler') a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion' (see: Geneva Convention, 1951). As Turkey is one of the signatory countries of the Convention, it accepted the principles and rules established by the United Nations (UN), with the exception of a geographical limitation that created a two-tiered asylum policy of Turkey that still applies to this day (Kirisci, 2007). That is, according to the geographical limitation clause, Turkey is to give the status of 'refugee' to asylum seekers with European nationality, while asylum seekers who are of non-European nationality are given

¹ According to the Convention, a refugee is someone who is 'owing to well-founded fear for being persecuted for reasons of race, religion, nationality, membership of a particular social groups, or political opinion is outside the country of his nationality and is unable or, owing of such fear, unwilling to avail himself of the protection of that country' (see: Geneva Convention, 1951).

a ‘temporary protection’ status, allowing them to stay in Turkey temporarily until Turkish authorities and/or United Nations High Commissioner for Refugees (UNHCR) finds them a third country to resettle (Memisoglu, 2014).

Turkish migration policy also experienced a significant turn during the Iranian Revolution in 1979, when Turkey experienced its first influx of people of non-Turkish descent, as Iranians were fleeing from the Revolution. For the asylum seekers from Iran, the Turkish government applied an open-door policy where Turkish authorities allowed Iranians to enter Turkey without any visa requirements and stay within Turkey for a temporary time. However, the Turkish government tried at the same time to resettle them to a third country (Aras & Mencutek, 2015; Kirisci, 2000). Thereafter, Turkey experienced a second and a third mass influx from Iraq in 1988 and 1991, respectively. Initially, Turkey applied a close-border policy, but because of international and domestic pressures, it opened up the borders. Turkey temporarily accepted Kurdish asylum seekers from Iraq without granting them a refugee status, through the reasoning of ‘protection of national security’, while working with UNHCR in order to find them a third country to resettlement (Aras & Mencutek, 2015; Kirisci, 2000).

Since the 1990s, finally, Turkey has experienced high levels of migratory movements (immigration and transit) from the Middle East, Africa and Asia as a consequence of the ‘globalization process that facilitated and boosted the movement of people as well as goods, technologies, ideas and finance’ (Icduygu & Aksel, 2013: 176). As Aras and Mencutek (2015: 198) claims, “the mass influx from the Middle East reflect the complex shifting nature of the refugee crises and relief efforts in the post-Cold War era as well as they present unique challenges for Turkey in terms of foreign and refugee policies. They appear as the main determinants of formulating a new refugee and asylum policy.”

As noted, Turkey to this day preserves the geographical limitation clause to the Geneva Convention. With the existence of the geographical limitation clause, Turkey does not have a legal obligation to accept refugees who are fleeing from non-European countries, making non-Europeans thus not eligible for refugee status or permanent residency in Turkey: ‘for non-European nationals, asylum in Turkey is temporary by nature’ (Euro-Mediterranean Human Rights Network, 2011: 7). As a result, Turkey did not have a well established refugee policy for the who did not have European nationality, something which increased the number of illegal immigrants in the country.

In order to deal with the refugees who are from non-European countries, Turkey established the *1994 Regulation*² (Kirisci, 2000). This regulation ‘defined the conditions for applying for asylum in Turkey; however, there still remained a limited opportunity to be recognized legally due to the geographical limitation clause of the 1951 Geneva Convention. The Turkish state did not lift the limitation and thus allowed only temporary asylum to non-European asylum seekers until they resettled in a third country’ (Icduygu & Aksel, 2013: 176). Because of its restrictive nature and the lack of the principle of non-refoulement, international organizations criticized the Turkish 1994 Regulation as not respecting the principles of human rights. Turkish authorities were however more concerned with the country’s national security. That is, they believed that members of the terrorist organization named Kurdistan Workers’ Party (PKK) were trying to seek asylum in Turkey (Kirisci, 2000; Kirisci, 2007). Nonetheless, as the Turkish government re-started to build the cooperation with UNHCR in the later 1990s, it took steps towards improving the 1994 Regulation and established amendments in accordance with the 1952 Convention (Kirisci, 2007).

2.2 Turkey’s relations with the EU pre-1999

The relations between Turkey and the EU (formerly European Economic Community, EEC) were initiated with the Ankara Agreement (also known as the Association Agreement) in 1963. It was requested in 1959 by the Turkish government, and signed in 1963 (Aybey, 2004). The Ankara Agreement prepared the relations on the basis of three stages; a ‘preparatory period, transnational period, and final period’ in order to create a Customs Union (Ibid: 24). The Ankara Agreement is a key treaty that created official relations between EEC and Turkey and brought Turkey closer to the Community (Usul, 2014; Aybey, 2004).

However, the Ankara Agreement did not give Turkey candidacy status to the Community. Only with the decisions of the Luxembourg European Council in 1997, did Turkey get recognized as an eligible country for consideration of candidate status for EU membership. During the Council, the leaders of the Member States agreed on the preparation of an accession strategy for Turkey with the aim of harmonization and alignment of Turkey’s domestic policies with the EU acquis. However, as the decisions only revolved around the *eligibility* of Turkey’s

² Full name: the *1994 Regulation of Procedures and Principles related to Possible Population Movements and Aliens Arriving in Turkey either as Individuals or in Groups Wishing to Seek Asylum either from Turkey or Requesting Residence Permission in order to Seek Asylum from Another Country*.

candidacy status rather than the *declaration* of its candidacy status, giving Turkey a to-do list, it created frustration among the Turkish government (Aybey, 2004; Webber et al., 2007).

Yet, with the Luxembourg European Council of 1997 declaring Turkey as one of the countries eligible for the candidacy to EU membership, the relations between Turkey and the EU did improve. The Turkish Foreign Ministry stated that it believed the possibility of full membership to the EU would lead the relations in a more positive direction (BBC News, 1998).

The European Council introduced the first progress reports for the candidate countries to EU in 1998, considering their accession towards the EU. Even though Turkey was not a candidate country until 1999, it started to receive the progress reports starting from 1998 onwards, because of its eligibility for candidacy status.

3. Theory and Previous Literature

3.1 Literature on the transformative power of the EU

The concept of Europeanization has been claimed to exist either as a top-down dynamic where the EU is the direct trigger of domestic policy change, or as a bottom-up dynamic where the development of European-level institutions is the outcome variable initiated by the domestic actors (Börzel & Risse, 2003; Ozcurumez & Senses, 2011; Burgin & Asikoglu, 2017; Schimmelfenning & Sedelmeier, 2004). Throughout the years, scholars have used the concept of Europeanization in various meanings which are attached to these two dynamics. The concept of Europeanization is therefore a broad term, that can generally be captured as a process that creates changes within ‘national politics and policy making’ in line with the EU (Ladrech, 1994: 69; Radaelli, 2003: 30). Therein, it is useful to point out the usage of Europeanization in this study; which indicates the process of domestic policy change in line with EU laws and norms that ends with policy adaptation in the candidate countries, in this case, Turkey.

As pointed out in previous literature (Terzi, 2005; Aydin & Kirisci, 2013; Ozer, 2010), the process of Europeanization differs between Member States and candidate countries. With regard to Member States, Europeanization is claimed to be the influence of integration on these countries’ domestic and national policies after their acquisition of membership; while in the candidate countries, Europeanization is ‘a process of change in national institutional and policy practices that can be attributed to [the goal of] European integration’ (in Lavenex & Ucarer, 2004: 419; Hix & Goertz, 2000: 27). Hence, in the latter case there exists ‘an asymmetrical

relationship which gives the EU more coercive routes to influence in domestic policy making processes' (Terzi, 2005: 118), which is driven by the EU's conditions (Aydin & Kirisci, 2013). Therefore, the top-down perspective of Europeanization mostly applies in this case, where the independent variable is the EU and its transformative power on public policy in a candidate country, and the outcome variable is the change in domestic policies and institutions.

To describe the drivers behind this transformative power, previous literature has referred to the EU's 'external incentives', which 'occur in a more diverse manner and include both formal obligations and informal dynamics' (Terzi, 2005: 114). The EU promises 'financial aid, market access or institutional ties' (Schimmelfenning, 2012: 8), or the prospect of membership if the candidate country comply EU's rules and demands. The EU's external effects can be said to lead to policy transfer (policy adaptation) in non-EU member countries in their 'policy, norms, specific policy instruments, policy programs, procedures, and institutional transfer involving, for example, the creation of specialized administrative agencies dealing with asylum and migration' (Lavenex & Ucarer, 2004: 420).

In order to become a member of the EU, a country further needs to meet the Copenhagen Criteria. The Copenhagen Criteria focuses on stable democracy, the rule of law, human rights and the respect of minorities in the Member States and candidate countries. The existence of the Copenhagen Criteria thereby shapes the EU's compulsory conditionality, which puts additional pressures on candidate countries to have domestic change in order to adapt to the EU policies, institutions and processes (Aydin & Kirisci, 2013). Europeanization can thus be said to be a policy change that is induced by the EU on candidate countries, where the existence of a misfit leads to adaptation pressures for harmonization of policies, institutions and processes with the EU's laws and norms. The Europeanization of candidate countries involves a complex procedure that includes technical and administrative adaptation, as well as internalization of EU norms and rules which eventually could lead to socialization (Ozer, 2010; Checkel, 2005).

Drawing on the definitions of EU's transformative power, we can argue that Europeanization can be seen as a process on Member states and candidate countries, that eventually leads to policy adaptation. Europeanization is a path which starts with the legislative changes without sufficient implementation, and ends with the transition into social learning, into socialization, as the actors learn the rules of the Community, internalize the norms and laws, thus fully implement the necessary policies.

3.2 The necessary condition of misfit and the logics of domestic change

It can be said that there are two conditions for domestic change; (1) existence of a misfit, which indicates that there is an incompatibility between the EU and the candidate country that creates a necessary condition for a domestic change; (2) however, 'to what extent such misfit translates into change depends on domestic institutions which mediate or filter the domestic impact of Europe' (Börzel & Soyaltin, 2012: 8). As Terzi (2005: 115) points out; "as policy misfits produce adaptational costs at the domestic level, the member states strive to 'upload' their policies to the European level not only in order to reduce their compliance problems but also in order to address problems that cannot be addressed effectively at the domestic level anymore."

The effort to eliminate misfit between EU-level domestic policies and institutions is explained on the basis of two logics (Terzi, 2005; Schimmelfenning, 2005): (1) the logic of consequences in rational choice institutionalism and (2) the logic of appropriateness in sociological/constructivist institutionalism (Börzel & Risse, 2003). Rational choice institutionalism focuses on the logic of consequences of domestic change, which states that political actors' behavior is shaped by strategic calculations of costs and benefits that comes from their opportunity-seeking interests (Schimmelfenning, 2005). Hence, according to rational choice institutionalism, actors perceive mending a misfit between EU and the domestic policy and institutions as an opportunity to further their interests (Ibid; Börzel & Risse, 2003), within which, the domestic policy change shows behavioral adaptation to the EU's conditionality (Checkel, 2005). According to this logic, if the cost of adaptation is lower than the incentive of potential reward, the policy change will occur (Schimmelfenning, 2005). Acquiring membership is seen as an opportunity or as a reward mechanism, where the change in policies and/or institutions occur in exchange of reward (Börzel & Risse, 2003).

While rationalist institutionalism centers on the logic of consequences, sociological institutionalism emphasizes the logic of appropriateness. This logic refers to the domestic policy change that occurs due to the actor's socialization, as they successively internalize EU's norms and rules by eliminating and/or making drastic changes to the policies that are misaligned with EU policies (Börzel & Risse, 2003). In this particular institutionalism, political actor's actions are driven by the desire to fulfill societal expectations, instead of maximizing their immediate political interests. Hence, the domestic policy change is based on value-adaptation which comes from the internalization of the EU's norms and laws (Checkel, 2005). From this perspective, Europeanization is a normative process (Börzel, 2001): an actor acts in certain way because it is an 'appropriate' thing to do given the context they are in (Terzi, 2005; Schimmelfenning & Sedelmeier, 2004). This refers to the 'emergence of new rules, norms,

practices and structures of meaning to which member states are exposed and which they have to incorporate into their domestic practices and structures' (Börzel & Risse, 2003: 70). Checkel (2005) describes Europeanization as a process of socialization which indicates actors' and/or institutions' adaptation of EU norms and rules; 'its outcome is sustained compliance based on the internalization of these new norms' (Checkel, 2005: 804). This means that in additional contrast to the logic of consequences, the logic of appropriateness suggests that change in the domestic arena occurs because of the adaptation of rules and norms internally, rather than making changes on the surface to receive the reward from the EU (Ibid).

3.3 Mechanisms of Europeanization: Connecting the Dots

Within the framework of Europeanization, it can thus be stated that there are two main mechanisms which indicate the influence of the EU: (1) conditionality, and (2) socialization (Schimmelfenning & Sedelmeier, 2004; Schimmelfenning, 2012). In this thesis, we can see both mechanisms as a spectrum with conditionality on one side and socialization on the other. Therefore, the degree of transformative power of the EU falls either at the endpoles of the spectrum, or close to the middle, depending on the underlying logic behind the domestic change. First of all, conditionality indicates the direct influence of the EU, driven by the external incentives model. As pointed out by Börzel and Soyaltin (2012: 7), "during the accession process, the EU casts at best a weak shadow of hierarchy and largely relies on positive and negative incentives for making candidate countries adopt and implement the *acquis communautaire*." If the candidate country complies with EU rules and norms, or demands, the EU will pay the promised reward (Schimmelfenning & Sedelmeier, 2004). In turn, the particular government uses cost-benefit calculations for domestic adaptation, which leads to compliance of domestic policy if the incentive is higher than the adaptational cost (Ibid). Given that, if the prospect of membership is lower, the harmonization effort of a certain policy would be lower (Aydin & Kirisci, 2013). There are four conditions for cost-benefit calculations to be in advantage of a domestic policy compliance (Schimmelfenning & Sedelmeier, 2004): (i) *the determinacy of conditions*, implies that when rules and, in return, rewards from the EU are clear it allows candidate countries to (1) know what to do/comply with in order to receive the reward and (2) increases the credibility of EU's conditionality (Ibid: 672). This comes from binding agreements, hence the candidate government is assured by the legitimacy of the reward that have been promised by the EU. (ii) *The size and speed of rewards*, which indicates that the candidate country is more inclined to compliance with the EU's demands when the reward, or

the decision of the reward, is closer in terms of date; in other words, the closer to the European Council's decisions, the higher the adaptation by the candidate countries (Ibid: 673). (iii) *the credibility of threats and promises* signals the EU's credibility when a candidate country does not comply the rule, the EU will not pay the reward, and in contrast, when a candidate country does comply the rule, the EU will pay the reward, and (iv) *the size of adoption costs* indicates 'if non-member states are confronted with determinate and credible conditionality, and if they are offered equally beneficial rewards, the external incentives model postulates that the size of domestic adoption costs and their distribution among domestic actors determine whether they will accept or reject the conditions' (Ibid: 674). The candidate country's cost-benefit calculations depend on these four factors.

In contrast, socialization is the outcome of internalization of EU norms and rules rather than cost-benefit calculations, which can be therefore framed as a 'social learning' model (Schimmelfenning & Sedelmeier, 2004: 675; Schimmelfenning, 2012: 8). The candidate country 'adopt and comply with EU rules if they are conceived of their legitimacy and appropriateness and if they accept the authority of the EU' (Schimmelfenning, 2012: 8). The model is an alternative to the external incentives model that it contrasts with rationalist approach, and driven by the logic of appropriateness (Schimmelfenning & Sedelmeier, 2004). Through the logic of appropriateness, the social learning model indicates that actors and/or institutions internalize EU norms, rules, policies, and institutions by choosing the appropriate decision and learning as they conceptualize the EU as a 'specific collective identity and a specific set of common values and norms' (Ibid).

Previously, scholars (Schimmelfenning, 2005; Checkel, 2005) argued that the first steps of domestic change might be driven by the external incentives model and strategic calculations of the costs-benefits, however, that over time, the underlying rationale of domestic change might turn into internalization of the norms and rules as the actors had been exposed to the transformative power of the community. This has been called to be a 'shift from logic of consequences to logic of appropriateness' (Checkel, 2005: 810). The process of the shift does not consist of strategic cost-benefit calculations, nor it is driven by internalization of the norms (Ibid; Schimmelfenning, 2005), but rather policy makers act in that setting because 'it is easier socially, as opposed only and always acting strategically and instrumentally' (Checkel, 2005: 811), even if the certain act conflicts with their own interests (Schimmelfenning, 2005).

3.4 Previous literature on Turkey and EU relations

Turkey-EU relations have always been ‘rocky’ since the beginning of the establishment of Ankara Agreement in 1963. Concrete European identity on the one side, and Turkey’s unstable political and economic environment on the other, have affected relations deeply. Turkey’s conflicts with Greece and Cyprus, as well as maintaining the geographical limitation clause which is attached to 1951 Geneva Convention are additional key criticisms Turkey receives from the EU and its Member States.

Previous literature concerning Europeanization in the case of Turkey claims predominantly that the process of Europeanization has been characterized by the external incentives model (Akçay & Yılmaz, 2012; Aydın & Kirisci, 2013; Burgin & Asikoglu, 2017; Börzel & Soyaltin, 2012). Especially the first years after the declaration of candidate status to the EU, scholars claim as the credibility of the EU was high, that the transformative power of the EU on Turkish domestic politics was high. They therefore have stated that there is a correlation between them, and describe the mechanisms using Schimmelfenning and Sedelmeier’s (2004) arguments, ‘which predicts that reforms will slow down as membership prospects lose credibility’ (Aydın & Kirisci, 2013: 376). After the declaration of the candidacy status to the EU, Turkey has gone through an intense reform process with the pull factor of opening of the accession negotiations (Aydın & Kirisci, 2013; Burgin & Asikoglu, 2017).

However, since the opening up of the negotiation talks in 2005, scholars have been observing a decrease in the EU’s credibility in terms of Turkey’s membership prospects (Burgin & Asikoglu, 2017). Hence, as a consequence, the transformative power of the EU to induce domestic change via its conditionality strategy is considered to have become weakened’ (Ibid: 125). Continuing policy reforms in the field of asylum and refugee policies after the beginning of stagnation of relations with the EU, have however challenged the explanations used, and, as stated by Börzel and Soyaltin (2012: 15): “the external incentive model and top-down approaches of Europeanization more broadly, have a hard time explaining domestic change in the absence of Europeanization pressures.”

I identify this as a research gap: there is a need for an intensive case study that carefully trace the effects of Europeanization in order to gain further insight into the mechanisms at hand, drawing on the theoretical concepts of external incentives and socialization (social learning). This thesis aims to contribute to filling that gap by performing a within-case study, which will be discussed further in detail in the following section, of Turkey’s changing asylum and refugee policies, in relation to the Europeanization it has undergone since the Helsinki Summit.

4. Analytical Framework and Methodology

4.1 Analytical Framework

This thesis examines the open question *how has the EU affected Turkey's asylum and refugee policy after the declaration of candidacy status?* Drawing on the theoretical background of Europeanization presented in the previous section, this section describes the framework used to analyze the transformative power the EU has on a candidate country. The transformative power of the EU is the independent variable in this study that determines the outcome of variation in the Turkish asylum and refugee policies throughout the 2000s. To investigate plausible pathways of this transformative capability, this thesis draws on the Europeanization mechanisms of *conditionality (external incentives)* and *socialization (social learning)* respectively. While the former, as has been discussed, is based in the school of rational choice institutionalism, the latter is based in the sociological institutionalism.

As has been covered in the literature review, the two mechanisms are additionally associated with two different logics of domestic change. According to both logics, the necessary condition for the change in domestic policy is misfit, and convergence occurs in order to eliminate and/or lower the misfit. The two logics of domestic change can be seen as a continuum from conditionality to socialization. That is, on the one side, there is the preliminary changes (Börzel & Risse, 2003): legislative changes without substantial implementation or of changing the underlying rationale of the policy. Hence, this can be linked to the external incentives that are driven by the logic of consequences. That gives an indication of behavioral adaptation of the actors as the domestic policy changes are focused on the legislations, excluding its implementation. Thus, in this stage of Europeanization, actors are believed to be interest-maximizers, driven by strategic calculations. The initiation of domestic policy change can be said to start with conditionality because of the existence of the misfit, which a candidate country is obligated to eliminate and/or lower in order to acquire the membership status.

On the other side, the logic of appropriateness' socialization locates, as it occurs through the internalization of EU-level norms and laws; that is: substantial changes in domestic policy and institutional arenas, recreating and implement new policies and institutions from scratch in line with the EU laws and norms. Finally, in the middle of conditionality to socialization, the transition process from logic of consequences to logic of appropriateness (Checkel, 2005; Schimmelfenning, 2005). The shift occurs as the actor's learn the Community's rules and norms, and go beyond strategic cost-benefit calculations without internalizing the norms, but rather act because it is 'easier socially' (Checkel, 2005: 811).

Checkel (2005) defines Europeanization as a process of socialization which influences actors in the long term as the candidate country complies the community's rules and norms, hence, in the end, 'its outcome is sustained compliance based on internalization of these new norms' (Checkel, 2005: 804). In other words, it signals internal rule adaptation by the actors. Through this process of Europeanization, or socialization, as the actors adopt the norms of a specific community, in this case the community of the EU, the shift from logic of consequences to logic of appropriateness occurs, and 'this adoption is sustained over time and it quite independent from a particular structure of material incentives or sanctions' (Ibid). In contrast to logic of consequences, the change in the domestic arena in this case no longer is driven by the reward and/or punishment mechanisms from the EU. Rather, the actor adopts and internalizes the norms, identities and rules of the community.

In the literature concerning Europeanization and its transformative power, there are therefore two key theoretical dichotomies that are applicable for the given empirical case of Turkey's changing asylum and refugee policies; (1) rational choice institutionalism versus sociological institutionalism; and (2) logic of consequences versus logic of appropriateness. From these juxtapositions, Schimmelfenning and Sedelmeier (2004) develop three models of EU's external governance; external incentives, social learning, and lesson-drawing. However, as this study is restricted to the EU's transformative power in terms of a top-down dynamic; the lesson-drawing model will be excluded, as it is driven through the bottom-up dynamic of Europeanization.

4.2 Hypotheses

If the external incentives model of conditionality applies to the case, I should observe that the magnitude of domestic policy reforms varies depending on the level of prospects, as well as on the nature, and quality, of the relationship between the EU, its Member States, and Turkey. 'Prospects' I define as the extent of misfit between the EU's conditions and the candidate country's, in this case Turkey's, policies and the benefits to be acquired in the case of alignment *in comparison to* the domestic costs of implementing change (Schimmelfenning & Sedelmeier, 2004; Börzel & Risse, 2003). Hence, the cost of the compliance should be lower than benefit of the compliance. The Turkey-EU relationship relates broadly to the quality of relations as well as the pressure coming from the EU.

Hence, the level of prospects and the nature of the EU-Turkey relationship act as mediator variables along the causal pathway between the stated independent and dependent variables

(mechanism A in Figure 1). In the periods where the conditionality mechanism has applied, I should expect to see domestic policy changes in the field of asylum and refugee dependent on good relations with the EU, as well as promises of EU membership to the Turkish government. This is driven by the actor's cost-benefit calculations and depending on the credibility of EU's conditionality, which is, the credibility of receiving reward from the EU in the case of compliance to the rules, norms and demands. Under this light, if the conditionality mechanism is at work, the domestic policy changes should be concentrated on the legislative area, rather than implementing the legislations. Given this, I hypothesize that there is a correlation between aligning policy changes and high membership prospects, as well as positive relations with the EU.

H1: Turkish asylum and refugee policy has changed more to align with the EU acquis during the periods of high membership prospects and positive relations with the EU and its Member States.

Alternatively, if the social learning model of socialization has applied to the case, then changes within Turkey's domestic policy should have occurred irrespective of calculations and rather because it has been deemed to be the appropriate thing to do. EU values and norms are internalized, disregarding the nature of the relationship with the EU (mechanism B in Figure 1). I would in this situation expect the changes within asylum and refugee policies to go along with comprehensive implementation of the new legislations, as the policy changes are driven by the internalization of the EU norms and laws, and the internal adaptation of the EU laws. Hence, in contrast to the conditionality mechanism, we would see the domestic policy changes and stabilization of the EU-induced reforms independent from the degree of good relations and membership prospects as a necessary but not sufficient condition: for that we need to see comprehensive implementation too.

H2: Turkish asylum and refugee policy has changed to align with the EU acquis, even during the periods of negative relations and/or low membership prospects.

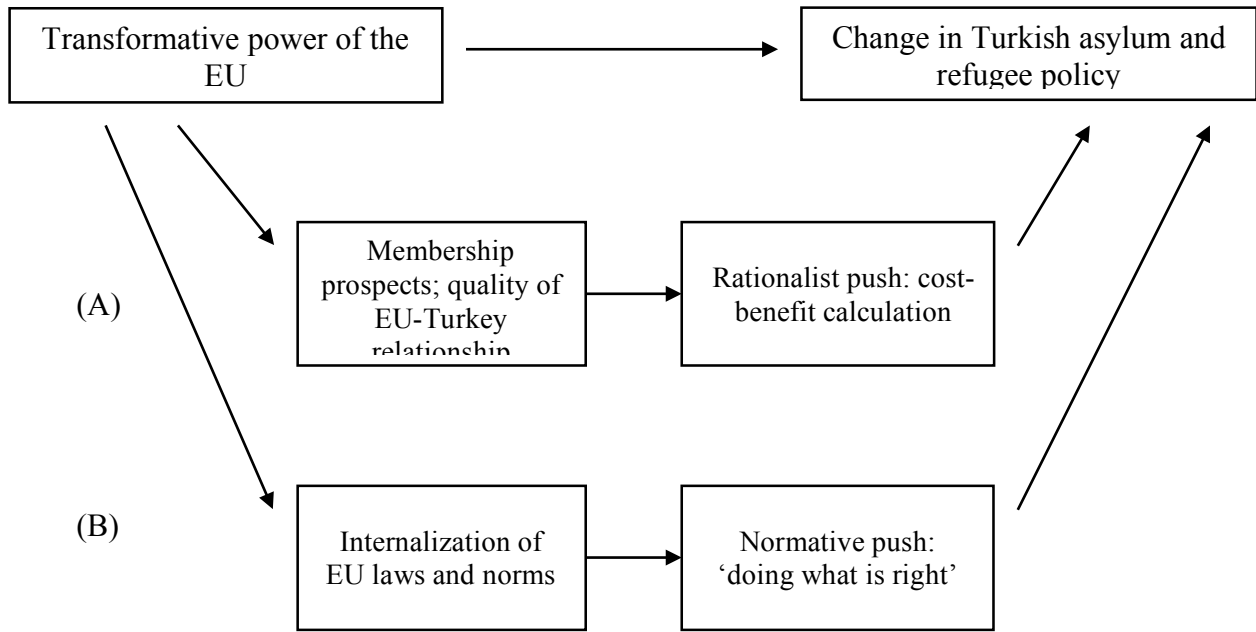


Figure 1. Causal Mechanisms

4.3 Methodology

Drawing from the arguments of Schimmelfenning and Sedelmeier (2004), Börzel and Risse (2003), and Checkel (2005), I propose a research design that is clustered into two divisions. The EU conditionality and misfit are correlated with each other, as the EU conditionality indicates what a candidate country is required to change in order to acquire the membership status. In this vein, the conditionality points out the misfit and fit between the EU-level and domestic level policies. As argued above, existence of misfit is the *first step* for a domestic change, as misfit creates a necessary condition for a policy change. Hence, first there is a need to pinpoint the misfit that is associated with EU conditionality. The *second step* driving domestic policy change is induced by adaptational pressures. In this study, I investigate where this domestic policy change is coming from: the mechanism of conditionality or that of socialization.

I do so for the case of *Turkey's changing asylum and refugee policies*, focusing on three crucial time periods; 1999-2004; 2005-2010; and 2011-2018, and employ the qualitative methodology of a within-case study. The reason for using a case study is to 'identify cases that reproduce the relevant causal features of a larger universe (representativeness) and provide variation along the dimensions of theoretical interest (causal leverage)' (Gerring, 2006: 88). The analysis has been clustered into three important time periods, where I observe different

nature of the relation between the EU and Turkey, and different levels of domestic policy changes in the field of asylum and refugee. The time periods are as follows; (1) 1999-2004 period, which can be said was a reformist period as Turkish government introduced intense reform process in the domestic realm. (2) 2005-2010, demonstrates the period of stagnation, as the nature of relations started waning; and finally (3) 2011-2018 period, after the first mass Syrian influx, which led Turkey to adopt the most comprehensive asylum law and shaped their migration management. The case selection first of all begs the question whether the field of asylum and refugee policy is representative of other policy areas of the EU *acquis*, and whether Turkey as a candidate country is representative of other candidate countries.

The field of asylum and refugee policy is one of the key areas of the EU *acquis* and EU law that a candidate country should comply with before acquiring the membership status. However, out of sixteen chapters that have been opened to negotiation with Turkey since 2005, the Chapter 24: Justice, Freedom and Security, which deals with the migration and asylum policies under the Justice and Home Affairs, has not been opened for negotiation, and it is under blockade for negotiation. Thus, it is crucial to examine this particular Chapter's compliance, under the circumstance of blockade, and how the EU can influence the reforms in the field of asylum and refugee when it is under blockade. Moreover, before Turkey acquired the candidate status to the EU, Turkey's migration management was ruled under their 1994 Regulation, which was established given the government of the time's national security concerns that caused closed-border management and provided limited rights to the asylum seekers who managed to enter Turkey's territories. Hence, the 1994 Regulation put strict conditions upon asylum seekers; one of which, Turkey did not provide non-refoulement principle to the asylum seekers in its borders, which contradicted with the European standard of human rights. Furthermore, Turkey's reservation of, still to this date, the geographical limitation to the 1951 Geneva Convention creates unequal treatment towards non-European asylum seekers, as the government provides the status of refugee to European asylum seekers, whereas for non-European nationals, the government provide them the temporary right to reside in Turkey until the Turkish officials and/or UNHCR provides them a third-country to reside in.

Given the above circumstances, it can be argued that Turkey's asylum and refugee policies is a least-likely case in which to expect the effect of Europeanization, as it has been driven by the national security concerns since the establishment of the Republic in 1923. A least-likely case indicates a case which 'on all dimensions except the dimension of theoretical interest, is predicted not to achieve a certain outcome, and yet does so. It is therefore used to confirm a theory' (Gerring, 2006: 115). Hence, I can argue that, if I observe the transformative

power of the EU on Turkey's asylum and refugee policies, I can assume that there will be adaptations to the EU norms and laws in other areas of the EU acquis, in order to align with the EU laws and demands. As argued by Gerring (2006: 115), "in all formulations, the crucial case offers a most-difficult test for an argument, and hence provides what is perhaps the strongest sort of evidence possible in a non-experimental, single-case setting."

To give shape to the within-case study, this thesis employs process tracing. Process tracing is a method of qualitative within-case analysis which examines the 'intermediate steps' that consists in a process in seeking to find a relation between the hypothesis in mind and the outcome (Bennett & Checkel, 2015). In other words, process tracing can be said to be an 'analysis of evidence on processes, sequences, and conjunctures of events within a case for the purposes of either developing or testing hypotheses about causal mechanisms that might causally explain the case' (Ibid: 7). In this case, as noted previously, the Europeanization, or the transformative power of the EU, is a process which has an influence of shaping the domestic policies in a candidate country, hence, it is the independent variable in seeking to explain the change in Turkey's asylum and refugee policies. The causal mechanisms of *conditionality (external incentives)* and *socialization (social learning)* are based on the theoretical background of the Europeanization process in investigating the EU's transformative power on domestic policies of candidate countries (Schimmelfenning & Sedelmeier, 2004; Checkel, 2005). The importance is given to the sequence of events, where the theories and causal mechanisms are used to analyze and explain the intermediate steps which has an effect on the outcome.

The purpose of using process tracing is to investigate process of Europeanization in Turkey's changing asylum and refugee policies through the Europeanization mechanisms. These are the causal mechanisms traced; the 'cogs and wheels of causal process through which they outcome to be explained was brought about' (Hedström & Ylikovski, 2010: 50), hence, they lead to a better explanation of the relation between Europeanization and changes in a candidate's domestic policy.

To investigate the hypotheses in question, three indicators have been employed in tracing the causal mechanisms. The first indicator (*indicator 1*) is the existing misfit pointed out by the European Commission. The existence of a misfit creates the necessary condition for the domestic policy change (Terzi, 2005; Börzel & Risse, 2003). Hence, the misfit leads to the, first, legislative changes, and later on if it is value-adaptation, it will also lead to its implementation. However, due to limited time, it is not possible to measure the extent of legislative and institutional changes. Therefore, solely the annual progress reports by the European Commission have been employed in order to pinpoint the misfit between EU-level

and domestic policies, and the changes on domestic policies as reflected on the progress reports. The second indicator (*indicator 2*) is the examination of the relation between the EU and Turkey, hence the level of membership prospect of Turkey, through the online newspaper BBC News each year. The final indicator (*indicator 3*) is the implementation of the new legislations on asylum and refugee policies in order to examine whether Turkish government made substantial changes, i.e., the implementation of the new legislation. However, due to lack of public access to implementation data, the extent of implementation will not be discussed in this study.

To discuss the operationalization more concretely, the conditionality mechanism will be pointed by observing a *positive correlation* between the domestic policy changes, good relations and membership prospects. This will be strengthened by identifying Schimmelfenning and Sedelmeier's (2004) four categories driving cost-benefit calculations that were mentioned in the previous section, namely: (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* (Schimmelfenning & Sedelmeier, 2004: 672). In line with the logic of consequences' conditionality mechanism, there should be observation of the *behavioral-adaptation*, which indicates the legislative changes without proper implementation of the laws and/or changing the underlying rationales (Checkel, 2005; Börzel & Risse, 2003). In the periods or years, where I observe conditionality, I assume the actor has changed the domestic policies in order to maintain good relations and the EU membership prospect, hence, the policy changes would be based solely on legislations, as the actor does not internalize the EU's norms and laws. Hence, no proper implementation should be observed.

On the other hand, in the years where the mechanism of socialization is at work, or in the year where there is the process of shift from conditionality to socialization, I should observe *no correlation* between domestic policy changes, good relations, and membership prospects. In line with logic of appropriateness' socialization mechanism, there should be observation of the *value-adaptation*, which leads to the substantial changes with proper implementation of the laws (Checkel, 2005), as the actor internalize the EU's rules and norms (Börzel & Risse, 2003). Furthermore, there is a probability of observation of the shift from logic of consequences (conditionality) to logic of appropriateness (socialization), which indicates there is no strategic cost-benefit calculations, or internalization of the community rules and norms, but there is the initiation of the value-adaptation. These will be observed by the examination of the implementation of legislations and circulars. However, the process of shift is not enough to make assumption of socialization, as it cannot be measured with the data in hand. But it signals

the high probability of socialization in the long term if the EU-induced domestic policy changes are sustained over time. Moreover, in the years or periods that we observe domestic policy changes independent from the good relations and high membership prospects, we can at least conclude the conditionality mechanism is *not* at work.

It deserves note that there are limitations to the material used. There could be lagging effects, that is: one year's declined prospect of membership and/or negative relations could be affecting the following year's domestic policy changes. Furthermore, there could be other factors affecting the changes and/or stabilization of the policy reforms, independent from the nature (quality) of the relation and prospect of EU membership, such as other international organizations, local civil society, et cetera. However, as the materials that could be employed in this study were limited, i.e., lack of public access to certain documents on the implementation of the new legislations, and lack of public access to government officials for interviews, it is hard to interpret the background rationale of the policy reforms. This situation creates measurement error in the measurement of the mechanism socialization, given that this mechanism cannot be as clearly defined and operationalized as the conditionality mechanism.

4.4 Material

This thesis employs secondary sources, collected online primarily from government websites, specifically that of the Ministry for EU Affairs and the Ministry of Directorate General of Migration Management, and websites of various NGOs that report on Turkey's implementation of its refugee and asylum policy. In order to identify the misfit between EU-level and domestic policies, the Annual Progress Reports on Turkey by the European Commission have been used. The Annual Progress Reports encompasses thirty-five Chapters dealing with different policy areas of Turkey's domestic arena. The section Asylum under Chapter 24: Justice, Freedom and Security, under the heading of Justice and Home Affairs has been examined, and has been employed as the main source of determining the gap between EU-level and domestic policies, as well as of determining whether Turkey complied with the demand coming from the European Commission and European Council in the particular year in question.

To strengthen the analysis of misfit, Accession Partnership Documents (APDs) and National Programme for Adoption of the Acquis (NPAA), and other related circulars have also been used to trace Turkey's progress in the alignment with the EU acquis. However, as these progress reports are political, there is a potential of the Commission encouraging Turkey to continue their reforms, disregarding the misfits in certain years. This creates a weakness and a

risk for measurement error in the examination of the reports. However, and at the same time, they provide an understanding of the overall situation of misfit and the necessary legislations Turkey needed to bring forward.

Furthermore, the source of online newspaper BBC News has been employed in seeking to trace the rhetoric behavior of Turkish and Member States' politicians and their statements each year. The raw rhetoric of the politicians each year allows the tracing of the relations between Turkey and the EU, without any interpretation from international organizations. However, as BBC News does not capture the relation thoroughly, it creates a weakness of the usage of this source. But overall, it provides a general understanding of the relations between the EU, its Member States and Turkey, as well as the perspective of Turkish government as reflected on the news.

Moreover, the reports from Human Rights Watch (2015), Amnesty International (2016), UN General Assembly (2013), AIDA Country Report (2017), and Asylum Access Refugee Works Rights Report (2017) have been employed to trace the implementation of the legislations, as well as to diminish any gaps in the European Commission's Annual Progress Reports. In addition, analyzing the implementation reports provides an understanding the nature of domestic policy change, i.e., if it was a behavioral adaptation (solely legislative changes) or value adaptation (comprehensive changes through the implementation of new legislations). In order to assume value adaptation is at play, it is crucial to see the implementation of the new legislations.

These reports on implementation, by nature, are political and should be assumed to contain biases. However, they do pave the way of mapping and pinpointing the process in the years that were available. Another weakness, is the lack of public access to certain implementation reports and data implementation, which created additional burden to the research in examining the policy changes.

5. Empirical Analysis and Discussion: The Prospect of EU Membership?

In seeking to trace *how has the EU affected Turkey's asylum and refugee policy after the declaration of candidacy status*, I perceived the Annual Progress Reports on Turkey by the European Commission as the most suitable documents to use. I read these reports in order to observe the misfits between the EU and Turkey (*indicator 1*). The EU conditionality and the misfit are the crucial starting point of the analysis, as they feature as a first step of the framework that had been discussed in the previous section. The misfit is the incompatibility between EU-level policies and domestic level policies that countries need to comply with (along with the Copenhagen criteria) before acquiring the first candidate status, and later, membership status (Börzel & Risse, 2003). Examining the misfits in the asylum and refugee policy as reflected by the European Commission is crucial for this study, as it helps to observe if Turkish government (to what extent) responded to the misfits and the Commission's requirements. To strengthen the process tracing through the progress reports, I also examine statements by the Member States and Turkish government to trace the nature of the relationship, hence the level of membership prospect of Turkey (*indicator 2*). Moreover, I investigated the actual *implementation* of the new laws and circulars (*indicator 3*), if available via online, so as to examine whether the domestic changes were preliminary or substantial.

To clarify the empirical analysis, the section has been divided into three important time periods where I observe different relations between Turkey and the EU, and different levels of changes in the field of asylum and refugee. The time periods are as follows: (1) 1999-2004 period, which starts from the declaration of Turkey's candidacy status, until the first membership negotiations. This period can be characterized as a reformist one as Turkish government introduced intense reform process in the domestic policy realm. (2) 2005-2010, demonstrates the period of stagnation, which starts with accession negotiations and lasts until the first influx of Syrian refugees; and finally (3) 2011-2018 period, with the first influx of Syrian refugees and Turkey's introduction of the Law on Foreigners and International Protection.

The mass influx of Syrian refugees in 2011 is not the first refugee influx that Turkey has experienced, but in terms of numbers it is the highest. Prior to 2011, Turkey was faced with high numbers of asylum seekers after the World Wars, after the Iranian Revolution, and during the Iraq Wars (Szalanska, 2017). However, throughout the period in question, Progress Reports

have indicated that there has been a significant shift in social rights; namely an increase in access to health care services, access to education, and access to the labor market. Therefore, when the relations between Turkey and the EU are ‘at a historic low’ (Aydin & Kirisci, 2013), it is crucial to examine the social rights that have been provided to Syrian refugees. This will be done by investigating the reports on implementation of the new legislations, seeking to understand if Turkey solely passed the legislations or if there occurred actual change in the underlying rationales of the legislations which preceded comprehensive implementation of the new legislations. In order to give a better understanding and avoid repetition, I discuss the findings at the end of each period.

5.1 1999-2004 Period: After the Helsinki Summit

The EU and Turkey relations took on a different shape as the European Council (EC) declared Turkey’s candidacy status in 1999 (Aybey, 2004; Kirisci, 2004). The Turkish government had been waiting for candidate status since the Ankara Agreement in 1963, thus the declaration was met by positivity (BBC News, 1999). After the ambiguous 1997 Luxembourg decisions³, the Helsinki Summit was a positive improvement in the relations between the EU and Turkey (Ibid). During the Helsinki Summit, the EC made the announcement that their agreement on Turkey’s new status was based on the positive developments that Turkey had gone through in the recent years, in terms of the improvement of human rights and political criteria, and Turkey’s willingness of meeting the criteria further in order to acquire the candidacy status (European Commission, 1999). One of the developments was Turkey’s improvement in its ‘procedure for the examination of residence permission requests’ (Ibid: 36). Previously, the Commission had requested Turkey to extend the day limit in its 1998 progress report⁴. Furthermore, the Commission called Turkey to establish a body to handle asylum seekers; which ‘would also have to be able to gather and evaluate figures on the number of origin of asylum seekers and on the reasons for refusal of asylum’ (European Commission, 1999: 36).

Turkish authorities started to work with UNHCR in order to train staff, which focused on the issue of asylum, and to initiate capacity building (European Commission, 2000). The Turkish government had been improving the asylum areas and started to work in the procedure

³ As noted under the ‘Historical Background’ Section, the 1997 Luxembourg decisions finalized by declaration of Turkey’s eligibility for a candidacy status to the EU. However, this decision did not give a promise of prospective EU membership status, nor a candidacy status to Turkey.

⁴ The Commission noted in their 1998 report: “There will [...] have to be a drastic improvement in the procedure for scrutiny of asylum requests (current deadline for submission of applicants is too short) and the treatment of asylum seekers” (European Commission, 1998: 44).

of status determination, as the Ministry of Interior (MoI) of Turkey designed a three-year plan (from 2000 to 2003) to train the staff which will work with the asylum and refugee issues, improve the technical assistance, and deal with the changes that are occurring in the field of asylum in the national arena (Ibid). However, Turkey was lacking in 2000 in terms of refugee accommodation facilities, as refugees were accommodated by the local community which was supported by the Governors and municipalities ‘but their effort are not comparable to the changes to be faced due to the substantial regular influx of refugees and asylum seekers’ (Ibid: 54).

As Turkey became a candidate country, the EC introduced the first Accession Partnership Document (APD) in 2001 based on requirement of the Commission in their 2000 progress report, in seeking to determine ‘the definition of intermediate stages in terms of priorities, each to be accompanied by precise objectives to be set in collaboration with the States concerned, the achievement of which will conditions the degree assistance granted [...]’ (European Council, 2001: 16). The APD set the framework for Turkish reforms and set the priorities for the Turkey’s path towards accession, as it focused on the short- and medium-term goals for Turkish government to meet the EU *acquis* during the accession process (European Commission, 2001). Under the medium-term requirements, the EC highlighted the need to eliminate the geographical limitation clause and to improve refugee accommodation facilities (European Council, 2001).

As a response to the APD, the Turkish government prepared a document named National Action Programme for Adoption of the *Acquis* (NPAA) in 2001, the preparation of which the EC had requested in their APD (European Council, 2001). The NPAA established a to-do list for the Turkish government to implement new legislation, policies, and practices parallel with the APD (European Commission, 2001).

The preparation of the NPAA was a significant step by the Turkish government as they introduced the program in line with APD and its requirements, so that Turkish authorities demonstrated their willingness for EU membership, as well as for the reforms that they will introduce in accordance with the membership requirements⁵. Even though the Turkish government started their reform process before 2001, it had been a rather slow moving process.

⁵ The Turkish government stated in the NPAA, “the Turkish government regards EU membership as a new step forward [...] Turkey will accede to all relevant international conventions and take the necessary measures for their effective implementations in order to ensure alignment with the universal norms manifest in the EU *acquis* and with practices in EU Member States [...] Turkey can assume an important role in the process of European unification through concrete and distinct contributions that she can offer” (Turkish Government, 2001: 5).

As the NPAA came into force, an intense reform process⁶ started in the Turkish domestic policies in order to fulfill the Copenhagen criteria. Although Turkey at this point was still falling short on the implementations the EU expected to see before any initiation of accession negotiations, it took several important steps.

The Commission gave importance to the elimination of the geographical limitation clause of the previous years (European Commission, 1998; 1999; 2000). The Turkish government indicated that the clause could be lifted ‘in a manner that would not encourage large-scale refugee inflows from the East, when the necessary legislative and infra-structural measures are not introduced, and in the light of the attitudes of the EU Member States on the issue of burden-sharing’ (Turkish Government, 2001: 446). The Commission stated this as a positive development in the field of asylum in Turkey, as ‘these relate to the ability to cope with refugee inflows and support from the Community’ (Ibid: 83). In addition, Turkey agreed on adopting a new legislation concerning its migration management (Ibid).

Another improvement was made regarding reception facilities (Refugee Guesthouses) and specifically the enhancement of their conditions and the improvement of security at the local guesthouses, which was lacking in previous years (European Commission, 2001). Furthermore, the authorities highlighted the need of further construction of new guesthouses which would supplement existing guesthouses (Ibid). Since the 1999 progress report, finally, the Commission had emphasized the need of comprehensive status determination process of the non-European asylum seekers. On this, however, there had been no progress made by the government (Ibid).

The Turkish government, especially the Prime Minister (PM) of the time period, Bülent Ecevit, indicated willingness and support for the fulfillment of the EU *acquis* and requirements for the membership, as the government passed legislation for thirty-four constitutional amendments regarding the enhancement of the human rights in Turkey, before the European Commission released their 2001 progress report on October (BBC News, 2001). This is in line with Schimmelfenning & Sedelmeier (2004: 673) conditionality argument, as ‘rule adoption becomes more likely the closer the day of EU enlargement decision-making gets.’ Hence, we can argue the changes at this stage were mainly focused on the behavioral changes in the

⁶ Turkish government introduced a package of reforms in order to satisfy the EU *acquis*. Turkish government made thirty-four amendments in order to improve its constitution under the NPAA. The government aimed to decrease the influence of Turkish military in the political arena, elimination of death penalty, and enhance the importance of freedom of usage of minority languages (Akçay & Yilmaz, 2012).

domestic arena in order to comply the EU acquis and maintain the good relations with the EU and its Member States.

The German Chancellor of the time, Gerhard Schroeder, stated that Germany encouraged Turkey to continue its reforms to become a fully democratic and secular country, and advocated for Turkey's membership to the EU (BBC News, 2002). Nonetheless, since the beginning of the consideration of Turkey's membership to the EU, the leaders of Member States and the European Commission have criticized Turkey's lack of human rights, stating that Turkey has to meet the European standards in order to set a date for accession negotiations. Even though Turkey had passed important reform legislations in the year of 2001, the leaders of the EU stated there should be demonstration of actual implementation in order to start the accession talks.

In 2002, Recep Tayyip Erdogan became Prime Minister of Turkey (PM) and announced that the reform process would continue in order to meet the EU acquis (European Commission, 2002). Moreover, he stated that acquiring the EU membership is Turkey's 'top-priority' (O'Toole, 2003, 30 July). The legislations concerning the constitutional amendments and progress within Turkey's field of asylum and refugee in the Turkish domestic arena brought Turkey closer to opening accession negotiations, and other developments within the EU acquis (European Commission, 2002). The EC indicated the continuation of the reforms in line with EU's laws and norms as stated in their APD, would bring Turkey closer to the accession negotiations (Ibid).

In order to come up with a 'comprehensive strategy and timetable for the harmonization of Turkish law and practice with the acquis in the areas of border management, asylum and migration', the MoI established a working group named the 'inter-Ministerial Task Force' in 2002 (European Commission, 2002) as a response to the Commission's request in their 1999 Progress Report. The newly established working group started to handle the creation of a new strategy in the field of asylum to align with the EU acquis (Ibid). Furthermore, the MoI issued a circular concerning the health care services for asylum seekers, which allowed asylum seekers to be provided with a 'green card' for their medical expenses (Ibid: 117). Even though Turkey had complied with the Commission's request of creating a body to handle asylum, the Turkish government did still lack in this arena. The Commission highlighted the need of a professional body, institutional and technical capacity, and proper status determination process in the field of asylum. It additionally emphasized the need of new legislation of working permits for the foreigners that would align with human rights and the Copenhagen criteria (Ibid: 120).

In 2003, the Turkish government was still lacking on implementation, even though the it was passing laws that were focused on the improvement of human rights and minority rights in accordance with the EU law (European Commission, 2003). The EC nonetheless declared that it encouraged Turkey to continue the reform process and announced that the Commission would initiate accession negotiations in 2004 (European Commission, 2003). The statement of the initiation of negotiation talks accelerated the process of the establishment of civilian workforce group under the MoI to handle asylum and refugee issues, which had been requested by the Commission in 2002 (European Commission, 2002). In 2003, the Task Force initiated a strategy which set the framework for legislative and institutional tasks in medium-term and prepared for the establishment of the civilian workforce (European Commission, 2003). This was a significant improvement in Turkey's asylum and refugee policies in handling the asylum procedure, as the need of a professional body in the asylum procedure had been highlighted by the EC in the previous years.

Furthermore, the government adopted a Law on Work Permits for Foreigners, which allowed foreigners to work in the domestic work environments (European Commission, 2003). It is important to note that the Commission encouraged Turkey to adopt work permits for foreigners on the previous year, 2002 (European Commission, 2002). Moreover, with regard to the education of asylum and refugee children, the 2003 Progress Report states that schooling conditions had been improved, while the MoI had started to work closely with the offices of governors in order to increase the participation of schooling by stateless children (European Commission, 2003).

In the second half of 2004, the Turkish authorities expressed their concerns and dissatisfaction towards EU's stricter conditions for Turkish membership, than for other candidate countries (BBC News, 2004). Especially, the PM Erdogan and Foreign Minister (FM), in the time period, Abdullah Gul, emphasized that Turkey was walking on the right path towards the EU membership (Ibid).

In December 2004, the EC decided to set a new deadline for Turkey's fulfillment of the criteria and the opening of the accession negotiation process on October 2005 (European Commission, 2004). This became a turning point for the EU and Turkey relations. The EC decided on Turkey's fulfillment of the criteria based on Turkey's introduction of seven reform packages and a new penal code, which were directly linked with the EU's political criteria. Specifically, the new penal code was adopted a week before the 2004 progress report. As the membership status is significantly correlated with the fulfillment of the political criteria and its

compliance, the positive developments were paving the way for the opening of negotiation talks.

After the EC set the date for opening negotiation talks, Turkish officials initiated the preparation of National Action Plan to implement the Asylum Strategy (Ibid). Furthermore, the MoI introduced ‘an internal directive on handling of asylum application, which is meant to serve as a bridge between the current asylum negotiation and the new asylum law that Turkey aims to adopt in 2005’ (Ibid). The Action Plan was an indicator of the transformation of the Turkish system of status determination, and of the consideration of eliminating the geographical limitation clause, towards the adoption of EU immigration and asylum policies (Kirisçi, 2007). The status determination and the Action Plan also created a to-do list for Turkish government in order to establish the ‘tasks and timetable on border and visa regulations, asylum and migration issues and on migrant smuggling and human trafficking’ (Icduygu & Aksel, 2012: 43).

5.1.1 Discussion and Reflection of the Period

The existence of a misfit creates the first step for the domestic policy change as it points out the incompatibilities between the EU-level and candidate country’s domestic policies (Börzel & Risse, 2003). The agreement of Turkey’s candidacy status in 1999, firstly, was a reward from the EC, considering the improvements of Turkish government based on the Commission’s previous report on 1998. The EU makes use of this reward mechanism in order to reinforce the candidate country to abide the policy changes in line with EU’s laws and norms (Schimmelfenning & Sedelmeier, 2004). Thus, in the case of compliance, the EU pays a promised reward.

In the period of 1999-2004, the day limit for application of residence permits, a body to handle asylum seekers, the capacity and number of the accommodation facilities and refugee guesthouses, a comprehensive status determination process and an asylum law, a civilian workforce for the issue of asylum and refugee, improvement of health care services and a law on work permits for asylum seekers, as well as the existence of geographical limitation clause, finally, had been pointed out by the European Commission and the EC as misfits between EU-level and Turkish domestic policies concerning the field of asylum and refugee. The Turkish government responded to and improved these misfits, with the exception of responding to the need of comprehensive process of status determination and an asylum law, and lifting the geographical limitation clause. The government extended the day limit for application of residence permit from 5 days to 10 days within a year after the Commission requested the

extension (European Commission, 1999); created an inter-Ministerial body to handle asylum seekers, named Task Force within three years (European Commission, 2002); issued a circular for health care services and created a Law on Work Permits for Foreigners within a year after the Commission pointed out the misfit. Furthermore, after the EC set the short- and medium-term priorities for Turkish government through the APD; the government responded to the priorities by setting a timetable and a framework through the introduction of NPAA.

The APD was an important document in terms of Turkey's inclusion in the accession plan, for two reasons. First of all, it set clear requirements and a framework for Turkey to comply with, which highlights the *determinacy of conditions* under the external incentive model of Europeanization (Schimmelfenning & Sedelmeier, 2004: 672). More specifically, it indicates that when the EU clearly sets the conditions and requirements; (1) it helps the candidate country to know which steps to take in order to achieve the reward; and (2) it strengthens EU's credibility (Ibid).

Secondly, the APD indicated the positive membership prospects which were given to Turkey as the EC included Turkey in the accession plan. The conditionality mechanism and domestic policy change are as effective as the size and credibility of the rewards that are coming from the EU (Schimmelfenning, 2012). Hence, through the introduction of APD, the EU increased its credibility and demonstrated the increased possibility of membership status, which led Turkey to adopt an intensive domestic reform process in order to achieve alignment with the EU with the introduction of the NPAA. The APD increased the membership prospects of Turkey, and thus encouraged the continuation of the reform process, and the later introduction of the NPAA accelerated that reform process in order to align with the EU acquis.

The EU's and its Member State's encouragement and support towards Turkey's reforms and later on, membership status, and in return, the willingness of the continuation of the reforms in order to meet the EU acquis and Copenhagen Criteria by the Turkish government can be reflected as an observation of good relations in the period of 1999 to 2004. The good relations strengthened the high membership prospect perceived by Turkey, as the leaders of Member States and the EC declared that the continuation of the reform process would bring Turkey close to the membership status. Hence, Turkey accelerated its reform process in order to align its domestic policies with the EU-level policies, based on the misfits pointed out by the European Commission.

The rationalist conditionality mechanism perceives actors as goal-oriented and who makes strategic calculations of the cost-benefits of the policy adaptation (Schimmelfenning & Sedelmeier, 2004; Schimmelfenning, 2005). Hence, an actor chooses either direction:

conforming the norms of the community, or violating the norms (Schimmelfenning, 2005: 830). If conforming to the community's rules and norms would benefit the actor's political interests, the actor will choose to abide by the norms that are directed by the community, which in this case, is a policy change in the alignment with the EU. In the period of 1999 to 2004, the government's interest was, as stated by it several times, to acquire membership status. In 2001, Ecevit, the PM of the time, passed legislations which were requested by the Commission previously before the Commission finalized their annual progress report (BBC News, 2001), which is in line with Schimmelfenning and Sedelmeier's (2004: 673) *size and speed of rewards*, 'rule adoption becomes more likely the closer the day of EU enlargement decision-making gets.' Hence, I argue that the changes in this period were focused on the compliance of the EU *acquis* in order to maintain the good relations and high membership prospects.

However, one frequently occurring criticism from the Commission was the lack of implementation of the new legislations in this particular period. For instance, even though the Turkish government made improvements to accommodation facilities and refugee guesthouses, their capacity was still not enough to respond to emerging issues (European Commission, 2001). Furthermore, the Turkish government tied the elimination of the geographical limitation clause to a possible membership status and burden-sharing with the Member States. This is indicative of the concept of *behavioral adaptation*, that is: preliminary domestic policy change driven by the strategic cost-benefit calculations of the actors with respect to the pointed out misfit (the logic of consequences), but without proper implementation and change of underlying rationales.

Hence, to summarize the findings for this period, I observe a positive correlation between domestic policy changes based on the misfits pointed out by the Commission (*indicator 1*), and good relations and positive membership prospects (*indicator 2*). Hence, I can assume that the conditionality mechanism is at work, as the Turkish government complied the domestic policy change in return for a reward. In this particular period *H1: Turkish asylum and refugee policy has changed to align more with the EU acquis during periods of high membership prospects and positive relations with the EU and its Member States* holds. However, the domestic policy changes mainly focused on the legislative arena, disregarding the proper implementation (*indicator 3*), which demonstrates the behavioral-adaptation of the government to the Commission's requests. I did not observe substantial changes that suggest an internalization of the EU laws and norms in this period, and therefore no supporting evidence for the socialization mechanism under hypothesis two.

5.2 2005-2010 Period: Initiation of accession negotiations

Before the accession negotiations started, some of the EU Member States, namely, France, Netherlands, Germany and Austria, started showing their doubts on Turkey's membership prospects (BBC News, 2005). Due to Turkey's large low-income population, the German opposition leader of the time, Angela Merkel, stated that Turkey should be given a 'privileged partnership' status rather than full membership (Ibid). As a response, Turkish officials stated that they are confident in Turkey's satisfaction of the EU conditionality on opening the accession negotiations (Ibid).

The Turkish government adopted the NPAA on Migration and Asylum in March 2005, which started to be prepared in 2004 after the EC set a date for opening the accession negotiations. The Action Plan was focused on the establishment of a timetable of the reforms that the Turkish government should introduce (Turkish Government, 2005). The reforms that had been mentioned in the NPAA mainly revolved around the 'legal arrangements, institutional capacity building and training facilities' (Yildiz, 2016: 110), as well as sketching a comprehensive status determination system, consideration of eliminating the geographical limitation clause, and a full harmonization with the EU *acquis* on asylum (Kirisci, 2007). However, the 2005 Progress Report indicated that the Action Plan needed further clarification in terms of when the Turkish government would implement the reforms.

In the Action Plan, Turkey indicated its will to lift the geographical limitation clause in return for prospective membership status and burden-sharing with Member States (Turkish Government, 2005). Furthermore, even though Turkey follows the non-refoulement principle to aliens within its borders, 'aliens who [were] apprehended away from the border [were] not always permitted to submit an application for asylum' (European Commission, 2005: 112) based on Turkey's 1994 Regulation. However, in 2006, Turkey also amended its 1994 Regulation, as it received criticisms from the international community.

In October 2005, the accession negotiations started between the EU and Turkey. The EC adopted the revised APD on January 2006, which again, was designed to set the short- and medium-term priorities that Turkey should be addressing in preparation of accession (European Commission, 2006). However, as the EC initiated the accession negotiations with Turkey, the EU and Turkish relations started to show negative signs towards the prospect of membership with the expression of doubtful attitudes of some of the Member States. Hence, distrust towards the EU started to grow in both the government and in the social environment in Turkey (BBC News, 2006). Furthermore, because of the conflict between Turkey and the Republic of Cyprus (Greek Cypriots), in December 2006, the EC declared that the negotiations over eight individual

chapters would not be opened (European Commission, 2007). The eight individual chapters that were blocked for negotiation were related to Turkey's restrictions towards the Greek Cypriots, which conflicted with the Customs Union agreement that Turkey is a part of since the Ankara Agreement (Ibid). Moreover, the Commission decided that until Turkey fully implemented the APD, 'no chapters will be provisionally closed' (Ibid).

The statement of the EC was heavily criticized by the Turkish PM, as he claimed this was an injustice and an obstacle in the relations between Turkey and the EU (BBC News, 2006). However, the Turkish government was still showing its willingness to improve Turkey's domestic policies and the continuation of the reform process, as indicated by the Foreign Minister Gul, who stated: 'whatever the EU says, the reform process in Turkey will continue' (BBC News, 2006).

As required by the Commission in the previous years, Turkey lifted the '10-days limit for lodging an asylum claim' (European Commission, 2006: 61). Further clarification was, however, needed on the Action Plan (Ibid).

Turkey is a signatory country of the United Nations Convention of Rights of Children. Thus, Turkey has an obligation in providing basic education to refugee children, including non-Europeans. In the previous year, Turkey had already given access to the refugee children to attend the public schools in order to provide them with basic education. However, due to the lack of knowledge of their rights, school attendance by refugee children continued to be low. Hence, the Commission highlighted the need to improve the information to asylum seekers of their rights (European Commission, 2007).

Until 2010, Turkish officials did not make any substantial changes to respond to the issues of (1) the decentralized asylum procedure and policies, as the government was not creating a centralized asylum authority to handle the issue of asylum and refugees and to respond the issue of status determination; (2) the necessity of the establishment of more reception centers; and (3) the need for training program for the staff who will manage the asylum issues (European Commission, 2007; 2008; 2009). Moreover, the Commission noted limited progress in 2008 and 2009 in the field of asylum and refugee (European Commission, 2008; 2009). However, there had still been some progress made, that is, the MoI was still in close contact with UNHCR in order to train the personnel for the decentralization of decision-making processes (European Commission, 2008). As noted in the progress report, Turkish officials were improving administrative capacity and the asylum procedure (Ibid). Moreover, in the year of 2008, there had been an increase in the number of asylum applications to Turkey.

This created a need for the Turkish government to revise the asylum law and introduce a new asylum unit in order to deal with the new asylum seekers (Ibid).

During the years of 2007, 2008, and 2009, the relations between the EU and Turkey was taking a negative turn as opposed to the previous period. One of the indicators of the declining relations was the French President Sarkozy's opposition to Turkey's membership prospects in 2007 (BBC News, 2007). Hence, the EC decided not to open the membership negotiations in the economic and monetary area (Ibid). Furthermore, five chapters were blocked for negotiation by France in June 2007 (European Commission, 2007). As a response, Turkish officials demanded equal treatment and accession to full membership status, as they complained there was still no guarantee of EU membership (Horsley, 2008, April 4; BBC News, 2009).

There was some progress made by the Turkish government in the field of asylum in 2010 (European Commission, 2010). In January 2010, the Turkish government issued amendments for the regulation of implementing the Law on Work Permits for Foreigners, which made the application of work conditions easier for asylum seekers (Ibid). That is, as long as the particular person is recognized as an 'asylum seeker' by the MoI, the person can apply for work permits (Ibid). Furthermore, the Task Force, under consultation of UNHCR, initiated the preparation for the comprehensive asylum law as well as the establishment of a comprehensive framework in the line with capacity of Turkish institutions and proper 'refugee status determination process for non-European asylum seekers' (Ibid: 83). In 2010, the Turkish President of the time, Gul, stated that the government is still dedicated to the reforms and the EU membership, however, they want the EU to keep the promises they made, that is, the membership (BBC News, 2010).

5.2.1 Discussion and Reflection on the Period

In the period of 2005 to 2010, the misfits pointed out by the European Commission can be divided into two categories: misfits concerning legislation, and misfits concerning implementation. The legislation misfits pertained to the need of lifting the 10-days limit for residence permit applications (which was extended in 1999); the need for creation of a centralized asylum authority which would handle the comprehensive status determination process; the increase of the capacity of institutions and training program for the staff regarding the asylum issue; the need of more reception centers; and, finally, the need of lifting the geographical limitation as had been emphasized by the Commission. Regarding the misfits concerning the implementation of the new legislations introduced by the Turkish government, there was a need for further clarification of the NPAA on Migration and Asylum, which was

prepared in 2004 after the EC set a date for the accession negotiations, and later came into force in 2005 before the first accession negotiation. Furthermore, the Commission highlighted the need of the implementation of the revised APD, the need of improved information distribution to asylum seekers specifically regarding their right to attend public schools for basic education, and the need of further clarification of the day-limit for residence permit applications.

The EU started to lose its credibility from the perspective of the Turkish government between 2005 and 2010. The EU's credibility can be defined as a 'promise to deliver the reward in the case of rule adaptation' (Schimmelfenning & Sedelmeier, 2004: 673). Since the initiation of the accession negotiations, the Member States; Germany, France, Netherlands, and Austria, were opposing Turkey's possible membership status and were requesting for 'privileged partnership' status to be given to Turkey, rather than full membership. The diminishing possibility of the membership status led to the Turkish government's increasing distrust towards the credibility of the EU. Furthermore, the blockade on certain chapters by the EC and France, and the Commission's warning of 'no chapters will be provisionally closed' until Turkey fully implement APD further decreased the EU's credibility.

As the EU's credibility decreased through the declining membership prospects, the relations took a negative turn. Turkish authorities did not immediately comply with the EU acquis and the Commission's demands in order to eliminate and/or lower the misfit of decentralized asylum procedure, the need of more reception centers, and the need for training programs. Rather, the cost of adaptation was higher than the benefit (Schimmelfenning & Sedelmeier, 2004; Checkel, 2005), as the 'benefit' (in this case, membership prospect), seemed rapidly lose its credibility. Hence, in the environment where the EU is losing its *credibility of threats and promises*, and when there is no *determinacy of the conditions*, nor trust in *the size and speed of rewards* (Schimmelfenning & Sedelmeier, 2004: 672) the trust in the payment of the reward was decreasing as well, thus the efforts to comply with the EU's demands will be lower (Ibid).

This period, with the exception of the year of 2010 (discussed below) suggests that the conditionality mechanism was at work. The Turkish government slowed down its reform movements, as well as declined their speed of responses to the Commission's misfit criticisms (*indicator 1*), at a time when relations and prospect of membership (*indicator 2*), was waning. Hence, I can assume that the domestic policy changes within the years mentioned above, had been dependent on the good relations and positive membership prospects, as I can observe a positive correlation between the indicators. Furthermore, the Commission criticized Turkey because of its lack of implementation of the new legislation. Hence, the limited progress

concentrated in this period showed *behavioral adaptation* as the changes were not substantial (Checkel, 2005), but rather a mere response to the Commission's request. In the light of the logic of consequences' external incentives model, policy-makers take action in line with their interests (Börzel & Risse, 2003), thus the declining prospect of EU membership and relations conflicted with Turkish government's interest of acquiring the membership. Therefore, *H1: Turkish asylum and refugee policy changed to align more with the EU acquis during the periods of high membership prospects and positive relations with the EU acquis*, is again confirmed, as I observe the correlation in other direction for this period.

However, it is important to point out the year of 2010 as an exception, where I observe one crucial improvement in Turkish asylum and refugee policy: the preparation of comprehensive asylum law by the Task Force, alongside with other circulars and legislations that had been introduced concerning the improvement of the well-being of asylum seekers. The misfit of Turkey's lacking comprehensive asylum law had been criticized by the Commission in the previous years, and the Commission emphasized the need for a fully fledged asylum law in line with the EU acquis. The initiation of the preparation of comprehensive asylum law was an important improvement by the Turkish government. However, since it was still on the preparation stage at that time, it is hard to measure the degree of policy change, or the mechanisms behind it.

With regard to the legislations and circular that had been introduced in the year of 2010, Turkey was lacking the implementation (*indicator 3*) of the new legislations, as stated by the Commission. Hence, no substantial changes were observed in this particular period. However, the domestic policy changes with respect to reported misfits (*indicator 1*) observed were not dependent on the good relations and the prospective membership (*indicator 2*), as both of the indicators were not correlated. As the changes occurred independently from the external incentives from the EU, the conditionality mechanism was not at work in 2010. Hence, for 2010, the *H2: Turkish asylum and refugee policy has changed to align with the EU acquis, even during the periods of bad relations and/or low membership prospects* holds. This provides some tentative evidence for the social learning mechanism, though it is important to note that there could be other factors that have affected the change.

5.3 2011-2018: After the first influx of Syrian refugees

After the outbreak of the Syrian war, Turkey has experienced the highest biggest refugee influx in its history. The mass influx challenged, and is still challenging, Turkey's social, economic, and political spheres with regard to its migration management policies. The first Syrian refugee

influx begged the question whether Turkey was able to handle the high number of refugees based on its institutional capacity and legal framework (Icduygu & Aksel, 2012; Szalanska, 2017). Even though the Task Force started to prepare for the comprehensive asylum law in 2010, Turkey still did not have a fully fledged migration management and that created a difficult environment for the government to handle the mass number of Syrian refugees (European Commission, 2011).

Turkey introduced a ‘temporary protection’ regime in October 2011 for those who were fleeing from the violence in Syria, allowing them to enter Turkey without any visa requirements, as it provided them the principle of non-refoulement, and humanitarian assistance (Human Rights Watch, 2015). Although Turkey’s asylum and refugee policies were still under the 1994 Regulation until 2013, the management of Syrian refugees was not subject to it. Instead, the government officials were giving the non-legal status of ‘guest’ to people who were fleeing from the violence in Syria (Ibid). The Commission encouraged Turkey to introduce and implement the new law, as they indicated the new legislation will be an important step for the alignment of the EU *acquis* in the area of asylum and refugee, and concerning asylum seekers’ rights (European Commission, 2011). The increase in the number of asylum applications created an urgent need for the improvement of the reception centers (European Commission, 2012).

During this time, the Turkish government showed dissatisfaction with the slow moving EU membership process, as since the beginning of the first negotiation talks, the EU had opened only thirteen-chapters for negotiation with Turkey, given that ‘many influential politicians in France, Germany, Austria, and some other EU countries are opposed to granting Turkey full membership’ (BBC News, 2013).

Under ‘consultation with UNHCR, the Council of Europe, and civil society organizations’, the Turkish government in 2013 introduced its first comprehensive legislation of migration management based on the EU asylum *acquis*: The Law on foreigners and International Protection (LFIP). The law came into force in 2014 (Amnesty International, 2016) and established new guidelines for the protection of refugees and asylum seekers within Turkish territory, and ‘strengthened the temporary protection scheme for Syrians and Palestinians from Syria by granting them formal legal status in the country and officially allowing them to live outside camps’ (Human Rights Watch, 2015). The law was prepared to reflect the EU *acquis* in the field of asylum, and ‘has potential to assist migrants and asylum seekers in securing their rights, including procedural safeguards in relation to detention, deportations and international protection claims’ (UN General Assembly, 2013: 7). Moreover, the law provided the rights; to

stay, access to health care, access to education, the granting of work permits, social welfare, receiving legal aid, granting of documents for travelling within the country, and providing free services for translation. The United Nations stated that, with the implementation of the LFIP ‘access to the asylum procedure has improved’ (UN General Assembly, 2013).

Furthermore, the LFIP created a framework that; (1) established conditions of status determination, and (2) included conditions of protection of refugees from outside of Europe (UN General Assembly, 2013), which created a ‘dual asylum structure’ (Amnesty International, 2016). People who are fleeing from violence in Syria have been given a ‘temporary protection’ status, whereas people who are seeking asylum from other countries can be given three different international protection statuses, ‘1) Refugees, who are fleeing from threats in Europe, and who are permitted long-term integration in Turkey; 2) conditional refugees, who are fleeing from threats outside of Europe, and who must await resettlement to a third country; and 3) subsidiary protection beneficiaries, who do not qualify as refugees or conditional refugees but who require protection because they face the death penalty, torture or generalized violence amounting from armed conflict in their country of origin’ (Ibid: 14).

Moreover, the LFIP (3) guaranteed the principle of non-refoulement; and (4) set up a Directorate General for Migration Management (DGMM), which is a civilian institution that deals with the asylum process under the MoI (UN General Assembly, 2013). Previous to the establishment of the DGMM, the regulation of migration management was scattered throughout government institutions, as various ministries were handling different responsibilities of the migration management. However, through the establishment of the DGMM, Turkey's migration management became centralized, thereby responding to the European Commission's requests to centralize migration management in the previous years. Moreover, the DGMM handled the process of status determination and the responsibilities of the Turkish National Police (TNP) on asylum and refugee policies, which indicates Turkey's improvement in migration management⁷.

For the first time, the Commission noted ‘good progress’ under Chapter 24: Justice, Freedom and Security in 2013 (European Commission, 2013). Even though the status determination clause still put non-European asylum seekers in a ‘lower’ category than their European counterparts (European Commission, 2013; 2014), Turkish asylum and refugee management improved with the introduction of LFIP, as it became more focused on the safety

⁷ Until the introduction of LFIP and establishment of DGMM, the TNP was one of the bodies which was responsible with the asylum and refugee issues. The 1994 regulation gave these responsibilities to TNP, at the time, because of their national security concerns.

of vulnerable people, now contained the non-refoulement principle, and improved the status determination process for asylum seekers coming from non-European countries (Ibid). In 2014, however, the number of asylum applications increased to an estimated total number of more than 1,000,000 (European Commission, 2014). Due to this increased number on applications, the local capacity of Turkey and their resources was strained, which created a difficult environment for asylum seekers (Ibid).

After the eruption of Gezi Protests in 2013, the Turkish government started showing authoritarian tendencies through arresting twenty-four journalists who were believed to be linked with the 'US-based cleric', Fetullah Gulen, which was suspected of 'plotting to seize power' (BBC News, 2014). The EU criticized these arrests, as they claimed the acts of Turkish government were in conflict with the EU's laws and norms (Ibid). As a response to the criticisms from the EU, President Erdogan stated that the EU should not be interfering with Turkish politics, and added 'we have no concern about what the EU might say, whether the EU accepts us as members or not'. Erdogan stated that these arrests were necessary for Turkey's national security as they claimed they were arresting people who allegedly had connections with the Gulen Movement (BBC News, 2014). Hence, the EU-Turkey relations that had been deteriorating since the opening of the accession negotiations, became even worse in 2014.

In 2014, the Turkish government introduced the Circular on Education which established new regulations in line with the LFIP. Until this Circular, there was no proper legislation with respect to the education of refugee children. Even though they had a right to attend public schools, their rights were not clear enough. With the introduction of the Circular on Education, the government established two ways for Syrian refugee children to receive education when and if they are recognized as temporary protection beneficiaries by the government (Human Rights Watch, 2015). Firstly, through Temporary Education Centers (TECs) inside and outside of the refugee camps. Secondly, they can register free of charge to the public schools through their identification card from the government (Ibid). TECs within the camps are not a part of the national education system, so they do not have recognition within the international arena. However, the Ministry of National Education 'began registering non-camp temporary education centers so that they could be incorporated into the national education framework' (Ibid: 20). With regard to public schools in cities, Syrian children were allowed to attend the schools, but they faced language barriers as the official education language is Turkish (AIDA Country Report, 2017). In addition, in the provinces that have high numbers of refugee children (mostly the southeastern provinces) the capacity of the schools is significantly low. These schools 'were already in disadvantaged position [prior to the arrival of Syrian population]

in terms of basic education indicators such as enrollment rates, student per teacher, or student per classroom ratio' (Human Rights Watch, 2015: 19).

Furthermore, prior to introduction of the LFIP, the social rights that had been provided to refugees were not clearly defined by the government as the handling of rights was dependent on the ministries. This situation created ambiguous statuses and living conditions for the refugees within which they were unaware of their rights. With the regulation that was issued in October 2014, after the implementation of LFIP, the registration of beneficiaries of temporary protection and their rights became more clear. In addition, beneficiaries were now provided with identification cards which allowed them to reside in Turkey, and provide them with shelter and food in the accommodation sites (Human Rights Watch, 2015). However, 'the legal status of the great majority of these refugees remains unclear, which limits their employment opportunities' (European Commission, 2014), and their unclear status affects their living conditions and ability to receive certain services outside the camps (Ibid). Furthermore, previous to the LFIP, the system of accommodation facilities by the government were underdeveloped, as the Turkish government failed to provide well-established government-run facilities to the asylum seekers (AIDA Country Report, 2017). However, the introduction of LFIP did not make a significant improvement in the accommodation system for asylum seekers, and was still considered as 'notably falls behind in the European standard' (Ibid: 68).

The Turkish government's efforts to reform slowed down in the year of 2015, even though the government tried to speed up the accession process. The 2015 progress report stated that, 'this repeated commitment was offset by the adoption of key legislation in the arena of rule of law, freedom of expression and freedom assembly that ran against European standards' (European Commission, 2015). As there had been major terrorist attacks in Turkey, as well as a deadlock after the general election on June 2015 (a government could not be formed until November 1), the attention of the Turkish government was focused on the domestic environment. Furthermore, the 2015 progress report emphasized the government's authoritarian tendencies in the past years, as the freedom of expression, particularly regarding journalists, writers, and social media users, diminished. Hence, these increasing authoritarian tendencies negatively affected Turkey's relations with the EU and Turkey's prospects of EU membership even further.

However, in January 2016, Turkey made reforms increasing the temporary protection legislation and the access to the labor market for persons who are under temporary protection (European Commission, 2016). The government expanded the access to the labor market in April 2016, which allows applicants of international protection and international protection

beneficiaries to apply for work permits, as well as to ‘enroll in the general health insurance scheme, register at public schools and apply for social assistance (Ibid). The Regulation Relating to the Work Permits of the Applicants and the Beneficiaries of International Protection provided refugees with extensive official access to the labor market in Turkey. The new Regulation, on paper at least, granted easier access to the labor market for refugees under temporary protection, with the condition of not being involved in the informal economy, i.e., seasonal agricultural, construction, manufacturing and textile sectors (Simsek & Corabatir, 2016). However, in reality, as ‘few refugees know how to apply for them’, it is still hard for people to obtain work permits (Asylum Access Refugee Work Rights Report, 2017: 21). Moreover, even when people obtain work permits, the Law did not prevent the exploitation of refugees in the workplace. Moreover, as it is hard to apply for the permits, ‘most refugees work in the informal sector, workplace violations often go unreported’ (Ibid: 22). However, there are programs for refugees for training them for jobs by the Turkish government and Turkish NGOs, as well as international NGOs (Ibid; AIDA Country Report, 2017).

As reflected by BBC News (2016), in the first half of 2016, Turkish officials’ rhetoric towards the EU became more pessimistic (BBC News, 2016). In 2016, a Turkey-EU deal had been signed by the government officials regarding the refugees who entered Greece from Turkey through illegal routes. Turkey agreed on taking back the refugees who had been apprehended in Greece, in return of further burden-sharing with the Member States. However, after the deal, the expectations of the EU towards the protection of migrants became stronger (Ibid). As a response, President Erdogan stated ‘Europe should look at its own record on migrants before it told Turkey what to do [...] at a time when Turkey is hosting three million [migrants], those who are unable to find space for a handful refugees, who are in the middle of Europe keep these innocents in shameful conditions, must first look at themselves’ (BBC News, 2016).

The attempted coup on July 15, 2016 caused a turmoil in both the Turkish domestic environment and the international arena's relations with Turkey. After the coup attempt, there had been concerns over the EU and Turkey deal from the EU Member States. As a response, President Erdogan stated ‘the European leaders are not sincere [...] Turkey stands by its commitment with regard to refugees’ (BBC News, 2016). From the EU’s perspective, the coup attempt was an attack on Turkish democracy. In the aftermath of the coup attempt, the Turkish government introduced major legislative amendments with the claim of securitizing fundamental rights of people, which were attached to the European Convention on Human

Rights (European Commission, 2016). The EU declared Turkey should be complying with fundamental human rights with transparent procedures of legislation and judiciary (Ibid).

Through the previous years, Turkey and the EU had been working on the ‘visa liberalization’ that was attached to the EU-Turkey Deal as another incentive for Turkish government to accept it. As Turkey adopted reforms which met the requirements of the visa liberalization, Turkey was included in the list of countries under consideration for a ‘no visa requirement’ (European Commission, 2016).

Turkey’s human rights continued to decrease however as the government became more authoritarian after the coup attempt (European Commission, 2018). The Member States of the EU, especially French President Emmanuel Macron, insisted on the ‘privileged partnership’ status, rather than full membership once again. President Erdogan, as a response, harshened his rhetoric as he stated he does not want his country to be member of the EU (BBC News, 2018), as the EU membership prospect has been decreasing for a decade. However, President Erdogan was still pursuing visa liberalization for Turkish citizens, as reflected on BBC News (2018), “Mr. Erdogan said Turkey still wanted easier access to the EU for its citizens. ‘We are planning fulfill the remaining six criteria for visa liberalization as soon as possible [...] Visa liberalization, updating the customs union and reviving accession talks will benefit both Turkey and the EU’”.

As the progress report in 2018 indicated, “Turkey’s asylum legislation is particularly aligned with the EU acquis” (European Commission, 2018). The introduction and implementation of LFIP and the establishment of DGMM paved the way for Turkey’s improved asylum legislation. However, Turkey still holds the geographical limitation clause, which once again, got highlighted for abolishment by the Commission, as its existence creates a dual asylum application system for the people who are seeking asylum from non-European countries and creates an unfair treatment by the Turkish government (Ibid). As the progress report (2018: 48) pointed out, “there have been reports of alleged expulsions, returns and deportations of Syrian nationals, in contradiction of the non-refoulement principle”.

5.3.1 Discussion and Reflection on the period

Given the mass Syrian refugee influx at the start of the period between 2011 and 2018, the European Commission emphasized several urgent misfits for Turkey to prioritize. These were the need to accelerate the introduction of fully fledged asylum law and the creation of a centralized civilian institution that would handle the process of status determination, as well as the need to improve the number and capacity of accommodation facilities, the need to further

clarify the access to education and access to labor market, and most importantly, the need to eliminate the geographical limitation clause.

The comprehensive asylum law, which was in its preparation stage in 2010 (initiated by the Task Force), was introduced in 2013 under the name of LFIP. Furthermore, the introduction, and later its implementation in 2014, established the centralized civilian institution of the DGMM, which took on the responsibilities of status determination process, and other related areas in handling the field of asylum and refugee. The introduction of LFIP and creation of the DGMM were crucial steps for Turkey's migration management. In addition, the Turkish government introduced several legislations in this particular period that provided more secure and stable living conditions to Syrian refugees as well as access to their social rights. In line with Lavenex and Ucarer's (2004: 420) argument, the EU's external effect can here be seen as a policy and/or institutional transfer which can be said to push for 'the creation of specialized administrative agencies dealing with asylum and migration.' The EU's pressure on domestic policy change in the areas of creation of comprehensive asylum law, status determination process, and a civilian institution was high in the previous years, which led to a high level of domestic change (Börzel & Risse, 2003).

The relations between Turkey and the EU, however, became more negative in this period compared to the previous periods. On the one hand, the decreased trust in the EU's credibility in the previous period became more visible from the Turkish side, as the prospect of membership was diminishing. On the other, the increasing authoritarian tendencies of the Turkish government and policy-makers' actions were contradicting with EU law and norms. However, even during the eroding relations with the EU and diminishing EU membership prospect, I can observe that Turkish government accelerated their reform process with the Syrian refugee influx.

This is the period where the Turkish government accelerated the previously slowed down reform process in the field of asylum and refugee policies, regardless of the waning relations with the EU and its Member States and the low membership prospects. Hence, I can assume that the logic of consequences' conditionality mechanism was not at work in the period between 2011 and 2018, as there was no apparent positive correlation between the domestic policy changes with respect to indicated misfits (*indicator 1*), good relations with the EU and its Member States, and positive membership prospects (*indicator 2*).

If alternatively, the socialization mechanism was at work in this period, I need to observe the shift from the logic of consequences to the logic of appropriateness, as the actors adopt the Community's rules and norms, rather than showing behavioral adaptation (Checkel,

2005). Policy-makers in that case act because it is ‘appropriate in that particular setting’ (Ibid: 810). However, in this case, the Task Force started preparing the LFIP in the year of 2010, when the relations between the EU and Turkey were not as negative as they were in 2013. Furthermore, the LFIP mainly focused on the asylum seekers fleeing from Syria as the government provided certain rights solely to Syrian asylum seekers, rather than focusing on asylum seekers from all non-European nationalities residing in Turkey. Nevertheless, the creation of a new law and new institution from scratch parallel to the EU *acquis*, along with their implementation, indicates a substantial change in the underlying rationale of a part of Turkey’s migration management.

On the whole, however, the reports on the implementation (*indicator 3*) of these legislations and circulars indicate that there existed gaps between the legislations and their implementations. Hence, it cannot be confirmed that domestic policy change occurred out of internalized EU laws and norms in accordance with the logic of appropriateness. Nonetheless, despite the lack of implementation, the policy changes were independent from the good relations with the EU and its Member States, and the prospect of EU membership. Hence, for this particular period, *H2: Turkish asylum and refugee policy has changed to align more with the EU acquis, even during periods of bad relations and/or low membership prospects* holds. Hence, while I cannot assume the socialization mechanism was at play in this period, the findings do indicate that there were other factors that affected the domestic policy change.

In light of this, even though Turkey was lacking in implementation, the introduction of new laws and legislations might signal that there has been an initiation of a shift from the logic of consequences to the logic of appropriateness. As argued by Checkel (2005), when ‘agents are in settings where contact is long and sustained, and it has some significant duration’, the shift starts to occur (Checkel, 2005: 811). As Turkey has been a candidate country to the EU since 1999, and has been receiving progress reports which point out the misfits that should be lowered and/or eliminated since 1998, the government has been subject to a learning process regarding the EU’s laws and norms. This situation might have led Turkey to enter the ‘shift’ period from logic of consequences to logic of appropriateness in the field of asylum and refugee. Within the shift period, actors are not driven from strategic cost-benefit calculations, or the internal adaptations of the norms, but rather they act because it is ‘easier socially’ (Ibid), even if it does not fit into their own interests. The Syrian refugee influx was the biggest refugee influx that Turkey has experienced in its history, which might have led Turkey to go beyond strategic cost-benefit calculations, even if it conflicted with its political interests.

6. Conclusion

In this thesis, I have defined the concept of Europeanization as a top-down process of domestic policy adaptation directed by the EU's conditionality and the misfit of a candidate's domestic policy with respect to the EU's laws, norms and demands. Within this particular process, the underlying rationale of the domestic policy change can be either behavioral-adaptation, or value-adaptation. While the former reflects the conditionality's external incentives model, the latter indicates the social learning model referred to as socialization. Several scholars have claimed that the external incentives model has driven changes in Turkey's asylum and refugee policy, but so far, this previous research has lacked a careful empirical investigation into which mechanisms have actually been at work. The purpose of this thesis has thus been to empirically investigate whether or not shifts in Turkey's asylum and refugee policy has solely revolved around strategic cost-benefit calculations, or whether these have been effects of an internalization of EU's rules and norms. Given that purpose, I have in this thesis aimed to produce answers to the research question: *how has the EU affected Turkey's asylum and refugee policy after the declaration of candidacy status?* Following the argument that Turkey's asylum and refugee policy is a least-likely case that the EU would have transformative power on, the results of this study travel well to the EU's transformative power on other policy areas of the EU acquis, as well as to other candidate countries.

After acquiring candidacy status, Turkey went through an intense reform process as it was fully involved with the pre-accession strategy of the EC, given the pull factor of good relations and high membership prospects in the first period, and pushed by EU conditionality and the misfit between the EU-level and Turkish domestic policies. What started with behavioral-adaptation of domestic policy change in alignment with the EU's laws, norms and demands in the first and second time periods, I observe in the third period that Turkish asylum and refugee policies started to step away from the push power of the external incentives of the EU and strategic cost-benefit calculations. Rather, it started to show signs of value-adaptation which comes from socialization.

The intense reform process in the first period with high membership prospect, and slowed down domestic policy changes with decreased EU's credibility in the second period is in line with the previous literature on the external incentives model and specifically the mechanism of conditionality (Schimmelfenning & Sedelmeier, 2004; Checkel, 2005; Börzel & Risse, 2003). Hence, the *H1: Turkish asylum and refugee policy has changed to align more with the EU acquis during periods of high membership prospects and positive relations with*

the EU and its Member States holds for periods of 1999-2004 and 2005-2010, with the exception of year 2010, where I observe no correlation between domestic policy changes with respect to the indicated misfits, the quality of relations, and membership prospects. At a time when relations are waning since the opening of accession negotiations, the observed domestic policy changes cannot be explained by conditionality mechanism of Europeanization, as domestic policy changes in the field of asylum and refugee were not correlated with the membership prospects and good relations with the EU. Hence, *H2: Turkish asylum and refugee policy has changed to align more with the EU acquis, even during periods of negative relations and/or low membership prospects* holds for the year 2010. Hypothesis two also holds for the years after 2010 and I therefore claim that the domestic policy changes were not driven through external incentives, or behavioral adaptation. Nonetheless, I cannot confirm that the socialization mechanism was at work either, since there was a lack of implementation of the new legislations introduced in the 2011-2018 period.

To account for this, I argue that if Europeanization is seen as a linear process, conditionality's behavioral-adaptation is the initiation point of the domestic policy change, which in time, might turn into socialization's value-adaptation. The transition period from conditionality to socialization indicates the switch from strategic cost-benefit calculations to an internalization of EU's laws and norms. However, in the process of that switch, actors do not show either mechanism, but comply with the EU's laws and norms because it is an easier thing to do, even when it does conflict with their own interests (Checkel, 2005). Hence, one explanation for the improvement in Turkey's field of asylum and refugee policy, specifically the LFIP and DGMM, could be the indication of a starting shift from conditionality to socialization. Another possible explanation for the changing asylum and refugee policy might be the changing foreign policy ambitions of Turkish government, since, as argued before, LFIP provided certain social rights to the Syrian asylum seekers, rather than all asylum seekers from non-European countries, residing in Turkey. Another possible explanation for the improvement is that the Task Force, an inter-Ministerial body to handle asylum, initiated the improvement in migration management as they started preparing the asylum law on 2010.

This effect of institutions and the role of foreign policy are crucial in the domestic policy change, and further research should therefore investigate their role in the Europeanization of Turkey and candidate countries in general. The availability of material limits research efforts, however, as there is lack of public access to the legislative implementation data in Turkey and lack of access to Turkish government officials in order to conduct interviews. These circumstances prevent the examination of the rationale behind the domestic policy change and

hence, this study has solely relied on the secondary sources. Nonetheless, further analysis of other aspects could provide a more comprehensive understanding of the mechanisms of Europeanization that goes beyond the EU's visible hand, pushing and pulling through conditionality.

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