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POLITICAL SCIENCE

Why Keep Complying?

**Compliance with EU Conditionality under Diminished
Credibility in Turkey**

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Declaration

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Abstract

The widely accepted external incentives model of conditionality (EIM) argues that the rewards promised by the EU need to be credible for target states to comply with costly EU conditions. Accordingly, compliance should come to a halt or decline significantly in countries where the credibility of accession – the most powerful reward used by the EU – is very low. The case of Turkey appears therefore to present a puzzle, since the current AKP government is still complying with costly EU conditions despite the negative signals from the most powerful member-states and the EU general public. This thesis first establishes that there is indeed a puzzle. The quantitative and qualitative data gathered on formal and behavioural compliance demonstrates that credibility is not a necessary condition for compliance. There are absolutely no signs of decline in compliance, which challenges the EIM's credibility assumption. The second part of this thesis moves to consider *why* the Turkish authorities continue to comply under diminished credibility. It finds that the AKP makes strategic use of EU conditionality. Firstly, compliance with EU conditions serves to curb the powers of the Kemalist/secularist establishment and thereby to secure the party's continued presence. Secondly, compliance helps the government to appear as a Western, reformist, moderate and neo-liberal party to the electorate so as to widen its domestic support. Moreover, lock-in effects of Turkey's already established pro-European foreign policy, together with issue-specific costs/benefits, also inform the AKP's decision to comply, albeit to a lesser extent. Finally, this thesis analyses the role of the EU-related bureaucracy as a separate, but limited, actor in the compliance process. In contrast to the political leadership, strong organisational lock-in effects and a high level of social learning motivate bureaucratic agents' further compliance, which suggests there is a specific *bureaucratic politics of compliance* at work in Turkey.

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List of Abbreviations

AIB	Asylum and Immigration Bureau
AKP	Justice and Development Party
ANAP	Motherland Party
AP	Accession Partnership
BDP	Peace and Democracy Party
BMB	Border Management Bureau
BPM	Bureaucratic Politics Model
CEEC	Central Eastern European countries
CHE	Council of Higher Education
CHP	Republican People's Party
CN	Chief Negotiator
CoE	Council of Europe
DG	Directorate General
DGEU	Directorate General of EU
DGS	Deputy General Secretary
DPM	Domestic Politics Model
DSP	Democratic Left Party
DTP	Democratic Society Party
DYP	True Path Party
EIM	External Incentives Model
EMCDDA	European Monitoring Centre for Drugs and Drug Addiction
EP	European Parliament
EU	European Union
EUHC	EU Harmonisation Committee
EUROPOL	European Police Office
EUSG	Secretariat General for European Union Affairs
FAC	Foreign Affairs Committee
FADPM	Foreign Affairs Department in the Prime Ministry

FP	Virtue Party
FYROM	Former Yugoslav Republic of Macedonia
GDS	General Directorate of Security
GS	General Secretary
HI	Historical Institutionalism
HP	Harmonisation Package
IDP	Internally Displaced Persons
IMF	International Monetary Fund
IOM	International Organisation for Migration
JHA	Justice and Home Affairs
JPC	EU-Turkey Joint Parliamentary Committee
LDM	Lesson-drawing Model
MEP	Member of the European Parliament
MEU	Ministry of European Union
MFA	Ministry of Foreign Affairs
MHP	Nationalist Action Party
MI	Ministry of Interior
MJ	Ministry of Justice
MP	Member of Parliament
MS	(EU) Member-state
MUSIAD	Independent Industrialists and Businessmen's Association
NF	Negotiating Framework
NGO	Non-governmental Organisation
NMSC	Negotiations Monitoring and Steering Committee
NOM	National Outlook Movement
NPAA	National Programme for the Adoption of the Acquis
NSC	National Security Council
OPCAT	Optional Protocol to the Convention against Torture
PAS	Political Affairs Sub-committee
PHARE	Poland and Hungary: Assistance for Restructuring their Economies
PKK	Kurdistan Workers' Party

PM	Prime Minister
PR	Progress Report
PRTEU	Permanent Representation of Turkey in Brussels
RCI	Rational Choice Institutionalism
REITOX	European Information Network on Drugs and Drug Addiction
RMG	Reform Monitoring Group
RP	Welfare Party
RTUK	Radio and Television Supreme Council
SI	Sociological Institutionalism
SIGMA	Support for Improvement in Governance and Management
SLM	Social Learning Model
SOP	Standard Operating Procedures
SP	Felicity Party
SPO	State Planning Organisation
T1	Time Period 1
T2	Time Period 2
TADOC	Turkish International Academy against Drugs and Organised Crime
TAIEX	Technical Assistance Information Exchange Unit
TGNA	Grand National Assembly of Turkey
TPAA	Turkey's Programme for Alignment with the Acquis
TRT	Turkish Radio and Television Corporation
TUBIM	Turkey Monitoring Centre for Drugs and Drug Addiction
TUSIAD	Turkish Industrialists' and Businessmen's Association
UN	United Nations
UNODC	United Nations Office on Drugs and Crime

Introduction

'I do not think that Turkey has a place in Europe.' 'I have always been opposed to this entry and I remain opposed.' Nicolas Sarkozy (Laciner, 2009; Charter, 2009)

'I don't believe that Turkey can become a member of the Union in the foreseeable future.' Angela Merkel (Inal and Yegenoglu, 2005)

24 years after Turkey's formal application to the European Union (EU) its chances of membership look grim even in the long-run. 59% of the EU public is against Turkey's membership, which is the highest opposition compared to other (potential) candidates, like Kosovo, Albania, Serbia and Bosnia and Herzegovina (Eurobarometer, 2010b). Moreover, the leaders of the most influential EU member-states (MSs) are staunchly opposed to Turkish entry. Given all these negative signals coming from the EU, one would expect the political leadership in Turkey to be pessimistic about accession. Similarly, it is no surprise that Turkish people have increasingly become suspicious of the EU, demonstrated by their declined support for and trust in the EU after 2004. Yet, despite the discouraging mood-music from the EU, as well as declining public support, the political leadership is still continuing to comply with the stringent requirements of EU conditionality. So *why is Turkey still complying with EU conditionality under these adverse circumstances?*

1.1 The Research Puzzle

Incontrovertibly the EU's Eastern enlargement has entailed major achievements both for the EU and its Central and Eastern European applicants. The EU and its MSs have not experienced most of the anticipated unfavourable consequences linked to widening (Falkner and Treib, 2008; Sedelmeier, 2008) and the

applicants have democratised to a significant degree. Such accomplishments owe a great deal to the EU's conditionality instrument, which attached an alluring incentive structure to these countries' ongoing transition processes. The credible prospect of becoming a member of *the Club* prevailed over the costs associated with particular reforms.

Yet, a brief look at the current and potential candidates suggests that a similar degree of policy change is less likely because the prospect of membership has decreased for many of them (Epstein and Sedelmeier, 2008: 798-9; Schimmelfennig, 2008: 919). The foremost question that troubles the minds of both EU and candidates' policy-makers is: how can conditionality operate without a proximate, probable and credible membership carrot? The leading theoretical explanation of the EU's impact through conditionality – the external incentives model (EIM) (Schimmelfennig and Sedelmeier, 2005) – would expect the candidates' governments to put an end to or significantly reduce their compliance with costly reforms if the EU's membership offer does not appear to be sincere or credible. The central aim of this thesis is to explain patterns of continued compliance in Turkey which appear puzzling from the perspective of the EIM.

According to the EIM, credible incentives exert *the push* for compliance in candidates, since credibility is assumed to be a necessary condition for candidates' compliance with costly EU-led reforms. Given that the credibility that compliance will be rewarded as promised in Turkey is particularly low, the EIM does not expect Turkey to continue to comply with EU conditions. However, the Turkish case is noteworthy as there is evidence demonstrating that compliance continues, which directly contradicts the EIM.

1.2 Aims and Methodology

This research aims to address this puzzle by examining the patterns of compliance in Turkey (the dependent variable) under diminished credibility. To do this it, firstly, tests whether *credibility is a necessary condition for*

compliance as the EIM suggests. As this *necessity* assumption is not found to hold, this research inquires into the motives behind continued compliance by examining: *why do candidates keep complying with EU conditionality under diminished credibility?*

To test whether or not credibility is a necessary condition for compliance, two temporal cases that offer very different credibility levels for the prospect of Turkish membership are compared: 2001-2005 and 2005-2010. The credibility of the EU's membership offer to Turkey gradually increased from 1999, when Turkey was recognised as an EU candidate, until October 2005 when the accession negotiations started. After this date, credibility experienced a significant and continuous decline, due to a number of events. Firstly, certain EU MS leaders voiced objections to Turkish membership by supporting instead the idea of a 'privileged partnership' rather than full membership. In addition, the Negotiating Framework (NF) referred to the 'open-ended' nature of accession negotiations, and amendments to the French constitution made referendums compulsory for accession of each country to the EU unless a high threshold for parliamentary approval is attained. Finally, due to the conflict over the recognition of Cyprus, the Commission partially suspended the negotiations in eight chapters and Cyprus blocked six chapters. Moreover, France also blocked a further five chapters due to its opposition to Turkey's full membership. All these developments resulted in extremely low levels of credibility after 2005. In this respect the period between 2001¹ and 2010 can be conceptualised as two temporal cases, which enables before-after analysis.

The case of Turkey, where a comparative analysis of two temporal cases in the fields of Justice and Home Affairs (JHA) and EU's political conditionality can be conducted, is particularly useful for this *theory testing* purpose. The exceptionally low levels of credibility in Turkey offer a very tough test for the EIM's credibility assumption, which considers credibility a necessary condition for compliance. In this sense, the Turkish case serves as a *least-likely case* to test

¹ This date is preferred as a start date for the analysis over 1999 because the actual conditionality with specific rewards and deadlines for compliance started with the EU's first Accession Partnership for Turkey in 2001.

the EIM. Furthermore, under diminished credibility, compliance becomes even less likely if the costs of compliance are high. The fact that JHA and political conditionality incorporate some of the most challenging conditions, and that both 23rd and 24th chapters incorporating JHA and political conditionality issues are blocked after 2005 make this test more rigorous, since compliance becomes less likely.

Secondly, after the EIM's credibility assumption is contested in the first part of the thesis, the research aims to resolve this puzzle by explaining the reasons behind the Turkish actors' continued compliance with the EU after 2005. In this respect, the second part of the thesis serves as a heuristic study to refine the theoretical approaches to the study of conditionality by introducing new variables, hypotheses and causal mechanisms. A number of independent variables derived from the conditionality and new institutionalist literatures, namely *government's partisan interests*, *political/economic costs*, *administrative capacity*, *sunk costs*, *vested interests*, *political lock-in*, *organisational lock-in* and *social learning*, are tested to explain continued compliance under diminished credibility.

Explanatory variables which vary across policies, namely *political/economic costs*, *sunk costs* and *vested interests*, are tested through a comparative study of six issue areas: external borders; illegal migration and asylum; organised crime; human trafficking; drugs; and cultural and political rights of minorities. At the same time, other variables which cannot be tested through a comparative analysis due to a lack of variance, namely *government's partisan interests*, *political lock-in*, *social learning*, *organisational lock-in* and *administrative capacity*, are tested through within-case analyses using congruence method, counterfactual design and process tracing.

This thesis also contributes to the theoretical approaches to the study of conditionality by distinguishing between different types of domestic actors that are engaged in compliance – namely politicians and bureaucrats. The political leadership is the most crucial actor in the process of compliance with EU conditionality, as the governing party decides which EU conditions to comply

with, thereby determining the timing and extent of compliance. Given the politicians' importance in compliance, almost all the literature on conditionality examines their motivations to explain compliance outcomes. At the same time, there is evidence to believe that EU-related bureaucrats may play a positive role in compliance despite diminished credibility in Turkey. For instance, their frequent contacts with EU officials makes it likely for them to experience socialisation, which may motivate them for further compliance. In this respect, this thesis takes a more nuanced approach to investigate the compliance patterns of EU-related bureaucrats and examines the driving forces behind their compliance. It tests whether these bureaucrats are an independent force in improving compliance under diminished credibility in Turkey. Put differently, *are there specific bureaucratic politics of compliance at work and can it explain continued compliance?*

1.3 Findings

Most importantly, this thesis offers a more nuanced and qualified formulation of how credibility matters for compliance. The macro-level quantitative analysis in the first part of the thesis challenges the EIM's credibility hypothesis. It demonstrates that the Turkish government continued to comply with the EU in the areas of JHA and political conditionality after 2005. In other words, the *level* of both formal (legal adoption) and behavioural (practical application) compliance increased over time. Turkish authorities adopted new laws, practically applied them, adopted and/or ratified new international treaties, built new institutions, made infrastructural improvements, rather than simply maintaining existing levels of compliance or even reversing some of the already conducted reforms. All these developments are crucial since the EIM would not expect them to happen when credibility declines significantly, which is the case in post-2005 Turkey. Furthermore, the *speed* of formal and behavioural compliance, which is measured by the number of reforms per year, did not decline. In fact, it even improved in a number of cases after 2005.

This finding is also validated by micro-level qualitative evidence. The levels of formal and behavioural compliance increased in all of the cases examined – external borders; illegal migration and asylum; organised crime; human trafficking; drugs; and cultural and political rights of minorities. Moreover, the speed of formal and behavioural compliance remained stable at worst. Overall, both the macro-level and case study analyses demonstrate that the level and rate of compliance has either improved or at least remained stable. The fact that there has been absolutely no sign of decline in the level or average speed of compliance demonstrates that credibility is not a necessary condition for compliance with costly conditions in Turkey.

This claim contradicts a number of analysts who argue that Turkey's compliance with the EU has deteriorated after the opening of accession negotiations. In this respect, the Justice and Development Party (AKP) is seen as having lost its motivation to comply with EU conditionality given Turkey's slim chance to become an EU member. Some of the bureaucrats, opposition party officials and civil society representatives interviewed for this research also shared this view. Although this may be a common perception, it needs to be qualified and compared against empirical data, which is something this thesis offers.

Firstly, when analysts talk about stagnation in Turkey's reform process they generally refer to a slow down in the *speed* of compliance rather than the *level*. This thesis shows that the speed of compliance did not decline in the policy areas under analysis, but on average remained stable after 2005.

Secondly, the remarks about declining compliance both in media and in the literature tend to focus on a single issue area, namely EU's political conditionality. However, important reforms in various *acquis communautaire*² fields continued to be conducted after 2005 but have not received the same level of media or even political attention. This thesis demonstrates that the level of compliance in JHA field increased and speed of compliance remained stable after 2005, rather than declining.

² What is now the *acquis de l'union*, i.e. the entirety of the EU legislation incorporates more than 170,000 pages of rules and regulations (Open Europe, 2005).

Thirdly, those claiming there has been a decline focus on the quantity of reforms rather than quality. It is true that both the coalition government prior to AKP and AKP itself conducted significant reforms before 2005 predominantly addressing the EU's political conditionality. The Turkish constitution has been revised twice and nine EU harmonisation packages were adopted before the opening of accession negotiations. In light of this, the number of reforms appears to have declined after 2005 in the field of political conditionality. However, this view has a number of shortcomings. It is important to bear in mind that EU conditionality is not an endless list of requirements, which grows longer as candidates comply. It is to be expected that as Turkey conducts reforms there will be a lower number of conditions remaining to be complied with. Put differently, the compliance pattern of a successful candidate is expected to show a decline in the number of reform acts over time. Of course Turkey is still not close to meeting the EU's demands in the area of political conditionality. However, a more thorough assessment is still necessary. It is very likely that candidates start their compliance with the politically least costly technical conditions. Therefore, in the initial periods of conditionality there may be a higher numbers of reforms, but the economically and politically more costly legislation and more difficult aspects of behavioural compliance are postponed till later stages. The apparent 'slow down' in Turkish compliance can be explained this way, as Turkey is still required to solve the Cyprus issue, demilitarise politics fully and bring an end to the Kurdish problem. Moreover, this thesis demonstrates that, despite the fact that more costly reforms were not conducted in the post-2005 period, Turkish authorities made substantial progress. For instance, a significant constitutional reform package and a wide-ranging judicial reform strategy were adopted. Moreover, important developments in the field of minority rights were accomplished. Therefore, a more qualitative comparative assessment of pre-2005 and post-2005 reforms in the field of political conditionality is likely to demonstrate that the above-mentioned 'declining compliance' arguments are not necessarily accurate.

In sum, this thesis adopts a more holistic approach to measuring compliance by using both quantitative as well as qualitative indicators and examining both

political and *acquis* conditionality. In this respect, it demonstrates that in all cases under analysis the level of compliance increased and in most of the cases the speed of compliance increased as well. This evidence presents a serious challenge to the EIM's credibility hypothesis.

The second empirical part of the thesis explains why compliance continues in Turkey under diminished credibility. It argues that the political leadership complies with the EU mainly out of domestic cost-benefit calculations. More specifically, the AKP's compliance is best explained by a particular variable – the *government's partisan incentives*. The AKP is seen as making strategic use of EU conditionality to attain domestic benefits irrespective of diminished credibility. The party, on the one hand, benefits from particular aspects of EU conditionality that curb the powers of the Kemalist³/secularist establishment, thereby securing its survival as a political party and ensuring it can effectively govern the country without military intervention. On the other hand, a pro-EU stance allows the AKP to increase its voter base by branding itself as a moderate, Westward-looking, neo-liberal party to the Turkish public. The AKP's pro-EU stance attracts not only the newly emerging Anatolian bourgeoisie and the secular business groups because of its economically neoliberal policies, but also the liberal sections of society and the religious-conservative segments due to the party's reforms to comply with the EU's human rights standards. Process tracing analysis on the broadcasting rights of minorities in Chapter Seven also confirms this conclusion.

A number of other factors contribute to explaining the AKP's continued compliance. Firstly, the EIM would also suggest that *economic* and *politics* costs associated with individual reforms would impact the governing party's compliance. In other words, the AKP is likely to prioritise less costly reforms. Chapter Eight conducts a comparative analysis of six issue areas to show that both the economic and political cost variables carry explanatory power. While

³ Kemalism, developed by Ataturk, is the official Turkish state ideology. It incorporates six principles: republicanism, economic statism, populism, laicism, nationalism and reformism. Most significantly it views religion as a threat to the Turkish nation-state and aims to separate religion from worldly affairs. What this has meant in practice is putting religion under strong state control.

these issue-specific costs are powerful in explaining why the government complies selectively with certain conditions and not all, they are not strong enough to explain the broader pattern of continued compliance after 2005. For instance, in the politically very costly area of the cultural rights of minorities, partial compliance occurred after 2005. This outcome can only be explained with reference to the government's partisan incentives.

Secondly, this research finds that historical institutionalism (HI) holds some weight, since path-dependency and lock-in effects play a part in continued compliance. The *political lock-in* variable measures whether the general orientation of Turkish foreign policy (FP) and/or already conducted compliance has an impact on future compliance patterns. According to HI, once the political leadership sets a FP target, it becomes very costly to reverse this policy. The empirical evidence demonstrates that this lock-in dynamic is causally related to continued compliance, however it is not sufficiently strong to explain it on its own.

Finally, a number of other variables fail to explain continued compliance after 2005. Most significantly, *social learning* which hypothesises that compliance increases with higher identification and closer institutional/personal contacts of politicians with the EU, does not appear to be a relevant part of the explanation in the Turkish case. This research demonstrates that the AKP does not identify strongly with the EU and the conditions which make social learning more likely, such as an exposure to the EU and having a European background, are not conducive in the AKP's case. Therefore, even though we cannot rule out the possibility that social learning may matter for compliance, the case at hand does not allow us to confirm this hypothesis, since it seems very unlikely that low levels of social learning would have led to continued compliance under diminished credibility. Furthermore, the level of issue-specific *sunk costs* and *vested interests* were found to be incongruent with the levels of compliance after 2005, therefore they are ruled out as possible explanations of compliance.

In sum, this thesis demonstrates that the AKP's continued compliance under diminished credibility is predominantly due to the particular domestic incentives

these reforms offer to the governing party, lock-in effects due to the general direction of Turkish FP and specific costs associated with different reforms.

In addition to the compliance of politicians, this thesis also analyses whether the EU-related bureaucrats are an independent force driving further compliance. The findings demonstrate that they continued to conduct administrative preparatory work after 2005 for formal and behavioural compliance to take place. However, these bureaucrats do not operate as independent actors and the work they conduct does not autonomously improve compliance. Rather than presenting a case of agency shirking, their activities follow the preferences of the political leadership. The level and speed of administrative work they conduct is determined by the economic/political cost-benefit calculations of their principals – the politicians. If the politicians find various reforms beneficial they instruct the bureaucrats to comply and if compliance is costly for the politicians then the bureaucrats postpone reform preparations. At the same time, even though the EU-related bureaucracy's actions cannot explain compliance alone, bureaucracy is still an important actor in the compliance process and may be able to improve compliance in areas where the political leadership is indifferent. For instance, it can use its agenda-setting capacity by coming up with new initiatives to further compliance.

This analysis on bureaucrats also demonstrates that their motives for compliance are different from those of the politicians. For the EU-related bureaucrats, strong organisational lock-in mechanisms encourage them to comply. Furthermore, they are more likely to experience social learning throughout the compliance process in comparison to the political leadership. High organisational lock-in and social learning suggests that there is a distinct *bureaucratic politics of compliance* at work.

1.4 Structure of the Thesis

Following this Introduction, Chapter Two presents the theoretical framework and the methodology applied by this thesis. The chapter uses Schimmelfennig and

Sedelmeier's (2005) conceptual framework for the EU's impact on candidate countries to set the theoretical framework. The EIM and the social learning model are employed in this research to offer (partially) competing explanations of compliance. Furthermore, the chapter clarifies how the new institutionalist theories – rational choice institutionalism, HI and sociological institutionalism – contribute to explaining continued compliance under diminished credibility and presents the research hypotheses derived from the new institutionalist variables. The second part of this chapter details the research design. It operationalises in detail the dependent variable, as well as the independent variables, by explaining the methods used for measurement. Finally, the case selection is justified and the research methodologies used in the thesis, such as before-after design, comparative methodology, counterfactual design and process tracing, are explained.

Chapter Three provides an overview of how the compliance process is coordinated and operates in Turkey with specific attention to policy-formulation and policy-making phases. It explains how the decision to comply is taken, how the compliance agenda is set, what the EU-related bureaucrats do to prepare the ground for compliance, how the elected officials comply and finally how much power and autonomy each actor in the process possesses.

Chapters Four and Five constitute the first empirical part of the thesis to test the EIM's credibility assumption. Chapter Four analyses the levels of formal and behavioural compliance over time to see whether compliance in the post-2005 period is significantly lower than it was in the pre-2005 period. This chapter makes use of quantitative macro-level data in the 23rd and 24th chapters of the EU acquis and concludes that compliance in terms of adoption and application of new laws continued after 2005. Chapter Five examines how the level and speed of formal and behavioural compliance change over time in the fields of external borders; illegal migration and asylum; organised crime; human trafficking; drugs; and cultural and political rights of minorities. This qualitative micro-level data also supports the claim that compliance continued after 2005.

The second empirical part of the thesis explains why the political leadership and EU-related bureaucrats in Turkey continue to comply with EU conditionality under diminished credibility. Chapter Six tests whether continued compliance can be explained by the preferences and actions of the political leadership, comparing three explanations derived from the new institutionalist theories – government’s partisan incentives, political lock-in and social learning. Congruence method together with counterfactual design is used to demonstrate that government’s partisan benefits offer the strongest causal explanation for continued compliance.

Chapter Seven then tests these same variables in an in-depth case study of a specific issue area – broadcasting rights of minorities – through process tracing, and reaches similar conclusions. It finds that government’s partisan incentives motivate the AKP to comply in this area and allow it to increase its voter base, control the content of broadcasting in minority languages and gain credit with the EU at the same time. Moreover, the lock-in effects created by the direction of Turkish FP and earlier reforms make it more likely that the AKP will comply.

Chapter Eight compares the political leadership’s compliance across various issue areas with distinct costs and benefits. It tests whether differences in the economic costs, political costs, sunk costs and vested interests related to the fields of external borders; asylum and illegal migration; organised crime; human trafficking; drugs; and cultural and political rights of minorities matter for compliance. It concludes that, together with the broader explanations of compliance detailed in Chapters Six and Seven, economic and political costs associated with reforms also contribute to explaining continued compliance under diminished credibility.

The final empirical chapter – Chapter Nine – accounts for the continued compliance of EU-related bureaucrats after 2005. It also explains the extent to which the EU-related bureaucrats are a driving force behind improving compliance, independent of the preferences and actions of the political leadership. Congruence method is employed in this section to test whether organisational lock-in and social learning variables explain bureaucratic

compliance. Both variables are found to be causally related to continued compliance. At the same time, this chapter concludes that the EU-related bureaucrats are not autonomous actors in compliance and instead their compliance is highly dependent on the preferences of the political leadership regarding the economic/political costs of reforms.

Finally, the Conclusion discusses the findings and presents areas of further study. Most importantly, it concludes that the most basic tenets of the EIM are largely confirmed by this thesis, as Turkey's compliance can mostly be explained by government's cost-benefit calculations. At the same time, the EIM generally assumes that compliance involves domestic costs. This thesis demonstrates the shortcomings of this view and refines it by arguing that the rewards offered by EU are not the only benefits used by the candidates' governments in compliance process. Rather, there may be intrinsic domestic partisan benefits at work. Therefore, external rewards offered by the EU and the credibility of these rewards are not always necessary for candidates' compliance.

Chapter Two:

Theoretical Framework and Research Design

Introduction

This research aims to investigate an apparent puzzle for the widely accepted external incentives model of conditionality (EIM), which assumes that credibility is a necessary condition for compliance with costly conditions. To do this, it firstly establishes that the empirical evidence indeed confirms that there is a puzzle. It conducts a comparative study of two temporal cases during which credibility varies to answer the following question: *does compliance deteriorate after credibility declines?* The macro-level quantitative and micro-level qualitative data in the fields of JHA and political conditionality show that compliance continued despite diminished credibility.

Secondly, this thesis seeks to solve this puzzle by explaining continuing levels of compliance under diminished credibility. It draws on rational choice, historical and sociological institutionalist theories to explain why the political leadership and bureaucrats in Turkey continued to comply with EU conditionality at a time when the EU's membership promise lost most of its credibility. This analysis is conducted by a combination of comparative case studies and within-case methods, including congruence method, counterfactual analysis and process tracing.

The first part of this chapter sets out the theoretical framework for the thesis. Initially, it introduces the dependent variable used in the research. It then reviews theories of Europeanisation and explains why the rationalist approaches consider credibility as a necessary condition for compliance. Subsequently, it presents the case of Turkey and explains why it offers a puzzle for rationalist theories, and develops the research hypotheses which guide this research. The second part of

the chapter presents the research design. More specifically, it operationalises the dependent and independent variables, justifies the selection of cases, sets out the research methodology and clarifies data sources.

2.1 Theoretical Framework

2.1.1 *The Dependent Variable – Compliance*

This thesis aims to solve the puzzle of and explain *continued compliance* with costly conditions under diminished credibility. Therefore, compliance, or the process through which candidates adopt EU demands and institutionalise them, is the dependent variable of this research. Conditionality studies distinguish between two types of compliance. Firstly, in *formal compliance* candidates legally adopt the EU rules. Since the EU generally considers such legal adoption as satisfactory, most conditionality studies limit their definition to formal compliance.⁴ The observable implications of this type of rule adherence are the transposition of EU law into domestic legislation through laws and secondary legislation or signing and/or ratifying international treaties (Schimmelfennig and Sedelmeier, 2005: 7). However, candidates may not limit themselves to legal rule adoption, and may also adapt to the new environment. The degree to which candidates change their behaviour and implement the EU conditions determines *behavioural compliance*. For this second type, it is important to examine whether the candidates have altered their domestic political practices, implemented new legislation in courts, and allocated necessary resources to appropriate institutions to realise the formal changes.⁵

⁴ See Schimmelfennig *et al.*, 2006.

⁵ There is a third type of compliance, namely *discursive compliance*. It occurs when the candidates' domestic actors absorb a condition into their discourses. These actors either truly internalise the norms, or behave strategically by paying lip service to them (Schimmelfennig and Sedelmeier, 2005: 8). One could examine the media and elite discourses to capture this type of compliance. However, due to methodological barriers, the research does not incorporate discursive compliance into its design. It goes without saying that it is extremely difficult to differentiate actual internalisation from rhetoric. Moreover, it is difficult to attain valid and comparable measures for such compliance across policy areas and actors. These methodological difficulties make discursive compliance an inaccurate indicator for compliance, and therefore make its use problematic for theoretical reasons as well.

This thesis takes into account both compliance types, which entails tracing new legislation and institutional developments, as well as examining the implementation records in areas where formal compliance has already taken place. This research also aims to contribute to compliance studies by introducing an additional indicator for compliance, namely *administrative compliance*. Administrative compliance incorporates the totality of work done at the state level prior to formal/behavioural compliance, which helps bring about formal/behavioural compliance. A similar concept has been employed by Falkner *et al.* who make the distinction between the formal/behavioural compliance stage and the earlier pre-compliance phase (2007: 407). The authors label the pre-compliance stage the ‘administrative phase of the transposition process’ where the administrative systems identify reform requirements to comply with the EU and initiate a process leading to formal compliance (*ibid.*: 407). Whereas the authors limit themselves to identifying a phase of compliance, this research extends this by defining the *outcomes* of this pre-compliance stage as *administrative compliance*.

Time devoted to compliance-related activities; as well as the preparation and monitoring of draft laws, secondary legislation and National Programmes for the Adoption of the Acquis (NPAAs) are factors to consider in order to determine the level of administrative compliance. Clearly, one must be cautious when using this as an indicator, since it is not a type of compliance as such, and having a high level of administrative compliance does not necessarily bring about formal compliance. But the speed, quality and ambitiousness of the preparatory work conducted *does matter* because it informs our understanding of candidates’ seriousness, motivation and determination about compliance. It is also a prerequisite for formal rule adoption.

Including this indicator of compliance into research allows us to examine a new facet of compliance, which involves a distinct temporal framework and a new set of actors – the bureaucracy. More importantly, bureaucracy’s administrative compliance may offer an alternative explanation for candidates’ compliance with the EU. It therefore may help to solve the puzzle identified in this thesis for the Turkish case because we might expect the EU-related Turkish bureaucrats who

conduct administrative compliance to have a positive impact on compliance despite diminished credibility, potentially due to greater levels of socialisation with the EU officials and path-dependent effects of earlier administrative work. Moreover, they are among the most pro-EU actors in Turkey, particularly in comparison with the Kemalist elite which is seen as an obstacle to EU-led reforms in the area of political conditionality (Turkmen, 2008: 161-2). These factors inform our choice to include administrative compliance into the research design and therefore study the EU-related bureaucrats in the Turkish case.

2.1.2 Compliance and Conditionality

The successful operation of a single European market depends heavily on the member-states' (MS) timely and correct implementation of EU legislation. As the EU's internal market developed into a substantive legislative programme,⁶ *compliance* became a pivotal issue for the EU. Parallel to this development, in the early 1990s, the extent and the sources of non-compliance in the EU drew a great deal of academic attention (Krislov *et al.*, 1986; Duina, 1997; Knill and Lenschow, 1998; 2000; Ciavarini Azzi, 2000; Haverland, 2000; Boerzel, 2000; Dimitrakopoulos, 2001a; 2001b; Checkel, 2001; Tallberg, 2002; Mastebroek, 2005; Falkner *et al.*, 2005; 2007; Falkner and Treib, 2008; Treib, 2008). At the same time, the EU compliance research agenda goes beyond MSs and the EU boundaries to consider EU candidates and its neighbourhood. Hence, the question of enlargement and new members offer brand new avenues and challenges to researchers of compliance and the domestic impact of international institutions more broadly.

Inclusion of outsiders into a 'members club' may be risky for the club's existing standards. Viewed from this angle, enlarging the EU to those countries that are unable to adapt to this new environment endangers the benchmarks that current MSs live by, namely the EU's *acquis*. Despite high requirements, the 1995 enlargement to Austria, Finland and Sweden actually posed no major threats for

⁶ With 1481 Directives and 1110 Regulations as of October 31, 2010 (Internal Market Scoreboard, 2011).

EU's compliance records, since these states were already a part of the European Economic Area and also possessed the necessary institutional, administrative and economic resources to transpose EU legislation into their national systems in a successful and timely manner. However, the Central and Eastern European countries (CEECs) faced greater challenges on the road to accession. As Geoffrey Pridham argues the concept of new MSs and their ability to cope with the problems of adaptation is a 'fresh academic and political concern' arising from the 2004 enlargement (2008: 368). Fears of non-compliance encouraged the EU to adopt a firm incentive structure called *conditionality* to Europeanise the applicants prior to accession.

Conditionality⁷ entails a state or an international organisation requiring an actor to fulfil specific conditions prior to granting them benefits (Smith, 2003: 108). The EU uses this tool to stabilise and shape the domestic structures and policy processes of the applicants in line with existing EU standards. In so doing, it places the prospect of membership at the heart of this incentive structure and thereby increases its influence over the candidates through the conditions it sets for them (Grabbe, 2006: 7). For an applicant to become an EU member it must have achieved stability in the institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities and have a functioning market economy. In addition, the bulk of EU conditionality requires the adoption of the entirety of the EU legislation, its effective implementation through appropriate administrative and judicial structures and 'adherence to the aims of political, economic and monetary union' (European Council, 1993).

In EU conditionality studies the key questions are '*why do the candidates comply?*' and '*under what conditions is conditionality effective?*'. To address these questions, the analysis of conditionality needs to be grounded in theory. Following the framework developed by Schimmelfennig and Sedelmeier (2005), the explanations of candidates' compliance with EU conditionality are presented

⁷ Initially, international financial institutions, such as the IMF or World Bank, adopted conditionality in the form of 'aid conditionality' by linking specific privileges to internal policy reform. For more discussion on aid conditionality see Collier, 2000; Killick *et al.*, 1998; Mosley, 1987; Mosley *et al.*, 1995.

in the remainder of this section and the value of each model for this research is assessed.

Theoretical explanations of Europeanisation are distinguished according to two dimensions. Firstly, the process of Europeanisation may be induced directly by the EU actors or domestically-driven by the candidates (*ibid.*: 8-9).⁸ In the presence of EU conditionality the process of rule adoption is EU-driven for the most part. At the same time, candidates may take the initiative in areas where the EU influence is not deep-seated, where conditionality is extremely weak, or where a process of domestic change has been initiated independently of the EU influence (*ibid.*: 9).

Secondly, Europeanisation models can differ in the institutionalist logics they follow, i.e. a rationalist logic of consequences or a constructivist logic of appropriateness (March and Olsen 1989, 160-2). Each approach proposes divergent rationales and mechanisms for compliance. Whereas the logic of consequences highlights strategic rational actors that are engaged in cost-benefit calculations in search of maximising their interests, the latter logic motivates actors to choose the most appropriate and legitimate course of action in line with their identities, values and norms. This typology is illustrated in Table 2.1 below.

Table 2.1: Models of EU Impact under Conditionality

Principal Actor	Logic of Rule Adoption	
	<i>Logic of Consequences</i>	<i>Logic of Appropriateness</i>
<i>EU-driven</i>	External incentives model ⁹	Social learning model
<i>CEEC-driven</i>	Lesson-drawing model	Lesson-drawing model

Source: Schimmelfennig and Sedelmeier (2005: 8)

⁸ Similarly, Diez *et al.* distinguish between the impact initiated by tangible EU measures and more diffuse effects of integration that are not directly EU-led (2006).

⁹ This model is also referred to as the *conditionality* model in the literature (*see* Schimmelfennig, 2007: 6-7). Conditionality is used as a more generic term in this research, which defines the entire process where candidates conduct domestic alterations in the face of EU demands.

The *external incentives model (EIM)* encapsulates the logic of conditionality through its emphasis on rationalist action in an environment of external incentives and (positive) sanctions. In the existing literature it is also widely accepted as *the* dominant model for explaining when EU conditionality is effective (Vachudova, 2002; 2005; Moravcsik and Vachudova, 2003; Schimmelfennig and Sedelmeier, 2005). It considers EU conditionality as a strategy of reinforcement by reward (Schimmelfennig and Sedelmeier, 2004: 670) where compliance is rewarded. Applicants' domestic actors engage in cost-benefit calculations following a logic of consequences and comply if the material/political costs are lower than the expected benefits. It is in light of the promised rewards – the most valuable of which is EU membership – that applicants comply with EU demands. This reactive reinforcement model starts off with upsetting the domestic equilibrium, since it introduces additional incentives into the status-quo position (Schimmelfennig and Sedelmeier, 2005: 11). It mainly targets the candidate's government directly which then calculates the costs of compliance against the benefits to be gained.

Within this model the likelihood of rule adoption increases, firstly, with the determinacy and formality of accession conditions (Schimmelfennig and Sedelmeier, 2004: 663-7). Compliance is easier with clearer rules since the applicants know what exactly is expected of them. Moreover, by binding both sides with determinate conditions, it avoids interpretation and manipulation. Secondly, the effectiveness of conditionality increases with the size and proximity of rewards. Thirdly, rule adoption is more effective if the EU is perceived to be credible in delivering rewards in case of compliance and withholding them in case of non-compliance. Lastly, the effectiveness of conditionality is enhanced with smaller domestic adoption costs and fewer domestic veto-players (Schimmelfennig and Sedelmeier, 2005: 12-17).

The first three variables are solely to do with the quality of EU's conditionality instrument and have been fully conceptualised and operationalised in the conditionality literature. The last one, on the other hand, is slightly different, since it analyses domestic cost calculations conducted by candidates' actors in light of the EU rewards. Even though it has been incorporated into conditionality

studies under the broad label of *domestic costs*, various types and components of these costs are under researched and not entirely unpacked. This thesis predominantly focuses on such costs, and distinguishes this final factor from the previous three as the domestic politics model (DPM) within the EIM. The DPM differs from the EIM because it predominantly sees domestic political considerations as the driving factor behind compliance. At the same time, it is conceptualised as part of the EIM as the EU still plays a causal role. In other words, compliance is not expected in the absence of EU conditionality.

The second model, developed as an alternative to the EIM, is the *social learning model (SLM)* (Checkel, 2000; 2001; Epstein, 2005).¹⁰ This model incorporates those processes at work during the course of candidates' compliance, which have largely been ignored by the rationalists. According to this line of thought, the applicants may comply with EU rules because they have undergone experiences of learning or persuasion by the EU, or they identify themselves with the EU or consider the EU rules as appropriate and/or legitimate. Here the EU is still the direct facilitator of change but candidates follow a different logic of action when they comply – one of appropriateness. Examining conditionality through such a constructivist perspective involves analysing social identities, norms, values and ideas rather than material cost-benefit calculations. In this respect, the EU is conceptualised as an international community equipped with a particular collective identity and a set of values. Its pull for compliance stems from its normative power and the legitimacy of the conditions it propagates.

A number of variables are incorporated in the SLM. As in the EIM, the determinacy of rules is considered important for the effectiveness of conditionality, but operates differently. The compliance pull is enhanced by unambiguously defined rules that are generally accepted and consistently applied among the MSs. Moreover, the societal salience and the degree of legitimacy of

¹⁰ Even though these two approaches are frequently presented as contradictory, the actual differences between the two are often a matter of degree rather than principle (Schimmelfennig and Sedelmeier, 2002: 508). Therefore, it is more suitable to regard them as partially competing and partially complementary. For example, Andonova argues that, while the EIM is the dominant mechanism of EU influence during the pre-accession preparations and negotiations, the SLM operates to 'ease and legitimise the process of adopting EU legislation' (2005: 139).

European rules and norms within the applicant countries' society and elites augment compliance (Schimmelfennig and Sedelmeier, 2005: 18-20).

Finally the *lesson-drawing model (LDM)*¹¹ significantly differs from the previous models through its focus on the candidates' actors as the main initiators of domestic change. The size of EU's incentives or its persuasion efforts do not drive compliance. Instead, the candidates recognise EU rules as efficient solutions to their already existing problems and therefore import them. Put simply, the motive for compliance does not come from outside but derives from within. The extent of lesson-drawing depends on the level of policy dissatisfaction, presence of EU-centred epistemic communities, degree of rule transferability, and the number and position of domestic veto-players (Schimmelfennig and Sedelmeier, 2005: 20-5). In Schimmelfennig and Sedelmeier's typology (*ibid.*) the LDM incorporates both the logics of consequence and appropriateness. Per the rationalist logic, candidates' actors engage in simple learning where the means of achieving the original goal are altered, whereas in the sociological variant the underlying goals are substantially changed through complex learning (*ibid.*: 20-2).¹²

This research does not use the LDM as an alternative explanation of compliance, since it does not necessarily apply to the Turkish case. What essentially distinguishes a *domestically-driven* process from an *externally-driven* one is that, in a domestically-driven process the EU demands simply coincide with the already ongoing reform efforts. Whereas this model was particularly pertinent in the context of the CEECs that were already undergoing a substantial transition, it is more appropriate to use the DPM, as part of the EIM, in the Turkish case. There is a wide consensus among the Turkish policy-makers and academics that Turkey would not have committed itself to these wide-ranging reforms were it not for the EU. More specifically, even though the AKP already preferred certain reforms to strengthen its domestic power, it would not have been able to push through these changes if they were not set as EU conditions. Overall, both the

¹¹ See also Rose (1993).

¹² In a later classification, Schimmelfennig further differentiates the two logics. In this classification, lesson-drawing refers to rationalist simple learning mechanisms and 'imitation' is used for complex learning following the sociological variant (2007: 7-8).

LDM and the DPM agree that compliance results from domestic political considerations. However, the DPM does not see domestic change as possible without the EU or its conditionality mechanism, and therefore is conceptualised as part of the EIM.

Overall, this research considers distinguishing between the two logics of action as a key problematique in compliance research and therefore takes both the EIM and SLM into consideration. Let us now examine the EIM in more detail to illustrate how it can be tested in the context of current EU candidates.

2.1.3 Credible Conditionality: A Necessary Condition?

In comparison to the original form of conditionality practiced by International Financial Institutions, the EU's accession conditionality was more effective in initiating domestic change. The main reason behind this can succinctly be explained by the EIM which has a stronger explanatory power over the SLM. (Vachudova, 2005; Kelley, 2004; Schimmelfennig and Sedelmeier, 2005). Its central power stems from the presence of a conditional and credible membership offer to candidates. Epstein and Sedelmeier identify the EIM's hypothesis as: the EU's pull for compliance is enhanced when conditionality is *credible* and when the *costs of compliance* are low (2008: 796). More specifically, the EIM treats credibility as a 'necessary condition for the EU to bring about substantial domestic change' (Schimmelfennig, 2008: 918).¹³ This is because 'nothing short of a credible conditional accession perspective has proven effective' (Schimmelfennig, 2008: 920).

The relatively problem-free enlargements in 2004 and 2007 owed a great deal to the credible nature of conditionality, coupled with relatively low domestic adjustment costs. However, if credibility is a necessary condition for compliance as the EIM suggests, one would expect the levels of compliance to alter

¹³ Schimmelfennig also states that '[c]redible accession conditionality, however, is only a necessary but not a sufficient condition of EU success' since it also has to fall on 'fertile domestic ground' (2008: 918, 921).

considerably after these enlargements (Epstein and Sedelmeier, 2008: 796). One should witness declining compliance in two different contexts, namely the new MSs and the current applicants.

Firstly, the credibility of conditionality declined dramatically once the CEECs became EU members, since one can no longer talk about the credibility of handing and withdrawing rewards as significant as EU membership. In the absence of such rewards, domestic adoption costs generally weigh heavier in cost-benefit calculations. In this context, the EIM would expect the EU to have less influence over the new MSs. Moreover, one could even expect a revengeful behaviour from the new MSs' domestic actors (Falkner and Treib, 2008: 299).¹⁴ In the absence of credible threats in post-accession, the new members might be expected to pose an 'Eastern problem' (Sedelmeier, 2008) according to the EIM.¹⁵

A second context where a similar inquiry may be held is the current and potential candidates. Firstly, compared to earlier candidates their prospect of accession lies further in the future. Secondly, the open-ended nature of negotiations was underlined for them, which as Epstein and Sedelmeier argue, departs from 'the practice of earlier enlargement rounds when the start of negotiations indicated a commitment on both sides to conclude them successfully' (2008: 799). Credibility is further weakened due to references made to the EU's 'absorption capacity' by the EU institutions and MSs. As an additional factor, these candidates face larger challenges with regards to adjustment costs particularly in the areas of political conditionality. This puts the effective operation of the EIM further at risk.

¹⁴ The candidates were generally absent from the rule-making procedures and had little influence on the rules they were required to take up, which were pre-determined single-handedly by the MSs.

¹⁵ Studies on post-accession compliance show that new MSs are not lagging behind old MSs in the transposition record and number of infringement cases, and in fact are considerably better (Falkner and Treib, 2008; Sedelmeier, 2008). However, such high rule adoption and implementation levels are not necessarily accurate. As Falkner and Treib argue, the legal provisions adopted by the new MSs 'have so far largely remained dead letters' (2008: 308). Similarly, due to the relative weakness of civil society in the CEECs, non-compliance is less likely to be detected, which accounts for the low number of open infringement cases (*ibid.*: 809).

Even though the context of new MSs has been subject to analysis, only a few studies have explored the effectiveness of the EIM in the current candidates under diminished credibility.¹⁶ This research addresses this gap with its focus on the Turkish case. The Turkish case is a particularly interesting, since the already low levels of credibility have diminished further recently. Let us now look closer at the Turkish case to understand why it is a valuable case to study the credibility assumption of the EIM.

2.1.4 The Case of Turkey

Turkey first signed an Association Agreement, otherwise known as the Ankara Agreement, with the European Economic Community in September 1963, after its first application for associate membership in September 1959. Turkey's official proposal to become a full member of the European Community came on April 14, 1987. Its application was rejected mostly on economic grounds, and on the basis of its poor democratic and human rights records (Buzan and Diez, 1999: 43). After a period of deteriorating relations, the EU Helsinki Council recognised the candidacy status of Turkey in December 1999. This marks the official start of the pre-accession process and the first time when Turkey attained a credible membership incentive.

The relations between the two parties blossomed after this date. On March 8, 2001 the first Accession Partnership (AP) was signed. This was an extremely important date, since the AP initiated the EU's 'active leverage' (Vachudova, 2005) over Turkey through determining short and medium-term priorities. Aid and continued institutional ties were made conditional on 'progress in meeting the specific priorities' (European Council, 2001). In other words, this date marks the formal start of EU conditionality with clearly set conditions, a set time frame for fulfilling them and specific rewards to be gained in return.

After this date Turkey sped up the reform process considerably, especially after the election of the AKP into government in 2002 (Onis, 2003a: 30). On

¹⁶ However, *see* Noutcheva (2009); Freyburg and Richter (2010); Schimmelfennig (2008).

December 17, 2004 the European Council declared that Turkey had fulfilled the Copenhagen Criteria to an acceptable extent and announced the beginning of the accession negotiations with Turkey as of October 2005. Until 2005, the Turkish actors viewed negotiations as a tangible reward on the road to full membership and they could see that Turkey progressed towards this goal. Therefore, the credibility of conditionality continued to increase until the opening of accession negotiations in October, 2005. However, a number of events after this date significantly reduced credibility. For instance, references to ‘privileged partnership’, ‘open-ended nature of negotiations’, ‘EU’s absorption capacity’; the French referendum requirement for Turkish accession; partial suspension of negotiations in eight chapters; and the French and Cypriot block on 11 other chapters diminished the credibility of conditionality dramatically.¹⁷

The EIM would either expect Turkey to stop complying with EU conditions altogether or expect the levels of compliance to fall considerably after 2005, parallel to this significant decline in credibility. The fact that Turkish authorities continued to conduct politically and economically costly reforms after 2005 presents a puzzle for the EIM’s credibility assumption. This study addresses this puzzle, firstly, by answering: *does compliance deteriorate after credibility declines in 2005 in Turkey?* The empirical evidence demonstrates that compliance with costly conditions continues under diminished credibility in Turkey despite the EIM’s expectations. Once credibility is shown to not be a necessary condition in the Turkish case, the thesis investigates the reasons behind the Turkish domestic actors’ continued compliance under diminished credibility. In other words: *why keep complying?*

2.1.5 Research Hypotheses

The *credibility hypothesis*¹⁸ which is tested in the first part of the thesis is:

¹⁷ A more detailed analysis of how credibility of conditionality changed over time in Turkey is conducted in Chapter Four.

¹⁸ All hypotheses in this research are *ceteris paribus*.

- Compliance will come to a halt (or decrease significantly) in the absence (or significant decline) of credibility.

This hypothesis suggests not only that compliance levels are related to credibility in a linear manner, but also credibility is necessary for compliance. As for the linear relationship, this hypothesis suggests that compliance levels before 2005 can be expected to be higher than after 2005, since the level of credibility prior to 2005 is higher than the post-2005 period. The necessity relationship, on the other hand, is harder to test because threshold levels for both variables need to be established. If credibility is demonstrated to have declined significantly after 2005 in comparison to before, then the necessity hypothesis would expect the level of compliance in Turkey to decrease significantly after 2005.

A second set of hypotheses examine the reasons behind continued compliance under diminished credibility. The previous section has suggested that the Turkish case seems not to fit the EIM's expectations about credibility since compliance appears to continue even under diminished credibility. This empirical finding constitutes a puzzle and requires explanation. Three sets of hypotheses are derived from the three new institutionalist theories (Hall and Taylor, 1996) to explain these patterns of compliance. Let us first review the concept of institutions and the varieties of new institutionalisms, before outlining what they hypothesise.

Institutions, as defined by March and Olsen, are 'collections of interrelated rules and routines that define appropriate actions in terms of relations between roles and situations' (1989: 160). Following this definition, institutionalists theorise about the impact of institutions on human behaviour and decision-making. They share a common dislike of the behavioural and rational choice approaches' overemphasis on the individual, and a common concern for bringing institutions back into social sciences. However, theories vary over the extent to which institutions matter and over the relative weight that culture (social norms and conventions), structures (institutional context within which decisions are made) and agency (individual action) play (Koelble, 1995: 231). In this respect, different institutionalisms follow different theoretical assumptions.

Firstly, *rational choice institutionalism* (RCI) adopts the logic of consequences and follows the assumption that relevant actors have a fixed set of preferences and they behave strategically to maximise those preferences (Hall and Taylor, 1996: 944-5). In this respect, institutions are influential in structuring the interactions between these actors and determining their expectations about how others might behave. They may do this by increasing/constraining the range of available options, offering opportunities for agenda-setting, providing/limiting information and increasing/reducing uncertainty (Hall and Taylor, 1996: 945). In other words, institutions do not determine individual choice but they set the parameters and limits within which the act of choosing takes place.

The central premise of the second approach, *historical institutionalism* (HI) (Steinmo *et al.*, 1992), is that the policy choices made when an institution is being formed, or when a policy is initiated, have a continuing and determining influence over the policy in the future (Peters, 2005: 71). History progresses in a *path-dependent* manner and these contextual features inherited from the past determine and constrain the options available to relevant actors. HI, thus, is able to explain why some suboptimal institutions are sticky and continue to exist even though the initial incentive structure that once created them has been altered and even though the institution itself is no longer efficient. Once the institutions/policies are locked-in it becomes very costly to reverse them. In light of this, historical institutionalists emphasise the gaps in agency control (Pierson, 1996: 128-36) and the unintended consequences of existing institutions (Hall and Taylor, 1996: 941-2).

This approach differs from RCI, firstly, in that the institutions play a more determining role. Whereas RCI sees institutions as a 'contextual constraint upon individuals and their choices', for HI they shape actors' strategies and goals by making certain behaviour more costly (Koelble, 1995: 237). Secondly, HI also follows a logic of consequences but this differs from the RCI's rationalist logic. HI acknowledges the individual's ability to calculate utility, but at the same time considers this calculation to be taken place under bounded rationality where there

are unintended consequences and ‘outcomes are shaped by a number of structural factors beyond individual calculation or control’ (Koelble, 1995: 242).

Thirdly, *sociological institutionalism* (SI) emphasises the logic of appropriateness as the driving force behind actors’ behaviour. Institutions provide cognitive scripts, norms, meaning and identity to individuals who are associated with and socialised into those institutions. In this respect, the institutions do not just affect the strategic cost-benefit calculations of individuals, but instead they reconstruct the individuals by shaping the limits of acceptable and appropriate behaviour. Therefore, the individuals no longer *choose* to behave in a certain way, but rather they do so because they cannot think of an alternative. As Hall and Taylor stress this does not mean individuals are not purposive, goal-oriented or rational. Instead, what it entails is that ‘what an individual will see as “rational action” is itself socially constructed’ (1996: 949).

In sum, RCI follows a logic of consequences and treat institutions as an intervening variable that is able to affect individuals’ behaviour without determining them. Here, agency has the determining role. HI, on the other hand, considers the structural context (the institutions) to play a more determining role in moulding individuals’ actions. The individuals themselves, even though constrained by structures, still follow a logic of consequences. Finally, SI sees institutions as being ‘dependent upon larger “macro level” variables such as society and culture, and the individual is a largely dependent and rather unimportant variable’ (Koelble, 1995: 232). The underlying operational logic is the logic of appropriateness. The three theories are summarised in Table 2.2 below.

Table 2.2: New Institutional Theories

	RCI	HI	SI
Background Discipline	Economics	Political Science	Sociology
Operational Logic	Logic of consequences	Logic of consequences (bounded rationality)	Logic of appropriateness

Variables Determining Behaviour	Agency, individual action	Structures, institutional context	Culture, society, social norms and conventions
Role of Institutions	Constrain but not determine behaviour	Constrain individual behaviour	Constitute identities/interests and determine behaviour

When this framework is applied to this specific research, the *behaviour* that needs to be accounted for is the act of *compliance* conducted by relevant actors, namely the political leadership and EU-related bureaucrats, under diminished credibility in Turkey. It is, therefore, imperative to look at what each theory hypothesises about *continued compliance*.

Firstly, the EIM of conditionality corresponds to the operational logic of RCI. The most basic assumption of this model is that behaviour change follows changes in the incentive structure. The *credibility hypothesis* outlined above is the main research hypothesis of this model. The fall in credibility in Turkey is the most important change in the incentive structure, therefore the EIM proposes declining levels of compliance as a result. However, a number of other factors under the EIM may also play a role to alter the incentive structure and, to a certain extent, compensate for the decline in credibility. These additional explanations are part of the EIM because actors take into account the *external incentives* offered by the EU when making their utility calculation, but they predominantly focus on domestic costs of compliance. These factors are taken into account within the context of the more specific DPM. Three hypotheses are formulated:

- ***Government's partisan incentives:*** if the governing party obtains intrinsic benefits from specific EU conditions; and/or gains electoral and reputational benefits from pursuing EU membership in general, then the governing party is likely to comply.

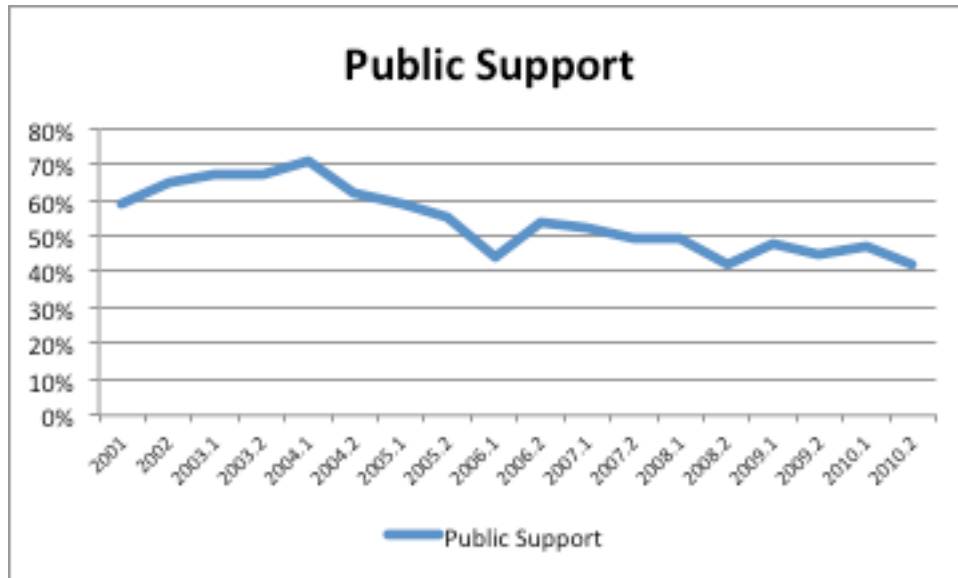
In the Turkish context, this factor is relevant for the moderately Islamic governing party, the AKP, since part of the Turkish public is suspicious and concerned about whether they have hidden religious aspirations. Therefore, the EU may play an important role for such a party to allow it be perceived as more mainstream to the electorate. Their strategic commitment to the EU and the accession process validates the party as a modern, Westward-looking one. The AKP may not be the only party making use of the EU this way. This factor can also be tested for other parties with nationalistic tendencies or communist roots in other EU candidates.

- ***Economic/political costs:*** if the economic/political benefits associated with complying with a specific EU condition are higher than its economic/political costs, then the political leadership is likely to comply.
- ***Administrative capacity:*** if the political leadership improves the structure of the candidate's administration and institutional resources, such as budget and staff, then compliance is likely to improve.

Additionally, public opinion also plays a role in the government's cost-benefit calculations. Particularly, the changing levels of public support for the EU have an influence on compliance patterns, since it is more costly to comply in the face of low or declining public support.¹⁹ Figure 2.1 below demonstrates how Turkish support for the EU declined in 2004 and remained stable on average thereafter. Since support is not increasing, there is no need to test for this factor as a motive for continued compliance under diminished credibility. Actually, these low support levels even make the Turkish context a less likely case to find continued compliance and if the explanatory factors are found to have an impact in this context, their explanatory power will only be greater when public support is higher/increasing.

¹⁹ The effects of this factor are more pronounced immediately before the elections, particularly general elections, therefore it is crucial to take into account the timing of elections. In Turkey, general elections were held in 2007 and 2011, and local elections took place in 2009 in the post-2005 period.

Figure 2.1: The Level of Turkish Public Support for EU Integration (2001-2010)



Source: Author's analysis from the Eurobarometer Surveys (2001-2010)

Note: Responses to the following question are considered: generally speaking, do you think that Turkish membership of the EU is a good thing?

Secondly, HI focuses on path-dependency, which allow policies/institutions to be sticky even when the initial incentive structure is altered through diminishing credibility. In other words, reversing/altering policies may be more costly than maintaining the status-quo.

- **Political lock-in:** if integration with the EU is the main facet of Turkish FP; and/or if the political leadership has already established EU membership as a policy goal and started complying with EU conditionality (before 2005), then it is likely to continue complying.
- **Sunk costs:** if Turkish authorities have already invested resources into compliance (before 2005); and/or if projects funded by the EU are ongoing (in 2005), then the political leadership is likely to continue complying.

- *Vested interests*: if the already conducted reforms (before 2005) are beneficial for the (potential) domestic constituencies of the governing party, then the political leadership is likely to continue complying.
- *Organisational lock-in*: if a specific institution/department has been created for the purpose of complying with the EU; and/or if remaining on the EU path maintains/strengthens the role, power and mandate of an institution/department;²⁰ and/or if the relevant institutions/department has developed standard operating procedures (SOPs) and prepared long-term programmes for compliance; then the bureaucrats within those institutions/departments are likely to continue complying.

All the above variables capture HI's logic of consequences, and therefore align with RCI's rationalism assumption. However, the key difference is that in RCI preference formation is exogenous and not context-specific, whereas HI treats preference formation as endogenous and defined through an institutional context and not separable from it (Thelen, 1999: 375). In other words, rationality is bounded. The above hypotheses are in line with this HI assumption, since they causally relate continued compliance to previous decisions, confirmed plans, set practices, vested interests and sunk costs. In this respect, behaviour is path-dependent and self-reinforcing. Past trajectories, positive feedback mechanisms, enduring legacies, patterns of interactions, timing and sequencing of events matter for the reproduction of institutions and by extension, the continuation of compliance, as opposed to a strong exogenous rationality assumption of RCI. In the case of political leadership, the beneficial effects of already conducted reforms or the established direction of Turkish foreign policy encourage the governing party to continue complying. However, the governing party does not do so through an independent, non-context-specific utility calculation as in the DPM variables. Instead, due to the distributional effects of already conducted reforms it becomes extremely hard to reverse policies, since 'over time, some avenues of policy become increasingly blocked, if not entirely cut off' (Weir, 1992: 18). Thus, these policies are reproduced and compliance continues. In the

²⁰ Or, if diverting from the EU path, weakens their role, power and mandate.

context of bureaucrats, continued compliance is accounted for by the increasing role, power and mandate of EU-related institutions. The key here is that the decision to establish specific bureaucratic institutions/departments, to enhance the power of EU-related bureaucracy or to give them a specific mandate act as *critical junctures* which makes it hard for the political leadership to reverse these acts. Continued compliance can therefore be explained through path-dependency.

Thirdly, the SLM of conditionality is compatible with SI. According to the SLM, behaviour change does not always follow the change in incentives (diminishing credibility), since the political leadership and bureaucrats also find themselves to be locked-into various policies/processes as in HI. But the difference is that these actors cannot comprehend a legitimate alternative behaviour because their identities have changed significantly.

- ***Social learning***: if the political leadership and bureaucrats identify with the EU; and/or have institutional contacts with the EU and MS officials; and/or have a European professional/educational background, then they are likely to comply.

2.2 Research Design

This following section sets the research design for the thesis. Firstly, it operationalises the dependent variable of the study – compliance. Subsequent to unpacking the independent variable used in the first part of the thesis – credibility; it operationalises the independent variables derived from institutionalist theories. Finally, it provides an overview of the selection of cases, research methodology, as well as data sources and data collection.

2.2.1 Operationalisation of Dependent Variable

Measuring compliance is extremely challenging. Measuring it in a way which ensures replicability and inter-coder reliability is even more challenging. There

are a variety of different measures of compliance in the literature, but they have all been subject to criticism. What this research has done is to use the widest number of indicators and methodologies feasibly possible to assess compliance. This way the specific shortcomings associated with using single measures are aimed to be offset. Additionally, using a combination of methodologies allows us to verify the findings in a comparative manner.

Four indicators, three of which are quantitative, are used to determine formal and behavioural compliance levels and a qualitative method is used to measure administrative compliance. In the first indicator for formal and behavioural compliance, a number of positive references made by the EU in progress reports (PRs) about Turkey's compliance are compiled. This allows for a yearly comparison of Turkey's compliance.²¹ Using the EU's PRs ensures that only those legislative acts or behavioural compliance efforts that directly address specific EU conditions are counted. This methodology also prevents the research from using – possibly – inflated data sets prepared by the Turkish parties to impress the EU about the progress achieved, such as the EUSG's own sources on compliance.

This dataset predominantly consists of acts of formal compliance, in other words, the number of legal transpositions adopted by the cabinet and the parliament between January 2001 and December 2010 in JHA.²² On the other hand, behavioural compliance data are included if and only if such adaptation is measurable. For instance, establishment of institutions, centres, systems or infrastructure projects are considered as successful compliance. Moreover, not all positive remarks made by the EU are considered as compliance. For example, EU's references to quantities of illegal migrants caught by Turkish officials, smuggled goods/drugs confiscated by authorities, projects which are 'being

²¹ Analysis starts with the 2001 PR. Positive developments which took place prior to 2001 but which were mentioned in the post-2001 PRs were not taken into consideration not to skew the design.

²² Even though this thesis examines compliance from March 2001 onwards, Turkey's successful compliance between January and March 2011 is also taken into account so that a yearly comparison is possible and accurate.

completed' or legislation which are 'under preparation' are not counted as successful compliance.²³

There are some important problems associated with assessing compliance through a nominal count. Firstly, a decreasing number of adopted laws do not necessarily signal a decline in compliance. Instead, over time, it is expected that the EU would demand less from candidates that are successfully complying with EU conditions, thus accounting for a lower number of transpositions. Secondly, a nominal number does not tell us much about the importance of the reform or its compatibility with the EU legislation. Due to these deficiencies additional indicators are necessary.

The second quantitative indicator aims to overcome the above problem by compiling a complete list of all the conditions set by the EU in its PRs. Subsequently, Turkey's year by year compliance with this comprehensive list is assessed. This way, it is possible to take a step further from a mere numerical score and determine Turkey's level of successful compliance as a proportion of all available conditions. As before, the criterion of successful compliance is the EU's own favourable assessment in its reports. Even though this thesis observes the period between March 2001 and December 2010, the EU conditions from the earliest PR onwards (1998) are registered. This way the data are not skewed by omitting some of the EU's requirements which were voiced prior to the 2001 PR.²⁴

A couple of further methodological points need to be explained. In these reports, the EU predominantly makes specific and tangible recommendations, such as asking Turkey to ratify various international conventions or adopt specific laws. All these recommendations, requirements and criticisms which are specific and against which compliance is measurable are taken into account. In these cases, it is straightforward to say *there is* or *there is not* compliance in a year. In others cases, the EU sets vaguer conditions mostly related to behavioural compliance,

²³ Similarly, when the EU states that Turkey has ended visa free regime or signed readmission agreements with a list of countries in one PR, these are considered as one positive development.

²⁴ Those EU requirements which Turkey *was* able to comply with prior to March 2001 are omitted from the analysis.

such as: enhancing cooperation and coordination; reinforcing efforts and capabilities; organising training sessions, awareness programmes and seminars; strengthening agencies and institutions. All such conditions are disregarded because they require a high level of subjective judgment, which harms inter-coder reliability. At the same time, a number of demands related to behavioural compliance are taken into account, but only if they are specific, such as establishing an institution like the Judicial Academy. The main drawback of not taking into account unclear behavioural compliance measures is that this research may be incorporating *easier* conditions and leaving out more *difficult* ones. Even if this is the case, this choice is justified for achieving measurement consistency and reliability. Moreover, the level of behavioural compliance is not altogether ignored, since it is measured qualitatively in six cases.

As a third indicator of formal/behavioural compliance, this research borrows from Zubek's study (2008). The indicator is also a quantitative measure and determines the level of successful compliance as opposed to a mere nominal number as in the first indicator. In this approach, compliance is measured and expressed by the proportion of transposing measures planned for adoption by the state authorities in a given period that are actually adopted within that period. This makes it possible to assess whether the Turkish government lives up to its own long-term plans. In other words, target projections are compared to reality.

Zubek, in his research, studies the Polish NPAA's which are published yearly (*ibid.*). This allows him to assess successful compliance each year in a systematic manner. This approach is useful when the NPAA's are published regularly and have similar content. Unfortunately, this is not the case for the Turkish NPAA's. Firstly, there are only three available NPAA's in the time period under consideration (2001, 2003 and 2008), in addition to Turkey's Programme for Alignment with the Acquis (TPAA) (2007), all of which differ widely from one another. For instance, whereas the 2003 and 2008 documents are very specific with regards to the names and deadlines of reform proposals, the initial 2001 NPAA is much vaguer. Moreover, a reform proposal included in one document with a specific deadline may also be included in a later document with an earlier deadline. Such inconsistencies across NPAA's make it difficult to assess

successful compliance with a particular proposal. Similarly, the deadlines used in various NPAAAs and the TPAA usually overlap. For instance, the 2008 NPAA includes a deadline in the form of a range, such as 2008-2010, and the TPAA uses the end of parliamentary years as deadlines, such as September 30, 2008. Such overlaps make it difficult to analyse the level of successful compliance for a single year, such as 2008. Finally, if Zubek's methodology is followed in the case of Turkey, there would be a number of gap periods where no reform is planned and no deadlines exist, such as the period between January 2007 and October 2007. These inconsistencies within and across the documents prevent us from arriving at systematic yearly results as Zubek does. Therefore, a slightly different methodology is followed.

Turkey's ability to comply with each document (the three NPAAAs and the TPAA) is assessed separately and then a comparison between the four is made. This way it is possible to see whether Turkey's ability to comply with its own targets have improved, stayed the same or deteriorated over time. This methodology also allows one to break away from the problems related to the inconsistencies across the documents and the deadlines.

A number of points still need to be clarified about using this method. Firstly, in cases where Turkey is unable to comply with a target stated in an NPAA, the same target usually reappears with a new deadline in a future document. This methodology allows us to assess the same target twice in the context of two different documents with possible different compliance outcomes, i.e. failed compliance for the earlier document and successful compliance for the later one. By their nature, the earlier NPAAAs tend to be longer and more comprehensive. The inability to comply with a challenging condition at the very early stages of conditionality does not mean that future compliance with the same target should not be considered as a success, particularly if compliance takes place within the stated deadline.

A second important consideration in this analysis is to determine which targets to take into account and which ones to omit. As in the second indicator, only bills

clearly identified by name and deadline are considered.²⁵ Most of the behavioural compliance measures are excluded from the selection unless they clearly propose the creation of an institution.²⁶ Thirdly, for any inconsistency of deadlines within the same document, the later date is considered. Fourthly, the 2001 NPAA lacks specific deadlines for each reform target but instead includes the following account: '[t]he following are the main objectives on which work is being initiated in 2001 to be completed by the medium-term' (2001: 15). In line with the EU's understanding of short and medium-term priorities expressed in AP documents, medium-term is judged to be composed of four years (European Council, 2008). Therefore, the deadlines for all the JHA conditions within the 2001 NPAA are set as March 2005. Fifthly, in some documents a bill, composed of a number of sub-sections, may be referred to more than once as a target, since all sub-sections need to be brought in line with separate EU regulations. Given that these sub-sections are part of one piece of legislation, this research takes it as a single target. Finally, a target is considered to be successfully complied with when the bill is published in the official gazette, rather than being adopted in the parliament. Similarly, signing an international covenant is not sufficient for compliance, instead it needs to be ratified and published in the gazette.

For the final indicator of formal/behavioural compliance qualitative analysis is conducted over time in six issue areas, namely external borders; illegal migration and asylum; organised crime; human trafficking; drugs; and minority rights. In this analysis, reforms are examined for their importance and compatibility with the EU law using the PRs.²⁷ The issues which EU prioritises and regularly repeats over the years are judged to be relatively more important than others. Moreover, if the EU praises Turkey's reform attempts with regard to a specific law and deems it to be sufficient, then compliance is judged to be compatible with EU demands. The quality of formal and behavioural compliance is expressed in five degrees: *very high* (++), *high* (+), *partial* (+/-), *low* (-) and *very low* (--).

²⁵ The human rights section within the JHA chapters is excluded for this reason.

²⁶ The reforms in the 2008 NPAA, which are targets for adoption after 2010, are also omitted from the research.

²⁷ The EUSG sources on compliance are also consulted (2009g; 2009h).

The thesis uses two different measurements of changes in compliance over time. Firstly, the change in the *level* of compliance is measured. Any new laws or developments in their practical application after 2005 would mean that compliance has *increased* over time. On the other hand, if adopted/amended laws revert back to previous forms or behavioural compliance backslides after 2005, this would signal a *decline* in compliance. Secondly, the *speed* of change in compliance is also examined. Here the speed of formal and behavioural compliance before 2005 is compared to post-2005 levels. The speed of compliance, measured by the number of reforms per period, also takes on five values: *major improvements* (++), *minor improvements* (+), *stable* (+/-), *minor reductions* (-) and *major reductions* (--). Clearly, this qualitative analysis is subjective in nature and aims to complement the previous findings by fleshing out what formal and behavioural compliance entails.

Finally, the level of administrative compliance is measured through analysing the work of EU-related bureaucrats. Interviews with officials examine the amount of time devoted to compliance-related activities and how their workload has changed over time. Moreover, the preparation of draft laws, secondary legislation, NPAs and their coordination and monitoring activities are analysed. This type of compliance is assessed in qualitative terms and takes on three values: stable, enhanced and reduced compliance.

2.2.2 Operationalisation of Independent Variables

The following two sections operationalise credibility and the explanatory factors offered by the institutionalist theories.

2.2.2.1 Credibility of Conditionality

Conditionality is judged credible when the EU is able to deliver rewards in cases of compliance and withhold them when candidates fail to comply. The first premise of credibility is a power differential between the norm-exporting and

norm-importing parties which increases the credibility of the norm-exporter's threats and its ability to deliver them. In EU conditionality while both the EU members and the candidates benefit from EU enlargement, the candidates benefit relatively more, hence desire membership far more than the current MSs wish to accept them (Grabbe, 2005: 128). This power differential is called *asymmetrical interdependence* (Moravcsik and Vachudova, 2003: 44).

Secondly, the norm-exporter needs to possess the resources and the *will* to deliver the rewards, otherwise conditionality loses its credibility. In other words, paying the rewards of conditionality should be at a low cost for the norm-exporter. For instance, the discussions about the EU's absorption capacity demonstrate unwillingness to enlarge further reducing the credibility of conditionality for current applicants. Moreover, the EU needs to follow a consistent and meritocratic approach when rewarding the candidates on the grounds of progress they make, as opposed to other ad hoc measures allowing for positive/negative discrimination (Schimmelfennig, 2008: 920-1).

Thirdly, credibility requires clear and unambiguous conditions and finally, cross-conditionality, where other actors offer similar benefits at a lower cost, weakens credibility (Schimmelfennig and Sedelmeier, 2005: 15).

As an additional factor, the phase of conditionality also has an impact. As Schimmelfennig and Sedelmeier argue, due to the increase in 'sunk costs', the credibility of rewarding the candidates increases as the pre-accession process progresses (*ibid.*: 14). But this is only the case if rewards become more immediate and tangible. At the same time, the EU is less able to use threats in later stages of negotiations (*ibid.*: 14). This critical point when conditionality loses its effectiveness is considered either as the opening of accession negotiations (Haughton, 2007) or setting the date of accession (Avery, 2009; Dimitrova and Steunenberg, 2000).

'The question of when and how the date of accession is fixed is crucially important for the exercise of the conditionality of enlargement... On the one hand, unless the EU maintains the credibility of accession perspective, its conditionality is

ineffective; on the other hand, if it gives a promise ... of a specific date, the conditionality is diminished' (Avery, 2009: 263-4).

When the above criteria are used to assess the credibility of conditionality in Turkey,²⁸ it becomes clear that credibility has started from a low base in comparison to the CEECs, and has diminished further over time. This finding makes it necessary to clarify three further points related to operationalisation:

Firstly, although this analysis does not aim to determine the reasons behind the decline in credibility, taking a brief look at these factors allows us to evaluate whether the conclusions in this thesis are likely to be valid even after 2010. On the one hand, the decline in the EU's willingness to enlarge into Turkey can be due to *structural* factors, such as Turkey's size, population, religion, economic development, culture; European public's resistance to Turkish enlargement; as well as problematic issues like Cyprus. These factors are expected to be present in the long-term, thus a future increase in the credibility is not expected. On the other hand, other factors are more *cyclical* and *context-dependent*. The electoral cycles in MSs are an example. It can be argued that the leadership of the Christian Democratic Union in Germany and the Union for a Popular Movement in France diminishes the credibility of conditionality. This opposition may become less evident if the Social Democrats or the Socialist Party form governments after the next elections. In this respect, the levels of credibility may change over time. However, the time frame of the thesis allows us to control for government changes in the most important MSs, since a positive change in the level of credibility did not occur before 2010.²⁹

The second issue relates to how credibility is treated throughout the thesis. In the first empirical section (Chapters Four and Five) credibility is the independent variable, varying between 2001-2005 and 2005-2010 periods. The discussion above maintained that the levels of credibility have declined after 2005. The change in credibility is useful in the first part of the thesis, since the independent variable by definition should vary. However, in the second part, the focus is on

²⁸ This analysis is conducted in Chapter Four.

²⁹ Next German federal elections are held in October 2013 and French presidential elections are held in April/May 2012.

the reasons behind continued compliance after 2005. Even though credibility does decrease within this second period, it is methodologically more appropriate to treat credibility as constant. Since credibility does not increase at all after 2005, treating it as constant does not skew the design. If it were increasing at various points and if it had been treated as constant this would mean the continued compliance could have been explained by such occasional increases in credibility. That way the explanatory power of the other independent variables may be overestimated due to omitted variable bias.

The third issue relates to alternative measures of credibility. In this thesis, a list of conditions for a credible conditionality is extracted from the literature and the Turkish case is assessed against them. However, this evaluation may differ from how the Turkish domestic actors actually perceive credibility. Such analysis on the perceptions of Turkish actors would rely on interviews. This empirical methodology would be time consuming, complex and the results may be misleading since perceptions are difficult to measure. It is very hard to aggregate the range of responses received through such an open-ended inquiry. These difficulties have informed our decision to assess the credibility against established standards in the literature. At the same time, an empirical methodology is used to confirm this evaluation. For this a single question is posed to the interviewees – ‘when do you think Turkey will accede to the EU?’. An average date is calculated from the responses and the results are discussed in Chapter Four.

2.2.2.2 Variables Derived from Institutional Theories

This section operationalises the variables derived from the three institutionalist theories: *government’s partisan incentives*, *economic/political costs* and *administrative capacity* from RCI/DPM; *political lock-in*, *sunk costs*, *vested interests* and *organisational lock-in* from HI; and *social learning* from SI/SLM.

The *government’s partisan incentives* variable within the DPM measures the extent to which the governing party makes use of the benefits provided by the

EU and particularly by its political conditionality. It is related to the security, legitimacy and electoral benefits the EU provides to the governing party domestically. Methodologically, interviews with the governing party's members of parliament (MPs) are conducted and their public speeches are analysed to determine how they perceive they benefit from the EU. Moreover, data on election results are also examined to test whether the AKP electorally benefits from supporting the EU and whether the percentage of EU supporters has increased among its constituency. Finally, the relevant literature is studied to discover the relationship between the AKP and the EU. Overall, this variable is treated as dichotomous and takes on two values: *high* or *low*. Since this variable is specific to the government in power it does not vary over the time period under analysis making it impossible to conduct a comparative analysis. Instead, congruence method, together with counterfactual analysis and process tracing, is used to test for the relationship between this variable and compliance.

The DPM also incorporates variables which vary across issues, such as economic and political costs. *Economic costs* take into account both the domestic material costs of compliance and the financial benefits provided by the EU, thereby calculating the net costs. It is inversely related to compliance. If there is a good policy/institutional fit between the existing domestic standards and the EU legislation, then the economic costs of compliance are estimated to be low. Similarly, if a specific reform requires a simple legislative alteration or training of judges/law enforcement bodies, then costs are limited. However, if compliance necessitates costly implementation measures, such as institution-building, infrastructural developments or strict monitoring mechanisms, then costs are high. The Turkish state authorities have put forward cost analyses for compliance in the 2003 and 2008 NPAs. At the same time, the material benefits provided by the EU in the form of pre-accession aid are also considered.³⁰ There are expected to be sizable financial benefits associated with Turkey's full membership to the EU. However, they are in distant future due diminished credibility and therefore discounted. Relying on this assessment as well as

³⁰ Data available on the EU's PHARE projects database for the years between 2002 and 2008. For each project the EU provides at least 75% of the funding and only EU contributions are taken into account.

interviews, the policy areas are estimated to have costs, which are either *very high* (++), *high* (+), *medium* (+/-), *low* (-) or *very low* (--).

For the *political costs* variable a similar cost-benefit analysis is conducted. Firstly, it is examined whether the proposed rule contradicts or threatens Turkish state's Kemalist ideology or unitary nature.³¹ If so these issues are concluded to have very high political costs. For this assessment, a review of the literature and interviews are used. Secondly, political costs also depend on domestic groups' preferences; particularly those that are veto-players or concentrated groups. If powerful groups support specific EU-led reforms then non-compliance is costly for the government.³² On the contrary, if there are veto-players or important groups strongly opposed to certain reforms, it becomes costly for the government to commit itself to such policies.³³ This is assessed through literature on domestic groups, as well as through interviews. Subsequently, the political benefits associated with each policy area are measured. If the governing party's policy aims overlap with the EU demands, then these provide political benefits. Put differently, the political leadership complies better with EU conditions that are also part of its own party's programme.³⁴ Such policy areas provide high political benefits, whereas the lack of overlap produces low benefits. The governing party's election manifestos and party programme, as well as interviews are used to assess political benefits. Subsequent to comparing the political costs and benefits, the net political costs of compliance are assessed to be either *very high* (++), *high* (+), *medium* (+/-), *low* (-) or *very low* (--).

Finally, the *administrative capacity* variable measures the changes in the bureaucracy's institutional resources, such as budget and staff levels; and its leadership structure in the compliance process. For the resources component, the changes in staff levels in the relevant public institutions and the institutional

³¹ For instance, conditions related to minority and cultural rights are politically very costly in Turkey, since they are perceived to challenge the unitary state structure.

³² This could be illustrated by the powerful business groups' support for EU's economic liberalisation policies (Heper, 2005: 42).

³³ In the face of opposition from the Turkish military, it is politically very costly for the government to substantially fulfil the EU's demands on Cyprus (Heper, 2005).

³⁴ Issues like religious freedoms and making it more difficult to ban political parties have always been a priority for the AKP, regardless of the EU.

budgets are examined. The changing structures of hierarchy and leadership within the administrative phase of compliance are also studied. Interviews and primary sources are used for this analysis and the variable takes on three values: *improved, stable* or *weakened*.

There are four variables associated with HI. The *political lock-in* variable measures the extent to which the current government's compliance is path-dependent on past policy trajectories. It has two components. Firstly, if Westernisation and Europeanisation are set as FP goals in Turkey, then this increases the government's likelihood to comply with the EU. Secondly, governing party's previous policies are analysed. If the governing party has adopted a language of reform and democratisation and has conducted important reforms prior to 2005, this is likely to create path-dependency, making it likely for them to continue complying. In addition to the current government's past reform performance, interviews are used to measure this variable. This variable takes on two values: *high* and *low*.

The *sunk costs* variable is related to preparations and compliance conducted before 2005. The investments made into compliance in terms of time and money increase the likelihood of rule adoption in the T2 period. Since accurate data regarding the financial investments made into compliance is not available, the focus here is on already conducted reforms. Most particularly, the preparation of long-term programmes, such as action plans or roadmaps; establishing various institutions; setting up reception houses and treatment centres; building statistical systems or databases; enhancing cooperation among law enforcement officials impact future compliance. These reforms create more sunk costs than stand-alone pieces of legal change and make future compliance path-dependent. Moreover, the EU's financial investments toward compliance also contribute to sunk costs. If there are ongoing projects funded by the EU at the end of 2005, it makes it more likely that Turkish officials will continue complying. This indicator is measured through interviews and the data on EU's pre-accession funding and takes on the following values: *very high* (++), *high* (+), *medium* (+/-), *low* (-) or *very low* (--).

The *vested interests* variable relates to the beneficial lock-in effects of the already conducted reforms on the domestic groups. If the governing party's (potential) constituency stands to gain from already achieved reforms then vested interests are high. This makes it likely for the governing party to continue complying. This indicator is assessed mainly through an examination of the literature on important domestic groups and interviews. It takes on the following values: *very high* (++), *high* (+), *medium* (+/-), *low* (-) or *very low* (--).

The *organisational lock-in* variable measures the degree to which the EU-related state departments/institutions are created only for the purpose of EU harmonisation and whether their continued existence is under threat in the absence of compliance. Moreover, just as the political parties may have built-in interests to comply with the EU, the bureaucrats may also 'have independent incentives to adopt EU rules' which might increase 'their influence in the political system' (Schimmelfennig and Sedelmeier, 2005: 11). If staying on the EU road increases organisational resources (staff, budget) and power of bureaucrats, then organisational lock-in is higher. Additionally, the presence of routine processes, SOPs and long-term programmes for compliance also contribute to higher organisational lock-in, since they make it likely for an institution to continue complying. On the other hand, if the staff employed in these units can be transferred to other departments; and/or if the institution/department works on issues other than EU compliance; and/or if the SOPs are lacking, then organisational lock-in is judged to be low. This variable takes the following values: *very high*, *high*, *medium*, *low* or *very low*.

The *social learning* variable within the SLM can be unpacked with *identification* considered as an indicator of socialisation and *exposure* and *background* considered as preconditions which make social learning more likely.

Firstly, identification with the EU and its underlying values makes it more likely that actors will comply. As Checkel argues actors are more easily persuaded when the 'persuader is an authoritative member of the in-group to which the persuadee belongs or wants to belong to' (2001: 563). For this indicator two separate things are measured: actors' attachment to the EU on the one hand, and

to the underlying values of the EU, such as democracy, rule of law, human rights, pluralism, freedom of thought and expression, respect for diversity and minorities on the other. Interviews and survey data are used to measure the level of identification of political leadership and bureaucrats with the EU. Even though the Eurobarometer questions relating to identity have been criticised for their methodological shortcomings (Bruter, 2004: 186-213), they allow the researcher to compare the identification of interviewees with the general Turkish public. For the political leadership, the references made to the EU, human rights and democracy in their party programme, election manifestos and public speeches are also examined to demonstrate their level of identification. Here the key is whether they want to be a part of the EU due to feelings of closeness and attachment to its underlying values, or for strategic reasons. Finally, secondary literature is consulted to determine whether the governing party genuinely supports and believes in the EU and its norms or whether this support is strategic. One point to consider when using identification as an indicator for social learning is that social learning may take time and may occur over a medium to long-term perspective. If an individual was assessed not to identify with the EU, this does not rule out the possibility that they may experience social learning in the future.

Secondly, the political leadership's and bureaucracy's exposure to the EU is a significant precondition for social learning. Drulak *et al.* find that greater intensity of interactions between domestic officials and their EU counterparts is related to deeper support for integration (2003: 647-9), which may be associated with more compliance. In this thesis, exposure is measured by the extent of institutional contacts between the Turkish political leadership and bureaucrats on the one side and the EU and MSs on the other. Moreover, institutional contacts through TAIEX seminars, twinning exercises, MS embassy visits and training courses are also taken into account. The data for this are collected through interviews and secondary literature on the relations between Turkish parties and the EU.

The final precondition, background, follows the assumption that 'people are social beings who are influenced by the experiences and views that they

encounter in different walks of life', such as their social backgrounds, childhood or young adult experiences, education, and work experiences (Hooghe, 1999: 439). Accordingly, elected officials and bureaucrats with prior Western experiences are more likely to comply. Firstly, the presence/absence of Western education is a crucial part of this, since 'students abroad are exposed to different ways of thinking and living in a formative period of their life' (Hooghe, 1999: 441). Secondly, the presence/absence of previous work experience in the West also matters. To assess these background effects, the Grand National Assembly of Turkey's (TGNA) database on the MP biographies is used. A single score is given to each MP³⁵ by taking into account the total number of educational and professional experiences in the West.³⁶ The MPs' backgrounds are then compared across different political parties within the TGNA. Additionally, the MPs' knowledge of foreign languages is also measured³⁷ to calculate average scores for each party and subsequently these scores are compared. It should be acknowledged that the index used for educational/professional backgrounds and language knowledge is an imperfect measure of social learning, since it does not necessarily relate to Europeanisation. However, it does allow one to compare the governing party's outlook with the other parties.

Overall, all these indicators and preconditions of social learning are not perfect and require a subjective assessment on the part of the researcher. However, relying on a number of measures as done here and complementing this analysis with the secondary literature allows one to distinguish between *very high*, *high*, *medium*, *low* or *very low* levels of social learning. This variable is assumed not to vary significantly within the time period under analysis, therefore comparative

³⁵ A drawback of this methodology is that a four-year PhD carries the same weight as a six-month internship.

³⁶ Social learning variable considers the underlying values of the EU as well, therefore MPs' experiences in other Western countries, such as the US and Canada, are also considered.

³⁷ The MPs' biographies on the TGNA website give a systematic overview of the MPs' foreign language knowledge. A score of *four* is given for 'very good' knowledge, *three* for 'good', *two* for 'medium' and *one* is given for 'little' knowledge. If none of these adjectives are used and the text only states that the MP speaks a certain language, then a score of *three* is given. If an MP speaks more than one language then the scores for different languages are added. For instance, if an MP speaks very good English, little German and little French, a score of *six* is given to the MP, which is equal to someone who speaks two languages at a good level. Knowledge of non-EU languages, such as Russian, Albanian, Chinese, Japanese or Urdu are not considered.

analysis cannot be used. Instead, congruence method, counterfactual analysis and process tracing are used to test its impact on continued compliance.

The Table 2.3 below operationalises in detail all the above variables and specifies the data sources used for their measurement.

Table 2.3: Operationalisation of the Independent Variables

Variable	Data Sources	Measurement	Aggregated Scoring
<i>Govern- ment's partisan incentives (DPM)</i>	Interviews	In what ways does the EU work to the advantage of the governing party?	<i>High:</i> The governing party's electoral support and legitimacy are enhanced due to the EU <i>Low:</i> No such relationship is found
	Document /media analysis	What is the influence of the EU on the political party? How does the political party use the EU/EU issues to portray a better image domestically?	
	Secondary literature/ election results	What is the relationship between the EU and the governing party? Does the governing party benefit electorally from the EU?	
<i>Economic costs (DPM)</i>	Database search (PHARE ³⁸)	How much financial assistance does the EU provide in this policy area?	<i>Very high:</i> No fit between domestic and EU standards, reforms require costly infrastructural developments and implementation measures, and EU does not provide meaningful pre-accession funds <i>High:</i> Intermediary score between very high and medium <i>Medium:</i> Domestic and EU standards roughly fit, required reforms are materially costly but the EU funds
	Document analysis (NPAAAs)	What are the estimated costs of compliance in this area?	
	Interviews	What are the material costs associated with compliance in this area?	

³⁸ A major pre-accession instrument of the EU originally used in Poland and Hungary.

			cover some of these costs <i>Low</i> : Intermediary score between medium and very low <i>Very low</i> : There is a very good fit between domestic and EU standards, reforms only require legislative changes, and the EU provides significant pre-accession funds
Political costs (DPM)	Interviews	What are some barriers against this reform? Which domestic groups support/oppose this legislative change? How much do you think their preferences matter? What is the relationship between these domestic groups and the governing party? Do you think realising/not realising this change would have negative consequences on the governing party? Which one of these reforms the governing party would have conducted, in the absence of EU conditionality?	<i>Very high</i> : Kemalist ideology and/or unitary state is threatened, no overlap between governing party's aims and EU-required reforms, important/concentrated groups oppose reforms <i>High</i> : Intermediary score between very high and medium <i>Medium</i> : There is approximately equal opposition and support for reforms, reforms do not touch upon the fundamental characteristics of the Turkish state <i>Low</i> : Intermediary score between medium and very low
	Document analysis	Is this reform mentioned in the party programme, election manifestos and public speeches of the governing party? Is the governing party committed to this reform independently of the EU?	<i>Very low</i> : Governing party's aims and EU's demands overlap considerably, important/concentrated groups support changes, reforms do not touch upon the fundamental characteristics of the Turkish state
	Secondary literature	Does this EU condition threaten the unitary nature of the Turkish state? Do important domestic groups strongly support/oppose the changes in question?	not touch upon the fundamental characteristics of the Turkish state
Admin.	Interviews	How many bureaucrats work in your institution/department? Has this changed	<i>Improved</i> : Bureaucracies' budget, staff levels and the leadership

capacity (DPM)		<p>over time?</p> <p>What is the budget of your institution?</p> <p>Has this changed over time?</p>	<p>structure has, on average, improved</p> <p><i>Stable:</i> Bureaucracies' budget, staff levels and the leadership structure has, on average, remained stable</p> <p><i>Weakened:</i> Bureaucracies' budget, staff levels and the leadership structure has, on average, weakened</p>
	Document analysis	<p>What are the staff levels and budgetary resources of the EU-related bureaucrats?</p>	
Political lock-in (HI)	Interviews	<p>Would compliance continue anyways after 2005, regardless of who was in government?</p> <p>Under what circumstances, would the AKP stop complying?</p>	<p><i>High:</i> Integration with the EU has been set as a FP goal and the government has a reformist past</p> <p><i>Low:</i> Integration with the EU has not been set as a FP goal and the government does not have a reformist past</p>
	Secondary literature	<p>What are the main features of Turkish FP?</p> <p>What is the governing party's reform performance before 2005?</p>	
Sunk costs (HI)	Interviews	<p>Is the reform in question a stand-alone act or is it connected to others that have already been conducted?</p> <p>Have you worked on this policy before (in the cabinet, parliamentary committee)?</p> <p>Have you made any preparations for or devoted any resources (time, money, staff) to this reform?</p>	<p><i>Very high:</i> Previous reforms include adoption of long-term programmes and institution-building measures, and there are ongoing EU projects at the end of 2005</p> <p><i>High:</i> Intermediary score between very high and medium</p> <p><i>Medium:</i> Previous reforms are a mix of stand-alone laws and long-term programmes and institution-building measures, there are some ongoing EU projects at the end of 2005 which are not materially significant</p> <p><i>Low:</i> Intermediary score between medium and very low</p> <p><i>Very low:</i> There are no previous reforms or previous reforms are</p>
	Database search (PHARE)	<p>Are there ongoing projects for the realisation of this policy funded by the EU at the end of 2005?</p>	

			stand-alone legislative changes, and there are no ongoing EU projects at the end of 2005
<i>Vested interests (HI)</i>	Secondary literature	Do important domestic groups strongly support/oppose the already conducted changes?	<i>Very high</i> : Important groups in the governing party's (potential) constituency have gained from previous reforms
	Interviews	Which domestic groups support the already conducted changes? How much do you think their preferences matter? What is the relationship between these domestic groups and the governing party? Do you think discontinuing the implementation of already conducted reforms would have negative consequences on the governing party?	<i>High</i> : Intermediary score between very high and medium <i>Medium</i> : Some groups from the governing party's constituency have benefited from previous reforms, but they are not electorally significant for the governing party <i>Low</i> : Intermediary score between medium and very low <i>Very low</i> : Previous reforms have not benefitted the government's (potential) constituency
<i>Organisational lock-in (HI)</i>	Interviews	When and for what purpose was this unit/institution created? What issues does your unit work on (only EU or other issues as well)? Do you prepare medium/long-term programmes? What is the influence of the EU on your ministry/department? In what ways does it benefit it? What has changed with regard to your institution/department's role, power, resources, staff, budget since your engagement with the EU?	<i>Very high</i> : EU-related bureaucracies are created only for EU purposes, EU pre-accession process increases their organisational power, and there are SOPs/long-term programmes for compliance <i>High</i> : Intermediary score between very high and medium <i>Medium</i> : EU pre-accession process enhances bureaucracies' power or there are SOPs/long-term programmes for compliance <i>Low</i> : Intermediary score between medium and very low

			<i>Very low:</i> EU-related bureaucracies have been created and work on issues other than EU accession, their staff can easily be transferred to other departments, and SOPs/long-term programmes for compliance do not exist
<i>Social learning (SLM)</i>	Interviews	<p>Do you see yourself as, Turkish only, Turkish and European, European and Turkish, or European only?</p> <p>Generally speaking, do you think that Turkish membership of the EU is a good thing/ bad thing/ neither good nor bad/ do not know?</p> <p>What is your institution's/party's view on the EU and its underlying values?</p> <p>Do you think the governing party would still comply with the EU conditions, if Turkey were no longer an EU candidate?</p> <p>What kind of institutional contacts do you have with the EU and MSs?</p> <p>Did these contacts influence the way you see the EU or comply with the EU?</p>	<p><i>Very high:</i> Actors identify with the EU and its constituent values, have strong exposure to the EU, and they have a Western background</p> <p><i>High:</i> Intermediary score between very high and medium</p> <p><i>Medium:</i> Actors are exposed to the EU to a certain degree but they do not identify with the EU</p> <p><i>Low:</i> Intermediary score between medium and very low</p> <p><i>Very low:</i> Actors do not identify with the EU and its constituent values, their exposure to the EU is weak, and they do not have a Western background</p>
	Document analysis	How are the EU and its underlying values presented in the party programme, election manifestos and public speeches of the political leadership?	
	Secondary Literature	Does the governing party genuinely identify and believe in the EU and its underlying values?	
	Database search (TGNA)	<p>Have the MPs ever worked or conducted any part of their education abroad?</p> <p>What foreign languages do the MPs</p>	

know?

2.2.3 Selection of Cases and Observations

Cases are the units of analysis in a study about which information is collected and inferences are made (Collier *et al.*, 2004: 250). In this research, Turkey is the broader case within which the values of the variables are reported and interpreted. Turkey has been selected since the preliminary evidence challenges the established theories of conditionality. The broader Turkish case is broken down into further cases to increase the number of observations.

In line with the objectives of the thesis, different sets of cases are analysed in the first and second parts. Firstly, to test whether credibility is necessary for compliance two temporal cases with varying levels of credibility are established, namely T1 (March 8, 2001 to October 10, 2005) and T2 (October 11, 2005 to December 31, 2010). March 8, 2001 is preferred as the start date for analysis over the 1999 candidacy decision since it marks the formal start of conditionality with the publication of the first AP, incorporating clearly set conditions, a set frame for fulfilling them and specific rewards to be gained in return. As explained earlier, October 10, 2005 marks the start of accession negotiations where the final sizable reward was handed to the Turkish authorities and after which the level of credibility continuously diminished. Finally, December 31, 2010 is chosen as the end date for practical considerations, since it fits the research schedule for the completion of the PhD.

In the first empirical section (Chapters Four and Five) compliance levels in these temporal cases are compared to test the EIM's credibility hypothesis. This analysis is conducted in the field of Justice and Home Affairs (JHA), which incorporates both 23rd (Judiciary and Fundamental Rights³⁹) and 24th (Justice,

³⁹ 23rd chapter promotes the establishment of independent and efficient judiciary; impartiality, integrity and a high standard of adjudication by the courts; a firm commitment to eliminating external influences over the judiciary; an adequate financial resources and training for the

Freedom and Security⁴⁰) chapters of the acquis, as well as parts of political conditionality. These areas are chosen for analysis for a number of reasons. Firstly, the negotiations in both of these chapters were blocked after 2005, which means that credibility takes even a lower value in these areas. Therefore, if compliance is found to continue in these areas after 2005, it is likely to continue in other acquis chapters as well. Secondly, compared to other acquis chapters, 23rd and 24th chapters and political conditionality in particular incorporate some of the most challenging and costly requirements. In this respect, high cost areas have been selected since they constitute hard cases for compliance to take place under diminished credibility.

The macro-level quantitative analysis conducted in Chapter Four, takes into account the whole of JHA, although political conditionality is not considered for a number of reasons.⁴¹ Firstly, it is more difficult to quantitatively measure compliance with political conditionality, not least because it predominantly consists of behavioural compliance, which therefore challenges inter-coder reliability. Secondly, political conditionality is not treated consistently in the Turkish documents. For instance, none of the NPAAAs have clear deadlines about the planned reforms in this field and the 2007 TPAA does not even take political conditionality into account. Overall, all these documents have much clearer reform plans and deadlines for JHA, allowing a more accurate quantitative measurement of compliance.

In the micro-level qualitative analysis (Chapter Five) six case studies have been selected to examine formal and behavioural compliance more closely over T1 and T2. External borders; illegal migration and asylum; organised crime; human trafficking; drugs, and cultural and political rights of minorities are considered. A

judiciary; legal guarantees for fair trial procedures; fighting corruption effectively; a solid legal framework and reliable institutions to underpin a coherent policy of prevention and deterrence of corruption; and respect for fundamental rights and EU citizens' rights.

⁴⁰ 24th chapter incorporates issues such as border control; visas; external migration; asylum; police cooperation; the fight against organised crime and against terrorism; cooperation in the field of drugs; customs cooperation and judicial cooperation in criminal and civil matters; well-integrated administrative capacity within the law enforcement agencies and other relevant bodies; professional, reliable and efficient police organisation; and the Schengen acquis.

⁴¹ 23rd chapter also incorporates some aspects of political conditionality and this section is also excluded from the quantitative analysis.

qualitative study of minority rights, one of the most difficult areas of political conditionality, poses a less acute risk of measurement problems than in the case of quantitative analysis. Moreover, the EU's PRs which are used for this analysis treat political conditionality consistently over the years, unlike the Turkish documents. As one of the most difficult aspects of political conditionality, cultural and political rights of minorities serves as a least-likely case for continued compliance. Once again if compliance is found to continue in this area, it is highly likely that it will continue in other areas.

As a second objective, this study aims to explain candidates' continued compliance under diminished credibility. For this it is necessary to focus on the actors that conduct compliance. The governing party's officials⁴² that pass legislation are the main actors for formal and behavioural⁴³ compliance, whereas EU-related bureaucracy, i.e. officials from the Secretariat General for European Union Affairs (EUSG), Ministry of Justice (MJ), Ministry of Foreign Affairs (MFA), and Ministry of Interior (MI), are the key actors for administrative compliance in the field of JHA and political conditionality. This distinction is made only for practical purposes to meaningfully distinguish between the different indicators of compliance and examine them in separate but appropriate contexts. In other words, the dependent variable used in each context is different.

Distinguishing between the two types of actors also offers some advantages for the research. Generally speaking, most conditionality studies are concerned with the question of 'why do candidates comply' and they use candidates as a proxy for 'candidates' governments' which is the main unit of analysis. The domestic actors are only assumed to have an indirect role on the outcomes via their influence on the government. The candidates' bureaucrats are often treated as dependent or independent variables in conditionality studies, rather than being treated as a separate actor conducting compliance. Conditionality studies either assess the impact of European integration on the civil service (Dimitrova, 2002;

⁴² The focus, here, is on the AKP rather than elected officials in general, since, as a majority government, they alone have the power to make legislative changes in T2, with the exception of constitutional changes.

⁴³ There are obviously other actors crucial for behavioural compliance such as the judiciary and the security forces.

Lippert *et al.*, 2001; Drulak *et al.*, 2003; Meyer-Sahling, 2001; 2004; 2006; 2008; Goetz, 2001; Goetz and Wollmann, 2001; Papadimitriou and Phinnemore, 2004) or analyse the impact of the nature and composition of the bureaucracy on the effectiveness of conditionality (Zubek, 2005; 2008; Hille and Knill, 2006).

This research is similar to these studies since it devotes additional attention to bureaucracy. However, it examines it separately from the political leadership.⁴⁴ In this respect, it does not treat candidates as unitary entities. Instead, it suggests different actors may have different motivations for compliance and their compliance may operate differently. In other words, it does not only respond to ‘why do candidates’ governments comply?’ but also to ‘why do candidates’ bureaucrats comply?’.

To explain the political leadership’s and bureaucrats’ motives behind compliance, issue-specific variables, such as economic, political and sunk costs as well as vested interests, are tested through a comparative analysis between six cases in Chapter Eight. These areas are: external borders; illegal migration and asylum; organised crime; human trafficking; drugs; and cultural and political rights of minorities.

For the remainder of independent variables which do not vary across issue areas, this research adopts congruence method (Chapters Six and Nine) and complements this with process tracing. The process tracing analysis (Chapter Seven) focuses on the broadcasting rights of minorities where political costs for reform are high, making compliance less likely. If the thesis demonstrates continued compliance in such a difficult area, the conclusions are highly likely to be applicable to other areas.

2.2.4 Research Methodology

This research aims to solve the puzzle of continued compliance in Turkey under diminished credibility. To do this it firstly tests the rationalist models of

⁴⁴ This differs from Zubek who treats them jointly (2005; 2008).

conditionality in the longitudinal case of Turkey. According to George and Bennett's classification this qualifies as a 'theory testing case study' (2005: 75).⁴⁵ It examines whether credibility is necessary for compliance in a 'before-after' analysis where the credibility variable is discontinuous. For this test Turkey serves as a least-likely case,⁴⁶ since credibility takes on an extremely low value making it a tougher test for the necessity condition. According to George and Bennett such cases not only serve the purpose of theory testing well, but also having a variable 'at an extreme value can be very useful for heuristic purposes of identifying new theoretical variables or postulating new causal mechanisms' (*ibid.*: 80-1).

This brings us to the second part of the research: to explain continued compliance under diminished credibility with new causal mechanisms. This second part of the research qualifies as a 'heuristic study', since it inductively identifies new variables, hypotheses and causal mechanisms (*ibid.*: 75). This is where a number of independent variables derived from institutionalist theories are considered and the role played by the bureaucrats in compliance is examined.

Overall, the aim here is not to refute an established theory with a single case, but instead to introduce scope conditions to refine it. In order to fulfil the dual goals of theory testing and theory refinement, George and Bennett's (*ibid.*) qualitative methods, bringing together cross-case comparison with within-case analysis, is followed. Non-statistical comparative analysis of a small number of cases is used to make causal inferences.⁴⁷ Cases that are similar to each other in many respects but vary with regard to the independent variable are selected. This provides the control and the variation necessary for testing the independent variables. The before-after analysis conducted in the first part of the thesis comes very close to an experimental design in that (almost) only the independent variable (credibility) is allowed to vary between T1 and T2. In the second part of the

⁴⁵ See also Lijphart, 1971; Eckstein, 1975.

⁴⁶ A least-likely case is 'a case that is not expected to conform to the prediction of a particular theory. A least-likely case often has extreme values on variables associated with rival hypotheses, such that we might expect these other variables to negate the causal effect predicted by the theory' (Brady and Collier, 2004: 293).

⁴⁷ John Stuart Mill, in his seminal work 'A system of logic' developed the essential logic of comparative method (1843).

thesis, comparison of six issue areas are conducted to make causal inferences about the following independent variables: economic costs, political costs, sunk costs and vested interests.

There are a number of limitations associated with using a strict controlled comparison. Firstly, not all the variables of interest vary within the selected observations. For instance, government's partisan incentives variable does not vary since the governing party has not changed during the period under study. Similarly, comparative analysis cannot be used for the following variables: political lock-in, organisational lock-in, social learning and administrative capacity. Secondly, there exists the 'problem of too many variables and too few cases' or in other words the 'degrees of freedom problem'.⁴⁸ Thirdly, the comparative method has difficulty accommodating equifinality, i.e. the possibility of having different causal patterns leading to similar outcomes (*ibid.*: 161). In the face of these limitations, George and Bennett suggest using within-case analysis, which 'focuses not on the analysis of variables across cases, but on the causal path in a single case' (*ibid.*: 179). Such analysis 'provide[s] alternatives to controlled comparison' and 'can significantly ameliorate the limitations of Mill's methods' (*ibid.*: 179).

In light of these suggestions, congruence method (*ibid.*: 181-204), counterfactual analysis and process tracing are employed. In congruence analysis the researcher initially establishes the expected relationship between the independent and dependent variables, including the expected direction and magnitude of the variance. These results are then compared to the empirically established values for both variables. This methodology is employed for the following variables which cannot be tested through comparative analysis: government's partisan incentives, political lock-in, organisational lock-in, social learning and administrative capacity. However, caution is necessary. The observed congruence need not be causal and instead may be limited to a mere correlation. Therefore, combining this method with process tracing and counterfactual

⁴⁸ Degrees of freedom refer to the number of observations (sample size) minus the number of estimated parameters or characteristics of the population being studied (George and Bennett, 2005: 28).

analysis can greatly enhance the validity of the findings and allows one to distinguish a spurious relationship from a causal one.

Process tracing (*ibid.*: 205-32) aims to establish the casual effect through identifying the causal chain and causal mechanism. In this respect, it traces the link between possible explanatory variables and observed outcomes. The key in this research is to identify all the intervening steps, and establish theoretical expectations about the causal chain linking the independent variable to the dependent variable. If the observed evidence is in line with the predicated hypotheses at every single step, then a causal relationship can be said to exist. In this research, process tracing is used to complement congruence analysis conducted for the following variables which cannot be tested through comparative method: government's partisan incentives, political lock-in and social learning.

Finally, counterfactual analysis, which is a different form of comparative study, is employed. For reliable analysis the hypothetical mental construct is supported by a well-validated theory and is clearly defined. In this research, counterfactual cases are developed when testing the effects of various variables, such as government's partisan incentives, social learning, political lock-in as well as organisational lock-in. These counterfactual cases complement the congruence analysis by testing whether the relationship established between the independent and dependent variables is a causal one.

2.2.5 Data Sources and Data Collection

This thesis is based on data collected during fieldwork in Ankara in July 2008, September 2009 and March/April 2011. In addition to the secondary literature, it mainly relies on primary sources.

The document research draws from five different sources. Firstly, official documents published by the EU, such as the PRs, the NF, Association Agreement, and the APs are analysed. Secondly, sources compiled by the

Turkish state, such as the NPAA, the TPAA, the EUSG's online databases and the TGNA's online database are used. Thirdly, the governing party's documents, such as its programmes, election manifestos, public speeches and press conferences are examined. Fourthly, media sources are used to find evidence for court cases, implementation measures and media statements of political leadership. Finally, the Eurobarometer survey results are used.

Additionally, interviews⁴⁹ were conducted with the governing party's officials, particularly from the EU Harmonisation Committee, as well as bureaucrats from the EUSG, MI, MFA and MJ. Moreover, civil society representatives as well as academics working in this field were consulted. The interviews were semi-structured with differentiated templates for particular types of actors to allow both for comparability and a degree of flexibility during the interviews. Non-probability sampling techniques, such as reputational and positional criteria, as well as snowballing, were used to identify the elites to be interviewed.

Conclusion

This chapter has introduced the main theoretical approaches in the conditionality literature and subsequently shown how the Turkish case presents a puzzle for the EIM's credibility assumption. To address this puzzle of continued compliance under diminished credibility, the chapter introduced various other explanations of compliance making use of the new institutionalist literature. More specifically the government's partisan incentives, economic/political costs and administrative capacity variables within RCI; political lock-in, vested interests, sunk costs and organisational lock-in variables from HI; and social learning variable from SI have been developed.

The second part of the chapter provided a detailed operationalisation of the indicators of the dependent variable, as well as the independent variables.

⁴⁹ See Appendix for the list and coding of interviewees.

Subsequently, the selection of Turkey, T1/T2 and various policy areas as case studies are justified. Finally, the research methodology and the data sources are explained.

Chapter Three:

The Structure of the EU Compliance Process in Turkey

Introduction

Turkey's EU candidacy and, more significantly, the start of accession negotiations has put the Turkish authorities under considerable pressure to conduct wide-ranging domestic reforms. The prerequisite for conducting such reforms effectively is the establishment of a domestic system to coordinate decision and policy-making to ensure national legislation is harmonised with the EU acquis. This chapter provides a detailed examination of the nature of EU policy coordination in Turkey by tracing each step in policy-formulation and policy-making. This analysis identifies how Turkey's compliance process works in practice, and demonstrates the important role played by the EU-related bureaucracy.

The first part of the chapter provides an overview of how EU policy coordination operates in Turkey and specifically looks at how the decision to comply is taken. The second section analyses the initial administrative phase of compliance, where the role, power and autonomy of the EU-related bureaucracy are examined. Specifically the following institutions are examined: Secretariat General for European Union Affairs (EUSG), Directorate General of EU (DGEU) within the MFA, the DGEU within the State Planning Organisation (SPO), Permanent Representation of Turkey (PRTEU) in Brussels, Foreign Affairs Department in the Prime Ministry (FADPM), Reform Monitoring Group (RMG) and Negotiations Monitoring and Steering Committee (NMSC). The final section gives an overview of how rule adoption operates within the formal compliance process, where political leadership within the cabinet and parliament play a key role.

The chapter finds that the Turkish coordination of EU policy is very centralised and coherent when it comes to setting the medium and long-term agenda of Turkey's EU policy and formally complying with the EU acquis. The executive responsible for these agenda-setting and policy-making duties has substantial control in the process. Its hierarchical structure makes the management of EU policy easier. The presence of a single party majority government since 2002 has contributed to this centralised structure.⁵⁰ However, there is less centralisation lower down in the administrative hierarchy, where preparatory work is conducted. This lack of centralisation is partly because of the plurality of actors involved in the administrative phase of compliance with overlapping responsibilities. Most significantly, the newly created EUSG, with its limited staff and resources, has initially struggled to establish its authority as the main coordinator of Turkey's EU policy. However, the appointment of a separate minister of state as the chief negotiator (CN) for the EU and the 2009 reform strengthening the EUSG have improved the hierarchy in the process and firmly established the EUSG as the central actor.⁵¹ Overall, despite evidence of the EU-related bureaucracy becoming more structured over time, the dominance of the executive still prevails in the Turkish compliance process.

3.1 An Overview of EU Policy Coordination in Turkey

The coordination of EU policy is a multifaceted process for both EU MSs and candidates, since it requires the management of numerous sectors and involvement of many public institutions and civil society organisations. Turkey demonstrates this complexity. The compliance process requires that various bodies meet frequently, discuss reform efforts, agree on common proposals and subsequently adopt these laws. Such levels of cooperation between public institutions may be commonplace for various EU MSs, but present a brand new challenge for Turkey, where public agencies are not used to working together

⁵⁰ The fact that the AKP is reasonably unified on the EU front is also a significant benefit.

⁵¹ More recently, the cabinet has adopted a decree law in June 2011 to close down the EUSG and establish a Ministry of European Union. Even though this development is outside of the time frame of this thesis, it demonstrates how the administrative phase of compliance is becoming more centralized and hierarchical.

(EUSG2).⁵² In order to handle the compliance process more effectively, the Turkish authorities devised a system of EU policy coordination once Turkey was given candidacy status in 1999. The mandate for coordinating this was given to existing institutions, such as the MFA and the State Planning Organisation (SPO). When this structure proved to be inadequate for managing compliance, the EUSG was established in 2000. This institution assumed the formal authority to coordinate Turkey's EU policy and monitor compliance.

The coordination of EU policy in Turkey is conducted in two consecutive stages where different actors, structures and processes are at work. In the initial *administrative phase of compliance* long-term programmes for harmonisation are organised, draft bills are prepared and aligned with the EU acquis. In the subsequent *formal compliance stage* reform proposals go through the approval of the cabinet and finally are adopted in the parliament.

The preparation of the National Programme for the Adoption of the Acquis (NPAA) is the most important step in the administrative phase of compliance. The manner in which this document is prepared has changed over the years. For the first NPAA, the experts in the SPO prepared the document and submitted it to the cabinet. Following cabinet discussions, the document was then adopted by a cabinet decision on March 19, 2001 (Cabinet Decision, 2001). In this original method, the draft NPAA was neither sent to the Turkish Parliament (TGNA), nor presented to the opposition parties. The lack of a wide consultation mechanism attracted broad criticism (Dursun, 2003). As a result, subsequent NPAA's were prepared slightly differently. Once the 2003 NPAA was submitted to the cabinet from the EUSG, the cabinet shared this draft version with the National Security Council (NSC), the opposition parties and the TGNA prior to adopting the final version on June 23, 2003 (Cabinet Decision, 2003). Similarly, the draft 2008 NPAA was forwarded to the TGNA, all the ministries and opposition parties, relevant public institutions, as well as to 87 civil society organisations (Demiralp, 2008). During this consultation process the CN, Ali Babacan, got together with the leaders of opposition parties for feedback. Moreover, 51 out of 87 civil

⁵² All interviewees are coded according to their institution. *See* Appendix for a list and coding of interviewees.

society organisations provided their views on the NPAA. All this feedback was then sent to the Prime Minister (PM) for consideration and finally the revised version of NPAA was once again discussed and adopted in the cabinet. In total, the consultation process took around four months between the time the NPAA was made public in August 2008 and by the time it was officially adopted.

The NPAA informs the line ministries about the laws and secondary legislation they are responsible for preparing within a set timetable. Each ministry, whose issue area relates to the EU acquis, has a deputy undersecretary responsible for EU affairs. The EU unit within the ministry works on legislative proposals under the coordination of this deputy undersecretary. Once the draft proposal is ready, the ministry circulates it to other public institutions for feedback. If the NPAA requires the cooperation of more than one public institution on an issue, the relevant institutions get together under the coordination of the EUSG and prepare the proposals jointly. Once opinions of other institutions are considered, line ministries send their proposals to the EUSG so that its compatibility with the EU acquis can be checked. Subsequent to the EUSG's verification, the proposals are forwarded to the Prime Ministry, which signals the end of the administrative phase of compliance.

One significant point to note about administrative compliance is that the route described above is employed for technical issues related to the EU's acquis. However, for most of the political aspects of the accession negotiations, the MFA coordinates the process in cooperation with the EUSG. In cases where the issue in question is a matter of Turkish foreign policy (FP), such as the Cyprus issue, the MFA's views prevail over the EUSG's. However, both in acquis areas and political conditionality, the PM and the cabinet are decisive in deciding whether or not to adopt proposals prepared in the administrative phase.

At the Prime Ministry the formal compliance process commences when the proposed law is brought to the attention of the PM. Subsequent to the PM's approval, the legislative proposal goes through the cabinet and is then forwarded to the TGNA. At the parliament, proposals with EU references are passed on to the EU Harmonisation Committee (EUHC) and other relevant committees. For

EU-related legislation there is no non-standard procedure in the parliament that speeds up the legislative process, although special procedures have been proposed in the past.⁵³ At the same time, two methods used in the TGNA to save time have been applied to EU-related laws. Firstly, laws which are comprehensive can be treated as *fundamental laws*. This allows the MPs to vote on up to a group of 30 articles in one instance, rather than voting one by one for each article.⁵⁴ Secondly, a number of laws can be grouped together and voted as a *package*. The TGNA has used such packages ten times in the past to pass EU-related laws in the area of political conditionality. Overall, these methods do not revolutionise the time required for passing the EU-related legislation. The speed of legislation significantly depends on the government's eagerness to comply with the EU and the extent to which the opposition cooperates⁵⁵.

Overall, the role of the executive is central in the process compared to the legislature. This is predominantly due to the single party majority government, which limits the role played by the parliament and the opposition parties. The PM and the cabinet are important veto-players, since the proposed legislation can always be significantly amended and even rejected by these actors. Moreover, even though EU-related bureaucrats working in line ministries and the EUSG have a strong role in the preparation of legislation, their behaviour is significantly shaped by the preferences of the ministerial leadership and more generally by the government. However, this does not mean that the bureaucrats do not play an important role in the EU policy coordination, particularly in the administrative compliance phase. Even though the government steers the overall direction of Turkey's EU policy, the bureaucrats conduct all the administrative work required for compliance and come up with new initiatives for compliance. Moreover, their powers have increased considerably over time, particularly with

⁵³ The previous speaker of the parliament, Koksal Toptan, has proposed a special procedure for EU issues. Koksal suggested establishing an EU reconciliation committee where two delegates from each political party would agree on the TGNA's agenda by prioritising EU-related issues. However, the committee failed to come into existence (AKP7). Additionally, the Reform Monitoring Group proposed a special legislative procedure where the TGNA would discuss EU-related laws one week per month or one day per week (EUSG, 2010b: 3). The cabinet has ignored this proposal.

⁵⁴ For instance the 'Law on the Organisation and Duties of the Secretariat General of EU Affairs' (TGNA, 2009b) has been adopted this way.

⁵⁵ The opposition's cooperation is necessary for constitutional changes.

the 2009 changes that restructured the EUSG and established a minister solely responsible for EU affairs.

This chapter now examines the major actors involved in the administrative and formal compliance stages of Turkey's harmonisation (*see* Table 3.1 for an overview).

Table 3.1: The Duties of Actors Involved in the EU Compliance Process

	Institution	Responsibilities
Administrative Compliance	<i>EUSG</i>	<ul style="list-style-type: none"> - Coordinate the process of harmonisation with the <i>acquis</i> and its correct implementation - Comply with the EU's political conditionality - Coordinate, program and monitor financial cooperation between EU and Turkey - Provide education and training on the EU to public institutions - Prepare strategic documents (e.g. NPAA) - Coordinate relations between Turkish public institutions and EU or MSs (e.g. Twinning, TAIEX, SIGMA)
	<i>DGEU (MFA)</i>	<ul style="list-style-type: none"> - Follow compliance in Turkey and disseminate this information abroad - Take leadership role in the coordination of EU policy in issues directly related to Turkish FP (e.g. Cyprus) - Contribute to harmonisation efforts in areas within its mandate
	<i>DGEU (SPO)</i>	<ul style="list-style-type: none"> - Coordinate EU policy within the SPO - Manage the EU's Pre-Accession Assistance, EU-Turkey Financial Cooperation and regional development projects
	<i>PRTEU</i>	<ul style="list-style-type: none"> - Perform liaison function between Turkey and EU and inform the MFA about developments in the EU

Formal Compliance	<i>FADPM</i>	<ul style="list-style-type: none"> - Follow the EU compliance process in light of cross-conditionality - Perform secretariat function for the NMSC
	<i>RMG</i>	<ul style="list-style-type: none"> - Monitor and coordinate Turkey's harmonisation with the EU's political criteria and with 23rd and 24th chapters of the acquis
	<i>NMSC</i>	<ul style="list-style-type: none"> - Monitor and coordinate Turkey's harmonisation with the EU acquis
	<i>PM</i>	<ul style="list-style-type: none"> - Perform leadership role in the harmonisation process - Set the medium and long-term agenda of Turkey's EU policy and act as a veto-power before the legislation is passed onto the TGNA
	<i>Government</i>	<ul style="list-style-type: none"> - Set the medium and long-term agenda of Turkey's EU policy - Discuss, accept, reject or introduce amendments to the proposed bills before they are forwarded to the TGNA - Constitute the Turkish delegation for the Association Council
	<i>Association Council</i>	<ul style="list-style-type: none"> - Review the functioning of the Association Agreement and take the necessary steps to implement the association relationship
	<i>TGNA</i>	<ul style="list-style-type: none"> - Formally adopt legislation to harmonise Turkish legal system with the EU acquis
	<i>EUHC</i>	<ul style="list-style-type: none"> - Debate draft bills that make a reference to the EU and present reports to the parliament on their alignment with the acquis
	<i>Joint Parliamentary Committee (JPC)</i>	<ul style="list-style-type: none"> - Build contacts between the TGNA and the EP and discuss matters related to EU-Turkish relations with Members of the European Parliament (MEPs)

3.2 Administrative Compliance

This section analyses the actors involved in the administrative phase of compliance. Here, the EUSG is the predominant actor coordinating the work of public institutions involved in the EU harmonisation process. Additionally, this section analyses the role of the MFA, the PRTEU, the FADPM, as well as other bodies active in the process.

3.2.1 EUSG

The EUSG is the key body that coordinates and manages Turkey's administrative compliance. Its authority has also been somewhat undermined at times by other actors, such as the MFA and SPO. However, it is still a very influential institution, whose powers have been recently reinforced, particularly with the appointment of a separate minister responsible solely for EU affairs. Following an overview of the responsibilities and the structure of the EUSG, these crucial 2009 reforms are discussed.

The EUSG, established in July 2000 under the Prime Ministry, is assigned with six main responsibilities (EUSG, 2009c). Its main role is to coordinate the process of *acquis* harmonisation and implementation within the framework of the NPAA (EUSG, 2009b). It monitors public institutions' compliance efforts from a legal, technical and institutional point of view. Furthermore, it oversees all draft legislation prepared by these bodies before they are submitted to the Prime Ministry. If needed, it also prepares draft laws or coordinates workshops for the relevant public institutions to draft laws jointly. Moreover, it prepares and presents any necessary documents, and provides guidance and coordination for eight Association Committee sub-committees, as well as the working groups formed under them (EUSG, 2009a: 18). During accession negotiations it assumes the secretariat function and forms working groups in necessary policy areas to achieve coordination between institutions. It also provides secretarial services to

the boards/committees, established to prepare Turkey for EU membership and guides the implementation of their decisions.

Secondly, the EUSG plays a crucial role in the political reform process by drafting new legislation and monitoring implementation in areas related to political conditionality (*ibid.*: 16-17). It also provides secretarial functions for the RMG, which coordinates and gives overall direction to Turkey's compliance with EU's political conditionality.

Thirdly, it coordinates, programs and monitors financial cooperation between the EU and Turkey. It assumes the secretariat and National Aid Coordinator role for the EU grants. The EUSG, in cooperation with the relevant public organisations, determines the technical, institutional and financial costs of adopting the EU acquis. In line with these costs, it establishes how the EU's financial assistance should be used by various proposed projects and subsequently monitors their implementation. It also conducts some projects itself, which are formulated in the framework of civil society dialogue (*ibid.*: 17, 20).

Fourthly, the EUSG provides education on the EU and the accession process to Turkish public institutions. It also provides presenters and trainers for the conferences, seminars, workshops and meetings organised by public institutions on issues related to EU acquis, accession negotiations, the NPAAAs, EU PRs and EU-Turkey Financial Cooperation. EUSG experts also assist the EUHC in the parliament. Moreover, it coordinates the translation of the EU acquis into Turkish and of harmonised Turkish legislation into English (*ibid.*: 19-20).

Another responsibility of the EUSG is to prepare the strategic documents in the EU accession process. Taking into account the AP adopted by the EU, the EUSG collects contributions from public institutions and other relevant parties, and prepares Turkey's NPAAAs. It also monitors the implementation of the NPAA and prepares reports. Additionally, together with the relevant public institutions, it prepares Turkey's contribution to the EU's PRs, screening reports and negotiation position reports (*ibid.*: 17-18). Moreover, it contributes to the

preparation of more issue-specific documents, such as the TPAA, action plans and strategy documents.

Finally, the EUSG coordinates relations between Turkish public institutions and the EU. For instance, in line with the priorities of the AP and the NPAA, it coordinates the technical support provided by the EU to Turkish public institutions and TAIEX activities organised by the DG Enlargement.

In addition to these six formal responsibilities, the EUSG assumes an important informal responsibility to resolve conflicts which arise between public institutions within the compliance process. The EUSG organises coordination meetings among parties in disagreement and conducts one to one meetings with the relevant parties in priority areas. To resolve conflicts related to 23rd and 24th chapters and political conditionality, the EUSG brings the issues to the attention of the RMG, a high level organ involving the four most important ministries operating in these policy areas, namely the foreign minister, the interior minister, the justice minister, and the CN. This ensures that the conflicts are resolved at the highest level (EUSG3).

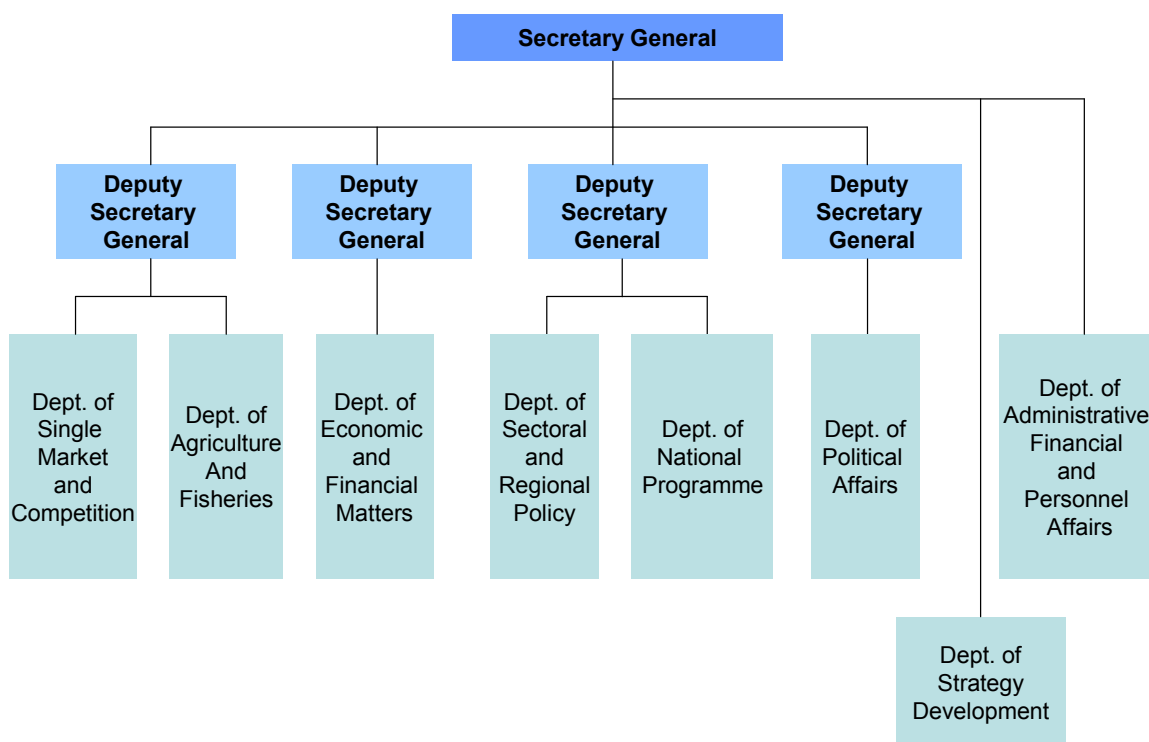
The EUSG was initially created as a relatively small institution with seven departments as depicted in Figure 3.1 below (EUSG, 2000a: articles 8-15).⁵⁶ The Department of National Programme assumed the most important duties within the institution.⁵⁷ It was responsible for coordinating the NPAA preparations, the overall negotiation process, the Twinning, SIGMA and TAIEX programmes, the translation of the EU acquis, and the Association sub-committee meetings; preparing the contributions towards PRs; drafting the NPAAs; and implementing and monitoring most of the projects carried out by the EUSG (EUSG, 2008: 12-13). However, the role played by the Department of Political Affairs is more important for the issue areas under consideration in this research. This department is responsible for conducting work towards compliance with EU's political criteria and 23rd and 24th chapters of the acquis. It also supports civil society in Turkey, strengthens EU-Turkish civil society dialogue, coordinates

⁵⁶ Strategy Development was added as an eight department in 2006 (EUSG, 2008: 15).

⁵⁷ The Department of Accession Policy fulfils these tasks under the current structure.

23rd and 24th chapters in the negotiation process, conducts secretarial functions for the RMG, and monitors projects related to political conditionality which are conducted by public institutions (*ibid.*: 12).

Figure 3.1: The Organisation Chart of the EUSG between 2000 and 2009



Source: EUSG, 2008: 18

Originally, the EUSG incorporated a permanent staff of 76, composed of a general secretary (GS), four deputy general secretaries (DGS), seven department heads, 20 EU experts, 22 assistant EU experts, three legal advisors, two translators and 17 administrative and maintenance personnel (EUSG, 2000b). The EUSG is able to employ staff seconded from other ministries and public agencies and secondees continue to be a permanent staff member of and receive salary from their original institution. For the policy areas in question the most significant secondees are those seconded from the MFA. The GS and one of the four DGSs was originally appointed by the MFA, whereas the remaining three came from the SPO, the Undersecretary of Treasury and the Undersecretary of Foreign Trade. The department head of the political section was also always appointed by the MFA. Their duration of employment at the EUSG is determined

by the MFA's rotation schedule. The DGSs and the department heads usually stayed for two years, whereas the GS stayed around three years.

A number of EU experts resigned over time due to the failure to adopt a law strengthening the EUSG's structure (EUSG3), causing the permanent staff to fall to 60 by 2010 (EUSG, 2010a: 20). The total number of EUSG staff was therefore 119 in January 2010, including 59 temporary staff (*ibid.*: 20). This number is extremely low considering the wide-ranging duties of the EUSG. Comparing the EUSG to other similar public agencies, let alone ministries which employ significantly larger numbers of staff,⁵⁸ demonstrates how limited its human resources were. For instance, 1366 officials were employed in the Undersecretary of Treasury in 2008 and this number increases to 1824 when people working in the provinces and abroad are considered (Undersecretary of Treasury, 2008: 7). The SPO is allowed to employ 1000 officials but only 688 of these positions were utilised in 2008 (SPO, 2008: 14). Similarly the Undersecretary of Customs employs 1464 people in its central organisation and a further 7415 officials in the provinces and abroad (Undersecretary of Customs, 2010: 8).

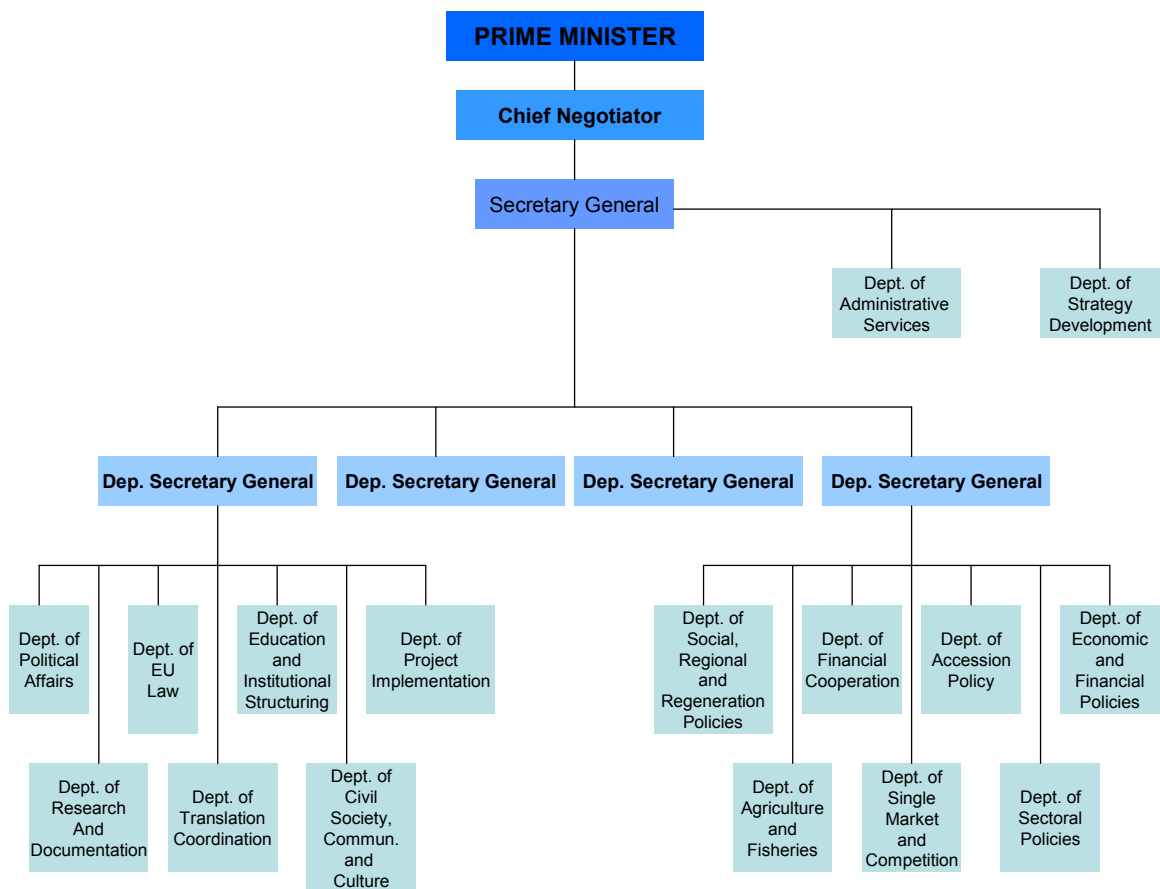
Comparing the EUSG's size to its counterparts in CEECs also illustrates this point. The Office for the Committee for European Integration in Poland, which was the largest candidate and therefore the most appropriate comparison to Turkey, employed around 500 people before EU accession (Bouquet, 2006: 11). Until late 2010, Turkey only had around one fifth as many employees, despite the fact that Turkey's population is almost twice that of Poland. This deficiency caused significant problems for the EUSG. Its underprivileged status with regards to its resources meant that at times it experienced problems being recognised as *the* coordinator of Turkey's EU policy in Turkey and abroad.

The most radical change to the structure of the institution came on June 24, 2009 with the 'Law on the Organisation and Duties of the Secretariat General of EU

⁵⁸ For instance, the MJ employed a total of 71,170 people (MJ, 2008: 9), whereas the Ministry of Interior employed 2049 people in its central organisation and a further 18,224 officials in the provinces in 2008 (MI, 2008: 18-20).

Affairs' (EUSG, 2009d). The reform addressed the EU's continuous criticisms in PRs about the limits of the EUSG's staff and resources by increasing the number of EUSG departments from seven to 16 (see Figure 3.2 below). Its permanent staff increased to 333⁵⁹ and seven further officials were appointed to establish an additional EUSG office abroad (*ibid.*: articles 14 and 20). The reform also allows for more flexibility in the appointment of EUSG staff. For instance, the GS no longer needs to be seconded from the MFA.

Figure 3.2: The Organisation Chart of the EUSG after the 2009 Reform



Source: EUSG, 2010a: 16

This legal alteration was also very significant for achieving coherence in the EU harmonisation process and for reinforcing the power of the EUSG within it, since it abolished the SPO's DGEU. The SPO is a key governmental agency operating under the Prime Ministry, with the duty to accelerate the economic, social and

⁵⁹ The number of EU experts increased from 20 to 75 and assistant EU experts from 22 to 140 (EUSG, 2009d).

cultural development of Turkey by providing consultancy services for the government; preparing long-term development plans, sectoral and regional development strategies; and coordinating and monitoring the implementation of these policies. Due to its role as a coordination institution with a staff composed of sectoral policy experts, it was originally the obvious candidate for handling EU issues. Therefore, a specialised EU department was established which was subsequently transformed into a DGEU consisting of 35 officials. Due to the lack of a separate institution coordinating EU policy at the time, the DGEU took the responsibility for coordinating EU-related issues between different public agencies after Turkey was declared an EU candidate in 1999.

Once the EUSG was created, the presence of two institutions working on similar issues with similar coordination roles generated a level of dualism in the process. On the one hand, this dualism resulted in the duplication of outputs, which created a level of uncertainty among the public institutions regarding who was in charge in the compliance process. On the other hand, such dualism in some cases manifested itself in institutional rivalry and caused tensions between the SPO and the EUSG. The DGEU unit resisted giving up some of its existing EU responsibilities to the brand new EUSG through fear of losing its bureaucratic power, status and resources.

The most important tension between the two institutions arose during the screening process in 2005-6. The EUSG was unable to perform a duty that would typically be seen as its responsibility, due to limited resources. Therefore, with the prerogative of the political leadership, this duty was delegated to the DGEU. This department coordinated the preparatory works conducted by Turkish public agencies for each negotiation chapter, assisted them in preparing their presentations for the screening meetings, and organised the screening meetings between the Turkish and EU sides. The SPO's strong presence undermined the EUSG's powers and authority during the screening process.

A similar incident took place in December 2004 the DGEU sent a letter to all the public institutions, including the EUSG and the MFA, asking them to inform the SPO of all staff working on EU issues within their institutions. This led to

Foreign Minister Gul sending a warning letter to the SPO and reminding them that the EUSG *is* the institution responsible for coordinating the EU accession process and *not* the SPO (EUSG, 2004).

Finally, the EUSG was responsible for preparing the third NPAA in response to EU's renewed AP in 2006, but failed to do so partly due to the limitations of its resources and partly due to political problems that emerged between the EU and Turkey regarding Cyprus. However, a year later, with the approval of the government, the SPO produced a document very similar to an NPAA, titled 'Turkey Programme for the Alignment with the Acquis' (TPAA). This incident added further vagueness to the process.

As demonstrated above, having two bodies with overlapping responsibilities is not only costly in terms of time and effort, but is also harmful for the EUSG, since it creates uncertainty among the public institutions about its authority for coordinating EU policy. Closing down the DGEU, firstly, reduced the amount of duplication. Secondly, some of the SPO's EU experts moved to the EUSG, thus concentrating accumulated information, experience and capacity in one body. Finally and most importantly, it allowed for a more coherent and consistent EU policy coordination by strengthening the EUSG's authority.

In addition to the EUSG's interactions with other public institutions, its institutional independence from political leadership, and its turnover of staff in particular, is a good determinant of its power. Since its inception, the level of turnover in the EUSG's staff has been fairly low and in particular the change in government in 2002 did not have a significant impact on the composition of the EUSG (EUSG2). However, the EUSG cannot generally be described as being completely independent from the political leadership, particularly after 2009 when a state minister became the CN responsible for the EUSG.

Turnover at higher levels of the EUSG was low until the 2009 reform. Since the EUSG's creation there has been continuity in the GS, DGS and department head positions with the exception of those seconded from the MFA on a rotation basis. Although such rotations may harm continuity, they are not detrimental for the

EUSG's institutional stability or independence, since the secondees from the MFA are not political appointees. Instead, they come from similar social backgrounds and have been socialised in the secular, Kemalist culture of the MFA (Robins, 1997: 90). Overall, the MFA's rotations have very little impact on the planned harmonisation efforts, policies or the overall direction of the EUSG. The 2009 reform, on the other hand, created more avenues for politicisation by allowing non-MFA state and non-state officials to be appointed by the CN as a GS. Notwithstanding this change, the most recent GS was again appointed from the MFA in September 2009, namely Volkan Bozkir.⁶⁰ At the same time, the appointment of a state minister solely responsible for the EU affairs undermined the EUSG's independence and moved it closer to the political authority. Moreover, there were claims that the new CN appointed people close to himself as DGSs after he came to power and this resulted in resignations of officials who thought they deserved the positions (EUSG1; EUSG2; GDS1).

Turnover at lower levels of the EUSG, which is less relevant for the independence of the EUSG, has been very low. The 2009 reform allowed for people that have never worked in public institutions to apply for an assistant EU expert position through an examination. However, the majority of applicants were the EUSG's current temporary staff seconded from other public institutions, who wanted a permanent role within the EUSG. The combination of examination and the previous experience of most candidates meant that only those who are fully equipped to take up employment in the EUSG were accepted, and thereby politicisation was minimised. Overall, politicisation and turnover in the EUSG have been very low until 2009, although there have been signs of politicisation after this date.

This section has so far demonstrated that the EUSG is a crucial actor in the compliance process. However, the lack of personnel, coupled with the presence of other institutions working on similar issues, challenged the authority of the EUSG until 2009. The 2009 reform almost tripled its staff and made the harmonisation process more coherent with a stronger EUSG at its heart.

⁶⁰ The DGS Haluk Ilıcak replaced him as the Acting GS in April 2011.

However, what was even more important for the empowerment of the EUSG was the appointment of Egemen Bagis as the CN on January 8, 2009 with an exclusive EU portfolio. According to Zubek, such a post allows for a more hierarchical structure in EU policy coordination, which in turn, significantly improves the EU rule adoption record (2008: 5-6). When the PM or a non-sectoral minister acts as a central authority in the area of EU rule adoption, he has ‘by virtue of his or her institutional position – individual incentives to sanction and/or reward ministers, act as a competitive agenda-setter and monitor ministerial action’ (*ibid.*: 5-6). Bagis’s appointment, on the one hand, reinforced the EUSG’s position in the process particularly with the 2009 reform, and on the other, made Turkey’s EU policy coordination process more effective.⁶¹

3.2.2 MFA

The MFA has always been influential in setting the direction of and managing Turkey’s EU policy. This section provides an overview of the MFA, describes its EU department, examines its responsibilities in EU policy coordination and finally discusses any points of conflict between the MFA and EUSG in the administrative phase of compliance.

The MFA holds a unique place within the Turkish state. Its accumulated knowledge and human resources are superior to other institutions. It is almost certainly the most difficult ministry to get into and therefore the opportunities for people with political connections to join the ministry are extremely low. This difficulty has been more pronounced for those favouring the current governing party, since the MFA has a predominantly secular and Kemalist outlook (Robins, 1997: 90). In other words, the possibility of political turnover is very low making the MFA more independent from the political authority than other ministries and public agencies.

⁶¹ It is also significant that the new CN Bagis is someone who is personally very close to the PM Erdogan. He has accompanied Erdogan in most of his trips abroad since 2002, acted as his personal translator and FP Advisor between 2002 and 2009 (Egemen Bagis, 2009). Additionally, the fact that Bagis is young and holding his first ministerial position means that he is likely to work very hard to speed up the EU harmonisation process in order to obtain a good reputation for himself.

Within the MFA, the Directorate General of EU Affairs (DGEU) is divided into two sections, namely Accession Process and Political Affairs. The Accession Process section manages issues related to EU accession negotiations, EU-Turkey financial cooperation and free trade agreements. In this department, there is one deputy director general, two department heads, two first level secretaries and two officials. Similarly, the Political Affairs section which works on EU's political conditions has one deputy director general, two department heads, two department managers and two officials. In total, including the DG, there are 15 officials working at the DGEU.

The DGEU has four main responsibilities. Firstly, it follows Turkish compliance with the EU and disseminates this information to its officials abroad who in turn are in charge of explaining the Turkish position and reforms outside of Turkey.

Secondly, a number of EU-related issues are exclusively under the MFA's mandate. For instance, the MFA represents Turkey in Turkey–EU troika meetings and the foreign minister leads the Turkish delegation in the Association Council meetings. Moreover, when the Cyprus issue or Turkey's relations with Greece or Armenia emerge on the EU's agenda, the MFA's preferences carry the heaviest political weight in the formation of Turkish policy (EUSG4).

Thirdly, as any other ministry, the MFA is invited to join the discussions for draft laws on relevant issue areas. For instance, when the EUSG coordinates reform efforts in the area of asylum, the MFA is invited to attend a workshop together with the MI, General Directorate of Security (GDS) and the MJ.

Finally, the MFA has an informal role of being the engine for change and bringing enthusiasm to the reform process. In a way, the MFA is like a double-sided mirror, reflecting Turkey abroad but also projecting the EU to Turkey. The MFA officials are the first ones to comprehend the EU's demands and their consequences for Turkey, since they spend majority of their lives abroad and are more familiar with the EU standards. Therefore, they play a key role in informing Turkish public institutions about these demands. The way this

communication is handled is crucial for the process of domestic transposition, therefore, as a MFA official expressed, they try their best to pass on their enthusiasm about the reforms to the public officials (MFA2). Their role as the engine for reform was particularly significant before the EUSG was established in 2000. For instance, the MFA prepared and championed the draft law abolishing the death penalty, which was extremely controversial at the time (*ibid.*). Overall, the MFA is not merely active in the external coordination of Turkey's EU policy but also active in the domestic reform process.

An open conflict between the MFA and EUSG did not take place, but the powerful position of the MFA in the process has to some extent undermined the authority of the EUSG. The MFA did not disagree with the EUSG in regards to the general direction of the EU policy or with the final form of the reform proposals, simply because it did not *need* to. There are two reasons for this. Firstly, for issues that are under the exclusive mandate of the MFA, such as Turkey's relations with Armenia, its preferences prevailed. For other issue areas, it had to meet with other relevant ministries, thus the joint proposal reflected the MFA's preferences. Secondly, the preferences of the MFA and the EUSG were very much in concordance in most occasions. This is because the MFA officials hold the most important positions within the EUSG departments that are most relevant for the MFA, such as the GS, the DGSs and the department head of political affairs. This organic tie allowed the preferences of the MFA to be infiltrated into the EUSG and was strongly felt when the foreign minister also acted as the CN. Both institutions share a strong willingness to comply with the EU's political criteria. At the same time, the MFA's red lines about the Cyprus issue, for instance, are not always shared by the EUSG bureaucrats whose main policy preference is to terminate deadlocks between the EU and Turkey to move closer to accession (EUSG4). However, by and large, the EUSG tends to adopt the MFA's red lines due to the senior EUSG officials seconded from the MFA. As a result of this firm bond between the two institutions, the other public institutions perceived the EUSG as an agent of the MFA.⁶² This evidently undermined the authority of the EUSG. However, with the appointment of a state

⁶² This would explain why some public institutions, when asked by the EUSG for information on a specific topic, sent their contribution to the MFA, as opposed to the EUSG (EUSG2).

minister as the CN, the EUSG was finally able to separate itself from the MFA to some extent.

3.2.3 PRTEU

The Permanent Representation of Turkey in Brussels (PRTEU) is predominantly composed of officials from the MFA and bureaucrats who are seconded from ministries or agencies that are relevant for specific EU policies. Its role in the compliance process is two-fold. Firstly, it performs *upstream* (Kassim, 2003: 142) functions by providing liaison between Turkish and EU officials. Secondly, it contributes to the administrative phase of compliance by following and at times attending EU meetings and subsequently, reporting them back to the MFA *downstream* (*ibid.*: 142). On the one hand, they are the ‘gurus’ who have expert knowledge on the EU. On the other hand, they do not get to play an active part in the internal coordination of EU policy, since they do not have a hands-on role in policy-making or policy coordination in Turkey (EUSG2). Depending on the policy area, the relevant PRTEU bureaucrat may attend the Association Sub-Committee meetings in Turkey, but they otherwise entrust the EUSG and the MFA with the duty of EU policy coordination. Overall, the PRTEU behaves like a transmission belt in the EU policy coordination by communicating the necessary information to the relevant parties within Turkey, which in turn set the agenda for and coordinate the harmonisation process.

3.2.4 FADPM

The Foreign Affairs Department in the Prime Ministry (FADPM) is involved in the administrative phase of compliance in two limited respects. Firstly, as a foreign affairs department its mandate requires it to follow Turkey’s relations not only with the EU but also with other international organisations, such as the Council of Europe (CoE) and the Organization for Economic Cooperation and Development. This gives them access to a broader perspective with regards to conditionality. This broader view is significant not least because EU

conditionality goes in parallel with the conditionality of other international organisations particularly in the areas of human rights. Therefore, it is imperative for the FADPM to follow *parallel conditionality* – that is when other international institutions offer the Turkish government additional benefits for complying with the same conditions put forward by the EU (Schimmelfennig and Sedelmeier, 2005: 15) – and steer the direction of Turkish reform process in the light of these other sources of conditionality.

Secondly, the FADPM performed the secretariat function for the NMSC, partly due to the EUSG's limited staff during the screening process. Since the Prime Ministry is at the top of the executive hierarchy, the FADPM was able to bring together various public institutions and carry out this coordination function successfully.

3.2.5 Other Configurations in the EU Policy Coordination

There are a number of other bodies which contribute to administrative compliance in Turkey. Two among these, namely the RMG and the NMSC play a crucial role in the process, therefore require further attention.

The RMG was established on September 10, 2003 as an ad hoc group to monitor Turkey's harmonisation with the EU and ensure the successful implementation of the reforms. The RMG is a very high level group bringing together the four most important ministers, namely the foreign minister, the interior minister, and the justice minister, together with the CN.⁶³ They predominantly discuss issues related to EU's Copenhagen political criteria and 23rd and 24th chapters. This is an extremely important body for the democratisation attempts in Turkey, since it allows for a high level ministerial discussion. Moreover, it also allows the bureaucrats working on EU issues to bring new issues and reform proposals to the ministers' attention. This is particularly the case for the EUSG's political affairs department which conducts the RMG's secretarial duties.

⁶³ The Turkish Permanent Representative to the EU also attends this meeting on occasions.

The second important body in the process, the NMSC, brings together the deputy undersecretaries of the MFA, the SPO and the Prime Ministry, together with the GS of the EUSG, as well as the permanent representative to the EU. The CN leads this group. In contrast to the RMG, the NMSC focuses mainly on technical issues that are related to EU negotiations. However, similar to the RMG, the bureaucrats from these institutions are able to bring new issues to the attention of senior officials. The NMSC gets involved in the administrative phase of compliance once the legislative proposals prepared by the relevant ministries and checked by the EUSG are submitted to the Prime Ministry. Before the proposals are forwarded to the parliament, the NMSC checks the technical aspects of the proposals. If there are any problems with the proposals, the NMSC assumes the coordination role and brings together the relevant ministries to solve the problems.

3.3 Formal Compliance

In the formal compliance phase, the PM and the cabinet are influential veto-players. Their approval is required for draft laws to pass to the TGNA. The role played by the TGNA, particularly after 2002, has been very limited in terms of amending or rejecting legislative proposals related to the EU. However, it plays a crucial role in communicating with the EP and MS parliaments.

3.3.1 The PM

As opposed to the FADPM's limited role in administrative compliance, the PM has a substantial role to play in formal compliance. Since the PM is situated at the top of the executive hierarchy, he has predominance in the EU policy process. Just as he can turn down other types of legislation, he also has a veto-power in this area. Moreover, he can also speed up the process of harmonisation. By issuing a circular about the government's determination to comply with the EU or regarding the significance of EUSG's coordination role, he provides an

opportunity for the EUSG to pressure other line ministries to further their reform efforts.⁶⁴

Even though the PM is equipped with these powers, the current PM Erdogan who has been in power since 2002 has not made full use of them. He has not led the EU compliance process, even when the EUSG was attached to the Prime Ministry. Leadership was always delegated to either the minister of foreign affairs or a state minister in charge of EU affairs. He has also not used his veto-powers. He intervened on very rare occasions on issues to do with the EU's political conditionality by amending or delaying legislative proposals.⁶⁵

3.3.2 The Government

The government plays a central role in the compliance process. This is particularly true for the current governing party which has been a majority government since 2002. The AKP government determines the shape of Turkey's EU policy both in the administrative phase of compliance through its leadership of ministries and the EUSG, as well as in the formal compliance process in a more direct manner. The cabinet's main involvement in formal compliance takes place before the proposals are forwarded to the TGNA. The cabinet discusses the proposals and can accept, introduce amendments or reject them. Therefore, it is one of the two most important veto-players in EU policy coordination, alongside the PM.

Additionally, it assumes more specific responsibilities in the context of the Association Agreement. The government constitutes the Turkish delegation to the Association Council, which has been established through Article 6 of the Ankara Agreement. It is formed by the 'members of the Governments of the member-states and members of the Council and of the Commission of the

⁶⁴ See Prime Ministry 2004; 2003.

⁶⁵ According to an EUSG official, such intervention usually occurred either because the proposals were economically too costly to realise at a specific point in time or they were contrary to the preferences of the AKP government. The delay in the reform on fight against corruption can be explained by these political costs (EUSG2).

Community on the one hand and of members of the Turkish Government on the other' (Ankara Agreement, 1964: articles 6, 23). It meets at least every six months at the ministerial level and whenever necessary at the representatives' level (MFA, 2009). The Council's main duty is to review the functioning of the Association Agreement and take the necessary steps to implement and develop the association relationship between the two parties. This mandate gives the Association Council the power to take decisions and make appropriate recommendations acting on a unanimity basis (Ankara Agreement, 1964: article 22). In practice, the Council allows high level officials from both sides to get together and review the process, rather than take critical decisions that alter how the negotiations are handled.

3.3.3 The Parliament

The TGNA's involvement in Turkey's EU compliance process should not be overemphasised. Its approval is certainly required for adopting legislation to comply with the EU *acquis* and it is important for providing democratic accountability and transparency to the process. However, its ability to introduce significant amendments to draft legislation is limited. This lack of influence can firstly be viewed in the context of the overall decline in the role of the parliament vis-à-vis the executive branch particularly in the context of European integration (Andersen and Burns, 1996). Secondly, the AKP's single party majority government since 2002 has meant that the executive has dominated the TGNA, and has set its agenda single-handedly. This differs from the period between 2000 and 2002 where the TGNA was less constrained by the coalition government made up of the Motherland Party (ANAP), the Democratic Left Party (DSP) and the Nationalist Movement Party (MHP).

A few limited avenues still exist for the TGNA to influence Turkey's compliance. Firstly, the TGNA uses regular methods of parliamentary scrutiny, such as questions, debates and examinations to keep the government under close check. Secondly, it contributes to the process by building a dialogue with the EP through the EU-Turkey Joint Parliamentary Committee (JPC), as well as by

building contacts with other European parliaments and parliamentary committees.

To achieve the task of scrutiny, a specific committee has been set up, namely the EUHC. The EUHC was established on April 15, 2003 as a subsidiary committee and currently consists of 26 MPs. Its central aim is to debate those draft proposals submitted to the TGNA which make a reference to the EU and subsequently present reports on their level of compliance with the *acquis* to the principal parliamentary committees (TGNA, 2009a). To do this, the EUHC almost always invites a policy expert from the EUSG for expert opinion. The EUHC also prepares a report at the end of each legislative year on Turkey's overall progress on the EU accession (TGNA, 2003). Moreover, it is part of the committee's duty to follow and analyse developments in the EU and inform the parliament (*ibid.*). Finally, it builds contacts with EU institutions, as well as with similar committees in EU MSs, and welcomes ambassadors, members of the parliamentary committees from EU MSs, and foreign delegations who are visiting the TGNA (TGNA, 2009a).

Despite these powers, the political weight of this committee is extremely low or even 'zero' (TGNA2). This weakness stems from a number of reasons. Firstly, the EUHC was established as a *subsidiary committee* and the principles of its workings are not governed by the TGNA's bylaw as is the case with other parliamentary committees. A principal committee report on a draft bill can be a basis for a TGNA meeting. However, the EUHC can only 'present its views' on whether the drafted legislation is compatible with EU law to the principal committee that is operating above it.⁶⁶ In other words, its function is limited to *presenting opinions*, since the principal committees are under no obligation to take these positions into account. Secondly, the principal committee is endowed with the authority to analyse the draft bill from a variety of different angles. Therefore, it also can and usually does invite an EUSG expert for consultation (TGNA2). This further undermines the special role given to the EUHC. Thirdly,

⁶⁶ The EUHC usually works below either the Constitutional Committee, the Justice Committee or the Foreign Affairs Committee depending on whether the proposed bill requires a constitutional change, a legal change, or signing an international treaty/charter respectively.

the mandate of the EUHC also allows for other subsidiary committees to ask EUHC's opinion on the compatibility of draft bills with EU legislation. This indicates that it is also possible for the EUHC to work under another subsidiary committee, adding to its weakness. Finally, and most importantly, since its inception, the number of legislation for which the EUHC's views were requested has been very modest. This may be due to the failure of the parliament presidency to forward all the EU-related legislation to the committee or the lack of an EU reference in the proposed bill despite being directly or indirectly related to the EU. According to the EUHC, the fact that Turkey is conducting accession negotiations with the EU makes it essential for *all the bills* adopted in the TGNA to be checked for their compatibility with the EU *acquis* and therefore to be sent to the EUHC (EUHC, 2006).

There have been attempts to overcome the EUHC's weaknesses, although these have not been completely successful. The chairman of the EUHC, Yasar Yakis, has prepared a draft proposal on May 31, 2006 to transform the EUHC into a principal committee, thereby significantly enhancing its resources, mandate and power in the TGNA (Yakis *et al.*, 2006). However, this proposal became a dead letter. Another attempt has been the first EU twinning project prepared by the TGNA titled 'strengthening the capacity of the TGNA', which incorporated as one of its aims 'reinforcing the role of the EUHC' (TGNA, 2009a). Training activities and study visits were conducted to meet this goal and experts from Italian and Hungarian parliaments came to visit the TGNA (*ibid.*). This project contributed significantly to inform the Turkish MPs about the importance of having an effective committee on EU affairs.

The limited powers of the EUHC and the executive dominance over the legislature can be clearly demonstrated with a topical example. The proposal for a 'Law on the Organisation and Duties of the Secretariat General of EU Affairs' was initially discussed at the EUHC. Subsequently, the EUHC's report was submitted to the Foreign Affairs Committee (FAC), which operated as the principal committee for the discussion of this bill. Once the FAC produced its report suggesting some revisions, the proposed bill together with the FAC's report was discussed in the TGNA. During the discussions the chairman of the

FAC, Murat Mercan, represented the views of the principal committee and the CN Bagis, represented the government's position. As discussed above, the views of the EUHC were not represented directly in the TGNA, instead they were only indirectly taken into consideration through the opinions of the FAC.

The TGNA minutes on this bill demonstrate the executive's supremacy over the parliamentary committees, as well as the legislature in general (TGNA, 2009b). Firstly, the opposition MPs from the Republican People's Party (CHP), MHP, DSP, and the Democratic Society Party⁶⁷ (DTP), have complained about their lack of influence within the parliamentary committees by lodging a statement of opposition (TGNA, 2009c). Secondly, the EUHC MPs stated that the views of their committee were not reflected in the final version of the proposal put forward in the TGNA for a vote (TGNA, 2009b: 143, 176).⁶⁸

For the bill consisting of 20 articles, governing party MPs put forward five amendments and the opposition, i.e. CHP and independent MPs, proposed eight amendments. Whereas the government party aimed at creating an EUSG with rich resources and a flexible mandate, the opposition MPs attempted to limit the staff and resources of the EUSG and clarify its mandate to avoid the possibility that it could gain increased powers in the future without the TGNA's approval. More specifically, the opposition aimed at decreasing the number of administrative departments in the EUSG from 16 to six; allowing the establishment of *only* temporary committees for research as opposed to establishing temporary and permanent committees; limiting the bonuses that can be given to the EUSG staff and applying tax on the bonuses; as well as clarifying and limiting the manner in which the EUSG can outsource certain services (TGNA, 2009b: 183, 188-9, 198-214). However, all of these amendments received an unfavourable opinion from the Government and all were rejected by simple majority in the final TGNA vote (TGNA, 2009b: 183-214). In contrast, the AKP-proposed amendments to clarify the duties of the EUSG staff operating

⁶⁷ Pro-Kurdish party founded in 2005. The Peace and Democracy Party (BDP) replaced it after it was banned by the Constitutional Court in December 2009.

⁶⁸ Several other MPs also welcomed the fact that some of the opinions they expressed at the EUHC have been included in the new proposal (TGNA, 2009b: 164, 191). However, such influence appeared to be very modest.

abroad; increase the number of staff working abroad; as well as increase the maximum age for applying for an assistant EU expert position from 45 to 50 years (TGNA, 2009b: 209-10, 215, 217) received favourable opinion from the Government and were subsequently adopted in the TGNA (TGNA, 2009b: 209-17). In two other cases, the AKP's amendments coincided with the proposals of the opposition MPs (TGNA, 2009b: 198-209). In both cases, the precise amendments proposed by the AKP were adopted and the opposition's proposals were rejected by the majority in the TGNA (TGNA, 2009b: 186-209). Overall, as the parliamentary minutes demonstrate the executive branch has predominance over the legislature in Turkey's harmonisation process and the EUHC's impact is very limited.

The second channel through which the TGNA can be involved in Turkey's compliance process is through the JPC, which is an essential body in building contacts between the TGNA and the EP. The JPC consists of an equal number of MEPs and Turkish MPs (18 from both sides) and meets twice a year. Its task is to deliberate on the annual report of the Association Council, to scrutinise the application of the Customs Union and to follow the progress of the accession negotiations. Since 1989, the JPC has also analysed specific cases of alleged human rights violations in Turkey at the request of the EP's sub-committee on Human Rights. At the same time, it can issue recommendations to the EP and the TGNA where agreed by a majority of each delegation.

A final way through which the TGNA is involved in the compliance process of EU integration is by building institutionalised, as well as ad hoc, relations with European parliaments. For institutionalised relations, the TGNA is represented in the annual conference of EU MSs' parliamentary chairmen; the biannual Conference of Community and European Affairs Committees of Parliaments of the European Union; the biannual conference held by the Foreign Affairs Committees of the EU Parliaments; the relatively new conference that brings together the committees working on national defence; and finally in the Euro-Mediterranean Parliamentary Assembly (Turkish Delegation to the JPC, 2005). The TGNA is also represented in more ad hoc gatherings such as the inter-parliamentary committee on human genetics, annual conference of candidate

countries, meetings of political parties and the Stability Pact for South Eastern Europe meetings (Turkish Delegation to the JPC, 2005).

Conclusion

Turkish coordination of EU policy in regards to decisions on compliance is centralised through the role of the executive, which is organised hierarchically and is able to speak with one voice. However, the same cannot be said for the EU-related bureaucracy. As demonstrated in this chapter, the administrative phase of process is characterised by a plurality of actors and numerous fora. On the one hand, this provides the EU-related bureaucrats numerous avenues to have their voices heard by the executive. On the other hand, it has resulted in incoherence at times, due partly to the multiplicity of the actors involved with overlapping responsibilities. More specifically the lack of centralisation has stemmed from the resource constraints of the main coordination institution – the EUSG. This contrasting situation has resulted in a system where decision-making with regard to compliance as well as adopting legislation are fast and efficient. However, there are problems of coordination, communication and uncertainty in the administrative phase of compliance.

In 2009, these problems with administrative compliance were significantly addressed by two developments. Firstly, a separate minister for EU policy coordination was appointed and, secondly, the EUSG's power and resources were considerably strengthened. These changes contributed to the centralisation of the administrative phase of compliance by placing a much more powerful EUSG at the centre. At the same time, the 2009 reforms created opportunities for staff turnover in the EUSG. Whereas the MFA remains the most independent bureaucracy within the compliance process, the EUSG's independence from the political authority has been undermined to a certain extent.

Overall, it can be concluded that, although the current system of EU policy coordination in Turkey still marks the dominance of the executive over the legislature and the EU-related bureaucracy, the EUSG, as the coordinator of EU

policy, is expected to gain more power and influence – and has already done so with the 2009 reform.

Chapter Four:

Compliance Levels in Turkey (2001-2010): Macro-Level Analysis

Introduction

The EIM suggests that credibility is a necessary condition for candidates' compliance. This chapter tests whether *compliance comes to a halt (or decreases significantly) in the absence (or significant decline) of credibility*. It initially identifies changes in the credibility of conditionality for Turkey and subsequently measures the extent of compliance in two temporal cases between 2001 and 2010. October 2005 marks a clear fall in credibility and allows the research to make use of before-after analysis to test the credibility hypothesis. The credibility hypothesis can be reformulated more specifically for the case at hand as follows: *if credibility in T2 is significantly lower than in T1, the levels of compliance will deteriorate after T1*.

The empirical findings of this chapter do not support the expectations of the EIM's credibility hypothesis. The macro-level evidence on formal and behavioural compliance in the area of JHA demonstrates that *levels* of compliance continuously increased over time. Moreover, the *speed* of formal and behavioural compliance did not fall within T2, instead it remained on average stable. Overall, there is convincing evidence that there is no decline in levels or average speed of compliance after 2005. Therefore, this chapter finds that credibility is *not* a necessary condition for compliance. This conclusion suggests that there are likely to be other factors compensating for diminished credibility leading to continued compliance in T2.

4.1 Levels of Credibility over Time in Turkey

The credibility of conditionality is measured over time using the four criteria discussed in the methodology section of this thesis. Overall, the analysis below demonstrates that the credibility of conditionality in the case of Turkey has generally been low and has deteriorated significantly over time, particularly after 2005.

As a first condition, there needs to exist an asymmetrical interdependence between the norm-exporter and norm-importer states. This hierarchical relationship characterises the EU conditionality in all the candidates, including Turkey. Therefore, the first condition of credibility is fulfilled for the Turkish case.

The second criterion related to the EU's resources and more importantly its will to deliver the rewards of conditionality is the most problematic one for Turkey among the four criteria. In the Turkish case, the EU does possess the resources to deliver the rewards, however its will to enlarge to Turkey has generally been extremely weak. This is especially in comparison to the CEECs, since the potential European veto-players against Turkish accession are stronger and higher in number. In the case of CEECs, no European leader stated they were against enlargement, whereas in the Turkish case, this has been commonly voiced. Most particularly the centre-right and right-wing parties in Germany, France and Austria have expressed their opposition to Turkish membership. For instance, the current President of France, Nicolas Sarkozy has maintained; 'I do not think that Turkey has a place in Europe' (Cagaptay, 2007) and 'I have always been opposed to this entry and I remain opposed' (EU Business, 2009). Similarly, Angela Merkel has stated 'I don't believe that Turkey can become a member of the Union in the foreseeable future' (Inal and Yegenoglu, 2005) and Edmund Stoiber agreed with her: '[w]e will do everything possible to achieve a privileged partnership with Turkey instead of EU accession' (*ibid.*:1).

In addition to these statements weakening the credibility of conditionality, a number of other factors demonstrate the lack of willingness on the side of the EU to enlarge to include Turkey. Firstly, in the immediate aftermath of the December 2004 decision to open the negotiations in 2005, the Austrian government demanded the inclusion of the ‘privileged partnership’⁶⁹ concept as an alternative to ‘full membership’ into the NF. Similar opinions were also heard during this period from leading figures in France and Germany, such as Angela Merkel, Valéry Giscard d’Estaing, and Nicolas Sarkozy (Bennhold and Bilefsky, 2006).

The NF did not explicitly mention a ‘privileged partnership’, but instead made a more indirect reference to it through referring to the ‘strongest possible bond’ between the two parties in the case of Turkey failing to fulfil the obligations. The final version of the Framework states:

‘The shared objective of the negotiations is accession. These negotiations are an open-ended process, the outcome of which cannot be guaranteed beforehand. While having full regard to all Copenhagen criteria, including the absorption capacity of the Union, if Turkey is not in a position to assume in full all the obligations of membership it must be ensured that Turkey is fully anchored in the European structures through the strongest possible bond’ (Commission, 2005b: 1).

What were also included in this document that differentiated it from its earlier versions were the references made to the ‘open-ended’ nature of the negotiations as well as the ‘absorption capacity’ of the Union. According to Hakura, the term ‘open-ended negotiations’ allows the EU to keep the Turkish accession process ambiguous by refraining from making an irrevocable commitment (2005: 2). Along similar lines, the absorption capacity of the EU can be read as a ‘specially-designed extra obstacle’ to the membership aspirations of the current candidates (Icener and Phinnemore, 2006). Overall, this discussion was extremely damaging to the credibility of conditionality not least because the NF is still in force and similar arguments about privileged partnership are being voiced today.

⁶⁹ Privileged partnership entails the free movement of goods, services, and capital; market liberalisation; and agricultural trade; as well as bilateral cooperation in military and FP spheres (Hakura, 2005: 1).

Secondly, the French government's reluctance to Turkish accession informed its decision to introduce a constitutional change on February 28, 2005 to hold a compulsory referendum every time a new country is to join the EU after Bulgaria and Romania (Richard and Pabst, 2005: 7-8).⁷⁰ The constitution was once again amended in July 2008. According to the recent revision, a motion adopted by both houses of the parliament convened in congress by a three-fifths majority does not need to be ratified by a referendum (Assemblée Nationale, 2008). Despite this alteration President Sarkozy has maintained in a television interview that he would still call a referendum for Turkey's accession if he were still in power (EU Business, 2008). Therefore, this final constitutional amendment did not necessarily increase the credibility of conditionality.

France is actually not alone in throwing grave doubt on the future of EU enlargement. The Austrian government has also promised its public that there would be a referendum on the Turkish membership when or if the time comes (Rachman, 2006: 54). The decision to hold referendums is particularly damaging for credibility, since it not only demonstrates the strong opposition of governments to Turkish accession, but, at the same time, makes the accession process highly unpredictable. With these referendums the governments give up the power to decide on Turkey's accession in intergovernmental bargains and instead leave it to their public to decide, who are generally more opposed to enlargement than the elites.

Thirdly, the credibility of conditionality was further weakened due to a European Parliament (EP) decision five days before accession talks started on September 28, 2005. The EP delayed its assent to an additional protocol to the Ankara Agreement, which aimed to extend the customs union between the EU and Turkey to the ten new EU members. This additional protocol was actually signed by the Turkish and EU parties on July 29, 2005. However, Turkey had added a unilateral declaration to the protocol asserting that it does not recognise Cyprus and the EP's move was aimed to address Turkey's failure to recognise one of the

⁷⁰ This amendment states that: 'any Government Bill authorising the ratification of a Treaty pertaining to the accession of a State to the European Union and to the European Communities shall be submitted to referendum by the President of the Republic' (Assemblée Nationale, 2008: Title XV, Article 88-5).

MSs. On September 28, the European People's Party/European Democrats – the largest transnational party organisation in the EP – called for an adjournment of the session, which was backed by simple majority of the MEPs, thus forcing the postponement of the protocol. Superficially, this may seem like a minor issue on Turkey's road to membership but actually it had great repercussions for the credibility of conditionality. Socialist, Liberal and Green MEPs as well as the Commission officials harshly criticised this move. As the Dutch MEP Joost Lagendijk put it:

‘Though it does not impede the opening of accession talks with Turkey on Monday, it sends a very bad signal. ... [It] damages both Europe's credibility and further reforms in Turkey’ (Connon, 2005).

Another blow to conditionality's credibility came at the end of 2006. On November 29, 2006 the Commission put forward its recommendation to partially suspend the membership negotiations on eight chapters. This was due to Turkey's continued refusal to recognise Cyprus and open its ports and airports to Cypriot ships and planes. The recommendation aimed at effectively freezing talks on the free movement of goods; right of establishment for companies and freedom to provide services; financial services; agriculture and rural development; fisheries; transport policy; customs union; and external relations. What this recommendation also entailed was that no chapter could be provisionally closed until Turkey fulfilled its obligations. On December 11 the General Affairs Council accepted the Commission's recommendation and the European Council ratified this on December 14-15, 2006.

Along similar lines, France also blocked the opening of the chapter on economic and monetary union on June 26, 2007. Moreover, on August 27, 2007 the French President Nicolas Sarkozy stated that:

‘Of the 35 chapters that remain to be opened, 30 are compatible with association. Five are compatible only with accession. I told the Turkish Prime Ministers: let's deal with the thirty that are compatible with association and then we'll see’ (Présidence De La République, 2007).

What this means is chapters on agriculture and rural development; economic and monetary union; regional policy and coordination of structural instruments;

institutions; and financial and budgetary provisions would also be inaccessible for the Turkish negotiations, amounting to a total of twelve chapters being suspended.⁷¹

Lastly, Cyprus blocked a further six chapters at the end of December 2009, namely freedom of movement for workers; energy; judiciary and fundamental rights; justice, freedom and security; education and culture; and foreign, security and defence policy. As a result, a total of 18 chapters out of 35 have been blocked by the EU and its MSs for political reasons, which significantly diminishes the credibility of conditionality in Turkey.

Moreover, there is also evidence that EU conditionality suffers from inconsistencies and does not follow a meritocratic approach in the Turkish case, since measures other than compliance, such as Turkey's size, culture, religion, economic development, have an effect on EU decisions. This damages the credibility of conditionality even further.⁷² As Schimmelfennig suggests, 'creating uncertainty about admission even after full compliance, as in the case of the referendum on Turkish membership, destroys credibility...'⁷³ (Schimmelfennig, 2008: 933). Sarkozy's statement is a good demonstration of this: '[w]hether Turkey meets the conditions for entry or not does not solve the problem. On this matter, I have always been clear: I do not think Turkey has a right to join the European Union because it is not European' (Yavuz, 2009: 227). Overall, as the evidence above demonstrates, the second condition for a credible conditionality is not only unfulfilled, but it has also deteriorated over time in the Turkish case.

As a third condition, conditionality is credible if the conditions are clear. Regarding this point, the credibility of conditionality in Turkey has deteriorated

⁷¹ The total number is not thirteen because the chapter on agriculture and rural development was included in both blocked lists.

⁷² Saatcioglu argues that the EU's insistence on the Cyprus issue challenges the credibility of conditionality, since as part of EU's peaceful settlement of border disputes principle, this condition was only demanded from Turkey but not from Greece or Cyprus when they acceded into the EU. This reduced the credibility of conditionality according to Saatcioglu (2009: 567).

⁷³ Karen Smith has also argued that 'Turkey had every reason to suspect that it would never become a member of the club even if it had a fully functioning democracy and exemplary human rights record' (2003: 132).

over time. Over the first period (T1) the conditions in the field of JHA were set by the EU's PRs and the APs. These documents, despite being vague at times, provided a general roadmap for compliance. After the opening of negotiations (T2) these documents continued to guide the process, but more importantly the negotiations required additional information about EU conditions. Prior to each chapter negotiations, a screening process is normally conducted and the EU prepares a screening report to clarify the benchmarks that must be fulfilled for that chapter to be opened for negotiations. However, in JHA (23rd and 24th chapters) these screening reports have not yet been published. This not only means indeterminacy but also an absence of conditionality, which considerably challenges its credibility.

Finally, the last condition for a credible conditionality is related to the presence of cross-conditionality. However this factor is not relevant for the Turkish case as there is no alternative actor applying conditionality at a lower cost. Therefore, credibility of conditionality is not weakened on this front.

An additional factor to consider is the timing of conditionality. In the later stages, as a rule of thumb, credibility gets stronger, since the rewards generally become more tangible and closer. For instance, the opening of accession negotiations or setting an accession date are likely to strengthen credibility. However, this logic does not fit the Turkish case, since the opening of accession negotiations in 2005 has not enhanced credibility. This is particularly because of the EU's reluctance to enlarge to include Turkey as discussed above and its unwillingness to set a date for Turkey's accession in the foreseeable future. In sum, the credibility of conditionality in Turkey has not gradually increased after the start of accession negotiations as the literature suggests, rather it weakened over time. In the words of Avery:

‘As for Turkey, the statements made at the opening of their accession negotiations in 2005, that the negotiations are “open-ended” and could last 10-15 years, show that the concept of “temporality” for this applicant country is of a different nature from any preceding case. Indeed, the credibility of traditional method of enlargement is put in question by the case of Turkey, since ... one can see that the incentive for Turkey to meet the EU's requirements for membership is severely reduced by the risk

that the EU may never concede a date for Turkey to join' (2009: 265).

Overall, it can be argued that the credibility of Turkish accession has always been relatively weak when compared to the CEECs, since the EU actors were more willing to enlarge the EU to incorporate the CEECs. Despite this, the credibility of conditionality towards Turkey increased gradually starting from December 1999, when Turkey was granted candidacy status, until the decision to start the negotiations in December 2004. Between December 2004 and October 2005 a number of events contributed to the weakening of credibility. However, during this period, the Turkish actors could still see a tangible and sizable reward in the near future, i.e. negotiation talks. The presence of this reward compensated to a certain extent for the incidents that exerted a downward pressure on credibility.

After 2005 the credibility of conditionality diminished dramatically, due to the continued negative signals coming from the EU institutions and MSs. But most importantly, after this date, it became extremely hard for Turkish actors to see a tangible reward that could be attained in the near future. Even though Turkey started negotiating the terms of membership, this does not automatically mean that it was moving closer to accession. One important reason behind this was there was not a gradual progression of the negotiations. At the moment only one negotiating chapter is provisionally closed. There are 13 other chapters that are being negotiated but are not allowed to be provisionally closed. More importantly 18 of the most difficult chapters in the negotiations, including 23rd and 24th chapters are suspended. Additionally, the Council has not approved the screening reports containing the benchmarks which need to be fulfilled prior to the negotiations in nine chapters, including 23rd and 24th chapters. Therefore, the Turkish parties do not have a list of clear and determinate conditions that they need to fulfil to start negotiating in those chapters. This ambiguity weakens the credibility of conditionality particularly in the areas encapsulated by this research. In sum, the period of T2 witnessed a continuous decline of credible conditionality. As Schimmelfennig maintains:

‘[T]he EU is reluctant to extend a membership perspective to further countries... [E]ven existing commitments to Turkey and the Western Balkans have come under pressure from relevant member-states. [Developments] [a]fter 2004 ... seem to indicate that new candidates for membership face more uncertainty and higher hurdles than previous applicants. These developments are likely to reduce the credibility of the membership perspective on which the effectiveness of EU political conditionality has been based in the past’ (2008: 919).

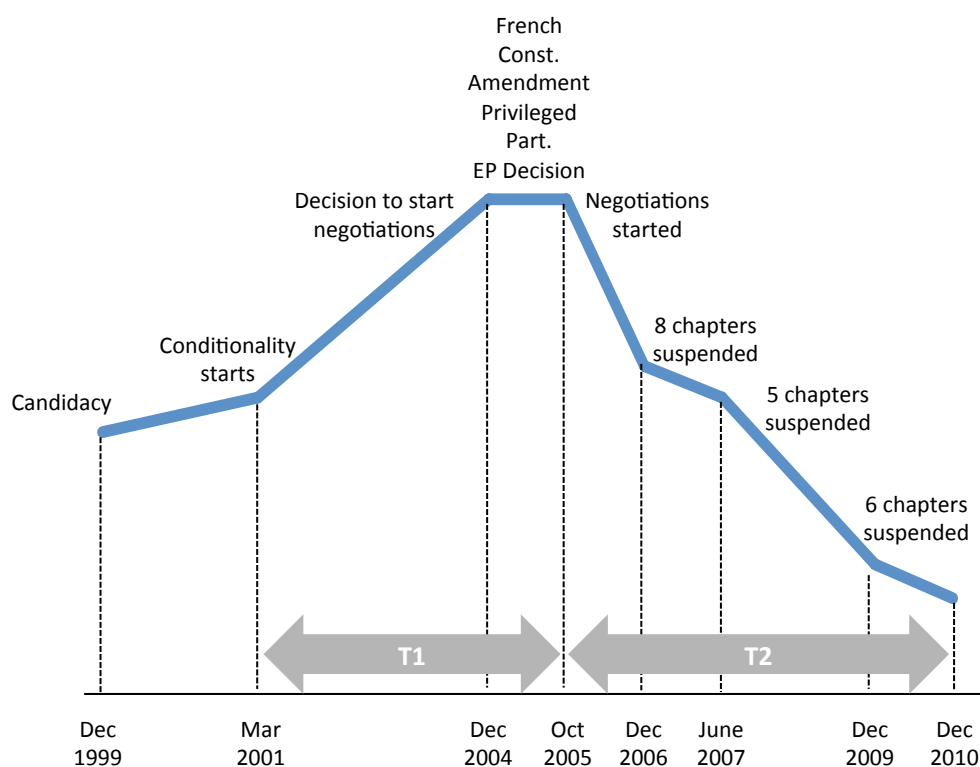
The views of the interviewees also confirm the analysis above. When they were asked about their expected date for Turkey’s EU entry, the average date quoted by those interviewees that did not seriously doubt the fact that Turkish accession would ever happen, was 2020.⁷⁴ It is clear from this date that the political leadership and bureaucrats do not anticipate to be part of the EU in the short-term. Some interviewees did not even think Turkey would ever become a member of the EU. One of these interviewees stated that he had ‘serious doubts about the other side’s [the EU’s] sincerity’ (EUSG7) and another claimed the best expected outcome for Turkey was some sort of ‘privileged partnership’ or ‘differentiated integration’ but never ‘full membership’ (AKP13).

The interviewees also voiced their concern regarding the consistent application of EU’s conditionality, which poses a challenge to its credibility: ‘[t]he signals I am getting from the EU, of course not all, suggest that the EU has concerns independent of these [accession] criteria for not taking Turkey into the EU’ (EUSG7). Another argued that EU’s decision to enlarge to include Turkey will always be a ‘political’ one, rather than based on performance (SPO1). The response given by an EUSG official strongly supports the above analysis on how credibility declined over the years:

‘When I first started working here [in the EUSG in 2001] ... my guess [on Turkey’s accession date] was 2013-2014, considering the EU’s budget terms. But, of course, due to political issues as well as due to Turkey’s size as a country, but also due to the fact that many of the chapters have been blocked in the negotiations because of various reasons, my current perspective points to the next [EU] budget term’ (EUSG2).

⁷⁴ TGNA2; EUSG5; EUSG6; AKP9; SPO1; EUSG4; EUSG2; AKP12; AKP14; MFA5; EUSG10.

Figure 4.1: Credibility of Conditionality in Turkey over Time



In light of this data, it can be concluded that credibility was significantly higher in the period between March 8, 2001 and October 10, 2005 (in T1) than between October 11, 2005 and December 31, 2010 (T2). Moreover, the findings show that it increased gradually within T1 and decreased substantially in T2, as shown in Figure 4.1 above

In the face of this decline in credibility the EIM's credibility hypothesis expects compliance to either come to a halt or decrease significantly. The first and more pessimistic scenario describes a case where credibility has declined to 'level zero'. In this case, the EIM's credibility hypothesis would expect Turkey to stop complying with EU conditions altogether because Turkey no longer possesses any incentives to do so.⁷⁵ However, considering the assessment conducted above, it is very unlikely for credibility of conditionality to have declined to level zero within T2 in Turkey. The second scenario is more realistic for the Turkish case at

⁷⁵ This scenario strictly follows the *necessity* requirement of credibility for the effectiveness of conditionality.

hand. This alternative assumes a ‘significant decline’ of credibility in T2 as opposed to an absolute one. In light of this, the EIM would expect the Turkish compliance to fall considerably in T2 compared to T1, parallel to the decline in credibility.

Since credibility has been shown to have declined significantly after 2005, the question needs addressing is: *is there a decline in the level of compliance in T2 in comparison to T1?* The remainder of this chapter examines the data on formal, and behavioural compliance in the JHA field to respond to this question.

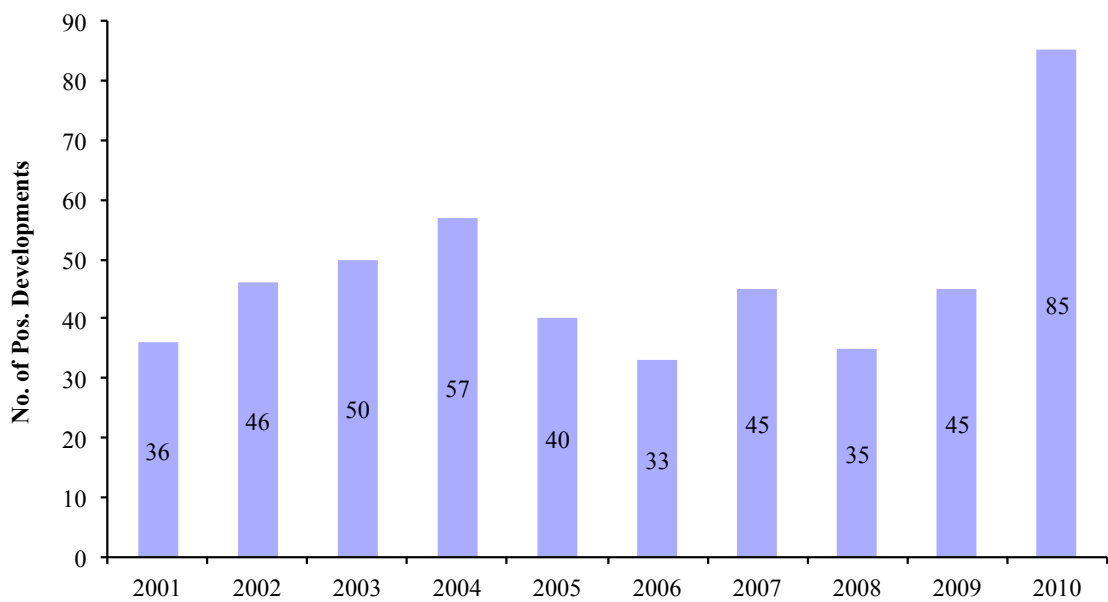
4.2. Levels of Formal and Behavioural Compliance in JHA

This section examines the trends in legislative transposition and its practical application in Turkey between 2001 and 2010 in the field of JHA, using three quantitative indicators. The findings demonstrate that credibility does not determine the compliance patterns in Turkey. The levels of formal and behavioural compliance continuously increased throughout this period despite the decline in credibility. Moreover, even though the rate of compliance decreased at the start of T2 in line with the expectations of the credibility hypothesis, it increased in the remainder of T2. In other words, the speed of formal and behavioural compliance has not experienced a substantial decline after 2005, following the significant decline in credibility. Instead the picture that emerges from the data below show that the rate of compliance has remained roughly stable and even increased in some cases. This evidence that diminished credibility has not been detrimental for compliance in Turkey strongly challenges the credibility hypothesis.

In the first indicator, compliance is represented by the Commission’s positive references flagged up each year between 2001 and 2010 in the PRs about formal and behavioural compliance in the area of JHA. The Commission’s assessments demonstrate that Turkish authorities continued to progress on the road to EU membership, since each year new developments were reported regardless of the fall in credibility after 2005. Put differently, the level of compliance continuously

increased over time. Similarly, the rate of compliance has not deteriorated over time. Even though the speed of formal and behavioural compliance decreased at the start of T2, they picked up to reach levels which are actually slightly above the T1 average. The figure 4.2 below demonstrates this trend. Turkish authorities have made an average of 45.8 developments per year between 2001 and 2005,⁷⁶ whereas this average increased to 48.6 between 2006 and 2010.

Figure 4.2: Positive Developments Recorded in the PRs between 2001 and 2010



Source: Author’s analysis from PRs (1998-2010)

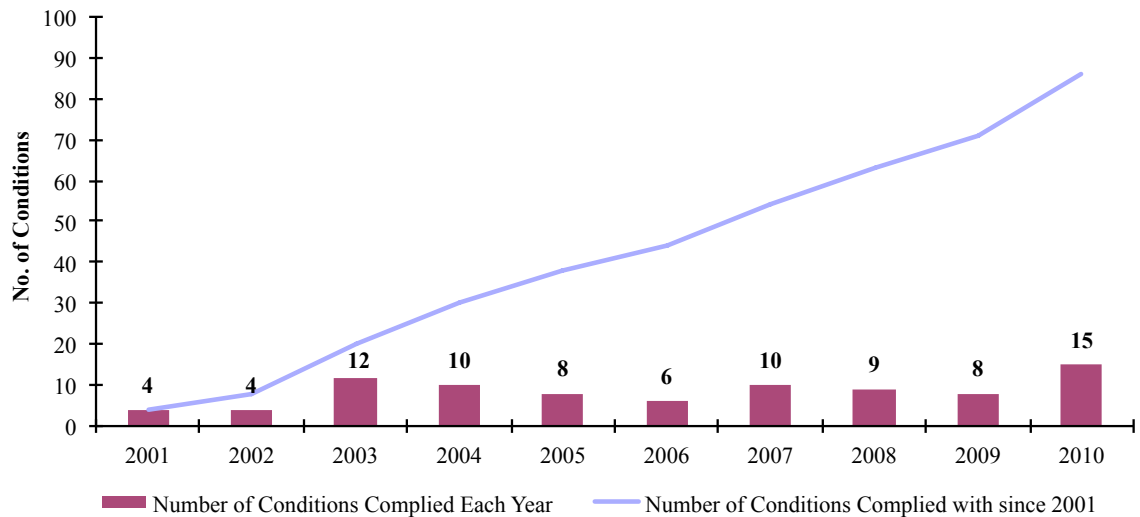
The second compliance indicator is the proportion of the total number of EU conditions Turkey has complied with over the years. The dataset represents the number of all the EU conditions and the number of legal transposition and behavioural compliance conducted by Turkey each year. All the demands, requests, suggestions and criticisms made by the EU in the PRs between 1998 and 2010 are taken into account, where these demands are clear and compliance with them is measurable. Since the EU’s PRs are published in October each year, this database is updated each October. For instance, the EU made a total of 60 demands by October, 2002 (*see* Figure 4.5), which includes 14 demands made in

⁷⁶ T1 period actually ends in October 2005, but for simplicity reasons the averages have been calculated by including the whole of 2005 in the T1 period. This way the compliance conducted in T1 is actually magnified, but even then the average compliance in T2 is higher than T1.

the October 2002 PR, in addition to the 46 made previously. The data on Turkey's compliance, however, are collected by examining the whole year, i.e. four pieces of legislation adopted between January 2001 and December 2001 (see Figure 4.5). Another methodological point to underline here is regarding the period prior to 2001. The conditions the EU stated between 1998 and 2000 have been included in the design, even if they are not restated in the post-2000 PRs. The reason behind this is that these conditions are still part of EU's conditionality and it is still in the interest of this research to measure compliance with them. Leaving them outside the design would skew the research results. Therefore, these conditions have been treated as if they have been put forward by the EU in the initial year of analysis, i.e. in 2001. There is one caveat to this. If compliance has been achieved with these criteria before 2001, then these criteria are excluded from the dataset, since this research does not consider compliance prior to 2001.

Let us start with the level of Turkey's compliance, firstly by looking solely at the number of EU conditions Turkey complied with. The line in Figure 4.3 shows the total number of conditions complied with over the years in a cumulative fashion and the bars demonstrate the number of conditions complied with per year. For example, Turkish authorities have complied with four EU conditions in 2002, which makes a total of eight conditions cumulatively including the compliance conducted in 2001.

Figure 4.3: Total Number of Conditions Complied with since 2001



Source: Author’s analysis from PRs (1998-2010)

It is clear from the line in this graph that the level of Turkey’s compliance continuously increased over time, including after 2005. Similarly, the rate of compliance has also increased over time. The bars which demonstrate the number of laws adopted per year also portray the rate of Turkey’s compliance with EU conditions between 2001 and 2010. They show that the speed of compliance, which started out fairly stable, experienced a sharp increase in 2003. However, following this peak, the speed of compliance continuously declined until 2006. Following the lowest point, the rate of compliance increased in 2007 and subsequently remained more or less stable until 2010 where the speed increased significantly. What is interesting in this graph is that, contrary to the expectations of the credibility hypothesis, both the level and the speed of compliance did not deteriorate in T2 following the decline in credibility and instead increased within T2. The fact that Turkey has complied with an average of 7.6 conditions per year between 2001 and 2005⁷⁷ and an average of 9.6 conditions between 2006 and 2010 demonstrates this point.

It is also crucial to underline at this point that Turkish compliance has not shown any significant cases of reversal in legislation or worsening in behavioural compliance after 2005 as expected by the EIM’s credibility hypothesis. When

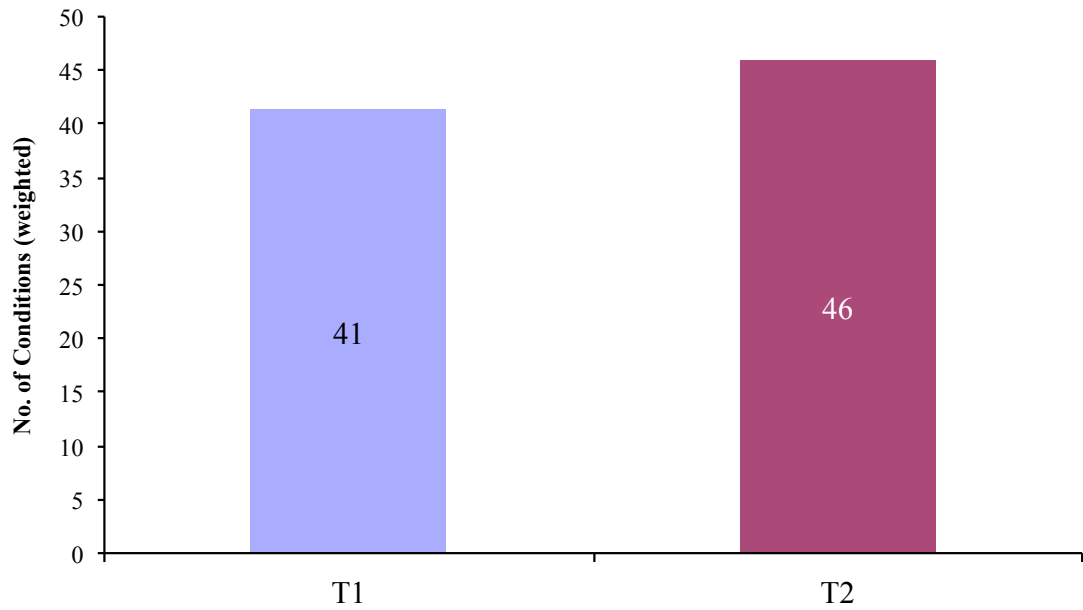
⁷⁷ As per above, the T1 period actually ends in October 2005, but for simplicity reasons the averages have been calculated by including the whole of 2005 in the T1 period. This way the compliance conducted in T1 is actually magnified, but even then the average speed of compliance in T2 is higher than T1.

compiling this data from the Commission's PRs the researcher made sure to check for any evidence of legislative reversal or behavioural backsliding, since this information would have come up in the analysis. However, the data demonstrate that there have not been any noteworthy cases of legislative or behavioural reversal between 2001 and 2010 with the exception of two cases.⁷⁸ This is crucial since the credibility hypothesis would expect acts of formal compliance to reverse and behavioural compliance to backslide in costly cases. However, the Turkish case demonstrates not only that significant reversal was absent, but also new legislation continued to be adopted and implemented at an even higher speed than T1.

Figure 4.4 below organises the same data in a different manner to clearly demonstrate the difference between compliance levels in T1 and T2. Within the T1 period Turkey has complied with 38 EU conditions and a total of 48 conditions in T2. Since the duration of these two periods are not equal, i.e. T1 falling short of five years and T2 slightly over five years, these levels have been weighted so that the duration of two periods have been equalised. This analysis shows that the number of conditions complied with in T2 (46) are slightly more than the compliance level in T1 (41) as the Figure 4.4 below demonstrates. Once again this goes against the expectations of the credibility hypothesis.

Figure 4.4: Weighted Number of Conditions Complied with in T1 and T2

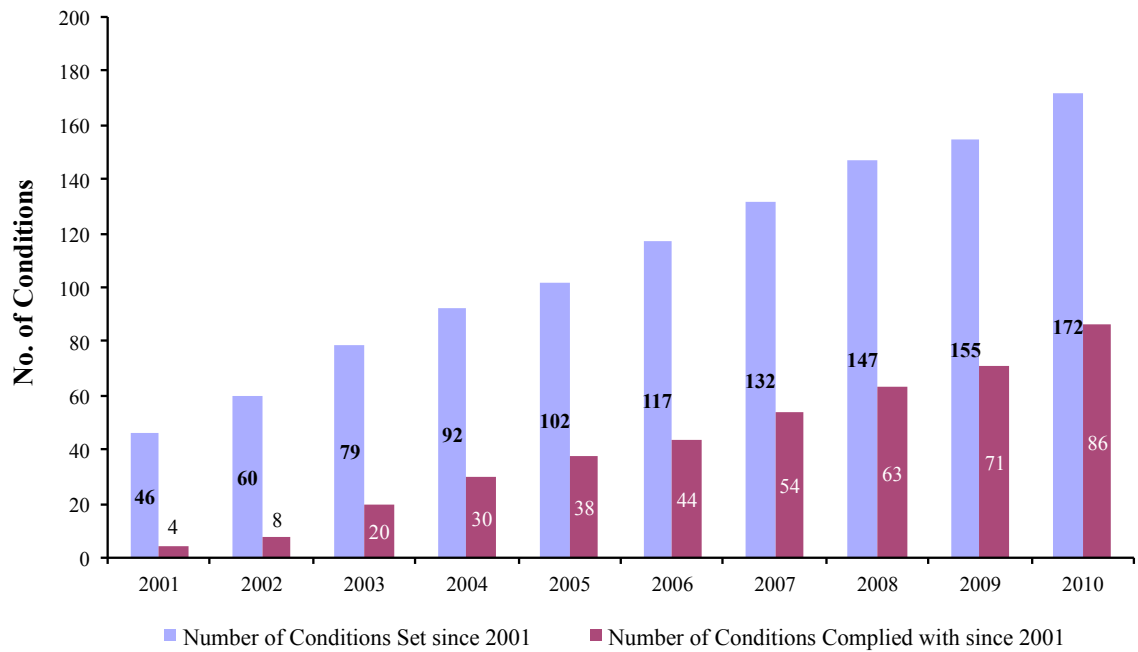
⁷⁸ Firstly the Commission has criticised Turkey for revising its anti-terror legislation in 2006 in a restrictive manner. Secondly, Turkey has lifted visa obligations for a number of countries in 2007 and 2010, such as Libya, Jordan, Lebanon, Azerbaijan, Mongolia, Uzbekistan, Tajikistan and Turkmenistan, and this is not in line with the EU's negative visa list.



Source: Author's analysis from PRs (1998-2010)

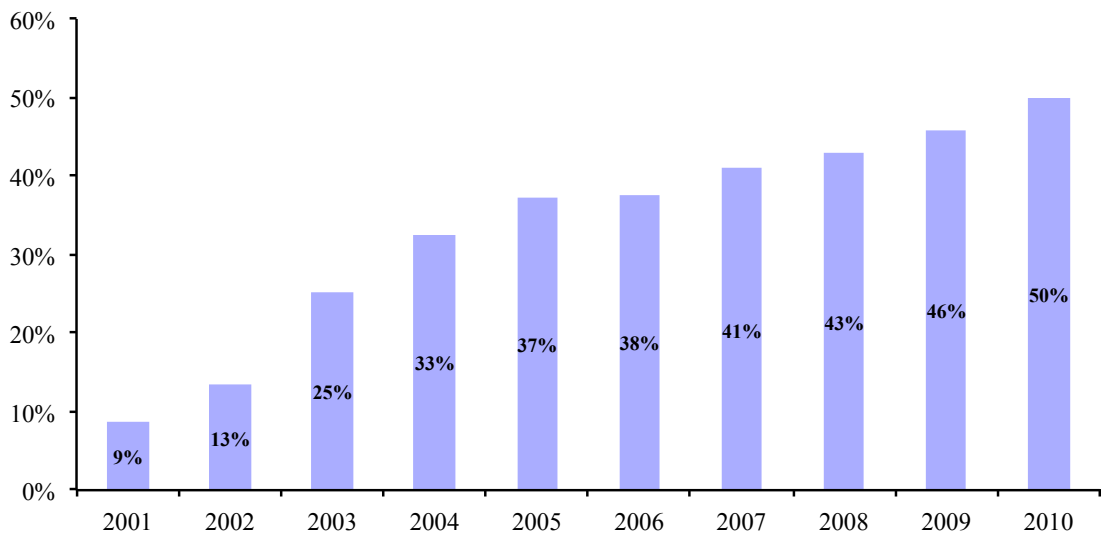
Figure 4.5 below shows the cumulative picture for all the conditions set by the EU in the last ten years, together with Turkey's cumulative compliance record with these conditions over time. Figure 4.6 represents the same data in percentages. The evidence in these two figures clearly shows that Turkish authorities complied at a quicker rate at the start of the compliance process. By 2003 Turkey had complied with about a quarter of the total conditions set by the EU. This rate of increase in compliance slowed down after 2003, and remained at a steadier rate. By 2010 Turkey had complied with about a half of the EU conditions set in the PRs.

Figure 4.5: Cumulative Representation of All EU Conditions and Turkish Compliance



Source: Author's analysis from PRs (1998-2010)

Figure 4.6: Percentage of Compliance with All EU Conditions

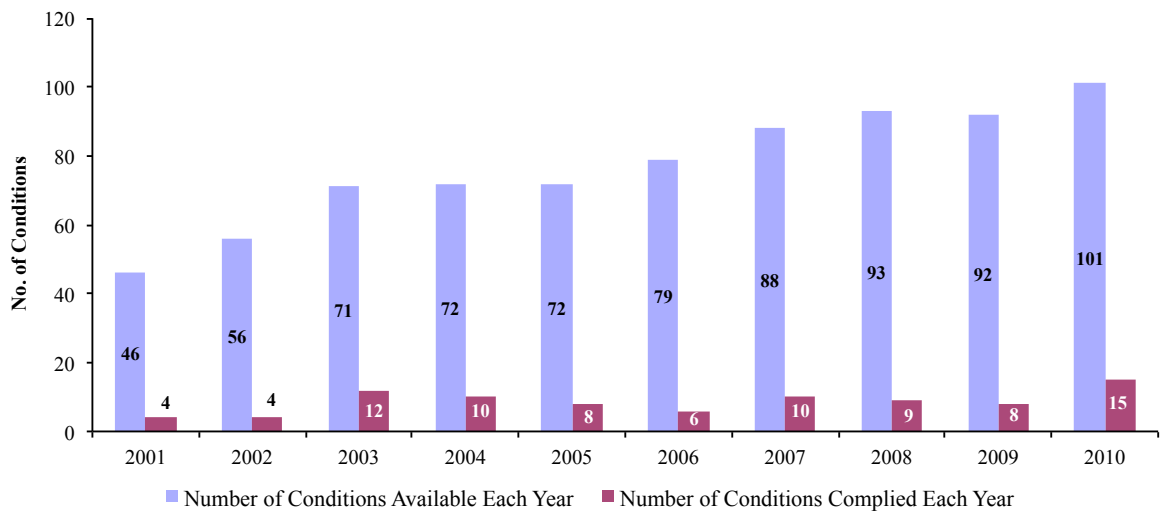


Source: Author's analysis from PRs (1998-2010)

The evidence shown in these two figures provide a good overall picture of Turkey's compliance performance over the years. However, they are not able to demonstrate the actual rate of change in compliance, which is shown in Figures 4.7 and 4.8. The above figures illustrate the total number of EU conditions which have been set and the total compliance achieved by Turkey cumulatively. Figure

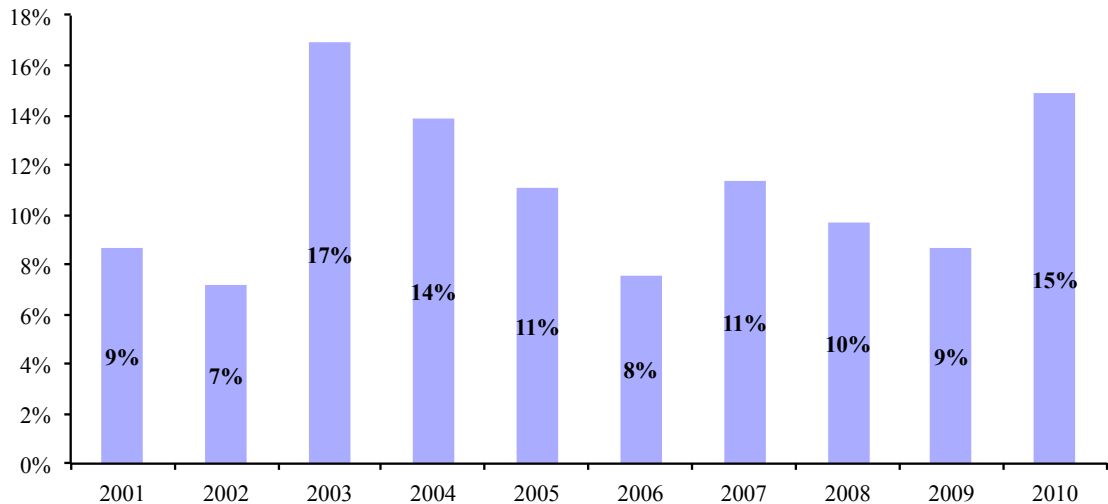
4.7, by contrast, presents the number of EU conditions which are *unmet* and *available* for compliance each year. In other words, the conditions that have been complied with previously are not considered. This may result in a situation, as in 2008 and 2009, where, even though the EU sets new conditions each year, the number of available conditions decreases, because Turkey complied at a quicker rate than the EU set new conditions. The number of available conditions is compared to the number of conditions complied with each year, which is the same data in the bar graphics in Figure 4.3. Figure 4.8 shows the percentage of compliance with all the *available* conditions for each year.

Figure 4.7: All Unfulfilled Conditions and Conditions Complied with Each Year



Source: Author's analysis from PRs (1998-2010)

Figure 4.8: Percentage of Compliance with Available Conditions Each Year



Source: Author's analysis from PRs (1998-2010)

According to Figure 4.8, the average percentage of compliance Turkey has conducted per year between 2001 and 2010 is 11%. The evidence demonstrates that Turkish compliance started out as fairly low in 2001 and 2002. 2003 was an important date since Turkey's compliance level experienced a sharp boost. After 2003, percentage of compliance experienced a steady decrease until 2006, where it reached its minimum point. After 2006, compliance levels once again increased. Compliance levels between 2007 and 2009 period failed to reach the 2003 levels, but still performed better than the initial years of conditionality (2001-2002). What is striking in this figure is the sharp increase in compliance in 2010, which brings the percentage of compliance significantly over the average level and closer to the peak point of 2003.

The minimum compliance level recorded in 2006 *is* in line with the expectations of the rationalist credibility hypothesis that compliance would fall once the reward⁷⁹ of accession negotiations has been granted to the norm-importer state. However, it cannot explain the increase in the level and rate of compliance subsequent to 2006 demonstrated in the evidence above.

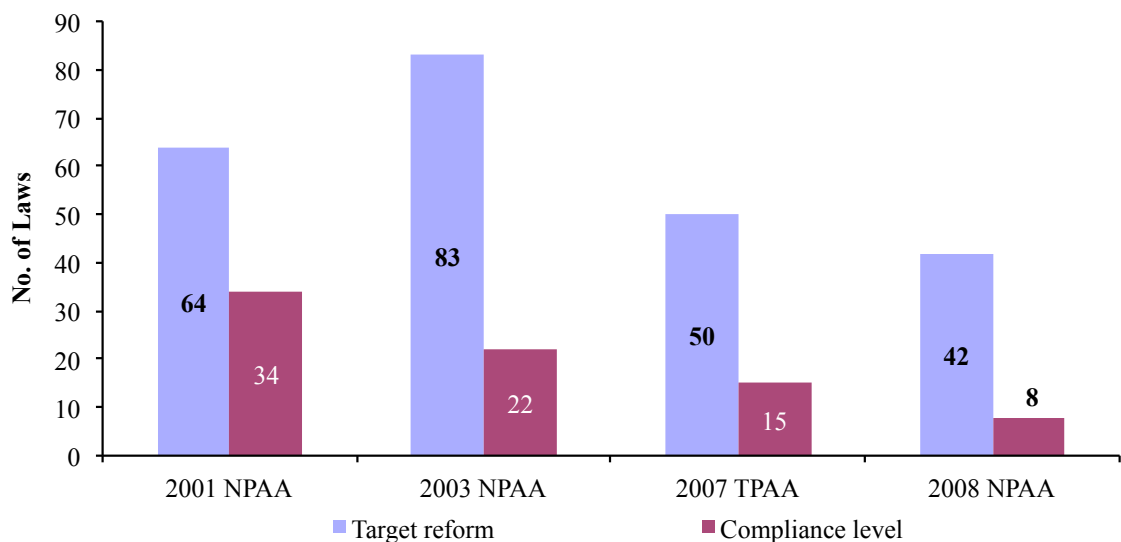
Overall, all the figures above demonstrate that Turkey's compliance levels have increased continuously over time, whereas the rate of compliance has varied.

⁷⁹ This relates to the credibility of an intermediary reward – accession negotiations – as opposed to the credibility of the reward of accession.

There are two dates worth noting. Firstly, 2003 was a year of substantial compliance for Turkey. In all the figures, it is clear that the level and rate of compliance was high in 2003. Secondly, 2006 was the year where compliance particularly suffered. However, compliance picked up in 2007 and the overall rate of compliance has increased after this date, particularly in 2010, reaching levels which are slightly higher than T1. In sum, neither the level nor the speed of compliance deteriorated in T2. These findings challenge the feasibility of the EIM's credibility hypothesis, which expects compliance with costly conditions to deteriorate significantly in T2.

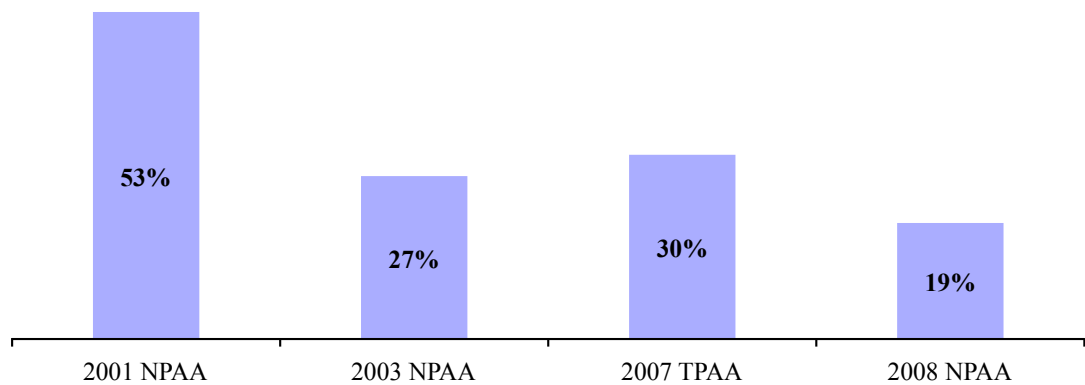
The final indicator of compliance is the percentage of Turkish reform targets planned to be adopted by a certain deadline that are actually completed by that deadline (Zubek, 2008). The four main long-term programmes are considered in this methodology, namely the 2001, 2003 and 2008 NPAA, and the TPAA. The compliance levels are compared across the documents to assess Turkey's compliance pattern over time.

Figure 4.9: Turkey's Compliance with Self-imposed Targets



Source: Author's analysis from PRs (1998-2010), NPAA (2001; 2003; 2008); TPAA (2007)

Figure 4.10: Percentage of Compliance with each NPAA and TPAA



Source: Author's analysis from PRs (1998-2010), NPAAAs (2001; 2003; 2008); TPAA (2007)

Figures 4.9 and 4.10 above demonstrate, firstly, that Turkey continued to comply with its self-imposed reform targets after 2005, rather than not adopting any measures, even under diminished credibility. This poses a challenge to the EIM's credibility hypothesis.

Secondly, although Turkey was able to comply with 34 out of a total of 64 conditions included in the 2001 NPAA (53% compliance), compliance with conditions in other documents has not been as high. The compliance level was 27% for the 2003 NPAA, 30% for the TPAA and 19% for the 2008 NPAA.⁸⁰ This suggests that the rate of compliance declined after the 2001 NPAA. Moreover, the reform targets set by the Turkish authorities also showed a decrease after the 2001 NPAA. These results regarding the decline in the rate of compliance and compliance targets seems to fit the credibility model better than previously presented data, which showed either steady or increasing rates of compliance over time. However, this data need to be analysed further, to account for the fall in the speed of compliance after the 2001 NPAA.

The very high level of compliance observed in the case of 2001 NPAA can be explained by a number of factors. Firstly, the first NPAA lacks specific deadlines for each reform target and instead incorporates a more general deadline, namely 'medium-term'. Medium-term is interpreted to mean four years in line with the

⁸⁰ In this data, the 2001 NPAA and the 2003 NPAA are classified as being part of T1, as 2005 is the latest deadline in both of these documents (with the exception of three pieces of legislation which have 2006 as their deadlines in the 2003 NPAA).

EU guidelines (European Council, 2008). What this means is that March 2005 is the deadline for all of the 64 conditions set by the 2001 NPAA covering almost the whole of T1 period, whereas the following documents have significantly shorter deadlines. For instance, deadlines in the 2003 NPAA are set between 2003 and 2005. The fact that 2001 NPAA's deadlines are longer means that compliance with its conditions is easier and therefore compliance levels are higher in comparison to other documents.

Secondly, there is a need to take a closer look at the types of targets included in these different documents. It is expected that the levels of compliance with the very first long-term programme would be higher because the first document formulated at the start of the compliance process tends to be predominantly composed of the most technical and easiest targets. It is also often the case that the candidates comply with the easiest and the most technical conditions at the initial stages of compliance process. Materially and socially costly laws are postponed. What this means is that candidates tend to perform much better, and their compliance record may be inflated, during the early years of conditionality. This also explains why the number of compliance targets set by the Turkish authorities declined over time. As candidates comply with a high number of relatively easier EU conditions, there remains a lower number of criteria to be complied with over time. But rather difficult reforms remain, such as the Kurdish and Cyprus questions, limiting the role of military in politics and more difficult aspects of behavioural compliance (Kirisci, 2007: 10; Hale and Ozbudun, 2010: 67). More specifically, with regard to the JHA area, Kirisci has maintained in 2007 that 'the harmonisation process has reached a point where difficult decisions are needed to actually start implementing action plans and also bring about breakthroughs in a number of areas' (2007: 10). These two reasons largely account for the exceptionally high compliance level for the 2001 NPAA and explain the reason why the rate of compliance seems to decline after 2005.

The evidence from Turkey's compliance with its own targets demonstrates that contrary to the expectations of the credibility hypothesis the level of formal and behavioural compliance increased continuously over time. At the same time, the rate of compliance appears to have declined after the 2001 NPAA. However, this

can largely be explained by the inflated levels of compliance for the 2001 NPAA due to longer deadlines and easier legislation. If the 2001 NPAA is left out of the analysis, the remaining three documents can be compared more accurately, since they have similar deadlines and the level of compliance with them is less skewed due to easier conditions. This comparison demonstrates that the rate of compliance increased after 2005, from 27% to 30%, and subsequently the rate decreased to 19% in the 2008 NPAA. Clearly the initial increase in the rate is not substantial; therefore its significance should not be overstated. However, the decline in the rate of compliance at the end of T2 is more noteworthy and is more in line with the expectations of the credibility hypothesis.

Overall, the three different indicators used in this section do not substantiate the EIM's credibility hypothesis which expects declining levels of compliance after 2005. This assumption is falsified by the evidence shown above, since all three indicators demonstrate that both formal and behavioural compliance levels have increased continuously over time. Moreover, two out of three indicators demonstrate that the rate of compliance has also increased in T2. If all three indicators are taken into account, it can be argued that on average the rate of compliance in T2 remained stable at worst. In other words, Turkish authorities continued to conduct more difficult reforms at a similar speed as T1, sometimes even faster, under diminished credibility. The fact that the constitutional reform and judicial reform strategies were adopted; democratic opening process for minority groups was initiated; and article 301 of the penal code on freedom of expression was revised are cases in point. Given that compliance becomes more difficult each year with more challenging conditions remaining, a stable rate of compliance under diminished credibility contradicts the credibility hypothesis.

4.3 Level of Administrative Compliance

This section measures the change in administrative compliance over time. It concludes that even though administrative compliance has declined to some extent at the start of T2 (2005-2006), the developments in the subsequent years (2007-2008) have brought administrative compliance levels back up. Even more

striking, administrative compliance increased significantly in 2009. This evidence suggests that even though the level of administrative compliance was subject to significant variation, the average T2 levels were equal to T1 levels, at worst.

As discussed in Chapter Three, *EU-related bureaucrats* working in the candidates' EU coordination institutions and the EU units of line ministries are the principal actors in administrative compliance. For the purposes of this research the MFA, MI and MJ and, most importantly, the EUSG are the focus for administrative compliance in the field of JHA. In very broad terms, administrative compliance incorporates all activities conducted by the aforementioned actors prior to formal/behavioural compliance, which helps bring about formal/behavioural compliance. This section specifically examines the four most important outputs of administrative compliance, namely the preparation of the NPAA's or other long-term plans for compliance; composition of other strategic documents; preparation of draft laws and substantial reform packages; and the management of the screening process. Moreover, the time devoted to compliance-related activities by these bureaucrats is also considered to be part of administrative compliance.

Firstly, the NPAA's, which address the priorities and conditions incorporated into the EU's Accession Partnerships (APs), are the most important outputs of the administrative phase of compliance. The first NPAA was prepared in 2001 as a response to the EU's AP in 2001. The second programme was completed in 2003 shortly after the EU announced its second AP. However, Turkey failed to prepare a national programme in response to the EU's third AP in 2006.⁸¹ Instead, only minor revisions were made to the 2003 NPAA. The final NPAA was prepared in 2008 in response to the final AP document.

⁸¹ This was partly due to the negative climate between the EU and Turkey stemming from the Cyprus problem and the upcoming general elections in 2007; as well as the limitations in the EUSG's staff.

When these three NPAAAs are compared in terms of their length and level of detail,⁸² it is clear that the 2003 NPAA is much more detailed than the 2001 NPAA. This is due to the fact that, after the first NPAA, the Turkish officials became more experienced at preparing such documents and were able to review the EU acquis in a more detailed fashion to formulate a more comprehensive plan. Moreover, the 2003 document incorporates detailed cost calculations for reforms. The 2008 NPAA, on the other hand, was much shorter – almost half in length – in comparison to the 2003 NPAA. However, this should not be interpreted as a decline in Turkey’s commitment to reform. Instead, a lot of reforms which were included in the 2003 NPAA have been conducted in the period between 2003 and 2008, and these reforms were naturally excluded from the new document. Put differently, as Turkey complies with EU conditionality, a smaller number of reforms remain. This is the main reason behind the brief nature of the 2008 NPAA which in other respects is as detailed or comprehensive as the 2003 NPAA. Overall, the 2008 NPAA was not less ambitious and comprehensive than its earlier versions. This suggests that the quality of administrative compliance has remained stable after T1. At the same time, it is also clear that the Turkish officials were less effective in terms of fulfilling the EU’s demands at the start of the T2 period in comparison to T1, since they failed to adopt an NPAA in 2006. This implies that the level of administrative compliance in T2 was reduced. However, the recent years have witnessed two important developments with regard to the preparation of long-term programmes for compliance, which challenge the above conclusion that administrative compliance has slowed down in T2.

The first of these developments is the TPAA, prepared by the SPO. Even though the TPAA was very similar to an NPAA in terms of structure,⁸³ the motives behind its formulation were different. This programme was formulated with the aim of full membership by 2013, therefore the reforms were aimed to be adopted between 2007 and 2013. What differentiated the TPAA from a regular NPAA was that it was not a formal EU requirement and has not been prepared by any of

⁸² Only the JHA is considered.

⁸³ The TPAA, as in the NPAA, was divided into negotiation chapters and put forward the legislation that Turkey needed to adopt.

the CEECs. Instead, it was entirely an invention of the EU-related bureaucracy in Turkey. On the one hand, it is clear that Turkey's failure to formulate an NPAA in 2006 had informed the bureaucrats' and political leadership's decision to initiate this programme (EUSG4). On the other hand, it demonstrated the EU-related bureaucracy's will to shape Turkey's compliance process according to Turkey's own needs and priorities.⁸⁴ It prioritised those reforms which would contribute to the country's development, and deferred others which were economically and socially costly. This would allow Turkey to progress rapidly on the road to EU accession, but in a less costly manner, according to its own needs and with less resistance. As the previous CN, Babacan, highlighted, with this programme Turkey attempted to determine the timetable for reforms rather than it being imposed by the EU (BBC, 2007). In this sense it is clear that this programme was not solely prepared with the goal of compliance with the EU, but also to achieve Turkey's own developmental goals. Put differently, the TPAA allowed the 'Ankara criteria'⁸⁵ to be materialised (Erdogan, 2004). Overall, this programme demonstrates the firm commitment of both the EU-related bureaucracy and political leadership to foster further compliance with the EU, even if on their own terms. More importantly, it shows not only the willingness but also the ability of the EU-related bureaucracy to come up with new initiatives for EU compliance and its capability to exert a push from below on political leadership. In this respect, it is a good illustration of the dynamic nature of the administrative phase of compliance in T2.

As a second development, the EUSG devised an Action Plan as part of its new EU Strategy on March 15, 2010 (EUSG, 2010d). This programme aims to revive the commitments laid down in the TPAA based on Turkey's own priorities and timetables (EUSG, 2010b: 2). This programme was prepared with the contribution of 67 state institutions (Euractiv, 2010a) and was modelled on the NPAAs, although it bears a closer resemblance to the TPAA. It is organised along the negotiation chapters and each chapter lists in detail all the legislation that needs to be adopted. As in the TPAA, there is no separate section on the

⁸⁴ The programme was prepared shortly after the EU blocked the negotiations in eight chapters due to the Cyprus problem, therefore the EU-related bureaucracy decided to establish a plan where Turkey's needs, even in the blocked chapters, are prioritised (SPO2).

⁸⁵ A term coined by the PM Erdogan.

political criteria. A total of 96 primary and 261 secondary regulations are targeted for adoption in less than two years, i.e. the remainder of 2010 and 2011. In this respect, it is more ambitious than the latest NPAA (2008), which lays down a plan to adopt 131 primary laws and 342 secondary legislation in a longer period of time with less specific deadlines. Most of planned changes in the NPAA were to be adopted in three years: between the end of 2008 and the end of 2011. However, a considerable number of changes were planned to be adopted ‘*after 2011*’, ‘*2009-2013*’, ‘*2010-2012*’, ‘*1 year prior to full membership*’, ‘*2 years prior to full membership*’ or ‘*in the framework of full membership perspective*’ (NPAA, 2008). These deadlines suggest a compliance timetable which is much lengthier than the Action Plan. Moreover, as maintained above, a smaller number of reform targets in the Action Plan should not be interpreted as a loss of enthusiasm, instead this decline demonstrates the fewer number of legislation which remain to be adopted. Overall, the Action Plan puts forward an ambitious programme for Turkish compliance. It demonstrates the EU-related bureaucracy’s commitment to Turkey’s accession process, since it devises compliance schedules on all 35 chapters, regardless of whether the chapters have been opened, suspended or blocked (EUSG, 2010b: 2). Therefore, it is further proof of the increased activity taking place within the administrative phase of compliance in the recent years.

A second area that is worth discussing as part of administrative compliance is the preparation of an important strategy document by the EUSG, namely the ‘European Union Strategy for Turkey’s Accession Process’ (EUSG, 2010b). The EUSG adopted this on January 4, 2010 and subsequently forwarded it to its European counterparts (EUSG, 2009e: 11). This strategy incorporates four pillars structuring Turkey’s EU accession process from January 2010 onwards. The first pillar aims to intensify Turkey’s efforts in the ongoing negotiation process by fulfilling the commitments on already opened chapters, such as the closing benchmarks; as well as performing activities on chapters that can be opened, such as preparing negotiation positions and working on the opening benchmarks (EUSG, 2010b: 1-2). The second pillar considers Turkey’s own priorities and timetables as key and aims to fulfil the commitments laid down in the TPAA (*ibid.*: 2). More specifically, work will be performed in all of the 35 chapters,

regardless of whether they are blocked or suspended, allowing Turkey to proceed speedily once the EU decides to lift these blocks. By doing this, Turkey aims to ‘determine the pace of the reform process in accordance with its own preferences and priorities’ (*ibid.*: 3), by postponing problematic areas and giving precedence to its needs. The third pillar of this strategy centres on the EU’s political criteria, which are essential not only for Turkey’s accession to the EU, but also for overall democratisation. To ensure progress in this field, the RMG and the Political Affairs Sub-committee (PAS) are given an active role in initiating legislation and monitoring implementation. The final pillar of this strategy aspires to support the first three pillars through a strong communication strategy (EUSG, 2010c). This communication strategy has been prepared by the EUSG in January 2010. It aims to enhance the communication between Turkey and the EU and has two dimensions. Its internal dimension intends to rejuvenate the Turkish public’s enthusiasm and support for the EU accession process. Externally, it aims to neutralise the negative public opinion of certain EU MSs by communicating the benefits of the Turkish membership to the EU (*ibid.*). In sum, the formulation of this strategy in 2010 also demonstrates the recent enhancements in administrative compliance.

Thirdly, various reform packages need to be considered as part of administrative compliance, since it is predominantly the EU-related bureaucrats who prepare these reforms. In the T1 period two major constitutional revisions were made. The 2001 constitutional reform incorporated changes related to the restricted use of death penalty, easing restrictions on using languages other than Turkish, making it more difficult to ban political parties and other changes regarding fundamental rights and freedoms. The 2004 constitutional revision abandoned the death penalty completely, made sure that international law is supreme over domestic law regarding fundamental rights and freedoms, abolished controversial state security courts,⁸⁶ and finally introduced changes regarding civil-military relations. In addition to these two major constitutional reforms, nine harmonisation packages were adopted in the period between 2002 and 2004 to align Turkish legislation with the EU *acquis*. These harmonisation packages

⁸⁶ These are mixed courts incorporating both civilian and military judges and public prosecutors, which deal with crimes against the security of the state (Hale and Ozbudun, 2010: 56).

included important reforms in the areas of freedom of expression, association, assembly and religion; prevention of torture and mistreatment; minority rights; international protection of human rights; and civil-military relations (Hale and Ozbudun, 2010: 57-62).

After the adoption of the 9th reform package in June 2004 there was a decline in the number of such packages. Even though individual laws continued to be adopted as demonstrated in the previous section, no comprehensive reform package was adopted until 2009. The November 2009 reform package was prepared by the EUSG and the RMG, and incorporates extensive reforms in the field of JHA and political criteria, ranging from illegal migration to children's rights.

Additionally, the EU-related bureaucrats developed a very comprehensive judicial reform strategy in the second half of T2. This strategy is extremely important for Turkey's compliance with the EU acquis, since it addresses almost all of the EU requirements in 23rd chapter. In line with the EU's demands for such a strategy, the MJ established a special Commission in January 2008, which worked in coordination with the EUSG. This Commission initially prepared a draft strategy in April 2008. Various symposiums and workshops were organised in 2008 and 2009 in to take into account the views of all the important Turkish legal entities, other relevant state institutions, civil society organisations, as well as the European Commission. Finally, this Commission took into account the feedback and finalised the strategy in 2009 (MJ, 2009a: 9-10).

This strategy is extremely comprehensive and ambitious in its aim to reform Turkish judiciary by strengthening its independence, promoting its impartiality, enhancing its efficiency and effectiveness, enhancing professionalism, improving its management, enhancing confidence in it, facilitating access to it, improving alternative dispute resolution mechanisms and improving the penitentiary system (*ibid.*: 11). Moreover, an action plan detailing the timetable for implementing this strategy was also adopted in 2009 (MJ, 2009b). The preparation of this

strategy and action plan demonstrates the significant improvements in the level of administrative compliance in the second half of T2.⁸⁷

The EU-related bureaucrats have also contributed significantly to the preparation of the constitutional reform package presented to the public as a referendum in September 2010. This package significantly altered the current constitution which is a legacy of the 1980 military coup and has been criticised extensively both by the political parties within Turkey, as well as by external actors, including the EU and the CoE (Alessandri and Taspinar, 2010: 3). It is considerably restrictive with regard to individual and group rights and has also been criticised for the privileged role of the Turkish military in the political system, simple means to ban political parties, as well as for the high (10%) threshold for parliamentary representation for political parties. Even though the new constitutional reform package did not address all of the EU's critiques, it focused on a number of important points, such as the reform of the judiciary, opening up ways for the military to be tried in civilian courts for civilian crimes, as well as making it more difficult to ban political parties.⁸⁸

The EU-related bureaucracy has contributed substantially to parts of the package directly related to EU demands. The proposed package was analysed by the EUSG who prepared a report on its compatibility with the EU acquis. Subsequently, the political leadership and the high level bureaucrats in the RMG discussed this report in detail in their 20th meeting. It should also be emphasised that, even though the constitutional amendment was considered in the TGNA in May 2010, the background work on it started in 2007 in line with the AKP's demands for a new constitution (Hale and Ozbudun, 2010: 66). The EUSG officials were very much involved in this process, particularly in the areas related to JHA and political conditionality.

⁸⁷ The EU-related bureaucrats in the MJ also stated that their workload has increased substantially since 2008 due to this strategy and action plan and they spent much more time on compliance-related activities (MJ1; MJ2; MJ3).

⁸⁸ Although this last point was voted down in the TGNA in May and therefore was not part of the referendum.

In addition to these broad constitutional reforms and harmonisation packages, the EU-related bureaucrats have also produced important outputs in specific areas of JHA. Within the T1 period, the EU-related bureaucrats have prepared strategy documents for border management and asylum and illegal migration. However, the level of administrative compliance conducted by these officials were higher after 2005. More detailed action plans for external borders and asylum were adopted in 2006 and 2005 respectively. Moreover, in the last couple of years, EU-related officials conducted substantial work to prepare more thorough roadmaps in these two areas and formulated three very comprehensive laws on asylum, foreigners and asylum unit. Moreover, all the strategy documents and action plans in the areas of organised crime and drugs have been adopted in the T2 period. This shows that even though comprehensive reform packages were lacking at the start of T2, this does not mean that the EU-related bureaucrats stopped complying. Instead, they continued to produce long-term reform programmes, such as action plans and roadmaps. Therefore, in these specific areas of the JHA, administrative compliance has not slowed down or remained stable, but instead improved after 2005.

Finally, the screening process, which compares the degree of fit between the national legislation and the EU acquis prior to negotiations, is also a very important part of the administrative phase of compliance. The SPO's EU unit coordinated the process in Turkey, which commenced on October 20, 2005 and lasted for one year. Additionally, other EU-related bureaucrats, such as the EUSG and the permanent representation, as well as representatives from public institutions whose work is related to the specific chapter under evaluation, also contributed to the process. Initially, explanatory sessions were held where the EU officials explained the acquis to the Turkish delegation. Subsequently, the Turkish side prepared reports and presentations for follow-up detailed screening meetings to explain Turkey's preparedness and its schedule to comply with the specific chapter in question. Even though this section has so far showed that administrative compliance experienced a decline at the start of T2, the screening process was actually a very busy period for the EU-related bureaucrats. Detailed analyses of the EU acquis were conducted and thorough reform targets and timetables were prepared for harmonisation. In this respect, the slowdown in

administrative compliance at the start of T2 should not be overstated, since the bureaucrats were preparing for screening meetings between October 2005 and October 2006.

Table 4.1: Main Outputs of Administrative Compliance over Time

Date	Outputs
2001	NPAA
	Constitutional reform
2002	1 st Harmonisation Package (HP)
	2 nd HP
	3 rd HP
2003	NPAA
	4 th HP
	5 th HP
	6 th HP
	7 th HP
2004	Constitutional reform
	8 th HP
	9 th HP
2005	Screening process
2006	Screening process
	(2003) NPAA revised
2007	TPAA
2008	NPAA
2009	Reform package
	Judicial Reform Strategy and Action Plan
2010	2010 Action plan
	EU Strategy for Turkey's Accession Process
	Turkey's EU Communication Strategy
	Constitutional Reform

Overall, as the Table 4.1 demonstrates, even though administrative compliance was lower in the first part of the T2 in comparison to the T1, the level of compliance picked up once again in the second part of T2. The development of long-term programmes such as the TPAA, the NPAA and the Action Plan; the preparation of strategic documents, action plans, roadmaps, and the judicial reform strategy; and the introduction of the constitutional reform demonstrate that administrative compliance reached a similar level as T1, particularly after 2008.

The final factor to take into account to assess the level of administrative compliance is the time devoted to compliance-related work by the EU-related bureaucrats. This factor is analysed through data collected in interviews.⁸⁹ EUSG officials, who have been working at the political affairs department since its creation in 2000, have stated that the early years of the institution and the screening period (2005-2006) were the busiest times for them (EUSG2; EUSG5). An official who used to work in the political affairs section until 2009 also maintained that when the EUSG was first established, those in the department often had to work until 5am, coming back to the office at 9am the following morning (EUSG6). They worked solely on preparing legislation for the democratic reform packages, and had no spare capacity at that time to go to Brussels to attend meetings, seminars or training sessions organised by the EU. They experienced a similarly busy period during the screening process. However, after 2006 the EUSG's political section started working on more routine activities, and the personnel were able to participate in seminars, conferences and training sessions. As one official put it, 'the work tempo was really different' after 2006 (EUSG6). At the same time, interviews with officials working in other departments demonstrate a slightly different picture. The previous head of Department of National Programme has maintained that the speed of work in her department has not really changed (EUSG1). Similarly, the head of Department of Social, Regional and Regeneration Policies, who has been employed in the EUSG since 2000, has maintained that she has not felt any slowing down in their workload or work tempo over the years (EUSG10). These

⁸⁹ EUSG is taken as the key institution for this analysis.

differences can be explained by the fact that most of the compliance with political conditionality had been achieved within T1 through the harmonisation packages. The fact that more difficult reforms remained to be complied with in the T2 period explains the relative slow down in the workloads of bureaucrats in the political affairs department. At the same time, the acquis harmonisation gained speed with the opening of negotiations and particularly with the screening process.

Even though some EUSG officials felt a slow down in their work tempo at the start of the T2, further changes took place in the EUSG since 2009 and work has again become busier for all EUSG bureaucrats (EUSG6; EUSG7; EUSG5; EUSG2). Working under a non-sectoral minister whose only portfolio is the EU, as well as having to coordinate more frequent RMG meetings and comply with more ambitious Action Plans and NPAAAs, have significantly increased the EUSG's workload. Overall, it can be concluded that the time devoted to administrative compliance by some of the EU-related bureaucrats have declined at the start of T2 in comparison to T1, however it has picked up since and reached levels that are equivalent to T1.

Overall, the above analysis demonstrates that administrative compliance did not show a consistent pattern. Two periods are particularly noteworthy. Firstly, the start of the T2 was crucial as both the time devoted to and the important outputs of administrative compliance declined. For instance the 2006 NPAA was not formulated and there was delay in the preparation of reform packages, strategic plans, primary and secondary laws. This trend was reversed somewhat in the subsequent period (2007-2008), as important developments, such as the 2007 TPAA and 2008 NPAA, improved the levels of administrative compliance. However, the most significant changes were observed from 2009 onwards. In this second period, both the time devoted to and the outputs of administrative compliance increased significantly. A new political reform package, a judicial reform strategy and a constitutional reform were adopted; a closer link between civil society and the EU-related bureaucrats was built through the Communication Strategy; and finally an Action Plan and an EU Strategy for Turkey's Accession were developed. These developments indicate a significant

enhancement in the level of administrative compliance, even in comparison to T1. Overall, the evidence above demonstrates that the average level of administrative compliance in T2 remained ‘stable’ at worst.

Conclusion

This chapter has presented a substantial amount of evidence demonstrating continued compliance under diminished credibility in T2. The quantitative evidence shows that the level of compliance continuously increased between 2001 and 2010. Moreover, even though the speed of formal and behavioural compliance initially suffered at the start of T2, it increased from 2007 onwards reaching the average T1 levels (and even higher in some cases) at a period when credibility levels deteriorated. Overall, it is clear from this evidence that there has not been any deterioration in compliance. This finding alone is sufficient to pose a serious challenge to the EIM’s credibility hypothesis and show that credibility is not a necessary condition for compliance.

Overall, the macro-level data on Turkey’s compliance with the EU in the area of JHA presented in this chapter challenges the EIM’s credibility hypothesis. However, it is necessary to complement this analysis with more qualitative micro-level data on compliance in particular issue areas. The next chapter examines Turkey’s formal and behavioural compliance in six case studies and similarly concludes that the EIM’s credibility hypothesis does not hold in the Turkish case.

Chapter Five:

The Level of Formal and Behavioural Compliance in Turkey (2001-2010): Micro-Level Analysis

Introduction

Following on from the macro-level analysis of compliance conducted for the entirety of the JHA area in the previous chapter, this chapter provides a more detailed, micro-level analysis of formal and behavioural compliance. Considering that the macro-level data posed a strong challenge to the EIM's credibility hypothesis, the objective of this analysis is to offer a second test. The evidence in this chapter shows that there is continued compliance in all six of the cases under analysis,⁹⁰ namely external borders; illegal migration and asylum; organised crime; human trafficking; drugs; and cultural and political rights of minorities. This chapter examines each policy area in turn, firstly by examining the conditions set by the EU over time giving priority to the most important ones. Subsequently, Turkey's level and quality of formal compliance is analysed. Finally, changes in the rate of behavioural compliance over time are studied.⁹¹ In every policy area new laws were adopted, new international treaties were signed and/or ratified and new institutional improvements took place within T2.⁹² This indicates that compliance continued under diminished credibility and increased cumulatively rather than remaining stable or declining, thereby challenging the credibility hypothesis.

⁹⁰ Formal and behavioral compliance are assessed separately in each case increasing the number of observations to 12.

⁹¹ All the data on Turkey's formal and behavioural compliance with EU conditions are taken from the EU's PRs between 1998 and 2010.

⁹² Backsliding in behavioural compliance was only witnessed in the area of cultural and political rights of minorities, where some TV and radio channels and language classes operating in languages other than Turkish were closed down shortly after being allowed to be set up. However, other major developments in this area with regard to compliance after 2005 meant that the level and speed of behavioural compliance increased overall. Moreover, the stations and courses which were initially closed down were re-established later on in T2.

Furthermore the data show that compliance has not only increased, but also the rate of formal and behavioural compliance has increased in most of the cases under examination. In the remainder of cases the speed of compliance remained stable.⁹³ Overall, these findings challenge the EIM's credibility hypothesis, since in almost all of the cases the speed of formal and behavioural compliance has either improved or remained stable.

5.1 External Borders

EU Conditions

The EU has made a number of key demands in PRs in the area of external borders. The most important formal compliance requirement is the creation of a civilian force in charge of the Turkish borders operating in a transparent manner under the MI. Secondly, the EU asked Turkey to produce a strategy document; an action plan; and a more detailed roadmap. Thirdly, the EU has made more specific demands with regard to Turkey's visa issuing practices and border legislation, such as transferring the responsibility of green borders from the Gendarmerie to the Land Forces Command; a uniform format for visas; residence permits for third-country nationals and visa application forms; abolishing the practice of issuing visas at the borders; introducing security features and biometrics in passports, visas and travel documents; introducing airport transit visas; and obligating of carriers to communicate passenger data.

As for behavioural compliance, the EU has encouraged Turkey to increase cooperation and coordination between various state agencies involved in

⁹³ Formal compliance showed minor reductions in other parts of minority rights other than cultural and political rights of minorities, namely security, economic and social situation in the South-east; and the situation of internally displaced persons.

Turkey's border management.⁹⁴ Specifically, the EU has recommended that Turkish authorities create a shared database for the institutions involved. Secondly, Turkey is required to set up the necessary institutions, agencies and/or working groups; and thirdly improve the training and professionalism of the border staff, as well as the infrastructure at the borders.

Formal Compliance

Taking a brief look at what Turkey has done to address the EU's legislative requirements, it is clear that a non-military border force has not been created and it appears unlikely to be set up in the medium-term. At the moment, numerous state bodies (the Turkish Armed Forces; Turkish General Staff; MFA; MI; Ministry of Agriculture and Rural Affairs; Ministry of Health; Ministry of Transport and Communication; Undersecretariat of Customs; General Directorate of Security (GDS); Gendarmerie General Command; Coast Guard Command; and Undersecretariat of Maritime Affairs) still play an active role at the Turkish borders.

At the same time, a strategy document for the protection of external borders was published in 2003. The EU Commission evaluated it 'as a significant step towards the harmonisation of the legislation and practice of Turkey related to border management with the EU acquis' (EUSG, 2006a: 14). Turkey also adopted a more detailed national action plan in March 2006 to implement the strategy. However, a detailed roadmap has not been adopted to date, even though a task force within the MI has been preparing a draft.⁹⁵

Some compliance has occurred with more specific EU demands. The responsibility for the Turkish green borders was transferred from the

⁹⁴ The lack of such coordination has resulted in a high degree of inefficiency in the management of Turkish borders. For instance, different institutions have separate databases as opposed to sharing a common one. What this means is that someone who is crossing the border may be checked by the police for his criminal record, but will not necessarily be checked by the Ministry of Health whether he poses any threats in terms of public health. This makes the system inefficient and time consuming (BMB1).

⁹⁵ The EU has set the preparation of a roadmap as an informal condition in 2006 which needs to be fulfilled to open the negotiations in 24th chapter (EUSG, 2009f).

Gendarmerie to the Land Forces Command in 2001; new visa instructions used by both consular and border officials were introduced in 2007; a regulation implementing the procedures and principles regarding the declarations made in customs administrations was adopted in 2008; a Council decision which regulates border commerce was approved in 2009; new passports which are compatible with EU security standards were adopted in June 2010; the policy regarding the duration of stays was revised in line with the EU *acquis* in 2010; and finally it became possible for the Consular Offices and the MI to issue visas online in 2010. However, there are still gaps in legal compliance, since visas are still issued at the borders; airport transit visas have not yet been introduced; legislation for harmonising the Turkish visa sticker with the EU Schengen visa sticker has not been adopted; and finally, the visa descriptions and types have not been harmonised with EU standards.

In sum, evidence suggests that Turkey's harmonisation with the EU in the field of external borders is minimal at best. Out of thirteen expert interviewed in this field, eight⁹⁶ have described Turkey's legislative transposition records as being partial and the remaining five⁹⁷ suggested there was no formal compliance. The reason behind this analysis is that the EU's main condition in this field – creation of a civilian professional border security force – has not been realised. This condition is by far the most important, as well as being the most difficult to achieve. Not only is the creation of this force expensive, it also takes considerable time to set up the necessary infrastructure for the education and training of a brand new force. This reform is politically extremely costly as well. The terrorism threat in the South-eastern borders of Turkey means that the Turkish military is very reluctant to give any powers away to a civilian institution. Similarly, all the actors who are currently active at the borders have vested interests against this reform, since it involves a reduction in their powers.

Overall, this analysis suggests that the level of formal compliance is *very low* or close to zero, since Turkey has failed to comply with the most important, yet costly, condition in this field. Instead, Turkish officials focused on less

⁹⁶ EUSG4; EUSG6; EUSG7; MI1; MI2; MFA5; MFA3; GDS1.

⁹⁷ AKP7; MI1; BMB1; EUSG2; GDS2.

significant and easier EU demands and strived to harmonise Turkey's visa and border legislation with the EU acquis. However, even in this area, compliance was not complete. Despite being inadequate and insufficient, it is crucial to note that whatever was done in terms of legislative transposition in this area was achieved after 2005.⁹⁸ Therefore, both the level and the rate of formal compliance improved after 2005. These *major improvements* in the rate of compliance are important to emphasise, since they demonstrate that compliance continued at a higher rate even under diminished credibility.

Behavioural Compliance

Turkey's behavioural compliance record in this field has been comparatively better. Firstly, Turkey increased cooperation and coordination among the existing state institutions. An inter-agency group – the external borders task force⁹⁹ which brings together all the state institutions active in border management and the EUSG – was put in place in 2002. The task force was rejuvenated in 2009 and is now meeting every two months (MI1). Moreover, the state institutions involved at the borders have been using a shared database since 2007 to screen people who are crossing the borders.

With regard to institutional developments, the status of the Border Management Bureau (BMB), which was initially established in 2004 as a projects department, was changed and strengthened in 2008. Similarly, a unit responsible for risk analysis in the customs administration was established in 2007; a new department on border security studies has been created in the Police Academy in 2008; a specialised department for passports was established in May 2010; and a coordination board for integrated border management has been established in May 2010.

⁹⁸ With the exception of the adoption of a Strategy Document.

⁹⁹ In addition to enhancing coordination, this force conducts work on legislative harmonisation with the EU acquis and is responsible for preparing a roadmap for border management.

Finally, Turkey has achieved progress in terms of improving the infrastructure and professionalism at the borders. A manual, which includes EU's requirements in the field, was published and distributed to border management staff in 2008. In-service training on integrated border management was delivered to all sub-governors in 2010. The border crossing points have increased from 116 to 120. A new sea border gate was opened in Izmir and two air border gates were opened in Sivas and Malatya in 2007. Modernisation of six border crossing points was completed in 2008 and work is in progress on five more.

Overall, as is clear from the evidence, behavioural compliance in this field has been *partial* and there have been important institutional developments, coordination attempts, and a number of crucial infrastructural advances within T2. Therefore, it can be concluded that both the level and the speed of behavioural compliance has improved in T2 and there has not been any backsliding. At the same time, it would be hard to argue that the increase in the rate of compliance was substantial. The views of 11 interviewees confirm these findings. All the interviewees agreed on the absence of any backsliding, but two¹⁰⁰ argued that compliance rate remained stable, whereas the remaining nine¹⁰¹ believed it improved. Taking these views into account, it is argued that there have been *minor improvements* in the rate of Turkey's behavioural compliance since 2005.

5.2 Illegal Migration and Asylum

EU Conditions

The most important EU demand in the area of illegal migration and asylum was to conclude readmission agreements with various countries and the EU, and to lift its reservation to the 1951 UN Convention relating to the status of refugees. Equally important was the EU's insistence on Turkey to produce a strategy

¹⁰⁰ EUSG2; AKP7.

¹⁰¹ MI1; EUSG4; EUSG7; BMB1; MI2; MFA5; MFA3; GDS2; AIB2.

document, an action plan and a more detailed roadmap about its compliance with the EU acquis. The EU has made other demands with regard to specific legislative changes, such as revising the Asylum and the Foreigners laws; reducing fees for the six month temporary permits for refugees; establishing a procedure for asylum seekers at international airports; improving access to legal aid for asylum seekers; reducing the waiting time for asylum seekers; allowing the admission of third-country nationals for employment and for study purposes; improving the status of third-country nationals residing on a long-term basis; adopting new legislation on work permits which is in line with the Geneva Convention principles, including minimum standards regarding the employment rights of refugees; aligning the Turkish legislative framework with the acquis with regard to the residence of students and family reunification needs; as well as concluding the Joint Action Programme on Illegal Migration between the EU and Turkey.

The EU has also made a number of important demands related to behavioural compliance. Most importantly, the EU has asked Turkey to implement the action plan on migration and asylum, as well as the readmission agreement signed with Greece. Secondly, the EU has encouraged Turkey to set up new state institutions and improve the administrative capacity of existing ones to better manage the asylum and migration policies. For instance, the EU has advised Turkey to establish a specialised civilian unit for migration and asylum issues under the MI; an independent asylum board; a nationwide screening mechanism to identify asylum seekers among detained illegal migrants; a professional body to carry out refugee status determination; as well as another body to provide specific training curricula for asylum and migration staff. Thirdly, Turkey is expected to set up reception centres for refugees and asylum seekers. Finally, the EU has made more general suggestions, such as improving access to asylum procedures, deportation procedures and detention conditions, and reducing the number of illegal persons trying to reach Western Europe.

Formal Compliance

Turkey's progress has been partial in the area of international agreements. Turkey has signed readmission agreements with various countries, such as Syria, Iran, Pakistan, India, Sri Lanka, China, Romania, Bulgaria, Kyrgyzstan, Ukraine and most importantly with Greece between 2001 and 2010; and bilateral negotiations with a number of other countries are under way, including Bangladesh, Belarus, Azerbaijan, Georgia, Bosnia and Herzegovina, FYROM, Moldova, Uzbekistan, Libya, Russia, Jordan and Lebanon. It has also submitted draft agreements to some countries, such as Egypt, Israel, Sudan, Nigeria, Ethiopia, Morocco, Tunisia, Algeria, Kazakhstan, Mongolia and Afghanistan. Despite this progress, readmission agreement negotiations with the EU¹⁰² which started in 2004, came to a deadlock after five rounds, and have only recently been resumed in 2009. The Turkish actors perceive demands in this area to be unfair, particularly in the absence of any burden-sharing and financial help from the EU (EUSG6). Recently, the Commission has made a positive remark about Turkey's progress: '[s]ubstantial progress has been made towards finalising negotiations on an EU-Turkey readmission agreement' (Commission, 2010a: 82). Another factor detracting from progress was that Turkey failed to lift its geographical reservation to the 1951 UN Convention, which means that Turkey continues to only accept asylum applications from European countries.

In the area of devising strategies and plans for alignment with the EU acquis, Turkey has made significant progress. Turkey agreed on a Migration and Asylum Strategy in 2003 and subsequently adopted a national action plan in March 2005 to implement the strategy. Currently, the Asylum and Immigration Bureau (AIB) is working on developing a detailed roadmap in this area.¹⁰³

¹⁰² Completion of a readmission agreement with the EU is the second informal condition set by the EU in 2006 to open the negotiations in 24th chapter (EUSG, 2009f).

¹⁰³ Adoption of this roadmap is the third informal condition set by the EU in 2006 to open the negotiations in 24th chapter (EUSG, 2009f).

Looking at specific legal changes, although Turkey failed to formally revise the Asylum and the Foreigners laws, progress regarding these two laws gained significant speed after the AIB was established in 2008. Once created, it put significant resources into drafting these laws and by 2010 the draft versions of these laws, as well as the law on the establishment of an asylum unit, were ready. Moreover, the TGNA adopted a law centralising the system of work permits for foreigners in 2003, aligning Turkey's legislation with the provisions of the Geneva Convention concerning employment of refugees. Secondary legislation necessary for the implementation of this law was also adopted shortly after. In the same year, the nationality law was also amended to prevent marriages of convenience, introducing a probation period of three years to acquire a Turkish citizenship through marriage. Turkey also ratified the agreement laying down the prerogatives and privileges of the International Organisation for Migration (IOM). The international convention on the Protection of the Rights of all Migrant Workers and Members of their Families was signed in 2004 and the new Criminal Code brought higher penalties and judicial fines to migrant smugglers in 2005. The asylum regulation was revised in 2006 and the Prime Ministry issued a circular in 2009 allowing the irregular migrants and victims of trafficking to benefit from free health services. The fees for temporary refugee permits were reduced by the 2010 circular on the asylum law. Moreover, two amendments were adopted, firstly, to the regulation implementing the Law on work permits in 2010 to make it possible for the asylum seekers to apply for work permits, regardless of the validity of their residence permit; and secondly to the law on foreigners' work permits softening the conditions under which asylum seekers can apply for work permits. Furthermore, another circular was issued in 2010 to ensure data protection, as well as social and general health insurance for those asylum seekers who are staying in institutions run by the Directorate General for Social Services and the Child Protection Agency. MI issued a circular in 2010 laying down the principles concerning the physical conditions in removal centres and practices used in these centres to ensure human rights violations are monitored. Finally, a circular was issued by the GDS in 2010, which allows for each illegal migrant to be accommodated in a removal centre where all the costs during their stays will be covered by the state.

Overall, the evidence suggests that formal compliance in this area is best described as *partial*. On the one hand, Turkey failed to comply with some of the most important conditions in this field, such as completing the readmission agreement with the EU and lifting the geographical restriction for asylum applications. These two conditions are arguably the most costly ones in the field, since compliance would bring a significant material burden on Turkey by increasing the number of asylum applications and readmission claims. Therefore, it is unlikely that Turkey will comply unless the EU commits to some form of burden-sharing. On the other hand, Turkey has made significant progress on other important conditions set by the EU. For instance, Turkey completed an important readmission agreement with Greece and is currently in the process of negotiating others. Similarly, Turkey adopted a strategy document, as well as a national plan to align the Turkish legislation with the EU *acquis*, which is one of the most significant steps in this field. Moreover, even though the Asylum and Foreigners laws have not been adopted, there has been significant progress recently and the draft laws have been submitted to the TGNA for adoption. Additionally, the Turkish authorities adopted a number of other measures in this field which are compatible with the EU requirements, even though they do not carry as much weight in terms of importance. Most of the interviewees share the assessment that compliance is partial.¹⁰⁴ In terms of change over time, there have been important developments in legislative activity since 2005. Therefore, it can be argued that the level of formal compliance has increased in T2. The rate of compliance can be judged as being *stable* owing to the limited nature of this improvement.

Behavioural Compliance

In terms of behavioural compliance Turkish authorities took fundamental steps towards implementing the action plan. A task force bringing together representatives from all the relevant state institutions was established in 2002,

¹⁰⁴ Ten out of 12 experts (MI1; EUSG2; EUSG4; EUSG7; AIB1; MI2; MI3; MFA5; MFA3; GDS2) stated that there was partial compliance, whereas one argued for full compliance (EUSG6) and the other maintained there was no compliance (AKP7).

reactivated in 2007 and has been meeting every two months since 2009. This high level working group allows for closer inter-agency cooperation, conducts risk analysis and works on developing legislative proposals to comply with the EU acquis. According to the EU Commission, this task force ‘plays a key role in ensuring uniform implementation of existing legislation’ on illegal migration and asylum (Commission, 2009a). With regard to the implementation of the readmission agreement signed with Greece, Turkey has made some progress. A coordination committee was established in 2004 and both parties have taken measures to implement the protocol more effectively. Moreover, in 2010 a joint declaration has been signed with the aim of implementing the readmission protocol.

Secondly, with regard to strengthening the administrative capacity and infrastructure, Turkey has established the AIB in 2008 under the MI. Moreover, a coordination board for combating illegal migration, which is chaired by the Deputy Undersecretary of the MI, was established in 2010. Additionally, Turkey is in the process of setting up a case management system for country of origin information and asylum, as well as an asylum management unit for reception and integration issues. Compliance is more limited with regard to setting up a body for providing training for asylum and migration staff; an independent asylum board; a nationwide screening mechanism for distinguishing asylum seekers from illegal migrants; and a body to carry out refugee status determination.

Thirdly, in relation to reception centres for refugees and asylum seekers, a new centre has opened in Istanbul in 2007 and work on two more centres have resumed in 2009. As of 2010, the construction and refurbishment of four removal centres are ongoing and two additional removal centres are planned to be built through EU-financed projects.

Finally, Turkey has made substantial progress in decreasing the number of illegal persons trying to get to Western Europe (Commission, 2010a: 82). The number of law enforcement officers working at the border provinces and at busy border checkpoints has increased; specialised training on forgery of visas and travel documents has been provided to staff appointed to border checkpoints; 1350 staff

members have been trained on illegal migration, asylum and forgery issues in one and a half year time period; and more control checkpoints have been established and sniffer dogs trained by 2002. As a result, the Commission maintained that ‘international routes for migration flows have been diverted away from Turkey’ (Commission, 2003). Moreover, Turkey continued to cooperate with United Nations High Commissioner for Refugees; participated in the activities of the Centre for Information Discussion and Exchange on the Crossing of Frontiers and Immigration, such as the early warning system; cooperated with the European Civil Aviation Conference Facilitation Information System on Illegal Immigration; and published brochures in seven languages to inform refugees at the borders in 2007.

The evidence presented above demonstrates that Turkish authorities were not able to fully implement all the requirements in this field, therefore behavioural compliance is judged to be *partial*. However, the key is to test whether there has been any change in the level of compliance since 2005. It is clear that some of the important steps in behavioural compliance were taken prior to 2005. However, Turkey invested a lot of resources in this area subsequent to 2005, such as improving the condition and capacity of reception centres for refugees and asylum seekers; and the creation of working groups and various institutions, such as the task force and the AIB. This demonstrates that the level of behavioural compliance has increased after 2005. Moreover, the evidence suggests that there has not been any backsliding with regard to the rate of behavioural compliance in this field. Whether or not the speed of behavioural compliance stayed stable or improved since 2005 is a more difficult question. Eight out of nine interviewees¹⁰⁵ argued that the rate of behavioural compliance has improved over time, whereas only one¹⁰⁶ maintained that it stayed stable. Considering that the implementation of the action plan has improved, the administrative capacity was strengthened and the resources devoted to Turkey’s reception capacity increased after 2005, it is argued that there were *minor improvements* in the speed of behavioural compliance.

¹⁰⁵ EUSG7; AKP7; MI1; EUSG2; MI2; MFA5; AIB2; BDS2.

¹⁰⁶ EUSG4.

5.3 Organised Crime and Human Trafficking

EU Conditions

The EU's legislative requirements in the field of organised crime fall into three main categories. Firstly and most importantly, the EU encouraged Turkey to adopt a strategy document and a detailed action plan. Secondly, Turkey needs to improve its legislative framework to fight against organised crime more effectively. Thirdly, the EU mentioned a number of important international treaties for Turkey to adopt and ratify, such as the UN convention against transnational organised crime; the 2000 UN protocol to prevent, suppress and punish trafficking in persons, especially women and children; the UN protocol against the smuggling of migrants by land, sea and air; the protocol against illicit manufacturing of and trafficking in firearms, their parts, components and ammunition; as well as the CoE convention on action against trafficking in human beings.

Finally, the Turkish authorities need to adopt specific legislation in the area of human trafficking.¹⁰⁷ Turkey needs to criminalise human trafficking in its legislative framework, meet the minimum legislative standards for elimination of trafficking in human beings and adopt an updated version of the national action plan.

With regard to behavioural compliance, Turkey is required to improve the effectiveness of fight against organised crime by setting up and strengthening relevant institutions, such as an internet department; a department for witness protection; and a special unit for dealing with organised crime. Secondly, Turkey needs to enhance the cooperation between different law enforcement bodies in order to fight against organised crime more efficiently. Thirdly, Turkey is encouraged to make the necessary infrastructural investments, such as establishing a national fingerprint and DNA database; a coherent statistical

¹⁰⁷ In EU PRs, human trafficking is both discussed as part of the fight against organised crime and as a separate section. Both sections are considered here.

system for monitoring human trafficking; new methods of technical crime investigation; and improving its crime scene investigation and forensic capacity.

In the area of human trafficking, Turkey is expected to implement its legislation in this field; ensure the sustainability of the emergency helpline by transferring its responsibility to public authorities; and provide funding for reception centres for the victims of human trafficking.

Formal Compliance

With regard to formal compliance, Turkey fully complied with the first requirement. A strategy document was adopted in 2007. Subsequently, in July 2010, this strategy document was updated and an action plan against organised crime was signed by the PM.¹⁰⁸

Secondly, Turkey has significantly improved its legislative framework to better fight against organised crime. A new law on combating smuggling of goods, which clarifies the definition of smuggling and provides financial penalties and sentences of imprisonment for these crimes, was adopted in 2003. The law on organised crime was amended in 2005. During the same year, the new code of penal procedure gave new powers for investigations in the area of detection, surveillance of telecommunications, and shadowing medical examinations. In 2007, a new law on anti-smuggling and cyber crime was adopted. This law adapts the Turkish legislation to the provisions of the new penal code and the code on penal procedure, by giving the monitoring, supervision and coordination responsibility to the telecommunications authority to prevent cyber crime. This law also protects against illegal broadcasting and child pornography. Two additional regulations implementing the anti-smuggling and cyber crime law were adopted in 2007 and 2008 respectively. Moreover, in 2008, a law on witness protection was adopted, as well as a regulation to implement this law.

¹⁰⁸ Updating the fight against organised crime strategy document was the fourth and the last of the informal criteria put forward by the EU for the starting of negotiations in 24th chapter (EUSG, 2009f).

Additionally, the regulation on the principles and procedures about controlled delivery was extended in 2008 to incorporate the coast guard and the customs administration. Finally, a regulation implementing the electronic communication was adopted in 2008 and amended in 2009.

Turning to Turkey's compliance with the international conventions, Turkey has ratified the UN convention against transnational organised crime in 2003; the 2000 UN protocol to prevent, suppress and punish trafficking in persons, especially women and children in 2003; the UN protocol against the smuggling of migrants by land, sea and air in 2004; the protocol against illicit manufacturing of and trafficking in firearms, their parts, components and ammunition in 2004; and the Palermo Convention and the additional protocol for the prevention, repression and punishment of human trafficking. Turkish authorities also signed the CoE convention on action against trafficking in human beings in 2009, but this convention is yet to be ratified. Moreover, Turkey also signed a cooperation agreement with Europol to combat serious forms of organised crime.

Finally, in the area of fight against human trafficking the code of penal procedure was amended in 2002 to criminalise smuggling and human trafficking for the first time. The punishments for these crimes were further increased in 2005. The new 2005 penal code increased the penalties when offences for trafficking are committed by an organisation and provided for the freezing and confiscation of the assets of smugglers and traffickers. In 2006 the definition of human trafficking and the crimes related to it were enlarged further and the law on the crime of human trafficking was amended to allow for more effective judicial implementation in 2007. Most importantly, a national action plan on the fight against human trafficking was adopted in 2003, which introduced emergency telephone hotlines; witness protection; measures for the return and integration of victims; and shelters for victims of trafficking. Last but not least, a number of other legislative changes were made to comply with the EU acquis, such as adopting a law on the work permits of foreigners in 2003 to prevent human trafficking; amending the law on Turkish citizenship in 2003 to prevent marriages of convenience; adopting an implementing directive in 2004 that

provided victims of trafficking with entitlement to medical treatment free of charge; authorising the governors to extend the temporary residence permits for up to six months for victims of trafficking in 2004; signing protocols on cooperation and information exchange in the field of trafficking in persons with Georgia and Ukraine in 2005; and with Kyrgyzstan and Moldavia in 2007; and finally the adoption of an amendment to the Turkish Penal Code to increase the sentences for those guilty of smuggling migrants in 2009.

Overall, Turkey's formal compliance in the field of fight against organised crime is very close to full compliance, in other words *very high*. With regard to international treaties, the Commission has stated that Turkey is 'party to all the main international conventions' (Commission, 2009b) and more importantly it has not put forward any criticisms in the last PR regarding formal compliance in this area (Commission, 2010a: 84). A very similar picture is observed in the area of human trafficking, where compliance is *very high*. As the Commission has stated in 2006 'Turkey's legislation is well aligned with EU legislation on fighting trafficking in human beings' (Commission, 2006a: 64).¹⁰⁹ Eight¹¹⁰ out of 12 interviewees also argued that there was either full compliance or almost full compliance in the field of fight against organised crime and human trafficking, whereas the remaining four¹¹¹ viewed formal compliance to be partial. In sum, taking into account the views of the Commission, it is argued that there has been *very high* compliance in both of these fields. Since, most of the progress in the area of organised crime has been achieved after 2005, the level of formal compliance is judged to have improved significantly and the rate of formal compliance has also shown *major improvements* in T2. In the area of human trafficking, the level of compliance has also improved over time. However, the distribution of reforms is equal between the two periods, therefore the rate of compliance is judged to be *stable*.

¹⁰⁹ Similarly, the legislative changes conducted in this area informed the US State Department's decision to upgrade Turkey from a category of countries that pay inadequate attention to fighting human trafficking to a category where countries have introduced legislation and practically applied these to enhance prevention of human trafficking (Kirisici, 2007: 31-2).

¹¹⁰ AKP7; AKP9; MI1; EUSG6; EUSG7; MI3; MFA5; GDS2.

¹¹¹ EUSG2; EUSG4; MI2; MFA3.

Behavioural Compliance

With regard to behavioural compliance, Turkey performed equally well. Firstly, in terms of institutional capacity, an internet department was set up in 2008 to take charge of monitoring, supervision and coordination; a department of witness protection was set up within the police force in 2008; the capacity of the special unit dealing with criminal proceedings within the Department of Combating Smuggling and Organised Crime has been enhanced in 2008; and the Turkish National Police established further witness protection units in 60 provinces in 2010.

Secondly, in the area of cooperation among law enforcement bodies, the only development was the circular issued by the MI in 2005, which aimed to ensure better cooperation and coordination between the police, the gendarmerie and the coast guard. However, the Commission described this attempt as limited in later PRs and Turkey was encouraged to further improve cooperation (Commission, 2010a: 84).

Thirdly, Turkey has made a lot of progress in terms of infrastructure. The collections of statistics were standardised in 2008; the structure of the forensic medicine institute was strengthened in 2003 and the number of its specialisation branches were extended; the evidence based prosecutions were also strengthened and investment in forensic has increased further in 2008. Moreover, Turkey has made progress on the establishment of a legal framework for a nationwide DNA and fingerprint database in 2008, although this database is not yet fully established.

Finally, in the area of human trafficking, a unit was set up in 2004 within the MI to help enhance dialogue and coordination between the police and relevant authorities. Since 2004, medical treatment is free for victims of trafficking, and there are two shelters for victims in Ankara and Istanbul, which are run by civil society. Turkish authorities have also set up an emergency hotline, which has been extended to international calls in 2007. In 2005 a programme on combating

human trafficking was launched in cooperation with the IOM, and a circular and a guide have been published for staff who deal with cases of human trafficking. In 2009, the institutional capacity to combat human trafficking was increased further by training judges, prosecutors and law enforcement officers. The national task force on the fight against human trafficking has met regularly since 2005. Finally, Turkey managed to secure funding for the operation of two shelters for trafficking victims in 2010. On a more negative note, even though the task force meets more frequently and it was expanded to include local administrations, its structure and powers still need to be improved, according to the Commission. Moreover, the emergency hotline is still operated by the IOM, and its responsibility needs to be transferred to Turkish public authorities.

Turkey's behavioural compliance in the fight against organised crime can be described as being *very high*, whereas it is currently *partial* for human trafficking. In the area of organised crime the Commission has continuously praised Turkey's reforms in the latest PRs. The only significant criticisms the Commission voiced in these reports were the limited nature of the inter-agency cooperation and the need to establish a fingerprint and DNA database (Commission, 2010a: 84). Since most of the institutional and infrastructural developments took place after 2008, it can strongly be argued that both the level and rate of behavioural compliance has showed *major improvements* since 2005.

In the area of human trafficking, Turkey's behavioural compliance record has been weaker. The Commission's criticisms related to the administration of the emergency hotlines and the structure of the task force demonstrate this point. However, the weakness of practical application in this area does not necessarily mean that the level of behavioural compliance has decreased over the years. Looking at the evidence above, it is clear that a number of important steps were taken in 2004 and other significant developments took place subsequent to 2005. Therefore, it can be concluded that the level of behavioural compliance in this field increased over time but the rate of compliance remained *stable* at worst. All

the interviewees¹¹² stated that the rate of behavioural compliance in these two fields improved in T2.

5.4 Drugs

EU Conditions

In the field of the fight against drugs, the EU, firstly, recommended Turkey to develop a national drug strategy in line with EU's drug strategy. Turkey was also encouraged to adopt an action plan. Secondly, Turkey was required to sign and ratify a number of international agreements, such as the agreement between Turkey and the EU on precursors and chemical substances used in the illicit manufacture of narcotic drugs and psychotropic substances; the 1995 CoE agreement on illicit traffic by sea, implementing article 17 of the UN Convention against illicit traffic in narcotic drugs and psychotropic substance; as well as the 1972 protocol amending the 1961 single convention on narcotic drugs. Thirdly, the EU asked Turkish authorities to cooperate with their European and international counterparts in the area of drugs. For instance, Turkey was encouraged to conclude negotiations for membership with the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) and notify the central Dublin group that it wishes to become a member.

In terms of behavioural compliance Turkey, firstly, needs to commit itself to fighting drugs more effectively through more effective drug seizure operations, as well as reduce demand for drugs. Secondly, Turkey is required to make a number of institutional advances, such as establishing a national centre for drugs and drug addiction; appointing a national drug coordinator; setting a data collection network in order to comply with the EMCDDA rules; and establishing a mini-Dublin group in Ankara. Finally, the network of treatment and rehabilitation facilities for drug users needs to be developed further.

¹¹² AKP7; MI1; EUSG2; EUSG4; EUSG7; MI2; MFA5; GDS2.

Formal Compliance

Formal compliance in this field has been significant. A national drugs strategy was adopted in 2006 in line with the EU 2005-2020 anti-drugs strategy. An action plan was also accepted in 2008. Subsequent to this, local action plans have been adopted in 63 provinces. Moreover, another action plan which deals specifically with the fight against drugs in rural areas was adopted in April 2010. In line with the national action plan, a new regulation on the harm caused by solvents and inhalants has been issued by the Ministry of Health in 2010.

With regard to international agreements, Turkey signed the agreement on precursors in 2003 and ratified it in 2004; the 1972 protocol amending the single convention on narcotic drugs in 2004; and acceded to the CoE's agreement on illicit traffic by sea in 2004. However, Turkey still needs to ratify this agreement.

Finally, Turkish parties concluded an agreement with the EMCDDA about Turkey's participation in this Centre, but this agreement is still waiting ratification. Turkey also submitted its first national report to the EMCDDA in 2007. Additionally, Turkey notified the Central Dublin group in 2007 that it wishes to be a member. Turkey is also a member in the major donors group of the UN office on drugs and crime.

Overall, Turkey's performance in this field has been significant and can without doubt be described as *very high* compliance. Turkish authorities were able to comply with all of the EU's legislative demands successfully, with the exception of the ratification of the CoE's convention and the EMCDDA agreement. An examination of the latest PR demonstrates that the EU has not made any other criticisms in this area (Commission, 2010a: 85-6). Similarly, eight¹¹³ out of 11 experts interviewed in this field have described Turkey's compliance as being full where as the remaining three¹¹⁴ stated that it was partial. One additional point to make here is that the most important legislative developments, such as the adoption of the drugs strategy, the action plan and participation in the

¹¹³ AKP7; AKP9; MI1; EUSG6; EUSG7; MI2; MFA5; GDS2.

¹¹⁴ EUSG4; EUSG2; MI2.

EMCDDA, took place subsequent to 2005. This demonstrates that both the level and speed of compliance has shown *major improvements* after T1.

Behavioural Compliance

Turkey's track record in the area of behavioural compliance has also been considerable. Firstly, Turkey managed to seize large quantities of drugs within its borders. According to the statistics of United Nations Office on Drugs and Crime (UNODC), Turkish authorities were able to intercept 16% of the total heroin and morphine that is estimated to flow through Turkey in 2008. This is impressive, since the combination of South-east European countries – Bulgaria, Greece, Albania, Romania, Serbia, FYROM, Bosnia, Croatia and Montenegro – are subject to a similar amount of total flow per year and they only manage to seize 3% (UNODC, 2010: 51).¹¹⁵

With regard to drug demand reduction, a parliamentary commission was established in 2008 with the aim of analysing problems related to drug addiction and of achieving demand reduction. This commission issued an important report in the same year with recommendations for the institutional and legislative framework for the fight against drugs in Turkey. Similarly, the Turkey Monitoring Centre for Drugs and Drug Addiction (TUBIM) and its provincial centres, through the participation of public officials and volunteers, have conducted significant activities to reduce the demand for drugs. Table 5.1 demonstrates that in a period as short as five years, activities organised for drug demand reduction have grown five times. Similarly, Table 5.2 shows that the number of people participating in these activities have grown almost ten times over the five years.

¹¹⁵ The only country which was able to intercept a larger percentage of the drugs flow was Iran with 23% (UNODC, 2010: 51).

Table 5.1: Drug Demand Reduction Activities Conducted by TUBIM

	2004	2005	2006	2007	2008
Conferences	334	634	893	1125	1466
Theatre/Movie	4	-	29	110	182
Media Outlets	5	92	90	64	59
All	343	726	1012	1299	1707

Source: TUBIM (2008a)

Table 5.2: Number of Participants in TUBIM's Drug Demand Reduction Activities

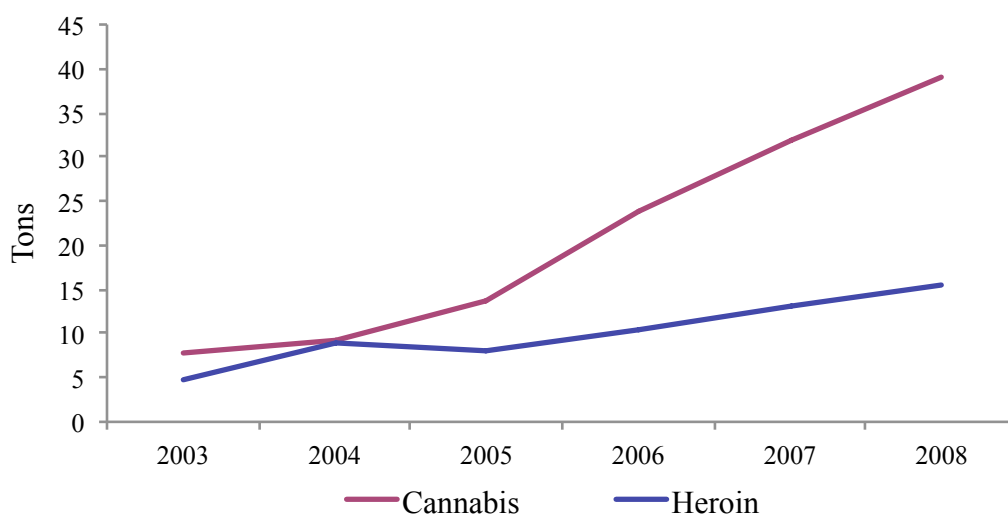
Participant Groups	2004	2005	2006	2007	2008
Students	37200	74435	127640	189781	243263
Teachers	75	4136	7166	9035	11717
Families	475	11896	15519	45256	19467
Members of the Press	-	130	306	179	163
Public institutions	3150	5921	5926	25554	14573
Private Sector	1250	2489	6535	1725	1972
NGOs	1750	2767	10891	3352	2193
Other	-	5491	4538	17767	54579
All	43900	107265	178521	292649	347924

Source: TUBIM (2008b)

Secondly, a number of institutional changes were introduced, the most important of which was the creation of a national centre for drugs and drugs addiction. Initially, the Turkish International Academy against Drugs and Organised Crime (TADOC) was established for this purpose within the DGS in 2002. Subsequent to a twinning project on fight against drugs in 2006, the TUBIM was set up as the operational national drugs coordinator and assumed the role of the Turkish

national REITOX¹¹⁶ focal point in 2008. Turkey also established a drug information and documentation centre in 2007 to comply with the EMCDDA rules, although it failed to set up a mini-Dublin group in Ankara. Finally, with regard to the establishment of treatment and rehabilitation centres for drug users a new treatment centre has been established in Gaziantep in 2010.

Figure 5.1: Cannabis and Heroin Seizures in Turkey over Time



Source: TUBIM (2008c)

In sum, Turkey manages to seize a significant amount of drugs within its borders, and amount that has increased significantly over the years (*see* Figure 5.1). Moreover, it has also invested substantial resources in drug prevention measures and these efforts, once again, have increased significantly over the last few years. Similarly, most of the institutional developments, such as the creation of TUBIM, which later took on the role of the REITOX focal point, were achieved after 2005. Therefore, it is argued that the level of behavioural compliance in this field is currently *very high* and this level has improved over time. Moreover, there are no signs of decline in the speed of Turkey's behavioural compliance; instead the speed of compliance demonstrated *major improvements* in T2.

¹¹⁶ European Information Network on Drugs and Drugs Addiction.

5.5 Cultural and Political Rights of Minorities

EU Conditions

In the area of cultural and political rights of minorities, the EU has urged the Turkish authorities to make the necessary legislative changes to protect its citizens' right to communicate in languages other than Turkish in radio and television broadcasts, films, festivals, cultural events, election campaigns and political party conferences. Similarly, Turkish is the only language allowed in Turkish public education, thus children whose mother tongue is not Turkish are not educated in their mother tongue. There is also no access to public services for non-speakers of Turkish. Moreover, in terms of education of religious minorities, parents who belong to different religious minority groups face difficulties sending their kids to religious minority schools and there is still discriminatory language about minorities in schoolbooks. Finally, in the political sphere, the minority political parties, particularly the Kurdish ones, are subject to frequent closures and the high threshold for representation prevent them from entering the TGNA.

As for behavioural compliance, the EU encouraged Turkey to ensure that minority groups can organise cultural festivals and celebrations. The Turkish authorities also need to guarantee the right to use minority languages both in political life and in broadcasting by removing time restrictions, subtitle requirements, and the ban on language education programmes. The judiciary should also guarantee the right to use Kurdish by making sure radio and TV stations are not tried and banned for trivial reasons. Additionally, the 2002 reform on the learning of different languages used by Turkish citizen needs to be implemented and the establishment of centres for teaching minority languages should not be blocked due to stringent requirements. In the field of minority education, the restrictions faced by minority schools need to be lifted. Restrictions faced by minority groups with regard to inheriting property also need to be addressed.

Formal Compliance

In terms of compliance, articles 26 and 28 of the Constitution have been amended to abolish the provisions forbidding the use of some languages. The democratic reform package in 2003 also introduced the possibility of radio and TV broadcasting in languages and dialects traditionally used by Turkish citizens for private channels and the public broadcaster – Turkish Radio and Television Corporation (TRT). In 2008 a new amendment was made to TRT law to allow it to broadcast nationally all day long in languages other than Turkish. The amendment of the Regulation on the Radio and Television Supreme Council (RTUK) in November 2010 removed all restrictions on broadcasting in languages other than Turkish by private and public broadcasters at local level. In 2003, the civil registry law was amended to permit parents to name their children as they desire. However, a circular was also issued to restrict this amendment by banning the use of certain letters, which are common in the Kurdish alphabet but are not used in the Turkish one. In 2003, article 4 of the law on associations was amended, opening up the possibility for associations to use foreign languages in official correspondence. In April 2010, the law on elections was amended allowing for the use of Kurdish in election campaigns.

With regard to education the law on foreign language education and teaching was amended in 2002 to allow different languages and dialects to be taught through private courses. Similarly, the seventh reform package in 2003 eased the restrictions on the location of teaching establishments and amended the legislation on foreign language education and teaching. This amendment stated that the cabinet alone is responsible for approving the languages which can be taught – eliminating the role of National Security Council (NSC) in the process. In the area of minority education, the Ministry of Education issued a statement making it easier for parents to choose the school to send their children to and a regulation was issued ordering discriminatory language to be eliminated from school textbooks in 2004. However, there has not been any progress on the high threshold for parties in national elections. Overall, even though Turkey has not managed to comply with all the EU conditions in this field, a number of

significant laws were adopted. Therefore, overall formal compliance is judged to be *partial* and has increased over time since new laws were adopted in T2. Moreover, even though less in number, the formal compliance achieved in T2 carried more importance, since the use of minority languages in all broadcasting and political campaigns have been liberalised. It can, therefore, be argued that there has not been any reduction in the rate of compliance. The speed of compliance has remained *stable* over time.

Behavioural Compliance

Turkey's behavioural compliance has been limited. The ability of minority groups to express their culture in the public sphere has increased over time, since an increasing number of cultural manifestations were authorised by the Turkish state. For instance, whereas Newroz¹¹⁷ celebrations were banned in some cities in 2001, the governorates subsequently lifted this ban in 2004, and participants were able to use Kurdish in these celebrations.¹¹⁸ Moreover, there have been improvements in the use of Kurdish in prisons from 2010. In the area of broadcasting, Kurdish has been introduced from 2004 onwards, and by 2008, there were five radio and TV stations broadcasting in Kurdish. In 2009, TRT started broadcasting in Kurdish for 24 hours a day on TRT-6. Since 2009, the public radio network has also been broadcasting in Armenian. However, restrictions with regard to time and programmes,¹¹⁹ as well as strict requirements about subtitles and translation, initially still applied in broadcasting, and some TV and radio channels closed down due to the strict monitoring policy. This situation was resolved by the 2010 legal change. By the end of 2010, fourteen radio and TV channels have been given permission to broadcast in Kurdish and

¹¹⁷ Kurdish New Year.

¹¹⁸ Additionally, the Court of Cassation overruled a decision of a local court in Van which had banned the use of Kurdish posters during Newroz celebrations in 2004 (Commission, 2004). Moreover, a culture and arts festival took place in Diyarbakir in 2001, Kurdish songs were sang during the Victory Day celebrations in 2002, a photographic exhibition on the Syriac minority was held in Diyarbakir in 2002, a Kurdish play was staged for the first time in the Diyarbakir Municipal Theatre in 2010, and the CN Bagis invited all the EU embassies to a Kurdish literature event in Van in 2010 (Commission, 2001; 2002; 2010a).

¹¹⁹ Educational programmes teaching Kurdish are not allowed.

Arabic and most of the restrictions have been removed. TRT also started broadcasting in Arabic for 24 hours a day in 2010.

Turkey's compliance with regard to the use of Kurdish in political life has been mixed. On the one hand, the court of cassation revoked decisions banning the use of Kurdish during elections campaigns and press conferences in 2004 and the political parties were able to use Kurdish in 2009 local election campaigns without facing legal actions. On the other hand, a large number of investigations and court cases have been launched against officials and executives of the Kurdish parties for using Kurdish in party conferences, election campaigns and within the TGNA.

In the area of education in minority languages, teaching in Kurdish started in 2004 in six private schools. However, these schools faced restrictions with regard to resources,¹²⁰ curriculum, appointment of teachers, timetables, as well as the attendees,¹²¹ and all closed down due to financial difficulties in 2005. A positive development to note is the approval given by the higher education board to establish a living languages institute providing post-graduate education in Kurdish in some universities in 2009. The first Kurdish and Assyrian language departments were established in 2010 and they started to accept post-graduate students. With regards to education of minorities, minority groups still face significant restrictions in recruiting teachers,¹²² having their teaching materials approved, and the Syriac community is not allowed to establish schools. Additionally, the discriminatory language in school textbooks still persists. Finally, in the area of property rights, minorities continue to face problems of property confiscation. Overall, behavioural compliance in this field has been rather inconsistent and some of the important EU criticisms have not been addressed. Therefore, it can be stated that the level of behavioural compliance is *partial* in this field, but this level has improved in T2. At the same time, the speed of behavioural compliance has shown only *minor improvements* after 2005.

¹²⁰ They do not receive financial support from the state.

¹²¹ Attendees need to be older than 15.

¹²² Greek teachers are only permitted to teach in one school.

The EU's assessment of Turkey's compliance in its yearly PRs shows clear signs of improvement after 2008 in this field. Within T1, the EU has underlined that Turkey has achieved 'important progress since 1999' in the area of protection of cultural rights and the overall situation in the East and South-east of Turkey 'has continued to improve gradually since 1999, both in terms of security and the enjoyment of fundamental freedoms' (Commission, 2004). However, the subsequent reports (Commission, 2005a; 2006a; 2007) maintained that there was either 'little' or 'no' progress in this field. The conclusions drawn by the EU in these reports became more positive starting with 2008, i.e. 'Turkey has made some limited progress on cultural rights' (Commission, 2008); 'overall, Turkey has made some progress on cultural rights' (Commission, 2009a; 2010a); and 'a vibrant domestic debate developed on this subject [minority rights], involving public and political authorities, including the opposition and civil society' (Commission, 2009a). These conclusions show that Turkey's compliance, according to the EU Commission, has improved, particularly since 2008.

Turkey's Compliance with Minority Rights in General

Research has also been conducted on Turkey's compliance with other aspects of minority rights, namely rights of Roma minority; the security, economic and social situation in the East and South-east; and the situation of internally displaced persons (IDPs). Analysis into the needs of the *Roma population* concludes that Turkey's formal compliance is *partial* and behavioural compliance is *low* and both the level of formal and behavioural compliance increased. The speed of formal compliance has shown *minor improvements*, whereas the rate of behavioural compliance remained *stable* over time. In the area of *security, economic and social situation* of East and South-east, formal compliance is *low* and behavioural compliance is *partial*. The level of formal and behavioural compliance increased after 2005. The speed of formal compliance has shown *minor reductions*, due to a reversal in a legislation regarding village guards, and the speed of behavioural compliance remained *stable*. Finally, Turkey's formal and behavioural compliance with EU conditions regarding the

situation of IDPs have been *partial*. The level of formal and behavioural compliance has improved over time in this field. However, there have been *minor reductions* in the rate of formal compliance in T2, whereas the speed of behavioural compliance remained *stable* at worst.

This evidence demonstrates that the average level of formal and behavioural compliance is *partial* in the field of minority rights. In all of these cases the level of formal and behavioural compliance increased after 2005. It can also be concluded that the rate of behavioural compliance has overall remained *stable* in T2. However, the rate of formal compliance showed minor reductions in the areas of security, economic and social situation of the South-east and the situation of the IDPs.

Conclusion

This qualitative analysis on formal and behavioural compliance demonstrates that the *level* of compliance has improved in all six case studies in T2. Reforms have been conducted, and therefore compliance did not remain stable, in all the cases. Similarly, there was no net reversal of compliance in T1 in any of the cases. Instead, in each area, new laws have been adopted, treaties have been signed and/or ratified and institutions have been set up. This evidence does not fit the EIM's credibility hypothesis.

Table 5.3: Extent of Formal and Behavioural Compliance

	Formal Compliance	Behavioural Compliance	Overall Compliance
External Borders	--	+/- ¹²³	-
Asylum and Illegal Migration	+/-	+/-	+/-
Organised Crime	++	++	++
Human Trafficking	++	+/-	+

¹²³ It is possible for the level of behavioural compliance to be higher than formal compliance in T2, since actors may be behaviourally complying with the rules adopted both in T1 and T2. In other words, there may be a time lag between formal and behavioural compliance.

Drugs	++	++	++
Cultural and Political Rights	+/-	+/-	+/-

Note: ++ (*very high*), + (*high*), +/- (*partial*), - (*low*), -- (*very low*). *Overall compliance* is calculated by taking the averages of formal and behavioural compliance, however caution has been exercised to not magnify the results by rounding values up.

Table 5.4: Changes in the Rates of Formal and Behavioural Compliance after 2005

	Formal Compliance	Behavioural Compliance	Overall Change in Compliance
External Borders	++	+	+
Asylum and Illegal Migration	+/-	+	+
Organised Crime	++	++	++
Human Trafficking	+/-	+/-	+/-
Drugs	++	++	++
Cultural and Political Rights	+/-	+	+

Note: ++ (*major improvements*), + (*minor improvements*), +/- (*stable*), - (*minor reductions*), -- (*major reductions*). *Overall change in compliance* is calculated by taking the averages of changes in formal and behavioural compliance, however caution has been exercised to not magnify the results by rounding values up.

More significantly, the data show that even the rate of compliance has not experienced a significant reduction over time (*see* Table 5.4). Instead, the speed of formal compliance increased in T2 in the cases of external borders; organised crime; and drugs; and remained stable in cases of asylum and illegal migration; human trafficking; and cultural and political rights of minorities. Similarly, the rate of behavioural compliance improved after 2005 in the fields of external borders; asylum and illegal migration; organised crime; drugs; and cultural and political rights, whereas it remained stable in the case of human trafficking. This evidence is further proof that the rationalist credibility hypothesis does not hold true in the case of Turkey. Even though the credibility of conditionality decreased significantly after 2005, the Turkish officials not only continued to comply but also improved the speed of compliance level in T2 in more than half of the cases under consideration. This is strong evidence for the existence of enhanced compliance even under diminished credibility.

The only two exceptions to this stable or increased rate of compliance under diminished credibility were observed within the field of minority rights. In the areas of security, economic and social situation in the South-east and the situation of the IDPs, the rate of formal compliance experienced minor reductions whereas the rate of behavioural compliance remained stable. The reductions in formal compliance can be explained by the fact that candidate countries engage in less costly legislative changes in the initial periods of conditionality (T1) and leave the most difficult changes for later periods (T2). This was also the case in Turkey and particularly so in these two specific cases. The reforms required by the EU in these areas are politically very costly, since they are to do with national security issues in a region which is under terrorism threat. For instance, in the area of security, economic and social situation of the South-east, even though state of emergencies were lifted in T1, it is politically costly to entirely remove the presence of security forces and abolish the village guard system. Similarly, in the case of IDPs, the Turkish officials adopted laws to initiate their return to villages and compensate for their losses, however an overall national strategy to cope with their problems was not adopted in T2, which is arguably more difficult to devise than individual laws. At the same time, the Turkish authorities continued to behaviourally comply at the same rate with EU conditionality even after 2005 in these two fields. This shows that compliance still continued in these areas, although costly legislative changes were pushed back causing the speed of formal compliance to slow down.

Overall, the fact that the rate of formal compliance remained either stable or improved in most cases arguably within the most difficult policy area in political conditionality poses a serious challenge to the credibility hypothesis. The puzzle that remains to be explained is: *what explains Turkey's continued compliance with the EU at a period when credibility is not only extremely low but is also declining?* The following four chapters examine the political leadership's (Chapter Six, Seven and Eight) and bureaucrats' (Chapter Nine) motives behind compliance with EU conditionality under diminished credibility.

Chapter Six:

Broader Compliance Patterns of Political Leadership Under Diminished Credibility (2005-2010)

Introduction

Starting with the announcement of Turkey as a candidate country in 1999, Turkey experienced a period of ‘profound and momentous change’ unprecedented in its history (Onis, 2003b: 13). These reforms were initially engineered by a rather weak coalition government.¹²⁴ After the election of the AKP to power in 2002, the process of reform gathered further momentum. As explained in the previous chapters the reforms conducted until October 2005 can sufficiently be explained by increasing credibility of the accession reward. However, what is puzzling is that the level and speed of compliance not only remained stable but also increased in some policy fields after 2005 even though credibility diminished. Given that the level of credibility cannot explain compliance, *do preferences/actions of the political leadership explain continued compliance in Turkey?*

This chapter answers this question by testing three variables which provide different explanations for general compliance levels in T2. These variables do not vary across specific issue areas, instead they explain broader compliance patterns. They are related to particular features of the governing party, therefore remain unchanged within T2. The domestic politics model (DPM) puts forward the *government’s partisan incentives* variable which measures the extent to which the governing party benefits domestically from making strategic use of the EU. It hypothesises that: if the governing party obtains intrinsic benefits from specific EU conditions; and/or gains electoral and reputational benefits from

¹²⁴ Composed of centre-right Motherland Party, centre-left Democratic Left Party and the ultra-nationalist Nationalist Movement Party.

pursuing EU membership in general, then the governing party is likely to comply. Secondly, the *social learning* variable within the social learning model (SLM) hypothesises that: if the political leadership identifies with the EU; and/or has institutional contacts with the EU and MS officials; and/or has a European professional/educational background, then it is likely to comply. Finally, historical institutionalism (HI) proposes the *political lock-in* hypothesis: if integration with the EU is the main facet of Turkish FP; and/or if the political leadership has already established EU membership as a policy goal and started complying with EU conditionality (before 2005), then it is likely to continue complying.

Overall, this chapter finds that the government's partisan incentives variable provides the most powerful explanation for the AKP's continued compliance under diminished credibility. At the same time, political lock-in also contributes to explaining compliance in T2, but it is not strong enough to cause this single-handedly. Finally, the conditions for AKP's social learning are not favourable in T2, therefore this variable is not likely to explain continued compliance. However, this does not necessarily mean social learning does not matter for compliance. Instead it means the case at hand does not allow us to refute or confirm the hypothesis.

This chapter starts with a brief overview of the AKP's roots and ideology. It then uses congruence method and counterfactual analysis to examine the government's partisan incentives, social learning and political lock-in variables. This analysis is complemented by process tracing in the following chapter.

6.1 The AKP

The AKP emerged from a long lineage of political parties with Islamic roots. Since 1970, five such parties have been established in Turkey, namely the National Order Party, the National Salvation Party, the Welfare Party (RP), the Virtue Party (FP) and the Felicity Party (SP). All of these parties, with the exception of the still existing SP, have been closed down, either by a military

coup or the Constitutional Court, for engaging in anti-secular activities. All these parties also shared a common *national outlook* ideology, which can be read as ‘Islamic outlook’ (Hale and Ozbudun, 2010: 5). An important feature of this national outlook movement (NOM) is its fundamental opposition to Western civilisation. This anti-Western position manifested itself as hostility towards the secular republican reforms and strong opposition to Turkey’s integration with the West and particularly with the EU¹²⁵ (Hale and Ozbudun, 2010: 5-7).

The most significant change to NOM’s views on the EU came with the so-called ‘28 February Process’. The RP, who had gained 21.4% of the votes in the 1995 general elections, formed a coalition government with the centre-right True Path Party (DYP) in 1996. However, this government survived less than a year due to strong pressures from the military, the Kemalist state establishment and secular civil society organisations. The National Security Council (NSC) issued a clear ultimatum to the government on February 28, which is usually referred to as the *soft* or *post-modern* coup in the literature. Following this declaration, the government was forced to resign in 1997 and the Constitutional Court closed down the RP for anti-secular activities. The 28 February Process created a powerful sense of insecurity among NOM (Yavuz, 2003: 248-9). NOM understood that it needed universal human rights and the EU’s political conditionality more than any other political actor in Turkey to guarantee religious freedoms and its own existence (Hale and Ozbudun, 2010: 10-11; Dagi, 2006: 89-90; Duran, 2004: 140; AC2). This realisation explains the more moderate outlook of the FP¹²⁶ towards the EU. However, even this moderation was not able to save the FP from being banned by the Constitutional Court in 2001.

The moderation of the FP, however, was not universally accepted within the party. More and more there emerged a split between the traditionalists and the modernists (Cinar, 2006: 473; Hale and Ozbudun, 2010: 5, 11). Once the Constitutional Court banned the FP, the modernists managed to establish a new

¹²⁵ NOM described the EU as a ‘Christian Club’ and expected that Turkey’s membership in the EU would ‘result in her complete loss of sovereignty and cultural identity, as well as in her economic exploitation’ (Hale and Ozbudun, 2010: 6).

¹²⁶ Established in 1997.

party – the AKP – in August 2001. Under the leadership of Tayyip Erdogan, the AKP adopted a more liberal and democratic discourse than the FP. The traditionalists, on the other hand, established the SP, abandoning a more moderate path.

The AKP defines itself as a *conservative-democratic* party. Even though parallels have been drawn with the European Christian democrats, the AKP rejects the use of *Muslim democrat* as a label and is against using Islam in its political ideology. The party programme and election manifestos set out the AKP's positive stance on democracy, human rights and rule of law; and argue for unconditional EU membership (AKP 2002; 2007; 2010). As Duran maintains, the AKP representatives 'insist that theirs is a conservative party seeking the religious freedoms enjoyed in the West and will not follow an Islamic agenda' (2004: 134).

Both the party itself and its electorate are very heterogeneous. They incorporate, on the one hand, more nationalistic, conservative and religious groups, and on the other hand more economically and politically liberal elements (CS2; AC2). This wide base forces the party to act as a catch-all party with little ideology. Its voter base perceives itself to be very close to the voters of the centre-right Motherland Party (ANAP) and the DYP, as opposed to the ultra-nationalist Nationalist Action Party (MHP) (Carkoglu, 2006: 164). At the same time, the AKP's voters are more religious and right-wing than the Republican People's Party's (CHP) voters (*ibid.*: 174). Overall, the AKP is best described as the continuation of the well-established centre-right parties in Turkey, such as the Democrat Party, Justice Party, ANAP and DYP (Duran, 2004: 134; Hale and Ozbudun, 2010: 25, 29), as opposed to an extension of NOM.

The AKP diverges from NOM on two significant respects. Firstly, the AKP explicitly disassociates itself from religion. Failures of NOM, and particularly the RP, to use religion in the political sphere without incurring military or constitutional censures have informed the AKP's decision to abandon this reference. With the realisation that 'political Islam was detrimental to Islam's social and economic influence in Turkey, the AKP defined itself as

“conservative-democrat” in an attempt to escape from the self-defeating success of political Islam’ (Dagi, 2006: 95). The AKP’s dilution of its religious ideology not only protected the party against the military and the secular establishment, but also contributed to larger electoral gains at the ballot box. As the role of Islam was watered down, the AKP was able to position itself in the centre-right of the political spectrum to attract more votes with a rather vague conservative-democratic label (Hale and Ozbudun, 2010: 25-7). This label allowed the AKP to describe without difficulty *what it is not*, but increasingly it found it difficult to assert *what it is*. As Yavuz argues the AKP’s ‘identity and ideology resembles a fabric that changes colour depending on the light. This eclectic aspect of the party is the reason for its broad appeal. It is simultaneously Turkish, Muslim and Western’ (2003: 260).

Aside from the lessons learned from NOM, the AKP’s non-ideological turn can be explained by its leader’s previous political career. Erdogan’s experience as the mayor of Istanbul has led to his position as a pragmatic and service-oriented politician who views politics as a non-ideological means to solve the daily problems of people (Dagi, 2006: 91-2). According to Dagi, this experience informed his choice to detach his politics from ‘grand ideologies, transformative projects, salvation, or reawakening of the people’ (*ibid.*: 91). This allowed the AKP to distance itself from the ‘politics of identity’ employed by its political ancestors and instead choose a ‘politics of services’ approach, which is less confrontational and based on compromise (Yavuz, 2006: 2-3). Overall, in an evaluation of the AKP ideology, Yavuz argues that the AKP does not only refrain from developing its policies on the basis of identity, but also actively hinders the articulation of arguments on the basis of Islamic values, therefore it is no longer an Islamic movement (*ibid.*: 2; Patton, 2007: 343).

Secondly, the AKP associates itself firmly with the EU, as well as with democratic freedoms, human rights, pluralism, secularism, and free market economy in marked contrast with NOM. NOM saw Turkey’s membership in the EU as the ‘last stage of the assimilation of Turkey’s Islamic identity into the Christian West’ and a Kemalist solution to prevent ‘the growing influence of political Islam’ (Duran, 2004: 127). In contrast, the AKP considers the EU

membership as an effective way to realise Islamic demands, which had been suppressed by the secular Turkish state (*ibid.*: 128).

Overall, it is clear from this discussion that the AKP has a radically different outlook from NOM regarding Islam and the EU. However, the interesting question is whether it uses the EU strategically to serve its own ‘hidden’ agenda. The section below tackles this question.

6.2 The Government’s Partisan Incentives

The puzzle of continued compliance identified at the start of this chapter is even more perplexing considering that the traditional supporters of a Western style of life and Turkey’s integration with Europe, such as the judiciary, the military, the secular/Kemalist elite, the centre-left and centre-right parties, are increasingly found within the Eurosceptic coalition (Hale and Ozbudun, 2010: 36; Ugur, 2010: 971). At the same time, the AKP, with its explicit Islamic roots, became the leading and most vocal supporter of the EU accession and the reform process (Keyman and Onis, 2004: 183; Hale and Ozbudun, 2010: 36; Baran, 2008: 56).

This section addresses this puzzle by introducing a new variable: the *government’s partisan incentives*. This variable, together with *economic/political costs* is part of the DPM of conditionality, where domestic cost-benefit calculations are key for explaining compliance outcomes. This variable is treated separately from economic/political costs. Unlike economic/political costs, the government’s partisan incentives do not vary across issue areas, and therefore the two variables must be tested differently. Whereas a comparative analysis of policy areas can be conducted to test political/economic costs, the government’s partisan incentives need to be assessed through within-case methods, since it does not vary within T2 when the AKP is in government.

The government’s partisan incentives hypothesis is: *if the governing party obtains intrinsic benefits from specific EU conditions; and/or gains electoral and reputational benefits from pursuing EU membership in general, then the*

governing party is likely to comply. This section confirms this hypothesis. On the one hand, it shows that the AKP uses particular aspects of EU conditionality strategically to curb the powers of the Kemalist establishment. This way it not only secures its survival in the Turkish political system, but also ensures effective governance without intervention by the military. On the other hand, the evidence demonstrates that the AKP presents itself as a moderate and Westward-looking party to the Turkish electorate by pursuing EU membership objective and thereby increases its vote share. Patton summarises these motives:

‘Several pragmatic purposes were served by employing a discourse that downplayed the party’s religious roots, and emphasised support for market liberalism and democratic political reforms. First, it shielded the party from the likelihood of imminent closure; second, it safeguarded an Islamic lifestyle under the rubric of democratic freedoms; and third, it broadened the party’s appeal to liberal minded voters’ (2007: 343).

This section measures the extent to which the AKP has benefited from the process of compliance with EU conditionality, firstly by looking at intrinsic benefits of specific EU conditions and then examining the incentives offered by EU conditionality in general. The section then introduces a counterfactual case to assess competing explanations of compliance. Overall, it concludes that the government has *high* incentives to continue complying with the EU and therefore this variable is found to hold strong explanatory power.

6.2.1 Issue-specific Incentives

The most important incentive EU conditionality offers the AKP is not only the security to survive in the Turkish political system dominated by Kemalist/secular forces,¹²⁷ but also to curb their powers. This incentive is offered specifically through EU’s political conditionality which encourages demilitarisation of politics and sets high standards for human rights and democracy.

The fact that all the previous political parties with explicit references to Islam have been banned from politics creates an ‘unsettling problem of legitimacy’ and

¹²⁷ For a similar argument see Saatcioglu (2010).

an inherent source of anxiety for a party like the AKP, which has emerged from NOM (Dagi, 2006: 89). More significantly, the 28 February Process has made the Islamic movement even more vulnerable vis-à-vis the military and rest of the Kemalist establishment (Robins, 2003: 553). This permanent insecurity, according to Dagi, is both the AKP's Achilles' heel (2006: 89) and, at the same time, the primary driving force behind its pro-EU stance (*ibid.*: 88).

There is a wide consensus in the literature that the February 28 post-modern coup has been a turning point for NOM and particularly the modernists, who later established the AKP. The Islamists have learned through this experience that 'challenging the secular state in Turkey is a dead-end street involving serious political, economic and personal risks' (Hale and Ozbudun, 2010: 27). Therefore, they decided to revise their views on the EU with the recognition that EU conditionality and the eventual membership would allow them to more effectively realise their demands, regarding increasing religious freedoms, containing the powers of the military, and making the Kemalist ideology less repressive (Patton, 2007: 19; Duran, 2004: 128, 140; 2006: 282; Yavuz, 2003: 249; Fokas, 2004: 147). The increasing support for the EU, therefore, was a 'natural consequence of this realisation' (Baran, 2008: 57). As Dagi argues:

'Islamists realised the legitimising power and virtue of democracy ... They saw that they could survive only in a country that is democratically oriented, respects civil and political rights, and moreover is integrated into the Western world, particularly the European Union ... The shift from anti-Westernism to Europhilia is based ... on an observation that the more Turkey was distanced from the West – and the EU in particular – the stronger would be the dominance of the army that treated the Islamic groups as an anomaly and threat' (2004: 142-3).

Arguably, the AKP came out of the 28 February Process more successfully than any other actor in Turkish politics, having learnt that a pro-EU stance was necessary if it ever wanted to come to power, remain in power and govern effectively. The EU, and the principles of democracy, human rights and rule of law, offered the AKP a 'political opportunity structure' (Ulusoy, 2009: 368) to safeguard its continued existence in Turkish politics and to justify itself through this new discourse in its 'confrontation with the Kemalist/secularist center' (Dagi, 2006: 92). Most importantly, by providing the AKP a significant level of

legitimacy, the EU protects it against threats from the most powerful veto-player in Turkish politics, namely the military (Ugur, 2010: 979). EU membership requires demilitarisation of politics and restriction of the military's ability to interfere against parties with a religious background, such as the AKP itself (Ugur and Yankaya, 2008: 592). In other words, for the AKP, the EU is not only desirable on its own right, but it also 'provides the opportunity to contain arguably its most implacable domestic opponent: the Kemalist/secularist-oriented military establishment' (Yavuz, 2006: 13) and eliminates the risk of a potential coup (BDP2). It was precisely this containment policy towards the Turkish military which pushed the Islamists to become pro-EU overnight on 28 February.

The empirical evidence shows that a year after coming to power, the AKP did indeed start to restrain the powers of the military with the help of EU conditionality. The EU harmonisation package in 2003 restructured and weakened the National Security Council (NSC), which is the institutionalisation of the Turkish military in politics. This reform reduced the number of military officials in the Council to make the majority civilians; reiterated that the NSC was only a consultative body; allowed it to appoint a civilian leader, which happened for the first time in 2004; removed the NSC's representation in a number of public agencies; and finally eliminated its crucial executive, monitoring and implementation powers. These reforms demonstrate how the AKP made strategic use of EU conditionality to weaken the military's veto-power, since the government justified them to the electorate with references to EU's political conditionality. The AKP would not have been able to conduct these reforms in a purely domestic setting independently of EU conditionality.

Moreover, the AKP was also able to change the law on political parties through the 2003 EU harmonisation package to make it more difficult for the secular establishment to ban political parties with Islamic references.¹²⁸ Once again the EU link made this change possible. This was an issue the EU has continuously raised in the context of freedom of association and therefore strongly condemned

¹²⁸ In 2010, the AKP tried to change the constitution to make further reforms in this area, however the two-thirds majority required to include this in the constitutional referendum was not met in the TGNA.

Turkey each time a political party was banned (Saatcioglu, 2010: 25). Using the EU justification made it possible for the AKP to conduct this reform without fierce opposition from the Kemalists. At the same time, this legal change did not prevent the AKP from being tried for anti-secular activities by the Constitutional Court in 2008 where the risk of its closure was high. While the case was ongoing, the EU officials strongly denounced the possibility of closure. Most particularly, the Enlargement Commissioner Olli Rehn declared a possible ban of the party as unjustified and suggested that the issue needs to be addressed with further Constitutional reform (Euractiv, 2008). Such strong pressures from the EU against the case and for further reform are likely to have influenced the Constitutional Court's decision, which warned the party without banning it. In this respect, EU conditionality protected the governing party against the Kemalist/secular establishment and prepared a ground for further reform in an area where the AKP's interests overlapped with EU conditions.

AKP's pro-EU position did not only ensure its survival against the military threat and the Kemalist/secularist opposition, but also legitimised its standing in the eyes of the Kemalist bureaucracy, judiciary and the CHP, as well as the secular civil society. By defining its ideology and policies through direct references to Europeanisation, globalisation and human rights (as well as secularism), the AKP was able to *speak the same language* as the Kemalists. For example, the AKP framed the political reforms conducted in the context of EU conditionality within the truly Kemalist ideal of 'reaching the level of contemporary civilisations' – originally put forward by Ataturk. In other words, even though the AKP's reform agenda intended to diminish the military's role in politics and opposed the Kemalist understanding of secularism,¹²⁹ the Kemalists found it increasingly difficult to counter the AKP's discourse and reform program which emphasised human rights, democracy and the rule of law. The AKP also portrayed its EU reform agenda 'as being above and beyond politics and as a technical process of adjusting to European and global structures' (Cinar, 2011:

¹²⁹ Kemalists favour a Jacobin version of secularism where religion is excluded from the public sphere and is also controlled by the state. However, the AKP opposes the intervention of state in people's private lives and instead defends a complete separation between the state and religion (Patton, 2007: 343).

22). In this respect, the AKP's EU agenda appeared to be apolitical and therefore potential clashes with the secular establishment were minimised.

Additionally, the AKP's pro-EU stance also helped delegitimise the opposition parties. The social-democratic CHP, which was initially supportive of EU integration, backed the AKP on most EU-related reforms in T1. However, when it realised its support helped the AKP to gain more popularity as *the* reformist party in Turkish politics, it changed its policy in T2 and became Eurosceptic (Somers, 2011: 30). Therefore, it was seen not only as contradicting itself with regard to its EU policy, but also as a conservative and status-quo biased force against the reformist AKP (AC2). In other words, the 'EU process created a paradox for the opposition who had defended Westernisation for decades' (AC2). Overall, attachment to EU and particularly to its political conditionality allowed the AKP to legitimise itself to the secular establishment and also delegitimise its Kemalist opponents.

In addition to demilitarisation of politics, making political party bans more difficult and weakening the Kemalist/secularist opposition, the AKP used EU's political conditionality strategically in areas where its preferences overlapped with EU conditions. For instance, the AKP's ambition to guarantee freedom of religion and expression of its members and electorate corresponded with EU demands for human rights. By using EU conditionality as a justification for reform to increase freedoms, the AKP, on the one hand, increased its appeal to its core Islamist constituency, the conservative Anatolian bourgeoisie and the liberals, and on the other hand, silenced the Kemalists' opposition to reform in these areas.

More specifically, the AKP made a strong reference to EU conditionality to gather support for the 2010 referendum on a package of 26 proposals to amend the Constitution. This package included reforms which were advocated by the EU for some time, such as altering the makeup of Turkey's highest judicial institutions; allowing for military personnel to be tried in civilian courts; creating the constitutional ground for the ombudsman law; strengthening gender equality; banning discrimination against children, the old and disabled; allowing the

workers to join more than one union; and removing the ban on politically motivated strikes. Therefore, the EU leaders welcomed the proposed reform, as well as the positive result of the referendum where 58% of the people voted 'yes'. The Enlargement Commissioner described the results as a 'step in the right direction' and the German Foreign Minister maintained that the referendum was 'another important step on the road towards Europe' (Akyel, 2010: 2). The AKP leaders, anticipating the EU's support, strategically linked the referendum to EU conditionality. Erdogan has argued the referendum would significantly strengthen democracy in Turkey and thereby improve Turkey's prospects of joining the EU (Head, 2010: 1). Similarly, the CN Bagis has maintained that these reforms would signify a turning point and significantly speed up Turkey's accession negotiations with the EU (Euractiv, 2010b). At the same time, the AKP's opponents saw the constitutional change as a way for the AKP to gain control over the judiciary, since the changes give the parliament more authority over the appointment of constitutional court judges and members of the Supreme Council of Judges and Prosecutors. AKP has continuously weakened the powers of the military in Turkish politics and with this constitutional change it was seen as undermining the independence of the higher levels of secular judiciary with which it was repeatedly in conflict in the past (Head, 2010: 1). Overall, this example demonstrates how the AKP was able to gain support for domestic changes in line with its preferences through tactical use of EU conditionality.

Finally, the AKP also benefited financially from EU conditionality. The EU offered the 'necessary financial resources and know-how' to reform the Turkish state and society throughout the compliance process (Dogan, 2005: 431). The AKP took advantage of the increased tax income due to the inflow of foreign capital, as well as the lower unemployment rate due to the increase in real investment (*ibid.*: 430-1). These economic benefits were significant both for the AKP to carry out its domestic political programme, but also to gain the necessary domestic popularity for re-election.

Overall, the AKP made strategic use of particular aspects of EU conditionality to signal to the Kemalist elite that it was not a threat for the secular Turkish state. This secured its survival in the system and also allowed it to attain political

legitimacy domestically. The AKP's pro-EU stance acted as a 'protective shield' against the oppressive actions of the secular establishment (Hale and Ozbudun, 2010: 27) and allowed the AKP to engage in reforms that weakened the powers of the military without engaging in an outright battle with the Kemalists.

6.2.2 General Incentives

Apart from specific incentives, EU conditionality as a whole also provides important incentives for the governing party to continue complying. The AKP uses its pursuit of EU membership as a signalling device to different sections of Turkish society to demonstrate that it is a moderate, secular, pro-Western and business-friendly party.¹³⁰ This way it increases its legitimacy in the eyes of the electorate, thereby widening its electoral appeal. As an AKP MP maintained: '[t]he EU issue increases the legitimacy of our party. We can access a wider range of people than those who would normally support us' (AKP4).

The AKP aimed to attract votes from two main sections of society by adopting a pro-EU stance, namely the newly emerging conservative Anatolian bourgeoisie and some secular groups, such as the business community and the liberals, who under normal conditions would not vote for a party with Islamic roots. In addition, the AKP's core religious electorate also became more pro-EU in time, which meant the party did not suffer any loss of votes.

Among these groups, the role of the Anatolian bourgeoisie was the most crucial as the driving force behind the AKP's strong pro-EU stance (Yavuz, 2003; 2006; 2009; Hale and Ozbudun, 2010: 28). This new middle class emerged with the neoliberal policies of Turgut Ozal¹³¹ in 1980s and started to replace the traditional republican bourgeoisie. They are distinguished from the traditional bourgeoisie located in Istanbul by their 'culturally conservative, politically nationalist and moderately authoritarian' outlook (Insel, 2003: 298). According

¹³⁰ For similar arguments see Patton (2007); Yavuz (2003; 2006; 2009); Saatcioglu (2010).

¹³¹ The PM of Turkey between 1983 and 1989 and subsequently the President between 1989 and 1993. During his tenure, he transformed the Turkish economy through significant privatisation.

to Yavuz, this new bourgeoisie has been the prime agent of a ‘silent revolution’, which has made it possible for Islamic actors, such as the AKP, to democratise and liberalise (2009: 11). The economically liberal and socially conservative values of this new bourgeoisie were neither compatible with the politically liberal mainstream parties, nor with the anti-Western, anti-capitalist position of NOM. Moreover, the February 28 coup has taught this bourgeoisie an important lesson on the unfeasibility of Islam’s representation in Turkish politics. They, compared to other groups in Turkish society, had the most to lose from another open confrontation with the secular establishment (Onis, 2006: 212). Therefore, they wanted to be represented by a party that was socially conservative, economically liberal, pro-business, pro-EU and, most importantly, one which would provide economic and political stability and refrain from engaging in an open conflict with the secular establishment. The AKP was very quick to respond to these demands. Having understood the electoral and economic benefits to be obtained by appealing to this constituency, it adopted a strong pro-EU stance. This pro-EU turn made the alliance between the AKP and the so-called ‘Anatolian tigers’ (Tepe, 2006: 111) possible. The fact that the AKP maintained its pro-EU outlook over the years and continued to comply with EU requirements, despite declining prospects of membership, has cemented this alliance, thereby securing a strong electoral base for the AKP.¹³²

The AKP’s strong pro-EU stance also attracted the support of a second group of voters composed of the secular business community and the liberals. The AKP, with its pro-EU outlook, was able to present a moderate, pro-business, free market and liberal ideology to these groups, who under normal conditions would not vote for a party with NOM roots. Once again the post-modern coup of February 28 was influential in shaping the opinions of the secular business and the liberals. These groups came to realise that the protagonists, as well as the proponents, of the coup actually formed the core of the anti-EU coalition in Turkey. This coalition believed that EU conditionality, which promotes religious freedoms, individual and minority rights to citizens, was detrimental for the

¹³² The MUSIAD (Independent Industrialists and Businessmen’s Association) is a typical embodiment of this new Islamist leaning bourgeoisie. It played a crucial role in the election of the AKP both in 2002 and 2007 and still strongly supports the governing party’s democratisation and pro-EU policies (Hale and Ozbudun, 2010: 28; Insel, 2003: 298).

unitary and secular character of the Turkish state (Patton, 2007: 341). This realisation motivated the secular business community and the liberals to look elsewhere for political representation. Patton summarises this change of heart on the part of the secular businessmen and liberals:

‘Open interference by the military in civilian politics, which exposed the country’s democratic deficit and compromised fulfilment of the Copenhagen criteria was enormously catalytic in mobilising popular support for the EU process... The pro-EU bloc thus widened in the aftermath of the soft coup, drawing together Islamists and liberal secularists who wanted to disassemble the illiberal political design of the 28 February process. The pro-EU bloc also included many who saw opportunities for economic gains from deepening integration with the EU’ (*ibid.*: 341-2).

Once again, the AKP made good use of this electoral opportunity. Through its strong pro-EU stance, it convinced the secular business community that it was able to deliver the political stability necessary for economic development. The AKP’s unparalleled support for privatisation, as well as its single party government, attracted the business community who were weary of the inefficient, unstable and corrupt coalition governments of the 1990s. The AKP, due to its business and free market-friendly pro-EU outlook, built a cooperative relationship with the most powerful secular business lobby – the TUSIAD (Turkish Industrialists’ and Businessmen’s Association) – even before the 2002 elections. The TUSIAD publicly announced its support for the AKP and its pro-EU programme both in Turkey and Europe, thereby legitimising the AKP against powerful veto-players like the military and judiciary (Ugur and Yankaya, 2008: 593). The AKP’s continued commitment to the EU after its election ensured continued support from the business community, who feared the possibility of a coalition government between the two opposition parties (the CHP and the MHP), which are anti-privatisation, anti-EU and anti-US. The start of EU negotiations attracted foreign capital, which was a great benefit to a Turkish economy that was largely reliant on foreign direct investments. The foreign businesses have increased their profits during the AKP’s tenure (Baran, 2008: 61), partly due to the stability provided by the AKP government. The AKP’s commitment to compliance with EU conditionality, therefore, allowed the Turkish economy to flourish through foreign investments, in turn further increasing the secular business community’s support for the AKP.

The pro-EU AKP was also able to appeal to the liberals, or ‘protest’ voters, who were increasingly alarmed by the actions and statements of the military, and who demanded more inclusive policies for the religious and ethnic minorities living in Turkey, particularly the Kurds (Baran, 2008: 61). Moreover, many others who would originally vote for a centre-left party also supported the AKP (*ibid.*: 64; Insel, 2003: 303). This is because they realised that the AKP offered social services, education and health programmes to more unfortunate segments of society and developed policies for Kurdish minorities and IDPs living in the South-east in an attempt to comply with EU conditionality. Finally, wide ranging civil society organisations, whose demands had been ignored and marginalised by the state establishment prior to EU conditionality, also gave support to the AKP’s pro-EU policies (Ugur and Yankaya, 2008: 593). Even though the votes of this constituency were not considerable enough to be decisive for the AKP’s re-election, liberal and social-democratic support was crucial for the party to ‘consolidate [its] power and widen [its] legitimacy’ (AC2).

Finally, the AKP leaders were aware that they also had to appeal to the conservative NOM voter base. Until 2002, Islamists supported parties with a NOM heritage and their support allowed the FP to obtain 15% of the votes in the 1999 general elections. The AKP was able to appeal to these voters and gain their support in the 2002 elections through the personal charisma of its leader Erdogan; the material help it provided to more deprived parts of society; its economic policies; and its support for fundamental human rights and freedoms. The fact that the AKP got 34.3% of the votes, whereas the SP’s votes were limited to 2.5% in the 2002 general elections demonstrates this appeal. When appealing to the NOM base in 2002, the AKP was cautious about its discourse on the EU. It was aware that, even though the 28 February Process allowed the Islamists to reconsider their views on the EU, this realisation was predominantly limited to the elite level. The segments of the Turkish public supporting NOM were not necessarily aware of the benefits EU membership could confer to religious freedoms. Therefore, the AKP’s pro-EU stance was not emphasised prior to the 2002 elections. However, once it came to power, it made use of its electoral victory to strengthen its stance on the EU (Carkoglu, 2004: 21). The

AKP strategically drew parallels between EU conditionality and the Islamists' desire to weaken the role of military in politics and the protection of religious freedoms in Turkey, such as lifting the headscarf ban in universities. Soon, the Islamists realised that the EU reforms were not contrary to their preferences. Within the first couple of years of the AKP's tenure the electoral allegiance of the Islamists to the EU cause was ensured. This way the AKP's pro-EU outlook did not damage its core vote.

The empirical evidence on the composition of the AKP's support base verifies the above arguments. Analysis of the 2002 and 2007 election results shows that the AKP's voter base is a mix of religious and protest voters (Kumbaracibasi, 2009: 106-23). This cross-class base is politically and socially extremely heterogeneous (Hale and Ozbudun, 2010: 38), incorporating traditional NOM voters, the newly emerging Anatolian bourgeoisie, as well as protest votes from the liberals and the centre-left. As Onis argues, the AKP's electoral success lay in its ability to construct a broad-based interclass coalition, which included both the winners of globalisation, notably the rising Anatolian bourgeoisie, as well as the more underprivileged parts of society (2006: 211). Moreover, those groups who were marginalised by the secular Kemalist state establishment due to their ethnic or religious identities have also sought representation by the AKP. What all these distinct groups shared was their overlapping interest in Turkey's compliance with the EU and they found this commonality in the AKP.

To assess the extent to which the AKP has used EU incentives to widen its constituency, it is necessary to analyse the changing views of the AKP's electorate and the Turkish public on the EU. Firstly, the AKP has increased its support in general elections over the years, gaining 34.3% of the votes in the 2002, 46.7% in 2007 and 49.8% in 2011.¹³³ What is key here is whether the support for the EU has increased among the AKP's constituency. Carkoglu demonstrates that the EU support within the AKP electorate was initially lower than the national average (2006: 176-7). However, it increased significantly to a clear majority during the AKP's first term in government (*ibid.*: 176-7, 181).

¹³³ It gained 41.6% and 39% in 2004 and 2009 local elections respectively.

Yilmaz's study reaches a similar conclusion (2006). The percentage of AKP voters supporting the EU has increased by 20 points between May 2002 and January 2006, whereas support decreased by 23 points among CHP voters (Yilmaz, 2006). This data on the AKP's electorate demonstrate that the EU offered electoral benefits to the AKP.

Secondly, it is also important to analyse the overall Turkish public opinion towards the EU over the years. The Eurobarometer results demonstrate that Turkish public support for the EU increased and reached a peak of 71% in 2004 (Eurobarometer, 2004b). After this date, the support continuously declined until 2006 to 44% (Eurobarometer, 2006b).¹³⁴ Between 2006 and 2010 the support undulated around an average of 47% (Eurobarometer, 2006a; 2007a; 2007b; 2008a; 2008b; 2009a; 2009b; 2010a; 2010b). These results seem to contradict the argument that the AKP strategically uses EU conditionality as a signalling device to the electorate to increase its vote share, given that the public's support for the EU has fallen over the years. In this respect, the second part of the government's partisan incentives argument, which is related to electoral politics, is weakened. However, this conclusion needs to be qualified:

Firstly, the views of the general electorate need to be separated from particular groups. Whereas the general public, and predominantly the secular, nationalistic and religious-conservative sections, support the EU less in T2, the secular business community, conservative Anatolian businessmen, the liberal sections of society, as well as some minority groups like the Kurds continue to support the EU. In this respect, the argument presented above is still valid, since the AKP's pro-EU stance continues to attract these groups to the party. The unceasing support of the secular and conservative businessmen is particularly important for the AKP, since they not only assist the party financially, but also they are very

¹³⁴ The anti-EU coalition composed of the nationalists, security officials and Kemalists grew stronger in T2 mainly because of the EU's increasing demands with regards to Cyprus, rights of Kurdish minority and the recognition of Armenian genocide, as well as the decline in EU accession credibility which created a 'less predictable international environment' causing these groups to feel they have been treated unfairly by the EU (Turan, 2007: 337). Additionally, the nationalist reaction gained strength with the increased terrorist activity in the South-east Turkey, since they perceived the EU to be protecting the PKK (*ibid.*: 337).

influential actors in Turkish politics. In this respect, the lower levels of public support for the EU in T2 are only costly for the AKP with regard to its nationalistic and religious-conservative voter base. Despite this, the support for the EU among the AKP's voter base has still increased, as demonstrated above. In addition, while the general public's support for the EU fell after 2004, it has remained reasonably stable in the T2 period, around 47%. Given the support is more or less stable in T2, the AKP's pro-EU stance has not become increasingly costly.

6.2.3 Results

The discussion above has illustrated that the AKP can benefit from using EU conditionality strategically to secure itself in the Turkish political system against the secular establishment and to increase its electoral support, although the decline in public support for the EU weakens the electoral politics incentive to a certain extent. The views of interviewees including AKP MPs also support this view, since they have stated that the AKP 'has an instrumental approach to the EU' (AC2; EUSG1); sees the 'EU as a tool for establishing external and internal legitimacy' (CS5); is 'very pragmatic in its use of the EU' (BDP2); and 'EU is beneficial for the AKP' (AKP13). It can therefore be concluded that the value assigned to the government's partisan incentives variable is *high* for the AKP throughout its tenure. Since this value of the independent variable is congruent with the compliance levels in T2, the AKP's partisan incentives are very likely to explain continued compliance with the EU under diminished credibility.¹³⁵ However, it is still crucial to test through counterfactual analysis whether there are other alternative explanations which also fit the compliance outcome well.

For a counterfactual analysis the question that needs to be addressed is: would the same outcome of the dependent variable have occurred in the absence of the independent variable under analysis? In other words, if the AKP did not make use of EU conditionality strategically, would it still have been possible for these

¹³⁵ The following chapter will check whether this relationship is actually causal and not just a correlation through process tracing.

reforms to take place in T2? A number of alternative explanations can be discussed:

Firstly, we assess whether the AKP would be able to conduct these reforms incidentally without the presence of any EU incentives or EU conditionality. It has been so far demonstrated that the AKP's preferences in many occasions overlap with EU requirements, namely demilitarisation of politics, more religious freedoms and protection from political party bans. However, the history of political parties with a NOM outlook and with very similar preferences to AKP demonstrates that it would not have been possible to conduct these reforms without the EU justification. Each NOM party wanting to increase religious freedoms and take actions against the Kemalist establishment has been banned from politics. It can be argued that without the EU link the AKP would have shared the same destiny, since the Constitutional Court came very close to banning it in 2008. Moreover, it would not have been possible for the AKP to adopt the 2010 constitutional change via a referendum without reference to EU conditionality, since the Kemalist/secularist opposition would have been much stronger. As argued by a civil society representative '[d]oing things because the EU... wants made the government's life so much easier... If not for the EU and its demands, I believe the government would be much less courageous in the face of such pressure, criticism and anxieties' (CS2). This demonstrates that even though the AKP was interested in conducting various reforms independently of the EU, it would not have been possible to do so.

Secondly, we evaluate whether the AKP would have been able to continue to comply with the EU if it did not have specific incentives to do so. In other words, we examine whether there are any alternative explanations of AKP's continued compliance, which have stronger explanatory power than the independent variable under analysis.¹³⁶ The remainder of this chapter tests social learning

¹³⁶ To answer this question, one could also consider previous governments in office. The government's partisan incentives variable was not strong for both the ANAP-led (1997-1999) and the DSP-led (1999-2002) coalition governments. However, in these cases other important variables such as the credibility of accession also varied. Moreover, these coalition governments were very unstable and in the case of ANAP-led coalition it was a minority government. This made it much more difficult for them to agree on a single EU policy and pursue the goal of

dynamics and political lock-in effects. It finds that the lock-in effects carry explanatory power to explain continued compliance, but this is not strong enough to cause continued compliance *alone* under diminished credibility. Moreover, the conditions which make social learning likely are not conducive in the AKP's case, therefore this variable is not likely to result in continued compliance in T2.

Finally, other possible explanations of compliance, such as public opinion and election cycles, actually created pressures against reform in T2. Therefore they can be eliminated as competing explanations. The declining public support for and increasing nationalist backlash against the EU in the presence of 2007 general elections made it less likely for the AKP to continue its EU reform process in T2. Moreover, there were other crucial issues on the AKP's agenda during the T2 period which were likely to distract the party from its EU reform programme. This includes the controversy surrounding the presidential elections between April and August 2007.¹³⁷ Additionally, a closure case was brought to the Constitutional Court against the AKP for anti-secular activities between March and July 2008. All of these factors moved the AKP's focus to domestic politics and made it less likely for them to continue complying with EU conditionality in T2, therefore they are ruled out as competing explanations.

Overall, given that it was extremely unlikely for the AKP to conduct these reforms incidentally without EU conditionality, and considering that other possible alternative explanations of continued compliance, such as political lock-in, social learning, public support for the EU, and election cycles cannot (or are not strong enough to) explain continued compliance in T2, it can be concluded that the government's partisan incentives variable carries the strongest explanatory power.

compliance coherently. Therefore, these cases are not considered suitable for comparative analysis.

¹³⁷ After the TGNA completed the first round of elections to bring Gul to presidency, the Constitutional Court annulled this election on the basis of a quorum requirement (two-thirds of the MPs). Since all the opposition MPs boycotted the upcoming presidential elections in the TGNA, the AKP called for an early general election in July 2007. After the 2007 elections the AKP attained a larger majority in the TGNA and was able to elect Gul to the presidency.

6.3 Social Learning

An alternative to the government's partisan incentives explanation for continued compliance is *social learning*. The social learning hypothesis states: *if the political leadership identifies with the EU; and/or has institutional contacts with the EU and MS officials; and/or has a European professional/educational background, then it is likely to comply*. This hypothesis incorporates two sets of factors. Firstly, *identification* with the EU and its underlying values, such as human rights, democracy and the rule of law, is hypothesised to be a result of social learning, therefore is treated as an indicator of social learning. The analysis below demonstrates that the AKP's identification with the EU has been fairly low. Other factors, like *exposure* to and *background* in Europe, are conditions which make social learning more likely, although they cannot estimate whether social learning takes place or not. The section shows that the conditions for social learning are not conducive in the case of the AKP making it very difficult to assess socialisation levels. However, given the low level of identification and unfavourable conditions for social learning, it can be argued that the level of social learning is likely to be *very low*. Even though we cannot reject the social learning hypothesis with the data at hand, this variable is not expected to have an impact on continued compliance in Turkey in T2.

To test this hypothesis this section examines whether the AKP officials actually believe in and have internalised EU norms or whether they only use an EU discourse strategically as argued in the previous section. In other words, have they really changed their views on the EU since NOM or, in the words of Robins, are they 'wolves in sheep's clothing' (2003: 552)? Given that the level of social learning does not change significantly for the governing party within T2¹³⁸ within-case analyses such as congruence method and counterfactual cases are used. The following section initially assesses the level of AKP's identification with the EU. The subsequent two sections demonstrate that conditions which

¹³⁸ In reality, there is likely to be differences between AKP MPs regarding their identification with the EU, and their European backgrounds. This is particularly so since the party itself is very heterogeneous. However, this research focuses on why the AKP, as a whole, complies, therefore, these differences are not examined. Attention is devoted to the socialisation of the AKP's leadership.

make social learning more likely, such as background and exposure, are also weak in the case of AKP. Finally, counterfactual analysis is employed in order to validate the finding that social learning plays a very limited role in explaining AKP's continued compliance.

6.3.1 Identification

The AKP's party programme and election manifestos portray its strong commitment to the EU and to values of democracy, the rule of law, human rights, pluralism, freedom of thought and expression, and respect for diversity and minorities (AKP, 2002; 2007; 2010; Hale and Ozbudun, 2010: 20-1). These documents consider accession to the EU and compliance with Copenhagen criteria as a 'natural outcome' of Turkey's modernisation process (AKP, 2002; Hale and Ozbudun, 2010: 23). It is worth noting that, all these documents are extremely careful to separate the aims (democratisation) from the means (EU conditionality/accession). They maintain that the reforms are conducted because they are beneficial for Turkish people and not because international institutions demand them (AKP, 2010). Put differently, according to the AKP the Copenhagen political criteria should be realised even independently of the EU accession process (AKP, 2002; 2007). Along these lines, an AKP MP from the EUHC stated that they care about the content of Copenhagen and Maastricht criteria, therefore they continue to work on these even if the negotiations are blocked in many chapters (AKP14). He added that 'if our relations with the EU do not go well, we can name these Ankara and Istanbul criteria and still implement them' (AKP14).

The PM Erdogan has also on many occasions stated that the EU model has no political alternatives in promoting democratisation in Turkey; EU membership is a necessary step to not be on the periphery of civilisation and development; the AKP would continue to conduct these reforms even if the EU does not accept Turkey in; and the AKP believes in a direct overlap between the EU membership and Turkish national interests (Duran, 2004: 135; Fokas, 2004: 158; CS2). Moreover, the interviews conducted with AKP MPs also demonstrate their

identification with the EU. All those MPs who were willing to express views, stated that EU membership was a ‘good thing’¹³⁹ and they generally perceived themselves as being Turkish first and then European.¹⁴⁰ AKP’s identification with and support for EU is much higher than the Turkish public, whose support was 47% on average in T2. Overall, these documents and statements show that the AKP is attached to democratic norms and, for them, attaining these values takes priority over EU accession or any other benefits which may come along with it.

Contrastingly, there is also a view that the AKP’s attachment to European norms is not entirely genuine. One argument in support of this view is that AKP has emerged out of NOM tradition (Yavuz, 2006: 2) and continues to follow this anti-EU trajectory. Some analysts believe that AKP’s strong compliance record contradicts with its NOM roots and, therefore, compliance cannot be explained by social learning (Camyar and Tagma, 2010: 375). It must be acknowledged that social learning is a process and having an anti-European stance in the past does not rule out the possibility of socialisation in the future. However, in the AKP’s case, there was strong suspicion that its leaders’ views changed overnight without experiencing a lengthy period of social learning and that they still hold views incompatible with EU values.

Although both Erdogan and Gul were leading figures of NOM’s modernist branch, according to Hale and Ozbudun, this did not necessarily mean they were ideologically more moderate or liberal than the traditionalists (2010: 9). For instance, Gul has been reported saying that an important aim of the Welfare Party (RP) was to ‘protect Turkey’s values against the EU’ (Robins, 2003: 553); and ‘Turkey should not join the European Union’ (Woollacott, 2002). Similarly, Erdogan’s past statements demonstrates his attachment to political Islam, his anti-democratic, anti-liberal and anti-secularist views. While he was the mayor of Istanbul he was quoted saying: ‘for us, democracy is a means to an end’; ‘I banned alcohol, because I believe I am the doctor of this community’; ‘in view of

¹³⁹ AKP2; AKP3; AKP4; AKP5; AKP7; AKP8; AKP9; AKP10; AKP12; AKP14.

¹⁴⁰ Three out of five MPs said they were Turkish first and then European. The remaining two identified themselves as ‘world citizens’.

the future of our nation, I am against birth control'; 'Thank God, I am for Sharia'; 'democracy is like a train, we shall get out when we arrive at the station we want'; 'the system we want to introduce cannot be contrary to God's commands'; 'human beings cannot be secular'; 'one cannot be both secular and Muslim' (Fokas, 2004: 158; Hale and Ozbudun, 2010: 7, 9; AKP Watch, 2007). These quotes from late 1990s demonstrate that Erdogan was, according to Robins, 'an Islamist party apparatchik, ... an RP activist and Erbakan loyalist', causing many to mistrust his real intentions today and worry that 'a dogmatic ideology might lurk beneath the smooth persona' (2003: 552).

What adds to this suspicion is Erdogan's incredibly quick and substantial transformation. An AKP MP remembers Erdogan's speech in Izmir shortly before the 2002 general elections where he declared his pro-EU views for the first time (AKP14). The MP recalls Erdogan saying: '[i]n line with my political party's [RP's] views, I have up until now stood against the EU. However, I now declare here that when I compare the EU's demands on us and the place we want to be, all of these demands are beneficial for Turkish citizens' (AKP14). This overnight transformation generates doubt about whether the AKP has *really* internalised these changes. In addition to this speedy alteration, some of AKP's current policies and the remarks of its leaders add further suspicion on their genuineness.

Two main critiques can be raised against the AKP's policies. Firstly, the AKP is criticised for adopting a rhetoric of democracy in an instrumental fashion to impress the EU. This argument suggests that the AKP conducts democratisation reforms selectively to politically empower itself domestically, as opposed to with a real commitment to democracy. Baran argues that democracy is only rhetoric for the AKP, since she believes it was 'absurd' to make major changes in the constitution, while leaving key issues untouched (2008: 63). Issues such as the immunity from prosecution enjoyed by the MPs; the lack of transparency in political party financing; and most significantly the 10% threshold for political parties' representation in the TGNA have been ignored. According to Baran, only those democratic reforms that do not threaten the AKP's control in the TGNA were carried out (*ibid.*: 63). Erdogan's response to a CoE

parliamentarian's question about the high threshold in Turkey is also noteworthy. Erdogan argued that the threshold issue had nothing to do with democracy in Turkey (Bianet, 2011). In similar vein, Kumbaracibasi finds it ironic that the AKP would adopt a strong rhetoric on democracy and at the same time fail to ensure inter-party democracy (2009: 145-8). Overall, these examples show that while the AKP supports democracy in its discourse, it is instrumental and selective in its approach to democratic reforms in order to fortify its power and satisfy the EU. In the words of Cinar:

‘It is true that the AKP’s claim to credibility was based on its promise to protect democracy, but, what it understood by democracy was the transfer of power by free elections without any military intervention. The mandate included to survive in power so as to provide a counterbalance to the secular establishment and thereby protect its constituency in the face of yet another attempt to discipline Islamic identity in the public sphere. But again, it did not include a liberal transformation of polity so as to prevent the possibilities of such a disciplining for good’ (2011: 22)

Secondly, there are claims that the AKP has pursued specific policies that go against the spirit of democracy (Saatcioglu, 2010: 16-21) and show they are more interested in pushing forward an Islamic agenda rather than complying with the EU. The most obvious example is the AKP’s attempt to criminalise adultery in 2004, since this goes against the EU’s liberal norms. After strong opposition from the EU leaders, and the domestic civil society, the AKP immediately removed this change from the agenda. According to Hale and Ozbudun, this move demonstrates, on the one hand, the AKP’s concerns for the demands of its Islamic core constituency, and on the other, its flexible and pragmatic approach to EU conditionality (2010: 71). The AKP’s proposal to reform the institutional structure of the Council of Higher Education (CHE)¹⁴¹ carried similar religious undertones and showed the party’s desire to appeal to the Islamic core voters by making it easier for graduates of religious vocational schools to go to university.

Overall, the AKP claims a strong attachment to the EU and its values. However the overnight transmission of its leaders, their statements and contradictory

¹⁴¹ The CHE was established after the 1980 military coup to impose ideological controls on higher education and particularly academics whose views may diverge from Kemalist orthodoxy (Patton, 2007: 351).

policies cast doubt on whether they have really internalised this change and identify with the EU.

6.3.2 Background

The primary material on AKP MPs' previous educational and professional experiences in the West demonstrates that the conditions for social learning are not favourable. The researcher has compiled a comprehensive database on backgrounds of governing party and opposition MPs using the online biographies on the TGNA website (TGNA, 2010). Educational and professional experiences of individual MPs in the West, including Europe, Canada and US, are considered. In this analysis, each experience counts as *one* regardless of its length. Subsequently, the average number of experiences per MP are calculated for each party in the TGNA, namely the AKP, CHP, MHP and Peace and Democracy Party (BDP).¹⁴² Table 6.1 below demonstrates that every AKP MP had an average of 0.43 educational/professional experiences in Europe/US/Canada. This suggests only about one in two AKP MPs has lived for a period of time in a Western country. This is not substantial and therefore is not likely to facilitate a high level of socialisation for AKP MPs. The AKP average is higher than the CHP's (0.36) and only slightly lower than the MHP average (0.46). Overall, the differences between the three main parties with regard to this indicator are marginal.

¹⁴² BDP replaced the pro-Kurdish DTP in December 2009 after the DTP was banned by the Constitutional Court.

Table 6.1: Average Number of Foreign Experiences per MP

	Number of Western Experiences	Number of Middle Eastern and Central Asian Experiences
AKP	0.43	0.07
CHP	0.36	0.03
MHP	0.46	0.00
BDP	0.00	0.00

Source: Author's analysis from the TGNA (2010) website

MPs' knowledge of EU languages is another factor that can make social learning more likely. Once again the researcher has compiled a dataset on the MPs' language knowledge using the TGNA's database.¹⁴³ The results demonstrate that each AKP MP speaks around one language at a *good* level, and speak EU languages better than other parties.

Table 6.2: Level of Foreign Language Knowledge per MP

	Level of EU Languages Knowledge	Level of Arabic and Persian Knowledge
AKP	2.81	0.67
CHP	2.49	0.17
MHP	2.49	0.03
BDP	1.05	0.10

Source: Author's analysis from the TGNA (2010) website

The data on MPs' backgrounds show that the AKP MP's educational/professional backgrounds in the West are not substantial although their knowledge of EU languages is good. This suggests that the conditions which make social learning likely are not particularly conducive in the case of AKP, although they are slightly higher than for the CHP and MHP MPs. Overall, one must approach this data with caution and not overstate the conclusions.

¹⁴³ Score of *four* for very good knowledge, *three* for good, *two* for intermediate and *one* for little. If an MP knows more than one language a single score is given by summing up the scores for each language.

Firstly, it is important to be aware of the limitations of constructing a direct causal link between this evidence and social learning. In other words, one may have stayed in Europe for a long time and learned many European languages, and still oppose EU integration. Secondly, even though the data allow for a comparison between different political parties within the TGNA, this comparison does not necessarily help us in building causation. For instance, the evidence shows that the AKP MPs are to some extent more exposed to the West and know more European languages than the CHP MPs. At the same time, it is also known that CHP is very critical of Turkey's integration with the EU. Therefore, it is difficult – if not impossible – to deduce that the AKP MPs identify more with Europe and therefore will comply better.

Another interesting point to deduce from the above data is the MPs' educational/professional experiences in Middle East and Central Asia and their knowledge of Arabic/Persian. On average one out of 14 AKP MPs have had an educational/professional experience in Middle East or Central Asia. This average is much lower than their *Western* experiences, but at the same time it is more than twice as much as the MPs of the next party in the list, namely the CHP. Similarly, two out of three AKP MPs speak a *little* Arabic or Persian, which is significantly less than their EU language knowledge. What is interesting here is that AKP MPs' level of Arabic/Persian is considerably higher than the other parties, i.e. almost four times as high as the CHP. This suggests the AKP MPs scored considerably higher than the other parties with regard to their exposure to Middle East and Central Asia, as well as their familiarity with Arabic/Persian. This implies that the AKP MPs possess a different outlook than the rest of the MPs, which is more oriented towards the Islamic world. The recent orientation of AKP's foreign policy towards the Middle East, Asia and Africa may also be linked to this (Oguzlu and Kibaroglu, 2009: 590; Burgin, 2010: 430-2; AKP14; BDP2; CS7).

6.3.3 Exposure

The final condition which makes the government's social learning more likely is their level of exposure to the EU through interactions with EU and MS officials in meetings, projects or working groups. Interviews as well as the secondary literature demonstrate that the political leadership has a low level of exposure to the EU. Governing party MPs very rarely get together with EU officials and whenever they do they find themselves in conflictual situations. As an EUSG official explained: '[t]he communication [between the EU and the political leadership] is very limited. Even when it happens, everyone tries to impose their own opinion on others. For instance, an MEP comes to Turkey and makes a remark about Turkey, the Turkish politicians feel they have to address this criticism. They adopt a very defensive reflex' (EUSG4). Similarly, the Turkish MPs are exposed to the MEPs in JPC meetings, however these instances are intermittent and do not allow the AKP MPs to engage in social learning. Moreover, the JPC meetings tend to be extremely conflictual and dominated by discussions about very difficult and sensitive issues like Cyprus, Armenia and Turkey's human rights records. As an AKP MP in the JPC explained, most of the MEPs within the JPC come from countries which are against Turkish accession, such as Cyprus and Greece, and also from right-wing parties from Holland and Germany (AKP14). He believes it is impossible to arrive at a single constructive resolution in that environment where most MEPs are trying to sabotage Turkey's accession process (AKP14).

The actors who actually communicate with EU officials on a day-to-day basis are the EU-related bureaucrats mostly working in the EUSG through twinning programmes, TAIEX activities and other EU projects. The political leadership does not have direct contacts with the EU Commission or its representation in Turkey and does not participate in association sub-committee meetings. Overall, very low levels of exposure mean that conditions for social learning are very unfavourable for the governing party.

6.3.4 Results

The evidence above shows that the AKP does not identify strongly with the EU and conditions are not conducive to initiate social learning. To confirm the validity of these findings a counterfactual case needs to be examined. The key question is: would the AKP still comply with EU conditions if Turkey was no longer considered an EU candidate? The assumption behind this is that, if the AKP officials have genuinely internalised EU norms, such as democracy and human rights, they would continue the reform process even in the absence of membership incentive, in other words, under zero credibility. The AKP leaders and key party documents have continuously stated their commitment to these values independently of the EU. The Foreign Minister Ali Babacan has also maintained ‘Turkey would continue to undertake the liberal-democratic reforms even if the EU suspended the accession negotiations’ (Oguzlu and Kibaroglu, 2009: 586).

These claims, however, should be approached with some caution as Turkmen argues: ‘[i]t is a well-known fact that Turkey would not have undertaken these substantive reforms on its own, had there been no prospect of joining the European Union’ (2008: 148). Similarly, all the interviewees conducted with AKP and CHP MPs and bureaucrats, except one,¹⁴⁴ maintained that if it was not for the EU the speed and extent of democratic reforms would not have been the same.¹⁴⁵ More specifically, they have suggested that without the EU anchor these reforms ‘would be extremely difficult’ (PM2) and ‘would not take place’ (PM1; BMB1; SPO1; CHP4). They argued the AKP would not conduct reforms in areas which are not a policy priority for the party without the benefits offered by EU conditionality. The words of an AKP state minister are critical: ‘[i]f it was not for the EU, it would be very difficult to realise these reforms... The EU gave motivation and widened the extent of these reforms. If it were not for the EU, these reforms would remain as pure wishes’ (AKP5).

¹⁴⁴ EUSG5.

¹⁴⁵ MI1; MI2; BMB1; EUSG2; EUSG4; EUSG5; EUSG7; EUSG9; EUSG10; SPO1; SPO2; PM1; PM2; MFA1; MFA3; MFA4; GDS1; GDS2; AKP5; AKP9; AKP14; CHP1; CHP4; CHP5; DSP1; BDP1; BDP2; CS2.

Overall, the evidence provided above, which makes use of the relevant literature, interview data and key AKP documents, portrays a mixed picture. On the one hand, the AKP claims a strong attachment to EU and its founding values. Similarly, many Islamist circles believe that the political parties with Islamic roots, such as the AKP, not only learned a lesson with the 28 February process, but also went through a genuine transformation (Fokas, 2004: 154). On the other hand, a more common view is that the modernist faction of NOM learned a lesson overnight on February 28 and their commitment to the EU is only ‘tactical’ and a result of ‘realpolitik’ (*ibid.*: 152-3). When this conflicting picture is complemented by further evidence on the current policies of the AKP, their relatively strong Middle Eastern outlook, and their unsubstantial European background and exposure, there is more support for the view that the AKP ascribes only an ‘instrumental value’ to democracy (Hale and Ozbudun, 2010: 7). Therefore, it can be concluded that the AKP’s identification with the EU is low and the conditions for its social learning are unfavourable. Overall, this suggests that the AKP experienced *low* social learning.

To test the relationship between social learning and compliance through congruence method it is necessary to determine the outcomes consistent with low levels of social learning. It has been established in the literature that rationalist variables carry more power in explaining compliance than social learning (Schimmelfennig and Sedelmeier, 2005). Therefore, low social learning *alone* may be congruent with either no compliance or low levels of compliance. In this respect, it is extremely unlikely for social learning variable alone to explain continued compliance under diminished credibility in Turkey. Social learning may still matter and it is possible for it to be part of a wider explanation, which incorporates other variables such as government’s partisan incentives. However, even this scenario is not very likely, since social learning is likely to be weak for the current governing party.

Taking into consideration the fact that social learning requires time and does not happen overnight, it is very unlikely that it would precede and, in some way, help bring about other factors for compliance. At the same time, this research would argue that the opposite dynamic is a possibility. It is more convincing to explain

the AKP's compliance under diminished credibility by government's partisan incentives, which in turn, may trigger social learning. It is not possible to say at this point whether the AKP will over time internalise these democratic values and norms (Robins, 2003: 553), but according to Dagi this is a possibility:

'The search for systemic legitimacy and security has thus shaped the JDP's [AKP's] approach to human rights, which are expected to resolve these problems for the JDP [AKP]. This may well be regarded as the instrumentalisation of human rights in daily politics rather than the internalisation of them. Yet it is argued that instrumentalisation through the recognition of the utility of human rights for self-preservation may also lead to institutionalisation of human rights' (2006: 89).

6.4 Political Lock-in

The final variable to be considered to explain broader compliance patterns in Turkey is *political lock-in* within HI. The political lock-in hypothesis is: *if integration with the EU is the main facet of Turkish FP; and/or if the political leadership has already established EU membership as a policy goal and started complying with EU conditionality (before 2005), then it is likely to continue complying*. This hypothesis makes two claims. Firstly, it suggests that the traditional orientation of Turkish FP may have an influence on how the future governments formulate their EU policy. Secondly, the hypothesis assumes that once a government sets a FP priority and starts acting on it, this policy is likely to become path-dependent and sticky. It becomes very costly for the government to alter a set policy substantially, since it may seem to contradict itself. This section finds that there is a *high* level of political lock-in with regard to both aspects. At the same time, the counterfactual analysis shows that even a high level of lock-in does not hold strong enough explanatory power to explain continued compliance alone. It is only meaningful to consider this factor in conjunction with the DPM's government's partisan incentives variable. Once again, this variable does not vary over the time period under analysis. Therefore, congruence method coupled with counterfactual design is used.

6.4.1 Turkish FP Trajectory

Modernisation and reaching a higher level of civilisation was equated with Westernisation in Turkey from the late Ottoman period onwards (EUSG9). When the Turkish Republic was established in 1923 the direction of its FP was also set as *West*, which was most commonly interpreted as *Europe* (AKP14). As a result, Europeanisation and further integration with Europe formed the ‘spine of Turkish foreign policy’ (CS5) and became a strategic target (BDP2).

In line with this state policy, Turkey has built close institutional ties with the West and Europe since the 1940s. Turkey is a founding member of the UN, a member of the CoE (since 1949), North Atlantic Treaty Organization (1952) and the Organisation for Economic Cooperation and Development (1961). Moreover, it is an associate member of the Western European Union (1992), a party to the European Convention for the Protection of Human Rights and Fundamental Freedoms (1954), and the Conference for Security and Cooperation in Europe (1975). Turkey’s search for EU membership is, therefore, only a continuation of this trajectory of relations with Europe.

The AKP’s continued compliance with the EU can be seen in this light. Given that integration with the EU is recognised as a key feature of Turkish state policy (CS1), it can be argued that the political lock-in for any party in government to comply is high. This political lock-in can explain why the AKP is not really in a position to abandon this state policy (SPO2; MFA3) and continues to comply even under diminished credibility. Even if the relations between the EU and Turkey deteriorate during negotiations, the AKP cannot afford to terminate the process (MFA3). As the CN Bagis has recently maintained ‘we will not be the ones pulling the plug’ in this process (Haberturk, 2011). Overall, the direction of the independent variable is congruent with continued compliance.

A counterfactual case can be used to test whether this established relationship is causal. The key question here is: would compliance continue in T2, regardless of the party in government? To address this it is necessary to examine the reform

trajectory of the previous government in power between 1999 and 2002, namely the DSP-led coalition. It is clear that important constitutional changes and harmonisation packages related to EU's political conditionality were adopted during this government's tenure. Most importantly, the death penalty was abolished. This reform is significant because the ultra-nationalist partner of the coalition – the MHP, approved it even after the PKK¹⁴⁶ leader was captured (CS7). The fact that a party like the MHP gave its consent to such a reform shows the significance of the political lock-in effects. Due to the fact that EU is a state policy in Turkey, it seems to be above politics and political parties. Also considering the fact that parties tend to be more pro-EU once in government, this counterfactual analysis suggests compliance would continue in T2 regardless of who was in power.

The key point here, however, is the extent of compliance. Compliance may have continued marginally by other parties under diminished credibility in T2. But it is not likely to be at the same extent and speed as the current government, who has strategic interests to comply. As a high level MFA official stated:

‘The process would have progressed in one way or another. The government in 1999 was very different from today’s but they also passed three important reform packages. Everyone forgets this but they abolished the death penalty... In that respect, the process would have continued. But the current government held onto the process more eagerly than any previous government. Therefore, we would not have come this far with other parties’ (MFA3).

In sum, this factor is causally related to continued compliance, however it fails to explain why compliance increased as much as it did, and at a higher speed in some areas, under diminished credibility in Turkey.

6.4.2 AKP's Previous Policy

In addition to Turkey's FP targets, the AKP's previous policy may also create political lock-in effects, which would explain the AKP's continued compliance within T2. The fact that the AKP adopted a language of reform, democratisation

¹⁴⁶ The Kurdistan Workers' Party is a separatist terrorist organisation.

and human rights and acted on this successfully within the T1 period, creates expectations from both inside and outside of Turkey for further reform. If the AKP abandons its attachment to EU compliance in T2, it would be taking a significant political risk or even committing a ‘political suicide’ in Dagi’s words (AC2).

Firstly, if the AKP abandoned these reforms, it would contradict itself and ‘experience a similar paradox CHP experienced’ (AC2). Secondly, it would stop being praised for its record of reform. In a way, the AKP’s reform record has become part of its pro-EU and neo-liberal identity. If it stops complying, its past reform performance will no longer be a reference for the AKP (AC2). As Dagi argues, ‘[w]hat will keep AKP a reformist party is mostly its reformist past. It is like a bicycle. If you stop you’ll fall’ (AC2). Finally, it will no longer be able to distinguish itself from the Eurosceptic opposition parties within the Turkish political system, such as the CHP and MHP.

Due to all these reasons, an AKP no longer committed to EU compliance risks losing a significant portion of its public support. Therefore, it is compelled to continue its pro-EU rhetoric and compliance in T2. In this respect, the direction of political lock-in variable is congruent with the AKP’s compliance in T2. At the same time, only using the AKP’s past performance to predict future compliance provides a limited explanation, since it fails to explain why the level, and in some areas the speed, of compliance increased as much as it did in T2. Put differently, even though the direction of the variance in the independent and dependent variables are congruent, the magnitude of variance in compliance cannot be explained by political lock-in effects.

Overall, both the Turkish FP and the AKP’s past policy trajectories create important political lock-in effects. This is congruent with the AKP’s continued compliance under diminished credibility in T2. However, the political lock-in effects alone are not strong enough to explain the broader patterns of continued compliance and the AKP’s selective approach to it. This explanation is only meaningful when considered in combination with the government’s partisan incentives.

Conclusion

This chapter has set out to explain broader compliance patterns in T2 under diminished credibility by examining the preferences and actions of the political leadership. It has shown that the most important motive behind the AKP's compliance was the government's partisan incentives. The AKP used the EU as a signalling device to the Kemalists and the electorate in order to survive, gain political legitimacy and increase its electoral appeal in the Turkish political system. The AKP's strategic use of the EU in this manner provides a strong explanation of the extent and speed of compliance within T2. Dagi summarises this tactical use:

‘[The relation between the EU and AKP is an] obligatory love... It started as a love story in 2002, which the AKP was confined to. The AKP tried to create political and societal legitimacy around the EU. Secondly, through the EU it tried to secure its political identity, power and presence... [T]his lies at the bottom of AKP-EU relations. The AKP's existential need for the EU and its domestic political needs overlapped with the EU's demands... By being attached to the EU target, the AKP reached out to other societal groups which were outside of its natural constituency... The AKP's EU target was a very important mechanism and framework to build wide societal and political coalitions’ (AC2).

Additionally, the political lock-in effects stemming from the general direction of Turkish FP and the AKP's previous reform trajectory also contribute to explaining continued compliance, albeit to a lesser extent. At the same time, the AKP's identification with the EU has been assessed to be low and the conditions which make social learning likely are not favourable. Therefore, the level of social learning is likely to be low for the governing party and is likely to have had a very limited impact on continued compliance.

This analysis has used congruence method and counterfactual design to arrive at these findings. Since all three variables were specific to the governing party in power, no variance was observed within the T2 period, thereby making it necessary to use within-case methods. Even though the relationships established

by the congruence method has been checked by counterfactual design it is imperative to use other within-case methods to validate these conclusions. The next chapter uses process tracing in the field of broadcasting rights of minorities to test these three variables.

Chapter Seven:

The AKP's Kurdish 'Opening' in the Area of Broadcasting Rights: A Process Tracing Analysis

Introduction

There have been significant policy changes in line with EU demands for minority rights in Turkey. It has been argued that the freedom to use Kurdish in broadcasting, books, music cassettes and language courses today would have previously been unimaginable without the pressure of EU conditionality (Usul, 2011: 154). Yet an exclusive focus on EU conditionality fails to explain *why compliance continued in this politically costly area despite decreasing credibility after 2005?*

The previous chapter has concluded that the AKP complies with EU conditions primarily due to government's partisan incentives. This chapter probes the validity of this finding through an in-depth examination of one particular legal change: the broadcasting rights of minorities in Turkey and more specifically a particular law¹⁴⁷ which allowed for television broadcasting by the state channel TRT¹⁴⁸ in languages and dialects other than Turkish, 24 hours a day. The chapter initially examines the overriding features of the AKP's Kurdish policy and looks at how Law No. 5767 was adopted in more detail. Following this analysis, three competing explanations for compliance are assessed – government's partisan incentives, social learning and political lock-in.

The analysis confirms that the AKP was motivated by partisan incentives for legislating in this area and used EU conditionality strategically to justify its reforms. It firstly aimed to increase its voter base in the Kurdish-dominated

¹⁴⁷ Law No. 5767.

¹⁴⁸ Turkish Radio and Television Corporation.

regions without losing its traditional electorate. Secondly, by legislating, it was able to control the content of broadcasting in languages other than Turkish through a state broadcaster. Finally, this legislation allowed the AKP to gain credit with the EU. Additionally, the liberalisation dynamic created by the coalition government in early 2000s created a political lock-in effect, which made it more likely for the AKP to adopt this law. Lastly, this chapter demonstrates that social learning mechanisms have been weak for the governing party. Substantial evidence in this case study shows that the party's discourse and some of its policies contradict the protection of minority rights. Overall, the adoption and the timing of the Law No. 5767 are best explained by government's the partisan incentives and political lock-in effects.

7.1 The AKP's Kurdish Policy

The AKP government's policy towards the Kurdish population in Turkey has been recognised by some as the 'boldest effort ever made by a Turkish government to find a peaceful political resolution to the long-festering Kurdish question' (Somer and Liaras, 2010: 152). However, even though some aspects of AKP's Kurdish policy contradict the traditional Kemalist line taken by previous governments,¹⁴⁹ a closer look demonstrates that it has also borrowed a number of important elements from the established state tradition in Turkey.

Firstly, the AKP stresses the rights of individuals rather than the collective rights of Kurdish people. This is in line with the Turkish state ideology which sees collective rights as a form of discrimination and more importantly as a 'trigger for the territorial disintegration of the country' (Tocci, 2006: 124). Secondly, the AKP adopts a classic statist response in thinking it can, alone, solve this problem and deliver results. In this respect, it refuses to negotiate with legitimate parties representing the Kurdish population. As the head of Human Rights Association maintained: 'you cannot solve the Kurdish problem this way. There is a Kurdish side. You need to sit down and talk to them, negotiate with them, solve the

¹⁴⁹ With the exception of the ANAP government led by Ozal who was also sympathetic to the demands of Kurdish minority.

problem together with them... The AKP is pursuing the same old 90 year old policy of ignoring the Kurds' (CS7). Overall, the AKP's Kurdish policy is frequently criticised as being statist and not sufficiently reformist (CS7; BDP1; BDP2).

At the same time, the AKP's Kurdish policy does have some distinct features. Firstly, for the AKP, 'Islamic solidarity' is the solution to the Kurdish problem (Oktem, 2008: 2; Yavuz, 2009: 187-91; Yavuz and Ozcan, 2006: 103). The AKP government has framed the Kurdish problem to be a result of the secular divisions created between Turks and Kurds by the military (Yavuz and Ozcan, 2006: 103). The AKP believes this problem can best be addressed by 'Muslim brotherhood' and therefore puts forward Islam as 'cement' (*ibid.*: 102) or 'shared glue' (Yavuz, 2009: 191) to end the societal divisions between Turks and Kurds.

Secondly, the AKP sees economic problems in the predominantly Kurdish South-east region as the primary concern. This is in contradiction to Kurdish groups who believe that the economic underdevelopment of the region is a side-effect of years of cultural oppression (Liaras, 2009: 9).¹⁵⁰ As a result, the AKP addresses this perceived problem through economic means.¹⁵¹ In other words, the AKP, with the support of charity organisations close to the party, aims to encourage investment and reduce unemployment in the region. This way, they were able to increase the living standards in the region without fully addressing the Kurdish demands with respect to individual and collective rights (Oktem, 2008: 8; BDP2).

The final and the most important aspect of the AKP's Kurdish policy is its *vagueness* (CS1; CS2; EUSG1). From 2002 onwards, the AKP either chose to ignore the Kurdish issue or mentioned it without clearly articulating the policy content (Yavuz, 2009: 173, 185; Somer and Liaras, 2010: 152; Oktem, 2008: 2). This was particularly the case with the 'democratic opening' process announced to the public in 2009. The announcement was not followed by any concrete

¹⁵⁰ Many Kurds voted for the AKP due to this economic focus. Yavuz argues that 'people want tangible improvements in their lives rather than intangible ideological rhetoric' (2009: 197).

¹⁵¹ The AKP is known to have provided material inducements to people in the region, such as coal aid and food (Tezcur, 2010: 782; The Economist, 2008).

roadmap about the manner in which this opening was to be accomplished. Instead, the AKP's Kurdish policy continued to be vague.

7.2 The Broadcasting Rights of Minorities in Turkey and the Law No. 5767

The political reforms in the area of broadcasting rights of minorities started to take place with the announcement of Turkey as an EU candidate in 1999. Articles 26 and 28 of the Constitution were amended under the DSP-led coalition government in 2001. However, without the necessary regulatory framework, these changes did not actually improve minority protection in broadcasting. The coalition government also passed a law¹⁵² in 2002 which paved the way for broadcasting in languages and dialects traditionally used in the daily lives of people in Turkey, on the condition that these broadcasts do not oppose the unitary nature of the Turkish state. The AKP continued these reform efforts after it came to power through the 6th and 7th reform packages in 2003, which had more impact on the situation of minorities (Yildiz and Muler, 2008: 82). More reforms followed in 2004, with a new law on broadcasting adding enforceable provisions to the previous changes that allowed TRT, as well as the private radio/television stations, to broadcast in minority languages. Starting with June 2004, TRT started to broadcast in Bosnian, Kurdish, Arabic and Circassian, but the private broadcasters did not receive permission until January 2006. Even then only three out of twelve media outlets obtained permission and these started to operate under strict time¹⁵³ and programme¹⁵⁴ restrictions. Later in 2006, some of these time restrictions were lifted for music and cinematographic works, but they still held for news programmes and discussion shows. In June 2008, Law No. 5767 which allows for broadcasting in languages and dialects other than Turkish on TRT was approved and a separate channel, TRT-6, solely devoted to Kurdish started to broadcast 24 hours a day from January 2009 onwards. Finally, all the restrictions on broadcasting in minority languages at the local level were removed in 2010.

¹⁵² Law No. 4771 Concerning Amendments to Miscellaneous Laws.

¹⁵³ Forty minutes a day and four hours per week allowed on TV.

¹⁵⁴ State authorisation is required for the content of TV programmes.

The particular legislation under examination here is Law No. 5767 Concerning Amendments to the Turkish Radio and Television¹⁵⁵ adopted in June 2008. During the preparation stage of this draft law, neither the EU-related bureaucracy nor civil society had any input regarding the broadcasting rights of minorities (EUSG1; EUSG2; EUSG10; CS2). More importantly, the AKP did not consult the Kurdish groups or the DTP (BDP1; BDP2). Instead, it was mainly prepared within the AKP circles. The draft law was forwarded to the TGNA from the Prime Ministry on March 7, 2008. At the TGNA, the draft bill received positive feedback from the Plan and Budget Committee.¹⁵⁶ Finally, the TGNA adopted the bill on June 11, 2008 and it was published in the Official Gazette on June 26, 2008.

The discussions in the TGNA regarding the 12 articles of this law were heated and spread over six sessions within three weeks.¹⁵⁷ The key point of debate was regarding article 6 which changed article 21 of the original TRT law¹⁵⁸ by allowing the ‘TGNA, open university, educational and teaching broadcasts, and other broadcasts’ to be conducted ‘in languages and dialects other than Turkish’ (TGNA, 2008b: 60). The nationalist MHP was a very harsh critic of the proposal because of this clause. The main opposition party, the CHP, was less vocal during the parliamentary debates but it too was against adoption due to this clause. The Kurdish DTP, on the other hand, made some demands going beyond this proposal, but they were generally in line with the government’s position.

The MHP tried to make the case that making this amendment to the TRT’s law was unconstitutional, since the constitution maintains that Turkish is the official language of the state, therefore a state institution should not be allowed to broadcast in languages other than Turkish. Moreover, they speculated that

¹⁵⁵ This law predominantly aims to reform and restructure TRT so that it has a more flexible organisation, less bureaucratic structure, more accountability and is able to better follow technological advances (Prime Ministry, 2008: 2-7).

¹⁵⁶ It was also sent to the Constitutional Committee, however this committee did not provide any opinion.

¹⁵⁷ The 23rd parliament’s 2nd legislative year, 102nd, 110th, 111th, 114th, 115th and 116th sessions between May 9, 2008 and June 11, 2008.

¹⁵⁸ No. 2954.

broadcasting in languages other than Turkish would lead to a national education transmitted through minority languages, eventually causing the breakdown of national unity (TGNA, 2008c: 61). Additionally, the MHP claimed that this legislative amendment was being conducted under the pressure of external imperialistic powers, such as the US and the EU. They argued that the AKP aims to impress these external powers by making this change, which would eventually lead to the ‘balkanisation’ of Turkey (TGNA, 2008d: 62-9). The nationalist party even went as far as saying that there was no domestic demand for such legislation, and it was solely externally initiated.

The DTP, on the other hand, generally went along with the governing party, in criticising the MHP MPs’ speeches and applauded the AKP MPs’. But they too had some reservations. Most importantly, the DTP wanted the TRT’s law to be restructured so that the clause about broadcasting in languages and dialects other than Turkish are among the main institutional principles, as opposed to being added as a side clause related to educational broadcasts (TGNA, 2008b: 44). The DTP believed that this was a suboptimal solution and ran the same risk as the 2002 law which was interpreted restrictively by the Radio and Television Supreme Council (RTUK).

The AKP’s suggested formula, which was marginally closer to the DTP’s position, prevailed. The law gave permission to TRT to broadcast in minority languages without restrictions for 24 hours a day. At the same time, this right was not inscribed as part of the underlying principles guiding the operation of TRT.

7.3 The AKP’s Motives behind Adopting Law No. 5767

This section addresses the central question of this chapter: *why has the AKP initiated this costly legislation at the particular moment it did?* The following three sections examine various competing explanations of compliance under diminished credibility, namely the government’s partisan incentives, social learning and political lock-in.

7.3.1 The Government's Partisan Incentives

‘EU discourse has legitimised what were previously considered taboo subjects, providing the political space both for suppressed Kurdish demands to come to the fore and for these to be discussed (albeit not necessarily accepted) within the more liberal segments of the establishment’ (Tocci, 2006: 133). In other words, EU conditionality offered a legitimate ground for reform in the area of minority rights for the AKP by weakening the opposition from the nationalists, Kemalists and secularists. The fact that most of the minority-related reforms were adopted within EU harmonisation packages demonstrates this point.¹⁵⁹ More specifically in the case of Law No. 5767, the AKP MPs made references to EU demands to justify Kurdish broadcasting on a state channel during discussions in the TGNA (TGNA, 2008a: 66, 75). As the previous chapter explained, the EU’s demands regarding the rights of minorities overlapped with the AKP’s domestic political interests. In other words, domestic political considerations were the main force behind this reform, but the AKP could not have delivered it without aligning it to EU conditionality. The section below demonstrates how the AKP used EU conditionality strategically in this area to push forward this reform and achieve three main goals: improve its domestic popularity; control the broadcasting in minority languages with a state channel; and finally gain credit with the EU.

7.3.1.1 Enlarging Electoral Support

The first and the most important motive for compliance in this area is increasing domestic popularity with potential Kurdish and liberal voters. The DPM hypothesises that the AKP would conduct reforms addressed at the Kurdish population if they think this would increase their domestic support. Moreover, given the costly nature of reforms in this field, the AKP would be expected to conduct reforms after general elections so as not to lose any of its traditional, conservative and nationalistic voter base.

¹⁵⁹ For instance the 7th harmonization package facilitated Kurdish broadcasting in 2003.

The timing of the preparation and adoption of Law No. 5767 confirms these hypotheses. The cabinet agreed on the draft version of Law No. 5767 on January 21, 2008 and the Prime Ministry forwarded the final draft to the TGNA on March 7, 2008 (Prime Ministry, 2008). After a few weeks of debate, the TGNA finally adopted the Law on June 11, 2008. This suggests the cabinet started working on the legislation shortly after the general elections and agreed on a common draft only six months after the July 2007 general elections. The bill was adopted and published in the official gazette less than a year after the elections. In this respect, 2008 offered a great opportunity for the AKP to conduct risky political reforms, since it was feeling particularly confident after having secured a popular mandate in 2007. As one interviewee confirmed: '[TRT-6] was not costly for the AKP [in terms of votes]. Usually these kinds of changes are harmful for parties... But they had just come out of the elections as a strong party. There weren't any upcoming elections' (CS1).

Moreover, the conflict between the AKP and the secular/Kemalist establishment regarding the presidential elections ended to the advantage of the AKP in 2007. The AKP was able to renounce the military's interference with the presidential elections and succeeded in securing the presidency (Sommer and Liaras, 2010: 156). In other words, the two important veto-players in Turkish politics, namely the military and the presidency, had either been weakened or switched to the AKP (Liaras, 2009: 7). According to Sommer and Liaras, the 'changes in civil-military relations since 2007 have increased the autonomy of civilian politics from military supervision and the government's ability to institute liberal reforms, to which the security-conscious and defensive nationalist military and judiciary might object' (2010: 156). Moreover, after this confrontation, the AKP was seen as the victim and was rewarded with an increased majority in the 2007 elections. In this respect, the AKP had found the perfect opportunity after the 2007 elections to focus on minority reforms without risking a conflict with the secular establishment.

At the same time, this reform was conducted shortly before the March 2009 local elections. The AKP, whose support had increased in the South-east region

in 2007 in comparison to 2002, sought to gain more local representation in 2009. As a DTP MP explained: '[b]reaking the DTP hegemony in the region [in the 2009 local elections] required taking steps. There is no other party in the region other than the AKP. In comparison to the DTP they [the AKP] have more MPs... But they needed to take further steps. They knew that they could not take tangible steps right before the general elections' (BDP2). In line with this, the AKP prepared a very popular and eye-catching reform before the local elections, allowing 24 hours of Kurdish broadcasting on TRT, and hoped that this would transfer DTP votes to the AKP.

Electoral competition between the AKP and the pro-Kurdish DTP had always been strong since the AKP gained a substantive amount of votes in the Kurdish regions in 2002. This result threatened the very existence of the DTP and has automatically made it suspicious and critical of the AKP's reform attempts targeting the Kurdish population as these reforms were likely to garner more support for the AKP at the expense of the DTP. However, this risk did not prevent the DTP from siding with the government during the discussions and voting for Law No. 5767 in the TGNA. At the same time, DTP MPs still maintained a sceptical stance towards TRT-6 outside of the parliament and believed that the reforms conducted by the AKP were utilitarian, and aimed in essence at attracting more Kurdish votes as opposed to actually guaranteeing human rights. The leader Ahmet Turk declared that: '[t]here is a need for a broadcasting policy that understands Kurds and meets their demands. We are carefully observing the process. We will see in time whether this is something that was initiated with the elections in mind' (TRT, 2009).

Overall, the timing of Law No. 5767 suggests that the AKP conducted a utility calculation to expand its domestic support in the Kurdish areas, without sacrificing its original voter base. Taking a step back and briefly examining the AKP's broader Kurdish policy shows that similar calculations were at work. After 2002, the AKP's Kurdish policy was to postpone any action until the 2007 elections and even to pretend that there was no problem, so as not to get into a potential conflict with the secular establishment and particularly the military during its first term in office (Yavuz, 2009: 185; Yavuz and Ozcan, 2006: 108).

Once it secured a popular mandate in 2007 for the second time; resisted a ban by the Constitutional Court; undermined the secular establishment by winning the presidency; and weakened the military through the Ergenekon investigations,¹⁶⁰ it then focused on the Kurdish issue. However, even then, the AKP lacked a clearly articulated policy, let alone a detailed programme or a roadmap. This was mainly due to the fact that the Kurdish issue was extremely divisive within the party and among its voter base,¹⁶¹ who are predominantly Turkish Muslims, many of whom are strongly nationalistic (Hale and Ozbudun, 2010: 76-7). In line with this vague policy, Erdogan tailored his discourse on the South-east depending on who he was addressing. For instance, he talked about the problems related to Kurdish identity, cultural rights and democratic reform packages during his visits in the South-east; whereas he focused exclusively on terrorism and military operations during his encounters with the secular establishment and more nationalist voter base situated in central Anatolia (Cakir, 2007).

The AKP's 'democratic opening' policy was similarly vague in content. Somer and Liaras argue that from the beginning the public support for the opening was extremely weak and criticism was very strong even within the government's own constituency. Despite such reaction, the AKP continued to *talk about* its democratic opening policy up until 2011 general elections. However, this policy did not end up being politically costly for them, since no controversial reforms were proposed during this period. In this respect, the AKP acted strategically by conducting important reforms, such as Law No. 5767, shortly after general elections to attract the Kurdish vote. However, despite keeping up the discourse of reform, the AKP did not introduce any other substantial reforms afterwards so as not to alienate its support from ethnic Turks.

Overall, the AKP's Kurdish policy was informed by electoral politics, as demonstrated by the timing of legislation and its vague content in order to attract new votes without threatening its core support. This strategy in general can be

¹⁶⁰ The name of an alleged Kemalist ultra-nationalist organization with ties to Turkish security forces that is claimed to be responsible for almost all acts of political violence and to have connections with all terrorist groups in the last 30 years in Turkey.

¹⁶¹ A content analysis of religious-conservative newspapers conducted by Somer and Liaras reveals that there are very strong internal divisions within this camp (2010: 157-62).

described as being successful, since the AKP's votes in the Kurdish regions has continuously increased in general elections since 2002. The 2007 elections was a big success for the AKP, since it became the largest party in most of the Kurdish provinces with 52% of the votes, where the DTP won only 16% (Ali, 2011). Similarly, in the 2011 general elections the AKP managed to increase its votes further and gained 62% of the votes in the region, whereas the pro-Kurdish BDP remained at 23.4%. The only disappointment was the 2009 local elections, where the AKP's percentage of votes decreased.

7.3.1.2 Controlling Broadcasting

As a second motivation, Law No. 5767 enabled the AKP to control the content of broadcasting in minority languages through a state channel. This is also in line with the DPM which would hypothesise that the AKP would only engage in liberalisation reforms if the benefits exceed the costs. In this respect, it is useful to explain why the AKP adopted this law in 2008 rather than before. The legal framework for broadcasting in minority languages was already in place in 2002 and private channels were allowed to broadcast in languages other than Turkish under various restrictions after 2006. So, why did the AKP wait this long to liberalise broadcasting in Kurdish? The answer to this has been explicitly voiced both by government and DTP MPs during TGNA discussions. A DPT MP explained the justification for this law:

‘Did you ever think about the fact that at a time when communication and media have been developing at an incredible speed and at a time when there are more than ten Kurdish TV channels broadcasting all over the world through satellite, it is not meaningful to have these restrictions anymore?’ (TGNA, 2008a: 74).

Similarly, during a speech by a MHP MP criticising the law, an AKP MP interrupted: ‘[t]ake your heads out of the sand. They [Kurdish people] are watching ROJ-TV 24 hours a day anyways. Let them watch TRT. What's wrong with that?’ (TGNA, 2008c: 63). These statements show that this legislative change came at a time when the Kurdish people in Turkey were already able to watch more than ten channels broadcasting in Kurdish, 24 hours a day. Some of

these channels were even banned by the Turkish state, such as ROJ-TV, for conducting propaganda for a terrorist organisation. The fact that these broadcasts took place beyond Turkish state control and provided uncensored news and opinions about the Kurdish issue constituted a problem for the governing party (Ayata, 2011: 6). In this respect, the AKP realised that the time and programme restrictions applied to private and public TV/radio channels in Turkey no longer made sense. Moreover, it would no longer be costly to legislate in this area, since broadcasting was already *de facto* liberalised.

Moreover, the AKP became concerned that some of these *illegal* channels viewed by satellite were highly popular in the region and the state had no power to control the content of these broadcasts.

‘We are aware that an important part of our nationals have a different mother tongue. At a time when technology is so far advanced, our nationals who have a different mother tongue watch broadcasts by different channels and are subject to information from all around the world ... and they are going into different zones of influence. Do you think that this is an issue which we can close our eyes to or turn our heads away and ignore? Don’t you think we need people from our country, amongst our own nationals to explain, to broadcast and to talk to our own nationals about what is going on in Turkey and in the world?’ (TGNA, 2008e: 27).

Similarly, another AKP MP maintained:

‘Today, completely illegal channels are able to broadcast via satellite in Turkey materials, which threaten the unity of our country and our nation. Our main aim is to prevent these broadcasts conducted in different languages and dialects from being abused by others, and instead be conducted by an institution which is *controlled by state*’ (TGNA, 2008c: 73, italics added).

This final quotation is particularly interesting since it explicitly states *controlling the content of broadcasts* as a motive behind adopting Law No. 5767. In this respect, the utilitarian logic is once again confirmed by the AKP MPs’ statements, which mostly centred on fighting terrorism, justifying the military operations conducted outside of Turkey’s borders to people in the region (*ibid.*: 67) and controlling the content of broadcasts, rather than improving the cultural rights of Kurdish people.

The DTP MPs criticised the AKP's justification for the law, rather than its content:

'It is also crucial with what aim you are broadcasting in Kurdish. The PM's speech on this issue yesterday in Diyarbakir was really cautionary... [H]e said the following: "Our new openings in television and radio broadcasting will remove the psychological and cultural ground for terrorism in an important respect." Our PM did not say that it is the duty of TRT to respond to the needs of every citizen living in this country as a requirement of public broadcasting and democracy. He doesn't say that Kurds, Arabs, and other different ethnic identities, from now on you too are going to find yourselves on TRT, and this is your natural right...[B]ut what does he say? He builds sentences which imply that this channel will serve the aim of psychological war' (TGNA, 2008b, 44-5).

Similarly, the civil society representatives also questioned the actual motives behind the AKP's reform:

'A change is approaching and if they [the AKP] do not control this they [the Kurds] will. "If we don't make them watch us rather than ROJ-TV, these people will once again start to arm"... Some people see this [law] as a good development... Others think this is only show and the government is trying to impose the same state ideology but this time in Kurdish' (CS6).

'The aim is not to broadcast in the Kurdish mother tongue. The PM has said in a speech: [the aim is] "to explain our views in this language". This is unacceptable "our views". If you base your broadcasting philosophy on this, it won't have a backing from the public' (CHP5).

From a utilitarian point of the view, the AKP did not have much to lose from this law. People in the region were already able to watch illegal broadcasts in Kurdish. The AKP brought an alternative to these channels and at the same time maintained the right to control the content of the broadcasts via a state channel. As Ayata argues: 'the state television's Kurdish broadcast has to be evaluated in the context of the Turkish state's ... effort to close down ROJ-TV. Rather than fighting ROJ-TV by diplomatic means only – which has proved largely unsuccessful for the past fifteen years – the Turkish state has now entered into a *competition* with ROJ-TV through TRT 6' (2011: 14).

7.3.1.3 Gaining credit with the EU

As a final utilitarian motivation, the AKP aimed to create a favourable impression with the EU. 2008 was a time when the relations between the EU and Turkey were not progressing well. Since the negotiations opened in 2005, most of the chapters had been blocked by the EU, which also prevented other chapters from being provisionally closed. Liberalising broadcasting rights was important because it allowed the AKP to demonstrate to the EU that Turkey was still complying with the EU despite the blocked chapters. As Yildiz and Muler argue the reforms conducted in the area of broadcasting were ‘eye-catching’, ‘dramatic’ and ‘readily cognisable across Europe’ when reported (2008: 90). They go on to argue that ‘they [these reforms] have met with considerable recognition among European media commentators as indicative of Turkey’s efforts to satisfy EU demands to improve the protection of Kurdish rights’ (*ibid.*: 90). Similarly, a former high level EUSG official declared that: ‘[t]his law was adopted to suggest activity [to the EU]... The end of 2008 [is when] changes in the cabinet [took place], Egemen Bagis came. The AKP wanted to make one last move in this area, wanted to take one more step. TRT-6 was crucial for this. I was in the EUSG then, and we used this as an example in every single report we prepared for the EU’ (EUSG1).

Overall, the evidence in this section gives strong support to the government’s partisan incentives explanation for the adoption of Law 5767. As shown above this law was adopted shortly after the general and before the local elections, at a time when there were already more than ten Kurdish channels broadcasting over satellite. Therefore, the timing of law demonstrates that the AKP made a utility calculation in terms of maximising votes without threatening its traditional voter base. Moreover, the AKP also minimised the costs of opposition from outside and within the party, since the AKP was able to present this reform as a way to control dangerous broadcasts already available to Kurdish population. Finally, the generally vague nature of the AKP’s Kurdish policy confirms the utilitarian expectations, since this vagueness allowed the AKP to look attractive to Kurdish voters without losing any nationalistic supporters.

At the same time, it needs to be underlined that reform in minority rights in Turkey was only made possible through the influence of EU conditionality starting with its candidacy in 1999 (Tocci, 2006: 129). As Karakaya Polat argues ‘[t]he normalisation of the state and the mainstream discourses in regard to the Kurdish issue would not have been possible without the external legitimisation provided by the EU’ (2008: 2). In this respect, the AKP made strategic use of the favourable context provided by EU conditionality to push forward the reform in the area of broadcasting.

7.3.2 Social Learning

Social learning offers an alternative explanation to why the AKP adopted the Law No. 5767. This line of thought hypothesises that if the AKP genuinely believes in the liberalisation of cultural rights for minorities, it would adopt this legislation. Chapter Six demonstrated the AKP’s social learning to be weak and therefore suggested it was not likely to explain continued compliance. The analysis of Law No. 5767 finds equally weak levels of social learning, which is therefore unlikely to explain why the AKP liberalised broadcasting in minority languages.

If the AKP is genuine about attachment to minority rights, then these values would shape its policy programme and be mentioned in the speeches of high level officials, particularly PM Erdogan. The AKP party programme sees ‘cultural differences as richness’ and maintains that ‘languages other than Turkish strengthen the unity of the country’ given that ‘the official language and the language of education remain Turkish’ (AKP, 2010). This demonstrates that the AKP has verbally committed itself to protecting the cultural rights of minority groups. Additionally, the PM has also voiced his support in various speeches. The most ground-breaking of these was the August 12, 2005 speech given in Diyarbakir,¹⁶² which resulted in a PKK ceasefire.¹⁶³ This speech was

¹⁶² Largest city in the Kurdish region.

extremely important since the PM, for the first time in Turkish history, has declared that the previous Turkish governments had made mistakes and mishandled relations with the nation's Kurdish minority (Galali, 2005: 10). He also, for the first time in his career, accepted that there was a 'Kurdish problem' in Turkey which can be solved through greater democracy (*ibid.*: 11). Another interesting concept Erdogan introduced in his speech was the idea of supra and sub-identities. Erdogan explained that citizens of Turkish Republic have sub-identities which may differentiate them, but they all come together under a Turkish supra-identity (*ibid.*: 22). About a week after the speech in Diyarbakir, Erdogan continued his conciliatory tone on a televised address. Erdogan separated the Kurdish problem from PKK terrorism and warned the public against confusing the two. Moreover, he clarified the argument about identities: '[t]he Kurdish citizens are my citizens. [Kurdishness] is a sub-identity. We must not confuse sub-identity with supra-identity. They must all be viewed as a whole, as citizens of the Republic of Turkey' (Balta-Paker, 2005).

Erdogan's speeches got mixed reactions from different sections of Turkish society. The Kurdish community celebrated them. The DTP mayor of Diyarbakir, Osman Baydemir, maintained that this constituted 'the foundation for turning a new page in relations between Kurds and the government' (*ibid.*). At the same time, the CHP, the MHP and the secular establishment gave a very negative reaction. The army, in particular, reacted very strongly. During the NSC meeting on August 23, 2005, the General Staff warned Erdogan not to mention the 'Kurdish problem' again (*ibid.*) and declared that debates about sub/supra-identities would endanger Turkey's unitary structure (Hale and Ozbudun, 2010: 77). In this respect, the fact that the AKP committed itself to a politically costly discourse on Kurdish identity and risked a confrontation with the armed forces, demonstrates the AKP's attachment to the protection of minorities.

Despite these positive indicators, Erdogan's other speeches contradicted the above messages. Moreover, the policies followed by the AKP also cast doubt

¹⁶³ There is a continuing military conflict between the Turkish army and PKK, which is fighting for an autonomous Kurdistan and improved cultural and political rights for Kurds living in Turkey.

upon whether the AKP was genuinely attached to the protecting the rights of minorities.

7.3.2.1 Contradictions in Discourse

Firstly, if Erdogan really believed in the intrinsic merits of liberalising broadcasting in minority languages, he would not want to limit such rights to Kurds and would want to expand its scope to other minority languages. However, on a visit to Diyarbakir in January 2008, he was questioned by the Chair of the Diyarbakir Bar Association whether reforms allowing for education and broadcasting in Kurdish could help ease the current conflict. Erdogan's response directly challenged the idea of social learning: '[t]here are not only Kurds in Turkey. What if tomorrow, the Cherkez or Laz ask for the same? Everyone will demand it. How are we going to sustain unity then?' (The Economist, 2008). As one civil society representative explained in an interview: 'Erdogan had said if we give freedoms to one group others will demand freedom as well. But this is normal... If you truly believe in these rights you should not be worried about this' (CS2).¹⁶⁴ This shows that the AKP was prepared to give certain right to only one minority group, arguably large enough to provide electoral benefits.

Secondly, the AKP justified Law No. 5767 in a language of terrorism rather than cultural rights. As examined earlier the discussions in the TGNA focused on the benefits this law would bring in fighting terrorism (TGNA, 2008c: 66) and in explaining 'our [military] struggle to people who live in the region' (*ibid.*: 67). If the AKP was really socialised into protecting minority rights, it would adopt a different language. Its heavy use of terrorism and armed struggle in its discourse suggests that it is acting strategically so as not to alienate its nationalistic voters and to appease the military and secular establishment. As one interviewee maintained:

'If you talk about this in line with universal criteria and rules and place this reform in that context, the reaction you get a certain

¹⁶⁴ Similar remark made by BDP2.

reaction from the public. But if you insist on mentioning terrorist organisations every time you talk about the Kurdish issue, and conduct the democratic opening process this way, the reaction you get is different' (CS2).

Finally, over the years, Erdogan has made inconsistent and even contradictory references to the Kurdish problem. For example, in 2002, Erdogan argued in an interview that there was no 'Kurdish problem' in Turkey (Diyar, 2011). Similarly, a few days after he declared that Turkish identity was a supra-identity for both Turks and Kurds in Diyarbakir in 2005, he emphasised the unitary nature of the Turkish state and single nationhood (Yavuz and Ozcan, 2006: 111). According to Somer and Liaras 'Erdogan's overall record of public statements on the Kurdish issue was mixed and confusing, at times denying the existence of a problem' (2010: 154). The fact that Erdogan contradicted himself over the years with regard to his discourse on the Kurdish issue and adopted an exceptionally vague policy is best explained by strategic motives. On the one hand, he did not want this issue to be divisive within his own party/party-base, and on the other hand he tried to appease the Kurds with this discourse.

7.3.2.2 Contradictions in Policy

In addition to inconsistencies in discourses, the AKP's specific policies also contradict its stated overall Kurdish policy. For instance, given that the legal framework for broadcasting and education in languages other than Turkish was established by the coalition government in 2002 before the AKP came to power, it is surprising that the AKP waited this long to fully liberalise broadcasting in Kurdish. The AKP initiated this law only when illegal channels were already broadcasting in the region. Similarly, once Law No. 5767 was adopted, it would be expected that the AKP would continue its efforts to protect the cultural rights of other minorities. However, related reforms did not follow. The AKP was particularly silent about minority rights before the 2011 general elections, as the DPM would expect.

Along the same lines, the AKP's policy towards language rights within Turkey contradicted the policies they supported outside of Turkey. For instance, the AKP has been a strong supporter of both the independence of Kosovo, as well as the introduction of Turkish as the official minority language in three municipalities in Kosovo (Oktem, 2008: 7). Similarly, as a DPT MP argued, when Erdogan goes to Germany he supports the rights of Turks with regard to using their mother tongue and in Macedonia he claims that Turkish should have a status in the constitution (BDP2). Such inconsistencies in Erdogan's policies at home and abroad challenge his credibility and cast doubt on whether he really supports cultural rights for minorities.

Finally, the SLM would argue that if the AKP genuinely believes in the rights of minorities, they would not limit themselves only to particular reforms, but instead adopt a more comprehensive approach making changes in areas which may even be costly for party. The maintenance of the 10% threshold in general elections for parties to be represented in the TGNA is a very good illustration of this point. This example shows that the AKP is not motivated by social learning mechanisms and instead makes a cost/benefit calculation by picking and choosing reforms which would benefit itself. Yavuz and Ozcan argue that this threshold currently puts significant limits on the representation of ethnic Kurds in the parliament and if it were to be decreased to 5% the pro-Kurdish parties could win as much as 54 seats in the TGNA (2006: 113). Having a smaller Kurdish group in the TGNA obviously benefits the AKP by magnifying their representation. Similarly, Somer and Liaras acknowledge the fact that, while the opposition parties celebrated it, the AKP expressed its disapproval of the closure of the DTP by the Constitutional Court, since the AKP itself faced a similar threat (2010: 160). 'At the same time, however, the AKP government did not introduce any discussion of reforming the 10% threshold, which has left the Kurdish parties out of the parliament in the past' (*ibid.*: 160). Overall, only picking issues which benefit the government and building a discourse of protection of minority rights around them, while ignoring other important problems, demonstrates that the AKP deploys minority rights in a purely instrumental fashion. The words of Yavuz clearly show how the AKP is motivated by utility rather than socialisation in its choice of policy areas:

‘The EU has been calling on Turkey to restructure the Kemalist Republic to open political spaces for the Kurds and other minority voices; to reduce the ten per cent threshold requirement that would open up the possibility of ethnic Kurdish representation in parliament; and to declare a general amnesty for PKK guerrillas and members. The issue has been the redefinition of sovereignty and the enhancement of local municipalities. Although the AKP has agreed to restructure the Republic and empower local municipalities, since it hopes to benefit from these constitutional changes more than the Kurds, it is adamant in not wishing to change the ten per cent threshold. The issue of a general amnesty for PKK members is also very unpopular among the AKP’s grass roots supporters. Yet, the AKP’s main strategy is to demilitarise state and society. It measures its democratisation successes in terms of rolling back the military presence in politics’ (2009: 185)

In conclusion, despite presenting a reformist image and claiming attachment to the rights of minorities, the analysis above has demonstrated that the AKP’s discourse and policies are in contradiction. The AKP, during its tenure has made ‘gradual, tactical concessions rather than the policy revolution’ demanded by the Kurdish population (Liaras, 2009:9). The government has maintained a vague Kurdish policy and chosen to conduct reforms selectively and strategically, both to avoid confrontation with the secular establishment and to meet the demands of its very heterogeneous voter base.

Overall, this particular reform can best be described as motivated by the government’s partisan incentives, as opposed to sincere attachment to minority rights. As Somer and Liaras argue, ‘[d]espite the AKP’s reformist image, our findings indicate a limited amount of discussion and normative change in religious-conservative thinking on the Kurdish issue’ (2010: 152).

7.3.3 Political Lock-in

The political lock-in variable explains the adoption of Law No. 5767 through earlier reforms. In other words, it hypothesises that Law No. 5767 was a path-dependent result of previous amendments to broadcasting legislation and a very similar legislation could have been adopted in any case regardless of who was in

government due to path-dependent mechanisms. In this respect, this model views the role played by the AKP as minimal and considers previous reforms as the main determining factor.

Article 4 of Law No. 3984 on the Establishment and Broadcasting of the Radios and Televisions was amended in August 9, 2002 by Law No. 4771. Article 8 of Law No. 4771 allowed for radios and televisions to broadcast in languages and dialects used by Turkish nationals in their daily lives, given that these broadcasts do not contradict the constitutional principles. Subsequently, the RTUK interpreted this legislation and adopted regulations to put restrictions on the times and content of programmes broadcasted in languages other than Turkish. Finally, Law No. 5767 made further changes to the Radio and Television Law to allow the state channel TRT to broadcast in languages other than Turkish. The political lock-in explanation suggests that the most ground-breaking change with regard to broadcasting in minority languages was the 2002 reform conducted during the tenure of the DSP-led coalition government.

The AKP MPs also explicitly voiced the view that the previous coalition government allowed for minority language broadcasts during the TGNA discussions on Law No. 5767 (TGNA, 2008c: 66, 73). They stated this to convince the opposition, and particularly the MHP, that the legislation they were trying to adopt was not that controversial and, on the contrary, the framework for it had already been adopted in 2002 during the reign of the coalition government when the MHP was also a partner.

Some of the literature and interviews conducted with experts also support the claim that the most crucial reform was conducted by the coalition government, rather than the AKP. Therefore, the AKP should not take full credit for it (Somers and Liaras, 2010; BDP2). The head of the Human Right Association argued that broadcasting rights for minorities was not something invented by the AKP (CS7). Instead it was part of state policy following the announcement of Turkey's candidacy by the EU in 1999. As established in the previous chapter, integration with the EU has always been a core feature of Turkish FP. Once candidacy status was given, the membership possibility became more real and

Turkish authorities felt obliged to conduct a series of reforms to attain their FP goal.

When EU conditionality started in 1999, improving the living standards and cultural rights of the Kurdish population became an important part of Turkish state policy. The AKP's 2008 reform could therefore be explained by HI as a continuation of reforms started in 1999 by the previous government (CS7). Along the same lines, Oktem argues:

‘It was not the incumbent AKP government that passed this key reform package, paving the way for Turkey’s EU membership negotiation, but the coalition led by the late Bulent Ecevit, which voted in this package just before the November 2002 elections. The AKP government managed to take the credit and create a narrative of democratisation that impressed the liberals at home and analysts abroad, while in reality it shied away from even the most timid steps towards recognition of Kurdish concerns’ (2008: 3).

This research takes a more nuanced view than the HI argument that the adoption of Law No. 5767 was somewhat inevitable. It is acknowledged that the most ground-breaking reform in this field was conducted by the coalition government in 2002. In other words, the reform process was set in motion in 2002. However, we must bear in mind that this change was conducted at a time when the credibility of EU conditionality was high and increasing. The fact that the AKP continued this reform under diminished credibility cannot solely be explained by political lock-in mechanisms. It can be argued that the AKP would not have come up with the initiative to reform this area if not for the 2002 change, but it is certainly the case that it could have easily stopped it. The fact that they did not stop this reform and continued to comply at a time when the credibility of conditionality was significantly reduced suggests that they also benefited from it. In other words, the self-interested AKP took advantage of the incentives offered by EU conditionality in this area. Overall, the political lock-in model contributes to explaining continued compliance in T2, however it is only meaningful when considered alongside the explanations of DPM regarding the government’s partisan incentives, as there were opportunities not to comply for the AKP.

Conclusion

‘From now on nothing will be the same, not just concerning restrictions on the Kurdish language, but also the overall Kurdish question. It will now be impossible to argue that the Turkish state is an ethnically homogenous nation state. We will, in time, discover post nation-state political models of coexistence within a recognized multiethnic social community... Given the way Kurdish has been treated by the Turkish state over the decades, the establishment of a Kurdish TV channel by the state is a true revolution’ (Dagi, 2009).

Dagi’s words on the opening of the state-run TRT-6 broadcasting in Kurdish demonstrate how important and controversial Law 5767 was. The AKP was aware of the political risks involved with this move. The governing party risked creating internal divisions inside the party and constituency, and risked a confrontation with the secular establishment. Despite all these risks, the AKP still went ahead and pushed for this change.

This chapter explained the push forces behind this reform as well as the timing of legislation. It concluded that, although the political lock-in effects created by the 2002 reform in this area played a role, the real motivation behind it was utilitarian. The AKP government realised that adopting this legislation would allow it to increase its voter base without sacrificing its traditional supporters; to control the content of broadcasting in the region; and gain credit with the EU. However, the government was only able to justify this policy to its electorate and the opposition through a strong link to EU conditionality. At the same time, the analysis did not find support for the social learning model. The evidence demonstrated that the AKP’s policies and discourse often contradicted the protection of minority rights. These findings, therefore, confirm the conclusions of the previous chapter.

Chapter Eight:

Political Leadership's Compliance in Specific Issue Areas Under Diminished Credibility (2005-2010)

Introduction

The previous two chapters have explained the AKP's compliance with broader EU conditionality in the area of JHA in Turkey. It demonstrated that the government's partisan incentives together with political lock-in effects provide a powerful explanation for the AKP's compliance with EU conditionality under diminished credibility. This chapter focuses on more specific issues to explain why compliance was more successful in *some* fields than others, in other words why it was selective.

This chapter introduces *economic costs* and *political costs* variables put forward by the DPM. The economic costs hypothesis is: *if the economic benefits associated with complying with a specific EU condition are higher than its economic costs, then the political leadership is likely to comply*. Similarly, the political costs hypothesis states: *if the political benefits associated with complying with a specific EU condition are higher than its political costs, then the political leadership is likely to comply*. HI also offers two variables to understand how compliance with specific EU demands continues, namely *sunk costs* and *vested interests*. The sunk costs hypothesis is: *if Turkish authorities have already invested resources into compliance (before 2005); and/or if projects funded by the EU are ongoing (in 2005), then the political leadership is likely to continue complying*. The vested interests hypothesis maintains: *if the already conducted reforms (before 2005) are beneficial for the (potential) domestic constituencies of the governing party, then the political leadership is likely to continue complying*.

Since these four factors vary across different issue areas, this chapter conducts a comparative analysis to assess their explanatory power in the following six cases: external borders; asylum and illegal migration; organised crime; human trafficking; drugs; and cultural and political rights of minorities. The chapter measures the values of each independent variable across the six cases and subsequently compares the results. The comparative analysis finds that variables within the DPM, which take into account economic and political cost-benefit calculations, successfully explain why compliance is greater in some issue areas than others. From the two, the political costs variable carries more explanatory power. In contrast, the HI variables do not carry explanatory power.

8.1 Economic costs

To test the economic costs variable it is necessary to assess the net economic costs of compliance for each policy area. To do this, Turkish state officials' own cost analyses and the EU's financial contributions through projects¹⁶⁵ are taken into account. The analysis below demonstrates that the net economic costs of compliance are highest for the cases of asylum and immigration (*very high*) and external borders (*high*). For the fight against organised crime, human trafficking and drugs, the costs of compliance are assessed to be *low*, whereas costs are *very low* in the area of cultural and political rights of minorities.

8.1.1 External Borders

Complying with the EU in the area of external borders is very costly, since Turkey's policy and institutional fit with the EU *acquis* is low. Establishing a new civilian force to protect the borders; providing training for them; setting up expulsion centres; strengthening the administrative and technical capacities of the institutions, which are currently involved in protecting Turkey's borders;

¹⁶⁵ There are no other expected economic benefits provided by the EU in the short and medium-term for specific policy areas. Of course the EU membership itself would bring substantial economic benefits, however due to very low levels of credibility the membership outcome is not considered as a possibility in the short or medium-term.

complying with EU visa requirements; and modernising the border control gates requires considerable financial resources. Turkish authorities have estimated the amount needed to formally and behaviourally comply with EU conditionality in various NPAAAs. The 2003 NPAA estimated the costs to be €26,655,000 for the actions to be taken between 2003 and 2005 (2003: 660-5). The 2008 NPAA, which identified more considerable reforms between 2009 and 2011, calculated the costs to be €38,631,880 (2008: 273-6). Finally, the most comprehensive financial plan was put forward as part of the action plan developed to implement the strategy document on integrated border management. The annex of this document suggested that a total of 29 EU projects were required to comply with the *acquis* in this field, requiring a total budget of €3,779,750,000 (BMB, 2006: 18-40).¹⁶⁶ The experts interviewed in this field all share the view that external borders is a very, and potentially the most, expensive field within JHA (MI1; BMB1), which cannot be delivered without substantial EU funding (AKP7; EUSG7; EUSG6; EUSG2; BMB1; MI1).

Considering the costs are very high in this field, it is necessary to assess to what extent the EU funding, as part of its Instrument for Pre-accession Assistance, has been able to meet these expenses. Between 2002 and 2008 a total of eight projects¹⁶⁷ have started related to external borders and the EU has agreed to provide €37,276,750 (*see* Table 8.1). This amount appears to be considerable, particularly in comparison to the budgets put forward by the two NPAAAs. However, it has to be acknowledged that this sum allows Turkey to address only a small part of EU conditionality in this area, such as the development of an action plan, a roadmap, visa policy; training of current border police; and investment into border surveillance architecture. The EU Commission has suggested that the Turkish government itself needs to provide the majority of the material resources necessary for compliance, since the EU's limited funds would

¹⁶⁶ Moreover, Turkey will have to take on a substantial administrative and financial burden if it complies with the EU's Schengen visa regime, since it would have to issue visas to a large number of people through its representations abroad (rather than at the borders). Furthermore, this new visa regime may lead to a considerable fall in the number of people visiting Turkey (Kirisci, 2007: 38).

¹⁶⁷ Projects conducted in areas of human trafficking, migrant trafficking and customs administration are closely related to external borders. However, for this analysis only the projects that specifically relate to integrated border management are taken into account.

only be able to cover a minor part of compliance costs (Kirisci, 2007: 21). Therefore, the economic costs of compliance are still *high*, since the most expensive institution-building reforms have not yet been completed.¹⁶⁸

8.1.2 Asylum and Illegal Migration

Complying with the EU acquis on asylum and illegal migration is also extremely costly. In this area, Turkey is required to establish reception centres for asylum seekers, guesthouses/shelters for refugees and expulsion centres for illegal migrants; set up a country of origin database; provide social support mechanisms for refugees; establish institutions to operate in this area; and provide training for personnel. In addition to these costly behavioural compliance measures, formal compliance with asylum and illegal migration acquis is also very expensive. In particular, when Turkey concludes a readmission agreement with the EU and lifts its geographical limitation on the Geneva Convention, there is likely to be a significant influx of illegal migrants and asylum seekers into Turkey. Kirisci claims the greatest nightmare scenario for Turkey would be to lift the geographical limitation without being seriously considered as a new EU member, since Turkey would have to bear large economic costs without the benefits of membership (2007: 16-17). Moreover, Turkey's geographical position, linking Middle East and Central Asia to Europe, makes it an attractive gateway to Europe for illegal migrants, as well as a buffer zone for EU's unwanted asylum seekers and refugees, which in turn adds to its material burden.

The statistics suggest that more than 620,000 illegal migrants were arrested in Turkey between 1995 and 2006 (Kirisci, 2007: 23). Once they are caught, the costs of providing them shelter and sending them back to their country of origin are very high (AIB1). Similarly, around 3,500 asylum applications were submitted per year between 1995 and 2006, totalling 45,000 applications (Kirisci, 2007: 13-14). The average number of applications substantially

¹⁶⁸ Two interviewees shared this view. They maintained that even though a considerable amount of funding has been used in this area, this is 'nowhere near enough' to comply fully with the EU conditionality (EUSG2; EUSG6).

increased recently, with 11,248 new asylum seekers in 2008 and 7,834 applications in 2009 (Commission, 2010a: 82). Regardless of whether their application is accepted or rejected, these asylum seekers stay for approximately two to three years in Turkey and make use of social services during this time. Once again, the total costs of hosting asylum seekers are very high.

The 2003 NPAA has estimated the costs of compliance in this field as €102,150,000 in the initial stages of conditionality (2003: 655-9, 665-8) and this amount increased to €120,010,000 in the 2008 NPAA (2008: 252-72).¹⁶⁹ However, these estimates do not consider the material costs of concluding a readmission agreement with the EU and lifting the geographical limitation.¹⁷⁰ The number of people who would arrive at Turkey due to these changes is uncertain, but it is expected to be extremely high. According to experts this would put a significant burden on Turkey, which it is financially not ready to cope with (EUSG2; EUSG 6; EUSG7; MI1; AIB1). Therefore, some form of *burden-sharing* between the EU and Turkey needs to take place.

So far, four EU projects have been agreed in this area. The first small-scale project in 2002 helped Turkish authorities develop an action plan in this field. The EU has approved three larger-scale projects in 2006 and 2007, which are still ongoing. These projects have received €79,473,500 of EU support in total to help Turkey set up a country of origin information system, and establish two removal and seven reception centres (*see* Table 8.1). The two projects to establish removal and reception centres are particularly expensive with a total budget of €81,833,333, the EU providing €62,100,000. This amounts to 24% of EU's total financial assistance for Turkey in 2007. Funding of this size for infrastructure projects is by far the largest Turkey has received from the EU. In this respect, the EU's contribution in the area of asylum and illegal migration is undeniable (EUSG2; EUSG6; AIB1). At the same time, the interviewees share the belief that in an area as costly as asylum and illegal migration, these funds

¹⁶⁹ Unfortunately, a more detailed cost analysis, as in the case of external borders, has not been conducted.

¹⁷⁰ One interviewee speculated the costs of complying with all the EU requirements in this area, including signing the readmission agreements and lifting the geographical limitation, would cost Turkey around eight billion Euros (AKP7).

remain symbolic. They guide Turkey's further reform efforts by offering pilot cases, rather than easing Turkey's actual financial burden (EUSG6; AIB1). For instance, the nine reception and removal centres which are planned to be built with the EU help will be able to accommodate around 4000 people, whereas Turkey will be expected an influx of around two million people (AIM1; AIM2; EUSG6). Therefore, despite the fact that the EU supported Turkey's compliance efforts with substantial amount of funding, the economic costs of compliance in this area are still *very high*.

8.1.3 Organised Crime, Human Trafficking and Drugs

The fields of organised crime, human trafficking and drugs have similar economic costs of compliance.¹⁷¹ The most costly reforms in these areas are to do with behavioural compliance, such as strengthening the administrative capacity of government institutions, enhancing cooperation between law enforcement bodies and training of staff. The 2003 NPAA estimated the costs of compliance as €5,539,000 in organised crime and human trafficking, and €2,000,000 in the field of drugs (2003: 668-76). The 2008 NPAA arrived at a similar figure, €8,205,000, in all three policy areas combined (2008: 277-81). In comparison to the costs of complying with EU's *acquis* in external borders and asylum and illegal migration, compliance costs in these three areas are minimal. In fact, in both the 2003 and the 2008 NPAAs, the material costs in these three areas combined amount to only 5% of the total costs in all areas considered in this research. The experts also shared the view that these areas did not have serious economic costs in comparison to the previous two areas (AKP7; MI1; EUSG2). Moreover, a significant number of EU projects have commenced in this area. Four projects have been initiated in the area of organised crime, two in human trafficking and three in the area of drugs. With these nine projects, the EU has committed itself to allocate a total of €39,765,485 (*see* Table 8.1). This is significant, since it is almost five times as the costs estimated in the 2008

¹⁷¹ Moreover, the NPAAs do not distinguish between these issues when developing budgets.

NPAA.¹⁷² Overall, it can be argued that most of the costs of compliance in this field have been offset by the material funds delivered by the EU and therefore the costs are judged to be *low*.

8.1.4 Cultural and Political Rights of Minorities

Finally, in the area of cultural and political rights of minorities, the costs of formally complying, changing legislation in the TGNA, are minimal. Similarly, the only major cost regarding behavioural compliance in this area is the training of judges, law enforcement officers and experts responsible for following the broadcasts in languages other than Turkish. Therefore, the costs in this area are *very low* (AKP7; MI1; EUSG2). It is rather difficult to accurately identify costs in this area, since Turkish authorities do not propose a budget for compliance with the political criteria. However, one cost analysis was included in the 23rd chapter of the 2008 NPAA to reform the RTUK between 2009 and 2011 with a budget of €30,000 (2008: 249). This number is extremely low in comparison to the budgets devised in other policy areas and amounts to only 0.02% of the total budget. The EU, on the other hand, has granted €2,500,000 for a project in this area (*see* Table 8.1). Overall, the EU's contribution is considerably more than the costs put forward by the Turkish authorities, therefore is assumed to cover the majority of the costs in this area.

¹⁷² One has to be cautious in using the costs estimated by the NPAA's because these only consider the costs of compliance in the medium-term, rather than the entirety of conditionality. For instance, the 2008 NPAA estimates the costs of compliance in the area of external borders to be €38,631,880, whereas a more detailed analysis measured the total costs of compliance in this area to be €3,779,750,000, which is nearly 100 times greater than the 2008 NPAA's estimate.

Table 8.1: Comparison of Costs¹⁷³ and EU's Financial Contributions¹⁷⁴

	Costs (2003) € (% of total)	Costs (2008) € (% of total)	EU Funding € (% of total)	No. of EU Projects	Cost Assessment
External Borders	26,655,000 (20%)	38,631,880 (23%)	37,276,750 (23%)	8	High
Asylum and Illegal Migration	102,150,000 (75%)	120,010,000 (72%)	79,473,500 (50%)	4	Very High
Organised Crime	5,539,000 (4%)	8,205,000 (5%)	29,748,735 (19%)	4	Low
Human Trafficking			4,200,000 (3%)	2	Low
Drugs	2,000,000 (1%)		5,816,750 (4%)	3	Low
Cultural and Political Rights of Minorities	-	30,000 (0%) ¹⁷⁵	2,500,000 (2%)	1	Very Low
Total	136,344,000 (100%)	166,876,880 (100%)	159,015,735 (100%)	22	-

Source: Author's analysis from NPAs (2003; 2008); Commission (2006b; 2010b)

Overall, as Table 8.1 above demonstrates, the costs of compliance in these areas vary considerably. According to the NPAs, asylum and illegal migration makes up over 70% of the total costs; external borders over 20%; the fight against organised crime, human trafficking and drugs in combination around 5%; and a negligible cost for compliance in cultural and political rights of minorities. It is also important to take into account the EU's financial contributions. JHA is a priority area for the EU (Kirisci, 2007: 8; EUSG2), and therefore the EU has

¹⁷³ The 2003 and 2008 NPAs put forward budgets which cover the costs of compliance in the medium-term (3-4 years), and not the entirety of costs of compliance. However, considering them is still useful for comparative purposes.

¹⁷⁴ The EU contributions in the context of PHARE cover at least 75% of the budget in each project. Therefore, these numbers do not indicate the total budget for each project, since Turkey's financial contribution has not been taken into account.

¹⁷⁵ Originally 0.02%.

granted substantial funds to all six of the issues considered in this research.¹⁷⁶ However, as the Table 8.1 demonstrates, these funds have not been distributed equally. Most EU funds have addressed the asylum issue (50%); external borders received 23%; organised crime, human trafficking and drugs got 26% and cultural and political rights received only 2%. Overall, it can be argued that even though the EU funds addressed some of the costs, economic costs of compliance are still *very high* for asylum and illegal migration and *high* for external borders.¹⁷⁷ The costs of compliance have been much less in the areas of organised crime, human trafficking and drugs, and EU funding addressed most of these needs. Therefore, the remaining economic costs of compliance are *low*. Finally, EU funding substantially exceeded the short-to-medium costs in the area of cultural and political rights of minorities, where the costs were low to begin with; therefore costs of compliance are *very low*.

8.2 Political costs

This section measures the net political costs for each policy area, firstly by assessing the strength of domestic resistance to reform. Resistance incorporates veto-players but is not limited to it. It also considers whether compliance with the EU contradicts the unitary nature of the Turkish state and whether powerful groups and/or the general electorate are opposed to compliance. As Schimmelfennig *et al.* argue the political costs of compliance increase as the EU negatively affects the ‘security and integrity of the state, the government’s domestic power base, and its core political practices for power preservation’ (2005: 31). Secondly, it is also possible for the EU reforms to provide political benefits for the governing party. This depends on the extent to which the EU demands overlap with the AKP’s policy aims. This section finds that the political costs of compliance are *very high* in the area of cultural and political rights of minorities, *high* for external borders, *low* for asylum and illegal migration, and

¹⁷⁶ For instance, in 2003, five out of the total of 18 twinning projects dealt with JHA issues (Kirisci, 2007: 8).

¹⁷⁷ These two areas are identified as the most costly by most of the interviewees consulted (EUSG2; EUSG6; GDS1; GDS2; BMB1; BMB2; AIB1; MI1; MFA3).

finally *very low* for the fight against organised crime, human trafficking and drugs.

8.2.1 External Borders

Complying with the EU's requirements on external borders incurs *high* political costs on the governing party due to a number of reasons. Firstly, there are currently twelve state bodies involved in Turkey's borders. This creates problems not only for coordination in the management of borders, but also for its reform. All the bodies involved resist reform, since they do not wish to give away their power and influence at the borders to a new civilian institution (Kirisci, 2007: 21; EUSG7; MI1; BMB1). In particular, the military is extremely reluctant to transfer powers to a civilian institution and acts as a veto-player against reform. Turkey's geographic position and the presence of a terrorism threat in its South-eastern borders make the military's approval to any kind of change regarding the protection of borders even more unlikely (Kirisci, 2007: 2). The Turkish military insists that it should continue to be present, both physically and in the decision-making process, particularly due to the stated difficulty of controlling the extremely mountainous areas alongside the East and South-east borders with countries like Syria, Iraq and Iran (EUSG6).

Secondly, the creation of a professional civilian border management force is likely to restrict illegal activities across the borders, such as smuggling and bribery. It is known that border provinces receive a substantial part of their revenue from such illegal activities and therefore there is likely to be some public opposition to reform in border provinces (BMB1, MI1, EUSG2). In other words, the loss of revenue in these provinces may translate to loss of votes for the governing party in the general and/or local elections, although this is not expected to be significant. Moreover, conducting reform in this area does not offer the AKP any additional benefits. The issue of reforming borders has not been incorporated into any of the AKP's party programmes or election manifestos as a policy priority. Similarly, the experts interviewed in this field have all maintained that, if it were not for the EU, the AKP would not commit

itself to any reforms in this area (AKP7; BMB1; MI1; EUSG2; EUSG7; MFA3; GDS2). Overall, even though the general public opinion is not opposed to reform in this area and the AKP's important constituencies, such as the Islamist and business circles, do not oppose change, the military's resistance to change is considerable. Therefore, the political costs of compliance are judged to be *high* in this area.¹⁷⁸

8.2.2 Asylum and Illegal Migration

The political costs of complying with EU's asylum and illegal migration acquis are *low* for the governing party, since there are no serious public resistance or domestic veto-players against reform. With respect to public opinion, even though some public opposition is present, this is expected to be rather limited. There may be local opposition to accommodating a larger number of refugees and illegal migrants due to the perception that this may lead to unemployment within a region (AIB1). At the same time, there may also be support for this change counteracting the opposition, since hosting refugees and illegal migrants may help the local economy by increasing economic activity (EUSG2). The general public may also be unhappy about the government using taxpayer's money to look after asylum seekers and illegal migrants (MI1). However, this type of public resistance is extremely unlikely. Considering that the Turkish public has never experienced a serious migration flow into the country in the recent past, there is currently little negative public opinion regarding this issue (AIB1). Similarly, accepting to host a large number of asylum seekers may be politically beneficial for the current government, since it would show the compassionate face of the AKP to the public. Due to these reasons, serious public opposition is not expected (AIB1; AKP7; MI1; EUSG2). Other important domestic actors, namely the military, the judiciary, the Kemalist elite and the AKP's important constituencies, such as the Islamists or the business lobby, are not expected to resist compliance either.

¹⁷⁸ Similarly, in a comparative analysis of external borders, asylum, illegal migration, human trafficking and visa regime, Kirisci assesses this area as the most costly one, since it requires cooperation with the military (2007: 22).

It should also be acknowledged that compliance with the EU in this area does not provide any specific benefits to the governing party either. It is clear from examining the AKP's party programme and election manifestos that the party has not made any references to this issue. Therefore, it can be assumed that the AKP would not have committed itself to make these changes were it not for the EU (AKP7; BMB1; EUSG2; EUSG7; MFA3; GDS1; GDS2). Overall, taking into account both the costs and benefits, compliance with the EU in this area is expected to incur *low* costs for the AKP.

8.2.3 Organised Crime, Human Trafficking and Drugs

In the areas of the fight against organised crime, human trafficking and drugs the political costs of compliance are negligible for the AKP. All the experts interviewed in this field have maintained that these were *easy* fields and it was very unlikely for the Turkish public to oppose any reforms regarding the fight against organised crime, human trafficking and drugs (AKP7; EUSG1; EUSG2; EUSG7; MI1; MFA3; GDS2; AKP12). Similarly, veto-players and important AKP supporters are not likely to oppose reforms. In other words, compliance with the EU in these three fields is unlikely to create any losers in society.¹⁷⁹ On the contrary, compliance is likely to be politically beneficial for the governing party. Even before it came to power, the AKP had identified these issues¹⁸⁰ in its party programme and election manifesto (AKP, 2010; 2007). Similarly, the interviewees maintained that the AKP would still conduct reforms in these areas even in the absence of any EU conditionality (AKP7; EUSG1; EUSG2; EUSG7; MI1; MFA3; GDS2; AKP12). In this respect, there has been an overlap between the priorities of the governing party and EU conditionality. Therefore, it can be concluded that the political costs of compliance with the EU in these three areas are *very low* for the AKP.

¹⁷⁹ With the possible exception of the underground economy.

¹⁸⁰ The fight against organised crime and drugs was mentioned.

8.2.4 Cultural and Political Rights of Minorities

Finally, in the area of cultural and political rights of minorities the net political costs of compliance are *very high* for the governing party. This is essentially because reforms conducted in this area are seen to contradict the unitary nature of the Turkish state and influential groups strongly oppose any reform. Most significantly, the military and the Kemalist establishment are staunchly resistant to reform, since they believe that the EU reforms, which define Kurdish citizens as a minority group and grant them cultural and political group rights,¹⁸¹ will transform Turkish state into a multicultural, decentralised, federal political system (Oguzlu and Kibaroglu, 2009: 586). Whereas the AKP has framed the cultural and political rights of minorities, particularly the Kurdish minority, as a domestic politics issue, these two important veto-players have outlined it as a national security threat (Patton, 2007: 353). Similarly, the nationalist sections of society, which also exist amongst the AKP's Islamic constituency, are also heavily opposed to any kind of change in this area. According to Onis, even limited proposals on setting up courses to teach languages other than Turkish as part of the Turkish national curriculum have received 'vigorous opposition from the nationalistic bloc' (2003b: 15). In sum, this analysis demonstrates that reform in this field is politically extremely costly. Both the important veto-players in the Turkish political system and the general Turkish public are suspicious of reform. The experts interviewed also shared this view and described this policy area as the most difficult one to reform (AKP7; AKP9; EUSG2; MI1).

At the same time, it can also be argued that conducting reforms in this area may provide certain political benefits to the AKP. The issues regarding the cultural and political rights of minorities, as well as the general situation of the East and South-east Anatolia, have been incorporated into the AKP's party programme. This programme maintains that the party 'shall respect the rights and freedoms of those who are in the minority' and also, given Turkish remains the official language, 'cultural activities in languages other than Turkish, including broadcasting' are regarded as assets which reinforce the unity and integrity of

¹⁸¹ Currently, they are not recognised as a minority in Turkey, therefore only have individual rights.

Turkey as opposed to weakening it (AKP, 2010). Similarly, the interviewees argued that this would be an area where the AKP could commit itself to reforms even in the absence of EU conditionality (AKP7; AKP12; EUSG2; EUSG7; MI1; MFA3; GDS1; GDS2). The election results also demonstrate that the AKP was able to increase its share of votes in the Eastern and South-eastern provinces since 2002 (Kotan and Benli, 2009). Overall, even though the EU conditionality overlaps with some of the policy priorities of the AKP, complying with EU requirements in this field still incurs *very high* political costs due to the presence of strong veto-players and opposition from the nationalists.

8.3 Sunk Costs

Historical institutionalism (HI) suggests that the resources invested into formal and behavioural compliance within T1, be they long-term compliance plans or material funds from the EU, will have an impact on whether the government officials continue complying in these areas within T2. This section, therefore, measures the sunk costs associated with each policy area and concludes that these costs are *low* in external borders, *high* in asylum and illegal migration, *very low* in the fight against organised crime and drugs, *very high* in human trafficking, and *medium* in cultural and political rights of minorities.

8.3.1 External Borders

In the area of external borders formal and behavioural compliance conducted within T1 is negligible and has not created any noteworthy sunk costs. Most significantly, the most politically and economically costly reform – the creation of a civilian border force – has so far not been realised. Lack of reform on this front is the main reason behind the lack of any considerable sunk costs. Within T1 the control of some borders have been transferred to land forces, however this particular issue is not necessarily linked to future compliance. Additionally, the strategy document for border management has been adopted in 2003, but this document is rather brief and does not provide a detailed programme for future

compliance as action plans do. Moreover, only one of the three EU projects, which started in T1, was planned to be completed in T2 and this project's budget constitutes only 5% of the total EU funding granted in the area of external borders (Commission, 2006b; 2010b). On the other hand, setting up the BMB, the task force and the border management project departments are significant institutional developments achieved within T1, which would have incurred some sunk costs. In sum, even though some institutional developments took place, the sunk costs of compliance in T1 are *low* for external borders due to the lack of any progress in the establishment of a civilian border force.

8.3.2 Asylum and Illegal Migration

In the area of asylum and illegal migration, the Turkish authorities have invested considerable resources into compliance within T1. Even though there were no ongoing EU projects at the end of T1 and Turkey failed to comply with two costly EU conditions (readmission agreements and lifting the geographical limitation), Turkey's compliance within T1 constitute high sunk costs for future reform. Most importantly, not only a strategy document, but also a detailed action plan, laying down the future reform schedule, have been adopted within T1. Moreover, a lot of progress has been achieved in the readmission negotiations with Greece, as well as with other countries in T1. Additionally, by 2003 Turkey has managed to divert illegal migration routes away from Turkey, because of progress achieved at border checkpoints and the training provided to law enforcement officials. Overall, due to Turkey's progress regarding long-term plans and behavioural compliance in this field, the sunk costs are judged to be *high*.

8.3.3 Organised Crime

In the area of organised crime, even though some compliance was conducted within the T1 period, the most important developments have taken place after 2005. The adoption of both the strategy document and the action plan and all of

the institutional and infrastructural developments took place in T2, such as the standardisation of statistics; progress on setting up a nationwide DNA and fingerprint database; and strengthening of forensic capacity. On the other hand, a number of international treaties and legal changes were adopted before 2005. However, these are stand-alone acts and are not necessarily linked to future compliance. Moreover, an EU project in this area, which started in 2002, was completed before the end of T1 period (Commission, 2006b; 2010b). Overall, the sunk costs in this area are *very low*.

8.3.4 Human Trafficking

In human trafficking, a significant level of formal and behavioural compliance has been conducted prior to 2005; therefore the sunk costs are *very high*. A considerable number of legislation have been adopted within T1 and most importantly a detailed national action plan was prepared in 2003. Moreover, there have also been important reforms in institution-building, which are crucial for sunk costs. For instance a human trafficking unit has been set up and two shelters started to operate in 2004. Additionally, a programme on combating human trafficking was launched in 2005. Finally, a financially significant (Commission, 2006b; 2010b) EU project, which started in 2003, was planned to be finished after the T1 period.

8.3.5 Drugs

In the area of drugs the significant part of formal and behavioural compliance took place in T2. These include the adoption of the strategy document, national and local action plans; enhanced cooperation with international bodies; strengthening of drug demand reduction; improving treatment and rehabilitation facilities; as well as institutional advancements. Moreover, an EU project, which started in 2002, was completed within the T1 period (Commission, 2006b; 2010b). Some international treaties were signed prior to 2005, however these are isolated acts and do not necessarily make future compliance easier or less costly.

The TADOC was also set up within the T1 period, but this development alone does not constitute significant sunk costs. Overall, the sunk costs in this area are judged to be *very low*.

8.3.6 Cultural and Political Rights of Minorities

Finally, in the area of cultural and political rights of minorities, there are *medium* sunk costs. A number of important legal changes have been adopted prior to 2005, regarding minority associations; civil registry law; broadcasting in languages other than Turkish; and languages used in education. More significantly for sunk costs, an EU project which started in 2005 continued onto the T2 period and this project constitutes the entirety of the EU's funding in this area (Commission, 2006b; 2010b). Overall, even though some compliance was achieved and substantial EU funding was guaranteed within T1, important long-term programmes have not been adopted and/or crucial institutional/infrastructural advancements did not take place within T1.

8.4 Vested Interests

In line with HI, altering or reversing reforms which have already been conducted may be costly for particular groups in society. These costs would have an impact on the governing party's compliance, if these groups are part of their current or potential constituency. This section assesses the level of vested interests in each policy area and concludes that whereas the level of vested interests are *very low* in the areas of external borders, asylum and illegal migration, the fight against organised crime, human trafficking and drugs; and they are *medium* in the area of cultural and political rights of minorities.

8.4.1 External Borders; Asylum and Illegal Migration; Organised Crime; Human Trafficking; and Drugs

In five of the cases under analysis it is difficult to identify groups who have gained specific benefits from the reforms conducted in T1. Important groups and interests in Turkish society, such as the security establishment, the judiciary, Kemalist/secularist elite, nationalists, Islamists, minority groups, conservative and secular business communities, as well as the leading political parties, such as the CHP, MHP or the DTP, who may benefit from these reforms have so far not benefited significantly enough to hold strong vested interests in these areas. Moreover, although the public as a whole generally regard these changes positively, this is not to the extent that they could be identified as having strong vested interests in the continuation of reform in these policy areas. In this respect, the general public is not expected to show strong opposition if the AKP stops complying with the EU and therefore, their views on these reforms are not likely to have an impact on the AKP's compliance. Overall, vested interests in all five of these areas are *very low*.

8.4.2 Cultural and Political Rights of Minorities

In the area of cultural and political rights of minorities, certain groups in Turkish society have strong vested interests in continued compliance. Even though the military, judiciary, Kemalist elites, nationalist segments of society, the CHP and the MHP are staunchly against continuation of reform, the liberal segments of society, the religious and ethnic minority groups and the DTP have so far benefited from the reforms conducted in T1 and they all have expectations regarding further reform. Future reform has been promised to them through the NPAs, the government's party programme and election manifestos. The AKP's commitment to reform Turkey's human rights record was the main reason why the liberals voted for the AKP both in 2002 and 2007. If the AKP reverses its policy in this area, it is likely to cost the AKP votes.

The minority groups, and particularly the Kurds who have so far benefited from reforms, have strong vested interests in further reform. It must be acknowledged that not all these minority groups are part of the AKP's constituency. A substantial part of the Kurdish population living in the East and South-east of Turkey, which is electorally the most significant among the minority groups, has been supporting the DTP. However, Carkoglu has shown that this party's vote share has remained around 5% of the national vote between 2004 and 2009, which 'by all estimates is well below the share of the ethnic-Kurdish population of voting age' (2009: 2). The only other party that has a presence in the region has been the AKP. Since 2002, the AKP not only continuously increased its vote share in the region but has also always won the largest share of votes ahead of the DTP. What this suggests is that the AKP was able to attract an important part of the Kurdish votes since 2002. Therefore, it is reasonable to expect that the AKP would take the views of this Kurdish constituency seriously and consider the electoral costs of altering/reversing their reform process with regards to the rights of minorities. Overall, due to these various actors' interest in continued compliance, it can be concluded that the level of vested interests are *medium* in this field.

8.5 Results

This chapter has so far measured the levels of four variables from the DPM and HI in six case studies (*see* Table 8.2). The objective here is to compare the power of these four variables in explaining compliance in T2. To do this it is necessary to refer to Chapter Five's conclusions regarding compliance levels in T2 in these case studies. Chapter Five has calculated a single compliance score for each case study, by taking the average of formal and behavioural compliance outcomes. It concluded that the average level of compliance is *low* for external borders; *partial* for asylum and illegal migration; *very high* for organised crime; *high* for human trafficking; *very high* for drugs; and finally *partial* for cultural and political rights of minorities (*see* Table 5.3). At the same time, the rate of

compliance on average showed *minor improvements* in external borders; *minor improvements* in asylum and illegal migration; *major improvements* for organised crime; *stable* for human trafficking; *major improvements* for drugs and *minor improvements* in cultural and political rights of minorities (see Table 5.4).

Table 8.2: Values of the Variables from the DPM and HI

Issue Areas	Economic Costs	Political Costs	Sunk Costs	Vested Interests
External Borders	High	High	Low	Very low
Asylum and Illegal Migration	Very high	Low	High	Very low
Organised Crime	Low	Very low	Very low	Very low
Human Trafficking	Low	Very low	Very high	Very low
Drugs	Low	Very low	Very low	Very low
Cultural and Political Rights of Minorities	Very low	Very high	Partial	Partial

To comparatively assess these variables, firstly, the value assigned to each variable in each policy area in Table 8.2 (expressed as *very high*, *high*, *partial*, *low* or *very low*) is reassessed using the research hypotheses. This is done so that the new values represent the hypothesised effects of these variables on compliance. For instance, the political costs of compliance with the cultural and political rights of minorities have been assessed to be *very high*. Considering that the political costs hypothesis puts forwards an inverse relationship between costs and likelihood of compliance, the hypothesised effect of this variable in this particular case for compliance is measured to be *very unlikely* (--). The same reassessment is conducted for other variables as well. The economic costs variable is also inversely related to compliance, whereas both the sunk costs and vested interests variables are directly related to compliance. Table 8.3 below

summarises all these hypothesised effects and also incorporates the values of the dependent variable¹⁸² taken from Chapter Five.¹⁸³

Table 8.3: Comparison between Hypothesised Impact of Independent Variables and Actual Compliance Outcomes

Issue Areas	Economic Costs	Political Costs	Sunk Costs	Vested Interests	Compliance Level	Change in Compliance Rate
External Borders	-	-	-	--	-	+
Asylum and Illegal Migration	--	+	+	--	+/-	+
Organised Crime	+	++	--	--	++	++
Human Trafficking	+	++	++	--	+	+/-
Drugs	+	++	--	--	++	++
Cultural and Political Rights of Minorities	++	--	+/-	+/-	+/-	+

Notes: Hypothesised effects of independent variables on compliance: *highly likely* (++) , *likely* (+), *possible* (+/-), *unlikely* (-), *highly unlikely* (--). Compliance Level is: (++) *very high*, (+) *high*, (+/-) *partial*, (-) *low*, (--) *very low*. Change in compliance rate is: (++) *major improvements*, (+) *minor improvements*, (+/-) *stable*, (-) *minor reductions*, (--) *major reductions*.

¹⁸² This analysis uses two similar measurements of compliance, both of which relate to the main focus of this research – continued compliance in T2. The economic and political costs hypotheses set up a relationship between these variables and the levels of compliance. This version of the dependent variable measures the extent of continued compliance in T2. The vested interests and sunk costs hypotheses explain how the investments made in the past make it easier to continue compliance in T2. Therefore, the extent of compliance in T2 can still be used as a dependent variable. Additionally, another relationship can be formulated between these independent variables and the change in the rate of compliance in T2. Chapter Five measures both versions of the dependent variable for each cast study.

¹⁸³ It would also be useful to analyse the configurational effects of these variables through Qualitative Comparative Analysis. The present analysis considers each variable in isolation, therefore is not completely accurate. However, this is still a good indicator of the explanatory power of each variable, which can then be compared, and is therefore sufficient for the purposes of the research.

Table 8.3 demonstrates that the DPM's economic costs and political costs variables are more successful at explaining continued compliance in the six cases under consideration, than HI's variables. Out of the two DPM variables, the political costs variable is particularly strong in explaining continued compliance levels. There is an exact match between the hypothesised effects and the compliance outcomes in three cases, namely external borders, organised crime and drugs. In the areas of asylum and illegal migration and human trafficking there is only one value difference and finally in the area of cultural and political rights of minorities, there are two values difference. In none of the case studies the direction of the hypothesised effect contradicted the actual compliance level. In other words, there are no cases where the variable suggested *unlikely* or *very unlikely* compliance and the compliance outcome was *high* or *very high*.

The hypothesised effects of the economic costs variable exactly corresponds to compliance levels in the areas of external borders and human trafficking, and are one value apart in the cases of drugs and organised crime. In the cases of asylum and illegal migration and cultural and political rights of minorities the hypothesised effects and actual outcomes are different by two values. In none of the cases was the direction of the hypothesised effect opposite to the actual outcome.

The sunk costs and vested interests variables, on the other hand, do not provide as accurate or systematic explanations of compliance. For sunk costs, even though the hypothesised effects accurately match the outcomes in the cases of external borders and cultural and political rights of minorities and they are only different by one value in the cases of asylum and illegal migration and human trafficking, the values completely contradict in the two remaining cases. In other words, in organised crime and drugs, the value of the sunk costs variable suggests that compliance is *very unlikely*, yet there is *very high* compliance. The vested interests variable is even less successful in explaining compliance. Apart from the cases of cultural and political rights of minorities (values match), external borders (one value difference) and asylum and illegal migration (two values difference), the hypothesised effects and the actual compliance outcomes

are considerably different in human trafficking (-- and +) and at two opposite ends (++ and --) in the field of drugs and organised crime.

Another way to interpret the HI variables is to compare their hypothesised effects with the *change in compliance rate* as opposed to compliance levels. Both of the HI hypotheses put forward a relationship between these independent variables and the likelihood of *continued compliance* after 2005, therefore this analysis appears to be more suitable. However, the change in compliance also cannot sufficiently be explained by sunk costs or vested interests, since there is too much discrepancy between the hypothesised effects and the actual changes in compliance. For sunk costs the values match perfectly in asylum and illegal migration, differ by one value in cultural and political rights of minorities and by two values in external borders and human trafficking. However, in the areas of drugs and organised crime they are at opposite ends (-- and ++). Similarly the hypothesised effects of the vested interests variable and continued compliance are one value apart in the case of cultural and political rights of minorities and apart by two values in the case of human trafficking. In the remainder of four cases, the results are contradictory.

Overall, based on this comparative analysis the two DPM hypotheses, economic and political costs, are confirmed, and at the same time the two HI hypotheses, sunk costs and vested interests, are refuted. These HI variables not only offer much weaker explanations of compliance, but more particularly the direction of the hypothesised effects and the actual outcomes contradict in one third of the cases. On the other hand, this analysis demonstrates that the two DPM variables when considered together successfully explain continued compliance in the six case studies under analysis. When these two variables are compared, the political costs variable holds higher explanatory power than the economic costs.

The only case where the political costs offer a comparatively weaker explanation is the case of cultural and political rights of minorities. In this case, even though the political costs of compliance were very high, making compliance highly unlikely, the level of compliance was measured to be partial. In other words, the compliance result was better than expected on the basis of specific political costs.

This is a very important point to emphasise, since it demonstrates that issue-specific costs and benefits do not provide a comprehensive explanation for continued compliance in Turkey. This suggests that there must be other factors at work improving compliance, such as the government's partisan incentives.

Conclusion

The previous two chapters have explained the broader compliance patterns in Turkey in T2 period, by examining the actions and preferences of the governing party. However, these chapters did not account for why compliance was better in some policy areas and lagged behind in others. This chapter has set out to explain differences in compliance across issue areas by comparing four variables. It has concluded that the economic and political costs variables within the DPM explain continued compliance much better than the sunk costs and vested interests variables within HI. Particularly, the political costs of compliance carry the strongest explanatory power to account for the selective approach to compliance.

This analysis seems to offer a very accurate picture of compliance outcomes in specific issue areas. It almost gives the impression that international politics do not matter at all, and compliance can purely be explained by domestic cost-benefit calculations. However, this view is misleading. As shown in the example of cultural and political rights of minorities, political costs associated with this reform cannot fully explain why compliance turned out to be higher than expected. Even though the economic and political costs variables explain the selective approach to compliance, the overall compliance in Turkey requires a broader approach, and can only be explained by taking into account external incentives provided by EU conditionality. The previous two chapters have done exactly this to demonstrate that the EU is still crucial in providing incentives for the governing party to comply. It has been shown that without the EU the AKP, or any other government for that matter, would not have been able to conduct reforms to this extent.

This thesis has initially recognised that compliance continued to be conducted by Turkish officials under diminished credibility. In order to resolve this puzzle, it has focused on the political leadership and explained why they continued to formally and behaviourally comply with EU conditionality. At the same time, there are reasons to believe that the EU-related bureaucracy in Turkey may also be driving compliance forward under diminished credibility. The following chapter examines whether the EU-related bureaucracy's actions can offer an alternative explanation for continued compliance in T2.

Chapter Nine:

Bureaucratic Politics of Compliance under Diminished Credibility (2005-2010)

Introduction

This thesis has so far explained continued compliance under diminished credibility in Turkey with the actions and preferences of the political leadership. Even though this explanation is causally strong, it fails to take into account other actors which may also have an influence on continued compliance. This chapter examines the role of bureaucrats in the compliance process and tests whether they play an independent role to increase compliance in T2. In other words, *to what extent can the bureaucrats be a driving force of compliance under diminished credibility, which is independent of the strategies and choices of political leadership?* This is an important question since the role of bureaucracy in compliance has been ignored in conditionality literature. Given that EU-related bureaucrats carry out all the necessary preparatory work for formal and behavioural compliance, they are an important actor in the process. It is a worthwhile exercise to analyse how significant or marginal their influence on compliance is. Even if they have marginal influence in helping achieve compliance, this is interesting since it goes against the expectation that bureaucracy is generally an obstacle to change. Moreover, it is important to understand under which specific circumstances they are able to drive forward reform and whether their compliance operates in the same manner as the political leadership.

Chapter Four has demonstrated that the EU-related bureaucrats continued to conduct administrative compliance in T2, which incorporates all the work done to bring about formal compliance, such as preparation of draft legislation, long-term programmes and other strategic documents. But what explains the EU-

related bureaucrats' continued administrative compliance under diminished credibility? Can it be explained by the preferences/actions of political leadership as in the previous three chapters? In other words, do the bureaucrats continue to comply because they are instructed to do so by the politicians, or are the EU-related bureaucrats an independent force pushing compliance from the bottom-up? This chapter addresses these questions by testing the domestic politics model's (DPM) assumption that *bureaucrats' compliance reflects the political leadership's cost-benefit calculations*. This suggests that the bureaucrats' compliance is driven by and completely dependent on the political leadership.

This null hypothesis can be broken down further. The *principal's economic/political costs* hypothesis asserts that: if the political leadership's economic and political benefits associated with complying with a specific EU condition are higher than its economic and political costs, then the bureaucrats are likely to comply. Secondly, the *administrative capacity* hypothesis states that: if the political leadership improves the structure of the candidate's administration and institutional resources, such as budget and staff; then compliance is likely to improve.

On the other hand, the bureaucratic politics model (BPM) argues that the EU-related bureaucracy can be an independent force behind improving compliance. More specifically, two hypotheses have been put forward. The *organisational lock-in* hypothesis following HI states that: if a specific institution/department has been created for the purpose of complying with the EU; and/or if remaining on the EU path maintains/strengthens the role, power and mandate of an institution/department; and/or if the relevant institution/department has developed standard operating procedures (SOPs) and prepared long-term programmes for compliance; then the bureaucrats within those institutions/departments are likely to continue complying. Secondly, the *social learning* hypothesis claims that: if the bureaucrats identify with the EU; and/or have institutional contacts with the EU and MS officials; and/or have a European professional/educational background, then they are likely to comply.

The dependent variable for this analysis, administrative compliance, has been measured in Chapter Four by examining the changes in the bureaucrats' workloads and the time they devote to compliance-related activities. This chapter concluded that despite an initial fall in the level of administrative compliance during the initial stages of T2, it picked up after 2007 and reached levels equal to or higher than T1 period. This chapter measures the values of the independent variables discussed above and tests whether they are congruent with the level of administrative compliance in T2. Interview data are used to validate this congruence analysis. Since this research focuses on the areas of JHA and human rights, the EU-related bureaucrats working in the EUSG, MFA, MI and MJ are included.

This chapter concludes that the compliance of bureaucrats does not play a determining role in Turkey's general compliance with EU conditionality. The bureaucrats are not an autonomous actor in Turkish politics and their compliance does not take place independently of the political leadership's preferences. The bureaucrats consider their principals' preferences when they conduct administrative compliance and the political leadership decides whether this administrative compliance translates into formal/behavioural compliance. In sum, the DPM's null hypothesis is confirmed in this analysis. The evidence in this chapter particularly supports the principal's economic/political costs hypothesis, whereas the level of administrative capacity was not found to be causally related to compliance.

On the other hand, this chapter also shows that the bureaucrats demonstrate some characteristics of *actorness* in areas where the political leadership is indifferent to compliance. Moreover, the bureaucrats' compliance operates according to a different logic to the political leadership. The organisational lock-in is very high for the bureaucracy and they are likely to experience strong social learning during the process.¹⁸⁴ In other words, there is a particular *bureaucratic politics of compliance*. After a brief analysis of the relationship between the bureaucracy

¹⁸⁴ Both variables are causally related with continued compliance and therefore both hypotheses are confirmed in this chapter.

and politicians in Turkey, this chapter considers the BPM and subsequently moves on to test the DPM.

9.1 The Relationship between the Bureaucracy and Politicians in Turkey

The history of the Turkish republic is characterised by continuous conflict between the bureaucratic elites and the government authority. This conflict has its roots in the Ottoman system of administration. Ottoman society was strictly divided along ruling vs. non-ruling classes. Up until later periods of the Empire, the bureaucracy remained as a passive tool of the Sultan (Roos and Roos Jr., 1968: 271). However, as the Empire and, together with it, the Sultan's position, weakened, the bureaucracy increasingly attained 'virtually unlimited powers' (Heper and Sancar, 1998: 146). This is the reason why no regional/territorial powers or any kind of aristocracy was able to develop in the Ottoman period. A similarly strong bureaucratic tradition continued once the Turkish Republic was established. As this was a revolution from above, a strong centralised state bureaucracy was needed to ensure the implementation of the reform process and to guarantee that there were no challenges to the centralised state (Konstantinidis, 2002: 6). In the initial periods of the Republic, there was no real distinction between the political and bureaucratic elites, since a group of people committed to Ataturk and his principles 'circulated as members of the ruling party, members of the parliament, cabinet ministers and high officials' (Evin, 1996: 4; Heper and Sancar, 1998: 147-8).

The differentiation of the state bureaucracy from the political elite and the intra-elite conflict between these two groups did not start until the introduction of the multi-party system in Turkey. From 1950s onwards the new political elites, represented by various centre-right parties, such as the Justice Party, Democrat Party, DYP, ANAP, and most recently the AKP, presented themselves as the real representatives of the public, against the state bureaucracy (Heper and Keyman, 1998: 262). These so-called 'anti-state parties' faced opposition from a very strong bureaucratic tradition, which saw itself as the guardian of the Republic, Kemalist principles and the protector of the long-term interests of the Turkish

nation (Heper and Sancar, 1998: 148). The newly emerging political elite decided to establish its authority, firstly by ‘destatising and then politicising the bureaucracy’ (*ibid.*: 148). This was done through employing new personnel through patronage ties to newly created positions (Evin, 1996: 6) and to so-called autonomous agencies (Heper, 1990: 611). In such a patrimonial system, a more specific party-political politicisation replaced the Kemalist politicisation within certain sections of the state. The Kemalist state bureaucracy, on the other hand, did not turn a blind eye to this encroachment to their authority, and instead used their veto-power. Three military interventions and a post-modern coup in 1997 were conducted by officials who shared with the state bureaucracy the view that they should be holding the real power to govern the Turkish society as opposed to the elected officials. These interventions removed anti-state parties from the government for a short while and established limits on the exercise of political control over the state bureaucracy (Evin, 1996: 5).

This brief background demonstrates that a clear distinction, as well as competition, between the political cadres and Kemalist state elites is a common feature of Turkish politics. A similar competition was present during the AKP’s tenure. Given this existing tension, it is important to assess how this influences Turkey’s compliance with the EU. On the one hand, it is true that the Kemalist state elites, for instance within the MFA, always perceived themselves as Western and have continuously struggled to be part of European international community (Schimmelfennig *et al.*, 2005: 42). However, their attachment to Europe and the EU is conditional. The Kemalist elite, despite equating civilisation and modernisation with Europe, is also sceptical about the EU in a number of important respects. They have very strong red lines when it comes to the Cyprus or the Armenian issue, demilitarisation of politics, giving more rights to minority groups, and even increasing freedoms within Turkey. Therefore, they find it unacceptable to make concessions on these issues to become an EU member. In this respect, it can be argued that the Kemalist bureaucracy identifies strongly with the EU and may push for further integration in some uncontroversial areas, however they are also highly Eurosceptic when it comes to important aspects of EU’s political conditionality. In this respect, they can become an important force against further reform in the Turkish political system.

The views in the literature also confirm this assessment. Kemalist ideology is described as going against the democratic norms of the EU and being resistant to change in terms of further democratisation (Turkmen, 2008: 161-2).

On the other hand, other parts of Turkish bureaucracy, which are not staunchly Kemalist and more subject to politicisation by the political leadership, approach EU integration differently. The recently established EU-related bureaucratic agencies/units, such as the EUSG, SPO's DGEU, and the Border Management Bureau (BMB) within the MI, are more pro-European in line with the preferences of the political leadership. The main reason for this is that these institutions have more limited mandates – to comply with EU requirements – rather than to protect the security and the unity of the state. Moreover, due to their recent development, they are comparatively less socialised within the domestic administrative structures and less governed by tradition and history. Therefore, they are generally not attached to the Kemalist ideology as strongly as the more established institutions. This in itself makes it easier for them to support the EU's political conditionality. This view is also confirmed by the interviews. The head of Human Rights Foundations maintained that: 'the Turkish bureaucracy is not a progressive bureaucracy in these [human rights] issues... The EUSG is a bit different' (CS7). Similarly, a member of another civil society organisation argued that: '[t]he bureaucratic mechanisms which are more alternative, more democratic and liberal are very recent and they need to fight the structure which is rooted in centuries... For example, the EUSG always makes similar comments to [draft] laws as we [human rights organisations] do. But the law goes back to its old bad form, older ministries change these back' (CS2).

Overall, the above discussion demonstrates that there are strong tensions between the Kemalist bureaucracy and the AKP cadres. The newly established EU-related bureaucracy stands closer to the AKP in this divide and supports Turkey's compliance with the EU. At the same time, the established Kemalist strongholds are likely to be staunchly opposed to Turkey's compliance with EU's political conditionality and therefore obstruct further compliance. In the face of such Kemalist opposition, the continuation of administrative compliance under diminished credibility becomes even more puzzling.

9.2 Bureaucratic Politics of Compliance

Chapter Four has demonstrated that administrative compliance has not followed a linear path in T2 period. It went through an initial period of decline between 2005 and 2007 since Turkish officials failed to produce an NPAA in 2006 and there was a slow down in the preparation of political reform packages. However, even during this slow period the EU-related bureaucracy was kept busy with the screening process where the Turkish legislation was compared to the EU acquis in a detailed manner and Turkey's negotiating positions were determined for each chapter. After this relatively slow period administrative compliance picked up and reached levels equal to or higher than T1. The TPAA, a new NPAA, as well as an Action Plan were prepared; a strategy document for Turkey's accession and a communication strategy were published; a harmonisation reform package, a judicial reform strategy and a constitutional reform package were also prepared by the bureaucrats at the later stages of T2. Moreover, most of the improvements within the JHA field took place in the T2 period.

This section tests whether this continued administrative compliance can be explained by the independent action of EU-related bureaucrats. In other words, can the bureaucrats improve compliance outcomes in a bottom-up manner despite the preferences of political leadership or are they completely confined to doing what they are instructed by the politicians in a top-down style? To respond to this question, the following section initially reviews the bureaucratic politics approach to FP and subsequently tests whether continued compliance can be explained by organisational lock-in and social learning models. It concludes that organisational lock-in and social learning are *very high* in the case of bureaucrats and these levels are causally congruent with continued administrative compliance. Therefore, we can actually talk about a specific bureaucratic politics of compliance. The final sub-section demonstrates that the EU-related bureaucrats are a *limited actor* in the compliance process, whose actions may improve compliance outcomes.

9.2.1 Bureaucratic Politics Model

To understand the role of Turkey's EU-related bureaucracy in the accession process, it is necessary to take a step back and briefly run through the BPM in FP analysis. The BPM in political science literature has emerged initially in 1950s and was later developed by scholars like Halperin, Destler, Steinbruner, Galluci¹⁸⁵ and most famously by Graham Allison in 'Essence of Decision' (1971). Allison's account of FP decision-making came as a reaction to the dominant realist explanation of the time. Allison did not believe states acted in unitary and centrally controlled ways (Allison and Zelikow, 1999: 143). Instead, FP analysis should open the 'black box' of the state by focusing on the role of organisational behaviour and the bureaucrats who are involved in the making and implementation of FP decisions, as well as the political games played amongst these actors (Smith, 1989: 109).

The BPM maintains that the field of FP requires the involvement of multiple state actors and in such a system coordination is achieved by following 'SOPs', which are not flexible and unlikely to change (Allison, 1999: 143-4). The specific routines followed by each bureaucratic department have an important influence on the behavioural outcomes of FP. Moreover, according to Allison, 'where you stand depends upon where you sit' (Allison, 1971: 176). In other words, members of an organisation feel obliged to represent the operational codes, cultures, values and worldview of their organisation. In time role-socialisation takes place and organisational identities emerge. As a result, in the process of FP decision-making, these bureaucratic organisations each follow 'at best their own versions of the national interest and at worst their own parochial concerns' (Hill, 2003: 85-6). FP decision-making becomes an outcome of SOPs and conflicting organisational preferences, which frequently lead to bureaucratic turf wars.¹⁸⁶

Eight characteristics of bureaucratic institutions are important to identify to explain bureaucratic behaviour (Kegley Jr. and Wittkopf, 1991: 466-72).

¹⁸⁵ See Smith (1989: 130) for more detailed references on the BPM.

¹⁸⁶ For a critique of Allison's BPM see Smith, 1980; 1989; Hollis and Smith, 1986.

Parochialism refers to the fact that each bureaucratic organisation aims to pursue its own interests, enhance its power and status in the government hierarchy. In other words, the job security of a bureaucrat takes priority over everything else. Bureaucratic agencies also *compete* with each other for scarce state resources and power so that they can increase the morale of their staff and thereby effectiveness. In this respect, many bureaucratic organisations define policy success not through national interests but in terms of organisational interests and their organisation's position vis-à-vis others in the government hierarchy. Moreover, bureaucratic agencies seek *imperialistic task expansion* by increasing their staffs, budgets, functional powers and prerogatives, either absolutely or in relation to other agencies. The bureaucratic agencies also have strong *endurance* and are survival-oriented. Once they are created, 'they usually persist, even in the face of great adversity' (Kegley Jr. and Wittkopf, 1991: 470). They also value *secrecy and exclusiveness* in order to prevent other organisations or political leadership interfering in or regulating their operations. Each agency also develops over time *attitudinal conformity* where the bureaucrats within that organisation start sharing a similar institutional mind-set and values without substantial questioning. This is the reason why different organisations have genuinely different views of what the national interest is depending on their organisational preferences and goals. There is also a high degree of *deference to tradition* in bureaucratic agencies. Bureaucrats, rather than trying to find new and more efficient ways of solving problems, usually defer to SOPs, established rules and tradition. Finally, there is a high *reliance on historical analogies*, where policy-makers tend to search history for parallel scenarios to find ways of dealing with a problem at hand.

Having clarified the main characteristics of the BPM, let us now apply these concepts to the EU-related bureaucracy in Turkey and examine the extent to which they can assume a decisive role in the compliance process. The following sections test whether SOPs/lock-in effects and organisational identities/socialisation can explain the EU-related bureaucrats' continued administrative compliance in T2 respectively.

9.2.2 Organisational Lock-in

The BPM established that routines and SOPs followed by bureaucrats have a significant influence on policy outcomes. The organisational lock-on model hypothesises that: *if a specific institution/department has been created for the purpose of complying with the EU; and/or if remaining on the EU path maintains/strengthens the role, power and mandate of an institution/department; and/or if the relevant institutions/department has developed SOPs and prepared long-term programmes for compliance; then the bureaucrats within those institutions/departments are likely to continue complying.* The empirical data used in this section confirms all three of the propositions put forward by the organisational lock-in hypothesis and demonstrates that the level of organisational lock-in for the EU-related bureaucrats is *very high* in Turkey. This result is congruent with the continued administrative compliance within T2. The interviewee data also support the view that there is a causal relationship between the independent and dependent variables.

9.2.2.1 Organisational Purpose

As the hypothesis suggests all the institutions and departments that are of interest to us in the administrative phase of compliance, namely the EUSG, and the EU units within the MI, MFA and MJ, have been created for the purpose of complying with the EU. Their stated institutional goals and priorities also demonstrate this.¹⁸⁷ In this respect, the predominant responsibility of all the EU-related bureaucrats working in these institutions is to keep on complying with the EU regardless of the negative signals coming from the EU institutions or the declining credibility. In other words, they need to continue to fulfil the requirements of their professional positions and they do not have much choice. Tugrul Arat explains this lack of choice: '[t]he EUSG continues to work because they have been employed for this purpose only. They have only worked on EU

¹⁸⁷ Even though some of these departments, as in the case of the MI's unit, are identified to be responsible for 'Foreign Affairs and the European Union', the interviews with the MI department officials show that compliance with the EU is their main responsibility (MI1; MI2; MI3).

issues... They cannot do any other work' (AC3). The interviewed EU-related bureaucrats explain their continued compliance under diminished credibility through their 'work ethic' (BMB2): '[p]eople [EUSG bureaucrats] continue to work. I don't know how many actually believe in the EU process and how many don't, but it is more to do with their work ethic and institutional belonging... The EUSG's legal status was bad, things were uncertain [prior to the 2009 reform]. But I realised the young civil servants in particular conducted their work in a truly ethical and proper way' (EUSG1). This evidence demonstrates that the EU-related bureaucrats all work in departments created specifically for the purpose of EU compliance, and they continue to comply even within the T2 period because this is part of their job requirement.

The main reason why these EU departments have been created within the Turkish state is that integration with Europe is Turkey's official state policy and unless an institution like the EUSG is dismantled they will continue to comply. Even if the political conjuncture within Turkey or the EU affects this strategic goal negatively at times, the direction of this state policy does not change (MFA3; MFA5; MI2; EUSG9; SPO2; CS1; CS5; CS7; BDP2; AKP14). Therefore, as the deputy Undersecretary of the MFA maintained: '[i]f you ask our Ministry most of them won't believe we'll be an EU member. But overall this is the state policy, therefore regardless of whether we believe in it or not we have to do it' (MFA3). Overall, the EU-related bureaucrats continue to comply not only because of their institutional requirements, but also because Turkey's strategic goal of Europeanisation continues to inform the state policy.

9.2.2.2 Organisational Power

The organisational lock-in hypothesis also proposes that the EU departments may either maintain or improve their power, resources or mandates as long as Turkey remains on the road to EU accession. This assumption is also confirmed by the empirical data. The Turkish state's institutional capacity for EU compliance was very weak to start out with when Turkey was accepted as a candidate in 1999. Particularly with the start of the negotiations and the

screening process, improving the capacity became a necessity. The institutional capacity, namely staff levels and budgets, of the EU-related bureaucracy has improved significantly over time, particularly in the case of the EUSG.¹⁸⁸ In addition to these institutional resources, the EU-related bureaucracy's mandate has also expanded to cover all the *acquis* areas with the start of accession negotiations.

Moreover, the bureaucracy's financial resources increased with more available EU funding through projects. These material resources provided by the EU in the form of technical assistance projects, such as twinning, provides important incentives for the bureaucracy to continue to comply at a time when the credibility of conditionality is diminished. This is so even though the funding provided by the EU is limited at times and is predominantly used to pay the salaries of the EU experts working in twinning projects in Turkey. However, even small projects can make a difference for the workings of public institutions and help Turkish bureaucrats to gain expertise about best practices within the EU. Overall, in line with the propositions of the BPM, these departments continue to comply with the EU because this improves their resources, expand their tasks and therefore place them higher within the state hierarchy.

But what would happen to these bureaucrats and departments in a counterfactual scenario where Turkey is no longer an EU candidate? Most of the interviewees agree that the relatively smaller EU departments within line ministries would either become part of the ministry's foreign affairs department or be abolished, in which case the staff would be transferred to other ministry departments (MI1; MI2; MI3; BMB2; MJ2; MJ3; EUSG2). This would mean a decline in the power, mandate and resources of these departments. However, when it comes to an institution like the EUSG, the interviewees agree that it would be extremely difficult, if not impossible, to abolish it in Turkey (EUSG1; EUSG2; EUSG4; EUSG5; EUSG6; EUSG7), since bureaucracies are survival-oriented and they tend to endure. Instead, what is more likely to happen is that its staff levels,

¹⁸⁸ A more detailed analysis of changes in the administrative capacity is conducted later in the chapter.

budget and mandate would be significantly downgraded to reflect a lesser responsibility, for instance, for the EU-Turkish relations in the customs union.

Overall, this section has shown that remaining on the EU accession path maintains or improves the resources, power and mandates of EU-related bureaucrats and this is very likely to explain their continued compliance under diminished credibility. As one EUSG official succinctly stated: ‘[i]f we don’t do these our existence will start to be questioned’ (SPO2).

9.2.2.3 Organisational Rules

The hypothesis also suggests that the EU-related bureaucrats continue to comply because of SOPs, which have developed within their institution or between Turkey and the EU; and/or long-term programmes prepared for compliance. In the context of SOPs there is an established system of contacts, meetings and reports between the EU and Turkey within compliance process. For instance, the EU Commission writes yearly PRs about the developments in Turkey, regardless of how low accession credibility is or how little progress Turkey has achieved. This is part of the Commission officials’ job. The EU-related bureaucrats in Turkey, knowing that this report will be published every year around October, have to send contributions to the Commission as part of their job. They do not need to take instructions from the higher levels of the bureaucracy or the political leadership to do this. Similarly, if the EU Commission prepares the AP, the Turkish side produces an NPAA.¹⁸⁹ An EUSG official describes the path-dependent nature of this process:

‘What can we do but not comply? How can we stop the process? What are we going to say to cancel the meetings? There are a lot of platforms where two sides meet in the framework of Association Treaty. These meet once or twice a year. The Association Council meets, its committee meets, and the sub-committees meet. You cannot not attend these, you cannot attend and not participate in these either. You have to make preparations before these meetings... We do not want to appear as if we

¹⁸⁹ As an exception to this, the Turkish side failed to produce a 2006 NPAA to address the 2006 AP. This was partly due to the low administrative capacity of the EUSG and the lack of will on the part of the political leadership.

haven't done anything. Therefore we continue to work... There is an established and functioning system. This needs to continue... No one has said the process is over... Even though there are political problems both sides continue to play this role they are given...' (SPO2).

Similarly, the EU-related bureaucrats prepare long-term programmes, such as the NPAA, action plans, roadmaps or strategy documents, and these also make it likely for the administrative compliance to continue. Some interviewees explained how bureaucracy works 'according to a timetable'. For instance, a bureaucrat from the MI stated that: 'the work we do here is clearly set out in a timetable... This is clearly explained in the NPAA... Therefore, we're not in a situation to be motivated or demotivated. Everything is set out in a programme and we are working on those issues' (MI3). These long-term programmes also explain why compliance halted in some periods and picked up in others. At the start of T1, two NPAAs were produced which allowed for a high level of administrative compliance. The lack of an NPAA in 2006, on the other hand, caused a slowdown in administrative compliance at the start of T2, since there were no long-term programmes for the EU-related bureaucrats to follow. However, starting in 2007, various new programmes, strategy documents, an NPAA, the TPAA, and issue-specific roadmaps were produced. This improvement is also congruent with a period of faster administrative compliance.

In sum, the established structured relations with the EU, the SOPs and long-term programmes make harmonisation path-dependent for the bureaucrats. The Association Agreement signed with the EU or the NPAA produced by the Turkish bureaucrats in previous years, make it likely for the bureaucrats to continue to progress on the road to membership even under diminished credibility. An EU law professor who joined the EUSG as a high level bureaucrat after the 2009 reform explains the continued compliance at the administrative level as: '[w]e had always read this in theory but you realise it more when you actually get into it. I experienced here that even when the process comes to a point of political deadlock, the relations [with the EU] are progressing very intensely and fast on a technical level... This was striking' (EUSG4).

Overall, the sections above demonstrate that all three indicators of the organisational lock-in hypothesis are strongly present in the case of Turkey demonstrating *very high* organisational lock-in. This finding is congruent with continued compliance in T2. The slow down in administrative compliance in the initial period of T2 is also congruent with the lack of long-term programmes during this period.

9.2.3 Social Learning Model

A key argument of the BPM contends that ‘where you stand depends upon where you sit’ (Allison, 1971: 176). According to this organisational cultures emerge in state institutions over time and this has a socialising effect on the bureaucrats working there, shaping their preferences as well as behaviour. Continuing this line of argument the social learning hypothesises that: *if the bureaucrats identify with the EU; and/or have institutional contacts with the EU and MS officials; and/or have a European professional/educational background, then they are likely to comply*. This section uses evidence based on interviews to demonstrate that the EU-related bureaucracy identifies strongly with the EU and the conditions which facilitate bureaucrats’ social learning are very favourable. These findings show that the level of social learning for the EU-related bureaucracy is likely to be strong and therefore is likely to explain continued administrative compliance under diminished credibility. This section initially examines the extent of exposure of the Turkish bureaucracy to their EU counterparts and subsequently analyses the bureaucrats’ identification with the EU by using interviews and secondary literature. It then assesses to what extent these findings are congruent with continued compliance.

9.2.3.1 Exposure

It has been argued in the literature that there is a positive causal relationship between institutional contacts and socialisation (Checkel, 2005), therefore this research considers *exposure* of Turkish bureaucracy to the EU counterparts as a

condition which makes social learning likely. In the context of EU integration, Lindberg and Scheingold argue that contexts within which policy is made has ceased to be autonomous and instead there are growing interactions between interest groups, bureaucrats and statesman across the EU MSs during decision-making processes (1970: 119). These mutual interactions result in new perspectives, loyalties and identifications, in other words, in actor socialisation (*ibid.*: 119). Lindberg and Scheingold maintain that the actors who participate in this joint policy-making exercise ‘may come to value the system and their roles within it, either for itself or for the concrete rewards and benefits it has produced or that it promises’ (*ibid.*: 119). These actors who come to realise an enlarged common interest, may encourage their own governments to delegate more tasks to the supranational level (*ibid.*: 119),¹⁹⁰ thus increase integration. This process through which the national elites, who realise that specific issues cannot be dealt with at the domestic level, experience a gradual learning process and thereby shift their loyalties, expectations and political activities to a new European centre, is called *political spillover* in the neofunctionalist literature (Haas, 1958; Lindberg, 1963; Niemann, 1998: 430). Through the political spillover mechanism, domestic actors are able to enhance the EU integration process. This neofunctionalist literature predominantly looks at the loyalty transfers of domestic interest groups (Haas, 1958: 16). However, the role of state elites is equally crucial for furthering EU integration. Lindberg points out that the vast number of working groups and committees formed at the EU level among national civil servants and Commission officials has led to a system of *bureaucratic interpenetration* (1963: 49-93). Such complex system of interaction has later been called *engrenage* (Taylor, 1983: 9-10). Engrenage specifically refers to national bureaucrats who increasingly take integrative decisions due to their intensified involvement with Community officials and bureaucrats from other MSs (Niemann, 1998; 430, 436). Sheinman and Feld illustrate how engrenage works by examining national bureaucrats who are seconded to EU institutions. According to the authors, these officials experience political socialisation and they adopt a more European orientation than before through

¹⁹⁰ At the same time, this positive relationship between socialisation through participation and positive attitudes towards integration should not be assumed to be true in every case (Lindberg and Scheingold, 1970: 119). It is also possible that such exposure to community structures and actors may ‘increase enmity and reduce incentives for further collective action’ (*ibid.*: 119).

their community experience (1972: 122-3, 133).¹⁹¹ Sheinman and Feld conclude that interpenetration into Brussels ‘provides a positive socialising experience facilitating the integrative process’ (*ibid.*: 133).

Similar political spillover and engrenage mechanisms are present in the context of EU enlargement. Candidates’ state officials start interacting with the EU elites even before accession. They are given observer status within various EU institutions (Miles *et al.*, 1995: 181), they interact with MS and EU officials through the twinning instrument (Papadimitriou and Phinnemore, 2004: 619; Tulmets, 2005: 58, 78-9), TAIEX seminars, working groups, other joint projects funded by the EU, as well as in various association councils, committees and sub-committees (Niemann, 1998: 436; Macmillan, 2009: 800). This exposure facilitates social learning and encourages more favourable attitudes to the EU amongst candidates’ bureaucrats. Along these lines, Drulak *et al.* in their study of Czech civil servants demonstrate that those officials who are more exposed to the EU are better informed about the EU and, more importantly, the intensity of their interactions are positively related to support for deeper integration (2003: 648-51). Niemann’s study reaches similar conclusions. He shows that due to intense interactions with the EU officials, the candidates’ bureaucrats experience strong socialisation during the pre-accession stage (1998: 436).¹⁹²

The Turkish bureaucracy undergoes a similar social learning process in the pre-accession stage. The Turkish officials, particularly the EU-related bureaucracy, are in frequent contact with the EU Commission, its representation in Ankara, as well as MS civil servants through twinning projects, TAIEX seminars, working group meetings, association committee meetings, screening process and through the negotiations themselves (Tocci, 2006: 133). Throughout this process, it is predominantly the bureaucracy, led by the EUSG, which interacts with the EU counterparts, rather than the political leadership. Moreover, the bureaucrats hold more permanent positions which makes their relations with the EU bureaucrats more long-lasting than the politicians’ and thereby makes social learning more

¹⁹¹ Arguably, the strength of engrenage is also positively related to the duration of the socialisation experienced (Niemann, 1998: 437).

¹⁹² However, he does not analyse the consequences of this socialisation, i.e. whether or not it leads to more support for integration. (1998: 436).

likely. Even though the same party remained in government during most of T1 and T2, not all the MPs were in the TGNA for both terms and the members of the EUHC changed over time. Therefore, the conditions are much more favourable for the bureaucracy to experience strong social learning in comparison to the political elite.

Kirisci's study illustrates how contacts between the Turkish bureaucracy and EU officials have initiated a 'paradigmatic shift' to occur among Turkish officials with regards to asylum policy (2007: 15). He argues that the close cooperation between the Turkish authorities and the EU officials through training seminars, informal consultations, working groups and EU-funded twinning projects 'constituted a massive learning and socialisation experience for Turkish officials' (*ibid.*: 14-16). The move from a security-oriented asylum policy to one with a more human rights focus and the 2006 amendment of the Asylum law, are illustrations of this change (*ibid.*: 14-16). Kirisci particularly underlines the importance of the training seminars for 'helping to develop a "common language" between Turkish officials and their EU counterparts' and the twinning project supported by British and Danish governments for triggering social learning (*ibid.*: 16). This specific project was crucial because it allowed the Turkish authorities to work on a daily basis over many months with MS officials for the first time in their careers (*ibid.*: 16).

The interview evidence suggests that the Turkish bureaucrats experience a high degree of engrenage. This offers a very favourable environment for social learning to take place. According to the interviewed bureaucrats, the main advantage of working together is the fact that both sides can get to know each other better. On the one hand, the Turkish bureaucrats felt that by working closely with EU officials they were able to break some of the EU officials' prejudices about Turkey (MI3; MJ2). On the other hand, the bureaucrats were able to get to know the EU better and make a much more informed decision about their support for the EU (MJ2). Most of the interviewees explained that by getting to know the EU standards and system better, they came to value them more and therefore wanted to bring these standards to Turkey. For instance, one interviewee from the MI explained that before she started working on EU issues,

her views on Turkish accession were solely informed by big political debates such as the Cyprus issue. However, after working in the EU department in MI and conducting projects with the EU officials, she realised that ‘the technical side of this process [was] more beautiful’ (MI3). The bureaucracy’s general attitude towards the EU also changed positively in time. According to a previous EUSG official, the Turkish bureaucracy’s initial response to working with EU officials in EU-funded projects was very negative and they even saw the EU officials as ‘crusaders’ (GDS1). However, in a very short period of time views have become much more positive and the EU-related bureaucracy started to identify more with EU values and standards.

In addition to contacts with the EU officials, EU-related bureaucrats in Turkey had frequent opportunities to go abroad to Europe during the accession process. They went to various EU countries for EU projects, to continue their studies at post-graduate level or attend language training. According to a GDS official, those police officials who went to EU countries with EU funding gained brand new perspectives, understood multiculturalism and learned a lot about different security systems (GDS2). In addition to police officials, a high number of judges and prosecutors went abroad for language courses and masters studies.¹⁹³ The interviewed EU-related bureaucrats in the MJ believed that the judges and prosecutors who came back from these trips were very different from when they went away (MJ1; MJ2; MJ3). The change was expressed as ‘black and white’ in one interview (MJ2). In sum, such visits are extremely important for Turkey’s compliance, since the bureaucrats who conduct administrative compliance widen their perspective and experience social learning.

Overall, the evidence from interviews suggests that having close contacts with EU counterparts and spending time abroad helps the EU-related bureaucracy to value EU standards as better alternatives to the current Turkish ones. The high level of exposure to the EU makes it likely for the EU-related bureaucracy to continue complying even under diminished credibility. As Acikmese explained:

¹⁹³ More than 100 judges and prosecutors went abroad for the duration of at least one year in the last five years and ‘around 30-40 of them conducted masters studies’ (MJ1).

‘I think that this socialisation has an important role to play to motivate the bureaucracy. In other words, even if the government doesn’t want it, or the process comes to a deadlock, their [bureaucrats’] desire to do something and their efforts to continue the harmonisation process, can only be explained through this [socialisation mechanism]; the relations they build with them [EU officials] and their identification with the EU’ (CS5).

9.2.3.2 Identification

While the exposure factor determines whether the conditions are conducive for social learning, *identification* is a more direct indicator. Two Eurobarometer questions¹⁹⁴ are used to measure the identification of the EU-related bureaucracy with the EU. 17 out of 18 EU-related bureaucrats (94%) stated that EU membership was a good thing for Turkey,¹⁹⁵ whereas one interviewee¹⁹⁶ suggested it was neither good nor bad. The EU-related bureaucracy’s support for EU integration is much higher in comparison to the general public, which was only 42% in the autumn of 2010 (Eurobarometer, 2010a: 35). With regard to the second question, only 17% of the EU-related bureaucrats defined themselves as ‘Turkish only’,¹⁹⁷ whereas 78% of them¹⁹⁸ saw themselves as ‘Turkish and European’ and 5% of the interviewees¹⁹⁹ identified themselves as ‘European and Turkish’. This shows that 83% of the EU-related bureaucrats identify at some level with being European, whereas this level was only 43% among the general public in Turkey in 2004 (Eurobarometer, 2004b: 183). Moreover, these levels are also considerably higher than the identification of the political leadership, as shown in Chapter Six. Overall, the results demonstrate that the EU-related bureaucracy identifies strongly with the EU in comparison to both the general public and the political leadership.

¹⁹⁴ (1) Do you see yourself as, Turkish only, Turkish and European, European and Turkish, or European only? (2) Generally speaking, do you think that Turkish membership of the EU is a good thing/bad thing/neither good nor bad/do not know?

¹⁹⁵ MI1; MI2; MFA4; MFA5; GDS1; GDS2; BMB1; AIB1; AIB2; EUSG2; EUSG4; EUSG5; EUSG6; EUSG7; EUSG10; SPO1; MJ2.

¹⁹⁶ MI3.

¹⁹⁷ MI1; MI2; MFA4.

¹⁹⁸ MI3; AIB2; MFA5; MJ2; GDS2; EUSG10; GDS1; BMB1; AIB1; EUSG2; EUSG4; EUSG5; EUSG6; EUSG7.

¹⁹⁹ SPO1.

The views in the literature confirm this assessment. The public bureaucracy in Turkey can be divided into two groups in line with their views on the EU. On the one hand, there are the more established and traditional key bureaucracies such as the military, judiciary and security forces connected to the MI. These institutions are more status-quo biased and therefore they do not see reforming Turkey in the context of the EU conditionality as something desirable (Turkmen, 2008: 161-2). On the other hand, the EU-related bureaucracy is more progressive and identifies more strongly with EU values, such as democracy and human rights. Along these lines, Turkmen argues that, apart from specific institutions directly involved in the accession process, such as the EUSG, it is impossible for the Turkish bureaucracy to pursue steps for further democratisation (*ibid.*: 162). Similarly, Keyman and Onis argue that one of the important consequences of Turkey's EU candidacy was that a rift has been created between different parts of the state bureaucracy (2004, 184). They maintain that only a part of the state bureaucracy adopted a liberal approach towards the EU-related reforms including the EUSG, the Central Bank, the Treasury and the SPO (*ibid.*: 184). The more liberal outlook of these newly established institutions made it easier for them to engage in social learning. Moreover, according to Drulak *et al.* specific institutions and civil servants who socialise with the EU start to support the EU more, 'especially if they have been less socialised into the domestic administrative structures' (2003: 651). This is certainly the case in Turkey for the EU-related bureaucracy, which has been created only in the last decade.

The interviews held with EU-related bureaucrats also support this strong identification view. The bureaucrats were asked about why they continued to comply with the EU conditions even though Turkey's membership perspective got continuously weaker over time. The responses centre on three common issues. Firstly, a majority of the interviewees underline the fact that Turkey 'needs to solve' various problems through new laws and standards; thus the technical reforms conducted to comply with the *acquis* address 'national needs' (MJ1; MI2; EUSG4; AIB2; GDS2; MFA2; MFA6). These needs were underlined in the context of 23rd and 24th chapters, and more specifically in asylum/immigration standards, the way foreigners are treated, and the judicial system (MI2; EUSG4; AIB2; MFA6; CS6). Similarly, many interviewees shared

the view that EU reforms help improve the living ‘quality’, ‘standards’ and ‘conditions’ in Turkey and help Turkey reach ‘international standards’ (MI2; GDS1; MJ1; MJ2; AIB2). Secondly, the interviewees also emphasised the fact that reforms conducted in the context of EU conditionality were useful for attaining universal human rights standards (MJ2; MJ3; AI2). In this respect, the EU-related bureaucracy sees the EU as a union of values, standards and norms and one interviewee stated that they appreciate ‘these values more than the material aspect of the EU’ (MJ3). Finally, and related to the previous two points, the EU-related bureaucracy explained that they continued to comply with the EU not only to impress the EU (MFA6; MJ1), but to transform Turkish society. For instance, a MFA official stated that: ‘[w]e want a more structured, rule-bound life. We’re not doing these for the EU. We’re doing these for ourselves’ (MFA6). In that respect, the EU was described as a means to an end rather than an end in itself (MFA3; MFA5; GDS1). Overall, the EU-related bureaucrats agree that it was initially EU conditionality which triggered these reforms, where the EU acted as an anchor, but in time these reforms created their own dynamic and fostered a realisation, particularly among the bureaucrats, that they were beneficial and addressed national needs (MFA6; EUSG4).

The view that the EU-related bureaucracy has identified with EU rules/norms during the compliance process and experienced social learning as a result can be demonstrated with a few examples. The MJ’s EU-related bureaucrats explained that EU conditionality allowed their department and the wider judiciary to experience a transformation. Initially, their department limited itself to complying with formally set EU conditions. However, over time they went beyond these minimum requirements by studying and copying best practices among EU countries (MJ1; MJ3). For instance, the MJ’s EU-related bureaucracy initiated a relationship with the Venice Commission²⁰⁰ even though such cooperation was not a formal EU requirement. They did this with the belief that asking this Commission for feedback on important laws concerning the judiciary would be beneficial for the quality of Turkish legislation. As a result, some of the

²⁰⁰ An advisory board of the CoE with the official name ‘European Commission for Democracy through Law’, which gives legal advice to countries in constitutional matters so that they can improve their democratic and human rights standards.

most important laws; such as the law on the organisation of the constitutional court, the organisation of the MJ, judges and prosecutors, the council of judges and prosecutors; and the ombudsman law; were recently sent to Venice Commission for feedback. This demonstrates that the MJ's bureaucracy values Western standards as desirable and therefore worked towards improving the domestic conditions as much as possible even in the absence of formal EU conditions.

A caveat to this argument needs to be discussed. Once the Venice Commission checks the Turkish legislation it becomes easier for the EU to accept them as compatible with its *acquis*. Admittedly, this can also be a motive for the bureaucracy to improve cooperation with the Venice Commission, following a utilitarian logic. However, the fact that this route was not followed at the start of the compliance process in T1 shows that some form of learning took place. During the initial periods of conditionality, compliance with specific conditions was seen as the ultimate goal. However, once wide-ranging reforms started, the process created its own dynamic, allowing the EU-related bureaucracy to experience social learning.

The MJ's EU-related bureaucracy also explained how judges and prosecutors have transformed over time, mainly due to the human rights training they received. This change can be observed by the references they make to international court decisions. According to an interviewee, about ten years ago courts like the European Court of Human Rights were seen as 'someone else's court', which continuously decided against Turkey, therefore references to their rulings were minimal (MJ1; MJ2). However, over time, the judges started to see these courts as 'their own' courts and referrals increased dramatically. Today, the data show that there were about 4500-5000 references to international law in Turkish courts in 2010 alone (MJ1).

An EU law professor, who took up a position as the head of the EU law department in the EUSG, gave another example of the transformation of the Turkish bureaucracy. She explained how, not only the laws were changing

during the compliance process, but, more importantly, the people and the ways of doing things were transforming as well:

‘I saw in a very explicit way how this thing called “Europeanisation” happens in the EU departments of various ministries... Things are done in a much more participatory, transparent way, allowing the civil society to participate... I saw how the bureaucrats who prepare these have transformed due to their presence within the EU process. This is apparent in ministries such as the MI and MJ... It is not only the legal changes but the methods which are used to bring about those legal changes have transformed. ... I saw that things, which used to be handled behind closed doors in the past, are being conducted in a much more transparent manner. I think the EU process has a huge role in this because all those people who have been transformed are EU’s counterparts in Turkey, for instance in the context of twinning projects. Because of their communication with the EU, they started to see things differently’ (EUSG4).

Overall, the interview evidence used in this section has shown that the conditions which make social learning likely for EU-related bureaucrats are very favourable and these bureaucrats strongly identify with the EU and its values. This makes it very likely for them to experience social learning. This result is generally congruent with continued levels of compliance within T2 under diminished credibility. At the same time, the fall in administrative compliance at the start of the T2 needs further explanation. At first glance this fall is not compatible with the SLM which would expect continuing levels of compliance once learning starts to take place. However, since social learning is a time consuming process, it is likely that its effects only started to be explicit after 2007 in the Turkish case. In this respect, administrative compliance conducted by bureaucrats in T1 was driven by factors other than social learning. The exposure of Turkish bureaucrats to their EU counterparts and their identification with the EU started to determine their behaviour only after 2007. Alternatively, it is possible that other factors at work had a negative impact on compliance at the start of T2 resulting in lower levels of administrative compliance despite strong socialisation at the start of T2. Finally, there is also a possibility that the relationship between social learning and administrative compliance is a spurious one. Notwithstanding, the interview evidence above demonstrates that the level of social learning among the EU-related bureaucracy is likely to be very strong and as the literature suggests this is likely to be causally related to compliance.

9.2.4 Bureaucratic Politics of Compliance in Turkey

The previous two sections have demonstrated that there is a high organisational lock-in for the EU-related bureaucrats and they are very likely to experience strong social learning mechanisms. These findings are in line with the BPM. Therefore, we can talk about a specific form of bureaucratic politics of compliance in the Turkish case where the factors motivating the EU-related bureaucrats for more administrative compliance are very different from the ones which drive political leadership to compliance. This conclusion is an important contribution to conditionality literature. At the same time, what these sections did not explain was the extent to which the bureaucratic politics of compliance could improve Turkey's overall compliance with the EU. In other words, can organisational lock-in and social learning actually lead to independent compliance by EU-related bureaucrats even in costly areas where the politicians do not think compliance is worthwhile? This section answers this question and argues that the EU-related bureaucrats demonstrate some characteristics of *actorness* but only in areas where the political leadership does not have strong preferences.

The bureaucratic politics of compliance can improve compliance outcomes through a number of ways. Firstly, the SOPs used by EU-related bureaucrats are crucial for the continuation of compliance. The bureaucrats prepare long-term programmes for compliance, such as the NPAAAs, where compliance deadlines are set for each public institution involved. In this respect, the bureaucrats do not need to be instructed by the politicians to conduct progress on these programmes.²⁰¹ Similarly, there are established relations with the EU within the framework of Association Agreements and there are regular reports which need to be produced. Both the Turkish and Commission bureaucrats continue to conduct this established relationship without the political leadership telling them

²⁰¹ It is true that once the NPAA is prepared, bureaucratic compliance is almost automatic. However, the bureaucrats still need the political leadership's will to prepare an NPAA as demonstrated by the absence of 2006 NPAA.

to do so, since it is part of their job. Interestingly, many EU-related bureaucrats have mentioned during the interviews the fact that even though there are political deadlocks on the road to Turkey's membership, they continue to conduct administrative compliance even on blocked chapters – 23rd and 24th – as if the negotiations could open any moment (EUSG1; EUSG2; EUSG4; EUSG5; EUSG6; EUSG7; EUSG10; MJ1; MJ2; MJ3; MI1; MI2; GDS2; BMB2; AIB1).

Secondly, as Allison argues, bureaucratic positions determine the views and stances of individuals. Each different bureaucratic unit working on administrative compliance has a set of objectives they want to achieve for their own unit, which reflects their particular view of what national interest is. Given that these bureaucracies are parochial, competitive and aim to expand their tasks, bureaucratic rivalry is unavoidable in the administrative phase of compliance. Such rivalry may sometimes be costly where certain tasks are duplicated, and coordination and leadership becomes difficult. But at the same time, competition between bureaus may also lead to more productive outcomes. For instance, the TPAA produced by the SPO is known to be an outcome of inter-institutional conflict. According to an EUSG official, the failure of the EUSG to produce an NPAA in 2006 led the SPO to think: '[t]he EUSG cannot do it, so we will do it. And we'll do it in a more nationalistic way... We'll prioritise the needs of the country' (EUSG1). Competition between bureaucratic agencies regarding access to EU funds also results in better projects being proposed by the bureaucrats. Overall, bureaucratic organisations develop an institutional identity with a set of preferences, frequently resulting in inter-institutional rivalry among agencies, which in turn may have a positive influence on compliance.

Thirdly, the EU-related bureaucrats have informational advantages and they can improve compliance by using their expertise. The relationship between the political leadership and the bureaucracy can be understood as a principal-agent relationship. The politicians delegate certain tasks to the EU-related bureaucrats in the compliance process and use various ways to check and constrain their actions. Tasks are delegated for cost efficiency purposes so that the bureaucrats gather information and develop expertise in areas where the politicians cannot afford to invest time. However, as in any principal-agent relationship, the agent

may move away from the preferences of its principal, causing bureaucratic drift. The EU-related bureaucrats in Turkey develop expertise in the areas of conditionality and through this expertise they are able to informally set the agenda of compliance even when there are no formally delegated tasks. They can produce research papers, analyses or even draft laws where they deem necessary and then pass them onto the politicians²⁰² who are not experts as regards to specific EU demands or not necessarily aware of gaps in Turkish legislation. The EU-related bureaucrats come up with initiatives in these areas, try to convince the politicians on the usefulness of conducting reforms and finally may get approval for their initiatives. In this respect, the EU-related bureaucrats are not completely independent actors, but they are still *actors* who can have important influence on the policy outcomes. For instance, the interviews with officials from the MJ's EU unit demonstrate how they came up with initiatives and obtained the support of their minister (MJ1; MJ2; MJ3). As the head of the EU directorate summarised:

‘MJ bureaucracy is one which can influence higher levels of politics through our Minister here... We easily could go up to the Minister [of Justice] and tell him that “these things need to be done, these are the gaps and laws the EU wants us to do, we definitely need to consult the Venice Commission and get their opinion before adopting this legislation, we need to meet with the EU ombudsman and get his opinion”. He always said yes and even provided his private jet for us to go together to Venice to meet up with the Venice Commission... [T]hese things all happened with the bureaucracy’s initiative. The bureaucracy informed the Minister and led and convinced him to take the correct steps in these areas. And he also supported us’ (MJ3).

This example demonstrates how the initiative for cooperation actually came from the bureaucrats from below. But this cooperation would not have been possible without the approval of the Minister of Justice; therefore the role of political leadership cannot be underestimated.

Similarly, EU-related bureaucrats within the MI explained how an initiative taken by the GDS gained politicians’ support: ‘[t]he GDS wanted to sign a protocol. They developed this initiative alone, tried to organise us [the MI’s EU department], went to the Minister [of Interior], and explained how this would be

²⁰² The RMG is an important channel for this.

beneficial for Turkey. This protocol was signed and is at the TGNA for ratification at the moment' (MI2; MI3).

As a final example, the head of EUSG's EU law department explained how she, on her own initiative, examined the roadmaps to understand how visa liberalisation came about in the Western Balkans and prepared service notes for the politicians on the application of this policy in Turkey. Subsequently this issue was taken up by the political leadership and developed further (EUSG4). In this respect, due to the EU-related bureaucracy's informational advantages, they are able to take initiative in certain issues. This does not necessarily mean the EU-related bureaucrats drift away from the preferences of the political leadership, but what it means is that they act as a strategic actor and can increase Turkish compliance.

Overall, all these examples demonstrate that EU-related bureaucrats can act as a force to improve compliance in conditionality. In this respect, it can be argued that they have *actorness* qualities to positively influence compliance outcomes. They are able to come up with new initiatives and speed up the compliance process through their informational advantages. The bureaucratic rivalry between agencies may also increase the speed and quality of compliance. In all these instances, compliance operates with a degree of bottom-up influence.

9.3 Domestic Politics Model

While the section above demonstrated that EU-related bureaucrats are an *actor* in the compliance process whose preferences and actions may have a positive influence on the outputs of compliance, it is important to underline that they are not an entirely independent force. This section assesses to what extent *the compliance of the EU-related bureaucrats follows the politicians' preferences*. Two particular variables are tested within this model, namely principal's economic/political costs and administrative capacity. This section confirms the principal's costs hypothesis and concludes that compliance is predominantly determined by the cost-benefit calculations of political leadership. In this respect,

the bureaucratic politics of compliance plays a minor role in furthering compliance. At the same time, the politicians' decision to improve administrative compliance in T2 was not found to be causally related to continued compliance, therefore this hypothesis is rejected.

9.3.1 Costs of Compliance for the Political Leadership

The principal's economic/political costs hypothesis is: *if the political leadership's economic and political benefits associated with complying with a specific EU condition are higher than its economic and political costs, then the bureaucrats are likely to comply.* This hypothesis is tested by looking at the administrative compliance activities of EU-related bureaucrats, such as the preparation and content of NPAAAs, long-term programmes and other compliance-related work conducted in the field of JHA and political conditionality. This section finds that Turkish bureaucracy, following the preferences of the political leadership, adopts a selective approach to compliance by postponing preparatory work on harmonisation in particularly costly areas. Along the same lines, they go ahead in other areas where economic and political costs of compliance are either minimal, where rewards outweighed the costs, or in areas where the AKP's own priorities overlapped with EU demands. This shows that the DPM's costs variable carries explanatory power to elucidate why administrative compliance in some areas continues under diminished credibility. This result weakens the role played by bureaucratic politics of compliance.

Turkey's compliance with the entirety of the *acquis* has been somewhat selective, where Turkey's own needs and less costly reforms are prioritised. Administrative compliance conducted by the bureaucrats has also shown a similar trend. For instance, the bureaucrats from the SPO had this selective approach in mind when they prepared the TPAA in 2007. The TPAA was prepared in line with Turkey's own priorities and developmental goals. In this respect, the TPAA set earlier deadlines for EU demands which overlap with Turkey's own needs. Work in other areas, such as free movement of people, which is only meaningful in the context of Turkey's full EU membership, have

been shelved until Turkey's actual accession. As a former SPO bureaucrat active in the preparation of the TPAA elucidates: '[w]hy would we do these [reforms] which are only useful in the context of membership? But other standards or conditions are important for national needs' (SPO2).

The 2008 NPAA prepared by the EUSG follows a similar approach and sets 'full membership prospect' as a deadline for a number of costly reforms, such as complying with the EU's negative and positive visa lists, establishing a Sirene Office and a national Schengen information system (NPAA, 2008). The deputy undersecretary of the MFA accounted for this selective approach by stating that it would not be necessary for Turkey to make large-scale investments in technical areas such as agriculture or environment if Turkey is not going to be an EU member (MFA3). He also added that '[w]e do not make reforms in sensitive areas. There is no improvement on the Cyprus issue for instance. Turkey has not given any concessions on this issue. All the reforms conducted up until now in the context of negotiations have been beneficial for Turkey. No one can say that Turkey has lost from these reforms' (MFA3).

Aside from these long-term plans, the EUSG's EU Strategy document also prioritises Turkey's own needs. Turkey's stated goal is to resume the commitments put down in the TPAA and the NPAAs in line with 'Turkey's own priorities and timetables' regardless of whether a chapter is blocked or suspended (EUSG, 2010b: 2). This way Turkey will be able to progress in areas that are 'important for itself' and also make 'its own decisions on timing and pace' of reform (*ibid.*: 2). The Strategy document adds that '[p]roblematic issues for Turkey may be postponed; areas with priority would take precedence' (*ibid.*: 2). Overall, in the preparation of all these documents, the EU-related bureaucracy has been conscious of the economic and political costs and benefits of specific reforms for the political leadership.

This utilitarian strategy is also evident in the manner in which the EU-related bureaucracy is conducting the negotiations. As discussed earlier, there are at present 18 blocked or suspended negotiating chapters and therefore only three chapters can be opened for negotiations. These chapters are: public procurement;

competition policy; and social policy and employment. These three chapters are known to be particularly difficult and have usually been dealt with at the end of the negotiation process by previous applicant countries (EUSG1; MFA4). Despite their difficult nature, we would expect the EU-related bureaucracy and the political leadership in Turkey to focus most of their attention on these three chapters where concrete outcomes can be obtained unlike the blocked ones. Being able to open these chapters to negotiations and subsequently provisionally closing them would motivate the bureaucracy in the stagnant negotiation process. Moreover, the government would be able to claim a FP success domestically. The bureaucracy continues to work on these costly chapters, in line with established SOPs and long-term programmes. However, they find it increasingly difficult to fulfil the criteria to start negotiations, particularly when the political will for doing so is weak. Overall, rather than focusing most of their attention on these chapters where negotiations can progress, the bureaucrats conduct administrative compliance in line with Turkey's own needs, even on other chapters which are blocked on political grounds, such as 23rd and 24th chapters.

Overall, this section has demonstrated that the EU-related bureaucracy, in light of the preferences of the political leadership, sets out Turkey's long-term compliance plans so that Turkey's own priorities and low cost reforms take precedence, whereas costly reforms are postponed until membership prospect becomes more credible. In other words, the economic and political cost-benefit calculations conducted by the political leadership determine the extent to which the EU-related bureaucrats comply under diminished credibility. The EU-related bureaucracy cannot independently push forward reforms in areas where the political leadership is not too keen either due to reform costs. For important and risky decisions, the politicians' approval is required for bureaucracy to conduct work. In cases where their preferences contradict, the EU-related bureaucracy is greatly restricted by the politicians' will. These conclusions demonstrate that in many respects the compliance process operates in a top-down manner, where the political leadership has the upper hand and the bureaucratic politics of compliance play limited independent role.

9.3.2 Administrative Capacity

The administrative capacity hypothesis posits that: *if the political leadership improves the structure of the candidate's administration and institutional resources, such as budget and staff; then compliance is likely to improve.*²⁰³ This variable is considered within the DPM rather than the BPM, since it is the political leadership who determines the resources available to the EU-related bureaucracy. Therefore the strength of the bureaucracy's administrative capacity depends on the preferences of the political leadership. It is also different from the BPM's organisational lock-in variable. In administrative capacity we are interested in whether the decisions taken by the politicians to improve bureaucratic capacity actually has a positive impact on compliance. It is true that once the capacity is built, this can create its own dynamic in the long-run and create lock-in effects for compliance. However, we are not able to assess these long-term effects in the Turkish case, whose institutional structures to comply with the EU are only a decade old. Therefore, we only focus on the political leadership's initial input into administrative capacity.

This section demonstrates that the administrative capacity of the EU-related bureaucracy has remained more or less *stable* between 2000 and 2009, but thereafter *improved* significantly. Therefore, this finding is congruent with continued administrative compliance in T2. This is particularly so because administrative compliance has also picked up in the second half of T2 in parallel with improvements in administrative capacity. However, interview data show that the increase in administrative capacity did not necessarily lead to more efficient functioning of the system and did not always lead to more compliance. Therefore, a causal relationship between administrative capacity and compliance as stated in the hypothesis is rejected in this section.

²⁰³ The improvement is argued only take place only after a certain threshold has been reached in the level of administrative capacity. In the Turkish case, administrative compliance is taking place since 2000, therefore it can be assumed that this threshold has already been passed. Thereafter, any improvement in the administrative capacity within T2 is hypothesized to have a positive effect on administrative compliance.

Institutional capacity of a national administration is closely related to compliance (Hille and Knill, 2006: 538-40). If the administrative structure and resources are not sufficient or effective in a candidate, this makes it extremely difficult, if not impossible, for the EU-related bureaucracy to conduct administrative compliance. As Falkner *et al.* argue the two main aspects that are central to administrative capacity are the number of staff and budget devoted to EU-related bureaucracies (2004: 461). Changes in the staff numbers, in other words, variations in the extent of institutionalisation, are likely to be important for the quality and level of administrative compliance. The reason behind this, as Zubek maintains, is that the number of staff who deal with EU-related legislation is likely to have a significant effect on the transposition record (2008: 44). Similarly, a lack of financial resources can be a barrier against administrative, formal and behavioural compliance (Hille and Knill, 2006: 538-9). According to Hille and Knill greater financial resources allow for a more speedy, comprehensive and sophisticated implementation of policies (*ibid.*: 539). This section firstly looks at the overall leadership structure and hierarchy in the process. Subsequently, it measures the staff levels in the main institutions of administrative compliance, such as the EUSG, SOP, MFA, MI and MJ; as well as the specific fora created for compliance. Finally, the financial resources of the EUSG are analysed over time.

The most important development with regard to the level of institutionalisation in the administrative phase of compliance was the appointment of Egemen Bagis on January 8, 2009 as the Chief Negotiator (CN). The appointment of a non-sectoral minister to this post creates a more powerful leadership structure in the compliance process, where the CN is given formal competences to monitor, sanction and reward other actors (Zubek, 2008: 5-6). With a strong leader at minister level, the EUSG's status automatically improved among other state institutions and became – almost – equal to important line ministries such as the MFA, MI and MJ. In the past, whenever a disagreement emerged between the EUSG and a line ministry regarding compliance, the EUSG's GS pressured the line ministry for further compliance, but frequently without much success. However, with the appointment of a state minister as a CN, deadlocks with other ministries can now be resolved by the minister (EUSG4; MFA4). This kind of

intervention allows the EUSG to have greater impact. Similarly, in cabinet meetings there is now a minister who solely represents the EUSG's interests and preferences (EUSG1). According to EUSG officials, whenever the cabinet is discussing an EU-related law, 'our Minister [Egemen Bagis] asks us whether there is anything we'd like to comment on' (EUSG10). This means that the EUSG bureaucrats can now provide their input even in later stages of legislative activity through their minister.

Moreover, this appointment prevented the problem of having a CN who was at the same time either the foreign minister or the minister in charge of economics. Assigning ministers with such busy portfolios as a CN has proven to be very costly in terms of Turkey's compliance record in the past. These ministers ended up spending insufficient amount of time and energy on EU-related work, which also includes travelling and lobbying. When appointed, Bagis took on an extremely busy travelling schedule across the EU countries for lobbying activities (EUSG9).

The administrative capacity of the EUSG was significantly improved towards the end of T2 as well (*see* Table 9.1). The EUSG was originally created with a permanent staff of 76 in 2000, which actually decreased to 60 officials at the start of 2010 (EUSG, 2010b; 2010a: 20). At the same time, the number of seconded officials increased to a total of 59 by 2010 (EUSG, 2010a: 20). These numbers signify a marginal increase over the EUSG's ten-year lifespan, where the total number of staff increased from 76 to 110 (*ibid.*: 20). As maintained in Chapter Three, this number is extremely limited in comparison with other Turkish state institutions and to similar organisations in other candidates. However, the June 2009 reform radically transformed the resources of the EUSG by increasing its total number of employees to 340 (EUSG, 2009d: articles 14 and 20). Moreover, this reform also created the Department of Civil Society, Communication and Culture which is particularly important for the manner in which the administrative phase of compliance operates. This department fills an institutional gap for the coordination of Turkey's EU communication strategy (EUSG, 2010c) by bringing together various state institutions, civil society organisations, think tanks, universities, private sector and businesses under the

same umbrella. In this respect, it allows a more open and a transparent administrative compliance process. In conjunction to this communication strategy, a deputy governor from each Turkish province is assigned as EU contact point responsible for informing citizens about the EU and ensuring their participation in the accession process (EUSG, 2009e: 2). According to an official from the MI's EU department which has close institutional contacts with these deputy governors, this reform was crucial and allowed 'the blood going through the main arteries to spread through the capillaries' (MI2).

The 2009 reform also created a small unit of seven officials operating abroad, as well as a small EUSG office in Istanbul, which was established in December 2009 (EUSG, 2009e: 2). Finally, appointments within the EUSG became much more flexible with this reform. Up until 2009 the head of Political Affairs and the DSG in charge of political affairs were always seconded from the MFA. However, both positions are now filled internally by EUSG officials. This allows for more continuity in the operation of the EUSG (EUSG1), particularly valuable for an important area like political affairs. Moreover, it can be a source of motivation for the EUSG officials, since they can see new possibilities for internal progression.

Table 9.1: EUSG's Staff Levels

Date	Permanent Staff	Seconded Officials	Total Staff
2000	76	N/A	76
2006	59	43	102
2008	58	49	107
2009	79	46	125
2010 (beginning)	60	59	119
2010 (end)	340	n/a	340

Source: Author's analysis from EUSG documents (2010a; 2009d; 2009i; 2008; 2006b; 2000b)

Even though the SPO's DGEU with 35 staff was closed down with the 2009 reform, this does not necessarily signify a decrease in administrative capacity, since the tripling of the EUSG's staff more than compensates for it. Moreover,

the high level SPO officials moved to the EUSG after this reform and assumed responsibilities as a DGS, a department head, and as legal advisors. This way expertise was centred in a single institution and the administrative phase of compliance became more cost-efficient and coherent.

The administrative capacity of other important line ministries has not changed substantially in T2. The core EU units within MFA²⁰⁴ and MI²⁰⁵ have remained more or less stable. The MJ's EU unit²⁰⁶ experienced the biggest improvement in terms of administrative capacity, however this took place in T1 and not under diminished credibility. Therefore, the changes in the administrative capacity of these units are not congruent with continued administrative compliance in T2. At the same time, when the specialist MI bureaus²⁰⁷ and the reactivated taskforce²⁰⁸ are taken into account, it can be argued that the administrative capacity improved marginally in T2, therefore some congruence can be observed.

In addition to the ministries, specific fora created for compliance are also crucial for administrative capacity. In this respect, the frequency of Reform Monitoring Group (RMG) and the Political Affairs Sub-committee (PAS) meetings have increased. Even though the RMG used to meet regularly (around three times a year) between 2003 and 2005, this rate fell drastically during the following three years (only four meetings between 2006-8). However, with the CN's proposal in 2009, the RMG started meeting even more frequently than ever (EUSG7). It met ten times in the last two years (2009-2010), whereas it has only met a total of thirteen times over the previous six years (2003-2008). Additionally, the PAS²⁰⁹ was (re)created under the auspices of the RMG to speed up the reform efforts in

²⁰⁴ 15 officials remained unchanged (MFA2).

²⁰⁵ The Department of Foreign Affairs and the EU was established in 2001 by a ministerial decision which prevents it from employing permanent staff. The department currently employs 15 officials seconded from other MI departments (MI1; MI2).

²⁰⁶ It was established as a department with only nine officials in 1989 and its status changed into a general directorate in 2001. Currently it employs 24 technical staff (MJ, 2011; MJ2).

²⁰⁷ BMB and AIM were established in 2004 as part of the GDS within the MI but their status changed in 2008 which attached them directly to the Undersecretary of the MI. This change increased the bureaus' powers and replaced the security officials employed in these bureaus with a higher number of expert civilian officials (BMB, 2010; BMB1; AIB2).

²⁰⁸ The Task Force on Asylum, Migration and Border Protection was reactivated in 2007 and has been meeting every two months since 2009.

²⁰⁹ Composed of high level bureaucrats from the MJ, MI, MFA, the Prime Ministry and Human Rights Presidency.

the realm of political conditionality and JHA by meeting at least once after each RMG meeting (EUSG, 2010b: 3-4). The PAS also set up two working groups responsible for 23rd and 24th chapters in 2009. Overall, the revitalisation of the RMG and the PAS in 2009 has been crucial developments strengthening the administrative capacity of the EU-related bureaucracy.

Aside from the staff levels, the size of the institutional budget is also a good determinant of administrative capacity. As the EUSG is the most important institution in the administrative phase of compliance, the changes in its budget are considered. Until 2010, the EUSG's budget only increased marginally, as shown in Table 9.2 below. This marginal increase can be explained by the increase in inflation over the years (EUSG3) rather than any other factor, since the permanent staff levels remained constant.²¹⁰ However, the EUSG's 2010 budget demonstrated an 87.9% increase from 2009. This increase not only reflects the sharp boost in the EUSG staff levels, but also the recently adopted and expensive EU communication strategy. The salary bands of the EUSG employees have also increased. They are now set at the highest rate for civil servants at their level and they are able to receive bonuses as well. These numbers, therefore, show that 2010 was a critical year for the EUSG's administrative capacity.

Table 9.2: EUSG's Budget

Years	Budget (Turkish Lira)
2005	4,918,000
2006	8,410,510
2007	9,759,000
2008	9,509,000
2009	11,420,000
2010	21,456,000

Source: Author's analysis from EUSG documents (2009a: 22; 2008: 75)

²¹⁰ Officials who are seconded from other public institutions and agencies continue to receive their salary from their original posts.

Overall, the above evidence demonstrates that the staff levels and budget of the most important institution in the administrative phase of compliance has *improved* in T2. A CN solely responsible for EU accession process has been appointed making the process more hierarchical. Finally additional bureaus and fora were created/reactivated within T2. This suggests that the administrative capacity was enhanced particularly in the later stages of T2. This finding is congruent with the continuing levels of administrative compliance under diminished credibility. However, interviews conducted with the EU-related bureaucrats working in these institutions cast some doubt on whether increased institutionalisation improved compliance. The critiques centre on three points:

Firstly, some EU-related bureaucrats questioned the merits of having a CN who holds a ministerial position solely responsible for EU affairs, since working towards Turkey's EU accession can be a very risky job for a politician. According to some interviewees, when Bagis started his job as a CN he was very dynamic and motivated. He was noted saying 'I personally believe in this process, this is one thing. But at the same time, I have a political identity and I want to be successful here. This is important for my future political career' (EUSG1). However, as the EU credibility weakened, it became more and more difficult for Bagis to maintain his motivation. According to a high level former EUSG official, once he realised the difficulties involved in this process and understood that being successful would be very difficult, he stopped 'prioritising and taking ownership of the process' (*ibid.*). Another EUSG official, who was the acting GS, remembered a conversation he had with the CN (EUSG9). When analysing some public opinion polls which show that 62% of the Turkish population would like Turkey to be an EU member, whereas 67% of people do not actually believe Turkey will be a member, he recalled Bagis saying: '[c]an you see what a difficult position I am in. 62% of the public believes what I do is right, however 67% of them do not actually believe I will be successful at it' (*ibid.*). In sum, whereas it is important to have a minister leading the EUSG to make the process more hierarchical, it is also likely for a politician to become demotivated when things become thorny on the road to accession and to prioritise his own future political career as a result. For instance, among the EUSG circles Bagis was heard saying that he would talk to the PM to have him

removed from the CN position since he does not want to be seen as unsuccessful anymore and he would like to get other ministerial positions (EUSG1).

Secondly, the three fold increase in the EUSG's staff may not necessarily improve the administrative capacity, at least in the short-term. Apart from a number of high level officials moving to the EUSG from the SPO, almost all of the new staff employed in the EUSG were at the level of assistant experts. They were chosen through a general examination on the EU and without considering any background or experience in this field. Therefore, the EUSG currently has a large number of new staff who need to go through intense training. According to one official who was seconded to the EUSG from the GDS, at least five years are required for these assistant experts to gain the necessary expertise to have any positive influence on the process (GDS1). Along the same lines, some interviewees commented on the fact that inexperienced personnel were appointed to important positions with this reform. For instance, the EUSG appointed a representative to Brussels in 2009, who used to be an expert level official working on transportation, and therefore cannot be expected to successfully explain Turkey's position to EU parties in political fields, such as minority rights (GDS1; EUSG1). Finally, the reform also created a ground for politicisation, where some appointments were made on the basis of the individuals' closeness to the CN rather than their merit. It was claimed that a technical EUSG expert rose very quickly to the DGS post responsible for political affairs without having sufficient relevant experience (GDS1; EUSG1; EUSG2).

Finally, even though the staff and budget of the EUSG has increased, this change was not matched by improvements in other ministries. The EUSG is the institution coordinating and motivating other ministries to fulfil their responsibilities in line with the NPAA. However, the line ministries are crucial for drafting and implementing new legislation in their fields. If they lack the necessary staff, they cannot fulfil the EUSG's expectations. For instance, the MI's EU department claims that they have not experienced any benefits from the 2009 EUSG reform. On the contrary, they are now expected to correspond to and develop expertise in 16 different EUSG departments rather than the previous seven with the same number of officials (MI2; MI3). In other words, when the

improvements in a coordinating institution do not mirror developments in other relevant bodies, it makes it difficult to develop administrative capacity at the national level.

Overall, even though the CN's appointment initially speeded up compliance in T2 in some respects, such as the 2009 EUSG reform and the revitalisation of the RMG and PAS; and although he was dynamic and motivated to begin with, the difficulties and risks associated with Turkey's accession soon started to demotivate Bagis. Moreover, the increase in the EUSG's administrative capacity in 2009 did not immediately make the institution and the harmonisation process at the national level more effective. Therefore, the enhancement of the administrative capacity within T2 is unlikely to be causally related to continued compliance under diminished credibility within this same period.

Conclusion

This chapter has demonstrated that there is a particular bureaucratic politics of compliance at work in Turkey's compliance process. The high levels of organisational lock-in and strong likelihood for social learning motivate the EU-related bureaucrats in Turkey to continue to comply with the EU under diminished credibility. This was particularly the case after 2007 where organisational lock-in became more powerful with the production of new long-term programmes and where social learning, which requires time to take place, started to show its full effects. In this sense, the values of these variables are congruent with the levels of administrative compliance over time and the causality of this relationship has been confirmed by fieldwork evidence. These findings are particularly important since they demonstrate that the manner in which bureaucrats comply and the motivations behind their compliance is very different from those of the politicians, who are less likely to experience strong social learning.

The evidence has also demonstrated that EU-related bureaucrats assume some *actorness* role in the compliance process. They can initiate further compliance by

making use of their informational advantages, developing new initiatives and subsequently forwarding these to higher levels. Moreover, the use of SOPs and bureaucratic rivalry among the public agencies may also have a positive impact on the outputs of compliance. In this respect, bureaucratic politics of compliance may improve compliance outcomes. However, this positive impact is only possible in areas where the political leadership does not have strong preferences or where the costs of compliance are low. The bureaucrats are not entirely independent. Instead they receive instructions from the political leadership above them. Therefore, their compliance is highly dependent on the preferences and actions of politicians. This chapter has tested and confirmed the DPM hypothesis that EU-related bureaucrats follow the compliance decisions of politicians. The political leadership engages in cost-benefit calculations and their decisions guide whether or not the bureaucrats comply. The strong explanatory power of the principal's economic/political costs variable is demonstrated by the bureaucrats' selective approach to compliance. At the same time, this chapter has concluded that the political leadership's decision to improve administrative capacity is not causally related to continued compliance in T2. Even though there is convincing literature on the positive influence of strong administrative structures on compliance, such improvement in the case of Turkey did not translate into a more effective system of compliance at least within the time period considered in this research.

Overall, most conditionality studies treat the EU-related bureaucracy as a simple agent of the governments which implement instructions from above. This chapter has shown that this view is not entirely wrong in the sense that the EU-related bureaucrats are largely dependent on the preferences and actions of the political leadership. At the same time, what is noteworthy is that the EU-related bureaucrats in Turkey do not obstruct or undermine the compliance desired by politicians. In fact, they can have a positive impact on compliance given that the political leadership is indifferent but not opposed to compliance.

Conclusion

This conclusion starts with a summary of the main empirical findings of the research, before elucidating the research's contributions to the literature. It also contains a brief examination of recent developments in Turkey since 2010 to evaluate whether they are consistent with the arguments developed in this thesis, and a final section discussing the limitations of the thesis and further areas of research.

10.1 Research Findings

This thesis draws three principal conclusions. Firstly, the evidence gathered challenges the EIM's credibility hypothesis. When examined through a number of methodological lenses, credibility has been shown not to be a necessary condition for compliance in Turkey. An examination of three quantitative indicators of compliance in the JHA field over time demonstrates that the levels of both formal and behavioural compliance increased continuously over time for all three indicators. Moreover, the average rate of compliance remained stable at worst. Given that candidates comply with easier and more technical conditions in the earlier stages of conditionality, this evidence demonstrates that the Turkish officials continued to comply with more difficult conditions at the same speed – and even faster in some cases – as they did before 2005. The qualitative data gathered in six case studies lead to very similar conclusions. Both formal and behavioural compliance continued to increase in all six cases in T2. Furthermore, the micro-level evidence demonstrates the speed of formal and behavioural compliance increased in more than half of the cases. All this evidence demonstrates very clearly that there has not been a significant decline in compliance following the significant decline in credibility as the EIM would suggest. Instead, positive reformist steps continued to be taken and at times at a higher speed, even though credibility declined. The fact that compliance

increased in the least-likely case of Turkey is a very strong challenge to the EIM which sees credibility as a necessary condition for compliance with costly conditions.

Secondly, this research put forward an alternative explanation of continued compliance under diminished credibility. It found that the domestic politics model (DPM) provides the most powerful explanation of the AKP's compliance with EU conditionality in T2. In particular, the government's partisan incentives variable best explains the governing party's compliance record in the field of JHA and political conditionality. More specifically, the AKP used EU conditionality strategically as a signalling device to the Kemalist state elite and the wider electorate. On the one hand, this allowed the AKP to secure its survival in the Kemalist/secularist dominated political system and ensured that it can govern effectively without any intervention from the military. On the other hand, EU conditionality allowed the AKP to present itself as a Western, reformist, neo-liberal and secular party to the electorate and thereby increase its support. Process tracing analysis conducted on the broadcasting rights of minorities supports these conclusions. The AKP adopted the law liberalising broadcasting on minority languages on state TV to increase its voter base in the South-east of Turkey, to control the content of this broadcasting, and finally to gain credit with the EU.

Moreover, the DPM also offers explanations specific to particular issue areas. This thesis concludes that issue-specific political and economic costs provide powerful explanations for why compliance has been selective across issue areas over time. In other words, these variables do not explain the AKP's more general compliance patterns but instead they account for why less costly and more technical reforms are conducted earlier, at a higher level and speed, than reforms which are expensive and face opposition. Particularly, the political costs of compliance variable carries strong explanatory power. At the same time, these issue-specific variables need to be considered together with the government's partisan incentives, otherwise they fail to explain why the AKP has conducted politically very costly reforms, such as for the broadcasting rights of minorities, under diminished credibility.

In addition to this rationalist account, explanations stemming from historical institutionalism (HI) also help to explain continued compliance. The political lock-in variable tests whether the overall direction of previously set Turkish FP has path-dependent influence on future policies, or more specifically on EU compliance. It also measures the extent to which compliance already conducted either by the current or previous governments creates a lock-in effect that influences the current government's compliance with the EU. The research has shown that political lock-in is causally related to continued compliance. However, both the counterfactual analysis and process tracing demonstrated that political lock-in does not carry sufficient explanatory power to account for compliance singlehandedly. Put differently, variables stemming from HI need to be considered, but in conjunction with the DPM.

Apart from these factors which carry explanatory power, this thesis has discounted a number of other variables which were found to be either too weak to cause compliance in the Turkish case or causally not related to compliance. Firstly, the social learning variable explains compliance through identification with and exposure to the EU. This thesis has demonstrated that the AKP officials do not identify strongly with the EU. Moreover, the conditions which make social learning more likely, such as having a professional or educational background in the EU or being exposed to EU officials, were also found to be weak in the AKP's case. Overall, the research concluded that the level of social learning is not likely to be high for the AKP. This conclusion does not rule out the possibility that social learning is causally related compliance, however the evidence obtained from the Turkish case does not allow us to accurately test this variable and therefore it is argued that social learning is not likely to be part of the explanation of continued compliance in Turkey in T2.

Secondly, two other variables derived from HI were found not to be causally related to continued compliance. Vested interests and sunk costs variables which vary across different issue areas were tested among six case studies. The results demonstrate that the value and direction of the variables were not congruent with

the compliance outcomes. Therefore, the vested interests and sunk costs hypotheses are rejected by the thesis.

To sum up, the government's partisan incentives together with political lock-in effects provide the most complete explanation of the political leadership's continued compliance under diminished credibility in the Turkish case. The findings of this thesis have largely confirmed the most basic aspects of the EIM, since compliance was shown to mostly follow the government's cost-benefit calculations. However, the EIM also generally assumes that compliance involves domestic costs. This study has challenged this view. It showed that the governments may have intrinsic domestic partisan benefits to comply with the EU, other than the rewards that the EU offers. This explains why compliance continues under diminished credibility. In other words, external rewards and their credibility are not always necessary for compliance with costly conditions.

As a third and final finding, this thesis demonstrated that the EU-related bureaucrats are not a significant driving force in compliance. It is true that they show some *actorness* qualities and can improve compliance under specific circumstances. For instance, they may use their informational advantages, come up with initiatives and push forward reform in a bottom-up direction, but only in areas where the political leadership is indifferent to reform. They are predominantly dependent on the actions and preferences of the political leadership who instruct them about compliance in a top-down manner. At the same time, what this thesis also showed was that the EU-related bureaucrats comply due to different motivations than the politicians. They are likely to experience stronger social learning and they have high organisational lock-in, which explains their continued compliance alongside the cost-benefit calculations of politicians. Put differently, there is a specific bureaucratic politics of compliance but its impact on the overall performance of compliance is limited.

10.2 Discussion and Contributions

This thesis makes a number of important contributions to the literature. Firstly, it poses a strong challenge to the EIM's assumption that credibility is a necessary condition for compliance. Secondly, this thesis contributes to the conditionality literature through its detailed examination and operationalisation of domestic costs of compliance. Thirdly, it develops the DPM as part of the EIM to better study such domestic political factors. Fourthly, it introduces new variables, hypotheses and causal mechanisms into the conditionality literature to explain continued compliance under diminished credibility. Finally, the research distinguishes between the compliance of political leadership and EU-related bureaucrats. In this respect, it finds that the factors motivating bureaucracy for compliance are significantly different than in the case of politicians.

10.2.1 Credibility as a Necessary Condition of Compliance?

The widely accepted EIM of conditionality asserts that a credible membership offer from the EU is necessary for candidates' compliance with costly conditions. More particularly, Schimmelfennig has argued that credibility is a necessary but not a sufficient condition for compliance, since compliance also needs to 'fall on fertile domestic ground' (2008: 918-21). Looking at the EU's Eastern enlargement, one can see why this argument was developed. As Schimmelfennig asserted: 'nothing short of a credible conditional accession perspective has proven effective' (*ibid.*: 920). However, arguably, these candidates did not offer a favourable ground to test the necessity of credibility, since credibility was mostly high. For an accurate test, one either has to examine the new MSs or the (potential) candidates, where credibility is much lower. Particularly, the Turkish case, where credibility is extremely low, offers the most suitable environment to test the EIM's credibility assumption.

This thesis has addressed this gap in the literature and tested whether credibility is necessary for compliance in the least-likely case of Turkey. The fact that this research demonstrated continued compliance under diminished credibility challenges the necessity argument. Both macro-level quantitative and micro-level qualitative analysis has demonstrated that there were absolutely no signs of decline in the level and speed of compliance in the T2 period. The fact that this conclusion is supported by three quantitative and one qualitative indicators of compliance demonstrates its reliability.

10.2.2 Operationalisation of Domestic Costs

The conditionality literature tends to explain compliance through external and domestic factors. On the one hand, external factors, such as the EU's membership credibility or the quality of specific conditions, are effectively conceptualised and operationalised. On the other hand, conditionality studies tend to group all domestic political factors, such as institutional capacity, presence of national elections, public opinion, veto-players, under the label of *domestic adoption costs* or *veto-players* rather than conceptualising them in more detail (Sedelmeier, 2011: 30). This is despite the fact that factors related to domestic costs are employed very frequently in conditionality studies.

In its attempt to explain continued compliance under diminished credibility, this thesis also makes use of domestic explanations of compliance within the DPM. However, rather than using a vague variable like *domestic costs*, various components of these costs are unpacked and tested as separate variables. For instance, this thesis operationalises the *government's partisan incentives* as part of the DPM. This variable measures the extent to which the government gains electoral and reputational benefits from EU conditionality. The absence of these makes compliance more costly and therefore less likely. This research also takes into account *political costs* and *economic costs* variables in the context of rationalist DPM and operationalises them in detail. Moreover, two other variables which are considered within the framework of HI are also related to domestic compliance costs and veto-players. The presence of *sunk costs* and

vested interests is hypothesised to make compliance easier, whereas their absence poses an obstacle. Finally, the thesis considers *administrative capacity* as an additional variable which is hypothesised to make compliance more likely. In sum, this research addresses a shortcoming in conditionality studies by unpacking domestic costs into six specific variables which are fully operationalised and subsequently tested.

10.2.3 Domestic Politics Model

This thesis has developed the DPM as a subcategory of EIM to specifically address the above-mentioned gap in conditionality literature regarding the under emphasis on domestic costs. The DPM, from the outset, resembles the lesson-drawing model (LDM), where compliance is domestically-driven. Both models agree that compliance is a result of domestic political considerations. For instance, both models would take into account particular costs associated with a change. The main difference between the two is that DPM still sees the EU as a causal factor in compliance and therefore does not see it likely for compliance to take place in the absence of EU conditionality. For instance, although the credibility of EU's accession reward has diminished in the Turkish case after 2005, EU conditionality still offers specific incentives to the governing party by legitimising it and providing it a political bargaining advantage against the opposition. In other words, even though the AKP was interested in pushing through certain reforms to strengthen its domestic standing, it would not have been able to do so in the absence of EU conditionality. So compliance stems from domestic politics but it only takes place in the shadow of conditionality. At the same time, the DPM is part of the EIM, since it is not sufficient that the AKP has intrinsic partisan incentives for conducting various reforms. AKP is only able to continue complying if the EU formulates these reforms as conditions.

10.2.4 New Explanations of Compliance

In solving the puzzle of continued compliance this research also aimed to refine theories of conditionality by introducing new variables and hypotheses. Most significantly, it has introduced the *government's partisan incentives* variable. This variable predominantly considers domestic politics as key to explaining compliance. At the same time, the EU still plays an important causal role since domestic change is only possible when particular reforms or the reform process as a whole are linked to EU conditionality.

This variable is particularly important in the Turkish case where the moderately Islamic AKP is in government. Many secularists and liberal sections of the Turkish public mistrust the AKP and believe that its *real* intention is to increase the role of religion in society. In this respect, the EU plays a significant role to justify AKP's stance and legitimise its politics to the public. It allows the AKP to be perceived as a Western, modern, reformist and neo-liberal party and thereby increase its domestic popularity. At the same time, reference to EU conditionality allows the AKP to survive in the political system despite opposition and threats from the military and Kemalist/secularist forces. The AKP was able to demilitarise politics, increase the difficulty of banning political parties, gain the upper hand in the judiciary by constitutional reform, only through the strategic use of EU conditionality. Moreover, it survived a closure case at the Constitutional Court with the help of EU. The EU link sanitised the AKP's reforms in the eyes of voters and Kemalist/secularist establishment, who found it increasingly difficult to undermine the AKP's efforts. Moreover, the history of NOM with similar religious roots to AKP has showed that these reforms would not have been possible without the EU link. Every previous NOM party that acted to diminish the powers of the military or increase religious freedoms in society, was banned by either the military or the Constitutional Court. As Dogan maintains '[i]n order to stay in power and provide pragmatic solutions for its

supporters, the AKP has no choice other than standing by the EU cause' (2005: 432).

In addition to introducing this rationalist variable, this thesis also makes use of the concepts borrowed from new institutionalist theories to develop new variables to explain continued compliance. The most important concepts used in this thesis are path-dependency and lock-in mechanisms derived from HI. This thesis considers political lock-in, organisational lock-in, sunk costs and vested interests variables as part of HI and shows that the first two of these variables are causally related to compliance. In this respect, this research has contributed to the debate on conditionality by complementing the existing either/or explanations of compliance with the rationalist EIM on the one side and sociological SLM on the other. This research has demonstrated that a government's previous policies, candidates' established FP direction, compliance conducted by previous governments, the SOPs and long-term programmes used by the bureaucrats have an impact on compliance. These factors have not been taken into account and operationalised as fully in previous conditionality studies.

10.2.5 Bureaucratic Politics of Compliance

As a final contribution, this thesis differentiates itself from other conditionality studies. Instead of treating candidates as a unitary entity complying like a single actor with a single motive, it demonstrates that different actors within the compliance process conduct different types of compliance and argues that they may also have distinct motives for complying with the EU. More particularly, this thesis brings to attention the role of EU-related bureaucrats in compliance and distinguishes their compliance – *administrative compliance* – from other types of compliance, such as formal, behavioural or discursive. The bureaucrats' compliance is worth studying since they may act as either an obstacle or a facilitator for reform, depending on the political system they operate in and their level of politicisation, turnover and independence from the political leadership.

The Turkish case is particularly interesting since the established Kemalist bureaucracy was expected to be an inhibitor to reform. Instead what this research has shown is that the recently established EU-related bureaucrats are able to improve compliance in areas where the political leadership does not have strong preferences. Even though their contribution to compliance is not significant and despite the fact that they largely rely on the preferences of politicians, the bureaucrats are still an actor in compliance. This research has demonstrated under what specific circumstances the EU-related bureaucrats can demonstrate *actorness* qualities and drive compliance forward.

Furthermore, this research also demonstrates that the bureaucrats' motives for compliance are completely different to the politicians. They are much more socialised into the EU because of their frequent interactions with their European counterparts. Moreover, working on technical issues rather than more controversial political problems make it easier for them to agree with their European partners and identify with the EU rules and norms. This is what drives the EU-related bureaucrats to comply. Additionally, they experience stronger organisational lock-in dynamics, since they work with SOPs and long-term programmes, work in institutions/departments created solely for the purpose of EU compliance, and continued compliance allows them to maintain and even increase their institutional role/power/mandate. When both of these factors are considered together it becomes clear that we can talk about a distinct *bureaucratic politics of compliance*, where EU-related bureaucracies compete with each other for power and scarce state/EU resources and they take on institutional identities. In other words, the bureaucratic compliance approach to foreign policy has something to contribute to how bureaucrats comply with the EU.

10.3 Recent Developments in Turkey

In the nine months following the end of the time period that this thesis covers, some developments have taken place in Turkey. Examining this recent period is essential as it provides an opportunity to test the conclusions of this research.

The first point to note is that compliance continued to be conducted in the policy areas examined in this research. Most importantly, the cabinet adopted a decree law on June 3, 2011 to close down the EUSG and instead establish a Ministry of European Union (MEU) at the same time as it restructured the ministries prior to the general elections on June 12, 2011. The government was able to pass this law with ease using its newly attained ability to issue decree laws after April 2011. The EUSG's senior structure remained, with the GS renamed as the Undersecretary and the four DGSs becoming Deputy Undersecretaries (Official Gazette, 2011). More significantly the number of departments increased from 16 to 19 with the addition of the Department of Law Consultancy; Media and Public Affairs Consultancy; and Executive Assistants (*ibid.*). Moreover, the minister is now able to appoint five additional personal consultants (*ibid.*). The decree allowed a new 'Internal Coordination and Harmonisation Committee' to be established which is led by the Undersecretary (*ibid.*). This decree also paved the way for the employment of new EU experts and assistant experts for the MEU. Overall, the establishment of the MEU is one of the most significant developments in Turkey's compliance process and demonstrates how the level of administrative compliance has continued to increase significantly after 2010.

Formal compliance also continued in the JHA and political conditionality areas. The TGNA passed a significant number of laws prior to the general elections in June 2011 with more than 60 laws adopted in the month of February alone (BDP2). Among the most important changes in the first nine months of the 2011 was the TGNA's ratification of the Optional Protocol to the Convention against Torture (OPCAT) in March. This is a significant development since the ratification of OPCAT was one of the informal conditions set by the EU for the opening of negotiations in 23rd chapter. Moreover, the foreigners' law and law on services were adopted, and the law on the work permits of foreigners and law on political parties were amended in 2011. Turkey also amended the Agreement on Illicit Traffic by Sea to align with article 17 of the UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances. Additionally, significant legislative developments were observed in the judiciary following the adoption of the Judicial Reform Strategy and Action Plan in 2009 helping harmonise

Turkish legislation with the EU in the 23rd chapter. The most important of these were the amendments to the Laws on the Court of Auditors, Council of State, Court of Cessation, Constitutional Court, and Code of Civil procedure, as well as the adoption of legal changes to increase the speed of judiciary. All these changes demonstrate that compliance continued to be conducted in the areas of JHA and political conditionality.

What is also interesting is that the types of reforms conducted or planned in 2011 give support to the government's partisan incentives hypothesis. A number of symbolic changes took place in 2011 in the civil-military relations, significantly undermining the military's powers. For instance, whereas the PM and the chief of General Staff used to sit together at the head of the table in Supreme Military Council, this year the PM sat alone. Similar developments were observed in the National Security Council. Most significantly, the AKP's Deputy Chairman recently announced a 15-article roadmap to curb the powers of the military and ensure Turkish politics becomes entirely civilian. This roadmap incorporates reforms that tie the General Staff to the Ministry of Defence; abolish an article from the military's internal service law that was used as a legal basis for most of the previous coups; restructure the gendarmerie; abolish national security classes in schools; make military spending more transparent; and also shorten compulsory military service (Radikal, 2011). These changes appear to support the argument that the AKP makes strategic use of EU conditionality in order to undermine the power of the secular/Kemalist opposition, including the military.

This brief analysis of the last nine months in Turkey demonstrates that the end of the time period under analysis – 2010 – does not appear to be a cut off year after which the arguments developed in this thesis no longer hold. Instead, it appears that compliance has continued to occur after this date, although further research would be necessary to make any conclusive remarks.

10.4 Limitations and Areas of Further Research

The methodologies used in this thesis allowed for important contributions to the literature, but also posed some challenges. Most significantly, whilst the study of continued compliance in a single case allows for an in-depth analysis of the complexities of the Turkish case; the gathering of significant amounts of data from primary sources and interviews largely absent from the literature; as well as the use of qualitative within-case analyses, such as process tracing; it also suffers from problems of generalisability.

To address these limitations, further research needs to be conducted in other contexts and preferably in a comparative manner. The EIM's credibility assumption can be tested in other (potential) candidates or new MSs where credibility is low to validate the findings of this research.

In addition to testing the EIM in new contexts, the new causal mechanisms and variables introduced in this research need to be tested in other cases as well. For instance, the government's partisan incentives variable is developed specifically for the case of AKP in Turkey. However, the incentives offered by EU conditionality to post-communist or ultra-nationalist parties may also be studied in a similar way. In other words, it would be useful to test the explanatory power of this variable in other (potential) EU candidates, such as in Serbia in the context of the Serbian Progressive Party or in Croatia for the Croatian Democratic Union. Moreover, it is possible for EU conditionality to offer other partisan incentives to governments, where domestic political considerations are still the key for reform but EU conditionality plays a more complementary role. For instance, Brusis's study on regionalisation in Czech Republic and Slovakia shows how the governments made instrumental use of EU conditionality in line with their partisan interests (2005). Similar studies can be conducted in other issue areas and country cases.

Similarly, the new variables developed in the context of HI, such as political lock-in and organisational lock-in, also need to be tested in other countries. Moreover, this research has not found high enough social learning in the governing party to be able to sufficiently test its impact on continued compliance. Cases where the value of social learning is high for the political leadership would prove to be useful for testing this hypothesis. Finally, this research has examined the fields of JHA and political conditionality. It would be useful to check whether these conclusions are also valid in other fields of conditionality.

At the same time, the Turkish case and the issue areas have been carefully selected for the purposes of this thesis. Turkey is arguably the candidate with the lowest level of credibility. Moreover, JHA and political conditionality fields incorporate the most challenging conditions and the *acquis* chapters which incorporate these areas have been politically blocked for negotiations by the EU. In other words, both Turkey and the issue areas have been selected as the toughest tests for continued compliance. If compliance was found to exist in these contexts – which is something this thesis has done – this strongly suggests these conclusions will be valid for other country cases and policy areas.

Additionally, given that credibility continues to stagnate or even decline in the Turkish case, it would be interesting to examine what happens to compliance levels after 2010. It would be particularly interesting to test whether the government's partisan incentives still continue to motivate the governing party to comply. Moreover, social learning mechanisms, which take some time to show their full effect, may attain more importance over time. In this respect, adding later temporal comparisons to this research would be very desirable.

In terms of the measurement of independent and dependent variables this thesis would benefit from further qualitative and quantitative data gathering. Firstly, the different ways to measure the dependent variable – compliance – have been subject to intense debate in the conditionality literature. In order to avoid bias this research incorporated as many methodologies as possible to measure compliance. More specifically, three quantitative and one qualitative indicators

were used to assess formal and behavioural compliance over time. This allowed the research to counterbalance the particular problems and shortcomings associated with using a single measure of compliance. Incorporating four different measures also allowed the thesis to verify the findings comparatively across methodologies. As further research, other indicators of compliance can be incorporated into the analysis to validate the conclusions further.

Secondly, the qualitative methods used to measure the social learning variable for both the political leadership and EU-related bureaucrats would benefit from using further sources. This research has taken into account the declarations of political leaders, the governing party's party programme and election manifestos, coupled with interviews, to measure social learning. Increasing the number of interviews and using a more structured discourse analysis of the political leadership's declarations in the media would strengthen the conclusions.

Finally, further research about reforms conducted in Turkey in the pre-1999 period, prior to EU conditionality would be useful. It would be highly unrealistic to expect all legislative activity to stop altogether in a country due to a decline of credibility. Any country would pass *some* legislation in the JHA field regardless of an external anchor. So it is important to test whether the compliance in T2 differs from the status-quo situation or a Turkey which is not under the influence of the EU. The best way to test this is to collect data on the legislative activity in a field of JHA prior to Turkey's EU candidacy and draw a base line level for Turkish legislative activity without an external anchor. Once this value is determined it can be compared to compliance levels in T2 to further test whether there is a significant decline in compliance under diminished credibility.

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Appendix: List of Interviews

Table Appendix.1: List of Interviewed Politicians

No	Interviewee Code	Position ²¹¹ /Institution	Date of Interview
1	AKP1	Deputy Undersecretary, Prime Ministry	21.07.2008
2	AKP2	MP, Chairman of the Turkish Delegation to the Parliamentary Assembly of the Council of Europe	22.07.2008
3	AKP3	MP, Chairman of EU Harmonisation Committee	22.07.2008
4	CHP1	MP, Member of EU Harmonisation Committee, Foreign Affairs Committee	23.07.2008
5	AKP4	MP, Chairman of Foreign Affairs Committee	24.07.2008
6	AKP5	MP, Member of EU Harmonisation Committee	24.07.2008
7	AKP6	MP, Chairman of Human Rights Inquiry Committee	28.08.2008
8	AKP7	MP, Member of EU Harmonisation Committee	28.08.2008
			17.09.2009
9	AKP8	MP, Deputy Chairman of Foreign Affairs Committee	29.07.2008
10	CHP2	MP, Member of EU Harmonisation Committee, Deputy Secretariat General of CHP	30.07.2008
11	CHP3	MP, Member of EU Harmonisation Committee, Vice President of CHP	30.07.2008
12	CHP4	MP, Member of EU Harmonisation Committee	31.07.2008
13	DSP1	MP, Member of EU Harmonisation Committee	31.07.2008
14	AKP9	MP, Member of EU Harmonisation Committee	15.09.2009
15	AKP10	MP, Member of EU Harmonisation Committee	24.09.2009
16	AKP11	MP, Member of EU Harmonisation Committee	29.09.2009
17	AKP12	MP, Member of EU Harmonisation Committee	23.03.2011
18	BDP1	MP	23.03.2011
19	AKP13	MP, Member of EU Harmonisation Committee	23.03.2011
20	BDP2	MP	29.03.2011

²¹¹ These are the positions of interviewees at the time of the interview. A second position is included if they have been interviewed again and if their position has changed.

21	AKP14	MP, Member of EU Harmonisation Committee	30.03.2011
22	MHP1	MP, Member of EU Harmonisation Committee	05.04.2011
23	CHP5	Vice President of CHP	13.04.2011

Table Appendix.2: List of Interviewed EU-Related Bureaucrats

No	Interviewee Code	Position/Institution	Date of Interview
1	SPO1	Head of EU Policies Department, SPO	21.07.2008
		Deputy Secretary General, EUSG	24.09.2009
2	MFA1	Deputy Head of Political Affairs Department, Directorate General of EU, MFA	22.07.2008
3	PM1	Head of Department of Foreign Relations, Prime Ministry	24.07.2008
4	PM2	President of Human Rights Presidency, Prime Ministry	24.07.2008
5	SPO2	President of the European Union Relations General Secretary, SPO	28.07.2008
		Advisor to the CN, EUSG	12.04.2011
6	SPO3	Head of Department, General Directorate of Economic Sectors and Coordination, SPO	28.07.2008
7	TGNA1	Assistant Expert at EU Harmonisation Committee, TGNA	28.07.2008
8	EUSG1	Head of Department of National Programme, EUSG	29.07.2008
		TEPAV (Economic Policy Research Foundation of Turkey), Foreign Policy Studies	24.03.2011
9	EUSG2	EU Expert, Department of Political Affairs, EUSG	29.07.2008
			23.09.2009
10	EUSG3	Head of Department of Political Affairs, EUSG	29.07.2008
11	TGNA2	Expert at EU Harmonisation Committee, TGNA	14.09.2009
12	MFA2	Political Affairs Department, Directorate General of EU, MFA	15.09.2009
13	MI1	Deputy Head of Department of Foreign Affairs and EU, MI	17.09.2009
14	EUSG4	Head of Department of EU Law, EUSG	24.09.2009
			25.03.2011
15	AIB1	Deputy Head of AIB, MI	25.09.2009
16	EUSG5	Expert, Department of Political Affairs, EUSG	25.09.2009
17	EUSG6	Head of Department of Education and Institution-Building	25.09.2009
18	BMB1	Expert, BMB, MI	28.09.2009
19	EUSG7	Head of Department of Political Affairs, EUSG	01.10.2009

20	EUSG8	Deputy Secretary General responsible for Political Affairs, EUSG	01.10.2009
21	BMB2	Deputy head, BMB, MI	25.03.2011
22	BMB3	Project Officer, BMB, MI	25.03.2011
23	BMB4	Chief Superintendent, BMB, MI	25.03.2011
24	EUSG9	Acting Secretary General, EUSG	29.03.2011
25	MJ1	Head of Department, EU General Directorate, MJ	29.03.2011
26	MI2	Deputy Head of Department of Foreign Affairs and EU, MI	31.03.2011
27	MI3	Expert, Department of Foreign Affairs and EU, MI	31.03.2011
28	AIB2	Director of Security, AIB, MI	11.04.2011
29			
30	MFA3	Deputy Undersecretary, MFA	11.04.2011
31	MFA4	Head of Accession Process Department, Directorate General of EU, MFA	11.04.2011
32	MFA5	Head of Political Affairs Department, Directorate General of EU, MFA	11.04.2011
33	MJ2	Investigating Judge, EU General Directorate, MJ	12.04.2011
34	EUSG10	Head of Department for Social, Regional and Innovative Policies, EUSG	12.04.2011
35	MJ3	Director General, EU General Directorate, MJ	13.04.2011
36	GDS1	Seconded to EUSG from the General Directorate of Security	14.04.2011
37	GDS2	Head of EU Division, General Directorate of Security, Foreign Relations Department	14.04.2011
38	MFA6	Head of Asylum and Immigration Department, MFA	14.04.2011

Table Appendix.3: List of Interviewed Civil Society Representatives

No	Interviewee Code	Position/Institution	Date of Interview
1	CS1	Head of Amnesty International Turkey, academic	23.07.2008
			14.04.2011
2	CS2	Secretary General of MAZLUMDER (The Association of Human Rights and Solidarity for Oppressed People)	23.07.2008
		Coordinator, SETA (Foundation for Political Economic and Social Research), Law and Human Rights Studies	24.03.2011
3	CS3	President of Human Rights Association	24.07.2008
4	CS4	Secretary General of Human Rights Foundation of Turkey	30.07.2008
5	CS5	TEPAV (Economic Policy Research Foundation of Turkey), Foreign Policy Studies, Academic	30.03.2011
6	CS6	Deputy Head, Human Rights Research Association	31.03.2011
7	CS7	President of Human Rights Association	31.03.2011
8	CS8	Secretary General of MAZLUMDER (The Association of Human Rights and Solidarity for Oppressed People)	13.04.2011

Table Appendix.4: List of Interviewed Academics

No	Interviewee Code	Position/Institution	Date of Interview
1	AC1	Academic, Ankara University Faculty of Political Sciences, Human Rights Centre	30.07.2008
2	AC2	Academic, Middle East Technical University, Department of International Relations	28.03.2011
3	AC3	Academic, TOBB University, Department of International Relations	14.04.2011