

EU Conditionality and Minority Rights: A Contradictory Change in Turkey

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Introduction

Since the end of the Cold War, the EU has launched a common foreign and security policy whose main objective is to promote human rights and fundamental freedoms in external relations. With its competence under CFSP, the EU has utilized two instruments at its disposal. Firstly, by incorporating a human rights clause into all of trade and development cooperation agreements concluded with third world countries, the EU has engaged in human rights ‘dialogue’ with many countries. These programs include development cooperation agreements, with African, Caribbean and Pacific countries (ACP), Asian and Latin American countries (ALA), Mediterranean and Middle Eastern countries (MEDA) and Central and Eastern European Countries (CEECs). In this way, the EU has established an explicit legal base for suspending the trade agreements with third world countries in cases of severe human rights violations. Secondly, the EU has employed conditionality policy in the course of recent enlargement waves through linking the fulfillment of certain human rights standards—which encompasses respect for and protection of minorities—to the EU membership. Albeit strong similarities, the EU’s conditionality policy for membership is different from the EU’s general human rights policies in its external affairs towards non-European third countries. In the former approach, the EU has considered human rights problems in the applicant countries as domestic issue at the EU level rather than an external issue. In this sense, it has imposed more extensive and deep range of conditionality demands and taken into account more seriously the quality of the democracy and human rights in the applicant countries. All candidate countries have engaged in a large-scale process of transformation approximating their standards to European practices. In this way, the EU has become an important external dynamic that changed domestic policies of the candidate countries.

Promotion of minority and cultural rights has also appeared to be an important aspect of human rights discourse of the EU in course of enlargement. Yet, the content and holders of minority rights are controversial issues not only at the EU level, but also at the international level. Firstly, there is an important debate over legal status of minority rights within the general human rights doctrine. The question here is that whether minority rights are a component of general human rights doctrine or totally different category of rights. Human rights include first generation of rights—encompassing civil and political rights—and second generation of rights—including economic, social and cultural rights. Minority rights include both categories and cannot be restricted to purely cultural rights. Secondly, there are no coherently applied minority rights standards that the member and candidate state can adopt. Internally, the EU does not have single and homogenously applied minority protection benchmarks. Even the notion of “minority rights” has recently incorporated into the primary legislation of the EU with the Lisbon Treaty. The EU generally makes references to the legal and normative instruments developed by other international organizations and mainly pressure candidate countries to adopt Framework Convention for the Protection of National Minorities of the Council of Europe. Mainly, the criteria claimed by the candidate countries are much broader in scope than internal minority protection standards of member states given that some of the old member states failed to ratify those instruments.

Such a limited interest on internal minority protection does not prevent the EU to involve deeply the debates concerning minority protection in the candidate countries. Even though minority rights do not related with the traditional competence, the EU positively influence candidate countries. The candidate countries have made important legislative changes improving the protection level granted to minorities which without the EU's conditionality would not have been possible. In response to the perspective of membership and the pressure accompanying it, they have adopted legislative changes in the course of the accession process. Turkey is one of those candidate countries becoming the target of human and minority rights promotion policies of the EU. Since the Helsinki Summit in 1999, Turkey has initiated several reforms on cultural and minority rights and hence recorded important progress. Although reforms are considered as not sufficient enough to meet the demanded standards, these amendments have opened the "Pandora's box," resulting normative shift in public discourses.

However, such domestic changes can be misleading. Firstly, formal changes may not be followed by behavioral ones. There is always a gap between legislative changes and their implementation. While only rationally induced factors would be sufficient enough for instigating change for the former, for the latter a certain level of attitude change is necessary. Secondly, the EU's impact cannot be confined to the formal changes. It has an impact on the emergence of new attitudes, identities and beliefs. The change in identities and beliefs might not always be parallel with formal changes. It might lead to opposite behavioral tendencies.¹ Legislative changes can conceal deep-rooted political and social tendencies which become more visible in the course of the accession process.²

The main argument of this paper is that Europeanization of minority rights in Turkey goes hand in hand with these two nexus. On the one hand, there is a top-to-bottom policy-Europeanization with respect to minority rights without its parallel internalization. This means policy changes are not necessarily internalized in a way culminating in normative and behavioral shifts at institutional, societal and governmental level. The fundamental core of the protection system remains intact. On the other hand, new patterns of recognition-exclusion nexus have emerged due to the EU's involvement, underlying antagonism between majority-minority groups. Policy changes and their limited implementation have resulted in the recognition of the separate identities of the minorities whose existence has long been questionized by the state. However, it has also underlined the "otherness" of those groups with regard to the public perception. While the EU's involvement has made those minority groups more apparent, they became more exposed to discrimination and hostility. Therefore, Europeanization of policies limited to formal changes does not lead automatically Europeanization of national identities and beliefs on minorities, giving rise to harmonious coexistence. It rather becomes a pretext of sharpened nationalist discourses both in majority and minority groups in candidate countries. Hence, policy and identity/belief Europeanization might go opposite direction.

This study employs Europeanization as an analytical framework since it considers change as a "two way process."³ The framework provides an opportunity for analyzing the impact of international changes on domestic level policies. Considering minority protection as a recently emerging area of influence, the framework provides the tools for understanding how the construction of the minority norms at the EU level has an impact on domestic change within the

¹Gwendolyn Sasse, "The Politics of Eu Conditionality: The Norm of Minority Protection During and Beyond Eu Accession," *Journal of European Public Policy* 15, no. 6 (2008). p: 855.

²Ibid. p: 855.

³Tanja Börzel, "Pace Setting, Foot-Dragging, and Fence Sitting Member State Responses to Europeanization," *Journal of Common Market Studies* 40, no. 2 (2002). p :193.

candidate countries. The framework also creates new means for analyzing how opportunities and constraints created by the accession process are instrumentally used or normatively internalized by different actors in domestic structure. On the whole, it gives the analytical tools to be used to understand the interaction of domestic and international factors at the same time.

This paper consists of three parts. The first part analyzes Europeanization as a theoretical framework. Two forms of Europeanization are explored here. These are “policy-Europeanization” and “identity-Europeanization.” The second part traces how Europeanization of minority rights and policies in Turkey takes place. The third part analyzes indirect impact of the EU accession process on the policies and beliefs/identities concerning ethnic minorities. The aim is to find out policy and identity Europeanization of minority norms in Turkey. The essay mainly focus the general patterns of norm adoption with respect to the Kurdish minority.

1 Europeanization as Theoretical Framework

This study employs two different forms of Europeanization. These are “policy-Europeanization” and “societal-Europeanization.”⁴ Both of them explain the domains in which the impact of European integration at domestic level is felt. In policy-Europeanization, Europeanization is defined as the impact of “the development of the EU level issue areas, embodying new rules, norms, regulations and procedures” on the domestic level policies.⁵ As the EU level policy grows in its scope and depth, the numbers of issue areas which are traditionally under the jurisdiction of national governments are also included to the competence of the EU. More and more decisions are taken at the EU level. The EU gradually imposes strong pressure on member and candidate states to adapt their national policies to the European ones. By this way, European integration influences domestic policies.

When addressing “policy Europeanization,” three mechanisms can be identified. These are positive, negative and framing integration.⁶ Positive integration envisages the concrete European institutional model to which member states adapt their domestic institutions.⁷ In this mechanism, member states has limited discretion⁸ and consequently the EU’s pressure is coercive. The level of “compatibility” or “goodness of fit” between European and national level policies determines adaptation pressure of the EU.⁹ Adaptation pressure increases, when the misfit is high. In cases

⁴This categorization is quoted from: Thomas Diez, Apostolos Agnantopoulos, and Alper Kaliber, "File: Turkey, Europeanization and Civil Society," *South European Society & Politics* 10, no. 1 (2005). Diez (2005) also includes political Europeanization as another category. Political Europeanization explains the impact of the European integration on domestic structures and political process including national executives, administrative structures and political parties. In this study this categorization is excluded, as it is not directly related with the issue.

⁵Thomas Risse and Maria Green Cowles, "Transforming Europe: Conclusion," in *Transforming Europe: Europeanization and Domestic Change*, ed. Maria Green Cowles, James A. Caporaso, and Thomas Risse (New York: Cornell University Press, 2001). p: 21.

⁶Christoph Knill and Lehmkuhl Dirk, "How Europe Matters: Different Mechanisms of Europeanization," *European Integration Online Papers* 3, no. 1 (1999). p: 2.

⁷Ibid.

⁸Kevin Featherstone, "Introduction: In the Name of Europe," in *The Politics of Europeanization*, ed. Kevin Featherstone and Claudio Radelli (Oxford: Oxford University Press, 2003). p.14.

⁹See the discussion concerning fit/misfit with the EU and national policies in: Thomas Risse, Maria Green Cowles, and James Caporaso, "Europeanization and Domestic Change: Introduction," in *Transforming Europe*, ed. Maria Green Cowles, James A. Caporaso, and Thomas Risse (New York: Cornell University Press, 2001), Claudio Radelli, "Whither Europeanization? Concept Stretching and Substantive Change," *European Integration Online Papers* 4, no. 8 (2000), Tanja Börzel and Thomas Risse, "When Europe Hits Home: Europeanization and Domestic Change," *European Integration Online Papers* 4, no. 15 (2000),

where there is a high compatibility between European requirements with the existing national arrangements, however, the pressure decreases.¹⁰ Negative integration does not prescribe specific institutional arrangements but it defines the rules of the game for different actors.¹¹ Framing integration only changes “domestic political climate by stimulating and strengthening the overall support for broader European reform objectives.”¹² For this reason, the influence of framing integration on domestic arrangements is weak compared to positive integration.

Since there is no institutional template for minority rights which candidate and member states can adopt, positive integration cannot be considered in analyzing minority rights. Minority norm adoption can be related to the patterns of negative and framing integration of the policies. On the one hand, the accession process, which sets “respect for and protection of minorities” as a condition for European integration and hence, compels the governments to take necessary measures without specifying particular institutional templates. Such pressure challenges the existing power equilibrium between majority and minority groups and provides new opportunity structure for them. On the other hand, European beliefs and ideas trigger the mobilization of domestic actors that prompts for European democratic and human rights reforms. Even though actual impact of such mobilization depends on their power to reflect their preferences on national reforms in the concerned institutional opportunities and constraints, they provide domestic European support for the Europeanization of minority norms.

In “societal Europeanization,” or “Europeanization of identities” European integration influences “the construction of the systems of meanings and collective understandings, including social identities.”¹³ Europeanization of policy areas has an important impact on the perception, beliefs, values and collective understanding of individuals and social groups. In this kind of Europeanization, the EU norms not only regulate behavior, but also have an impact on “the way actors see themselves” and therefore, impact their preferences.¹⁴ With regard to collective identities and beliefs, the term “adaptation pressure” is not strongly relevant.¹⁵ This policy neither prescribes concrete institutional requirements nor changes in institutional context for strategic interaction. But it affects domestic beliefs and the cognitive structure and thereby influences preferences and strategies of the domestic actors indirectly. It is different from and comprehensive than framing integration, as it encompasses not only changes in “policy beliefs” but also “societal self definitions” evolving in the course of European integration.¹⁶

In “societal Europeanization,” domestic change is generally considered as a process of international socialization which results in “states internalization of constitutive beliefs and practices institutionalized in international environment.”¹⁷ Internalization is the adoption of social beliefs and practices in a way that the actors consider them as their own and follow them

Claudio Radelli, "The Europeanization of Public Policy," in *The Politics of Europeanization* ed. Kevin Featherstone and Claudio Radelli (Oxford: Oxford University Press, 2003).

¹⁰Börzel and Risse, "When Europe Hits Home: Europeanization and Domestic Change." p: 2.

¹¹Knill and Dirk, "How Europe Matters: Different Mechanisms of Europeanization." p: 2.

¹²Ibid.

¹³Risse and Cowles, "Transforming Europe: Conclusion." See also this discussion in Thomas Risse, "A European Identity? Europeanization and the Evolution of Nation State Identities," in *Transforming Europe: Europeanization and Domestic Change*, ed. Maria Green Cowles, James A. Caporaso, and Thomas Risse (2001). p: 217.

¹⁴Diez, Agnantopoulos, and Kaliber, "File: Turkey, Europeanization and Civil Society." p: 6.

¹⁵Risse, "A European Identity? Europeanization and the Evolution of Nation State Identities." p:198.

¹⁶Diez, Agnantopoulos, and Kaliber, "File: Turkey, Europeanization and Civil Society." p: 6.

¹⁷Frank Schimmelfennig, "International Sozialization in the New Europe: Rational Action in Institutional Environment," *European Journal of International Relations* 6, no. 1 (2000).

autonomously.¹⁸ The most important question here is what the constitutive values and beliefs institutionalized at the EU level are. This is a comprehensive discussion which transcends the scope of this paper.¹⁹ It should be sufficient to say here that European integration is elite driven and based on a treaty process. Thereby, the constitutional values form significant constitutive aspects of the EU's identity.²⁰ According to recently adopted Article 2 of the Lisbon Treaty, the values of the EU is to exercise "respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities." Socialization in this respect is the process of internalization of these norms to the extent that they become an integral part of the national identities. In minority rights case, it is the re-construction of consensual national identity on the basis of the principle of real equality, guaranteed within institutional and constitutional structure and internalized at elite and society level.

However, socialization does not always have to be successful.²¹ Legislative changes do not automatically initiate belief and identity changes. Formal rules can be changed due to the EU pressure. Nevertheless, this does not necessarily warrant their parallel internalization. Hence, legislative changes in the field of minority rights may not result in the emergence of the construction of consensual identities. The adopted norms are not be internalized to the level that they turn out to be an integral part of the national identities. On the contrary, they can go opposite directions. While the legislations become more liberal and European in consequence of the EU pressure, national identities develop into nationalist and less European ones. The involvement of the EU does not instigate the construction of new identities on the basis of the constitute values and beliefs institutionalized at the EU level.

Both at policy and identity/belief level, the patterns of Europeanization drawn by the theoretical framework can be employed to the changes in the minority regime of Turkey. In the case of Turkey, these different forms of Europeanization follow opposite directions. On the one hand, the adaptation pressure to meet Copenhagen political criteria makes policy changes necessary, forcing the governments in power to amend pre-existing minority legislations. On the other hand, such policy changes do not generate the internalization of emerging beliefs, values and identities attached to those policies. This takes place not only at the elite level but also the society level. Policy changes as a result of European integration process do not result in the construction of new consensual identities or approaches which re-establishes new minority-majority relations on the basis of equality. On the contrary, Europeanization of minority policies in Turkey induces "retrenchment." National identities and values become less European than they used to be. Recognition of cultural rights of ethnic minorities empowers domestic opposition, opposing reforms. This process also sets the intensification of anti minority sentiments in motion, both in public discourses and in extreme cases through manifestation of physical attacks and mobs against minorities

¹⁸See Jeffrey Checkel, "Norms, Institutions and National Identity in Contemporary Europe," *International Studies Quarterly* 43, no. 1 (1999), Jeffrey Checkel, "Social Construction and Integration," *Journal of European Public Policy* 6, no. 4 (1999), Schimmelfennig, "International Sozialization in the New Europe: Rational Action in Institutional Environment."

¹⁹See a good overview of European values in: von Gabriel Toggenburg, "The Debate on European Values and the Case of Cultural Diversity," *European Diversity and Autonomy Papers* (2004).

²⁰Ibid.

²¹Schimmelfennig, "International Sozialization in the New Europe: Rational Action in Institutional Environment."

2. Europeanization of Minority Policies and Legislations

Analyzing the Europeanization of the protection of minority rights in Turkey- which is defined as a domestic change arising from the EU's pressure- is the main issue area of this article. For this reason, the independent variable of this research is the EU's adaption pressure on the protection of minority rights in Turkey. The dependent variable is domestic change. Domestic change is operationalized in terms of policy and belief/identity change. Policy changes are measured by legislative changes. This is the direct and intended impact of the EU. Identity changes are measured by the discourses of political leaders and interviews, forming indirect and unintended consequences of the pressure of the EU.

Since the Helsinki Council Decision in 1999, the EU has generated important political and legislative reforms with respect to the protection of human and minority rights in Turkey. Particularly, with the coming of the AKP government in power-in the course of 2002-2005- Turkey has undergone a very unprecedented transformation in terms of its minority policies. It is well documented and evidently stated in many studies that reforms regarding minority rights took place in this period as a direct outcome of the EU's adaptation pressure which is based on the explicitly declared conditions and rewards for Turkey.²² On the other hand, though, the reforms of the EU led to an important level of democratization and provided the ground for discussing many fault lines of Turkey, they also have promoted nationalist reactions from the right wing groups. Turkish politics have appeared to be polarized in between not only Kemalist-secular and Islamic-conservative front, but between Turkish and Kurdish society as well. Despite their shortcomings in terms of meeting international standards, those reforms have challenged the institutional-ideological structure of the Kemalist establishment and this has resulted in the reconsideration of what majority-minority relationship should be and in turn reconsideration of the nation-state identity.

The EU has exerted strong pressure to promote respect for and protection of minorities in accordance to European standards, including European Convention on Human Rights and the European Framework Convention for the Protection of National Minorities. As a response to the EU's demands concerning fulfillment of the Copenhagen criteria, Turkey adopted the National Program in 2001. However, the program did not address the question of minorities explicitly. It only stated the free usage of different languages and dialects of Turkish citizens can be guaranteed.²³ Despite limited focus of the National Program, seven harmonization reform packages were adopted in the period of 1999-2005 in Turkey. These reforms were a direct answer from Turkey to the EU's incentive of membership presented by the Helsinki Council Decision.

In the first harmonization package adopted by the tripartite coalition government of Democratic Social Party (DSP), Nationalist Movement Party (MHP) and Mother Land Party (ANAP) in 2001, some improvements were made concerning the freedom of expression and press. The Law Amending Several Articles of the Constitution No: 4709 on 3 October 2001 changed 35 articles of the Turkish Constitution. Article 26²⁴ and Article 28²⁵ of these amendments loosened the

²²See the EU harmonization reforms in general in: Levent Gonenc, "Recent Developments in the Field of Freedom of Expression in Turkey," *European Public Policy* 11, no. 2 (2005). Meltem Muftuler Bac, "Turkey's Political Reforms and the Impact of the European Union," *South European Society and Politics* 10, no. 1 (2005), Ergun Ozbudun and Serap Yazici, *Democratization Reforms in Turkey* (Istanbul: Turkish Economic and Social Studies Foundation, 2004), Esin Orucu, "Seven Packages Towards Harmonization with the European Union," *European Public Law* 10, no. 4 (2005), Esin Orucu, "The Turkish Constitution Revamped?," *European Public Law* 8, no. 2 (2002).

²³Turkish National Programme for the Adoption of the Aquis, 2001, p: 5.

²⁴Freedom of Expression is regulated by Article 26 of Turkish Constitution (as amended on October 17, 2001) stating that "[e]veryone has the right to express and disseminate his thoughts and opinion by speech,

restrictions on the use of minority languages. The phrase “languages prohibited by law shall not be used in the expression and dissemination of thought” is deleted from Article 26. Similarly, “publications shall not be made in any language prohibited by law” was removed from Article 28 of the Constitution. Those articles generally regulated the rights concerning the freedom of expression and broadcasting. This expression was used to ban the use of Kurdish without particularly mentioning the term “Kurdish.”²⁶ Despite its symbolic importance, these legislative changes did not make the real improvement in terms using minority languages, since the use of minority languages could still be limited by the laws made for securing the “indivisible integrity of the state with its territory and nation.” Broad interpretation of these restriction grounds can still be used against the persons and groups that hold different opinions from state authorities on the basis of political considerations.²⁷

Moreover, the Law Amending Several Laws, No: 4771 on 3 August 2002 enabled broadcasting and the opening of private courses with the purpose of teaching “the different languages and dialects used traditionally by Turkish citizens in their daily lives.” Article 8 of the law makes broadcasting in minority languages possible by inserting a provision to Article 4 (1) of the Law on the Establishment and Broadcasting of Radio Station and Television Channels No: 3984, adopted in 1984. According to the provision, broadcasting in the different languages and dialects used traditionally by Turkish citizens in their daily lives can be possible, as long as such broadcasts do not contradict with the fundamental principles of the Turkish Republic as enshrined in the Constitution or with the indivisible integrity of the state with its territory and nation.

By this change, the broadcasting of programs in the languages traditionally used in everyday life by Turkish nationals was allowed.²⁸ After ensuring the legal basis enabling broadcasting in different languages, the implementing regulation called the Regulation concerning the Language of Radio and Broadcasts on 18 December 2002 was accepted. This regulation authorized only the Turkish Radio and Television Corporation (TRT) to broadcast in non official languages, excluding private enterprises the right to broadcast.²⁹ It designated the duration and content of the

in writing or in pictures or through other media, individually or collectively. This right includes the freedom to receive and impart information and ideas without interference from official authorities. This provision shall not preclude subjecting transmission by radio, television, cinema, and similar means to a system of licensing. The exercise of these freedoms may be restricted for the purposes of protecting national security, public order and public safety, the basic characteristics of the Republic and safeguarding the indivisible integrity of the State with its territory and nation, preventing crime, punishing offenders, withholding information duly classified as a state secret, protecting the reputation and rights and private and family life of others, or protecting professional secrets as prescribed by law, or ensuring the proper functioning of the judiciary. The formalities, conditions and procedures to be applied in exercising the right to expression and dissemination of thought shall be prescribed by law.”

²⁵ Freedom of Press is regulated by Article 28 of the Turkish Constitution, “[t]he press is free, and shall not be censored. The establishment of a printing house shall not be subject to prior permission or the deposit of a financial guarantee. The state shall take the necessary measures to ensure freedom of the press and freedom of information.Anyone who writes or prints any news or articles which threaten the internal or external security of the state or the indivisible integrity of the state with its territory and nation, which tend to incite offence, riot or insurrection, or which refer to classified state secrets and anyone who prints or transmits such news or articles to others for the above purposes, shall be held responsible under the law relevant to these offences.....”

²⁶ Ozbudun and Yazici, *Democratization Reforms in Turkey*. p:18.

²⁷ Gonenc, "Recent Developments in the Field of Freedom of Expression in Turkey." p: 248.

²⁸ See Article 4 of Law on the Establishment of Radio Station and Television Enterprises and Their Broadcasts Law as amended by the Law No. 4756 on May 21, 2002 and by the Law No.4771 on 9 August, 2002.

²⁹ According to Article 5 of the Regulation, broadcasting can also be made in the different languages and dialects traditionally used by Turkish citizens in their daily lives. Broadcasts in the different languages and

broadcasts. Broadcasts were to be made in these languages and dialects through a protocol concluded between the Supreme Board of Radio and Television (RTUK) and the TRT. Furthermore, surveys would be undertaken to establish the listener-viewer profile of these broadcasts by TRT. Even though the TRT is a state owned broadcasting enterprise, the regulation imposed several restrictions on the TRT as well. For instance, the TRT was not allowed to broadcast children programs or any themes apart from news, music and culture.³⁰ The duration of the broadcasting could not extend 45 minutes per day and a total of 4 hours per week for the radio and 30 minutes per day and a total of 2 hours per week for TV broadcasts. In addition, it was required that Turkish subtitles be used which would fully correspond to the broadcast in terms of timing and the content.³¹ Such broadcasts should not contradict with the fundamental principles of the Turkish Republic, nor undermine the indivisible integrity of the state with its territory and nation.³²

Despite the fact that the legislation paved the way for lifting the ban on programs for minorities, the time that elapsed between passing the legislation and implementing it delayed the realization of the broadcasts in minority languages. For instance, the TRT appealed to the Council of State to suspend the implementation of the regulation. The TRT claimed that the regulation by which the Supreme Board of Radio and Television (RTUK) compelled the TRT to broadcast in different languages and dialects spoken by Turkish citizens, contradicted with its autonomous structure and the Law on the Establishment of Radio and Television Enterprises and Their Broadcasts. The Council of State decided on 03 July 2003, that it was only possible to induce the TRT to broadcast in local languages by amending the regulation of the TRT. This decision delayed the implementation of the regulation.

This issue was addressed within the framework of the 6th Harmonization law. Given the reactions of the TRT, “the Law Amending Several Laws, No: 4928” on 15. 07. 2003, Article 4 of The Law on the Establishment and Broadcasts of Radio Station and Television Channels regulating broadcasting in local languages was changed. The procedures and principles concerning the above-mentioned law were implemented through the second implementing regulation (enacted on 5 January 2004) on the Broadcast in Languages and Dialects used traditionally by Turkish Citizens. Subsequent to the enactment of the second regulation, the right to broadcast in local dialects and languages was also given to private national radio and television companies provided that the approval of the Supreme Board of Radio and Television (RTUK) was gained.³³

dialects traditionally used by Turkish citizens in their daily lives shall be made by the Turkish Radio and Television Corporation. In these languages and dialects, broadcasts can be made for adults on news, music and culture. No broadcasts can be made towards the teaching of these languages and dialects. Within the framework of the financial contributions of the Radio and Television Supreme Board and the means available to the TRT, broadcasts will be made, also taking on board the views and requests of the administrative authorities, in these languages and dialects through a protocol to be concluded between the Supreme Board and the TRT and surveys will be undertaken to establish the listener-viewer profile of these broadcasts. The duration of radio broadcasts in these languages and dialects shall not exceed 45 minutes per day and a total 4 hours per week. TV broadcasts shall not exceed 30 minutes per day and a total of 2 hours per week. TV broadcasts shall be accompanied by Turkish subtitles which will fully correspond to the broadcast in terms of timing and the content. As regards radio broadcasts, a Turkish translation will be broadcast after the program.

³⁰Ibid.

³¹Ibid.

³²Law on the Establishment of Radio and Television Enterprises and Their Broadcasts Law No. 3984 of 20 April 1994, as amended by the Law No. 4756 on 21 May 2002 and by the Law No.4771 on 9 August, 2002.

³³Article 14 of the Law on the Amendment of Certain Laws, Law Number: 4928 on 15 July 2003 states that Law Number 3984 dated 13.04.1994 on the Establishment and Broadcasts of Radio and Television Law’s

As a result of these legislative changes, the TRT started to broadcast in different minority languages, including Kurdish, Arabic, Bosnian, *Zaza* and Circassian on 7 June 2004. Then, 11 regional radios and TV enterprises applied to RTUK with the request to broadcast in different languages. Following the evaluation of these applications by the RTUK, 3 local and regional radios and TV channels were given permission to broadcast in *Kirmanci* and *Zaza* dialects on 7 March 2006. Moreover, the decision of RTUK on 30 May 2006 reduced the limitation on the duration of broadcasting and brought some flexibility in terms of timing. As it was stated in the previous regulation, broadcasting in minority languages was subject to important restrictions for private establishments as well, including the limitations on the prohibition of broadcasting children programs and the teaching of local languages and the requirement of the authorization of the RTUK for any kind of broadcasting and so on.

Certain improvements were also made in terms of the teaching of minority languages. The Law on the Education and Teaching of Foreign Languages was changed on 9 August 2002, allowing the “learning of different languages and dialects used traditionally by Turkish citizens in their daily life.”³⁴ As it is stated above, the law on private educational institutions allows Greeks, Armenians and Jews to open minority schools. All other Muslim minorities have been deprived of these rights. By this amendment, private courses can be set up for teaching local languages. These courses were to be regulated under the Law on Private Education Institution.³⁵ As it is for most of the provisions of the Turkish legal system, the employment of such rights should not contradict with the “indivisible integrity of state and nation.”

Moreover, this law was further amended on 30 July 2003. The expression “any language other than Turkish cannot be taught as mother language” in Turkish education and training institution was added, restricting the teaching of local languages to only private language courses.³⁶ The learning and teaching of other languages traditionally used by Turkish nations in their everyday lives can be carried out in private courses only. There can be no education violating fundamental principles of the indivisible integrity of the State with its territory and nation. The establishment and supervision of such courses are under the jurisdiction of the Ministry of Education. The foreign languages to be taught and learnt in Turkey are determined by the Council of Ministers.

Despite the importance of these amendments, there are important problems in terms of their implementation. With regards to the “curriculum, appointment of teachers, the criteria of enrollment, including age restriction,”³⁷ there are still important restrictions. According to Article 10, the curriculum of the courses must be approved by the Ministry of Education. It must have specified name, level and duration. Moreover, only Turkish citizens with at least a primary education can attend to the courses. The persons under the 18 years of age are not given permission to attend the courses. The persons following these courses should obey the dress code of the Ministry of Education and so on.

fourth sentence of the first paragraph of Article 4 is amended as follows. Public and private radio and television organizations can broadcast in different languages used in the daily lives of Turkish citizens.

³⁴See Law on the Amendment of Certain Laws, Law Number: 4771 as amended on 3 August 2002, Official Gazette, no: 24841, 9 August 2002.

³⁵Orucu, "Seven Packages Towards Harmonization with the European Union." p: 615.

³⁶Law on the Amendment of Certain Laws, Law Number: 4963, as amended on 30 July 2003, Official Gazette, no: 2512, 7 August 2003.

³⁷MRG, "A Guest for Equality: Minorities in Turkey," (London: Minority Rights Group International, 2007). p: 16.

These initiatives have been considered by Kurdish elites to be insufficient in providing a resolution to the language problem of the Kurds.³⁸ Due to the institutional and legal restrictions, it seems unlikely that this problem would be solved in the near future. Firstly, law makers formulated the provisions as “language and dialects traditionally spoken by Turkish nationals.” They do not address the owners of such rights as “minorities” or they avoid mentioning the name of their native languages. This wording is in line with the traditional-historical minority policy of Turkey, which does not accept the existence of minorities apart from those recognized by the Lausanne treaty. Moreover, according to Kurban (2003), this wording degrades “the symbolic value of minority languages by conceptualizing them as traditional languages rather than instruments of communication that minorities cherish, cultivate and enjoy.”³⁹ Secondly, the collective understanding attributed to the language policies of Turkey remains unchanged. There is no amendment on Article 42 of the Constitution which gives Turkish the mother tongue status. Moreover, Article 3 of the Turkish constitution expresses the language of state as Turkish rather than the official language of state.⁴⁰ Without amendment of such rights, it would not be possible to induce the teaching of minority languages as mother tongue in public institutions. This is one of the most important demands of the Kurds. However, it does not seem to be possible in the near future fulfillment of such demands. Article 3 of the Turkish Constitution is an irrevocable provision and Turkey makes important reservations to the provisions and protocols of international instruments which contradict with Article 42 and the Treaty of Lausanne.⁴¹

Apart from these developments, in 2009, Turkey’s Prime Minister Erdogan declared that his government initiated a process of “democratic opening” that would improve the rights of the minorities, especially those of the Kurdish ethnic group. Though the full content of the initiative was not stated very clearly, yet the basic objective of the initiative was primarily to build confidence between the state and Kurdish citizens through granting broader cultural and political rights to the Kurds in Turkey and secondly to persuade the PKK members to lay down arms and to end their insurgency. This ‘package’ of democratic amendments was submitted for discussion at the Parliament on 10 November 2009. Despite the fact that the government declared its commitment several times to proceed with the package, it has lagged behind in terms of its implementation. However, important legal arrangements were made within the framework of the government’s democratic initiative since 2009.

Firstly, on January 2009, the state owned broadcasting enterprise (the TRT) commenced broadcasting 24 hours in Kurdish by means of the newly established TRT 6. However, this has promoted negative reactions both from the opposition parties and the Kurds due to the lack of a sound lawful base for the broadcast.⁴² According to the parliament member, Gültan Kışanak from the pro Kurdish Democratic Society Party (DTP), the TRT 6 would remain as a hoax that undermined the struggle for cultural rights, as long as the same rights for broadcasting in Kurdish was not accorded to private channels.⁴³ As internal and external pressure surmounted in this direction, a new regulation drafted by Turkey’s Radio and Television Supreme Council (RTÜK),

³⁸Ibid.

³⁹Dilek Kurban, "Confronting Equality: The Need for Constitutional Protection of Minorities on Turkey's Path to the European Union," *Columbia Human Rights Law Review* 35 (2003). p:197.

⁴⁰Ibid.

⁴¹Turkey has reservation to Article 13 of the International Covenant on Economic, Social and Cultural Rights because of Articles 3 and 42 of the Constitution, Turkey made reservations to International Covenant on Civil and Political Rights due to the Lausanne Treaty. Turkey also made a reservation to Protocol No. 1 of the European Convention on Human Rights on the grounds that it was in conflict with the law on the unification of education

⁴²Bianet, 06 January 2009, Kurdish Broadcast in Public Stirs Controversy.”

⁴³Ibid.

was brought into force on 13 November 2009. Actually, this was not a new regulation. It only revised the previous regulation enacted on 25 January 2004 by removing the restriction on the duration of broadcasts in Kurdish by private television stations.⁴⁴ The only particular requirement included in the regulation was the use of Turkish subtitles only during the news bulletins, contrary to the previous one that demanded Turkish subtitles be used in the course of all programs and which was yet but an additional burden on the private broadcasting stations.

Secondly, Turkey has begun restoring the names of Kurdish villages as part of the democratic opening process. The renaming of Kurdish villages is subject to the will of the residents of those places. If the inhabitants of any village or town demand to use a Kurdish name for their town, they are supposed to apply to the district governor. Following this, a referendum or referendum-like research shall take place; the village can be renamed provided that the majority of the inhabitants give their consent for such an alteration.⁴⁵ This should be considered as an important development, because under the Turkification policies more than 12,000 villages (approximately 35 percent of all the villages in Turkey) with Armenian, Greek, Bulgarian and Kurdish names were given a new Turkish name in between 1940-2000.

Thirdly, the Board of Higher Education in Turkey (YOK) allowed the state-owned Mardin University to found an Institute of Living Languages. The institute would teach Kurdish, Persian, Arabic and Aramaic. At first, it would only teach postgraduate and doctorate level students. In spite of the fact that this was one of the concrete steps of what has come to be known as the AKP's Kurdish opening, it led to disappointment among some parts of the academic world and pro-Kurdish circles. They demanded the opening of the Department of Kurdish Language and Literature and the Institute of Kurdology instead of the Institute of Living Languages.⁴⁶ Turkey's Board of Higher Education refused to give permission to the establishment of the Department of Kurdology on the grounds that there was not enough academic personal. But according to the President of the University, this is not true, as the University has sufficient academic personal at its disposal to teach at both graduate and undergraduate levels.⁴⁷ The basic reason of the refusal of Turkey's Board of Higher Education is to restrain the explicit expression of "Kurdology" or "Kurdish language." Using "living languages" is again an effort to conceal the name Kurdish.

Three points should be accentuated concerning the Europeanization of minority policies and legislative changes in Turkey. Firstly, when the Turkish state adjusts certain legislations which might have implications on ethnic and religious groups that do not enjoy any official minority status; for example, the Kurds and *Alevi*s, it never uses the term "minority." Turkey has addressed the issue under the principles of individual human rights and general democratization norms. Interestingly, those groups themselves do not want to be labeled as "minority," despite their demands such as the right for education in the mother tongue. This is due to the fact that minorities themselves consider the status of being a minority as being "second class" citizens. Secondly, the constitutional amendments in accordance with the demands of the EU are still far from meeting the standards of the international legal instruments providing the protection of minorities. The reforms have indeed changed several undemocratic characteristics of the Turkish state; nevertheless, the essential features and underlying collective understanding of Turkish constitutional structure remain untouched. The official stance and policies towards the minorities

⁴⁴Regulation on the Broadcasting in the Languages and Dialects Traditionally used by Turkish nationals, amended 13 November 2009, Law Number: 27405.

⁴⁵Today's Zaman, Kurdish Initiative Relegated to the dusty Shelves of Parliament, 10. 02. 2001.

⁴⁶Bianet, "Mardin University insists on Kurdology and Kurdish Language and Literature Department" 15 September 2009.

⁴⁷Ibid.

that avoid granting cultural rights to any non-Muslim group are still the mainstream approach of Turkey. As of this day, Turkey still deals with the issues concerning ethnic minorities within the framework of universal human rights and refuses to instigate the discussion of “group rights” or collective rights. To put it more simply, an understanding based on ‘One (central) state, one nation and one language’ continues to form the preeminent understanding of the Turkish Republic. Thirdly, there are still important problems regarding the implementation of even these limited minority reforms, owing to the fact that the implementing regulations have introduced important restrictions with regards to the full enjoyment of those rights. There are severe reactions from bureaucratic structures such as the Supreme Court. The comprehensive reading of the provisions of the Turkish penal code concerning the territorial integrity of the state and nation has made the implementation of these norms de facto impossible.

Overall, the impact of the EU reforms on the status of minorities in Turkey is very limited. Because of the implementation problems and bureaucratic resistance, the real conditions of the minorities in Turkey have not undergone drastic changes. However, in spite of the restrictions or shortcomings of these reforms, the impact of the EU lies in challenging the official ideology of the state concerning minority groups in Turkey. As a result of the EU’s pressure and the reforms thereafter, albeit not officially, Turkey has de facto recognized the existence of different ethnic groups like Kurds.

3. Europeanization of National Identities and Beliefs on Minorities

As it is seen above, Europeanization of minority policies can result in terms of legal changes. However, it does not anticipate changes in the identities and beliefs of the dominant groups on minorities. The direction of Europeanization of policies might not correlate positively with “societal-Europeanization” or Europeanization of identities. On the contrary, they can have the tendency to ensue in opposite directions. While Europeanization at policy level might give rise to the recognition of certain cultural and language rights of the minorities, it can promote harsh opposition from dominant ethnic groups and hence lead to a rise in extreme nationalism. “The otherness” of minority groups at both political and social level might be explicitly articulated. Rather than consolidating a consensual relationship, political reforms due to outside pressure can bring about discriminatory discourses and an ever increasing disintegration between minority and majority groups.

Turkey is one of the cases where identity/belief Europeanization displays reverse paths from “policy-Europeanization.” As it is stated above, in terms of policy Europeanization, Turkey has initiated the process of reforms and has recognized, though limited and implicit, certain cultural and political rights of the Kurds. These reforms were followed by the new inclusive discourse of the Justice and Development Party government. The government enunciated the existence of different ethnicities, sub-identities and cultures in Turkey. It endeavored to produce an alternative solution to the Kurdish issue through democratic means and commenced a policy called “democratic opening.” The project foresaw the improvement of cultural and identity rights, an economic stimulus package for the Kurdish region and possibly an improved amnesty offer for lower-ranking PKK fighters.⁴⁸ Indeed, these developments were paradigmatic shifts in the official ideology of Turkey, which had long renounced the existence of a separate Kurdish ethnicity and adopted a policy of forceful and systematic assimilation.

⁴⁸See the content of the recent democratic opening: Justice and Development Party, “The Process of Democratic Opening: The Project of National Unity and Brotherhood,” The Head of the Advertisement and Press, January, 2010. <http://www.demokratikacilimkitabi.com>. Last Accessed on 04.03.2010.

On the other hand, such an optimistic picture in terms of belief/identity Europeanization cannot be acceptably observed. Despite the fact that the discourse of the Turkish state has shifted from “denial” to “recognition” of the Kurdish identity, it does not lead to the emergence of the Europeanization of national identity or belief that would accept Kurds as equal citizens at broader public and institutional level. On the contrary, the EU reforms and the recent “democratic opening” project of AKP have triggered harsh reactions at political, societal, and institutional level.

At the political level, the EU and the AKP reforms have resulted in the emergence of an anti-EU block in Turkey. This block consists of the extreme right wing supporters composed of ethno nationalists, former left wing supporters encompassing anti-imperialist groups, and radical religious groups including anti western conservatives.⁴⁹ These forces have resurrected the “Sevres Syndrome” of Turkey. This is a perception that Turkey is encircled by internal and external enemies having some hidden agenda to disintegrate the Turkish state. The origins of this perception can be traced back to the Ottoman disintegration and the conclusion of the Sèvres Treaty after the end of the First World War. The agreement stipulated the partition of contemporary Turkey on the basis of ethnic lines. However, it was never implemented, as it was replaced by the Treaty of the Lausanne which contained more positive terms for Turkey. However, regarding the Western actors and the minorities as the main actors responsible for the Ottoman disintegration still remains intact in the memories of many Turkish people. Hence, any set of externally oriented political reforms are easily perceived as a possible threat that could in time culminate in the destruction of Turkey.

Subsequent to the EU and the AKP reforms concerning the Kurdish issue, this feeling of suspicion was revitalized by the anti-European block. The key players in this anti-European coalition are the members of the main opposition party; namely, Republican People’s Party (CHP) and the ultra nationalist Nationalist Movement Party (MHP). These political actors created an analogy between the reforms of the Ottoman Empire and those of the EU. The reforms of the Ottoman Empire in the late 19th century extended the rights granted to minorities in order to comply with the demands of the Western powers. The objective of those reforms was to prevent the disintegration of the Ottoman Empire through granting certain citizenship rights to non-Muslim minorities struggling for independence. However, such reforms did not only fail to preserve territorial losses, but they also did not achieve the recognition of the Empire as a European state. Reviving this historical conviction, the anti-EU block claims that European Union promoted reforms that aimed at enlarging individual and minority rights would provide the appropriate environment for the Kurdish separatism and in turn cause territorial disintegration like the reforms in the 19th century that led to the disintegration of the Ottoman Empire.

At the societal level, the reforms of the EU and the AKP generated nationalist reactions within the Turkish society. Turkish state had long ignored the existence of a separate Kurdish identity. The Kurds were mostly considered as “mountain Turks” or at least, as Yegen (2006) expresses it more explicitly, “prospective Turks” who had the potential of being assimilated by converging to Turkish identity.⁵⁰ In consequence of the EU and the AKP reforms, this perception has changed. The separate identity of the Kurds was de facto recognized. Cultural and political rights of the Kurds were partially adopted. Furthermore, at least at governmental level, the state embraced a relatively liberal approach to the Kurdish problem. The different identity of the Kurds has gradually been pronounced. They became relatively more visible in the Turkish society as a result

⁴⁹ Nicole Pope, "Facing up to the Big Red Apple," *Index on Censorship* 35, no. 3 (2006).

⁵⁰ Mesut Yegen, ""Prospective-Turks" Or "Pseudo-Citizens:" Kurds in Turkey," *The Middle East Journal* 63 (2009).

of the forceful displacement of Kurdish groups to the big cities in Turkey.⁵¹ On the other hand, the image of the Kurds as “separatists” who are in collaboration with external forces has also been fortified in the course of the EU integration process.⁵² This perceptual shift polarized Turkey further along ethnic lines and resulted in the emergence of negative anti-Kurdish discourses in Turkish society. Ethnic confrontation between Turkish and Kurdish groups in the western cities of Turkey has intensified as well. The incidences of attacks and protests against the Kurds have proliferated, signaling a looming large civil war against the Kurds. The problem has shifted from the military sphere to the social-political realm as the Kurds became more visible. This is due to the fact that the Kurds are deemed to be “equal” and free from discrimination as long as they are considered as the part of the “Turkish nation.”⁵³ As the EU reform process and recently adopted “democratic opening project” underlined and recognized the differences of the Kurdish minority in terms of their language and ethnicity, the image of the Kurds as a “trustworthy” or “faithful” Muslim group was replaced with that of a “principle other group” in the eyes of the Turkish nation.⁵⁴

At the institutional level, it is not possible to observe any shifts in the attitudes and beliefs of the institutions like the supreme and lower courts of Turkey. Those courts as the implementer of the amended legislations have not sustained any perceptual transformation⁵⁵ in parallel to the political reforms. They have interpreted the provisions of the Turkish penal code in a very comprehensive manner on the basis of “unity of state and nation.”⁵⁶ For example, recently, the Constitutional Court decided to close down the pro-Kurdish Democratic Society Party (DTP) for “becoming focused on terroristic activities.”⁵⁷ The Court imposed a political ban on 37 party members for the duration of 5 years. Following the closure of the DTP, the new Peace and Democracy Party (BDP) was established and they formed a group in the parliament. After the closure of the party, the pressure on pro Kurdish BDP has escalated. The police started an ongoing operation and arrested most of the local executives of the pro-Kurdish Peace and Democracy Party, including Council members of the party, executives from the women and youth council, county commissioners and district executives.⁵⁸ Almost 1662 BDP members are now under arrest.⁵⁹

There are several reasons for these controversial tendencies. Granting Kurds certain political and cultural rights in the course of the EU process resulted in the discussion of the official ideology of the Turkish state. The ideology is, as expressed before, based on “one language, one state, and one nation” approach and on the Turkish identity being considered as the single superior national identity in Turkey. In the course of the reform process, this official ideology and identity are challenged. The recognition of groups like Kurds, Alevis and Arabs living in Turkey has promoted the emergence of strong nationalistic feelings in the Turkish society which was until

⁵¹Cenk Saracoglu, “'Exclusive Recognition': The New Dimensions of the Question of Ethnicity and Nationalism in Turkey,” *Ethnic & Racial Studies* 32, no. 4 (2009).

⁵² ———, “The Changing Image of the Kurds in Turkish Cities: Middle-Class Perceptions of Kurdish Migrants in Izmir,” *Patterns of Prejudice* 44, no. 3 (2010).

⁵³It is for this reason Kurds were perceived for long a component of “nation” rather than “citizen.” The former concept was used for all Muslims as “in-group members,” but later term is employed for non-Muslim minorities which were regarded as the “other” of Turkish nation.

⁵⁴Yegen, “'Prospective-Turks' Or 'Pseudo-Citizens:' Kurds in Turkey.” In Saracoglu, “'Exclusive Recognition': The New Dimensions of the Question of Ethnicity and Nationalism in Turkey.”p.641.

⁵⁵Interview with Emin Akdar, Diyarbakir Bar Association.

⁵⁶Ibid.

⁵⁷See reasoned decision of Constitutional Court for closing down DTP in Official Gazette, 31.12.2009.

⁵⁸Bianet, Dozens of BDP Members Arrested Again, 15 January 2010.

⁵⁹Interview with Meral Bekdas Danis, General President of Peace and Democracy Party.

recently convinced of the non existence of these groups. Today, Turkish public and official institutions are facing the challenge of accepting and internalizing the recognition of the separate identity of the Kurds.

Moreover, emerging nationalist feelings and anti minority sentiments are used against the ruling party (AKP) and the pro Kurdish party (BDP) by all opposition parties in the parliament. They manipulate the Turkish public by using extreme nationalist rhetoric against ethnic groups and by promoting the fear of disintegration in the case that ethnic groups are given their rights. This creates a vicious cycle. As nationalism grows and forms the dominant part of the domestic politics, political parties which could normally display the motivation to realize minority reforms might switch to advocating nationalist discourses instead as they endeavor securing their seats in the next election. At this point of the minority reform process, the question is not whether decision makers have changed their beliefs, perception and ideas about minority issue ⁶⁰as they obviously want to make domestic changes. The problem is to determine how their changing beliefs and perception could be transformed into policies with ultra nationalism and anti minority sentiments residing at the society level. For this reason, solving the Kurdish problem in Turkey requires not only the creation of a new definition of Turkish citizenship encompassing various ethnic, linguistic and religious groups, but also in the creation of a psychological atmosphere and the adoption of confidence building measures at the societal level in which the Turkish public accepts Kurds as equal citizens and the Kurds accepts themselves as an integral part of the society.

4. Conclusion

This paper has argued that the Europeanization of minority norms takes place at societal/identity and policy level. By only analyzing legislative changes, the impact of the EU on minority rights protection can be partially observed. As Sasse (2008) argues, legal changes can conceal opposite political and societal tendencies in certain issue areas. It is only through analyzing the impact of the EU on policies, identities and beliefs concurrently that the real impact of the EU can be captured.

In terms of policy Europeanization, the EU's direct impact on the institutional-legal context of minority protection can be well observed in Turkey by looking legislative changes. If not sufficient, Turkey has made very important political reforms, touching upon Turkey's fault lines like Kurdish issues and granted important, yet limited linguistic rights. The EU reforms institutionalized minority rights protection at the constitutional and legislative level partially and in a piecemeal fashion. For the first time in the history of Turkey, Kurdish issue was addressed so apparently with an individual rights-based approach. The reforms also empowered bottom up forces like civil society organizations and minority groups by opening up some space for their mobilization through democratic means. Even though the European integration has not transformed the whole minority protection system of Turkey, it has commenced a process of change which partially institutionalizes, de facto recognizes and empowers domestic mobilization of the Kurdish ethnic group in Turkey.

In terms of the Europeanization of identities and beliefs with regard to the minority issue however, it is not possible to draw such a positive picture. While the EU process led to the recognition or at least discussion of certain cultural rights of minorities and thereby making them more visible in the political establishments, it indirectly promoted harsh reactions at both political and social levels in Turkey. The reaction could be pictured as increasing ultra nationalism,

⁶⁰Interview with Mehmet Kaya, Former President of Diyarbakir Industry and Trade Association.

intensified division between majority and minority groups and anti-minority discourses. As such, legal changes did not lead to parallel a normative shift among the elite and at the society level in Turkey. In consequence, the legal changes only emphasized ‘the otherness’ of the Kurdish ethnic group rather than establishing a harmonious and consensual relationship between majority-minority groups.

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