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Domestic Change in Turkey: An Analysis of the Extent and Direction of Turkish Social Policy Adaptation to the Pressures of European Integration in the 2000s

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Instituut voor Internationaal en Europees beleid [IIEB]

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Asuman Göksel

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Asuman Göksel

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Abbreviations

In English		*In Turkish*
Justice and Development Party	AKP	Adalet ve Kalkınma Partisi
Active Labour Market Policies	ALMP	Aktif İşgücü Piyasası Politikaları
Motherland Party	ANAP	Anavatan Partisi
Independent Social Scientists' Alliance of Turkey	BSB	Bağımsız Sosyal Bilimciler
Convention on the Elimination of All Kinds of Discrimination Against Women	CEDAW	Kadına Karşı Her Türlü Ayrımcılığın Önlenmesi Sözleşmesi
Central and Eastern European	CEE	Merkez ve Doğu Avrupa
European Centre of Enterprises with Public Participation	CEEP	Avrupa Kamu Katılımlı İşletmeler Merkezi
Republican People's Party	CHP	Cumhuriyet Halk Partisi
Council of Europe	CoE	Avrupa Konseyi
State Institute of Statistics	DİE	Devlet İstatistik Enstitüsü
Confederation of Revolutionary Trade Unions	DİSK	Devrimci İşçi Sendikaları Konfederasyonu
State Planning Organisation	DPT	Devlet Planlama Teşkilatı
Democratic Left Party	DSP	Demokratik Sol Parti
Democratic Society Party	DTP	Demokratik Toplum Partisi
European Commission	EC	Avrupa Komisyonu
European Economic Community	EEC	Avrupa Ekonomik Topluluğu
European Employment Strategy	EES	Avrupa İstihdam Stratejisi
European Free Trade Area	EFTA	Avrupa Serbest Ticaret Birliği
Economic and Monetary Union	EMU	Ekonomik ve Parasal Birlik
European Social Fund	ESF	Avrupa Sosyal Fonu
The European Trade Union Confederation	ETUC	Avrupa İşçi Sendikaları Konfederasyonu
European Union	EU	Avrupa Birliği
Confederation of Turkish Real Trade Unions	Hak-İş	Hak İşçi Sendikaları Konfederasyonu
International Finance Institutions	IFI	Uluslararası Finans Kuruluşları
International Labour Organisation	ILO	Uluslararası Çalışma Örgütü
Turkish Employment Organisation	İŞKUR	Türkiye İş Kurumu
Joint Assessment Paper	JAP	Ortak Değerlendirme Belgesi
Joint Inclusion Memorandum	JIM	Ortak İçerme Belgesi
Women Entrepreneurs Association of Turkey	KAGİDER	Türkiye Kadın Girişimciler Derneği
Confederation of Unions of Public Employees of Turkey	Kamu-sen	Türkiye Kamu Çalışanları Sendikaları Konfederasyonu
Initiative for Women's Labour and Employment	KEİG	Kadın Emeği ve İstihdamı Girişimi
Confederation of Public Employees' Trade Unions	KESK	Kamu Emekçileri Sendikaları Konfederasyonu
State Economic Enterprise	KİT	Kamu İktisadi Teşekkülü
Small and Medium-sized Enterprises Development Organisation	KOSGEB	Küçük ve Orta Ölçekli İşletmeleri Geliştirme ve Destekleme İdaresi Başkanlığı
General Directorate on the Status of Women	KSGM	Kadının Statüsü Genel Müdürlüğü
Directorate General on the Status and Problems of Women	KSSGM	Kadının Statüsü ve Sorunları Genel Müdürlüğü

Confederation of Public Servants Trade Unions	Memur-Sen	Memur Sendikaları Konfederasyonu
Nationalist Action Party	MHP	Milliyetçi Hareket Partisi
Confederation of Turkish Nationalist Workers	MİSK	Türkiye Milliyetçi İşçi Sendikaları Konfederasyonu
Independent Industrialists and Businessmen's Association	MÜSİAD	Müstakil Sanayici ve İşadamları Derneği
National Action Plan	NAP	Ulusal Eylem Planı
National Programme for the Adoptation of the *Acquis*	NPAA	Ulusal Program
Freedom and Solidarity Party	ÖDP	Özgürlük ve Dayanışma Partisi
Open Method of Coordination	OMC	Açık Koordinasyon Yöntemi
Armed Forces Pension Fund	OYAK	Ordu Yardımlaşma Kurumu
Pre-accession Economic Programme	PEP	Katılım Öncesi Ekonomik Program
Petroleum, Chemical, Rubber, Workers' Union of Turkey	Petrol-İş	Türkiye Petrol, Kimya, Lastik İşçileri Sendikası
Privatisation Social Support Project	PSSP	Özelleştirme Sosyal Destek Projesi
Structural Adjustment Policies	SAP	Yapısal Uyum Politikaları
Social Insurance and Universal Health Insurance	SSGSS	Sosyal Sigortalar ve Genel Sağlık Sigortası
Social Security Institution	SGK	Sosyal Güvenlik Kurumu
Social Service and Children Protection Institution	SHÇEK	Sosyal Hizmetler ve Çocuk Esirgeme Kurumu
Small and Medium-sized Enterprises	SME	Küçük ve Orta Büyüklükte İşletmeler
Social Security Institution	SSK	Sosyal Sigortalar Kurumu
Grand National Assembly of Turkey (The Parliament of the Turkish Republic)	TBMM	Türkiye Büyük Millet Meclisi
Confederation of Turkish Tradesmen and Craftsmen	TESK	Türkiye Esnaf ve Sanatkarları Konfederasyonu
Treaty on European Union	TEU	Avrupa Birliği Anlaşması
Turkish Confederation of Employer Associations	TİSK	Türkiye İşveren Sendikaları Konfederasyonu
Turkish Hard Coal Authority	TKK	Türkiye Taşkömürü Kurumu
Union of Chambers of Turkish Engineers and Architects	TMMOB	Türk Mühendis ve Mimar Odaları Birliği
Treaty of Amsterdam	ToA	Amsterdam Anlaşması
Union of Chambers and Commodity Exchanges of Turkey	TOBB	Türkiye Odalar ve Borsalar Birliği
Temporary Public Employment Programme	TPEP	Toplum Yararına Geçici Çalışma Programı
Turkish Medical Association	TTB	Türk Tabipler Birliği
Turkish Statistical Institute	TÜİK	Türkiye İstatistik Kurumu
Confederation of Turkish Trade Unions	Türk-İş	Türkiye İşçi Sendikaları Konfederasyonu
Turkish Industrialists' and Businessmen's Association	TÜSİAD	Türk Sanayicileri ve İşadamları Derneği
Turkish Chambers of Agriculture	TZOB	Türkiye Ziraat Odaları Birliği
United Nations Development Programme	UNDP	Birleşmiş Milletler Kalkınma Programı
United Nations Population Fund	UNFPA	Birleşmiş Milletler Nüfus Fonu
The Union of Industrial and Employers' Confederation of Europe	UNICE	Avrupa Sanayici ve İşveren Konfederasyonları Birliği
World Bank	WB	Dünya Bankası

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Summary

The density of the relations between Turkey and the European Union (EU) has considerably intensified after 1999, when the pattern of relationship has shifted towards a full membership perspective. This change in the nature of the Turkey-EU relations has made the impact of EU on Turkey inevitable, no matter Turkey would eventually become an EU member state or not. Including both incentives and challenges for Turkey, this process has stimulated some dynamics, by affecting domestic policies in Turkey with all their relevant institutions and actors in a way to adjust themselves, willingly or unwillingly, to the conditions of EU pre-accession processes.

It is against this background that this research aims to analyse Turkish social policy adaptations and the extent and direction of domestic policy change in Turkey under pressures created in the EU pre-accession processes especially in the 2000s in two selected social policy issues; and intends to explain the outcome of domestic policy change in the light of two particular mediating variables. Informed by the policy studies literature and Europeanisation theoretical framework, the main research questions are formulated as "what has been the impact of European integration processes on Turkey's domestic policies?" and "what have been the factors affecting the outcome of domestic policy change in Turkey and why?"

The research is composed of two empirical case studies, namely the equality between women and men at work policies and the employment policy. Each case study is designed in a way to test the explanatory power of one Europeanisation mechanism, namely the positive integration and framing integration mechanisms, in explaining the outcome of domestic policy change in Turkey due to the pressures created by the EU accession processes. In explaining the variation in terms of the outcomes, the role of two mediating variables is explored. The first variable is domestic politics, which is considered as a combination of a number of elements, namely the positioning and ideology of the government, interests of the domestic societal actors and the distance between the EU requirements and the domestic societal norms. Each of those elements is expected to be influential directly or indirectly in shaping the outcome of domestic policy change, while it is also affected by the process itself and by the other elements of domestic politics. The second mediating variable is existence of the external/endogenous factors other than the EU, which may reinforce the EU requirements for policy change at the domestic level, and differentially empower the domestic policy and societal actors that mediate the domestic policy change.

The first case study deals with the domestic policy change in the field of equality between women and men at work policies. In this case, the "positive integration" mechanism of the Europeanisation literature is used, since the primary instrument of the European integration in this policy field is "hard law", embodied in particular nine EU Directives. In line with the "goodness of fit" conceptualisation, this case study adopts a "top-down" research design. The findings of the case study show that the outcome of domestic policy change in this policy field is characterised by "selective harmonisation," referring to a variation in terms of the outcome. Thus, it is suggested that the adaptational pressures *per se* are not enough to explain this variation, and what explains the variation has been the role of the suggested mediating variables.

The second empirical case study analyses the domestic employment policy change in Turkey, through the "framing integration" mechanism, since the dominant European mode

of governance in this policy field is “soft law.” In line with the presuppositions of the framing integration mechanism, the case study adopts a “bottom-up” research design, in a way to see whether or not European policy alters the expectations of beliefs of domestic actors, or provides them additional legitimacy for domestic policy change. The findings of the case study show that the outcome of domestic employment policy change in Turkey is characterised by “comprehensive substantive framing”, referring to the change of a wide range of aspects, as well as the substance, of employment policy in Turkey, in a way to be shaped by particular policy frames. Again in this case study, the mediating variables play an important role in explaining the outcome of domestic employment policy change.

As a part of overall conclusions, a variation in terms of the impact of the EU on two sub-fields of social policy is also observed through the analysis of those two cases. The first observation regarding the variation is that it is difficult to differentiate the pure impact of the EU on the outcomes of the domestic policy change, first, due to the interdependency and mutually supporting character of the international obligations; and second, due to the often underestimated role of the domestic politics. The second observation relates to the role of the EU policy instruments, suggesting that the type and the coerciveness of the instrument *per se* is not a sufficient factor that explains the outcome of domestic change. The third observation proposes that domestic politics as a combination of the positioning and ideology of the government in particular relation to the European requirements and policy principles; the interests of the domestic societal actors; and, the distance between the EU requirements and the domestic societal norms have a potential to mediate, and hence explain, the outcome of domestic policy change. The last observation suggests that the realised policy changes do not always correspond with the actual policy problems of that policy field, first due to the “imported” nature of problem definitions and their limited problem-solving capacity at the domestic context, and second, due to the lack of implementation in Turkey.

Introduction

The density of the relations between Turkey and the European Union (EU) has considerably intensified after 1999, when the pattern of relationship has shifted towards a full membership perspective. This change in the nature of the Turkey-EU relations has made the impact of EU on Turkey inevitable, no matter whether Turkey would eventually become an EU member state or not. Including both incentives and challenges for Turkey, this process has stimulated its own dynamics, also affecting domestic policies in Turkey with all their relevant institutions and actors. It is against this background that this research aims to analyse the extent and direction of domestic social policy change in Turkey due to pressures emanating from Turkey's EU accession processes throughout the 2000s, in two selected social policy fields, namely the equality between women and men at work policies and the employment policy.

This introduction will first give a very brief summary of Turkey-EU relations in a way to help visualising the historical background as a result of which domestic social policy change in Turkey could be related to Turkey's EU accession processes. This will be followed by a short indication of the reasons, which have stimulated the academic research interest to conduct this study. The introduction will conclude with a brief outline of the content of this research.

Turkey's relationship with the European Union (EU) has been a long-lasting one, with numerous milestones and turning points. The starting date of the relations goes back to 1959, when, with reference to the article 238 of the Treaty of Rome, Turkey applied to become an "associate member" of the European Economic Community (EEC). Although the main reason behind Turkey's application for associate membership was political, the nature of the Association Agreement was economic to a great extent: "to promote the continuous and balanced strengthening of trade and economic relations between the Parties, while taking full account of the need to ensure an accelerated development of the Turkish economy and to improve the level of employment and the living conditions of the Turkish people."[1] The Agreement establishing an Association between the European Economic Community and Turkey, also known as Ankara Agreement, was signed on 12 September 1963, and entered into force in 1964. The establishment of this association was foreseen in three stages. In the preparatory stage, with aid from the Community, Turkey

[1] Article 1 of the Association Agreement.

was required to "strengthen its economy so as to enable it to fulfil the obligations which will devolve upon it during the transitional and final stages."[2] In the transitional stage towards a customs union, the economic policies of Turkey and the Community were required to be aligned more closely for proper functioning of the Association. The final stage of the association was the establishment of the Customs Union between Turkey and the EU "to entail closer coordination of the economic policies"[3]. This process was also accompanied by a number of Financial Protocols, including the aid from the Community to help Turkey's adjustment costs. The Ankara Agreement was welcomed very positively at the domestic level by all the parties in the Parliament, as well as by the business circles and the labour organisation of the period.

In 1970, the Association Agreement was supplemented by signing the Additional Protocol, which entered into force in 1973, establishing a timetable of technical measures to be taken to attain the objective of the customs union within a period of 22 years. The Ankara Agreement also set up the Association Council that would regularly meet and discuss the work of the association. At the domestic level, the Additional Protocol was perceived differently by different actors. One group of actors, mainly the employers' organisations, supported the continuation of the Turkey-European Community relations as it was; while the other group, mainly the labour organisations, was arguing that entering the second stage would cause great damage to the Turkish economy, particularly to the industrial sector (İlkin, 1990: 40). In addition, the risk of being unable to meet the requirements of competition with the European Community, Turkish economic elites and political actors started to challenge the protective customs union by that time (Eralp, 2009: 154).

For the first two phases of the development of Turkey-EU relations, the domestic reactions towards the Turkey-European Community relations were characterised by a politically and economically optimistic period of the 1960s, followed by a period of criticisms in 1970s. In addition, the impact of these two processes on the country's development plans was very limited in the 1960s and 1970s (İlkin, 1990:45, Tekeli and İlkin, 1993: 137). From the European point of view, the EC started to regard its relations with Turkey as a matter subject to fluctuations resulting from political and economic change, rather than a process at the end of which the structural integration would be achieved (İlkin, 1990: 45). In addition to this, the approach of the Community to Turkey also changed from regarding

[2] Article 3 of the Association Agreement.
[3] Article 5 of the Association Agreement.

Turkey as a country with special relations to the status of one country among the Mediterranean ones (Bourguignon: 1990).

In the 1970s, Turkey-European Community relationship had to both survive with the challenge of developments within Turkey and within the Community such as the first enlargement of the Community in 1973, the new Global Mediterranean Policy, and the oil-crises in the 1970s. The instability of the international economic system of the 1970s (i.e. tensions in monetary relations, rising petroleum prices, and increasing rivalry in international trade and investment) brought about major strains in international economic relations with Europe (Eralp, 2009: 153). Economic elites and political actors in Turkey even started to challenge the customs union relationships with the European Community, because of the fact that they were unable to meet the requirements of competition with their European counterparts (Eralp, 2009: 154)[4]. Accordingly, policies targeting integration in the customs union in order to be a part of western Europe remained laggard and those agreements did not appear as an external pressure for Turkey in the 1970s (Kazgan, 1993: 69).

Turkey's full membership application to the European Union had to wait until 1987, due to the military coup d'état of 1980 in Turkey, which greatly affected domestic politics and economy on the one hand, and resulted in the development of negative European attitudes towards Turkey in terms of democracy and human rights and even freezing the relationship until the restoration of the civilian government in 1983, on the other. The authoritarian military regime after the coup d'état attracted the antipathy of the European side, which was already struggled through in Greece, Spain and Portugal in the context of democratic transitions in those countries. However, the policy-makers in Turkey were aware of the fact that successes achieved through the new macro-economic policy orientation of the 1980s characterised by "outward-oriented economic growth under a free-market economy via structural adjustment policies" would also enhance Turkey's possibilities towards accession to the European Community (Kazgan, 1993: 70). With such a motivation, the government of the time, the Motherland Party (ANAP), applied for full membership on 14 April 1987 referring to the Article 237 of the Treaty of Rome. This application for full membership was one of the turning points regarding the Turkey-EU relations. This meant that although the distance between Turkey and Europe in terms of democracy and human

[4] The most well-known political slogan of this time was "They are the partners, we are the market." which was voiced by both the leftist and right-wing political and economic actors (Eralp, 2009: 154).

rights enlarged, under the terms of export-oriented economy, European Community was considered as “a stable market for Turkish export as well as a source of funds and technology” (Eralp, 2009: 156). However, it would not been the negatively-perceived full membership application which would appear as an external pressure on the economy policies, labour markets and employment in the 1990s, but the completion of the customs union in 1995.

Turkey’s application to full membership process did not work smoothly. The Community concluded that “it would not be useful to open accession negotiations with Turkey straight away”, as indicated in the “Commission’s Opinion on Turkey’s Request for Accession to the Community” on 18 December 1989. The reasons for this decision from the European side were both economic and political, both referring to the internal problems and processes of the European Communities, mainly deepening efforts through the new Treaty of Single European Act, and, to the results of the evaluation of the political and economic situation in Turkey such as the poor situation of human rights and respect for the identity of minorities; the dispute between a member state of the European Community, i.e. Greece and Turkey and the situation in Cyprus; and four kinds of difficulties regarding the economic situation, namely “major structural disparities both in agriculture and in industry; macro-economic imbalances; high level of industrial protectionism; and a low level of social protection.” The decision of the Commission was to wait until 1993 at the earliest before engaging in new accession negotiations with new candidate countries.

The beginning of the 1990s demonstrated some changes in the general atmosphere of the Turkey-EU relations. From the European side, European Community was evolving into the European Union (EU) with the Maastricht Treaty of the 1992, which signified a comprehensive integration momentum. On the other hand, a new enlargement wave was waiting for Europe from the Central and Eastern European Countries, which also affected the direction of Turkey-EU relations within the context of full membership. 1992 became the year, when the relations were revitalised, and Turkey and the EU re-started to discuss about the Customs Union.

The Copenhagen European Council of June 1993 became a turning point for the countries that desire to be a member of the EU, setting up a set of accession criteria, which referred to the ability to assume the obligations of membership by satisfying the economic and political conditions required. The formation of such criteria has demonstrated that the deepening of the European Union, especially accelerated after the Maastricht Treaty,

brought about new requirements from the countries that wanted to be a part of the EU. After that time, the EU with the help of the European Commission started to evaluate the candidate countries with those criteria.

Against this background of the first half of the 1990s, the Customs Union came into force on 1 January 1996 as foreseen in the 1963 Ankara Agreement. At the time of the beginning of the customs union, the Turkish government had both harmonised and put into place most legislation needed for its proper functioning. In addition any related problems, mostly of a practical nature, have been dealt with through the existing channels, such as the Joint Customs Union Committee and the Association Council. The realisation of the Customs Union was considered as an important step for Turkey in moving towards a more competitive economy. In addition, it was also seen as an instrument for the implementation of far-reaching regulatory reforms in the Turkish economy throughout the 1990s, which "could not have been implemented by the fragile coalition governments in power in the absence of such a powerful external anchor" (Öniş, 2001). It is also important to state that from the Turkish side, customs union was not an end in itself, but rather a powerful means to succeed in full membership (Öniş, 2001).

From the mid-1990s until 1999, in spite of the establishment of the customs union, Turkey's relations with the EU was characterised by disappointment for Turkey. Regarding the full membership application of Turkey, the Luxembourg European Council of December 1997 only confirmed Turkey's eligibility for accession to the European Union, especially due to unsatisfactory political and economic conditions, while Turkish side was expecting to be included among the official candidate countries. Regarding this decision as "unacceptable", Turkish authorities reacted severely to the conclusions of the Luxembourg European Council. However, as requested in the Luxembourg European Council, the European Commission adopted the initial operational proposals of the European Strategy for Turkey and started to prepare Regular Reports on Turkey's progress towards accession in 1998.

Finally in 1999, Turkey was officially defined as a candidate country at the Helsinki European Council of December 1999, which has had the greatest impact on the Turkey-EU relations since then. This is to say that both the very complex and complicated process of inclusion of Turkey in the enlargement process (Eralp, 2000: 10) and the problematic relations started with the Luxembourg European Council were settled down with the decisions taken in Helsinki, where the Council stated that "Turkey is a candidate State

destined to join the Union on the basis of the same criteria as applied to the other candidate States." Turkey was also offered a pre-accession strategy, similar to those of the other candidate countries, to stimulate and support the reforms on the way to the EU. In addition, Turkey was allowed to participate in Community programmes and agencies and in meetings between candidate states and the Union in the context of the accession process. In this context, Turkey has been asked to prepare the national programme(s) for the adaptation of the *acquis* (NPAA), in line with the Accession Partnership(s), containing priorities of accession preparations in the light of the political and economic criteria and the obligations of a Member State.

The official candidacy status of Turkey has been an important reform drive for transformation in Turkey, where the westernisation reform drive increasingly turned into a more concrete process of European integration (Eralp, 2009: 159). Potential EU membership has constituted a powerful driving force and impetus for change in Turkey, coupled with the increasing support of especially the business circles, which have started to conceive the EU as a "permanent anchor", as a means to consolidate an economic environment ensuring their long-term interests, as also pushed by the International Monetary Fund (IMF) in the Turkish context (Öniş, 2003). In this regard, it was also the economic crises of the 2000s, which have contributed to the emergence of a vocal pro-EU coalition in the domestic scene. To the extent that political conditions become a priority for the EU to allow Turkey to start accession negotiations, business elites and representatives of the international financial community started to conceive those political conditions on the basis of the economic impact through ultimate EU membership (Öniş, 2003).

Actually, the official announcement of Turkey as an EU candidate country in 1999 was followed by two critical domestic developments, which would be very much influential on the course of Turkey-EU relations throughout the 2000s. The country was hit by two severe economic and political crises, in November 2000 and in February 2001. Besides causing severe economic and social problems, the 2000/2001 crises had a significant implication at the domestic level in terms of changing the perceptions of the domestic actors towards external actors. Although the business actors, who were slowly adapting to changes in the European and international contexts by the end of the 1990s but hit by the crisis in 2001, underlined the urgent necessity of the "IMF anchor", but they also started to need another one, namely the "EU anchor", in order to achieve macroeconomic stability in Turkey (Eralp, 2009: 158). Facilitated by the formal candidacy status given in 1999, but

also perpetuated with the loss of legitimacy on the part of the Turkish state as a result of the deep effects of the crisis on all segments of society, the economic crisis contributed to the emergence of a vocal pro-EU coalition and broader public support for the reform process in a perspective of becoming a full member of the EU (Öniş, 2003). Many representatives of business underlined the need for the EU anchor, as a way to solve Turkey's persistent economic problems, not only through trade and business relationships, but also with the flow of foreign investment perceived as needed to create a more stable economic environment (Eralp, 2009: 159). On the other side of the coin, the transnational business elites and representatives of the international financial community had also conceived the EU as a "permanent anchor" in the Turkish context, complementary to and in a view of consolidating the reforms pushed by the IMF (Öniş, 2003). Maybe the EU candidacy perspective would have not be such influential without the perceptions brought about by the 2000/2001 crises, as a factor to strengthen the involvement and existence of the EU as an anchor for policy changes.

The second important development was the November 2002 general elections, which opened a new page for a single party government, after a long period of coalition governments in Turkey. The election victory of the Islamist and conservative Justice and Development Party (AKP) was only the start of AKP governments, which governed Turkey for the first decade of the 2000s. The AKP governments accepted the "EU anchor" and "IMF anchor" as the main supporters of economic and political stability in Turkey (Eralp, 2009: 159). In this regard, AKP government realised numerous reform packages its different terms in a way to support the integration of Turkey into global capitalism, "through an EU-inspired process of trans-nationalization" (Atasoy, 2009: 7).

In 2001 and 2003, the EU prepared the two Accession Partnership documents for Turkey, and as a response, Turkey prepared the National Programme(s) for the Adoptation of the *Acquis* (NPAA). In 2004, the Brussels European Council defined the conditions for the opening of accession negotiations, and in October 2005 the Council adopted a Negotiating Framework, setting out the principles governing the negotiations followed by the formal opening of Accession negotiations with Turkey. This meant that the screening process concerning the analytical examination of the *acquis* could also start in October 2005, as a prior step of accession negotiations. Upon the completion of the screening process, in

2006, the negotiations were opened and closed for Science and Research (Chapter 25).[5] The negotiations were started in 2007 for Statistics (Chapter 18), Enterprise and Industrial Policy (Chapter 20), Trans-European Networks (Chapter 21), Consumer and Health Protection (Chapter 28), Financial Control (Chapter 32); in 2008, Free Movement of Capital (Chapter 4), Company Law (Chapter 6), Intellectual Property Rights (Chapter 7), and Information Society and Media (Chapter 10); in 2009, Taxation (Chapter 16) and Environment (Chapter 27); and in June 2010, Food Safety, Veterinary And Phytosanitary Policy (Chapter 12).

Although all those different stages of the Turkey-EU relations, integral to Turkey's European integration processes, have had their own dynamics, they have also, over time, impacted upon domestic policy-making and implementation processes in Turkey, with all its relevant institutions and actors, to adapt and/or adjust themselves, willingly or unwillingly, to the new conditions brought by these processes. After the announcement of Turkey as an official candidate country of the EU, and especially after the start of the screening process and start of the negotiations in 2006, the EU's role as a "permanent anchor" for political and economic changes in the Turkish context was considerably strengthened. The increasing intensity and the changing nature of the Turkey-EU relations, especially with the increasing transposition of the EU *acquis* in the Turkish legislation, have made the impact of EU on Turkey inevitable, no matter whether Turkey would eventually become an EU member state or not. This is one of the reasons to conduct this research, which was lead by the academic curiosity about the extent and direction of domestic policy change in Turkey due to the pressures of Turkey's EU accession processes, in two selected social policy issues, namely the equality between women and men at work policies and the employment policy.

Another reason to conduct this research is that although the length and intensity of Turkey's relations with the EU have in time increased the academic interest considerably towards discussing different aspects of such a relationship, the analysis of domestic policy change stemming from European pressures has been very under-developed in the literature.

[5] However, in December 2006 "due to the Turkish failure to apply to Cyprus the Additional Protocol to the Ankara Agreement", the Council decided that "eight relevant chapters will not be opened and no chapter will be provisionally closed until Turkey has fulfilled its commitment". The eight chapters are: Free Movement of Goods, Right of Establishment and Freedom to Provide Services, Financial Services, Agriculture and Rural Development, Fisheries, Transport Policy, Customs Union and External Relations. Information from the European Commission, DG Enlargement's web site: http://ec.europa.eu/enlargement/candidate-countries/turkey/relation/index_en.htm.

Although there is a vast literature on Turkey-EU relationship, on the implications of political conditionality including democratisation and human rights in Turkey as a part of "identity politics" (e.g. the role of Islam or Kurdish conflict), or on different aspects of Turkey's European integration process such as its impact on Turkish foreign policy, defence and security aspects, regional policy, migration, civil society or cultural aspects; public policies in general and social policy in particular has not been a very popular field of research. In case of some interest on the impact of the EU and European integration in the social policy field in Turkey, many of the studies remained very limited by providing only descriptions and sole comparisons of the EU *acquis* with the Turkish legislation, as if there is only one mechanism for EU impact on the domestic policies, without providing any explanations for the occurrence of or resistance to domestic policy change in Turkey. Moreover, many of the studies on Turkey-EU relations in general and in the field of social policy in particular have adopted a standpoint for or against Turkey's accession to the EU, and in this regard, mostly focused on "what Turkey should do", rather than analysing "what has already been done or not in Turkey and why". In this regard, this research adopts a neutral position vis-à-vis Turkey's integration to the EU, and analyses the change in the domestic policies, in a relational approach to the role of domestic factors and the European integration, as well as other exogenous factors. In this context, "what Turkey should do" is only limited to the official EU perception; and, how and through which mechanisms have the policies changed or not is the main concern.

Thus, this research aims to fill the gap in the literature by extending the research interests into the analysis of domestic policy change in Turkey, by providing an analysis of the extent and direction of Turkish social policy adaptation to the pressures of European integration throughout the 2000s, in a way to identify and explain the outcome of domestic policy change in the selected policy issues.

Accordingly, the research can be outlined as follows.

Chapter 1 on the theoretical framework and literature survey covers two interrelated literatures, namely the policy studies and Europeanisation in a complementary way to gather theoretical insights for conducting this research. The literature on Europeanisation provides input for the analysis of domestic policy change stemming from European integration processes, especially by equipping the research design of two empirical case studies (top-down vs. bottom-up) and providing two different integration mechanisms (positive integration and framing integration) to analyse domestic policy change. Policy

studies literature helps identifying different stages of any policy process, namely policy-making and implementation stages, and helps in identifying some possible mediating variables affecting the policy process. The integrated use of both theoretical frameworks aims to ensure a complementary, richer and holistic approach to the analysis of Turkey's social policy adaptation to the pressures emanating from the accession process of Turkey to the EU in general and to the analysis of the outcome of domestic policy change in Turkey and in particular.

Chapter 2, informed by the theoretical framework, presents the research design to be adopted in this particular research. In a way to bridge the theoretical input and empirical case studies, this chapter identifies the research questions that will guide the research, specifies the variables, justifies the case selection, and summarises the research methods.

Chapter 3 summarises the situation and problems of the labour market in Turkey in a way to provide a background for two empirical case studies. The labour market data and indicators given in this chapter are actually a starting point to discuss the actual policy problems of the equality between women and men at work policies and employment policy. In addition, this chapter also allows for a comparison of the main indicators in Turkey with those of the EU.

Chapter 4 is reserved for the first case study, the domestic policy change in Turkey in the field of the equality between women and men at work, in a way to test the explanatory power of positive integration mechanism. In order to analyse domestic policy change due to the pressures of European integration, this chapter adopts a "top down" design and accordingly starts with the identification of the relevant processes and the policy instruments at the European level. Following this, a background section summarises both the history of equality between women and men in Turkey, and the social problems of women both in (employed and unemployed) and out of (non-employed) the labour market. The analysis of the domestic policy change comprises of two following sections of this case study. The first stage is the identification of the degree of adaptational pressures in Turkey, which is done through a detailed analysis of the legislative harmonisation of nine EU equality directives in Turkey. In this regard, the content of the EU directive, its legal comparison with the Turkish legislation, and identification of the degree of fit are repeated for all the nine directives in the policy field and level of policy fit/misfit, the degree of adaptational pressures in 1999 and by the end of 2010 and the outcome of domestic policy change are summarised. At the second stage of the analysis of domestic policy change in

Turkey, three interesting cases derived from the legal harmonisation stage are elaborated in detail in a way to explore the dynamics, and to test the potential of the mediating variables in explaining the outcome, of domestic policy change in this policy field. In the conclusion part of this case study, three categories of findings are discussed: the explanatory power of the policy misfit/adaptational pressures conceptualisations; the potential of the mediating variables in explaining the variation in the outcome of domestic social policy change in the field of equality between women and men at work in Turkey; and, the prospects for the implementation, i.e. actual enforcement, of the whole body of equality at work policies in Turkey by the end of 2010.

Chapter 5 comprises of the second case study, the domestic policy change in Turkey in the field of employment policy to test the explanatory power of the framing integration mechanism. In order to identify and analyse domestic policy change due to the pressures of European level policy in this field, this chapter adopts a "bottom up" design. Before going into the analysis, this case study attempts to identify what actually is the European employment policy, by looking into the politics of European employment policy, its mode of governance and its substance. After a short introduction of the background of employment policy in Turkey in the 1980s and 1990s, the development of the employment policy in Turkey throughout the 2000s, and the main components of the employment policy in Turkey by the end of 2010 are analysed by taking the domestic level to the fore. As a result of this exercise, the outcome of domestic employment policy change is also identified. In the second stage of the analysis of domestic employment policy change, the links of the outcome of change to the EU is explored through an analysis of the dynamics of domestic employment policy change in the light of the two mediating variables. Three categories of findings are further discussed in the conclusion part of this case study: the explanatory power of the framing integration mechanism and "learning" as an explanatory factor; the potential of the suggested mediating variables in explaining the outcome of domestic employment policy change in Turkey; and, the prospects for implementation, i.e. actual enforcement, of the employment policy measures in Turkey.

There are two types of conclusions in this research. First, each case study has a particular section at the end of each empirical chapter in order to discuss the findings of the empirical research in the relevant policy fields in its own entirety. Second, the overall conclusions of the research is provided at the very end, first, to summarise the findings of the each case study, and second, to develop a further discussion on the potential of a comparison

between the findings of two case studies for deriving some insights for future research on domestic policy change.

Chapter 1: Theoretical Framework

A research may approach the question of European integration from a variety of disciplines and theoretical perspectives. For example, in the 1960s when the major research interest was to explain the reasons for the emergence of European integration, authors resorted themselves in liberalism, realism, functionalism, neo-functionalism as the main theoretical references (Diez and Wiener, 2009: 6-9). From the 1980s onwards, the research interest has shifted towards explaining the nature of the European polity and its mode of operation, which theoretically referred to governance, comparative politics and policy analysis (Diez and Wiener, 2009: 6-9). The scholars with such interest analysed the European Union as a "multi level" or "network" governance, or defined the policies of the EU as made through the analysis of policy networks (Diez and Wiener, 2009: 9-10). By the mid-1990s, the research interest has been considerably diversified. On the one strand, scholars expanded their interests towards analysing the impact of the EU on national structures, political processes and policies in the EU member states (Knill, 2009: 44). For example, concerned with the questions of "whether and how national politics, polities and policies change under the pressure from 'Europe'", Europeanisation literature has brought together scholars and approaches from the fields of comparative politics, international relations and EU studies, and has shifted the attention from the European level to the domestic level (Vink and Graziano, 2007: 4-6). A great deal of theoretical input in Europeanisation literature has come from new institutionalism in all its different variants, namely rational choice institutionalism, historical institutionalism and sociological institutionalism. Simultaneously, the enlargement preferences of the EU, especially towards the Central and Eastern European Countries (CEECs), has created new research interests such as analysing the reasons why the EU decided to expand to those countries through conceptualisations such as "rhetorical action", embedded in the debates between rationalist, sociological and constructivist approaches of the international relations theory (Schimmelfennig, 2001: 47). In addition, the impact of Europe on the candidate countries has been analysed from "external governance" and "conditionality" perspectives to capture the dynamics of EU political, economic and *acquis* conditionality on the CEECs as a political strategy and its causal impact on domestic politics, with two main alternative models, namely "external incentive model" from rational choice institutionalism or "social learning model" from a sociological and social constructivist approach (Schimmelfennig and Sedelmeier, 2005). Such a variety of theoretical frameworks for studying European integration means that the

decision to use the most appropriate theoretical framework depends on the research interest and main research question(s) for the study to be conducted.

As briefly indicated in the Introduction chapter, Turkey's EU candidacy status has actually had an impact on domestic policies, no matter whether Turkey will eventually be an EU member state or not. This is to say that this research is primarily concerned with the analysis and exploration of the dynamics of actual domestic social policy change in Turkey due to the pressures created by the EU in the process of European integration, rather than being concerned with the conditions under which Turkey's accession to the EU would be ensured. In other words, with a particular emphasis on policy processes, this research is particularly interested in the EU-induced domestic social policy change in Turkey, especially from the mid-1990s onwards, after Turkey has been announced as a formal candidate country to the EU. In this respect, three main components of this research can be identified: (i) the analysis of policies and policy processes, (ii) in a particular setting, namely in Turkey, (iii) in association to an exogenous factor, namely the European integration. It should also be added that such a focus provides room for the analysis of the extent and outcome of domestic change in a comparative way among different policy issues within the context of social policies, which are supposed to result in differentiated outcomes in terms of the degree of change.

A brief look at the literature on European integration shows that the best conceptual framework to analyse domestic policy change expected to occur due to European integration is provided by the Europeanisation literature. It is rightfully acknowledged that Europeanisation is actually not a theory in itself, but rather a phenomenon to be explained by a range of approaches (Bulmer, 2007: 47), or more broadly "an adaptive process triggered by European regional integration" (Vink and Graziano, 2007: 7). When the question is formulated as "*how* European policies, rules and norms are affecting domestic political systems" (Vink and Graziano, 2007: 12), the theoretical tools for such an analysis are, to a great extent, provided by the rational choice institutionalism, historical institutionalism and sociological institutionalism. However, it should be noted that there is also a tendency not the see those theoretical approaches as mutually exclusive, but rather as a synthetic theoretical framework for Europeanisation research (Börzel and Risse, 2003: 74; Vink and Graziano, 2007: 13; Bulmer, 2007: 51).

In this research it is argued that Europeanisation literature can be complemented and furthered by the literature on policy studies. First of all, it is important to see that the

analysis of domestic policy change within the Europeanisation literature is to a great extent built upon the pillars of policy studies, which provide a general understanding of what a policy is and how a policy can be analysed in a particular setting, mostly in a nation-state. In addition, policy studies literature identifies policy as a process with(in) some stages such as policy-making and implementation; points out to the possible dynamics of such a process; and, identifies the actors involved in it, both within the political systems and the institutions that they form. In that sense, policy studies literature has a considerable potential to add to the arguments and more importantly to the variables of the Europeanisation literature, which furthers the analysis of domestic policy change in relation to an external factor, namely to the adaptation to EU. Accordingly, it is suggested in this research that Europeanisation and policy studies literatures can be considered as two complementary frameworks that offer important theoretical tools for the analysis of the EU's impact on the domestic social policy change in Turkey.

In practical terms, the benefits of complementary use of two theoretical frameworks for the analysis of the conditions under which European integration matters for the social policy processes and domestic policy change in Turkey can be summarised in relation to three aspects: the identification of variables and linkages between them; the operationalisation of the research and its empirical case studies; and, the identification of the methods to be used in the analysis.

Making concepts of Europeanisation and domestic policy change amendable to empirical analysis and to connect them to explanation (Radaelli, 2003) is the most challenging part of this research. In this regard, the complementary nature of the models, frameworks, and the hypotheses purported in these two literatures will guide the researcher *to better identify the variables and the linkages between them* in a policy process. This means that introduction of policy studies and Europeanisation literature will help for the clarification of the independent and dependent variables of this research. Maybe more importantly, the components of a policy process proposed by policy studies have a great potential to complement and advance the variety of mediating variables developed by the Europeanisation literature. In this sense, complementary use of those two theoretical frameworks will help for the identification of the mediating variables as the explanan (i.e. the explaining factor) of the domestic social policy change (i.e. explanandum, what is to be explained) in Turkey; and, will eventually increase the explanatory power of the analysis of domestic change regarding those policies in the empirical case studies. Informed by the

theoretical input provided in this chapter, the variables to be used in this particular research will be further elaborated in the Research Design chapter.

Secondly, some of the components of models and frameworks for the analysis of policy processes in both literatures give the researcher a number of necessary indicators *to operationalise the research*, especially regarding its research design and while structuring and conducing the empirical case studies. In this sense, while the analytical distinction between three domains of Europeanisation (polity, politics and policy) helps defining and limiting the domain of this research into domestic *policy* change, policy studies help deepening the understanding of this domain by defining a policy as a process with policy-making and implementation stages with a particular emphasis on the dynamics of domestic politics. In addition, positive and framing integration mechanisms proposed by the Europeanisation literature to analyse domestic policy change depend to a great extent on the ways to approach policy-making and implementation developed in the policy studies literature. In this regard, different design templates, namely top-down and bottom-up research designs, that will facilitate the analysis of policy issues differentiated according to their mode of operation, can be better structured by using both the Europeanisation and policy studies literatures.

A final benefit of complementary use of the policy studies and Europeanisation literatures regards the *identification of the research methods* that will best suit the case studies and increase the explanatory power of this research. While the analyses conducted in a variety of case studies within the Europeanisation literature attract the attention of the researcher to a number of research methods such as process tracing, in-dept interviews, text analysis or discourse analysis, the policy studies literature helps in specifying the input for those methods by pointing out for example what kind of processes to trace, what kind of policy actors to interview, or what kind of texts to analyse.

Thus, in general, this chapter intends to briefly introduce the elements of both literatures, the policy studies and Europeanisation, in a way to highlight the most relevant approaches and distinctions that are appropriated for the analysis in this research. Specifically, this chapter is to help informing the research sub-questions and structuring a conceptual model to guide the empirical case studies, to be elaborated in the Research Design.

This chapter is structured as follows. First, the approaches to Europeanisation and domestic change will be elaborated, to be followed by the domains of analysing the EU's impact at

the domestic level. Once the domain of this research is identified as the "domestic social policy change", the following section is reserved for the policy studies, which define what a policy is, and how a policy process can be analysed through two particular stages, namely policy-making and implementation, of that process. The third section briefly discusses the mechanisms of integration to analyse domestic change within the context of Europeanisation literature. An important part of this section is reserved for the identification of the mediating variables provided as theoretical input and as a result of various case studies on Europeanisation of policies. This section ends with a short input on the categories of the outcomes of domestic change. The final section of this chapter is an effort to synthesise the input from both theoretical frameworks, namely the Europeanisation and policy studies, in a way to show how complementary those two literatures can be in order to inform and guide the research design of this particular research and its case studies in the following chapters.

1.1 Domestic change and Europeanisation

The Europeanisation literature provides valuable insights for the study of domestic policy change in both member states of the EU and candidate countries, by tracing processes and explaining outcomes of domestic change resulting from the European integration and European policy-making processes. In other words, by formulating the notion of domestic change due to European integration as "whether and how national politics, polities and policies change under the pressure from 'Europe'", Europeanisation literature shifts the attention from the European level to the domestic level, and provides new empirical data on previously under-researched aspects of domestic politics (Vink and Graziano, 2007: 4-6).

Within the context of Europeanisation literature, the amount of case studies studying domestic change in the member states of the EU is massive. In addition, the number of studies of domestic change in non-EU countries, especially on the candidate countries, has also increased especially throughout the EU accession process of the Central and Eastern European countries. In the context of this research on Turkey, using the Europeanisation literature is challenging, but meaningful and contributory. It is challenging because the number of studies on the domestic changes within the public policy field in non-EU countries, hence all-encompassing conceptual frameworks applicable also to those countries, has rather been limited; and, Europeanisation itself is a developing literature,

which needs to be supported by further empirical studies. However, it is also meaningful and contributory to the extent that it provides valuable theoretical and operational tools for the researcher to analyse the impact of the European integration on Turkey: models for analysing and mechanisms of explaining domestic change, as well as useful categorisation of variables which affects the pace and direction of such a change. Thus, before going into any further analysis to study domestic change in Turkey, the prospects and limits of the Europeanisation literature should be elaborated carefully. In this part, approaches to the study of domestic change within the Europeanisation literature will be elaborated. This will help compare and contrast the competing approaches within the literature and grasping the possible prospects and challenges anticipated by such a conceptual framework. It will also help pointing out to what extent and how policy processes can be analysed with the help of the conceptual tools provided by the Europeanisation literature.

1.1.1 Approaches to Europeanisation and domestic change

Featherstone (2003: 19) approaches Europeanisation as an analytical focus, stressing some key changes in contemporary politics. According to him, Europeanisation highlights:

- The adaptation of institutional settings in the broader sense (of rules, procedures, norms, practices) at different political levels in response to the dynamics of European integration;
- The role of the pre-accession process in the continued democratisation and "marketisation" of central Europe;
- Emergence of new, cross national policy networks and communities;
- Policy mimicry and transfer between states and sub-national authorities;
- Shifts in cognition, discourse and identity affecting policies in response to European developments;
- The restructuring of the strategic opportunities available to domestic actors, as EU commitments, having a differential impact on such actors, may serve as a source of leverage.

In the emerging Europeanisation literature, there are two major approaches to the understanding of the concept: the one used by Cowles, Caporaso and Risse (2001) in their work *Transforming Europe: Europeanisation and Domestic Change* and developed further in more recent studies of those authors (for example in Börzel, 2005; Caporaso, 2007), and the one formulated in Featherstone and Radaelli (2003) in *The Politics of Europeanisation*, and further developed in some other studies (for example Radaelli, 2006; Bulmer and

Radaelli, 2005; Exadaktylos and Radaelli, 2009). It is important to consider both definitions and approaches and to compare their stances before discussing the domains of Europeanisation, because they suggest different mechanisms of integration to analyse domestic change. While the former refers to a top-down approach, the latter suggests to employ a bottom-up perspective.

Risse, Cowles and Caporaso (2001: 3) have defined Europeanisation as:

> …the emergence and development at the European level, of distinct structures of governance, that is, of political, legal and social institutions associated with political problem solving that formalise interactions among the actors, and of policy networks specialising in the creation of authoritative rules.

Here, Europeanisation is taken as a force for domestic change. With the concept of Europeanisation, the authors refer to the emergence of a formal EU legal structure; the development of EU policies, in particular issue-areas embodying new rules, norms, regulation and procedures; the development of European policies in specific issue-areas implying the transfer of decision-making or policy competences to the European level; and, the constructing of systems of meanings and collective understandings. Their approach focuses on why, how and under what conditions Europeanisation shapes a variety of domestic structures in a number of countries.

When the Europeanisation is defined as such, the dependent variable is taken as the "domestic structures", which comprise "the components of a polity or a society consisting of regularised and comparatively stable interactions." Those components are both formal and informal institutions, as well as the collective understanding of the actors. Domestic structures refer to both "policy structures", which are political, legal and administrative structures that interpret and carry out policies and are policy issue specific; and, "system-wide" domestic structures, which are nation-state, its society and cultural practices and are embedded historical and cultural practices (Risse et al., 2001: 5).

Considering what Risse et al. (2001) and Börzel and Risse (2003) argue, Europeanisation, goodness of fit/adaptational pressures, and mediating factors are three steps that are to explain domestic change. The authors adopt a "top-down" perspective to the study of Europeanisation, since they are first concerned with the conceptualisation of Europeanisation as a process of institution-building at the European level and then explore how this Europeanisation process impacts upon the member states (Börzel and Risse, 2000: 3).

For many case studies in the literature, it is possible to observe a reductionism of Europeanisation to "top down" approach and "goodness of fit", as the only mechanism of Europeanisation. However, in this study it will be argued that "goodness of fit" is only one of the ways of explaining domestic policy change, limited to a specific form of the EU governance, in cases where "hard law" prevails. Moreover, the presuppositions of this top down approach will also be opened to critical evaluation by suggesting additional mediating variables that have better explanatory power than the "goodness of fit" argument.

On the other front, with an emphasis on Europeanisation of public policy, Radaelli (2003: 30) argues that Europeanisation refers to:

> Processes of (a) construction, (b) definition, and (c) institutionalisation of formal and informal rules, procedures, policy paradigms, styles, 'ways of doing things', and shared beliefs and norms which are first defined and consolidated in the making of EU public policy and politics and then incorporated in the logic of domestic discourse, identities, political structures, and public policies.

Proposing such an analytical framework, Radaelli's primary concern is to see how the EU impacts on the domestic policy systems of the member states. He focuses on the Europeanisation of public policy, emphasising the problems with the concept itself, as well as the issue of explanation, the measurement of effects, and the control of alternative rival hypotheses (Radaelli, 2003). He argues for a "bottom-up" perspective of Europeanisation, which proposes to trace the sequence of events in domestic policy and to look at the individual and institutional choices of the domestic systems. In his definition, Europeanisation involves "the domestic assimilation of EU policy and polities" (Stone Sweet et al. 2001 in Radaelli 2003: 30). The definition refers to both organisations and individuals, covering interests such as "political structure, public policy, identities and the cognitive dimensions of politics."

An important emphasis put by Radaelli (2003: 30) in his definition of Europeanisation is that the concept does not approach the EU laws or decisions as similar entities, but rather he argues that EU public policy should be taken as the focus, since "it also includes modes of governance which are not targeted towards law making, such as open method of coordination." In this respect, he questions the level of coherence of the EU level from which Europeanisation moves towards domestic level. Rather, he sees the EU as an entity which is still in formation and political contests and struggles still shape it. Therefore, Radaelli's definition stresses "the making of policy, without assuming that there is a

coherent, rational layer of 'EU decisions' from which Europeanisation descents."

In the Europeanisation literature, the definition of Radaelli receives considerable attention especially for the policy issues where the EU does not propose any models or hard law instruments for the member states. In this regard, Radaelli's approach can easily be considered as a different mechanism of European integration. However, the limited number of case studies from this approach shows that this approach is still evolving and it needs further elaboration, especially regarding the structuring of new empirical studies and the operationalisation of the variables in those studies. In this study, it will be affirmed that Radaelli's approach has considerable degree of explanatory power to analyse domestic change, especially in cases where the EU "soft law" prevails. However, some of the presuppositions of this bottom up approach are still open to be further developed especially by suggesting additional mediating variables that have better explanatory power than the "policy learning" argument.

Those two nuanced approaches to the process of Europeanisation are also reflected in the ways how the outcome and extent of domestic change (both at policy and polity levels) are analysed through case studies, by using different mechanisms of Europeanisation, namely positive and framing integration mechanisms. Before going into the details of those mechanisms in the following parts of this chapter, it is important to have a look at the domains in which the process of Europeanisation and the outcome of domestic change can be analysed.

1.1.2 Domains of Europeanisation and domestic change

There is a consensus emerging in the Europeanisation literature that Europe has differential effect on domestic *politics, policies* and *polities*. This distinction between policies, politics and policy is used by various authors of the Europeanisation literature to identify the "dimensions along which the domestic impact of Europeanisation can be analysed and processes of domestic change can be traced" (Börzel and Risse, 2003: 60) (Figure 1). In this regard, numerous studies are conducted to analyse the degree, the direction, the pace and the timing of anticipated domestic change in those domains. It should also be noted that in reality it is difficult to analytically differentiate those three dimensions or areas of domestic change, since European policies, processes and institutions tend to affect not only one but all three dimensions (Börzel, 2003). However, many studies tend to emphasise one or the other domain (Diez and Weiner, 2009: 19) and those domains of change are often

used as dependent variables in some research within the literature referring to the question of "where does the European Union affect the member states?" (Börzel, 2005: 47). Thus, depending on what is intended to be explained, those studies use "policy, policy and politics either as the explanandum (what is to be explained) or the explanan (explaining factor)" (Diez and Weiner, 2009: 19).

Policy-making at the EU level affects *policies* more and more at the domestic level. The implementation of European policies leads to substantial change in the policy structure of the member states. Those policy changes can affect "the policy style, the general problem-solving approach, the policy instruments used, and, the policy standards set" (Knill and Lenschow, 1998 in Börzel and Risse, 2000: 3). Diez and Weiner (2009: 19) argue that to qualify as theory, "such analyses need to be brought onto an abstract level, for instance by drawing out general patterns of policy content, or reflecting on the normative underpinnings within a policy field." In addition, policy changes often have broader repercussions on legal and administrative structures, patterns of interest intermediation, and policy narratives and discourses (Héritier, 2001: 1), and thus for politics and polity.

The policies made at the European level have consequences for *politics*, specifically for the domestic processes of societal interest formation, aggregation, and representation. Studies on how domestic actors endeavour to channel their interests into the European policy-making process; Europeanisation of electoral and party politics; and effects of Europeanisation on public discourses are included in this domain.

The studies in *polity* dimension focus on domestic institutions, both formal and informal. Those analyse to what extent European processes, policies and institutions affect domestic systems of interest mediation, intergovernmental relations, national bureaucracies and administrative structures, state traditions, macro-economic institutions, and national identities. The studies conducted in this dimension "either focus on specific policies and explore changes in the political, legal and administrative structures that interpret and carry out policies" or "deal with 'system-wide' institutions pertaining to the member states, their societies and economies as a whole" (Börzel and Risse, 2003: 60).

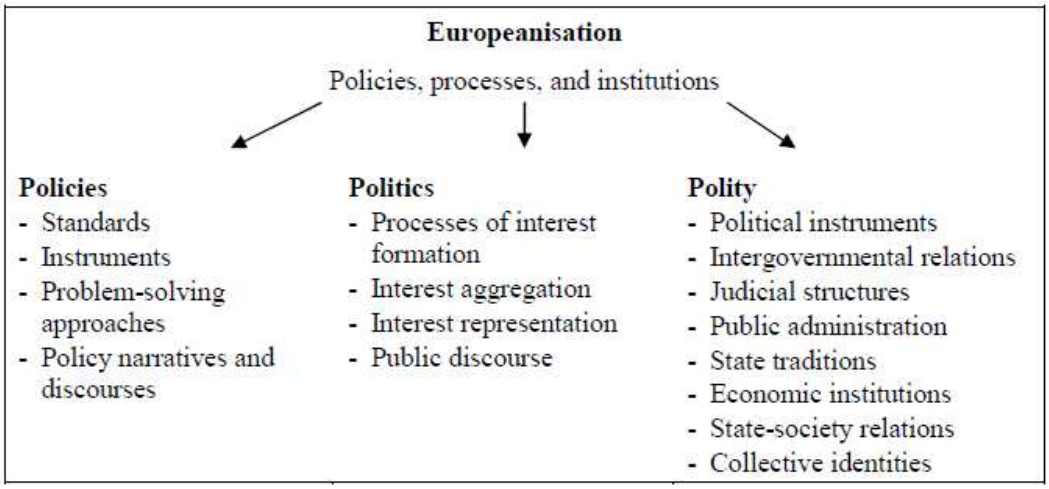


Figure 1: The domestic effect of Europeanisation (Börzel and Risse, 2003: 60)

In a similar manner, when Radaelli (2003: 34-35) looks at the issue of "what is Europeanised and to what extent", he makes use of "a wider explanatory toolbox", practically in terms of empirical analysis. He refers to the role of performed "taxonomies", which is "a simple device that organises research and makes complex concepts amenable to empirical analysis." In this regard, "what is Europeanised" refers to the domains where Europeanisation effects are expected to happen, whereas "to what extent" refers to "the extension and direction of Europeanisation" (Radaelli, 2003: 35). Radaelli's taxonomy of domestic structures, public policy and cognitive and normative structures (Figure 2) is to serve the purpose of assisting the research design of a variety of case studies to be conducted within the Europeanisation literature.

Domains of Europeanisation		
Domestic Structures 1. Political Structures a) Institutions (e.g. cabinet-assembly relations) b) Public Administration c) Intergovernmental relations d) Legal structure 2. Structures of representation and cleavages a) Political parties b) Pressure groups c) Societal-cleavage structures	**Public Policy** a) Actors b) Policy problems c) Style d) Instruments e) Resources	**Cognitive and normative structures** a) Discourse b) Norms and values c) Political legitimacy d) Identities e) State traditions – understanding of governance f) Policy paradigms, frames and narratives

Figure 2: Domains of Europeanisation and change (Radaelli, 2003: 35).

Considering the differentiation among the domains of Europeanisation and domestic change, it can be stated that this research will focus on the policy domain. With a special attention to social policy, this study intends to analyse domestic policy change due to European integration in Turkey. Once the focus of the research is identified as the policy

domain, it will be useful to turn now to policy studies in order to clarify what a policy is, how a policy can be analysed at the domestic level, and what are the stages of a policy process and the actors involved in it.

1.2 Studying policy: A closer look

Studying policy and policy processes is an effort, in simplistic terms, to understand and explain the ways in which policy is made and implemented especially in the domestic contexts. It provides different approaches and theoretical and practical tools to operationalise a research on studying policy as a process and points outs a number of variables that explain how the policies are made and actually enforced. Since this field of study is full of different conceptual frameworks, models and theoretical approaches, this section summarises some frameworks and elements of studying and analysing policies, which have a potential to contribute to work on with a particular focus on domestic social policy change in Turkey due to European integration.

The section, then, departs from the exploration of the concepts of 'policy' and 'policy process' in a way to refer to the scope of policy analysis and to reflect the overall approach to analysing policies in this research. In addition to this, the meaning of the analysis 'of' policy is very briefly sketched within the limits of this research. In this part, a particular model of analysing policies is presented to conceptualise the policy process in an abstract but precise system.[6] The section on policy stages namely the policy-making and implementation stages is an attempt to provide the basic elements of and approaches to those policy stages, through which the policy process is assumed to work. It is an effort to outline and mould different variables and hypotheses, which have a considerable potential to better understand and further develop different approaches in Europeanisation literature, particularly regarding the mechanisms of Europeanisation, and to provide input and variables regarding the empirical cases in this research.

1.2.1 What is public policy?

In the literature focussing on the models and approaches of studying public policy, there is an effort to clarify the definition of "policy." For example, Hogwood and Gun (1984, 19-13 in Parsons 1995: 14) give ten usages of the term "policy": as a label for a field of activity; as an expression of general purpose or desired state of affairs; as specific

[6] See Ostrom (1999: 39-41) and Sabatier (1999: 5-6) for a comparison between conceptual framework, theory and models in studying policy processes.

proposals; as decisions of government; as formal authorisation; as a programme; as output; as outcome; as a theory or model; or, as a process.

Jenkins (1978) starts building up his own theorisation, with a definition adapted from G. K. Roberts, although he does not see it as all-encompassing[7]:

> A set of interrelated decisions taken by a political actor or group of actors considering the selection of goals and the means of achieving them within a specified situation where these decisions should, in principle, be within the power of these actors to achieve. (quoted in Jenkins, 1978)

Here, Jenkins (1978) is places the emphasis on policy as being "more than a single decision", which facilitates to argue that public policy is much more than governmental outputs. Thus, to focus on outputs alone may result in pitfalls such as a partial and incomplete view of dynamics and totality of public policies. Jenkins (1978) argues that policies have identifiable characteristics, according to which they may occupy different parts of the political spectrum and may need to be dealt within different ways. A determinant in this approach is the existence of different actors, different structures and different processes.

Assumptions about the policy, as Gordon et al. (1977) put it, or the definitional problems posed by the concept of policy, as Hill (1997) proposes, are the starting point for most of the policy studies. Each of separate policies as social policy, foreign policy or marketing policy represents 'different ways of manipulating, via purposive action, the external environment of particular organisations', for Gordon et al. (1977). In their view, the term "policy" is used even within seemingly similar governmental agencies "to describe a range of different activities including (i) defining objectives, (ii) setting priorities, (iii) describing a plan, and (iv) specifying decision rules." They suggest that there is a recursive relation between policy and action, with "policy" itself representing an essentially dynamic set of constructions of the situation (Gordon et al., 1977). Thus, their conclusion is that policy analysis is not the study of "identifiable things called policies, which are products at a particular stage in the decision making." Such an approach emphasises the crucial role of the environment in studying policies. The suggestion is to shift the focus from "decision analysis" to one which encompasses the range of activities from formulation to implementation and impact. The boundaries of the policy studies is enlarged with the new elements such as inter-organisational polities and manipulation of networks, as well as the diffused elements, such as power, in the relations between public actors and the world on

[7] The weakness of the definition for Jenkins (1978) is that it 'points to a course of action and the means of implementing it, but it does not built implementation into the policy itself'.

which they act. Such an analysis is, in the words of Gordon et al. (1977), the analysis of policy systems. There is a clear reference to the policy "as a process."

Similarly, Hill (1997) looks at the fact that policy involves "a course of action or a web of decisions rather than one decision." There are several aspects of approaching to "policy", which can help formulate a vision of how a policy is to be considered, as summarised in Hill's own words (1997: 7-8):

1. A decision network, which is complex, may be involved in producing action and a web of decisions taking place over a long period of time and extending far beyond the initial policy-making may form part of the network.
2. Even at the policy-making level, policy is not usually expressed in a single decision. It tends to be defined in terms of a series of decisions which taken together comprise a more or less common understanding of what a policy is.
3. Policy invariably changes over time. This is either because of incremental adjustments to earlier decisions, or because of major changes of direction. The experience of implementing a decision may feed back into the decision-making process. This is to say that policy process is dynamic rather than static.
4. Going one step further from the third aspect, much policy decision making is concerned with attempting the difficult task of 'policy termination' or determining 'policy succession'.
5. The corollary of the last two points is the need to recognise the necessity to examine the non-decisions. This point also refers to inaction. It has been argued that much political activity is concerned with maintaining the status quo and resisting challenges to the existing allocation of values.

Thus, Hill's approach to policy involves a series of decisions, shaped or influenced by decision networks in a dynamic policy process. The end result of this process is named as a decision, or non-decision. Thus, it is equally important to pay attention to the dynamics behind a non-decision, since it also reflects the forces playing between political and bureaucratic processes, and between policy and politics, as well as the purposive nature of the policy process.

In need of bringing "public policy – government – into a proper, analysable, relationships with those dimensions of political science that are already well developed", Lowi (1972) proposes the following taxonomy of policies (Figure 3) with the purpose to see if

"theoretical policy considerations …bear upon some real political situations." In his own words, "a good taxonomy of policies might ennoble the underdeveloped part of the field by converting these important phenomena into 'variables', which make them more aesthetic to the scientist in political science" (Lowi, 1972: 299).

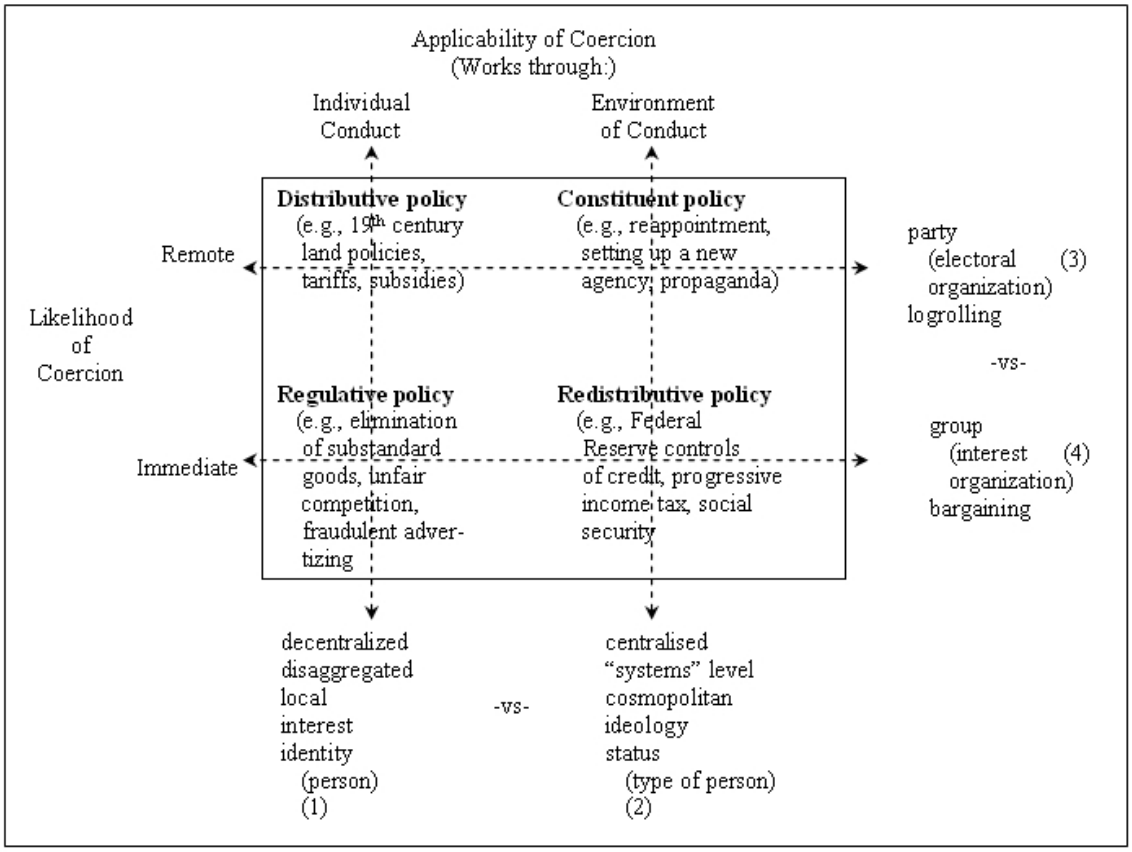


Figure 3: Types of coercion, Types of Policy, and Types of Politics (Lowi, 1972: 300)

Lowi's perspective depends on the assumption that "policies determine politics", which is "without value unless the taxonomy of policies captures features of real government that are politically significant"; and "the most significant political fact about government is that government coerces" (Lowi, 1972: 299). Thus, in his typology, the type of government coercion plays an important role, where the "areas of policy or government activity constitute real arenas of power" (Lowi, 1964: 689). He argues for different characteristics of political structure, political process, elites and group relations for each arena.

Lowi (1964: 690-691) defines the areas of policy. For him, *distributive policies* are characterised by their nature of being disaggregated and dispensed unit by small unit, each of which may be more or less in isolation from other units and from any general rule. The land policies of the nineteenth century and contemporary public land and resource policies, river and harbour programmes, research and development policies, and traditional tariff are

given as examples of distributive policies. Similar to distributive policies, *regulatory policies* are considered as specific and individual in their impact but they can not be disaggregated as it is the case for the former. The laws are stated in general terms, but the impact of the regulatory decisions is "clearly one of raising costs and/or reducing or expanding the alternatives of private individuals" and they involve "a direct choice as to who will be indulged and who deprived" (Lowi, 1964: 690-691). The implementation of the regulatory policies is case-by-case but they cannot be "disaggregated to the level of the individual or the single firm (as in distribution), because individual decisions must be made by application of a general rule and therefore become interrelated within the broader standards of law" (Lowi, 1964: 691). Regulatory policies through laws affect all individuals in more or less the same way. He considers *redistributive policies* similar to regulatory policies in the sense that "relations among broad categories of private individuals are involved and, hence, individual decisions must be interrelated" (Lowi, 1964: 691). However, he underlines the great differences in the nature of their impact, which are much broader approaching social classes and are "crudely speaking, haves and have-nots, bigness and smallness, bourgeoisie and proletariat." He argues that the aim in redistributive policies is not for example "use of property but property itself, not equal treatment but equal possession, not behavior but being" (Lowi, 1964: 691).

Lowi's typology of policies is used by most policy researchers both in policy-making and implementation studies. Maybe the significance attributed to Lowi's model comes from the fact that it allows each policy sector to be studied in its own. Both in terms of making those policies and implementing them, different kinds of policy issues may point out different sets of participants, as well as "different politics of its own" (John, 1999: 7). The implication may be whether or not some policies are more difficult to be made and/or implemented.

1.2.2 Analysing policy as a process

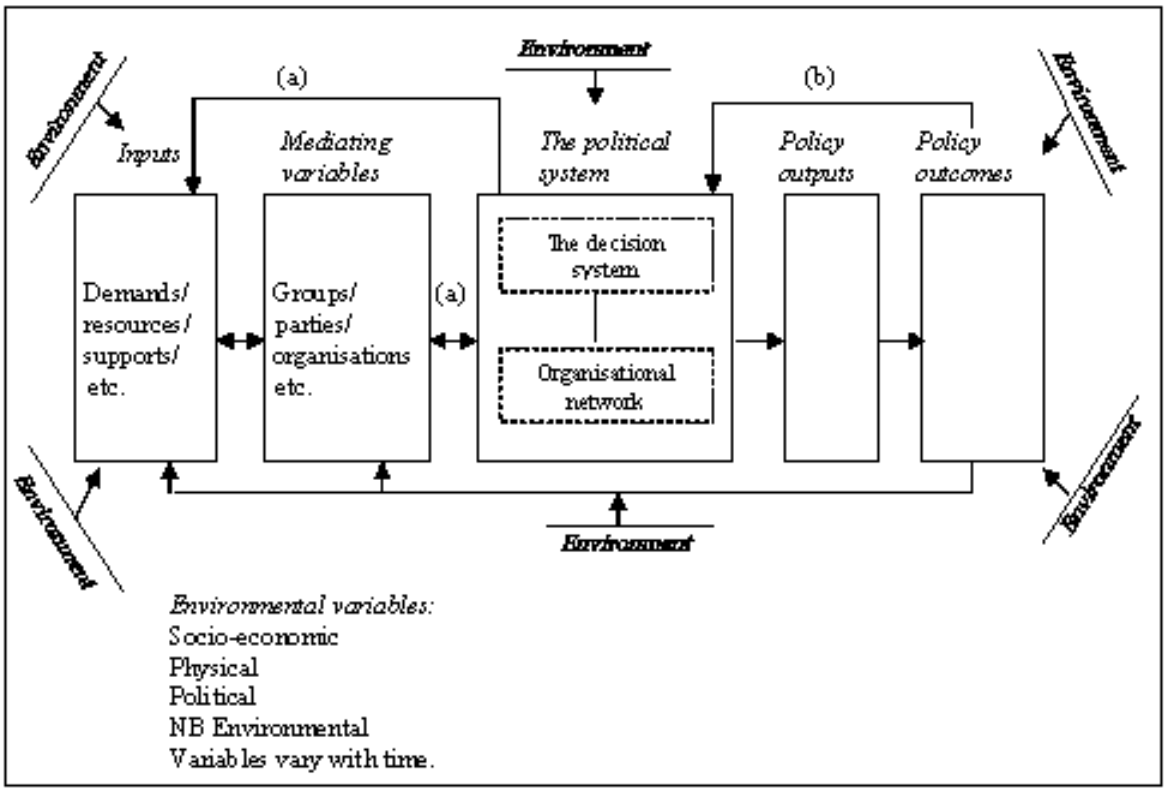
Analysing policy may refer to different aspects of a policy process, depending on the purpose of the analysis. In the policy studies, there is a distinction between "analysis *for* policy" and "analysis *of* policy"[8]. Basically, the *analysis for policy* includes "policy advocacy, information for policy and policy monitoring and evaluation", while the *analysis of policy* includes "analysis of policy determination and analysis of policy content"

[8] For detailed accounts of that, see Gordon et al. (1977); Hill (1997), Ham and Hill (1986), Dye (1995).

(Gordon et al., 1977). In fact, “analysis for policy” refers to more prescriptive accounts about how to improve the quality of policy, whereas “analysis of policy” is an attempt to furthering understanding of policy (Ham and Hill, 1986: 8). Gordon and his colleagues (1977) make a differentiation between two elements of “analysis of policy” as follows: Analysis of *policy determination* refers to the processes in which the public policy is constructed. The emphasis is placed upon the inputs and transformational processes operating upon the construction of public policy. Analysis of *policy content* denotes the importance of the origin, intention and operation of specific policies within a given administration and social policy field (Gordon et al., 1977).

The recent policy studies deal with public policy, in which the focus is on the “description and explanation of causes and consequences of government activity” (Dye, 1995: 3). Minogue (1983) suggests that studying policies may examine “a particular public policy system”; “a particular area of policy within or across these systems”; and, “a particular decision”, and for whichever cause is chosen, there is a need to incorporate other dimensions.

Analysis of policy process has reference to the inputs and processes, thus to the explicit and implicit models of policy systems. In one of the attempts, Jenkins conceptualises the policy process in order to understand the inherent and consistent logic connected with the way that policy is made in political systems. In his study he builds up a theoretical model for policy analysis. He argues that public policy is “best understood by considering the operation of a political system in its environment and by examining how such a system maintains itself and changes over time” (Jenkins, 1978). He proposes an “extended systems model” (Figure 4), which is designed as a conceptual schema to explore the policy world. He argues that as a useful “heuristic map” such a schema is useful in “alerting one to areas that need more attention (e.g. environment, the political system)”; as well as in “emphasising links on which the theory could be usefully brought to bear”, for example “the extent to which the political system itself controls inputs rather than inputs determine political action.” Moreover, it is argued that to articulate the problem in such a way demonstrates that different conceptual models may be required to explore different aspects of overall process (Jenkins, 1978).



(a) The capacity of the political systems to influence their environment directly.
(b) Direct relationship between outcome and decision.

Figure 4: Amended systems model of policy process (Jenkins, 1978)

The Jenkins' model represents mainly "policy environment" and "the political system" itself. Contrary to the traditional systems models which is criticised for attributing little attention to the environment as if it is structureless, Jenkins argues that the environment is "made up of individuals, groups or organisations with values and interests, operating alone or together over time." It means that there is a need to explore the relationship between demand patterns and what have been termed here as "mediating variables." He attributes importance "to investigate whether there is any relationship between political actions and the presence or absence, over time, of such variables." Such an approach to the environment of the policy process thus requires careful exploration of the "environment", and hence, a more detailed focus on environmental variables (Jenkins, 1978).

The second element of the "amended systems model" stems from the conceptualisation of the "political system." Jenkins (1978) criticises traditional models because of their tendency to take the political system as a "black box", from which "policies emerge or, at best, in which the solutions to patterns of political action can be found in the size and variation of political majorities or modes of elite control." Instead he stresses the "process of choice" as being as important as the "actual choice" itself. Jenkins' (1978) emphasis is

on the decision systems, which "may be constrained by the networks within which they operate." It brings the discussion to the role the administrative systems "in the formation rather than in the execution of public policy." The argument is that "policy analysis needs to disaggregate and explore the political system and the capacity of the political systems to influence their environment directly should be investigated" (Jenkins, 1978). Thus, interactions both within and across the systems must be considered, while it may also be important to account for stances and positions adopted by the political actors, according to the Jenkins' model.

Such a focus on the necessity to look at the overall policy process to analyse a policy is also highlighted by some other scholars. Considering the policy process as being created "by the interaction of decisions, policy networks, organizations, actors and events", Minogue (1983) argues that the interaction of society and economy should be considered as the broad environment within which the public policy process is located, in the effort to understand the political consequences of this interaction. Since the emphasis is to a great extent on "whatever governments choose to do and not to do" (Dye, 1995), and actions "by a government, party, ruler, statesman etc.", the state or state organisations can also be seen as the owners of the policy (Hill, 1997). In addition, it has been suggested that "in every government department, there are 'deep structures' of policy – implicit collection of beliefs about the aims and intention of departments and about the relevant actors who influence or benefit from the policy" (Gordon et al., 1977) and the major contribution of the social scientist, then, could be to challenge those deep structures of policy-making.

Sabatier (1999) also considers the policy process as "involving a complex set of interacting elements over time." In an effort to "simplify a complex world", he derives those elements, which can be summarised as follows (1999: 3-4):

1. Hundred of actors from interest groups and from governmental agencies and legislatures at different levels of government, researchers, and journalists involved in one or more aspects of the process. Those actors (either individual or corporate) have potentially different values/interests, perceptions of situations, and policy preferences.
2. This process usually involves time spans of a decade or more, as that is the minimum duration of most policy cycles, from the emergence of a problem to the implementation and evaluation of the impact.
3. In any given policy domains, there are different programmes involving multiple levels of government that are operating, or being proposed for operation, in any given locale.

Since these programmes deal with interrelated subjects and involve many of the same actors, it is argued that the appropriate unit of analysis should be the policy subsystems or domain.

4. Policy debates among actors in the course of legislative hearings, litigation, and proposed administrative regulations typically involve very technical disputes over the severity of a problem, its causes, and the probable impacts of alternative policy solutions. Understanding the policy process requires attention to the role that such debates play in the overall process.
5. Most disputes involve deeply held values/interests, large amounts of money, and, at some point authoritative coercion.

Thus, Sabatier (1999) suggests that understanding the policy process requires "knowledge of goals and perceptions of hundreds of actors throughout the country involving possibly very technical scientific and legal issues over periods of a decade or more when most of those actors are actively seeking to propagate their specific 'spin' on events."

1.2.3 Policy as a process: Two policy stages

In the relatively modern policy studies, the focus of the analysis of policy is more "on the stages through which issues pass, and attempts are made to assess the influence of different factors on the development of the issue" (Hill, 1997). Although there is also awareness among the scholars of the policy studies to avoid using a strict and deterministic way of studying policies in stages; as a general consent, the policy process is a very large and complex phenomenon, which needs to be divided in some way for the sake of simplifying this complexity and make it amenable both to theoretical and empirical analysis. Thus, the following part aims to give particular attention to two basic stages of the policy process, policy-making and implementation, each of which refers to different actors and variables for analysing policy process, but at the same time to a continuum in terms of the policy analysis itself. Thus, in studying the policy process in basic stages, the most important point is "not to lose sight of the links or interactions between these two processes" (Hill, 1997: 98) because it also points out the question of where the policy-making stops and implementation begins.

The approach to each stage of the policy process is somehow different from each other. In the policy-making, the focus is on the general understanding of what makes the policy-making, with reference to the question of who makes the policy, with an attempt to

conventionally identify the main actors, as well as the variables, of the process itself. The implementation part focuses on two clear-cut approaches to the study of implementation, as well as some syntheses to combine those two approaches. Here, the focus is on the ways in which the analysis of implementation can be conducted, although there are still references to the actors and variables of the process. Each of the following parts should ultimately be conceived as an effort to outline the major characteristics of those processes in terms of scope and content, especially with the help of the variables they provide for further empirical research.

This part intends to extend the discussion of policy as a process into its different elements and variables, which are helpful to identify the most prominent variables of a research on domestic policy change due to European integration; help understanding the variables used in the Europeanisation literature; and, feed the Europeanisation mechanisms further with proposing new mediating variables.

1.2.3.1 Policy-making

Parsons (1995: 245) argues that policy-making is a process in which choices are made or a preferred option is selected. He states that decision-making extends throughout the policy cycle, thus it takes place in different arenas and at different levels:

> Decisions about what to make into a 'problem'; what information to choose; choices about strategies to influence the policy agenda; choices about what policy options to consider; choices about what option to select; choices about end and means; choices in how a policy is implemented; choices about how policies may be evaluated. At each of these points decision-making is taking place. (Parsons, 1995: 245)

The concern about the choices in the policy-making process in Parsons' view (1995: 245) involves the allocation of values and the distribution of resources by the formulation of a policy, or through the on-going conduct of a programme. Therefore, decision analysis requires understanding "the way in which facts and values interact, and the way in which 'beliefs', 'ideas', 'interests', on the one hand, interplay with 'information', 'facts', 'reality', and vice versa" (Parsons, 1995: 247). However, policy-making is a political process, in which the role of some actors are more legitimate than that of the others; therefore, "there is a potential conflict between the best way of to make policy and the claims of particular actors – politicians – to have particular rights to make policies" (Hill, 1997: 98). Then, the issue is to explore the ways in which the "choices" of the actors in the policy-making process are shaped in a larger context of the political system that they are a part of, both in terms of the internal and external pressures that they are subject to.

Most of the approaches to policy-making focus on two major theoretical models: rational model of decision-making and the incrementalist alternative. The discussions involve the examination of the role of the main actors in policy processes, such as party politicians, interest groups and administrators. The debate about the way in which "policy decisions should be made" has been a major dispute between rational decision-making theory, "which is distinctly prescriptive", and alternatives of "a more pragmatic kind", which suggest that most decision making is "incrementalist" (Hill, 1997: 99).

The rational model of Herbert Simon[9], focuses on a decision as a choice between alternatives, a selection of them "which are conducive to the achievement of goals or objectives within organisations" and "which will maximise the decision-maker's values, the selection being made following a comprehensive analysis of alternatives and their consequences" (quoted in Hill, 1997). Acknowledging the difficulties with the rational approach (such as whose values and objectives to use; the impossibility of considering all alternatives during the process of decision; and difficulty with referring to the goals of organisations) Simon elaborates the idea of "bounded rationality" to describe the practice of decision-making. It involves the decision-maker choosing an alternative intended not to maximise his or her values, but to be satisfactory or good enough (Ham and Hill, 1986: 79). On the other hand, the incrementalist alternative of Charles Lindblom is critical of the rational-comprehensive method and instead sets out an approach termed "successive limited comparisons", starting from the existing situation and involving the changing policy incrementally (Ham and Hill, 1986: 80). What Lindblom suggests is that decision making in practice, "proceeds by successive limited comparisons" so that the process is simplified not only "through limiting number of alternatives considered to those that differ in small degrees from existing policies", but also "by ignoring consequences of possible policies." In Lindblom's approach "one chooses among values and among policies at one and the same time", which is understood as "instead of specifying objectives and then assessing what policies would fulfil these objectives, the decision-maker reaches decisions by comparing specific policies and the extent to which these policies will result in the attainment of objectives" (Hill 1997: 102). "Partisan mutual adjustment" as Lindblom[10] describes is "the process by which independent decision-makers coordinate their behaviour" through adaptive adjustments, where a decision maker chooses to adapt to

[9] *Administrative Behaviour* (1957).
[10] *Intelligence of Democracy* (1965).

decisions close to him, and manipulated adjustments, "in which he seeks to enlist a response desired from the other decision-maker"[11] (quoted in Hill, 1997: 103). Lindblom, in his later work argues that there is "a high degree of homogeneity of opinion" in policy making, which hinters the grand issues (such as the existence of private enterprise and private property, and the distribution of wealth and income) not to be included in the agenda. He argues that "this homogeneity of opinion is heavily indoctrinated", which he explores with "the operation of ideology." His argument is that "in any stable society there is a unifying set of beliefs which are communicated to the population through the church, the media, the schools and other mechanisms" and these beliefs favour and to some extent emanate from dominant social groups (quoted in Hill, 1997: 104)[12].

Apart from the rational model and incrementalist approach to the study of implementation there are also scholars who are seen to provide a third way in between rationalist and incrementalist positions. Key example is "the mixed scanning model of decision making" proposed by Etzioni (1968). Etzioni (1968: 283) suggests that "actors whose decision-making is based on mixed-scanning strategy differentiate contextuating (or fundamental) decisions from bit (or item) decisions." With contextuating decisions, he refers to the ones that are made through "an exploration of the main alternatives seen by the actor in view of his conception of his goals", but, unlike the rational model, he suggests that "details and specifications are omitted so that overviews are feasible." In this framework, "bit-decisions are made 'incrementally' but within the contexts set by fundamental decisions (and reviews)" (Etzioni, 1968: 283). Thus, Etzioni (1969) argues that such an approach helps to neutralise the peculiar shortcoming of the other: "bit-incrementalism overcomes the unrealistic aspects of comprehensive rationalism (by limiting it to contextuating decisions), and the contextuating rationalism helps to right the conservative bias of incrementalism."

These two approaches to the policy-making, as well as the third strategy can be taken as different frameworks in terms of the role that they assign to "rationality" and to "power"

[11] Later, in *Politics and Markets* (1977), Lindblom altered his position, "moving away from the rather optimistic pluralism of his earlier work", as Hill (1997: 103) argues, accepting that "pluralism is biased in favour of certain groups, particularly businesses and corporations." Yet, he is suggested to resist on his argument that "centralised planning would be a preferable means of making decisions", indicating that "veto powers so prevalent in the US political system, and which prevent even incremental change occurring in some policy areas, need to be challenged through a restructuring of 'mutual adjustment.'"

[12] Hill (1997: 104) recognises that there is an interesting shift in Lindblom's position, "from one in which bargaining is seen as both inevitable and desirable, to one in which ideology is seen to play a role, but essentially as a limited influence upon the range of actors and the range of options going into the bargaining process."

relationships between the actors of the policy-making process. Thus, it is also important to have a look how the hypotheses of different approaches are shaped regarding the *role of the actors* who are involved in the policy-making processes.

Policy-making is generally conceived a process where many policy-making actors interact, involving elected politicians, appointed civil servants and representatives of pressure groups who are able to get in on action. In the study of policy processes, there has been a concern to define appropriate roles for the various actors.

The two dimensions of policy (Figure 5) proposed by Colebatch (2002: 23-24) seems relevant in terms of providing an analytical understanding of relations between the actors of the policy-making. He identifies the vertical and horizontal dimensions of policy, which are not alternatives to each other, but rather co-exist and enforce each other in the policy-making process.

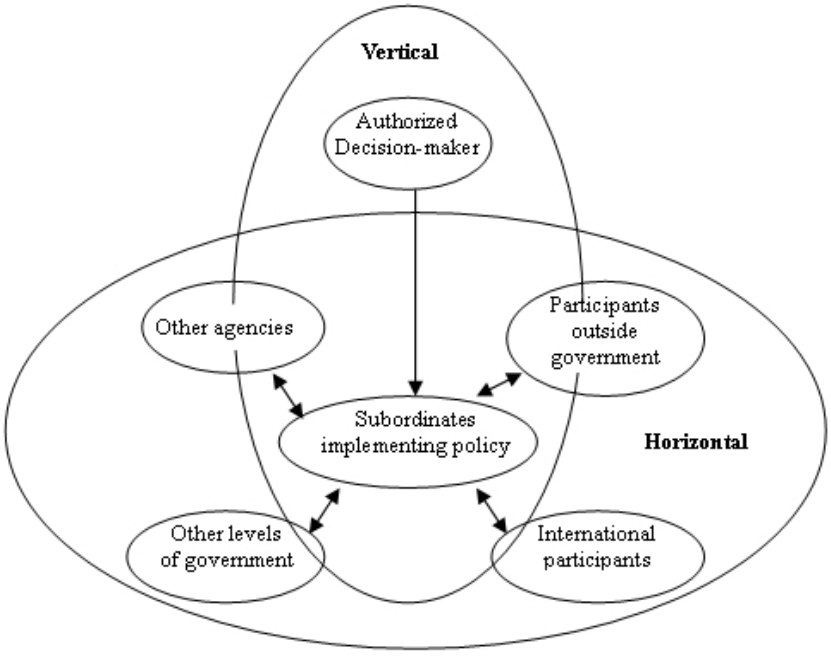


Figure 5: The vertical and horizontal dimensions of policy (Colebatch, 2002: 24)

Although in the vertical dimension, it is clear that there are "policy-makers" at the top with hierarchical authority, the existence of the horizontal dimension shows that there are also many participants in the policy process, who are involved in negotiation and formation of consensus. For this reason, Colebatch (2002: 24) finds it more fruitful "to suspend judgements about who is "making policy", and "to concentrate on identifying the people who are participating in the policy process, how they got there and what they do, and then determine whether we would want to identify any of them as 'policy-makers', and if so, on

what basis."

When the role of the participants in the policy process has been analysed, Hill (1997: 110) suggests that the discussions on the theories of the state points out following factors to be involved in the policy-making processes:

1. Efforts to influence and bargain about policies by a variety of interest groups (for example by elites or economic interest groups)
2. Activities by "insiders" within the state, both elected and appointed.

Moreover, the political parties and their role in terms of party political commitments or programmes in the policy process are a part of the context in which policies are made (Hill, 1997: 110). This is a context in which "there are contested value systems – inevitably strongly linked to competing interests – which are articulated to varying degrees by political parties" and some policies are directly portrayed as "efforts to enforce changes compatible with a specific ideological goal (in particular, curbing or advancement of market systems of distribution, the strengthening of the nation or the curbing of ethnic or gender biases in society)" (Hill, 1997: 110). Thus, it continues that "ideology – or more loosely the specification of policy goals by (or within) political parties, whether used symbolically or not, plays an important part in the rhetoric of policy making – being seen as giving directions and purpose to the activity."

In terms of the diversification of roles of the actors to be identified as well as the positions that they take vis-à-vis other actors in the policy-making processes, a very useful categorisation is proposed by Hill (1997): Party political processes; agenda setting; bargaining processes; administrative processes and administers; advocacy coalitions; and, the impact of institutions and culture on policy making. Those elements can be particularly found in the policy-making processes, but not limited to it. They have reflections in the policy formulation as well as the implementation stages. Considering the richness of those categories in terms of variables and hypotheses, which could make valuable contributions to the formation of empirical case studies, a closer look is needed.

The *party political* or *ideological* element in the process of policy making is clearly important in the formulation of political party stances on policy. It is argued that "there is an explicit ideological consensus among political elites and decision-formers, masking or suppressing alternative views" which may result in "a disregard of continuance of broad division of society – big differentials in income, wealth and power – around which political

mobilisation would be appropriate" (Hill, 1997: 113). As a result, the mobilisation around redistributive causes seems to be ignored "in the capitalistic economic system and the resource distribution consequences of market systems" (Hill, 1997: 113). Other general bases for political mobilisation – race, nationality, religion, gender, economic inequalities – are also seen as unimportant in policy-making processes. Thus, the hypothesis made by Hill (1997) on the role of party politics in the policy making is that many policies start from strongly asserted ideological commitments. In terms of the positions of the opponents throughout the evolution of the policy process, three routes are likely to occur: "maintain formal opposition in parliamentary 'set pieces', to settle for small compromises which reduce the perceived negative impact of the policy, or to withdraw from the contest completely" (Hill, 1997: 115).

Agenda setting is seen in many respects an ideological process, "translating an issue into a policy proposal" (Hill, 1997: 115). Models of society and nature of social relationships are argued to influence that process, in the sense that they influence viewpoints about the extent and form of the state intervention. Political organisations are likely to play crucial roles as agenda-setters because they are formed around ideological positions. Thus, party political activists can also be seen as "policy entrepreneurs." However, they are not the only one: pressure groups and even comparatively isolated intellectuals may also be engaged in this activity (Hill, 1997: 116).

In terms of *bargaining processes*, organised groups in society are very likely to press for political actions which enhance their interests and demands. Hill (1997: 117) sees them being not only reactive but also making their demands in an open way to political parties. It is very important to bear in mind the importance of political institutions and political culture in influencing the relative importance of party politics, bargaining and the administration in the policy process.

The notions of "policy networks" and "policy communities"[13] refer to the ways in which interest groups and the state are linked into frameworks which facilitate consensual and often covert forms of bargaining over policy (Hill, 1997: 117). They are argued to highlight the segmented relationships between groups and government, which differ from policy sector to policy sector (Smith: 1993). He gives the characteristics of the policy networks:

[13] Hill (1997) states that mostly the pluralist theories adapted into corporatism emphasise this point.

> Policy networks are a means of categorising the relationships that exist between groups and the government. Policy networks occur when there is an exchange of information between groups and government (or between different groups or parts of government) and this exchange of information leads to the recognition that a group has an interest in a certain policy area. The exchange of information can be minimal… or can be very intense with groups having institutionalised access to government… (Smith, 1993: 76)

As a result of the bargaining process at more detailed stages of policy-making processes, (a) changes can be made by the government after representations from or negotiations with interest groups; and (b) amendments can be moved by legislature members from both government and opposition, which were inspired by interest groups' (Hill, 1997: 117).

The role of the *administrative processes and administrators* in the policy process brings in the questions of "under what circumstances are administrators inside the system the initiators of policy?" and "at what stage do they get involved in policy processes they have not themselves initiated?"; and their particular importance for the analysis of the administrative systems (Hill, 1997). Hill (1997) suggests that political and administrative roles fitting together also depend upon the aspects of the constitution. He proposes that "if electoral systems tend to produce unified programmatic parties, then there is a potential tension between the two elements in the policy making process." It also depends upon the extent to which either one party is largely dominant, or there is a relatively low level of conflict between the parties (Hill, 1997: 121).

In terms of *advocacy coalitions*[14], the work of Sabatier (1999) and his colleagues portrayed the importance of policy communities to stress the extent to which the policy process must be seen as involving:

> 'advocacy coalitions'… people from a variety of positions (elected and agency officials, interest group leaders, researchers, etc.) who share a particular belief system – that is, a set of basic values, causal assumptions, and problem perceptions – and who show a nontrivial degree of coordinated activity over time. (Sabatier and Jenkins-Smith, 1993: 25, quoted in Hill, 1997: 123)

Advocacy coalition framework focuses on "the interaction of advocacy coalitions – each consisting of actors from a variety of institutions who share a set of policy beliefs – within a policy subsystem" (Sabatier, 1999: 9). Thus, policy change is conceived as "a function of both competition within the subsystem and events outside the subsystems", which "maps the belief systems of policy elites" and "analyses the conditions under which policy-oriented learning across coalitions can occur" (Sabatier, 1999: 9).

[14] The advocacy coalition framework of Sabatier and Mazmanian, is discussed in further detail in the following section on implementation.

The policy-making process is also suggested to be influenced by the *institutions and culture* composing of constitutions, rules, political structures and standard operating procedures (Hill, 1997: 124). Thus, the other elements in the policy process such as the roles of party politics, bargaining and administration are expected to be influenced by these. The nature of the party political system is deemed to be important for the way in which ideological issues figure the policy process. Hill (1997: 124) also links it to the nature of the electoral system, "whether it is one that tends to channel the political argument into a limited number of parties, so that compromise has to occur within the parties, or one with many parties which can offer more distinctive positions, but which then need to compromise with each other in order to enact policies." Moreover, the shape of the party system is also related to the other aspects of the constitution, since it also depends on the different systems of government such as the centralised and unitary system or the federal system with its division of powers (Hill, 1997: 124). However, one also needs to keep in mind that "structures are themselves products of earlier policy processes, influenced by battles over political values": they themselves undergo change; constitutions are also amended and interpreted, hence the views about the role of civil service changes (Hill, 1997: 124).

Work on political culture poses some questions (as collected by Hill, 1997: 125) such as "why is positive role for the state more readily accepted in some societies than others?" and, "what explains variations in public trusts of governments?" It is argued that such issues tend to be used to explain "why ideological politics is more in evidence; what structures bargaining processes; or, why administrations are given the space to work on the solution of policy problems." The consideration of them raises issues about "differences between societies in terms of the extent to which there is acceptance of a strong role for the state" (Hill, 1997: 125).

1.2.3.2 Policy implementation

The implementation (or enforcement) stage of the policy processes is mostly regarded as the neglected aspect of the policy analysis. It is even referred as the "missing link"[15] between the concern with policy making and evaluation of policy outcomes.

In the policy studies literature, two main approaches to the study of implementation

[15] This concept has been used by various authors such as Hargrove, 1975 (quoted in Hill, 1997: 127), and Sabatier in his various contributions.

processes, namely the top-down and bottom-up approaches, provide distinct understandings of how policies are (and sometimes in a prescriptive way, should be) implemented, hence a number of variables for the policy studies. Each approach has different concerns and different starting points and elements for the analysis of implementation stage. The best summary of these two different standpoints have been developed by Sabatier (1986):

> Top-downers have been preoccupied with (a) the effectiveness of specific governmental programs and (b) the ability of elected officials to guide and constrain the behavior of civil servants and target groups. Addressing such concerns requires a careful analysis of the formally-approved objectives of elected officials, an examination of relevant performance indicators, and an analysis of the factors affecting such performance. Bottom-uppers, on the other hand, are far less preoccupied with the extent to which a formally enacted policy decision is carried out and much more concerned with accurately mapping the strategies of actors concerned with a policy problem. They are not primarily concerned with the implementation (carrying out) of a policy *per se* but rather with understanding actor interaction in a specific policy sector.

Before providing a comparison between these two approaches, it is useful to have a brief look at their basic assumptions and hypotheses.

In the *top-down approach*, analysis of policy implementation starts with "a policy decision (usually a statute)" and examines "the extent to which its legally-mandated objectives were achieved over time and why" (Sabatier, 1986). Implementation is defined in terms of a relationship to policy (Hill, 1997: 129). Thus, the implementation process is defined as "those actions by public or private individuals (or groups) that are directed at the achievement of objectives set forth in prior policy decisions" (Van Meter and Van Horn, 1975 quoted in Ham and Hill, 1986: 96). The top-down approach is proposed to be used in implementation studies when "there is a dominant piece of legislation structuring the situation"; or, "one is primarily interested in mean responses and the situation is structured at least moderately well" (Sabatier, 1986).

An explicit version of the top-down approach is provided by Hogwood and Gunn (1984) drawing upon a number of leading scholars of top-down implementation approach. Ten preconditions to achieve "perfect"[16] implementation, which are actually unlikely in practice, are set out in a list by Hogwood and Gunn (1986). The preconditions, which provide useful variables for the study of implementation of policies, can be summarised, in their own words, as follows:

[16] The authors argue that they do not offer a prescriptive model, but 'perfection' in their context was an analytical concept rather than an 'ideal' to be achieved. Their concern seems to be more to provide some reasons why state of perfect implementation was likely to be unattainable in practice (Hogwood and Gunn, 1984).

1. Circumstances external to the implementing agency do not impose crippling constraints: some obstacles, physical or political, to implementation are outside the control of administer because they are external to the policy and implementing agency.
2. Adequate time and sufficient resources are made available to the programme: policies which are physically and politically feasible may still fail to achieve stated intentions, because either too much is expected too soon, or the policy may not be provided the necessary means such as financial resources.
3. Not only there must not be constraints in terms of overall resources but also, at each stage in the implementation process, the required combination of resources must actually be available.
4. The policy to be implemented is based upon a valid theory of cause and effect: policies are sometimes ineffective not because they are badly implemented, but because they are bad policies. The policy may be based upon an inadequate understanding of a problem to be solved, its causes and cure; or of an opportunity, its nature, and what is needed to exploit it. Thus, the implementation failure may, at least in part, be a failure of policy making.
5. The relationship between cause and effect is direct and there are few, if any, intervening links: policies which depend upon a long sequence of cause and effect relationships have a particular tendency to break down, since "the longer the chain of causality, the more numerous the reciprocal relationships among the links and the more complex implementation becomes."[17]
6. Dependency relationships are minimal: there must be a single implementing agency which need not depend upon other agencies for success or, if other agencies must be involved, the dependency relationships are minimal in number and importance. Where, as is often the case in practice, implementation requires not only a complex series of events and linkages but also agreement at each event among a number of participants, then the probability of successful outcome must be reduced. The practice points out that the number of dependency relationships had increased substantially and there is likely to be an intervening network of local authorities, boards and commissions, voluntary associations, and organised groups.
7. There is complete understanding of, and agreement upon, the objectives to be achieved; and these conditions persist throughout the implementation process.

[17] Pressman and Wildavsky quoted in Hogwood and Gunn, 1984.

8. Tasks are fully specified in correct sequence: in moving towards agreed objectives it is possible to specify, in complete detail and perfect sequence, the tasks to be performed by each participant. There should be some room for discretion and improvisation in even the most carefully planned programme.
9. There is perfect communication among, and coordination of, the various elements or agencies involved in the programme.
10. Those in authority can demand and obtain perfect obedience: those 'in authority' are also those 'in power' and they are able to secure total and immediate compliance from others (both internal and external to the agency) whose consent and cooperation are required for the success of the programme.

Thus, in short, the agenda for implementation studies established by the top-down approach involves "the examination of the implementation process concerning with the nature of the policy, the inter- and intra- organisational context within which it is implemented and the external world on which it is expected to impact" (Hill, 1997: 132).

In the *bottom-up* approach to policy implementation, the focus on individual actions as a starting point enables actions to be seen as responses to problems or issues in the form of choices between alternatives (Ham and Hill, 1986: 107). The proponents of this approach argue that it is "relatively free of predetermining assumptions." Sabatier (1986) states that the bottom-up approach of Hjern et al. starts by "identifying the network of actors involved in service delivery in one or more local areas and ask them about their goals, strategies, activities and contacts" and then uses "the contacts as a vehicle for developing a network technique to identify the local, regional, and national actors involved in the planning, financing, and execution of the relevant governmental and non-governmental programs."

Hjern and Porter (1981), among the proponents of this approach, argue for a methodology where predetermining assumptions about the structures in which decision-making occurs do not exist. Hill and his colleague also support this methodological standpoint stating that:

> …we have argued for an alternative perspective to be adopted – one that focuses on the actors and agencies themselves and their interactions, and for an action-centred or 'bottom-up' mode of analysis as a method of identifying more clearly who seems to be influencing what, how and why. (Barrett and Hill, 1981: 19)

Elmore (1981 quoted in Ham and Hill, 1986: 106) refers to the term "backward mapping", which he defines as:

> 'Backward reasoning' from the individual and organisational choices that are the hub of the problem to which policy is addressed, to the rules, procedures and structures that have the

> closest proximity to those choices, to the policy instruments available to affect those things, and hence to feasible policy objectives.

In using this approach, it is "less likely to imply assumptions about cause and effect, about hierarchical or any other structural relations between actors and agencies, or about what should be going on between them" (Hill, 1997: 138). The bottom-up approach is seen more appropriate in situations where "there is no dominant piece of legislation but rather large number of actors without power dependency"; or, "one is primarily interested in the dynamics of different local situations" (Sabatier, 1986). It is also argued that the deficiency created by the assumptions of top-down approach on focussing on learning can be overcome by bottom-up techniques "for ascertaining the strategies – and, by extension, the learning from experience – of a wider variety of actors concerned with the programme" (Sabatier, 1986). In short, the bottom-up analysis involves a variety of public and private actors dealing with a policy problem, in an effort to understand the perspectives and strategies of all major categories of actors (not simply programme proponents) (Sabatier, 1986).

The bottom-up approach suggests action as "a continuous process of interaction with a changing and changeable policy, a complex interaction structure, an outside world which must interfere with implementation because government action impinges upon it, and implementing actors who are inherently difficult to control" (Hill, 1997: 139).

Although he also criticises it, the strengths of the approach developed by Hjern et al. are listed as follows in Sabatier's (1986) words:

1. They have developed an explicit and replicable methodology for identifying a policy network ("implementing structure").
2. Because they do not begin with a governmental programme but rather with actors' perceived problems and the strategies developed for dealing with them, they are able to assess the relative importance of a variety of governmental programme, vis-à-vis private organisations and market forces in solving these problems.
3. Because they do not start with a focus on the attainment of formal policy objectives, they are free to see all sorts of (unintended) consequences of governmental and private programmes.
4. This approach is able to deal with a policy/problem area involving a multitude of public (and private) programmes, none of them pre-eminent.

5. Because of their focus on the strategies pursued by a wide range of actors it makes it easier to deal with strategic interaction.

Sabatier (1986) provides a *comparison between the top-down and bottom-up approaches* in terms of their initial focus; identification of major actors; in the process; evaluative criteria; and, their overall focus (Table 1).

	Top-Down (Sabatier and Mazmanian)	**Bottom-up** (Hjern et al.)
Initial focus	(Central) government decision, e.g., new pollution control law.	Local implementation structure (network) involved in a policy area, e.g., pollution control.
Identification of major actors in the process	From top down and from government out to private sector (although importance attached to causal theory also calls for accurate understanding of target group's incentive structure).	From bottom (government and private) up.
Evaluative criteria	Focus on extent of attainment of formal objectives (carefully analysed). May look at other politically significant criteria and unintended consequences, but these are optional.	Much less clear. Basically anything the analyst chooses which is somehow relevant to the policy issue or problem. Certainly does not require any careful analysis of official government decision(s).
Overall focus	How does one steer system to achieve (top) policy-maker's intended policy results?	Strategic interaction among multiple actors in a policy network.

Table 1: Comparison between top-down and bottom-up approaches (Sabatier, 1986: 282)

In terms of choosing the appropriate theory of implementation, Hill (1997: 151) suggests that when the primary aim is analysing the implementation process, the activity that the researcher is interested in becomes important. If the top-initiated, goal-directed activity is considered, Hill (1997: 151) suggests to use a 'top-down' methodology and work with a notion like "implementation deficit", where "a quantifiable output exist and explicit inputs can be measured." However, he argues that many events in the policy process do not involve such clarity and there may be examples of "complex and confusing cases where central goals were not so clear, or where central goal statements should be received with great scepticism as it may be the case in fields like community care, employment policy, urban renewal and the prevention of crime" (Hill, 1997: 151). He states that concern may be with "an ongoing process where explicit change is not initiated from above, or where there are grounds for scepticism about whether change efforts will carry through to the 'bottom.'" However, Hill also warns that this should neither be understood as a dogmatic bottom-up stance because of the variety of ways and positions that can influence action, thus it would be equally a mistake to disregard aspects of hierarchical power (Hill, 1997:

151-2).

1.3 Analysing domestic policy change

In the previous part, it is briefly discussed how to understand "policy" as a process and how to analyse it in the domestic context, in a way to show the potential contribution of the policy studies to the Europeanisation literature by pointing out the stages, models, and variables (elements and actors) of a policy process. Since the major question of this research is to analyse the EU impact on domestic social policy in Turkey, now it is necessary to go back to the Europeanisation literature to understand and discuss different mechanisms, variables and categories of outcomes as proposed by that literature in order to explain domestic change due to European integration.

1.3.1 The mechanisms of Europeanisation

The term "mechanisms of Europeanisation" simply refers to the question of "how does the European Union affect the member states?" (Börzel, 2005: 47). Analytically speaking, the distinction between different mechanisms of Europeanisation is rooted back in Knill and Lehmkuhl's (2002) work, which distinguish those mechanisms by which "European requirements may yield domestic institutional change." Their three ideal types of the European policy-making's impact on domestic regulatory styles are namely institutional compliance (i.e. positive integration), changing domestic opportunity structures (i.e. negative integration) and framing domestic beliefs and expectations (i.e. framing integration). Knill and Lehmkuhl (2002: 257) argue that European policies might be:

(a) very prescriptive and demand that member states adopt specified measures in order to comply with EU requirements;
(b) confined to changing opportunity structures; or,
(c) in their weakest (most indirect) form, without any direct institutional impact at all since they primarily aim to change domestic beliefs and expectations.

Based to a great extent on the propositions of the policy implementation studies, Knill and Lehmkuhl (2002: 257) argues that each of those mechanisms requires a distinctive approach to explain its domestic impact, thus different explanatory factors should be considered. This distinction between three forms of impact is suggested to be analytical rather than empirical. This means that although three major mechanisms of Europeanisation have been proposed and further developed, there are also potential

interdependencies between Europeanisation mechanisms (Knill and Lehmkuhl, 2002: 276). The authors argue that "many European policies may be characterised by a mixture of different mechanisms of Europeanisation as distinctive mechanisms are linked to each other in a hierarchical way with more explicit mechanisms encompassing weaker forms of Europeanisation." This means that, in the real world, hybrid constellations may exist: "within a particular policy sector different mechanisms of Europeanisation might be involved or the mechanisms that were once involved might change over time" (Knill and Leumkuhl, 2002: 276).

In *positive integration*, European policy-making may lead to domestic change by "prescribing concrete institutional requirements by which member states must comply; that is European policy 'positively' prescribes an institutional model to which domestic arrangements have to be adjusted." Thus, the first mechanism is based on the presence of European models, where the European states have "only limited institutional discretion when deciding on concrete arrangements in order to comply with European requirements" (Knilll and Lehmkuhl, 1999: 2). This first logic of direct institutional pressure is seen as a dominant characteristic of new regulatory policies, which have been "designed to curb negative externalities of emerging from the market activities" (Knill and Lehmkuhl, 1999: 3). The fields of new regulatory policy cover environmental policy, health and safety at work, consumer protection and sections of social policy.

In case of Europeanisation by institutional compliance (i.e. positive integration), Knill and Lehmkuhl (2002: 259) adopt a two-step approach to understand the domestic responses. The first explanatory step considers the institutional compatibility of the European model with domestic arrangements ("goodness of fit"). Complementing the analysis, the second explanatory step elaborates on the particular interest constellations and institutional opportunity structures at the domestic level, which could also be named as the mediating factors. The second step is designed to determine the extent of the domestic support for adjusting to the EU requirements, as well as the extent of power and resources that those domestic actors, who support regulatory change, have.

Knill and Lehmkuhl (1999: 2) go on with *negative integration*, in which European legislation may "affect domestic arrangements by altering the domestic rules of the game." This mechanism is based on the domestic opportunity structure. European influence is confined to "altering domestic opportunity structures, and hence the distribution of power and resources between domestic actors." In this mechanism, the changes in the domestic

opportunity structures may imply that "existing institutional equilibrium are successfully changed." Here, there is not any prescribed institutional model for the new equilibrium, although European policies contribute to the potential changes. This second logic is not concerned with correcting the negative externalities of market activities, but instead "market-making" in order to define the conditions for market access and market operation for securing the proper functioning of the market (Knill and Lehmkuhl, 1999: 3).

When Europeanisation primarily relies on changing domestic opportunity structures, domestic change or persistence is not seen as primarily relying upon the pressures on domestic institutions to adapt, but "must be explained by analysing the extent to which European policies have altered the strategic positions of the domestic actors" (Knill and Lehmkuhl, 2002: 260). Their question is "how may European policies alter domestic opportunity structures so that national actors can successfully challenge existing regulatory arrangements?" For the answer of this question they refer to Héritier et al. (2001), who suggest that "the potential for European impact on national regulatory styles and structures increases with the extent to which a domestic policy context is characterised by a contested interest constellation and a relatively even distribution of powers and resources across opposing actor coalitions." Thus, their first explanatory step is to "identify the constellations of domestic interests and opportunity structures where Europe-induced changes are more or less likely." A second explanatory step is to "focus on the fit between domestic reforms and European regulatory objectives."

Third and the "weakest" form for Knill and Lehmkuhl (1999: 2) is the *framing integration*. Here, European policy "neither prescribes concrete institutional requirements nor modifies the institutional context for strategic interaction, but affects domestic arrangements even more indirectly, by altering the beliefs and expectations of domestic actors." Domestic beliefs may affect strategies and preferences of domestic actors and may potentially lead to corresponding institutional adaptations. Thus, the authors base the domestic impact of European policies on a "cognitive" logic, or on the role of "minimalist" directives as Radaelli (2003) puts it.

In Europeanisation by framing domestic beliefs and expectations, the policies based on framing mechanisms are bounded with "altering the 'cognitive input' into these opportunity structures rather than directly affecting these structures" (Knill and Lehmkuhl, 2002: 262). Thus the question is formulated as "whether European legislation has contributed to altering expectations and beliefs of domestic actors in such a way to

motivate domestic institutional change." The authors argue that domestic impacts can basically be expected under two sets of conditions: first, the impact of European framing might change the outcome of national reforms that occur independently of European influences; and second, European policies might also affect the reform process itself. The conclusion is that "the domestic impact of European framing in any particular area varies greatly according to the nature of dominant national belief systems and the existing institutional opportunities for and constraints on reform." Thus, this mechanism of Europeanisation relates to the policy areas where the key actors are national governments implying that the supranational institutions have very weak powers (Bulmer and Radaelli, 2004).

The different mechanisms of Europeanisation are mapped onto the EU policy areas by Bulmer and Radaelli (2005) as shown in Table 2.

Type of Policy	Illustrative Policy Areas	'Default' Explanation of Europeanisation
Positive integration	Environment, social policy, EMU, CAP	Goodness of fit
Negative integration	Internal market in goods and services, utilities sectors (for example telecommunications, electricity, corporate governance)	Regulatory competition
Coordination	CFSP, third pillar, OMC policies (e.g. employment, social inclusion, pensions, enterprise policy, asylum policy)	Learning

Table 2: Europeanisation and policy illustration (Bulmer and Radaelli, 2005: 354)

The positive integration mechanism in the Europeanisation literature dominantly employs a "top-down" approach for analysing domestic policy change, in cases where the EU prescribes a model for the domestic systems. The most well-known framework for this top-down approach is provided by Risse, Cowles and Caporaso (2001), who suggest a three-step approach to analyse domestic change (Figure 6).

First, the relevant Europeanisation processes, both formal and informal (norms, rules, regulations, processes and practices at the European level) are to be identified. Those processes may necessitate adjustments on domestic levels of the member states so that states can be in compliance with EU norms, rules and procedures. This is central to the research question whether these policy adjustments lead to domestic structural change or not.

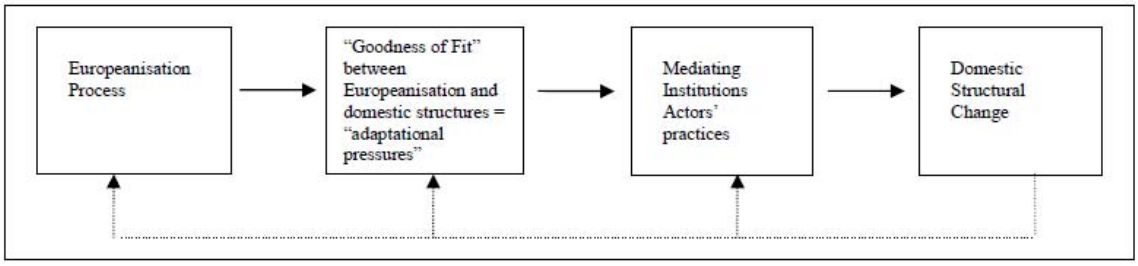


Figure 6: Europeanisation and domestic structural change (Risse et al., 2001: 6).

The second step is to identify "goodness of fit" between Europeanisation processes and national institutional settings, rules and practices as defined in the first stage. It is important because degree of fit (misfit) identifies the "adaptational pressures." According to the authors, the lower the compatibility (i.e. the fit) between European institutions and domestic structures of the member states, the higher the adaptational pressures (Risse et al., 2001: 7; Börzel, 2005: 50). This means that "if there is good fit, there is little pressure for change at the domestic level" (Caporaso, 2007: 29). Those authors suggest that the interesting question for a research is to explore the gaps between existing institutional structures and adaptational requirements, which can lead to serious performance crisis of institutions and finally result in radical and rapid transformations.

Third step in Risse et al. (2001: 9) is to find out the presence or absence of mediating factors both in terms of institutions and actors. It is crucial for the degree to which domestic change adjusting to Europeanisation should be expected. Caporaso (2007: 30) states that the existence of domestic mediating factors is vital, in the case of high adaptational pressure. In this framework, a number of structure and actor-related mediating factors are listed as multiple veto points, facilitating institutions and cooperative cultures in terms of institutional mediating factors; and differential empowerment actors and learning in terms of actor strategies. The question is whether or not institutional and cultural conditions on the one hand and actors on the other facilitate and/or prohibit flexible responses to adaptational pressures, hence the structural domestic change.

Although the framework provided by Risse et al. (2001) has particular significance in conducting research on domestic change, it has also been criticised for some of its propositions. The critiques are based on the argument that the "goodness of fit" approach is only valid under conditions where the EU policy templates or models are present, because "goodness of fit" assumes "clear, vertical chain-of-command, in which EU policy descents from Brussels into the member states" (Bulmer and Radaelli, 2004: 9). In this regard, positive integration mechanism, with its utilisation of policy templates to achieve market

correcting goals, represents the most coercive form of Europeanisation and its potential for regulatory intrusion is high (Bulmer and Radaelli, 2004). However, in cases where the EU policy came into being before it has become a reality in the national context *per se* (i.e. it is non-existent as a domestic policy), it is not possible to speak of "goodness of fit" (Bulmer and Radaelli, 2004: 9). Moreover, evidence from Héritier et al. (2001) shows that European policies may lead to domestic reforms even in the absence of adaptational pressures, arguing that that the level of incongruence and domestic adaptation do not have any simple causal relationship regarding the degree of change.

Thus, to consider "goodness of fit" as the only mechanism of Europeanisation is not plausible because "goodness of fit" argument is suggested to be a special case rather than a general explanation. In general, it is argued that the analysis provided by Cowles et al. (2001) might be meaningful in the context of analysing domestic change related to the positive integration policies, where the EU prescribes a model for the domestic systems, especially in the cases where hard law instruments are employed to require changes in the domestic systems of countries, but more variables and dynamics are needed for the analysis of the negative and framing type of mechanisms. This means that reductionism of Europeanisation into the "goodness of fit" model and the "top-down" approach are criticised in the literature, however its explanatory power under certain circumstances and for some policy areas are also acknowledged even by the critiques of the model.

Based on those criticisms, a number of scholars argue that the "EU governance is more multi-faceted than the goodness of fit/misfit approach assumes" (Bulmer, 2007: 53) and that the policy issues where "soft law" instruments such as the Open Method of Coordination (OMC) are used, it is necessary to adopt a new approach and research design to analyse the impact of those policies on domestic policy change in individual country contexts. Thus, proposing another approach to the mechanisms of Europeanisation, namely the "framing integration", Radaelli (2003: 41) departs from institutionalism in organisational analysis, looks at the process of EU-induced cognitive convergence even when direct coercion from Brussels is absent, and suggests the mechanisms of coercion, mimetism and normative pressures in EU policy diffusion. He distinguishes two basic types of mechanisms that is "vertical" and "horizontal" Europeanisation (Radaelli, 2003: 41). Vertical mechanisms separate the EU level as the stage where the policy is defined, and the domestic level as the arena where policy has to be digested. By contrast, horizontal mechanisms look at Europeanisation as a process where "there is no pressure to conform to

EU policy models", and refer to "a different form of adjustment to Europe based on the market or on patterns of socialisation." Horizontal Europeanisation is considered as "a process of change triggered by the market and the choice of the consumer or by the diffusion of ideas and discourses about the notion of good policy and best practice" (Radaelli, 2003: 41). He makes a distinction that vertical mechanisms are based on "adaptational pressure"; whereas horizontal mechanisms involve a "different form of framing."

The "framing integration" refers to the "horizontal" mechanisms to explain the impact of the EU on the member states, when there is no direct pressure from the EU for the member states to conform with the European policy or models, or in the policy areas where the EU is itself weak, thus the scope of the coercion is limited (Bulmer and Radaelli, 2004). In those "soft law" cases, rather than the hierarchical, top-down mechanisms, it is also the soft framing mechanisms that can prepare the ground for major policy change (Radaelli, 2003: 43). Although the minimalist directives or non-compulsory regulations of the EU, by their nature, do not create any pressure in terms of adaptation or "goodness of fit" as it is the case for the EU policies based on hard law instruments such as directives and decisions, they can still provide "additional legitimacy to domestic reformers in search of justifications, by 'inseminating' possible solutions in the national debate, and by altering expectations about the future" (Radaelli, 2003: 43). In this sense, the framing integration mechanism includes framing, role of discourse etc. in a way that the EU may lead to domestic policy change by providing a common framework of reference, vision, meaning and common solutions to common problems (Jacquot, 2008: 9). This refers to looking at the "more subtle impacts" of socialisation processes, ideational convergence, learning, and interpretations of policy paradigms and ideas (Radaelli and Pasquier, 2007: 38), where the perceptions of the domestic policy actors are supposed to be affected through mechanisms such as policy framing and learning (Bulmer, 2007: 53).

Accordingly, an important presupposition of the framing integration mechanism is that "learning" can provide explanation of Europeanisation, especially when the impact of soft law policies such as OMC on domestic policies is concerned. Since learning occupies an important part for the those types of policies, diverging considerably from the law-making system of the hard law instruments, and OMC is self-declaredly organised as "mutual

learning processes" through periodic monitoring, evaluation and peer review[18], it is argued to have a larger potential for ideational convergence policy learning (Bulmer and Radaelli, 2005: 351, 349). Being concerned about whether or not a learning-based mode of governance, through OMC, can facilitate Europeanisation, Radaelli (2008) argues that being based on guidelines, coordination and national action plans, peer reviewing, benchmarking, performance indicators, and governance processes open to the regional-local level and the civil society, OMC has a potential to produce convergence towards the EU and ultimately Europeanisation (Radaelli, 2008: 239).

The framing integration mechanism suggests using a "bottom-up" approach to analyse the domestic policy change in the absence of hard law instruments. The most developed "bottom-up" approach is provided by Radaelli and his colleagues in various publications (Radaelli, 2003; Radaelli, 2006; Bulmer and Radaelli, 2005; Radaelli and Pasquier, 2007). This "bottom-up" approach exogenises the EU level, starts from the set of actors, ideas, problems, rules, styles and outcomes at the domestic level and traces the processes of the system over time in order to identify the critical junctures or turning points (Exadaktylos and Radaelli, 2009: 510). The critical junctures may refer, for example, to the times when "major ideational change takes place", or "the constellation of dominant actors is altered" and for each juncture the question becomes "was the cause of this major change domestic, or did the change come from exogenous variables like the EU-level variables or global-level variables?" (Exadaktylos and Radaelli, 2009: 510). This approach is based the Elmore's (1981) concept of "backward mapping" (Exadaktylos and Radaelli, 2009: 510) as also mentioned in relation to policy implementation studies in the previous part.

However, the framing integration mechanism is not free from criticisms. Besides the difficulty of operationalising the bottom-up research design, the use of "learning" as the default explanation of Europeanisation has also received scepticism. Moreover, some of those criticisms come from the scholars proposing the use of framing mechanisms, in an effort to revise and refine the approach proposed by the framing integration mechanism. For example, Radaelli (2008) argues that although it is difficult to "trace the causal link between learning and policy change" empirically, a comparison of the OMC policy areas shows that the evidence of learning is little and differential among different types of learning. He founds out that evidence of learning at the top (or "EU-level learning") is

[18] Lisbon European Council, Presidency Conclusions, 23-24 March 2000.

limited, cognitive convergence driven by the top (or "hierarchical learning") is even more limited, and there is almost no evidence of learning from below ("bottom-up learning" or "social learning") (Radaelli, 2008: 241). He concludes that OMC provides more evidence of redefinition of policy discourses (social learning) and political learning than instances of policy learning (Radaelli, 2008: 251). Stating that "many researches face fundamental methodological problems regarding the mode of functioning and extent of policy learning in the empirical analysis of causal connections", Hartlapp (2009) suggests a solution to analyse the "learning" potential of the soft law policies through a closer look at the potential of the OMC instruments to stimulate learning as a causal mechanism. Looking at the creation of learning conditions by the European Employment Strategy (EES), Hartlapp (2009: 10) argues that the characteristics and processes of the steering tools used under the EES, can foster "various forms of learning and can vary in their potential for stimulating learning." Accordingly she suggests that the analysis of learning should start with the instruments employed and type of learning is differentiated by three types of learning: learning by own experience, learning from others and learning with others (Hartlapp, 2009: 1, 10).

1.3.2 Mediating and intervening variables

In both mechanisms of Europeanisation, positive and framing integration mechanisms, a combination of factors, usually named as mediating, intervening or contextual variables, occupy a central place as the explanatory factors to explain the variation in the extent of domestic change due to EU impact. Those factors and variables as tools to explain concrete phenomenon of domestic change from its different aspects actually reflect the theoretical positions taken by the scholars of the Europeanisation literature in relation to varieties of "new institutionalism" and some efforts to synthesise those different variants.

Those mediating factors to explain the EU's domestic impact derives from two analytically distinctive approaches, namely rationalist institutionalism and sociological (or constructivist) institutionalism, which also differ in terms of the logics they follow, "logic of consequentialism" and "logic of appropriateness"[19] (Sedelmeier, 2011: 11; Börzel and

[19] "Logic of consequentialism" (March and Olsen 1989 and 1998 in Börzel, 2005: 52) in rationalist institutionalism refers to rational actors having fixed and ordered set of preferences and acting instrumentally in order to "maximize their expected utilities by deploying the resources at their disposal" (Börzel, 2005: 52). "Logic of appropriateness" (March and Olsen 1989 and 1998 referred to in Börzel and Risse, 2003: 65) of sociological institutionalism refers to actors who are "guided by collective understandings of what constitutes proper, that is, socially accepted behaviour in a given structure" (Börzel and Risse, 2003: 65).

Risse, 2003: 63). The rationalist institutionalist position, following the "logic of consequences", suggests that the EU challenges and changes the opportunity structure for utility-maximising domestic actors through adaptational pressure; and, leads to differential empowerment of actors at the domestic level through redistribution of legal and political resources (Sedelmeier, 2011: 11; Börzel, 2005: 53). Two mediating factors are seen influential in facilitating or impeding domestic change due to EU adjustment pressures: existence of *multiple veto points*, and existence of *facilitating formal institutions* (Börzel, 2005: 53; Sedelmeier, 2011: 11).

On the other hand, the sociological institutionalist position, following the "logic of appropriateness", suggests that "European institutions are more than a political opportunity structure", but they imply "new rules, norms, practices and structures of meaning, which member states have to incorporate" (Börzel, 2005: 54). Thus, the domestic impact of the EU is suggested to occur through a process of socialisation of domestic actors, where EU norms regarded as legitimate are internalised through the processes of persuasion and social learning (Sedelmeier, 2011: 11). Two mediating factors are seen influential in leading to socialisation: *norm entrepreneurs* and *cooperative informal institutions* (Börzel, 2005: 54), as well as the normative resonance between the EU rules and domestic cultural understandings (Sedelmeier, 2011: 11). The mediating factors in two strands of new institutionalism are summarised in (Table 3).

	Rationalist institutionalism	**Sociological institutionalism**
Logic	Logic of consequentialism	Logic of appropriateness
Domestic impact of Europe	- Redistributing resources - Differential empowerment	Socialisation
Mediating factors	- Multiple veto points - Facilitating formal institutions	- Norm entrepreneurs - Cooperative informal institutions

Table 3: Mediating factors in two strands of new institutionalism (Börzel, 2005: 52-58 and Börzel and Risse, 2003: 63-69).

The basic intervening variables reached by Héritier and her associates (2001) are mapped by Radaelli (2003: 47). These are institutional capacity to produce change; timing of European policies; and, policy structure and advocacy coalitions (Table 4). The institutional capacity refers to the existence of formal and informal veto players, and the scope and type of executive leadership. Radaelli (2003: 46-47) considers those as a necessary but not sufficient condition to produce change. For timing, the impact of EU public policy is suggested to be "contingent on whether a country is already involved in a process of reform or not", proposing that the investigation of domestic processes is equally

important to be conducted in parallel to the analysis of the effects of European public policy on national policies (Radaelli, 2003: 48). In addition, the possibility that decision-makers manipulate "time" by "delaying decisions, sequencing the process of adaptation, and controlling the speed of Europeanisation" is also underlined (Radaelli, 2003: 48). Policy structure and advocacy coalitions are seen as an under-emphasised but crucial intervening variable because it refers to the policy level, where "the most surprising effects of Europeanisation have taken place via policy change when formal political structures have remained unchanged" (Radaelli, 2003: 48).

1. Institutional capacity to produce change
- Veto players in the political system
- Scope and type of executive leadership
2. Timing of European policies
3. Policy structure and advocacy coalitions
- Technocratic capture potential
- Adoption-implementation balance
- Presence of a legitimating *policy* discourse
- Impact of EU policy on domestic advocacy coalitions

Table 4: Key intervening variables explaining the likelihood and direction of Europeanisation (Radaelli, 2003: 47)

Regarding "policy" variables, Radaelli makes four observations on the intervening variables (2003: 48-9). Firstly, he underlines the diverse degree of technocratic capture potential referring to the difference between policies of technocratic and elitist natures, and those which require a wider constellation of actors through societal pressure. Secondly, Radaelli (2003: 49) pays attention to the balance between policy formulation/adoption and policy implementation, where he expects that when the balance shifts to implementation, the process of Europeanisation becomes more problematic. He suggests that the involvement of the actors concerned in policy formulation and implementation may shift, especially for the market-making policies. Thirdly, Radaelli (2003: 49) observes that the policy discourse is important because it provides a rationale and justifies change at policy level. Fourthly, such an emphasis on legitimacy and discourse also refers to the importance of belief systems as proposed in the Sabatier and Jenkins-Smith's framework of domestic advocacy coalitions, and it leads Radaelli (2003: 49) to the question of "to what extent and under which conditions Europeanisation can change 'policy core' beliefs and facilitate learning and non-incremental change." All those observations together emphasise the constellation of actors, the characteristics of policy and the role of belief systems in Radaelli's (2003: 49) approach. With the introduction of the advocacy coalition

framework, the author assigns importance to belief systems and to the balance between endogenous learning dynamics and exogenous shocks. As such, an analysis of the interplay between "exogenous" EU policy and domestic "endogenous" factors become important for the direction and degree of domestic change.

In spite of the fact that two variants of new institutionalism emphasise distinct analytical mechanisms, many scholars of Europeanisation and their case studies suggest that those mediating variables are "not necessarily mutually exclusive." This means that a synthesis of different variants of new institutionalism is considered to be complementary as a synthetic theoretical framework for Europeanisation research (Sedelmeier, 2011: 11; Börzel and Risse, 2003: 74; Vink and Graziano, 2007: 13; Bulmer, 2007: 51).

In this regard, to have a brief look at the empirical case studies conducted by various scholars of the Europeanisation by briefly summarising mediating and intervening variables proposed in that literature is a means to enrich the options to be considered within the research design of this research on analysing domestic social policy adaptations and change in Turkey in response to the European integration processes. Below is a summary of the mediating variables both in the Europeanisation case studies conducted within the framework of positive integration mechanism, which employs "goodness of fit" and "adaptational pressures" as the default explanation for Europeanisation, as well as those criticising the dominant and reductionist use of that framework; and, within the framework of framing integration mechanism, which employs "learning" as the default explanation of Europeanisation.

Owing to the fact that positive integration mechanism and "goodness of fit" approach have been dominantly used in the analysis of Europeanisation of policies. In many of those studies taking "goodness of fit" as a necessary condition for domestic change, the argument is supported by identifying a number of "intervening variables that mediate between European pressures for adaptation and member state responses" (Börzel, 2003: 7). For example, adopting a "top down" approach, Caporaso and Jupille (2001: 24) study domestic structural change in gender equality policies in France and the United Kingdom by choosing an institutional focus on public agencies and legal arenas, and state-society relations. The mediating factors identified in their study are formal and informal institutions, and veto points or veto groups (Caporaso, 2007: 31).

The studies, which criticise the "goodness of fit" approach, have also emphasised similar

mediating factors. For example, Haverland (2000: 100) studied the case of Packaging and Packaging Waste Directive in Germany, the Netherlands and the United Kingdom and he proposed that, regardless of differential levels of goodness of fit, it is the number of institutional veto points which the national governments had to face at all stages of the decision-making process that tend to shape the timing and success of the national adaptation to the EU requirements. Kallestrup (2006: 66), in the study of Europeanisation of regulatory policy in Denmark, pointed out the importance of the changed domestic actor constellations and actors' beliefs and expectations, as being more important than the goodness of fit in explaining the differential impacts of the EU in the national context. As a part of explaining national preferences, Van der Vleuten (2005: 465) in her study to explain the implementation of EU gender equality legislation in France, Germany and the Netherlands, stated that the economic and ideological costs of policy change and the amount of pressure exercised by societal actors, as well as the prestige, can be perceived as a part of the state in question. In her book, van der Vleuten (2007: 182) stated that "where relative domestic costs were higher, governments chose not to implement the policy" and "supranational pressure is only effective when there is simultaneous domestic pressure, political or judicial" because then the governments are "'sandwiched' by double political and judicial pressure at the domestic and supranational levels." After calling attention to different processes that affect some degree of institutional and policy transformation in the CEE, Grabbe (2003: 317) suggests that "adaptational pressure is not the best predictor of how a country responds to Europeanisation." The intervening variables that determine the EU's impact in the CEE (before their accession) were the interaction between Europeanisation and other processes of change, driven externally or internally; and the complexity of actor constellations involved in EU policy making. In the case of the candidate countries, Grabbe (2003: 318-323) points out additional constraints owing to the diffuse nature of EU influence: the asymmetry of the relationship with the EU, and the uncertainty built into the accession process, particularly about the policy agenda; hierarchy of tasks; timing; whom to satisfy; and, standards and thresholds.

However, a conceptual gap in many of those empirical case studies is identified by Sedelmeier (2011: 30) suggesting that there is a need to better conceptualise domestic politics "through ex ante specification of the factors through which adjustment costs arise at the domestic level." He argues that although most of the studies pay particular attention to the importance of the elements of domestic politics "as factors that mediate the EU's

influence", there is still some imbalance in the identification of those mediating factors. The argument is that the concepts such as "domestic adoption costs", "veto players", "actor density" etc. have been used in a rather broad and undifferentiated way without further specification and without ad hoc operationalisation. For example, any opposition to EU demands by the national governments is often related to the high domestic adjustment costs, but sufficient analysis is not conducted to explore "why these governments perceived EU demands as costly, and how such costs could have been operationalised and assessed prior to the analysis" (Sedelmeier, 2011: 30).

In line with that argument, there is also an effort to fill this conceptual gap in the Europeanisation literature. For example, suggesting to go beyond "goodness of fit", Mastenbroek and van Keulen (2006: 38), in their study of the transposition of the Gas Directive and Biopatent Directive in the Netherlands, suggest that "rather than the goodness of fit with the existing policies", it is the national preferences that ease the implementation of the new European legislation. In another study, Mastenbroek and Kaeding (2006: 348) pointed out to the need to bring domestic politics to the forefront by focussing on domestic beliefs and preferences. Trying to better specify domestic costs by attributing attention to the orientation of political parties (Sedelmeier, 2011: 30), Sedelmeier (2009: 2) analysed the transposition of EU legislation on gender equality at the workplace in the Czech Republic, Hungary, Lithuania and Slovenia, and suggested that the explanatory factors for variations in legal transposition and enforcement bodies were adjustment costs, partisan preferences of governments, and their combination with societal mobilisation of NGOs with special expertise in EU gender equality legislation. From a similar point of view, in his study on the transposition of six employment rights Directives[20] in Germany, the Netherlands, Ireland and the United Kingdom, Treib (2003: 1) stressed the importance of domestic party politics in determining the transposition performance. He argued that it is not only the misfit between EU directives and the national arrangements but also party political preferences that explain the transposition failures and successes (Treib, 2003: 25). In addition to political parties and fit/misfit, Treib (2003: 25-26) also acknowledged the positions and relative influence of interest groups, availability or lack of sufficient administrative resources and possible issue linkages

[20] Those Directives are on the part-time workers (97/81/EC), parental leave (96/84/EC), working time (93/104/EC), protection of young people at work (94/33/EC), protection of the pregnant workers at work (92/85/EEC), and employer's obligation to inform employees of the conditions of employment (91/533/EEC).

between the European provisions and national reform processes as the additional factors that may affect the transposition performance.

In the literature, the case studies conducted within the framework of framing integration mechanism of the Europeanisation by applying a bottom-up research design are not yet numerous. Still, it is possible to find a number of empirical case studies which focus on domestic policy change in cases of "soft law" mode of EU governance, especially in relation to the European employment policy. A brief account of the propositions and findings of existing case studies has a potential to complement the mediating variables identified in relation to positive integration mechanism and help in structuring the research design of this research.

Comparing the influence of the European Employment Strategy on Poland, Spain, Denmark and the United Kingdom, Mailand (2008) finds out that the degree of impact is uneven across countries. She uses the mechanisms of peer pressure, which is put by the member states upon each other "to reach common targets and carry out mutually agreed commitments", and strategic use of the EES by national and subnational actors for "external legitimisation of unpopular measures or reforms" (Mailand, 2008: 355). The factors that explain the greater impact on Poland and Spain than in Denmark and the United Kingdom include non-compliance in those countries with the EES before its introduction; relatively weak labour market performance; the lack of consensus among the main actors; and, strong economic or political dependence on the EU (Mailand, 2008: 353).

Looks at the indirect, framing mechanism of Europeanisation in the area of social policy, in particular at the pension reforms in Germany and Italy, Stiller (2006) focused on the "selective 'use' of framing in order to legitimise pension reform in two countries." The main conclusion of Stiller (2006: 43) is that in the field of social policy, "Europeanisation by framing" does not appear in a uniform manner, but is likely to be conditional upon the domestic policy actors' use of the EU either as a scapegoat to help them justify domestic reforms, or as a resort to rely on high levels of EU-popularity among the public.

In his study on Europeanisation of employment policies in Germany and France, Zirra (2010: 7) relied on an actor centred institutionalism, which allowed for the role of pre-existing institutions, as well as of skilled corporate actors that can also be named as "institutional entrepreneurs." He showed in his research that although those two countries

were considered similar in many institutional aspects, they produced very different welfare reforms, organised according to deeply institutionalised different domestic opportunity structures of coordination, favouring different strategies of creative appropriation by domestic institutional entrepreneurs (Zirra, 2010: 8). This is to say that although Europe constituted an increasingly important factor in national policy-making, it does not automatically create desired outcomes or desired coordination structures of the EES in the domestic settings (Zirra, 2010: 25).

In her study about soft regulation and subtle transformation of states in the case of EU employment policy, Jacobsson (2004: 356, 360) developed the idea that transformation of the employment policies in the member states through the use of OMC and non-binding agreements could occur through "discursive regulatory mechanism", as a systematic system of governance related to language use, and knowledge and meaning making. This mechanism includes joint language use (Eurodiscourse), the building of a common knowledge base (including statistics), the strategic use of comparisons and evaluations, and, the systematic editing and diffusion of knowledge combined with social pressure (peer pressure) and time pressure. She argued that a common vocabulary and cognitive framework for understanding and describing the problems of employment policy at the European level led to dissemination of key concepts (such as employability, adaptability, flexibility, lifelong learning, entrepreneurship, social inclusion etc.) to the domestic level, i.e. "the EES has fostered a cognitive and normative consensus around common challenges, objectives and policy approaches", which has a potential to transform member state practices (Jacobsson, 2004: 366). This also refers to the importance of ideology to induce change in the domestic context.

Schüttpelz (2004) provided a study on the pre-accession Europeanisation of Czech employment policy through the lenses of policy transfer. Analysing the employment policy review process, the labour market background study, and the Joint Assessment of Employment Policy Priorities (JAP), she argued that even if the EES included voluntary transfers and a weak form of soft law, accession to the EU led to institutional changes and strategic convergence to the EU policy in Czech Republic even when the country was candidate to the EU; and a new conception of the employment policy was developed (Schüttpelz, 2004: 26-27). The example of the Czech Republic shows that "there exists political constellations and coercive powers under which the ideas and strategies developed at the EU level may be used by domestic actors to bring institutional and policy change in

the candidate countries" (Schüttpelz, 2004: 27). In a later study, using the framing integration mechanism of Europeanisation, Schüttpelz (2006) looked at the cognitive influence of the EES on dominant national actors in the Czech Republic, after it became an EU member state. In this study she concluded that the EU has been successful in influencing the "agenda setting" for the employment, which means that "the interpretation of labour market problems was shaped with the aims of the EES and led to an activation and streamlining of the employment policy" (Schüttpelz, 2006: 151). In this change, it was the domestic actors and political structures in the country, on which the Europeanisation depended. In other words, she found out that the adaptation results were not due to the difference between the existing domestic and EU policies, but rather "the differences between the interests of domestic and EU political actors as well as the differences between domestic policy-making structures and the requirements stemming from an EU policy to be implemented" (Schüttpelz, 2006: 153).

In her research on the domestic implications of the European employment policy in Sweden, Spain and Belgium, López-Santana (2006: 482) argued that as a framer of employment policy, the EU has restrained several dimensions of employment policy and labour market policies in the member states by "(a) defining (and reinforcing) what problems domestic policy-makers should attack to increase member states competitiveness, and to deal with internal and external challenges; (b) pointing out and/or reinforcing the idea that a policy line is good or bad and necessary; (c) restricting and limiting the policy options and courses of action that allow policy-makers should develop; (d) providing potential courses of action that allow policy-makers to 'draw lessons' and to 'learn' about ways to solve or diminish the problem in question" (López-Santana, 2006: 482).

Looking at all those mediating and intervening variables identified in many different case studies examining Europeanisation of policies, it is possible to argue that an overarching characteristic is their emphasis on different aspects of domestic politics. Many of the mediating variables in positive and framing integration mechanisms focus on the role of domestic actors and institutions as filters of European pressures, and their positions leading to or hindering domestic change as a part of the counties' responses to the European integration. However, as also suggested by some scholars, there is still a need to further refine and differentiate the elements of domestic politics, as an important factor that mediates the EU's impact on domestic policies. One of the ways of articulating such an approach to domestic politics as a major mediating factor to explain the variances in a

country's compliance performance to the EU and to explore domestic policy change in this regard is to exploit the considerable potential of the policy studies literature, which provides a range of different elements of studying policy processes in different policy stages and with reference to different policy actors. Thus, in this research, it is argued that informed both by the Europeanisation and policy studies literatures, it is possible to make ex ante specification of domestic factors that explain domestic policy change in response to European integration process across policy issues in a domestic context. The Research Design chapter of this study can be considered as an attempt to do so in order to guide two empirical case studies of this research structured to test the propositions of positive and framing integration mechanisms to explain domestic policy change in Turkey in response to European pressures.

1.3.3 Categorising the outcomes of domestic change

The outcome of domestic change refers to the question of "what is the effect of the European Union on the member states?" (Börzel, 2005: 47). Although many of the case studies in the Europeanisation literature do not particularly use the categories of the outcomes of domestic change, it is still important to understand that the Europeanisation literature distinguishes between different outcomes regarding the scope and degree of change (Börzel, 2005: 58).

Börzel and Risse (2003: 69-70) categorise the outcome of domestic change in response to European pressures from weak to strong. In this sense, there are three degrees of domestic change in their analysis: absorption, accommodation, and transformation. *Absorption* refers to the incorporation of European policies and ideas into member states' policies and domestic structures, but substantial modifications of existing processes, policies, institutions and political behaviour do not take place (Börzel, 2005: 59). Here the degree of domestic change is described as low. *Accommodation*, in this respect, refers to the accommodation of the Europeanisation pressures by the member states, through adaptation of existing processes, policies, and institutions "without changing their essential features and the collective understanding attached to them" (Börzel and Risse, 2003: 70; Börzel, 2005: 59). The degree of domestic change is considered as being modest in accommodation. *Transformation* refers to the replacement of existing policies, processes, and institutions of the member states, with new and substantially different ones; or to the alteration of the existing ones to the extent that their "core features" and/or "underlying

collective understandings" are essentially modified (Börzel and Risse, 2003: 70; Börzel: 2005: 59). Here, the degree of domestic change is considered as high.

Since the question is "how much change" has been brought by Europeanisation, Radaelli (2003: 37) applies a more "theoretical policy analysis", "with a number of propositions and hypotheses on the more specific questions of policy change." He deals with the issue of measuring policy change. Drawing upon Börzel and Risse (2003), Cowles et al. (2001), Héritier (2001b) and Héritier and Knill (2001), he distinguishes four possible outcomes of Europeanisation, which cover both "the magnitude of change and its direction": retrenchment, inertia, absorption, and transformation (Radaelli, 2003: 37).

For Radaelli (2003: 37), *inertia* is a situation of lack of change. Inertia may take place when EU political architecture, choices, models or policy are found too dissimilar to domestic practices by a country. It may take the forms of lagging behind or delaying transposition of implementation of EU directives or show resistance to EU-induced change. *Absorption* specifies change as adaptation, where domestic structures and policy legacy can flexibly absorb certain non-fundamental policy changes, but preserve their "core" (Radaelli, 2003: 37). Absorption in Radaelli's understanding is actually accommodation as used by Héritier (2001b: 54) in the sense that there is no real "modification of the essential structures and changes in the 'logic' of political behaviour" (Radaelli, 2003: 37). *Transformation* is similar to "paradigmatic change" through changes in the "fundamental logic of political behaviour" as it could be exemplified in the cases of a change in the format and mechanics of party systems or the adaptation of a new orthodoxy in monetary policy (Radaelli, 2003: 38). For Radaelli (2003: 38) *retrenchment* is a very paradoxical effect, implying that "national policy becomes less 'European' than it was."

The concern posed by Radaelli (2003: 38) is the problem of empirical measurement of those four outcomes. Here, Radaelli (2003: 39) argues that the focus on "transformation as institutional development brings institutions back into the analysis", leading to "the empirical analysis of policy change in its institutional context." His primary concern is rather than directly focusing on the change in domestic institutions, to focus on policy processes, which would be impossible to be analysed without the policy's institutional context.

1.4 Synthesising the theoretical framework: Towards a research design

This chapter briefly introduced the elements of the Europeanisation and policy studies literatures in a way to highlight the most relevant approaches and distinctions that are appropriated for the analysis of domestic social policy change in Turkey due to the European integration process. Specifically, this chapter was designed to inform the research question and sub-questions and to structure a conceptual model to guide the empirical case studies, to be elaborated in the following chapter, the Research Design.

It is argued in this chapter that the Europeanisation and policy studies literatures can be considered as two complementary frameworks that offer important theoretical tools for the analysis of the EU's impact on the domestic social policy change in Turkey. The policy studies literature provides a general understanding of what a policy is, and, how the policy process within two of its basic stages, policy making and implementation, can be analysed in a particular setting, namely the nation-state, by pointing out the policy actors (both within the political systems and the institutions that they form). On the other hand, Europeanisation refers to an interaction between two different levels of policy systems: a supranational one (the European Union) and a national (domestic) one (member states or candidate countries). In this sense, Europeanisation provides tools to analyse how this interaction can be materialised through different mechanisms; the means to measure the outcomes, the degree and/or the direction of this interaction; and, the variables that can explain this change in any direction.

In practical terms, the benefits of complementary use of two theoretical frameworks for the analysis of the conditions under which European integration matters for the social policy processes and domestic policy change in Turkey are considered in relation to three aspects: the identification of variables and linkages between them; the operationalisation of the research and its empirical case studies; and, the identification of the methods to be used in the analysis. In this synthesis part, those will be elaborated in a way to inform the research design of this particular research and to guide the empirical case studies in the following chapters.

The use of both literatures in terms of *the identification of variables and linkages between them*, firstly, helps for the clarification of the independent and dependent variables of this research by considering those proposed and used by the Europeanisation scholars in their theoretical contributions or in the case studies conducted on Europeanisation of policies.

More importantly, complementary use of those two theoretical frameworks helps for the identification of the mediating variables as the explanan (i.e. the explaining factor) of the domestic social policy change (i.e. explanandum, what is to be explained) in Turkey. The identified conceptual gap in many of empirical case studies within the Europeanisation literature suggests that there is a need to better conceptualise domestic politics "through ex ante specification of the factors through which adjustment costs arise at the domestic level" (Sedelmeier, 2011: 30). In this regard, the components of a policy process proposed by policy studies have a great potential to complement and advance the variety of mediating variables developed by the Europeanisation literature.

Such a conceptual gap in the Europeanisation literature is considered to depend on the imbalance in the identification of the elements of domestic politics. The concepts such as "domestic adoption costs", "veto players", "norm entrepreneurs", "actor density", "formal institutions", "informal institutions" etc. used in explaining the Europeanisation outcomes of policies at the domestic level have been rather broad and undifferentiated, and argued to be further specified and operationalised (Sedelmeier, 2011: 30). In this regard, the emphasis on different elements of the policy processes embedded in domestic politics may help refining the factors of adjustment at the domestic level.

For example, whereas "policy" is taken as granted in the Europeanisation case studies and is usually reduced to "policy content", policy studies suggest that it should be considered in a process, as a web of decisions, which invariably changes over time, also referring to non-decisions and inaction besides the government activity. In terms of policy-making processes, Hill's (1997) approach to policy processes highlights that it is equally important to pay attention to the dynamics behind a non-decision, since it is also the end result of the policy processes, which involve a series of decisions, shaped or influenced by decision networks in a dynamic process. Thus, such an examination reflects the forces playing between political and bureaucratic processes, and between policy and politics, as well as the purposive nature of the policy process. The focus on government and government activity as a coercive mechanism playing an important role in the policy process (Lowi, 1972: 299) also helps specifying explanatory elements of domestic policy change. Defining environmental variables such as socio-economic, physical, political and variables that vary with time in his extended systems model, Jenkins (1978) shows the operation of political system in its environment, in terms of the relations between the inputs and outputs with an emphasis on the "decision systems", which may be "constrained by the networks within

which they operate"; and, helps unpacking the political system, which has mostly been entrapped in a "black box".

Policy studies define a variety of policy actors suggesting that "understanding policy process requires knowledge of goals and perceptions of hundreds of actors" (Sabatier, 1999). Within the policy-making stage of the policy process, "support or opposition from political and pressure groups to the existing policies that are subject to change" is also considered as an important variable (Hill, 1997). In the policy processes, the operation of ideology (Hill, 1997) becomes particularly important in a way to specify how policy actors start from ideological commitments through political organisations and actors formed around ideological positions. In a general sense, the characteristics of the policy processes depend upon the "deep structures" of policy, which is proposed to exist in every government department, referring to the "implicit collection of beliefs; about the aims and intention of departments and about the relevant actors who influence or benefit from the policy" (Gordon et al., 1977). Elements such as the segmented relationships between groups and governments; and the variations from policy sector to policy sector highlight the importance of policy networks and policy communities, which means "having institutionalised access to government", as well as exchange of information between these actors (Smith, 1993). It is argued that "bargaining processes go on throughout the policy processes" between the actors of the policy process, mainly the pressure/interest groups and the 'insiders' within the state, both elected and appointed (Hill, 1997).

Another element of the policy-making studies is the recognised impact of the institutions and political culture on the policy-making processes (Hill, 1997). Thus, the constitutions, rules, political structures, and standard operating procedures; as well as the nature of party political system, and the political culture to the extent to which there is acceptance of a strong role for the state must be examined for a sound analysis of domestic policy change in a single country context. In terms of implementation, national systems of policies (such as being closed and open implementation systems) also cause variation owing to the characteristics of governmental systems and political cultures, influencing the importance of party politics, bargaining and administration in the policy process (Hill, 1997).

Those approaches in the policy studies are useful since they point out where to look at in analysing the social policies. Thus, policy studies have the potential to develop the Europeanisation literature further in conducting a sufficient analysis of domestic policy change by identifying the policy structures and actors in a policy process in a particular

country setting, in terms of the institutions, organisations, groups and the individuals. Policy studies also have the potential to enrich the analysis of Europeanisation of policies by exploring how policy actors, especially the national governments, perceive EU demands and why they perceive them in the way they do.

Some scholars of the Europeanisation literature suggest that apart from the need for conceptual clarity, it is necessary to make the concepts of Europeanisation and domestic policy change amenable to empirical analysis and to connect it to explanation (Radaelli, 2003). In this regard, complementary use of both literatures gives the researcher a number of necessary indicators in terms of *operationalisation of the research* by proposing the components of models and frameworks for the analysis of policy processes, especially regarding the research design while structuring and conducing the empirical case studies.

Firstly, the policy studies contribute to the understanding of the analytical distinction between three domains of Europeanisation (polity, politics and policy) by defining and limiting the domain of this research into domestic *policy* change. The Europeanisation literature suggests an analytical distinction between three domains of domestic change[21] (politics, polity and policy), where its focus in terms of policies is based on the standards, instruments, problem solving approaches and policy narratives and discourses (c.f. Risse and Börzel: 2003: 60). However, this framework does not give many clues about how to analyse the policy as a process. In this regard, the policy studies become complementary for the operationalisation of this research in terms of equipping the researcher with the ways of approaching to "policy" as a process with policy-making and implementation stages with a particular emphasis on the dynamics of domestic politics. Policy studies literature provides the elements and actors of policy-making and implementation processes, which are in most cases taken for granted by the Europeanisation literature. Although the researcher is warned about the pitfalls of a strict use of a stages model, it is still accepted as a useful tool to start with policy analysis in which two basic stages of a policy process are policy-making and implementation. In that sense, the actors and processes involved in those two stages may differ analytically, hence the way to analyse them, but at the same time they should be taken in a continuum. In this research, the

[21] Although Europeanisation literature also warns the researcher for the use of strict distinction between the domains of domestic change since in reality those domains (in terms of actors, institutions and procedures) are in a dependency relationship, the Europeanisation research still depends on this distinction between polity, politics and policy regarding the case studies in the literature.

analysis of the policy issues in each empirical case study will be focussing on those two policy stages, albeit to differing extents.

Secondly, the emphasis of policy studies on two types of policy research is meaningful to clarify the aims of this research, which accommodates itself to the "analysis *of* policy", rather than the "analysis *for* policy." In this sense, the operationalisation of the research is developed very basically on the "analysis of policy determination" in which policy is constructed (with an emphasis on the inputs and transformational processes), and on the "analysis of policy content" (origin, intention, operation of specific policies; as well as institutions, ideology and procedures) as proposed by Gordon et al. (1977). In this sense, this study is more explanatory than prescriptive.

Thirdly, policy studies contribute to understanding of different types of policy through the classical public policy taxonomy proposed by Lowi (1972) (Table 2) on the regulatory, constitutive, distributive and redistributive policies. This taxonomy has been used by various authors both in the policy studies and the Europeanisation literatures, and has provided valuable insights for the policy analysis. The main idea that different policy sectors can be to be studied in its own, makes sense for the aims of this study too, both in terms of making those policies and implementing them because it is argued that different kinds of policy issues may point out different sets of participants, as well as "different politics of its own" (John, 1999: 7). The implication may be whether or not some policies are more difficult to be made and/or implemented (Hargrove, 1983). Existence of different types of policies also points out that there will be different effects from different policies on different groups and kinds of people; and, sequence of activities will differ, as well as the kinds of actors involved in the policy processes (Hill, 1997). These domestic aspects of the change in policies (in both policy-making and implementation stages) would also be affected by the pressures coming from an external actor through the European integration. The selected policy issues for this research, namely equality at work policies and employment policy, actually reflects to a great extent the characteristics of regulatory policies, while some aspects of employment policy could also be considered as redistributive.

Fourthly, the complementary nature of the policy studies and Europeanisation literature is actually very visible for designing the empirical case studies of this research. The positive and framing integration mechanisms proposed by the Europeanisation literature to analyse domestic policy change depend to a great extent on the ways to approach policy

implementation developed in the policy studies literature, namely top-down and bottom-up research designs.

The research design templates in the Europeanisation literature refer two of the mechanisms originally defined by Knill and Lehmkuhl (2002) by which European requirements may lead to domestic change, namely *positive integration* (institutional compliance) and *framing integration* (framing domestic beliefs and expectations). Those mechanisms are suggested to use "top-down" and "bottom-up" research designs respectively, owing to the division in policy implementation studies, which summarises the basic premises of the "top-down" and "bottom-up" approaches as in Table 5. Sabatier's attempt in comparing those two perspectives is in fact an attempt to fuse the best ideas from both top-down and bottom-up processes. He suggests that "the presence or absence of a 'dominant piece of legislation structuring the situation'" (1986: 37) may help determine the appropriate approach for the research.

Top-down:	*Bottom-Up:*
'Top' initiated, goal directed activity ↓ Top-down methodology and implementation deficit ↓ Where quantifiable output is available and explicit input can be measured.	Ongoing process not initiated from above or where change efforts are carried through the bottom. ↓ Bottom-up ↓ Examples of complex and confusing cases, where goals are not so clear or where central goal statements should be received with scepticism.

Table 5: Top-down and bottom-up approaches (adopted from Sabatier, 1983)

In the Europeanisation literature, it is argued that the top-down perspective (as proposed by Cowles, Caporaso and Risse, 2001) is about the problem of domestic policy-makers to put into practice – or absorb – the EU policy. It emphasises the EU level policies and institutions as the independent variable, which has serious an impact on the domestic policy, politics and polity; whereas the domestic structures and policies are exposed to those and act only according to the EU-led changes. On the other hand, Radaelli (2003) argues for the use of a bottom-up perspective on Europeanisation, which would enable the researcher "to trace the sequences of events in domestic policy" and to look at the individual and institutional choices. Actually, one of the important contributions of the policy studies for the empirical case studies of this research lays in the conclusions to be drawn from the bulk of implementation studies. Besides providing the main elements of

both top-down and bottom-up approaches to the study of policy implementation, the main contribution is the result that can be reached with their synthesis. Hill (1997) suggests that "it is important to take into account the forms that policies assume, the issues they deal with and the institutional contexts in which they are implemented" so that "the best methodology" for studying the implementation can be reached.

A final benefit of complementary use of the policy studies and Europeanisation literatures regards the *identification of the research methods* that suit the case studies and increase their explanatory power. While the analyses conducted in a variety of case studies within the Europeanisation literature attract attention to a number of research methods such as process tracing, in-dept interviews, text analysis or discourse analysis, the policy studies literature helps in specifying the input for those methods by pointing out for example what kind of processes to trace, what kind of policy actors to interview, or what kind of texts to analyse. For instance, Hill (1997) suggests that the study of the history of any particular policy is likely to involve the "examination of political manifestos; proposals at parliamentary sessions; parliamentary debates; laws; regulations after the law; circular, codes and other instructions; detailed notes; reports and accounts of working practice", since "the implementation is conventionally seen as involving the last two or three items in that list." Thus, this research will make use of those kinds of resources both for the "top-down" and "bottom-up" analysis of domestic policy change due to the pressures of European integration processes in Turkey.

Chapter 2: Research Design: Research Questions, Variables, Case Studies and Methods

The intent of this study, in general terms, is to explore the impact of the European Union (EU) on the domestic social policy in Turkey. Particularly focussing on the 2000s, the aftermath of announcement of Turkey's official EU candidacy in 1999, social policy adaptation in Turkey due to the European pressures is to be analysed in two explanatory case studies on the equality between women and men at work policies; and, on employment policy in Turkey. Overall, this research intends to operationalise the variables in order to analyse and explain the extent and direction, hence the outcome, of domestic social policy change in Turkey due to the pressures emanating from the European integration process in the two selected case studies throughout the 2000s.

Keeping this purpose in mind, this research design chapter aims to bridge the theoretical approaches and empirical case studies of the research. For this aim, this chapter first specifies the research questions in an effort first to define the explanatory nature and scope of the research, and then to guide it. The identification of the variables of the research is an important part of the research design, because the operationalisation of the variables will bridge the theoretical framework on Europeanisation and policy studies with the empirical cases to be studied. The research design will then justify the selection of two empirical case studies, namely the equality between women and men at work policies and employment policy. The last section is reserved for description of the research methods to be used to collect and analyse the data for the empirical case studies.

2.1 The Research Questions

As mentioned in the Introduction, the density of the relations between Turkey and the European Union has considerably increased after 1999, and the nature of the relationship has shifted from cooperation of mid-1990s within a Custom's Union, towards a full membership perspective. This turning point in the history of Turkey-EU relations has brought a new form to the relationship, created new incentives and challenges for Turkey, started to visibly influence the content and orientation of social policy in Turkey, no matter whether Turkey will eventually become a full EU member state or not. This changing nature of the relationship and its visible impact on Turkey has stimulated the research questions for this explanatory and qualitative research: What has been the impact of the European integration processes on Turkey's domestic policies? and, what have been the

factors that affect domestic social policy change in Turkey in the light of European requirements and why? Accordingly, informed and enriched by the policy studies and Europeanisation theoretical frameworks, a number of sub-questions are developed: How and through which mechanisms has the European integration affected some social policy issues in Turkey? What have been the domestic factors effective in leading to domestic social policy change (or resistance)? What have been the exogenous factors other than the EU, *vis-à-vis* the internal dynamics, that played a role in the domestic social policy change in Turkey, and how have they interacted with the EU requirements? Accordingly, why have the characteristics of the selected social policy fields changed, or remained stable?

The formulation of the research questions reflects the personal and academic curiosity of the researcher. This is to say that two types of research questions are formulated: some "what" questions intend to "explore and describe" by providing a detailed account of the social phenomenon; and some "why" questions aim to "explain and understand" it by establishing the elements, factors or mechanisms that produce the state of a social phenomenon, and by establishing reasons for particular social action, the occurrence of the course of events, and the reasoning derived from those given by social actors (Blaikie, 2005: 69).

2.2 The Variables of the Research

In order to be able to answer the research questions, the research needs to be operationalised in a way to establish the links between the theoretical framework and the empirical case studies. The first step of the operationalisation is the specification of the variables of the research, which are expected to help in answering the research questions.

The EU has conditioned enlargement by the accession or Copenhagen criteria[22], which require the candidate countries to achieve (i) stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities (political criteria); (ii) the existence of a functioning market economy, as well as the capacity to cope with competitive pressure and market forces within the Union (economic criteria); (iii) the ability to take on the obligations of membership, including adherence to

[22] Accession (Copenhagen) Criteria were recognised in June 1993 at the Copenhagen European Council to be fulfilled by the candidate countries of central and Eastern Europe to join the European Union. These accession criteria were confirmed in December 1995 by the Madrid European Council, which also stressed the importance of adapting the applicant countries' administrative structures to create the conditions for a gradual, harmonious integration. After the Helsinki European Council of December 1999 Turkey as a formal candidate country to the EU became subject to the Copenhagen criteria.

the aims of political, economic and monetary union (incorporation of the EU *acquis*).[23] The community *acquis* is "the body of common rights and obligations which bind all the Member States together within the European Union", comprising of the content, principles and political objectives of the Treaties; the legislation adopted in application of the Treaties and the case law of the Court of Justice; the declarations and resolutions adopted by the Union; measures relating to the common foreign and security policy; measures relating to justice and home affairs; and, international agreements concluded by the Community and those concluded by the Member States between themselves in the field of the Union's activities.[24]

Like all other applicant or candidate countries destined to the EU, Turkey is required to comply with the Copenhagen criteria, and align all of its policies to those of the EU before joining the EU. This means that the acceptance of the EU *acquis* and its transposition into national legislation (the ability to take on the obligations of membership) are a major requirement before accession, and its implementation from the moment of country's accession onwards. Thus, the analysis of domestic social policy change in Turkey, in form of domestic social policy adaptations due to pressures created by the European integration can take the *acquis* in a broad sense in the field of social policy as a main point of reference for the pressures created on the domestic policies as a result of European integration process.

Accordingly, the *acquis communautaire* is taken as the *independent variable* in this research, as a variable expected to cause, influence or affect the outcome of domestic social policy change in Turkey throughout Turkey's EU accession processes. This influence on Turkey is actually unidirectional, since the candidate countries do not get engaged in European level policy-making processes, and they do not have any means to upload their policy preferences to the European level.

An important characteristic of *acquis* in general is that it includes different types of policy instruments, two of which are "hard law" (legal acts such as treaty provisions, directives, regulations…) and "soft law" (the open method of coordination, strategies…) instruments. Social policy is a field where it is possible to observe a variance in the use policy

[23] Council Decision of 8 March 2001, 2001/235/EC.
[24] http://europa.eu/scadplus/glossary/community_acquis_en.htm

instruments due to the nature of the *acquis*.[25]

For the aims of this study, it is important to see whether or not such a difference in the mode of EU governance would result in any variance in terms of causing "more" or "less" policy change domestically. Within the context of accession negotiations with Turkey, the Chapter 19 of the *acquis* is reserved for social policy and employment, and a part of the *acquis* within this chapter constitutes the independent variable for the selected two empirical case studies. The Chapter 19 provides an appropriate set of *acquis*, since it includes both hard law and soft law types of requirements for the candidate countries to comply with in the process of their integration to the European Union, as it is the case for the EU member states. In addition to the expected variance regarding the domestic social policy adaptation, this difference in the EU mode of governance and adaptation requirements necessitates different designs, namely "top-down" or "bottom-up", to conduct the analysis of domestic policy change regarding different social policy issues, as proposed by the Europeanisation literature.

Many empirical studies conducted to analyse various policies in the EU member countries with the use of the positive and framing integration mechanisms of the Europeanisation literature (c.f. Kallestrup, 2006; Caporaso and Jupille, 2001) take the domestic policy change as the dependent variable. Similarly, the outcome of domestic social policy change in Turkey is the *dependent variable* of this research. This means that it is plausible to expect that the influence of the EU on Turkey through *acquis communautaire* results in domestic policy changes, even when the extent of the EU impact on change is unclear. Similarly, it is also possible to expect resistance to policy change domestically. In this regard, two selected social policy case studies, in which domestic policy change either in form of support or resistance to change will be analysed, are equality between women and men at work policies and employment policy.

Regarding the dependent variable, two fundamental issues should also be highlighted. Firstly, it should be noted that a full assessment of domestic policy change necessitates the assessment of the policy-making and implementation processes, namely two particular stages of the policy analysis as suggested by the policy studies literature. Those stages refer to the formal transposition and adoption of the *acquis* into the domestic legislation through laws, regulations etc., and, potential and actual enforcement of them at the

[25] Within the context of accession negotiations with Turkey, the *acquis* is divided into 33 chapters, each of which is relating to a specific policy area. Chapter 19 is entitled as "Social Policy and Employment."

domestic level. Secondly, in the analysis of the domestic social policy change in Turkey due to the European pressures, the first decade of the 2000s constitutes the major time period of analysis, by covering two peculiar points in time, the aftermath of 1999 (t_0) as the starting year of Turkey's official EU candidacy status, and the end of 2010 (t_1). Still, the peculiarities of previous two decades starting with the 1980 are taken into consideration, albeit to a limited extent, when the policy issue requires a special attention to that period in history.

In this research, the impact of the EU is not assumed to automatically result in domestic social policy change in Turkey. A combination of factors, namely *mediating variables* or "contextual variables" (Wright, 1978: 23), are suggested to help shaping the very relation between the EU requirements and domestic policy change in Turkey. Those are namely domestic politics, and the external/endogenous factors other than the EU.

Indeed, some Europeanisation studies conceptualise similar type of conditions and factors as the independent variables, in order to show "how and under what conditions the EU exercises such influence" (Sedelmeier, 2011: 10). In this understanding, independent variable is defined as factors "that mediate the EU's influence on candidate countries" at the domestic level (Sedelmeier, 2011: 10), in a way to come closer to the understanding of "contextual variables" as mediators between the EU impact and domestic change. Moreover, a new wave of Europeanisation research (Treib, 2008: 8) criticises the under-theorisation of "the independent analysis of the given interest constellations and the strategic interaction of domestic actors" (quoted Knill and Lenschow, 2001: 126 in Treib, 2008: 8), suggesting to develop a more comprehensive approach to those types of variables. In this sense, this research can also be considered as an attempt to suggest some particular factors as mediating variables in a way to contribute to the Europeanisation literature.

As summarised in Chapter 1, the Europeanisation literature provides a variety of structure-based and actor-based variables, stemming from different positions within the different strands of new-institutionalism, to explain the variance between the outcomes of domestic change in different policy issues, or between transposition performances among a set of EU member states. Those case studies in the Europeanisation literature, which identify dominantly an actor-based set of mediating variables such as "domestic politics" and "domestic opportunity structures and actors' beliefs and expectations" (Kallestrup, 2006), "national preferences" (Mastenbroek and van Keulen, 2006; Mastenbroek and Kaeding,

2006), "domestic party politics and political party preferences" (Treib, 2003) and "government's ideological orientation and its parliamentary strength" (Sedelmeier, 2009), suggest that that "response to EU is contingent upon the preferences and beliefs held by domestic political and administrative actors" (Mastenbroek and Kaeding, 2006); domestic party politics determine the transposition performance (Treib, 2003); national actors make use of the EU as a means to justify or slow down/hinder domestic policy change (Kallestrup, 2006); or the government's left/right orientation influences a country's general compliance patterns (Sedelmeier, 2009: 6). However, they usually assume those variables as being relatively independent from other endogenous or exogenous contextual influences; assign them categorical characteristics regarding their role in supporting or hindering policy change; and propose a unidirectional causality for the outcome of domestic policy change.

In this research, as proposed by some of the case studies in the Europeanisation literature, it is suggested that *domestic politics* play an important role in occurrence of policy adaptation to the EU and eventually in explaining the outcome of domestic policy change in Turkey due to the European pressures. In this regard, domestic politics is construed as a mediating variable influential in shaping and explaining the outcome of domestic policy change throughout the EU integration process. In this regard, domestic politics is considered as a combination of a number of elements. The first element is the *positioning and ideology of the government vis-à-vis* the substance of the EU requirements. Another element of the domestic politics is *the interests of the domestic societal actors*, including those of the opposition party and other parties in the parliament, material-interest based actors such as the employers' organisations, trade unions, occupational organisations, and civil society organisations, as a factor expected to mediate the domestic policy change due to European pressures. There is a two-way impact of the European integration process on those elements of domestic politics: on the one hand, the European integration process and the EU requirements shape the discourses of those actors, and those actors use the EU requirements and European rhetoric instrumentally to pursue their own interests at the domestic level. Thus, it is expected that different constellations of domestic societal actors and policy-makers around some of the social policy issues descending from the EU have a considerable explanatory value in explaining the outcome of policy change in Turkey regarding the timing and conditions conducive to change. In this regard, it is suggested that the perceptions of the domestic policy actors about the substance of the EU policy

requirements and their differential empowerment often give way to dynamic (i.e. changeable, not static) constellations around those policy issues and those specific interest-based policy alliances condition the outcome of policy change due to the European pressures in Turkey. In addition, *the distance between the EU requirements and the domestic societal norms*, such as patriarchal norms in the society, can also be taken as another element of domestic politics, particularly influential in exploring and explaining the implementation performance of the policies which have domestically changed as a result of the EU pressures.

A second mediating variable is *the external/endogenous factors other than the EU*. The role of the other external factors is also a two-way relationship: on the one hand, they may reinforce the EU requirements for policy change at the domestic level, and they may differentially empower the domestic policy and societal actors that mediate the outcome of domestic policy change. Figure 7 shows how the mediating variables relate to the independent and dependent variables of the research and the expected relations between all those variables.

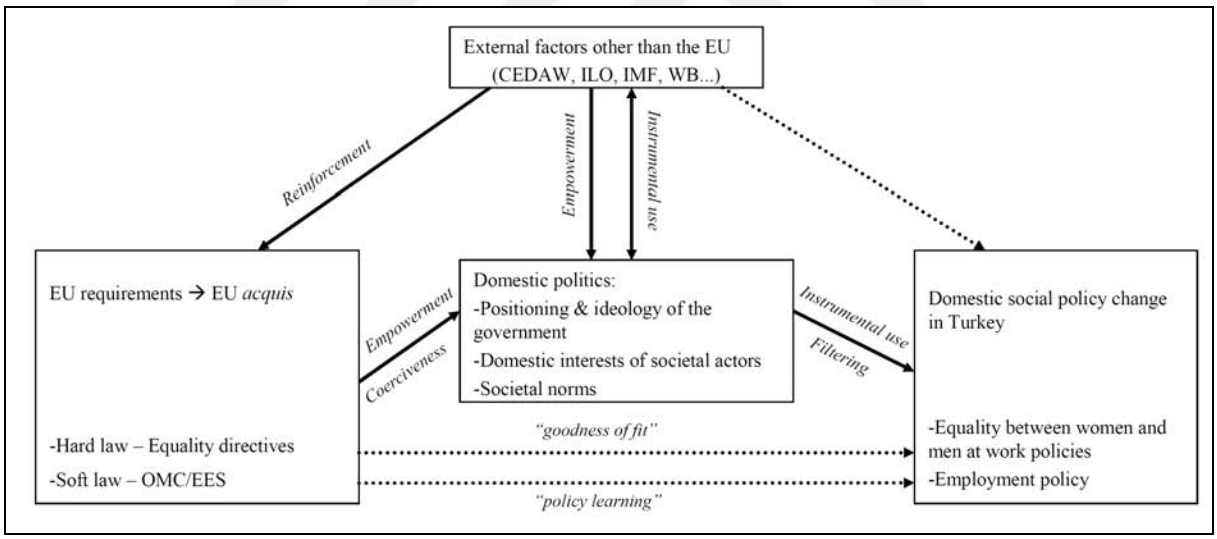


Figure 7: Europeanisation and Domestic Social Policy Change in Turkey

However, those mediating factors do not exist in a vacuum, but they interact among themselves. Thus, the analysis of the interaction and alliances between different elements of the domestic politics necessitates a more relational approach. Tracing and identifying the positions of main domestic societal actors and policy makers in relation to policy issues within two selected case studies is only one aspect of this approach. More importantly, the power relations between those actors and their different sources of power in relation to their resources and access to policy-making processes, relational nature of their interests,

and how political, ideological and economic costs for the societal actors shape the strategic alliances between some of the actors around some policy issues, while leaving some of the demands for and resistance to change out of the scene become salient in explaining domestic social policy change. Other important components of this approach is the role of European integration process in challenging/changing the modes of policy-making in the selected policy fields, and in challenging/changing/empowering the positions of the public and private actors and institutions, as well as those of the EU and other external factors. In other words, how the European integration process is perceived by the domestic actors and how this process is used by those actors is one of the important aspects of this relational approach.

Considering the expected results of the research, it does not seem very probable that in the Turkish case a single causal path for explaining the outcome of domestic social policy change can be established. Since the research is exploratory in nature, the causality can be established case-by-case regarding different social policy issues.

2.3 The Case Studies

The two explanatory case studies of this research are the equality between women and men at work policies, and employment policy. There are two major reasons for the selection of these two cases. The first reason is that this research remains within the scope of social policy adaptation in Turkey in the process of European integration. Considering the Chapter 19 of the *acquis* in the context of accession negotiations, those two selected cases are parts of social policy. The second reason is that this research intends to test, show and explore variance between the domestic policy adaptation performance in Turkey in the existence of hard and soft law policy instruments, to be examined through two types of integration mechanisms, namely positive integration and framing integration mechanisms that the Europeanisation literature suggests for the analysis of domestic policy change in relation to the impact of the EU on the member states and candidate countries. In this regard, the first case study, equality between women and men at work policies is a test case of analysing domestic policy change through the positive integration mechanism, where the EU mode of governance is characterised by "hard law" and where the EU exerts pressure on the member states and candidate countries through European Directives. The second case study, employment policy, is a test case of domestic policy change through the framing integration mechanism, due to the fact that the EU uses "soft law" instruments

(such as the Open Method of Coordination and European Employment Strategy) to regulate that policy field in the member states and the candidate countries.

Each case study is designed in line with the elements of the integration mechanism that it is attached to in order to be able to test the propositions of that particular integration mechanism. The first case study, the domestic change in Turkey in the field of the equality between women and men at work policies due to the pressures of European integration, is analysed within the context of positive integration mechanism. Accordingly, this case study adopts a top-down research design, since the EU expects Turkey to directly transpose the relevant EU hard law, i.e. directives, into the national legislation. Here, one can easily assume that there will be a narrow lee-way for Turkey's non-compliance; however, it is suggested in this research that it can be misleading to make such an assumption, only by looking at the nature of the EU *acquis* and its policy instrument. Following the research design proposed by the positive integration mechanism, in this case study, first the relevant hard law instruments, namely the nine EU equality directives, as the relevant processes and the policy instruments of the EU for overcoming the perceived problems regarding equality at work in Europe will be identified, and then, the level of policy fit/misfit and the degree of adaptational pressures in Turkey compared to those hard law instruments in 1999 and by the end of 2010 will be identified through a detailed analysis of the legislative harmonisation processes. This exercise is intended to show the outcome of domestic policy change in this policy field and patterns of Turkey's compliance performance. However, it will also be shown that the mere existence of adaptational pressures is not a sufficient condition to explain the outcome of domestic policy change in this field. Accordingly, the potential of two major mediating factors, namely domestic politics and the external factors other than the EU will be explored in relation to explain the domestic change in this field. In this regard, the analysis will be extended to trace the processes of policy-making in relation to the transposition of those directives into the national legislation. The issues where the existence or lack of adaptational pressures do not explain the outcome of domestic policy change or resistance identified as a result of process-tracing are expected to show a variation regarding the social policy adaptation performance of Turkey. For example, it is plausible to find that even in the existence of high adaptational pressures, there can be no policy change in Turkey, or even in the lack of high policy misfit, some issues can be brought to the policy agenda. In order to show and explain such a variation of the outcome of social policy change in the same policy field, the case study will elaborate

the impact of domestic politics and external factors other than the EU, and conclude with a discussion of the findings of the analysis in relation to three categories: the explanatory power of the policy misfit/adaptational pressures conceptualisations; the potential of the mediating variables in explaining the variation in the outcome of domestic social policy change in the field of equality between women and men at work in Turkey; and, the prospects for the implementation, i.e. actual enforcement, of the whole body of equality at work policies in Turkey by the end of 2010.

The second case study focuses on the analysis of the domestic employment change in Turkey due to the pressures of European level policy within the context of framing integration mechanism. Accordingly, this case study adopts a bottom-up research design. Actually, since Turkey is not involved in the formal procedures of European Employment Strategy as the EU member states, but is subject to the Employment Policy Review, one can assume that the impact of the European employment policy on the employment policy in Turkey will be less compared to the those policy issues regulated by hard law. However, the findings of this case study is expected to suggest that such an assumption is misleading, only by looking at the nature of the EU's policy instrument. Thus, this case study suggests that even in the lack of hard law instruments, European policy can be influential in changing the domestic policy, either by "altering expectations and beliefs of domestic actors in such a way to motivate domestic institutional change" (Knill and Lehmkuhl, 2002: 262) and/or by providing "additional legitimacy to domestic reformers in search of justifications, by 'inseminating' possible solutions in the national debate, and by altering expectations about the future" (Radaelli, 2003: 43). In this regard, this case study first identifies the actual European employment policy by looking into the politics, mode of governance and substance of the EU policy processes. This exercise is expected to give an idea about the actual content and emerging principles, or "frames" of the European employment policy, which will in turn help in comparing the Turkish employment policy with that framework and analysing the substantive congruencies between two. After a brief summary of the development of employment policy throughout the 1980s and 1990s as a background, the analysis of the domestic employment policy in Turkey starts from the domestic level in a way to follow the research design proposed by the framing integration mechanism. This is done in two stages. First the development of the employment policy in Turkey throughout the 2000s, and the main components of the employment policy in Turkey by the end of 2010 are analysed by taking the domestic level to the fore. As a result

of this exercise, the outcome of domestic employment policy change will also be identified. In the second stage of the analysis of domestic employment policy change, the links of the outcome of change to the EU is explored through an analysis of the dynamics of domestic employment policy change in the light of the two mediating variables. It is expected to be found that the domestic policy change throughout the 2000s in outlook of the Turkish employment policy is to a large extent in congruence with the policy frames of the European employment policy, as a result of framing impact of the EU mediated through two mediating variables. Three categories of findings are further discussed in the conclusion part of this case study: the explanatory power of the framing integration mechanism and "learning" as an explanatory factor; the potential of the suggested mediating variables in explaining the outcome of domestic employment policy change in Turkey; and, the prospects for implementation, i.e. actual enforcement, of the employment policy measures in Turkey.

Thus, as a product of these two case studies, this research intends to explore to what extent the "goodness of fit" and "adaptational pressures" in the positive integration mechanism and to what extent "learning" in the framing integration mechanism are useful tools in explaining the outcome of social policy change in the case of Turkey, and proposes that those conceptual models have some limitations in explaining the outcome of domestic policy change. It is suggested that the mediating variables, domestic politics and external/endogenous factors other than the EU will be crucial factors in explaining the outcome of domestic change in the field of social policy throughout the 2000s in Turkey, in a way to have the potential for generalisation with regard to national policy adaptation in other areas of social policy covered under Chapter 19 of the *acquis*, such as labour law, social dialogue, health and safety at work, social inclusion, social protection and anti-discrimination, both in Turkey and in other country case studies.

2.4 The Research Methods

In this research, two main research methods are used in a complementary way to show how domestic social policy adaptation in Turkey has developed in relation to the two case studies. Those are the document analysis and process tracing.

The first method is the *document analysis*, which is considered as a useful method for identifying the positions of all the relevant domestic and international actors throughout the processes of domestic policy change. In this regard, the analysis of domestic policy change

depends on a variety of texts and documents, as suggested to be useful by the policy studies, including domestic official documents (NPAA, Development Plans, Pre-Accession Programmes, Special Expertise Committee Reports, Annual Reports, governmental programmes, national action plans, parliamentary debates etc.), official EU documents (Accession Partnerships, Regular/Progress Reports, Screening documents and Report); the publications produced by policy and societal actors (both public and private) such as the publications, reports, policy position documents, press releases etc. prepared by various actors including, trade unions as well as the representatives of the private sector; civil society texts; and, the newspaper articles. Relevant academic literature on the theoretical and empirical inputs regarding the two case studies of this research will also be examined throughout the research.

An important characteristic of the official EU documents prepared for Turkey is that they have been used to monitor Turkey in its effort to align with the EU policies. Those documents do not only state what Turkey has or has not done in the pre-accession process, but also, they indicate what Turkey "should" do in this regard. This means that all those documents refer to the accession process, where they have substantial impact on shaping the substance of the domestic policies in Turkey, rather than only be monitoring tools. All those official EU documents are used in this research as a source to identify the relevant EU *acquis*, to discover the EU's position and approach in evaluating the compliance performance of Turkey to the EU policies, and to identify the EU's impact on domestic social policy change in Turkey.

The *Accession Partnerships* are the documents setting out the major priority areas for further work identified in the Commission's Regular Reports on the progress made by the candidate country towards accession the EU. It also underlines the financial means available to help the country implement those priorities and the conditions which apply to that assistance. The Accession Partnerships provide "the basis for a number of policy instruments which will be used to help the candidate states in their preparations for membership." It is also expected from the candidate country to adopt a national programme for the adoption of the *acquis* on the basis of the Accession Partnership. The Accession Partnership identifies the main priority areas for the candidate state and relates them to the ability of the country to take on the obligations of the Copenhagen criteria. Those priorities are divided into two groups according to the timing: short and medium

term.[26] Until the end of 2010, the EU concluded four Accession Partnerships with Turkey in 2001, 2003, 2006 and 2008.

The *Regular/Progress Reports* are the major monitoring instrument of the European Commission for the candidate countries. Prepared annually, a Regular/Progress Report describes relations between the country and the EU; analyses the situation with regard to the political conditions referred to by the European Council (democracy, rule of law, human rights, protection of minorities); assesses the situation and the prospects for the candidate country with regard to the economic conditions referred to by the European Council (market economy, capacity to cope with competitive pressure within the EU), examines the country's ability to take on the obligations of membership. In other words, it has reference to the European Union *acquis* as set out in the EU Treaty, secondary law and policies. It gives a general evaluation of the country's situation and prospects on the road to accession.[27] The structure followed for those annual Regular Reports is largely the same. The Report describes the relations between Turkey and the Union; analyses the situation in respect of the political and economic criteria set by the 1993 Copenhagen, as well as the capacity to assume the obligations of membership, that is, the *acquis* as expressed in the Treaties, the secondary legislation, and the policies of the Union. The third part includes not only the alignment of legislation, but also the development of the judicial and administrative capacity necessary to implement and enforce the *acquis.* The importance of ensuring decisive progress in the full and timely implementation of reforms at all levels of the administration is also emphasised. By the end of 2010, the European Commission has produced 13 Regular/Progress Reports on Turkey's Progress towards accession, the first one of which was published in 1998.

The *Screening documents and Report* for Turkey include the official documents produced throughout "the formal process of examination of the *acquis*, in order to explain it to the Turkish authorities, to assess the state of preparation of Turkey for opening negotiations in specific areas and to obtain preliminary indications of the issues that will most likely come up in the negotiations."[28] The screening meetings for the Chapter 19 Social Policy and Employment took place in Brussels first as an explanatory meeting on 8-10 February 2006,

[26] Council Decision of 19 May 2003 on the principles, priorities, intermediate objectives and conditions contained in the Accession Partnership with Turkey (2003/398/EC) and its annex, Turkey: 2003 Accession Partnership.
[27] 1998 and 2004 Regular Reports on Turkey's progress towards accession.
[28] "Negotiating Framework, Principles governing the negotiations" (with Turkey), Council of European Union, Brussels, 12 October 2005.

where the EU authorities presented the pieces of the *acquis* covered under Chapter 19; and second as a bilateral meeting on 20-22 March 2006, where the Turkish bureaucrats presented the actual situation of the Turkish legislation in relation to the EU *acquis* in question. All relevant *acquis* in this field was listed in the official documents of the first and second screening meetings. In addition, the Screening Report for Chapter 19 of the *acquis*, providing evaluation and recommendations as a basis for the accession negotiations, was published in 2006, where the European Commission indicated the benchmarks for Turkey to be fulfilled in order to start negotiations in that particular chapter of the *acquis*.

There are a number of domestic official references which will help analysing domestic policy change in Turkey. Those are major types of domestic official documents, signifying the commitment of Turkey to change towards the EU: The Turkish National Programme for the Adoptation of the *Acquis* (NPAA) and the (Five-Year) Development Plans, as well as their relevant specialised expertise commission reports. Both the Development Plans and the NPAA are extensively used extensively in this research, in order to identify Turkey's general policy priorities, as well as those for the selected social policy fields within the context of the empirical case studies. Both documents also provide numerous references to and Turkey's perception of the European integration process.

National Programme for the Adoptation of the *Acquis* (NPAA) is a document to be prepared by each candidate country in response to the Accession Partnerships with the EU. Those Programmes indicate the timetable foreseen for the implementation of the accession priorities, as well as the human and financial resources in this process. In addition to the Accession Partnership priorities, candidate countries are supposed to define their own priorities for accession. In that sense, the document is a primary official source of Turkey's commitment and structured action towards the necessary changes in the membership perspective. By the end of 2010, Turkey has prepared three NPAAs: the first one in 2001, and then in 2003 and 2008.

The *(Five-Year) Development Plans* are the main documents prepared by the State Planning Organisation (DPT), adopted by the Turkish Parliament in order to set macroeconomic and social policy priorities and action that are to be followed by all government institutions throughout the planning period. They include the main policy priorities of the country, as well as sectoral policy priorities, the domestic targets and

predictions in terms of the macroeconomic policies for the period of planning, and the evaluation of the previous plan's achievements and shortcomings. In addition, each Development Plan has several Specialised Expertise Committee Reports prepared in different policy fields by a group of policy actors to summarise the background for and develop the policy priorities. The most recent one is the Ninth Development Plan prepared in 2006 for the period of 2007-2013. The list of the development plans to be referred to in this research is given in Table 6.

Development Plans	*Year of Publication*	*Planning Period*
Fifth Five Year Development Plan	1984	1985-1989
Sixth Five Year Development Plan	1989	1990-1995
Seventh Five Year Development Plan	1995	1996-2000
Eighth Five Year Development Plan	2000	2001-2005
Ninth Development Plan	2006	2007-2013

Table 6: Turkey's Five-Year Development Plans and Planning Periods.

Although the analysis of domestic policy change through legal texts is useful to shed light on the level of fit/misfit and adaptational pressures in analysis of domestic policy change in the case of positive integration mechanism, and to identify the principles and instruments of employment policy within the context of framing integration mechanism, a mere analysis of documents is not sufficient enough to identify the dynamics of domestic policy change, in other words, the interplay between the societal, political, economic forces mobilised for or against policy change. This is to suggest that there is a need to go one step further in order to deepen the analysis of domestic policy change in a way to establish relationships between different variables of the analysis.

Thus, the second method is *process tracing*, which actually refers the efforts to "trace the links between possible causes and observed outcomes" in order to identify "an intervening causal process between independent variable(s) and outcomes of the dependent variable" (George and Bannett, 2004: 6 and 117). As Tarrow notes, the goal of this exercise is "to connect the phases of the policy process and enable the investigator to identify the reasons for the emergence of a particular decision through the dynamic of events" (quoted in George and Bannett, 2004: 177). In this research process tracing is used with the aim of tracing the policy processes in a way to identify how the domestic policies have actually changed or remained stable, and to identify the ways in which the domestic actors and external/endogenous factors have got involved in and reacted to those changes. In this regard, process tracing is considered as a means to operationalise the involvement of the suggested mediating variables in the processes of domestic policy change due to the

pressures stemming from Turkey’s EU accession processes.

Chapter 3: Background for Social Policy Change: The Situation and Problems of the Labour Market in Turkey

The labour market indicators and data are important sources of information for different stages of the policy process for many policy areas, but especially in the field of social policy. The labour market indicators help identify the actual situation of the labour market in a particular context, hence an important tool for policy-makers and researchers to monitor, assess and develop/recommend policies for the functioning of labour markets at different analysis levels of domestic, regional and global trends.[29]

Actually, labour market indicators can be helpful in many ways, among which two are particularly relevant for this research. First, the labour market data at a certain point in time help assessing the success and failure of the labour market related policies, implemented preceding the data collection. For example, high levels of unemployment in a country may show that policies targeting unemployment until that time have not been effective enough in reducing unemployment, among other reasons such as regional or global economic crises having impact on unemployment. Or, low levels of female employment rates may show that there are impediments for women's participation in the labour market and existing policies lack necessary tools to overcome those problems. Second, the labour market data help identifying policy problems and their probable reasons that are expected to be targeted by making new policies. For example, if the low level of female employment rate is due to the unequal treatment of women in the labour market among other reasons, then the new policies can prefer to aim at reducing inequality at work through a set of policy measures such as ensuring equal treatment in access to work, provision of services such as crèches for female employees with children, or guaranteeing equal pay for women and men in the labour market.

Attributing labour market indicators such an importance, this chapter aims to provide an overall picture of the situation of the labour market in Turkey and the problems attached to it. This is aimed to provide the labour market background for the analysis of domestic social policy change in Turkey due to the pressures of the European integration in two case studies, namely equality between women and men at work policies and employment policy. The expectation is that the situation and problems of the labour market condition

[29] International Labour Organisation, Economic and Labour Market Analysis Department, "Key Indicators of the Labour Market" Available online at: http://www.ilo.org/empelm/what/lang--en/WCMS_114240.

some aspects of domestic change in two selected policy issues in Turkey.

In this chapter, the presentation of the labour market data will broadly follow the categories of indicators emphasised and used in the Joint Assessment Employment Priorities (JAP) documents prepared together with the former and recent candidate countries and the European Commission, since the analysis in this research considers the European Union's impact on the domestic policy, throughout the pre-accession process, especially within the context of Employment Policy Review of the EU candidate countries[30]. Thus, the indicators to delineate the situation of the labour market in Turkey will cover population and labour force; overall employment trends and the structure of employment including employment by sector, status and occupation; and unemployment. Two relevant aspects as serious problems of the labour market in Turkey, namely unregistered employment/informal sector; and child labour will also be included in the analysis. In addition to the provision of the data, the policy problems related to each indicator will also be identified. The latest available official data to be used in this chapter depends on the official statistics collected by Turkish Statistical Institution (TÜİK) through Household Labour Force Surveys[31].

There are two additional focus of attention in this chapter. First, since this research aims to identify the impact of the European integration processes on the Turkish social policies, the latest data in relation to the EU labour market will also be provided whenever the comparison is meaningful. Second, since one of the case studies deals with the equality between women and men at work, all the indicators will be considered from a gender perspective, where, first, the data will be provided in a gender segregated way, i.e. both for women and for men; and second, any aspects of the labour market problems which have specific impact on women inside and outside of the labour market will be paid special attention.

[30] Although Turkey is passing through the Employment Policy Review in the context of EU accession process, it is not yet possible to use the JAP for Turkey, because it has yet neither been finalised and signed, nor its draft was made available to public by 2010.

[31] Household Labour Force Surveys were launched in 1988 through the technical assistance of ILO and UNDP. The main objective of the Survey is to obtain information on the structure of the labour force in the country, including information on economic activity, occupation, status in employment and hours worked for employed persons; and information on the duration of unemployment and occupation sought by the unemployed. The survey was redesigned using the latest international standards where historical and international comparability of the data were given priority in the survey design. Survey results have been published by TÜİK on a monthly basis since 2005. (TÜİK, 2010: 172)

3.1 Population and labour force

According to the population census of Address Based Population Registration System[32], the population of Turkey is 72.561.312, by the end of 2009 where the proportion of women and men is almost equally divided between two sexes (Table 7). The median age is 28.77, which shows that Turkey is a considerably young country. Since 1945, the annual growth rate of population has been below 20‰ for the first time in the period of 1990-2000, which means that the working age-population has constantly been increasing (İŞKUR, 2009: 25).

Age groups	**People**
0-14	18.859.334
15-64	48.618.564
65+	5.083.414
Total Population	**72.561.312**
Males	36.462.470
Females	36.098.842

Table 7: Population in Turkey by age groups and by sex (TÜİK, 2010: 39)

Population in a country in terms of their employment performances can be divided into three categories: employed, unemployed and non-employed. Labour force comprises all employed and all unemployed persons. Unemployed are defined as "non-institutional working age population[33] who are not employed (for profit, as casual employee, paid or unpaid and not having any job attachment with either of these forms) and has utilised at least one of the channels for seeking job and are available to start job within two weeks" (TÜİK, 2010: 173). In 2009, out of 51.686.000 non-institutional working age persons, only 24.748.000 were in the labour force (Table 8). This means that the remaining half of the population is non-employed, covering "those who do not participate in the labour force; those who do not seek for jobs but are ready to work; seasonal workers; those who are occupied with domestic house-work; students; retired people; and those who are not in a status to work due to disability or sickness" (Sapancalı, 2008: 11). In the literature, there are a number of possible reasons to explain the high degree of non-employment in Turkey. Those include, but are not limited to, losing hopes to find a job in an environment of high unemployment and thus no longer seeking a job; increasing duration of education; low educational level of the labour force; low level of wages which does not compensate the costs of domestic responsibilities and care work; high costs associated to child care,

[32] In 2007, TÜİK started the Address Based Population Registration System in line with the Law No. 5490 on Population Services adopted in April 2006.

[33] Non-institutional working age population: the population aged 15 and over in the non-institutional civil population (population excluding the ones residing at school, in dormitory, hotel, orphanage, rest home, hospital, prison, barracks or officer's club also accommodating army members) (KSGM, 2008: 10).

especially in the urban areas; early retirement; increased migration to urban areas as a consequence of decreasing agricultural employment (KSGM, 2008: 10; Sapancalı, 2008: 11).

	2004	2005	2006	2007	2008	2009
Population (000) (15+)	47.544	48.359	49.174	49.994	50.772	51.686
Labour Force	*22.016*	*22.455*	*22.751*	*22.114*	*23.805*	*24.748*
Employed	19.632	20.067	20.423	20.738	21.194	21.277
Unemployed	2.385	2.388	2.328	2.377	2.611	3.471
Not in Labour Force	*25.527*	*25.905*	*26.423*	*26.879*	*26.967*	*26.938*
Male population (000) (15+)	23.251	23.673	24.094	24.513	24.917	25.369
Male Labour Force	*16.348*	*16.704*	*16.836*	*17.098*	*17.476*	*17.898*
Employed	14.585	14.959	15.165	15.382	15.598	15.406
Unemployed	1.762	1.746	1.671	1.716	1.877	2.491
Not in Labour Force	*6.903*	*6.969*	*7.258*	*7.415*	*7.441*	*7.471*
Female population (000) (15+)	24.293	24.686	25.080	25.480	25.855	26.317
Female Labour Force	*5.669*	*5.750*	*5.916*	*6.016*	*6.329*	*6.851*
Employed	5.047	5.108	5.258	5.356	5.595	5.871
Unemployed	622	642	658	660	734	979
Not in Labour Force	*18.624*	*18.936*	*19.165*	*19.464*	*19.526*	*19.466*

Table 8: Number of persons in the labour force by sex (non-institutional population 15+) (thousand) (TÜİK, 2010: 176)

The data in Tables 8 and 9 shows that one of the boldest characteristics of the labour market in Turkey is *the low levels of labour force participation, especially that of women*. Labour force participation rate[34] has fallen down to very low rates (around 46%) in recent years and started to slowly increase only in 2009 reaching at 47.9%. In a span of two decades (1988-2008) female labour force participation rate in Turkey declined to 24.5% from 34.3% (World Bank, 2009: 11). This all means that in Turkey, more than half of the working age population is not working or searching for jobs and only about one out of four women is in the labour force.

Participation of women in the labour force and employment has actually followed an opposite trend to those in many developed and developing countries in the world (Toksöz, 2009: 210).[35] Compared to the European Union, labour force participation rate in Turkey is considerably lower than the overall activity rate of 71% and female activity rate of 63.9% in EU-27 in 2008 (European Commission, 2009: 155).

[34] Labour force participation rate indicates the ratio of the labour force to the population 15 years of age and over (TÜİK, 2010: 173).

[35] For example, although Middle East is listed among the regions of the world where participation of women in labour force is the lowest, labour force participation rate in this region for the period of 1997-2007 increased from 25.6% to 33.3%. On the contrary in Turkey this rate decreased from 27.6% in October 1997 to 23.6% in 2007 (Toksöz, 2009: 210).

	Male	Female	*Turkey*	Urban	Rural
2004	70.3	23.3	*46.3*	43.0	54.4
2005	70.6	23.3	*46.4*	44.1	52.1
2006	69.9	23.6	*46.3*	44.2	51.2
2007	69.8	23.6	*46.2*	44.3	50.8
2008	70.1	24.5	*46.9*	45.0	51.8
2009	70.5	26.0	*47.9*	45.8	52.7

Table 9: Labour force participation rate by sex and urban-rural settlement (15+) (TÜİK, 2010: 176)

Regarding the urban-rural settlement, female labour force participation rate is higher in rural than in urban areas (KSGM, 2008: 12 and 15). This difference has mainly been resulted from the fact that women in rural areas often work in the agricultural sector and as "unpaid family workers". However, migration from rural to urban areas has decreased the rate of female labour force participation in the rural areas. On the other hand, rural women who migrate to the cities cannot easily enter the urban labour market upon arrival at the city due to their low qualifications and the traditional family structure (DPT, 2007: 33; KSGM, 2008: 12 and 15).

As shown in Table 10, labour force participation rate increases proportionally with the level of education. The higher educated the population is, the more they participate in the labour force. This is the case, even more dramatically, for women compared to men, especially in the urban areas. Education does not only result in increasing wages, but also provides social legitimacy for female participation by weakening patriarchal ways of thinking (Toksöz, 2007: 23). More relevant to the main problem of low female labour force participation rates is the fact that urban poorly educated women, constituting the largest share of the urban working-age, do not participate in the labour force (World Bank, 2009: 18). When they do, they work generally in low paid jobs with no high added value (KSGM, 2008: 11).

	Illiterate			**Less than high school**			**High school**			**Vocational high school**			**Higher education**		
	T	M	F	T	M	F	T	M	F	T	M	F	T	M	F
2004	21.6	44.3	16.6	45.4	69.9	20.2	49.7	67.1	26.1	65.2	79.9	39.4	78.9	84.2	70.3
2005	19.9	41.9	15.6	45.3	69.9	19.9	49.6	66.6	26.9	65.0	80.9	36.8	77.9	83.5	69.1
2006	18.7	39.2	14.7	45.0	69.1	20.1	49.7	66.2	27.9	63.8	79.8	36.2	77.2	82.6	68.8
2007	18.1	36.9	14.4	44.6	69.0	19.6	48.8	64.9	28.4	64.5	80.6	36.4	77.3	82.6	69.4
2008	18.1	36.0	14.5	44.9	69.2	20.2	49.9	66.2	29.1	65.0	80.3	38.3	77.6	82.7	70.0
2009	18.8	37.1	15.0	45.8	69.1	21.8	52.0	69.1	30.4	65.4	81.8	39.1	78.0	83.1	70.8

Table 10: Labour force participation rate by education level (15+) (TÜİK)

Ecevit (2008: 129) states that labour force participation rate is highest for the women in age group 25-29, where that of men is more or less at the same level for men in age group 25-44. This rate, which falls for women in their thirties especially in the urban areas, can be explained with the marital status, referring to the fact that women are getting married

and having children at those ages and as a result they stay out of the labour market (Ecevit, 2008: 129; KSGM, 2008: 13). This also means that female labour force participation is considerably higher for single women than for married women. Low female participation rates are also determined by the given income status of husband and his negative stance again employment of his wife (Toksöz, 2007: 24).

3.2 Overall employment trends and the structure of employment

Another characteristic of the Turkish labour market is the *low level of overall employment rate*. It refers to the ratio of employed people to the non-institutional working age population[36] (TÜİK, 2007: 26). In 2009, only 41.2% of the population in the labour force was working in Turkey (Table 11). This rate is much behind the overall employment rate in the EU-27, which was reported as 65.9% in 2008 (European Commission, 2009: 155). The low figure in Turkey is very much related to the low level of female employment rate (Toksöz, 2007: 3), which was 22.3% in 2009, compared to that of 59.1% in the EU-27 (Table 12). The male employment rate in Turkey (60.7%) is a bit closer to the EU-27 level of 72.8% in 2008 (European Commission, 2009: 155). The low level of overall employment rate (41.2%), as well as that of women, shows that Turkey has really been far away from the EU's Lisbon targets of 70% overall and 60% female employment rates (Ercan, 2007: 35), and that any efforts to increase employment in Turkey should have a special focus on women's employment (Toksöz, 2007: 3).

	2004	**2005**	**2006**	**2007**	**2008**	**2009**
Gross National Product Growth (%)	9.4	8.4	6.9	4.7	0.9	-10.6
Employment	19.632	20.067	20.423	20.738	21.194	21.277
Employment (%)	41.3	41.5	41.5	41.5	41.7	41.2
Unregistered employment	9.843	9.666	9.593	9.423	9.220	9.328
Unregistered employment (%)	50.1	48.2	47.0	45.4	43.5	43.8

Table 11: Situation of employment (15+) (İŞKUR, 2009: 25; TÜİK website 2010)

In Turkey, 65.04% of the total employment is in urban areas, and 34.96% in the rural settlements. However, when the employment rates are considered, it is higher in the rural areas, both for men and women (Table 12). It is the case especially for women, who take part in agricultural production as non-paid family workers in the rural areas. However, for the last decades, female employment has been in rapid decline in the rural areas, which could not been balanced by the increase in urban employment (Tokgöz, 2007: viii). In addition, although the rural and urban employment rates have tended to converge in the

[36] Female/male employment rate refers to the ratio of all employed women/men to the total non-institutional female/male working age population.

last two decades, this rapprochement is suggested to be caused by overall lowering of the employment rates, intensive migration and decline of the agricultural employment, rather than by any improvement in the fragmented structure of the labour market (Göztepe, 2007: 100).

	2009								
	TOTAL			**Urban**			**Rural**		
	TOTAL	**M**	**F**	***Total***	**M**	**F**	***Total***	**M**	**F**
Employment	***21.277***	15.406	5.871	*13.839*	10.587	3.252	*7.438*	4.819	2.619
Employment (%)	***41.2***	60.7	22.3	*38.2*	59.2	17.7	*48*	64.3	32.8

Table 12: Situation of employment by sex and urban-rural settlements (thousands) (15+) (TÜİK website, 2010)

The low overall employment rate in Turkey can be explained by a multiplicity of factors such as economic instability; inadequacy of investments; shrinkage of the agricultural sector; non-institutionalisation of the labour market; failure of creating sufficient job opportunities for those coming from the agricultural sector; faster growth of the working age population than the total population; mismatch between the qualifications of the labour force with the needs of the economy; failure to establish a relationship between the needs of the labour market and the educational system; and, low employment rate of women, especially in the urban areas urban women (KSGM, 2008: 14).

Among those reasons for the low levels of employment and of labour force participation rates, and for the high levels of unemployment to be elaborated in the next section, *jobless growth* is maybe one of the most prominent reasons. In the period of 1980-2006, the Turkish economy grew more than 4% on average, with the opening up and integration of the Turkish economy to international competition and the process of globalisation, however, this growth could not been accompanied by an increase in employment, which remained only around 1.5% (Mütevellioğlu and Işık, 2009: 174). The relation between growth and employment fluctuated for the period of 1990-2000, and completely weakened by the beginning of the 2000s. After the 2001 economic crisis, the Turkish economy grew fast and the domestic income increased by 26% from 2002 to 2008 (Yeldan, 2009c: 1). However, a similar success could not been experienced in employment. For the period of 2002-2006, although the economy grew around 7.2%, the employment increased only about 0.8% even though the real wages were also following a decreasing trend (Mütevellioğlu and Işık, 2009: 174). The number of people who lost their hopes for being able to find a job increased considerably and labour force participation rates decreased below 50% (Yeldan, 2009: 1). The unemployment rate of about 6.5% before the 2001

crisis increased up to 10% levels (Yeldan, 2009c: 1) and even reached at 14% after the 2008/2009 crises, independent of the existence of any high growth rates for the first decade of the 2000s. While Turkey needed to create 14 million jobs in order to catch the Lisbon employment targets (World Bank, 2006: 11), the growth experienced in the Turkish economy has failed to create employment, even for the increasing population/labour force and unemployed (KSGM, 2008: 14; İŞKUR, 2009: 29). Actually jobless growth has not been peculiar to Turkey (Yeldan, 2009c: 1) and comparative studies show that, for example in the Central and Eastern European Countries in the post-transition era, employment has been affected by integration with the world economy, and many of those countries have experienced similar problems of jobless growth (Onaran, 2007).

The *high level of undeclared, unregistered work in the enlarging informal sector*[37] is another problem of the labour market in Turkey. It is a very striking aspect of the employment trends that only about half of the total working population is employed in a registered status. The other half of the employees works in informal economy and in undeclared works, which resulted in a 43.8% unregistered employment rate in 2009 in Turkey (Table 11). Those types of work are often insecure, temporary, and low waged (Sapancalı, 2008: 15). Prevalence of unregistered employment not only in the agricultural but also in the non-agricultural sectors refers to the fact that labour market in Turkey is not homogenous, but rather reflects a fragmented nature (Metin, 2003: 7).

Looking at the employment status of persons who are not registered to any social security institution due to main job by sex, it is possible to see that in 2009, 38.3% of employed men were not registered, while this ratio was as high as 58.4% for women (Table 13). These ratios mean that, as updated by 2009, 58.4% of employed women were working as unregistered, who not only work as domestic workers and baby-sitters, but also carry out home-based sewing and knitting, as well as working in sectors such as clothing, textile, packing and food manufacturing (KSGM, 2008: 24). Unregistered employment is also prevalent among persons engaged in agricultural activities in rural areas, especially among unpaid family workers (KSGM, 2008: 24).

[37] "Unregistered economy" may cover home-based production, informal sector, tax evasion and crime (Bulutay, 2001: 6 in Göztepe, 2007: 95), as well as working unregistered to any social security institution (Göztepe, 2007: 95).

	Employed (persons)	Unregistered (persons)	Unregistered employment (%)	Male (unregistered %)	Female (unregistered %)
2004	19.632	9.843	50.1	44.3	67.1
2005	20.067	9.666	48.2	42.4	65.0
2006	20.423	9.593	47.0	44.4	63.0
2007	20.738	9.423	45.4	40.1	60.7
2008	21.194	9.220	43.5	38.1	58.4
2009	21.277	9.328	43.8	38.3	58.4

Table 13: Unregistered employment by sex (TÜİK website, 2010).

There are many economic, financial, political and cultural reasons, which have altogether contributed to the expansion of unregistered employment in Turkey. Dissolution of agricultural sector has stimulated migration from rural to urban areas, without sufficient employment opportunities were ensured (Mütevellioğlu and Işık, 2009: 180). In addition, the population and labour force have increased higher than the increase in employment. The extensiveness of the small and medium-sized enterprises (those with five or fewer employees, which represent almost 65% of the total volume of employment) has also been listed among the reasons for the expansion of the unregistered employment (Özdemir, Erel and Yücesan-Özdemir, 2004: 83). In addition, already prevalent high levels of unemployment, perpetuated by the extensive lay offs due to 2000/2001 and 2008/2009 economic crises and privatisation, have left many people with no choice but to work in insecure, informal jobs without being registered and without being covered by any social security institution. The late start of the unemployment insurance, difficulties related to benefit from it and low levels of unemployment payments are also considered as a reason for informal employment (Lordoğlu, 2006: 57; Mütevellioğlu and Işık, 2009: 180). Unequal distribution of income and poverty[38] are listed as two other reasons for the informal economy. In addition to the unemployed, informal sector also covers those who have needed a second job for additional income, mainly due to the low wages in the formal sector (Özdemir et al., 2004: 84).

Child labour is another problem of the labour market in Turkey, as being continuously underlined in various Accession Partnership documents and Progress Reports of the European Union. According to TÜİK data[39] of 2006, as also shown in Table 14, 958.000 children aged 6-17, were engaged in economic activity, i.e. employed, in Turkey (TÜİK, 2007b: 35). This corresponded to 2.7% of the total employed in 2006. Also being one of

[38] Screening process of Chapter 19 – Social Policy and Employment, "Answers from the Turkish side ton on-exhaustive list of questions", 2006.

[39] Within the context of "International Programme for the Elimination of Child Labour" of ILO, Turkish Statistical Institute (TÜİK) has conducted three child labour surveys in 1994, 1999 and 2006, in order to obtain a national set of data on child labour in Turkey (TÜİK, 2007b: iii).

the important sources of the expansion of the informal employment especially in the urban areas, those children often work under unhealthy working conditions, without any social security and earning less than minimum wages (Özdemir et. al, 2004: 86). Increasing participation of children in the labour market has not only stemmed from the need of children to work for economically contributing to their family budgets, but also because of the demand of the labour market for child labour (Lordoğlu, 2006: 50). As it has been the case for non-institutional working age population, parallel to the falling share of agriculture, the proportion of children working unpaid in family enterprises has been diminishing while that of working as regular or casual employees in other sectors has been increasing in years (TÜİK, 2007b: 39).

	1999		**2006**	
	(000)	**(%)**	**(000)**	**(%)**
Population of 6-17 age group	15.822	24.2	16.246	22.3
Employed (6-17 age group)	1.630	7.4	958	4.2
Urban	478	29.3	457	47.7
Rural	1.152	70.7	501	52.3
Male	955	58.6	632	66.0
Female	675	41.4	326	34.0
Agriculture	990	60.7	393	41.0
Non-agriculture	640	39.3	565	59.0
Regular or casual employee	617	37.9	513	53.6
Self-employed or employer	28	1.7	26	2.7
Unpaid family worker	985	60.4	419	43.7
Employment rate	-	10.3%	-	5.9%

Table 14: Basic indicators of child labour (6-17 years old) in Turkey (TÜİK, 2009: 39)

The structure of employment has been in rapid transformation in Turkey. Starting from the 1950s, but accelerating from the 1980s onwards, the share of the agricultural employment has decreased almost for 11% per decade from 1989 to 2009. While the agricultural employment was shrinking, employment in the services sector has almost been doubled in two decades, reaching at 50% in 2009. The share of the industrial sector has remained rather steady in the same period, at the levels of 21-25% (Table 15). Although the expansion of employment in the services sector is considered as a signifier of development in many Western countries, structural transformation into the services sector in Turkey has not been experienced as a healthy post-industrialisation process, especially after the dissolution of the agriculture sector, before sufficient levels of industrialisation was reached at (Sapancalı, 2008: 12). Thus, the services sector has become a sector for unregistered employment especially in the urban settlements, rather than reflecting the characteristics of a post-industrial, knowledge-based society (Metin, 2003: 6).

	1989[a]			**1999**[(a)]			**2009**[(b)]		
	Total	M	F	Total	M	F	*Total*	M	F
Total (000)	18.223	12.558	5.665	21.507	15.665	5.841	21.278	15.406	5.872
Agriculture %	*47.2*	34.0	76.5	*36.7*	27.2	62.3	***24.7***	18.2	41.7
Industry %	*21.5*	26.8	9.6	*25.3*	29.7	13.7	***25.3***	29.1	15.3
Services %	*31.3*	39.2	13.9	*38.0*	43.1	24.0	***50.0***	52.7	43.0

Table 15: Employment by economic sector ((a) calculated from the TÜİK website, data for "Economic activity by year and sex"; (b) calculated from data for "Employed persons by branch of economic activity", TÜİK, 2010: 181 and 183)

As shown in Table 16, the activity rates in Turkey considerably differ from the EU-27 for the agriculture and services sectors (5.7% and 69.4% in 2008 respectively), but for industry it remains almost the same (24.9%) (Data from European Commission, 2009: 155). When the distribution of employment by sex is considered, it can be seen that services sector employs the most number of women and men both in Turkey and in the EU-27 (Table 16). However, different than for men in Turkey and than the situation in the EU, a considerable number of women (41.7%) in Turkey are still employed in agriculture as unpaid family workers although the restructuring of the Turkish economy has diminished in the rural labour force (Ecevit, 2003: 74).

	Turkey [(a)] **2009**			**EU-27** [(b)] **2008**		
	Total	Male	Female	*Total*	Male	Female
Agriculture %	***24.7***	18.2	41.7	***5.7***	6.5	4.7
Industry %	***25.3***	29.1	15.3	***24.9***	34.7	12.9
Services %	***50.0***	52.7	43.0	***69.4***	58.8	82.5

Table 16: Employment by economic sector in Turkey and in the EU-27 ((a) calculated from data for "Employed persons by branch of economic activity", TÜİK, 2010: 181 and 183; (b) European Commission, 2009: 155).

When the rates of employed persons by their status in employment are considered, an important change in Turkey is the increasing number and rate of the regular and casual employees in employment, which has risen from 38.8% in 1989 up to 60% in 2009 (Table 17). However, as already stated previously, this increase has not been accompanied by an increase in the number of registered employees, meaning that many of those employees have been employed in unregistered works (Mütevellioğlu and Işık, 2009: 179). On the other hand, when the employers and those working on their own account are considered as one category, it is possible to see that the share of this group has gone down by almost 5% between 1989 and 2009. In addition, the distribution of employment status by sex shows that, except for the category of unpaid family workers, the rates for male employment have been higher than those for women (Göztepe, 2007: 90).

	1989			1999			2009		
	Total	**M**	**F**	***Total***	**M**	**F**	***Total***	**M**	**F**
Regular or casual employee	*38.8*	32.4	6.5	*47.1*	38.1	9.0	*60.0*	45.9	15.1
Employer	*3.4*	3.3	0.1	*5.7*	5.5	0.2	*5.7*	5.3	0.4
On own account	*26.9*	24.5	2.4	*24.2*	21.3	2.9	*20.8*	17.3	3.5
Unpaid family worker	*30.9*	8.8	22.1	*23.0*	7.9	15.1	*13.5*	3.9	9.6
Total	*100.1*	69	31.1	*100*	72.8	27.2	*100*	72.4	27.6

Table 17: Employment status by year and sex (Calculated from TÜİK website for data "Employment Status by Year and Sex).

Looking at employment by public/private divide, the share of the public sector to total employment was only 13.5% in 2006 (KSGM, 2008: 16), contrary to the common opinion that public employment is at very high levels in Turkey (Sapancalı, 2008: 17). When the ILO method of comparing public employment to total population is used, this ratio becomes 4.6%, meaning that Turkey lags behind many developed countries in this regard (TÜSİAD, 2003 in Sapancalı, 2008: 17). The share of the public sector is larger in urban areas (16.9%) than in rural areas (8.8%). In 2006 23.6% of persons employed in the public sector was women and 76.4% was men. The public sector has a considerable share in the field of services and health and education services have an important share in terms of women's employment in the public sector. (KSGM, 2008: 16). In 2006 of the persons working in the private sector 26.4% was female and 73.6% was male. Among persons working in the private sector in urban areas 19.5% was female and 80.5% was male; these rates were 35.3% and 64.7% respectively for rural areas. (KSGM, 2008: 16). (Table 18)

	Total		**Urban**		**Rural**	
	Men	*Women*	*Men*	*Women*	*Men*	*Women*
Public Sector	76.4	23.6	73.0	27.0	85.3	14.7
Private Sector	73.6	26.4	80.5	19.5	64.7	35.3

Table 18: Employment in public and private sector by sex, 2006 (%) (TÜİK in KSGM, 2008: 16-17).

3.3 Unemployment

Unemployment simply means that the labour supply, including those who are ready and capable to work, is bigger than the employment volume created by the labour demand in a given context (Metin, 2003: 9-10). Unemployment in Turkey has a structural character due to reasons such as rapid population increase, migration from rural to urban areas, underdeveloped feature of the industry and services sectors, inadequacy of employment creating investments and of employment policies (Metin, 2003: 11). In an underdeveloped labour market, unemployment appears as the increase of unproductive employment, in the context of wider family structure in the rural areas, and as unregistered, informal sectors in the urban areas (Ekin, 2001 in Metin, 2003: 11).

The unemployment rate[40], which remained approximately around 8% throughout most of the 1980s and 1990s, has risen above 10% at the beginning of the 2000s, with the recurrent economic crises of 1994, 1998, and most importantly 2001 (İlkkaracan and Selim, 2007: 566). By the end of the first decade of the 2000s, the latest global economic and financial crises of 2008/2009 further exacerbated the situation by raising the unemployment rate to 14% in 2009. Evidently, such an open unemployment rate is much higher than that of 7% in the EU-27 in 2008 (Table 19). Unemployment problem seems even more dramatic when the number of unemployed is considered. In 2009, there are almost 3.5 million unemployed in Turkey. This number is bigger than the total number of unemployed in 11 new EU member states except Poland (Sapancalı, 2008: 13).

	1989[(a)]		**1999**[(a)]		**2009**[(b)]			**EU-27**[(c)] **2008**
	(000)	(%)	(000)	(%)	(000)	(%)	Non-Agricultural (%)	(%)
Male	1.132	8,3	1.206	7,1	2.491	13,9	16,0	6,6
Female	608	9,7	509	8,1	979	14,3	21,9	7,5
Turkey	1.741	*8.7*	1.715	*7,4*	3.471	*14*	*17,4*	*7,0*
Urban	1.116	13,1	1.251	10,5	2.746	16,6	-	-
Rural	625	5,5	465	4,1	724	8,9	-	-

Table 19: Unemployment by sex and urban-rural settlement (15+) ((a) calculated from TÜİK website "Labour force status by non-institutional population, years and sex" for urban and rural settlements 1988-1999; (b) TÜİK, 2010: 176; (c) European Commission, 2009: 155))

Actually, there are two major reasons for the unemployment rate to remain around 10% in the 2000s and reach at 14% by the end of 2009. The first reason is that the 2008/2009 crises hit Turkey before the rising unemployment, especially in the industrial sector, due to the 2001 crisis could be recuperated (Önal, 2009: 4). This situation was also coupled by the jobless growth of the 2000s, where industrial production increased by almost 50%, but employment did only around 27% (Önal, 2009: 4). The second reason is the dissolution of the agricultural employment dramatically towards the end of the 1990s, as already mentioned that economy could not absorb those leaving the agricultural sector in the other sector at sufficient levels.

Actually, the official unemployment statistics are often regarded as being inadequate for assessing the real extent of unemployment in Turkey (Metin, 2003: 10; Toksöz: 2007: 39; Önal, 2009; BSB, 2008: 93). The argument is often linked to the "definition of unemployed" used by TÜİK, which actually depends on that of ILO and which does not include discouraged workers, who are available to start working but are not seeking a job

[40] Unemployment rate is the ratio of unemployed persons to the labour force (TÜİK, 2010: 173).

because of losing hopes for finding one. It is argued that a "real unemployment" definition should also include "discouraged workers", "those who are not seeking a job, but ready to work", "seasonal workers", and "under employed" which refers to employees included in the labour force but whose labour power is under-utilised[41]. When those categories are also included in the calculation, the "real" unemployment rate is calculated as going up to more than 25% in 2009 (Önal, 2009: 2).

There are also some other reasons why the unemployment can go beyond the rates provided by the official statistics and does not seem higher. One of those is stated as the simultaneous decrease the labour force participation rates (Göztepe, 2007: 104). Since the unemployment rate is calculated by dividing the labour force by the number of unemployed, the unemployment rate seems lower when the labour force participation rate decreases. Another factor for the seemingly low unemployment rate is the place of the agricultural sector in total employment, although the agricultural employment has also been decreasing (Metin, 2003: 10). Since in agriculture almost all spend time working in and contributing to family enterprises, open unemployment remains largely invisible although these people work at very low levels of productivity. Hence, unemployment becomes a problem actually relevant to non-agricultural sectors and rates of both non-agricultural and urban employment are important in seeing the true dimensions of employment (Toksöz: 2007: 39). In 2009, the non-agricultural unemployment was 17.4% in Turkey (Table 19).

Unemployment in Turkey is mainly a problem for women and young people (Onaran, 2007b, 2). Urban unemployment is much higher than the rural unemployment in Turkey. From a gender perspective, women's unemployment (14.3%) is higher than men's unemployment (13.9%), especially in the urban areas in Turkey; and both rates are considerably higher than those of the EU-27 of 7.5% of female and 6.6% male unemployment rates in 2008 (Table 19). In Turkey, rural areas are the only place where men's unemployment is higher than women's (Ecevit, 2008: 149). This is mainly because unpaid family workers in agricultural activities, most of which is women, are not counted as "unemployed', but within the category of "employed population" in the Household Labour Force Surveys (Ecevit, 2008: 149; KSGM, 2008: 22).

Unemployment problem becomes even more serious for the young people. Out of 11.5

[41] "Gerçek işsizlik yüzde 26'ya yakın, gelecek daha da ürpertici…", by Mustafa Sönmez, , Sendika.Org, 17 February 2009. Available at: www.sendika.org/yazi.php?yazi_no=22162.

million young people in Turkey, 4.5 million are in the labour force, of which 3.3 million is employed. As shown in Table 20, in 2009, the *youth unemployment* (15-24 age group) rate is 25.3%, which is higher than the EU-27 rate of 15.4% in 2008 (European Commission, 2009: 155). This is 25% for young women and 25.4% for young men, while those rates are 15.2% and 15.5% respectively in the EU-27. When the education status and age is considered together, unemployment among educated youth is at alarming levels, which affect women more (Göztepe, 2007: 109).

	2004	**2005**	**2006**	**2007**	**2008**	**2009**	**EU-27(b) 2008**
Male	*20.5*	*19.5*	*18.3*	*19.6*	*20.1*	*25.4*	*15.5*
Male non-agricultural	24.7	22.3	20.2	21.5	22.3	28.4	-
Female	*20.7*	*20.5*	*20.6*	*20.8*	*21.2*	*25.0*	*15.2*
Female non-agricultural	31.1	28.8	28.1	27.4	28.5	32.9	-
TOTAL	***20.6***	***19.9***	***19.1***	***20.0***	***20.5***	***25.3***	***15.4***
TOTAL non-agricultural	**26.6**	**24.2**	**22.5**	**23.3**	**24.2**	**29.8**	**-**

Table 20: Youth unemployment rates by sex (15-24 age group) ((a) Data for Turkey from TÜİK website calculated from "Labour force status of '15-24 age group' by years and sex"; (b) European Commission, 2009: 155)

Long-term unemployment (being unemployed for over a year) comprise around 40% of total unemployment in Turkey, and this proportion is rising due to population growth that outpaces employment growth (Ercan, 2007: 35). Some studies show that the long-term unemployment is higher among young women than among young men (Taşçı and Tansel, 2005 in Ercan, 2007: 35).

Looking at the labour market indicators and data summarised for Turkey in this chapter, it is possible to list the problems of the labour market in Turkey. The labour market in Turkey by 2010 has been characterised by low levels of labour force participation rates and low employment rates, especially among women; high rates of unemployment, especially among young people and urban women; changing balance between major sectors (agriculture, industry, service sectors; and, public sector); a sizable informal sector and unregistered work; and, the limited capacity of the economy to create employment. It is also important to state that many of those features, but especially unemployment, have been dramatically affected by the serious economic crises that the country experienced in 1994, 1999, 2000/2001 and 2008/2009. All those problems have also been repeatedly highlighted in the Regular/Progress Reports of the European Commission on Turkey throughout the 2000s.

The situation and the problems of the labour market in Turkey are supposed to provide the background on the ground of which the equality between women and men at work policies

and employment policy are made and implemented. In the following two case studies, they will be underlined in relation to the proposed solutions, i.e. the policies, targeting the elimination of some of those problems in Turkey. It will also be explored whether or not the existence of those problems, and their solution, could be linked to the outcome of the domestic policy change in Turkey under the pressures of European integration.

Chapter 4: Equality between Women and Men at Work Policies

4.1 Introduction

Towards the end of the 20th century, social policy has expanded both in scope and implementation, comprising the policies towards ensuring equality between women and men in the labour markets. Basically with the industrialisation, but especially after the World War II, the rising number of women entering the labour markets in industrial and services sectors in addition to the agricultural sector in many parts of the world, i.e. women getting out of home and unpaid house activities and being involved in the paid work and in the labour market, not only led to the emergence of discriminatory acts against women in the labour market, but also reasons to question them (Koray, 2000: 208). While the emerging sectoral differentiation had created jobs and working opportunities for women employees, at the same time, it has perpetuated segregation between female jobs and male jobs, leading to the rise of inequalities. Since the division of labour between women and men also means a societal division of labour, the inequalities and contradictions emerging from women's involvement in paid work have started to be considered as something to be eliminated both by cultural change and by widespread institutional arrangements, so that the burden of working and being in charge of the house-related work and motherhood would not be assumed only by the women (Koray, 2000: 215). In addition, the inequalities and problems that women face within the labour market such as unequal remuneration, concentration of women employment in particular professions and jobs, and devaluation of these jobs in the labour market have started to be considered as problems to be solved through social policies (Koray, 2000: 216-217). This has brought along the need for action, on the one hand, to prepare women for the labour markets (for example with education, training, job opportunities), and to provide the necessary and equal conditions for women's participation in the labour market such as wages, working conditions, opportunities for promotion; and to eliminate the traditional responsibilities of women in the society and to reconcile them with the requirements of the working life, on the other (Koray, 2000: 219).

Departing from those social policy problems derived as a result of women's involvement in the labour market, many countries in the world (also with reference to their welfare state legacies), as well as international organisations such as the United Nations and Council of Europe, have prioritised the equality of women and men as a part of their social policy approaches and legislation especially in the 1970s and onwards. Neither the European

Union as a supranational agent in policy development and transfer, nor Turkey, has been indifferent to these developments in social policy.

In this regard, gender equality at work has always been one of the serious concerns and strongholds and of the European social policy. Being based on strong treaty provision, the European Union has adopted numerous equality at work directives starting from the mid-1970s as products of the classical community method of policy making through "hard law" policy instruments; and, has also expanded its equality approach towards gender mainstreaming starting from the 1990s.

While the EU policy of equality between women and men in the labour market was deepening, the EU was also widening. In the context of the EU enlargement, the relations between Turkey and the EU took a new turn in 1999, when Turkey was officially announced as an EU candidate country. As it has been the case for all the EU member states, European level policy making have started to considerably influence domestic policies in Turkey, regardless of the eventual timing of Turkey's full accession to the EU. Considering the increasing density of the Turkey-EU relations and its inevitable impact upon policies in Turkey, this chapter intends to analyse how the European integration in one of its most consistent policy spheres has affected the outcome and dynamics of social policy change in Turkey in the policy field of equality between women and men at work.

The changing nature of the relationship between Turkey and the EU and its visible impact on Turkey have stimulated a number of research questions that could be revisited in order to guide this empirical case study on the domestic change of the equality between women and men at work policies in Turkey. What has been the impact of Turkey's EU candidacy processes on domestic equality between women and men at work policies in Turkey? and, what have been the factors that affect domestic social policy change in Turkey in this field in the light of European requirements and why? Accordingly, informed and enriched by the policy studies and Europeanisation theoretical frameworks, a number of sub-questions are developed: How and through which mechanisms has the European integration affected equality between women and men at work policies in Turkey? What have been the domestic factors effective in leading to domestic policy change (or resistance) in this field? What have been the exogenous factors other than the EU, *vis-à-vis* the internal dynamics, that played a role in the domestic policy change in the field of equality between women and men at work policies in Turkey, and how have they interacted with the EU requirements? Accordingly, why have the characteristics of equality at work policies

changed, or remained stable?

In this regard, the Europeanisation literature provides well-developed analytical tools to analyse domestic *policy* change in individual countries due to the pressures of European integration. The exploration and explanation of the domestic policy change in Turkey under the pressures of its EU accession processes throughout the 2000s being the main concern of this research, this chapter comprises of an empirical case study on the analysis of the domestic policy change in a subfield of social policy in Turkey, namely in the field of the equality between women and men at work policies.

There are two main reasons for choosing this policy field. The first reason is that the field of equality between women and men at work is considered to be a good example of a policy case, where the positive integration mechanism proposed by the Europeanisation literature can be utilised and tested in its potential to explain domestic social policy change in Turkey. Although there are considerable number of case studies adopting a top-down approach and the positive integration mechanism, the literature is also developing in a way to criticise and add new variables to complement such an analysis. The second reason is that this research limits its scope within the social policy field. Considering the Chapter 19 of the EU *acquis communautaire* in the context of accession negotiations, equality between women and men at work is clearly defined within the context of social policy by the European Union.

The positive integration mechanism, often associated with the "goodness of fit" model, depends on the existence of the European models and "hard law" policy instruments to which the member states are obliged to comply through domestic adjustment by having only limited institutional discretion (Knill and Lehmkuhl, 1999: 2). Representing the most coercive form of Europeanisation with a high potential for regulatory intrusion (Bulmer and Radaelli, 2004), European directives in the field of equality between women and men at work are expected to lead to domestic policy change through positive integration mechanism. In addition, in the case of candidate countries, the use of the positive integration mechanism is also justified by the asymmetric nature of the relationship between the candidate country and the EU, giving the latter more coercive tones of influence on the domestic policy making (Grabbe, 2003). In that relationship the legal transposition of the *acquis* and harmonisation of EU laws are essential components of the accession process. Since the legal transposition and harmonisation means that the *acquis* related to the equality between women and men at work policies should be a part of the

domestic legislation, and their implementation should be guaranteed, it is possible to construe the directives of the EU on equality between women and men as prescriptive models, and as a crucial part of the positive integration mechanism. Thus, being an official candidate country, equality between women and men at work policies in Turkey can easily be expected to be affected by the processes of European integration, in the way that it is suggested by the positive integration mechanism of the Europeanisation literature.

This empirical case study utilises the positive integration mechanism of the Europeanisation literature in order to be able to test the potential of this mechanism in answering the research questions, and explaining the outcome of domestic policy change in the field of equality between women and men at work policies in Turkey. In this context, the dependent variable of this research is the extent of domestic policy change, as it has been the case for many of the case studies in the Europeanisation literature employing the positive integration mechanism. In this regard, it is expected to see a variation over the outcomes of domestic policy change due to the European pressures. Accordingly, the independent variable is the EU requirements as a part of the *acquis communautaire*, which are embodied in the EU's equality at work directives. As also proposed by the positive integration mechanism, it is possible to define some variables that are expected to mediate the outcome of domestic policy change in the field of equality between women and men at work in Turkey. In this context, two main mediating factors are suggested: domestic politics as the interplay among the government's positioning and ideology, the interests of the domestic societal actors, and the distance between the European requirements and the domestic societal norms; and, the external factors other than the EU.

This empirical case study is structured as follows. After this introduction, Section 4.2 provides a general background of the development of the gender equality policies in Turkey; and, the situation of women inside and outside the Turkish labour market, as well as their relevant social problems, as also continuously mentioned in various European reports. This section is intended to introduce the country context in which the domestic policy change due to European pressures will be analysed. The rest of this empirical case study is designed in a "top-down" approach, in line with the propositions of the positive integration mechanism of the Europeanisation literature, as briefly defined in the Chapter 1 (Theoretical Framework). In this regard, first, the relevant EU processes, which comprise of norms, rules, regulations and processes at the European level and which may necessitate adjustments at the domestic level (Risse et.al., 2001: 6), will be identified in Section 4.3. In

Section 4.4, the analysis of the domestic policy change in Turkey in the field of equality between women and men at work will focus on an extensive account of the legislative harmonisation efforts, in which the Turkish legislation will be compared with the relevant EU directives. This exercise mainly aims to identify the level of fit/misfit between the European requirements and the Turkish legislation, both in 1999 when Turkey officially became an EU candidate country (t_0), and by the end of 2010 (t_1). Following the elaboration of the level of fit/misfit, the degree of adaptational pressures in Turkey created by the misfit with the EU requirements will be identified, as proposed by the "goodness of fit" model of Europeanisation. In addition, the comparison between the level of fit in 1999 and by the end of 2010 will summarise the degree of domestic legal changes in Turkey. Since the adaptational pressures are not seen sufficient to explain the outcome of domestic policy change, in Section 4.5 the dynamics of domestic policy change will be analysed, particularly by tracing the policy processes throughout 2000s in Turkey. Focusing on three interesting policy issues, this section aims at having a closer look at the interplay between domestic policy makers and societal actors, around the contestations occurred in the domestic policy processes throughout the Turkey's European integration efforts. This exercise intends to discover the significance of some factors, influential in mediating the outcome of domestic policy change due to the pressures of European integration. In the conclusions part (Section 4.6), the findings of the empirical case study will be elaborated in a way to explore the potential of the suggested mediating factors, namely domestic politics and external factors other than the EU, in explaining the outcome of domestic policy change in Turkey in the field of equality between women and men at work policies throughout the 2000s.

Before going into the analysis, two features of this empirical case study should be underlined. First one refers to the time period that this case study covers. The starting point of the analysis dates back to 1999 as the time when Turkey was officially announced as an EU candidate country, and covers a period of 10-11 years until the end of 2010. At the domestic level, the first decade of 2000s covers the rule of three successive Justice and Development Party (AKP) governments, which came to power after the 2002 election, after a long period of coalition governments in the 1990s. In that sense, the positioning and ideology of the government as an important element of domestic politics represents a political/ideological continuity, which both affects the outcome of domestic policy change *per se*, and at the same time affects the modes of interest articulation between the societal

actors and the government.

Secondly, it is important to clarify the meaning and limits of the policy issue that will be dealt within this case study. To the extent that gender equality refers to equality in both public and private spheres of life including the economic, political, social, cultural and civil life, gender equality policy can indeed be construed in a very broad sense with many implications going beyond the field of social policy. In that sense, it includes a wide range of issues such as human rights and women's human rights issues, violence against women, body politics, political participation, access to education, labour force participation etc., each of which is a subject to different policy issues. Thus, it is very important to underline that the "equality between women and men at work" policies in this case study are taken as a particular sub-field of social policy, as clearly expressed in the EU *acquis* as Turkey's obligations to be fulfilled on the way to EU membership. In this regard, they refer to the policies of equal treatment within the limits of the labour market and in relation to the working conditions.

4.2 Background in Turkey

This section first intends to present the development of the equality policies in Turkey in a historical perspective, in relation to the state action, development of women's movement in Turkey, and the impact of international organisations in a way to provide a background for the analysis of equality women and men at work policies in Turkey. The second part summarises the problems of women inside and outside the labour market in Turkey, which are supposed to be the "social" and "policy" problems upon which the equality between women and men at work policies would be developed. Overall, this section introduces the country context in which the domestic policy change in Turkey due to European pressures will be analysed in relation to the equality at work policies.

4.2.1 History of equality policies in Turkey

The history of equality between women and men policies of the Republic of Turkey is frequently studied within two critical periods: the foundation period (1920-1934) and post-1980. In the literature, the foundation period is characterised by a rupture from the Ottoman order and a move towards democratisation, Westernisation and modernisation; and, post-1980 period is characterised by a "fragile" institutionalisation of equality policies; rise of women's movement and increase in the international influences on Turkey in relation to the policies towards ensuring equality between women and men.

The foundation period symbolising a rupture from the Ottoman order and its values, gave way to a series of reforms, which is also named as a "women's revolution" (Özoğlu, 1996: 46-47). These reforms of the 1920s and 1930s reflected "modern women" as a symbol, and described the efforts to strengthen the Turkish women as a part of "modernisation" or "cultural transformation" processes, rather than as an integral aspect of the economic development and growth (Sancar and Bulut, 2006: 6). In addition, emphasising women's rights and realising changes for their participation in public life and their status in the society were also used as a means for making modernisation process visible (Kerestecioğlu, 2004: 35 quoted in Gökalp, 2005: 144). Many policies concerning the progress in the status and strengthening of women in today's Turkey are argued to reflect such a historical experience of the early Republican era (KGSM, 2009).

The reforms of the first decade of the Republic visualised women as citizens and thus granted them some basic rights. Following the development of a secular legal system, through public policies of the state, women were given rights to access in education, working life and political life that enabled them to take a visible part in public sphere (KSGM, 2009). *Tevhid-i Tedrisat Kanunu* (Law on Unification of Education - 1923) unified the education and provided women equal rights to access education; the Civil Code (1926) outlawed polygamy and unilateral divorce of men and granted women the right to divorce, child custody and property rights. The Municipality Law (1930) granted women the right to vote and be elected in the municipal elections and the constitutional amendment of 1934 gave women the right to vote and to be elected. In 1930, maternity leave was regulated and General Public Health Law provided regulations for the protection of women and children. The Labour Law enacted in 1936 regulated employment of women. In 1937, employment of women in underground, hazardous and heavy works was prohibited with the acceptance of ILO Convention no. 45 concerning the Employment of Women on Underground Work in Mines of all Kinds, dated 1935.[42]

The progress in the early Republican period towards strengthening women's rights in Turkey was characterised by being a part of the "democratisation" process as one of the signifiers of "Westernisation" and defining a place and acceptance for a "modern" and "liberal" Turkish Republic among the Western developed capitalist countries. In addition

[42] Information related to the legal reforms of the Republican period is gathered from "Step by Step Equality between Women and Men", Women Information Network in Turkey, prepared by TUİK with the support of KSGM under the project entitled "Enhancement of Women's Integration in Development."

to the ideal of achieving international acceptance, these policies were also devised to attain "domestic control over previously central religious elites, who represented Ottoman-Islamic influences" (Kardam and Ertürk, 1999: 171). In other words, the focus on women's rights in Turkey in the first decades of the Republic was also against a background of socially competing forces of Turkish society, that can be named as "traditional-religious vs. modern-Westernised" ones (Sancar and Bulut, 2006: 6).

The establishment of the Republic with the ideals of modernisation and Westernisation was also accompanied by economic restructuring and development, which was open and tolerant to foreign capital and principles of liberalism (Özoğlu, 1996: 48-49). In this regard, acceptance of women in the economic activities was also seen related to the need for attracting women into the economy, which suffered from lack of manpower after many years of wars (Özoğlu, 1996: 49).

The influence of the women's movement on the achievements of the newly established Republic was rather limited due to the state's control of the gender discourse and state's claim to having bestowed women their rights (Kardam and Ertürk, 1999: 172).

In fact, it is argued that, values attached to women in this period had not changed to an extent which could have represented a rupture from the patriarchal relations (Özoğlu, 1996: 51). The role of women as mothers and wives had not been challenged, but been rather redefined in an effort to design a "modern family" (Sancar and Bulut, 2006: 6). In this sense, the efforts for pulling women into the public sphere with a series of new rights, can be read as a shift from an exclusionary patriarchal towards a discriminatory strategy (Özoğlu, 1996: 51); in cases such as the Civil Code, as having roots in the strong state tradition (Gökalp, 2005: 150); and as to create an enabling environment that supports equal standing of both sexes in the family (Sancar and Bulut, 2006: 6).

Between the 1940s and 1980s, only limited progress in relation to women's rights can be observed. Maternity insurance[43] was regulated in 1945. Pension system for elderly people[44] was based on the equal principles for women and men in 1949. Ministry of Health started to deliver maternal and child health services in 1952. In 1965, Family Planning Law regulated free sale and distribution of the contraceptives and the right of abortion in case of

[43] Law no. 4772.
[44] Law no. 5417.

a medical emergency.[45] Numerous international conventions were signed and ratified by Turkey in this period. European Convention for the Protection of Human Rights and Fundamental Freedoms of the Council of Europe, dated 1950, was ratified in 1954 in Turkey. United Nations Convention on the Political Rights of Women (1952) was signed in 1954 and ratified in 1960 by Turkey. As a first step of Turkey-European Union (then called the European Economic Community) relations, the Ankara Agreement[46] was signed in 1963 and entered into force in 1964. In 1967, two ILO Conventions which aim at elimination of discrimination in working life, especially that towards women entered into force in Turkey: Equal Remuneration Convention (ILO No. 100) dated 1951, which stipulates equal pay for men and women for equal work; and, Discrimination (Employment and Occupation) Convention (ILO No. 111) dated 1958, which promotes equality of opportunity and treatment in respect of employment and occupation, with a view to eliminating any discrimination in this respect. Employment Policy Convention (ILO No. 122) entered into force in 1977 in Turkey.

An important turning point in the history of Turkish Republic was the military coup d'état in the 1980, which affected the total social balances of the country, besides the development of the equality policies and women's movement in this period in Turkey. The first half of the 1980s was characterised by authoritarian acts of the military regime, which kept all the societal forces under severe pressure and control, perpetuated by the new Constitution of the 1982. With the liberalisation efforts of the elected government of the Motherland Party (ANAP), it was only in the second half of the 1980s that the political life started to be normalised and with a general emphasis on civil society, women's movement had entered a new phase of activism in line with the "second-wave feminism" rising in the world[47].

The post-1980 period, which lies to present, bears three main characteristics: "fragile" institutionalisation of gender equality policies and institutions at the state level; increasing weight of international obligations for Turkey as a result of ratification of numerous international conventions, as well as conditions of the EU candidacy; and the rise of the

[45] Information is from "Step by Step Equality between Women and Men", Women Information Network in Turkey, prepared by TÜİK with the support of KSGM under the project entitled "Enhancement of Women's Integration in Development."
[46] Agreement establishing an Association between the European Economic Community and Turkey, signed at Ankara on 12 September 1963.
[47] "On maddede Türkiye'de kadın hareketi", by Tekeli, Şirin, Bianet, 18 September 2004. Available at http://bianet.org/bianet/bianet/43145-on-maddede-turkiyede-kadin-hareketi.

women's movement in Turkey.

Although not any significant change was observed in the nature of state policies towards women in the 1980s, there were concrete developments in this period. For example, in 1983, Family Planning Law was amended to enable the termination of pregnancies up to 10 weeks with abortion and the implementation of the voluntary surgical sterilisation methods.[48]

In 1985, for the first time, women's issue was included as a sector in 5th Five Year Development Plan (1985-1989), taking into consideration the international conventions and decisions as well as social developments regarding women (Council of Europe, 2006: 6). The institutionalisation of the equality between women and men issues within the state has started with the establishment of the Advisory Committee on Policies for Women within the State Planning Organisation in 1987. In 1985, Turkey ratified the Convention on the Elimination of All Kinds of Discrimination against Women (CEDAW), with some reservations to various paragraphs of the Articles 15 and 16[49], and it entered into force in 1986. The European Social Charter of the Council of Europe, which came into force in 1965 and signed by Turkey in 1961, entered into force in 1989 in Turkey.

The CEDAW process and the Nairobi Forward-looking Strategies for the Advancement of Women[50] required the establishment of a coordinating or executive unit regarding the policies on women, which was also reiterated in the 6th Five-Year Development Plan of Turkey. In 1990 the Directorate General on the Status and Problems of Women (KSSGM) was established under the Prime Ministry. However, the establishment of such a unit has proven to be an evidence for the "fragile" institutionalisation at the state level and the institution has been placed under different ministries and governmental units until the adoption of its organisational law in 2004[51].

[48] Information is from "Step by Step Equality between Women and Men", Women Information Network in Turkey, prepared by TUİK with the support of KSGM under the project entitled "Enhancement of Women's Integration in Development."

[49] These reservations were women's identical legal capacity to that of men (15/2); men and women having the same rights regarding residence and domicile (15/4); the same rights and responsibilities during marriage and its dissolution (16/1 (a)); the same rights and responsibilities as parents in matters relating to their children (16/1 (d)); the same rights and responsibilities with regard to guardianship, wardship and trusteeship (16/1 (f)); and the same personal rights as husband and wife, including the right to choose a family name, a profession and an occupation (16/1 (g)).

[50] Adopted by the World Conference to review and appraise the achievements of the United Nations Decade for Women: Equality, Development and Peace, held in Nairobi, Kenya, 15-26 July 1985.

[51] This institution gained its legal status on 6 November 2004 under the name of the "General Directorate on the Status of Women" (KSGM), which is affiliated to the Prime Ministry.

In 1994, a new unit was established at the State Institute of Statistics to compile, produce and disseminate gender disaggregated data. In addition, women's libraries, information centres and gender and women's studies graduate programmes in the universities have started to be established. In 1995, Turkey participated in the IV. World Conference on Women in Beijing, and approved the Platform for Action without reservations. Accordingly, the National Programme for the Enhancement of Women's Integration in Development[52], jointly financed by the government of Turkey and the UNDP, was prepared and launched by the KSSGM with the participation of public organisations and institutions, universities, voluntary women's organisations, political parties, trade unions, professional organisations.

In 1997, compulsory basic education was increased from five to eight years with the Law no. 4306, to impact on gender-based differentials in educational attainment. In the same year, Civil Code was amended.[53] In 1998, Articles 440 and 441 of the Penal Code regulating adultery as a crime were annulled by the Constitutional Court; a circular limiting and regulating the instances for virginity control was published by Ministry of Justice as an outcome of the agenda created by women's organisations; the Law on Protection of the Family no. 4320 regulating the measures required for the protection of those exposed to domestic violence was enacted; the Law on Income Tax was amended to allow married women to file for income tax separately.

By the beginning of the 2000s legal reforms that eliminate fundamental discriminatory provisions against women in the laws have taken effect. Turkey's becoming an official candidate of the European Union in 1999 and the start of the EU accession negotiations in 2005 gave unprecedented impetus to state actions for legal reforms in the area. In 1999, the reservations to CEDAW's Articles 15 and 16 were lifted, in line with the amendments in the Civil Code. In 2001, Turkey ratified the Optional Protocol to CEDAW, which came into force in 2003.[54]

In 2001, the new Civil Code (no. 4721) was adopted which, among other changes, abolished the concept of the husband as 'the head of the family', acknowledged the equal

[52] The Programme aimed to enhance women's participation in development processes, to produce and compile gender-disaggregated data, to enhance institutional capacity and to create human resources.
[53] Women were granted the right to maintain their maiden name along with the name of their spouse with the amendment in Article 153 of Civil Code; and declaration of the civil status in officially issued identity cards was limited to 'married' and 'single.'
[54] The first case of personal complaint from Turkey to CEDAW was filed on January 2005 in the case of R. Kayhan v. Republic of Turkey.

division of property acquired during marriage, and equalised the legal age for marriage at 17 for both women and men. In 2003, the new Labour Law (no.4857) was adopted with the aims of ensuring equality of women and men in working life and to eliminate discrimination for women in entry to work force and a circular was issued by the Prime Minister's Office to ensure the enforcement of the Law and to avoid any kind of discrimination in practice. In that year Family Court Law (no. 4787) was also adopted establishing specialised tribunals in Turkey. UN International Covenant on Civil and Political Rights (ICCPR) and UN International Covenant on Economic, Social, and Cultural Rights (CESCR) were both entered into force in 2003 in Turkey.

The 2003 National Programme of the Adaptation of the *Acquis* (NPAA) indicated that Turkey has accepted to comply with EU standards in the field of gender equality. In the same year, Turkey has started to participate in the EU's Gender Equality Union Programme with the decision of the Council of Ministers No. 25027[55].

The Constitutional amendments of 2004 are an important reflection of the change in policies towards women. Although an explicit provision on gender equality was present in the Constitution formerly, amendment to Article 10 ensured the responsibility of state not only for ensuring non-discrimination between women and men, but also for taking necessary measures for equality in practice. The amendment to Article 90 gave supremacy to international conventions concerning basic rights and freedoms, including CEDAW, over all national laws. In 2004, the newly enacted Penal Code (no. 5237) introduced a new perspective, concepts and resultant regulations giving priority to the protection of individual's rights and freedoms. Another important law, the Organisational Law of Directorate General on the Status of Women (KSGM) (no. 5251) was adopted allowing the institution carry out its functions and perform the tasks of policy formulation and coordination. In 2005, the Law of Municipalities (no. 5393) required municipalities of a certain size to develop protective and preventive services for women who are subjected to violence.

Accession Negotiations with the European Union have been launched in October 2005, with the adoption of the Negotiation Framework by the Council of the European Union. Screening Process for "Chapter 19 - Social Policy and Employment", which also covers "Equal Opportunities", was completed after two meetings in February and March 2006 and

[55] The decision was published in the Official Gazette dated February 21, 2003.

the Screening Report for Turkey for this Chapter was published by the European Commission in September 2006.

Organisation	Regulation	Signed	Ratified
UN	Convention on the Elimination of All Types of Discrimination Against Women (CEDAW)	1/3/1980	24/7/1985
	Optional Protocol to CEDAW	8/9/2000	29/10/2002
	International Covenant on Civil and Political Rights (ICCPR)	15/8/2000	21/7/2003
	International Covenant on Economic, Social, and Cultural Rights (CESCR)	15/8/2000	11/8/2003
	Convention on the Political Rights of Women	12/12/1954	26/12/1960
UN/ILO Conventions	C45 - Underground Work (Women) Convention		21/4/1938
	C100 - Equal Remuneration Convention		19/7/1967
	C111 - Discrimination (Employment and Occupation) Convention		19/7/1967
	C122 - Employment Policy Convention		13/12/1977
Council of Europe	European Convention for the Protection of Human Rights and Fundamental Freedoms	4/11/1950	19/3/1954
	European Social Charter	18/9/1961	16/6/1989

Table 21: International Treaties and Conventions ratified by Turkey (Süral, 2007: 811).

All these developments in the post-1980 period were also accompanied by the rise and active involvement of women's movement and organisations. The period starting from the 1980s and coming up to date has been characterised both by a considerable degree of mobilisation of women, a feminist women's movement, which has been in close contact to the international women's movement and international equality standards; and diversification of the women's organisations in terms of views and of a broader and more varied discussion over women's place within society.

In the 1980s, mobilisation of women resulted in various practical and theoretical developments, but had rather limited impact on the state policies towards women (Özoğlu, 1996: 47), which would considerably change from the 1990s onwards. Especially for the second half of the 1980s, such a mobilisation and emphasis on civil society is considered to be an "inevitable outcome of liberalisation" (Coşar and Onbaşı, 2008: 331). In this period, women's movement criticised the existing legislation as being not satisfactory to promote and protect gender equality arguing that "the equality before law" principle and being given the opportunity to participate in the public life were not sufficient to guarantee gender equality (Gökalp, 2005: 144). From the 1990s onwards, women's organisations in Turkey had an increasing role in forcing equality legislation and policies for implementation, in the areas such as raising public awareness, problems to be faced and

also capabilities, resources and mechanisms to be employed. In this process, some of the women's NGOs have become partners of equality policies of the government and started pushing issues such as violence against women, women's reproductive health and increasing girls' enrolment in education.[56] Such an involvement of women's NGOs also helped in keeping gender equality visible in the media as well as leading to partnerships with the private sector. Especially the business women's associations have attempted to deal with women's issues, not only in support of women's entrepreneurship and empowerment of women in economic life but also to denounce violence against women and support women's participation in politics (Acar and Göksel, 2007). Thus, prominent businessmen's associations, such as TUSİAD and TİSK, have been engaged in the preparation of reports on gender equality in and organised conferences in Turkey especially in the 2000s.

The international connection of the women's movement has also become even stronger through active presence and membership of Turkish women's NGOs in international gender platforms, such as the European Women's Lobby. Turkish women activists and academics have been involved in international organisations such as the UN CEDAW Committee, Council of Europe and EU.

The increasing weight of international equality standards in Turkey and Turkey's obligations, and the civil society activism of women's organisations have in fact been a mutually supportive and empowering process. From mid-1980s onwards the CEDAW process has helped and encouraged the Turkish women's NGOs to take an active role in gender equality issues; and international donors such as the UNDP and World Bank have contributed to state and civil society awareness of gender equality issues (Acar and Göksel, 2007). By the end of 1990s, the process of Turkey's accession to the EU came into the picture as another external factor in promoting the gender equality issues in Turkey. The cooperation that has existed between national women's NGOs and international organisations (such as the UN and the World Bank and lately the EU) as well as those organisations' impact on governmental bodies through both legal tools such as international conventions and/or through the allocation of funds have been important in developing women's NGOs as effective stakeholders of the governmental policies and their perception as legitimate partners by the authorities (Acar and Göksel, 2007).

[56] Women's organisations' interest in issues regarding women's employment or non-employment was rather limited in this period.

Especially with the EU accession process, the women's movement has had legitimacy to bargain with governmental authorities, which has been the case in two respects: First, "the government felt the need to engage with women's organisations demands so as to assure their attentiveness to liberal and democratic priorities in introducing EU criteria into their policy proposals"; and second, "women's organisations have found the opportunity to voice their demands more forcefully through EU-financed projects" (Coşar and Onbaşı, 2008: 331). As a result, while women's organisations have begun to engage in dialogue with the state, the Turkish state has responded to gender issues by incorporating them at various levels (Kardam and Ertürk, 1999: 190). Establishment of KSSGM is considered as an important example of and initiator of government-NGO collaboration (Kardam and Ertürk, 1999: 190). On the other hand, the women's movement and public opinion have increasingly started to monitor the international obligations of Turkey and achievements and failures of the Turkish state in this regard (Ecevit, 2000: 173).

As a consequence of changes in the character of the women's movement since the 1990s, main issues of gender equality agenda in the country have changed, pointing out to a more heterogeneous and diversified set of issues (Acar and Göksel, 2007). The traditional emphasis on such gender equality issues such as domestic violence, 'honour killings', high illiteracy rate, and low participation in political decision making processes in national and local representative bodies, have been enlarged in the last decade into new areas of interest, reflecting a broader concern towards women's human rights as well as women's labour market participation. EU accession agenda has clearly played a facilitating and catalytic role in this transition in terms of its impact both on civil society and public agencies (Acar and Göksel, 2007).

Despite the gender equality principle in the Constitution and numerous international documents Turkey has been a party to civil, penal and labour laws in Turkey continued to contain various discriminatory provisions and an overarching patriarchal perspective until the 1990s. The landmark policy and mentality shifts in relation to general gender equality policies in Turkey are reflected in the four pieces of legal reform: the Constitutional amendments since 2001, especially the 2004 amendment; the adoption of the new Civil Code (2001); the new Labour Law (2003); and the new Penal Code (2005). These pieces of legal changes reflect some policy shifts, which can be labelled as "from legal rhetoric to implementable change" as it is the case in the Constitutional amendments; "from equality in the public sphere to private sphere equality" as it is the case in the adoption of the new

Civil Code; “introduction of some new issues and concepts” as it is the case with the new Labour Law; and “from women as family members to women as an individual” as it is the case in the new Penal Code (Acar and Göksel, 2007: 5-7). Nonetheless, still today, policy design and implementation for gender equality in Turkey remains basically an issue-based and non-systematic process (Acar and Göksel, 2007).

To sum up, throughout the 1990s and 2000s, numerous legislative changes and cooperation between state, civil society and international agencies have been observed. The short overview of the general equality policies toward women in Turkey have shown that from the 1990s onwards, gender equality issues have become more visible in the Turkish political agenda and have been formalised and institutionalised through various changes in the legal frameworks. It is also possible to argue that general equality between women and men policies since the early years of the Republic to the end of the first decade of the 2000s has directly and indirectly been influenced and characterised with an international dimension.

Firstly, “equality” has been considered as a democratic value, a part of “Westernisation”, modernisation and becoming a “liberal capitalist state” process, and as an effort to ensure international acceptance. This has also brought about openness to an influence of international organisations and regulations in Turkey as a part of the ideal for “Turkey to prove its democratic character.” This also means that international equality standards have not always been external impositions, but they often overlapped with the state ideology. This is understandable for the first decades of the Republic, where a nation-state was to be established in line with new reforms, ideals and principles. But still in today’s world, it is possible to hear, especially from the policy-makers that, Turkey would realise these reforms even in cases where there was no external (mainly EU) pressure, because these reforms are necessary for Turkey to reach at a level of modernised and developed country. In that sense, the international standards, be it those of CEDAW, ILO or the EU, are often taken as reference points and anchors on the way towards a more democratic and modern country. However, to what extent the content and the direction of the equality policies in Turkey reflect a progressive, transformative power against patriarchal societal norms and existing gender roles in the Turkish society and “represent a full-fledged and committed programme of democratic transition” (Tocci, 2005: 74) is another question.

In this regard, it is equally important to realise that there are still a number of international equality standards, some of the ILO standards for example, that Turkey has neither signed

nor ratified (Table 22). For example, Çitci (1990: 153) draws attention to those ILO conventions aiming at ensuring equal treatment and opportunities (for example ILO No. 89, No. 103/183, No.156, No.177) that Turkey still has not ratified (by 2009). As a second point, Çitci (1990: 153) elaborates on the paragraphs of some articles of CEDAW that Turkey put reservations on (Article 15 and 16). These reservations were withdrawn only in 1999, facilitated basically by the amendment of the Turkish Civil Code. Then the question is under which circumstances or with the support of which mechanisms the Turkish state decides to be or not to be a part of different international equality regimes and internalises the legal tools of these institutions.

The ILO Convention	**Date of coming into force**
C89 Night Work (Women) Convention (Revised), 1948 Convention concerning Night Work of Women Employed in Industry (Revised 1948)	27.02.1951
C103 Maternity Protection Convention (Revised), 1952 Convention concerning Maternity Protection (Revised 1952) The Convention was revised in 2000 by Convention No. 183. *C183 Maternity Protection Convention, 2000* Convention concerning the revision of the Maternity Protection Convention (Revised), 1952	07.09.1955 07.02.2002
C156 Workers with Family Responsibilities Convention, 1981 Convention concerning Equal Opportunities and Equal Treatment for Men and Women Workers: Workers with Family Responsibilities	11.08.1983
C175 Part-Time Work Convention, 1994 Convention concerning Part-Time Work	28.02.1998
C177 Home Work Convention, 1996 Convention concerning Home Work	22.04.2000

Table 22: ILO Conventions that Turkey has not ratified by 2009 (Çitci, 1990: 153).

Another signifier of the international dimension of the equality policies in Turkey is the development of women's movement in Turkey, in parallel to the development of global/international women's movement. In the literature, it is often stated that the women's movement in Turkey has always closely followed the international gender equality agenda and could bring their demands into the domestic policy agenda and policy-making processes. In addition, the CEDAW process and international donors such as the UNDP and World Bank have helped and encouraged women's NGOs to take an active role in gender equality issues and contributed to state and civil society awareness. Turkey's EU accession process has inevitably given impetus to legal reforms and led to policy and action by governmental bodies, and their cooperation with the women's NGOs in that process. On the other hand, it is not possible to link the rise and efficiency of the women's movement in that process solely to the international dynamics. Besides women's

movement's own success in getting well-organised, other domestic structural reasons may exist for the rising cooperation between the state and the civil society. For example, Kardam and Ertürk (1999: 190) suggest that the reason for the collaboration of KSSGM with women's NGOs in Turkey may owe to its limited capacity as a weak bureaucracy, being dependent on external funding, and therefore being more in need of support from women's NGOs. Then, the question is to what extent the only reason for the rise and effectiveness of the women's movement in Turkey and development and engagement of the women's movement into a dialogue with the policy-makers has been the external pressures and relations with the international gender equality regime. In other words, adopting from Tocci (2005: 73), have the international pressures acted as a trigger for the reforms as an external force driving internal change, even changing the ways of policy-making; or have the domestic actors, such as the women's organisations, used and been strengthened by external anchors (such as the EU) to push for their priorities into the domestic political agenda. This complicated question regarding the role of and the relation between the domestic actors and external factors in leading to domestic policy change in Turkey in the field of equality between women and men at work will further be elaborated when the dynamics of domestic policy change in Turkey are examined in the following pages.

4.2.2 The problems of the women in and out of the Turkish labour market

Situation of women in employment and of women out of the labour force have always been influenced by a variety of factors political, social and economic developments since the establishment of the Republic. Identifying the issues and problems in relation to women's labour force participation and working conditions as a part of the production and reproduction processes necessitates elaboration of their relation with the social, cultural and economic factors, which have a potential to stipulate social transformation, hence the transformation of and changes in domestic policies. In this regard, it is important to see that the impact of patriarchal social and cultural forces existing in the Turkish society has been accompanied by liberalisation, free market, deregulation and market flexibility in the Turkish economy since the 1980's, which altogether have impacted upon the situation of women in and after entering the working life.

Regarding their economic activities, three categories of women can be identified: employed, unemployed and non-employed (or economically inactive) women. The first

two categories refer to the women in the labour market, while the third one covers women who remain outside the labour market. Worldwide, all these categories of women in and out of the labour markets have been facing obstacles mostly due to patriarchal societal norms, traditional and social perceptions of gender roles, state of domestic economies, lack of professional skills and higher education, and restrictive personal and labour laws. Women in Turkey have not been exception to these (often) negative trends, which affect the rate and conditions of women's labour market participation, hence the economic activity of women, as well as the overall economic performance of the country. Accordingly, the low rate of female labour market participation is an important factor, which creates and deepens gender inequalities in terms of economic participation and opportunities (Ecevit, 2008: 119).

The overview of the labour market in Turkey in Chapter 3 highlights the general situation of women in their relationship to the labour market. Depending on the data provided regarding women's labour market participation rates, and various aspects of employment and unemployment trends, a number of problems can be identified in relation to the women in and outside of the labour market in Turkey. For the aims of this study, those problems help picture the actual status of the labour market in Turkey on the one hand, and on the other they imply the "policy problems" for the policies targeting women inside and outside the labour market.

Maybe the boldest characteristics of the Turkish labour market, which have also been repeatedly stated as problems in various Progress Reports of the European Commission, are the low labour force participation rates, especially that of women; high rates of unemployment (KEİG, 2009: 67); and prevalence of the informal sector. It is often stated that the growth of the Turkish economy fails to create employment (KSGM, 2008: 14; Toksöz, 2007; Ecevit, 2008: 168) and falling female labour force participation rates and declining employment in absolute terms place the burden of growth without employment mainly upon women (Toksöz, 2007). The incapacity of macro economic policies in Turkey in creating regular and secure employment and in taking gender equality perspective into account deepens the problems of women in the labour market (KEİG, 2008). The status of women at work have been shaped by negative trends such as unemployment, lack of basic and vocational education and working in the informal sector; and these problems have even been worsened through rigid prejudices and gender roles (Türk-İş, ILO, UNFPA, 2005: 101).

In this section, the major problems in relation to women *inside* and *outside* of the labour market in Turkey will be summarised. This is due to the fact that although this case study focuses on the equality between women and men at work, i.e. the policies and measures related to ensuring equality for women inside the Turkish labour markets, it is not in fact possible to separate women remaining outside the labour market from the analysis of the equality policies regarding equality at work, because non-employment of women is often the norm in Turkey.[57]

There are numerous reports and studies which delineate the reasons for the low levels of female labour force participation, in other words the social problems which keep women *outside* of the labour markets in Turkey.

One of these reasons is the inequalities in access to and quality of *education*. As seen from the data in Chapter 3, the average education level of the female labour force is low. In many of the Progress Reports of the European Commission, low level of women's access to education has been highlighted as a problem area in relation to women's rights and employment. However, education is an important factor in increasing the labour force participation rates both for women and men. In Turkey gender-based inequalities in access to education prevail, and women always have lower chances to receive education compared to men, often due to patriarchal norms and economic difficulties, in spite of the governmental efforts to increase girls' school attendance[58]. In addition, even when women have chance to receive education, the quality of the education still raises questions. For example Toksöz (2007: 24) argues that primary and secondary education in Turkey does not equip young girls and women with skills from which they can benefit in the labour market.

Migration from rural to urban areas is another reason for women to stay out of the labour markets. Not only migration has caused a decrease in the rate of female labour force participation in the rural areas, but it has also pushed rural women out of the labour force in the cities. This results from the fact that rural women cannot easily enter the urban labour market because of their low qualifications and the traditional family structure,

[57] Women's employment in relation to the Lisbon Process and European Employment Strategy will be further explored in Chapter 5.

[58] The increase of compulsory education from five to eight years in 1997 increased the net enrolment ratio. Many campaigns are jointly organised by the government, civil society organisations, media and international organisations to increase this ratio, especially for the young women. "Haydi Kızlar Okula!" (Girls, let's go to school!) Campaign is an example of cooperation between the Ministry of Education and UNICEF since 2003.

which symbolises the patriarchal mentalities and institutions as an obstacle on the way to women's work (DPT, 2007: 33; Türk-İş, ILO, UNFPA, 2005: 102). This situation has gradually changed for the second and third generations of migrants, since they receive more education and socialise more with the urban values, as well as facing with economic problems more severely (Ecevit, 2000: 154).

Women's *responsibilities regarding reproduction* and *gender-based division of labour*, backed up with socio-cultural factors, play an important role in keeping women outside of the labour markets. Gender roles traditionally assign the housekeeping and care for children, elderly and disabled to women, whereas the men are the breadwinners. This mentality is an important factor preventing women from joining in the labour force and seeking jobs[59] (Toksöz, 2007; Ecevit, 2008: 157). Family responsibilities on the shoulders of women and insufficient child care services restrict employment opportunities for women (KSGM, 2008: 6). Besides the rigid and socially approved gender-based division of tasks in the family, hiring a baby-sitter or institutional care is often more expensive than the salary of the woman in case she works. Thus, it is often the case that, due to high costs and low quality of external care services, women rather prefer to stay at home to take care of the children (and elderly) themselves. Married women are often kept away from the labour markets due to their husbands' negative attitude towards employment of their wives (KSGM, 2008: 13).

Structural problems of the labour markets also keep women outside of the labour markets. The longer time periods women spend in seeking a job is an indicator of the difficulties and obstacles for women to enter the labour market, compared to men (Ecevit, 2008: 153). In general demand for women's labour is lower compared to men; it is susceptible to conjectural fluctuations such as the economic crises; and it is often not permanent and stable (Ecevit, 2000: 160-161). When the demand exists, women's motives to work are still curbed by such factors as limited number of works available for women, heavier working conditions, low pay (Toksöz, 2007); lack of social security, irregular working hours and bad working conditions (Türk-İş, ILO, UNFPA, 2005: 103). For example, low level of wages is often a cause for majority of women to stay at home as a housewife instead of working (KGSM, 2008: 11).

Technological developments also often have negative effects on women's employment. To

[59] This is in fact a common problem for both working and non-employed women.

the extent that the firms use technology to increase their competitiveness, unskilled and low educated women workers are negatively affected. In addition, technological developments may also curb the need for women, who are specialised on handiwork or embroidery, by eliminating the job opportunities, where women have had advantage (Ecevit, 2008: 176-177). It should also be stated that employment of well-educated women, who work in higher quality jobs, may rise due to use the technologic developments (Ecevit, 2008: 177).

In general, the reports drafted or commissioned by governmental agencies and international organisations, such as the Ninth Five Year Development Plan, Medium-Term Programme (2006-2008), 2006 and 2007 Annual Programmes and the World Bank Labour Market Survey for Turkey (2006) underline the low level of female employment as a serious problem. However, rather than relating the problems and their solutions directly to employment, most of these offer solutions in the context of social inclusion and poverty alleviation (Toksöz, 2007: 51). These reports mainly focus on three categories of solutions: the promotion of flexible employment and encouraging women towards this type of employment; female entrepreneurship; and, vocational training for women and increasing women's education levels (Toksöz, 2007: 51; Ecevit, 2008: 182; KEİG, 2009: 19), which overall reflect a shift in approach towards the active labour market policies.

For the aims of this case study, the identification of the social problems that women face *inside* the labour market is crucial because from the perspective of policy analysis they are supposed to be the major reasons, i.e. policy problems, for some policies to be made. These social problems in Turkey have been cumulated in time and characterise women's status in the labour markets. The types of problems to be mentioned below are not mutually exclusive categories, but they are rather reinforcing each other and cause heavier negative conditions for women at work. Identification of these social problems is also important in order to be able to analyse the extent to which the existing policies, supposed to eliminate these problems and ensure equality between women and men at work, have actually targeted the prevailing policy problems in Turkey.

For the women inside the labour market, the most important structural characteristics of the Turkish labour market are the prevailing gender segregation, the substantial informal sector and limited provision of care services. These problems negatively affect participation of women in the labour force; continuity of their working lives and careers; and, women's status at work (Türk-İş, ILO, UNFPA, 2005: 108). All of these problems of gender

inequalities are to a large extent intensified, if not created, by the conditions brought about by the emphasis given to free market development; increased deregulation and market flexibility in the Turkish economy since the 1980's (Sancar and Bulut, 2006: 21). Gender inequalities in the labour market are also exacerbated by low standards, as well as beliefs, preferences and prejudices against women (especially from the employers) in the implementation of many rules and regulations with respect to gender equality (Sancar and Bulut, 2006: 21).

Gender-based segregation of the labour market, economic sectors and occupations affects the job and promotion opportunities, as well as earning levels of women in Turkey. Some occupations are not socially seen appropriate for women and gender-based division of labour prevents women to seek and find jobs in sectors which are not considered as "women jobs" (Toksöz, 2007: 24). Besides the very limited availability of newly created jobs due to the characteristics of economic development in Turkey, exclusion of women from the occupations which are not found "suitable" for them under existing patriarchal cultural values further limits the chances of female employment, especially in small settlements (Toksöz, 2007: 24). This results in the concentration of women in certain sectors and occupations and mainly in lower levels (KSGM, 2008: 6). These kinds of jobs bring along problems such as working temporarily and for limited periods; or working without receiving any social security benefits (KSGM, 2009). Although education enhances chances for women to participate in the labour force, at all levels of education, women still face inequalities (KSGM, 2009).

In none of the economic sectors, women and men share employment rates equally (Ecevit, 2008: 139). Statistics show that in years there has only been slight change in favour of women regarding the gender-based segregation, and this occurs only in urban areas (Ecevit, 2008: 139). In terms of occupations, women take less part in some, as pilots, surgeons or drivers for example, but concentrate more on others such as nursery, teaching, cleaning and secretarial occupations, which are relatively lower status and lower paid occupations (Türk-İş, ILO, UNFPA, 2005: 106). This also shows that apart from agriculture, women are more accepted in occupations, which are in relation to their domestic reproduction and care roles at home (Ecevit, 2008: 139).

Informal sector is one of the structural characteristics of the Turkish labour market, which has been repeatedly stated as one of the major concerns of the European Commission in its Progress Reports. In Turkey, informal sector often comprises of workplaces, which

produce labour-intensive goods and services. Due to increasing economic competition and in order to decrease labour related costs such as wages, taxes, and social security payments, many employers divide their production processes; hire relatively small-size contract manufacturers; and, use subcontracting to make their goods produced. Those "hired" small firms often use unregistered labour in order to lower labour costs (Türk-İş, ILO, UNFPA, 2005: 105). In addition, this often piece-work and labour intensive production takes place at home (Ecevit, 2000: 162). Although there are not big differences in the rates of women and men working in the informal sector, especially in the urban settings, women concentrate in some sectors and jobs, such as garment industry, which is dominated by contract manufacturing (Türk-İş, ILO, UNFPA, 2005: 105). Women working in the informal sector and at jobs that do not require high skills are the most prominent aspects of women's employment in big cities (Ecevit, 2000: 162).

Women are mainly involved in two types of informal sector jobs: home-based working such as sewing and knitting as well as working in sectors such as clothing, textile, packing and food manufacturing; and working at other's houses or in the offices as cleaners or babysitters (KSGM, 2008: 24; Ecevit, 2000: 163). Concentration of women in the informal sector is not a coincidence because the structure of the informal sector facilitates employing women: women are skilful in handcrafts; they have low levels of education; their incomes are only considered as extra contribution to the household, not as the main breadwinning economic activity; some of the women's and their male family members' attitudes are rather conservative towards working outside in workplaces; many of the informal sector jobs can easily be conducted at home often together with the help of other members of the family; these jobs seem like the extension of housework, which do not often necessitate regular and continuous work; and, these jobs are more easily accessible compared to the jobs in the formal sector (Türk-İş, ILO, UNFPA, 2005: 105).

Working in the informal sector brings along various disadvantages for women, as well as for men: irregularity of jobs; low and discontinuous wages; lack of social security; lack of control from the state; lack of right to get organised. Even when women work in the informal sector in the face of such disadvantages, they can not still help eliminate their poverty (Türk-İş, ILO, UNFPA, 2005: 105).

Unregistered work also goes hand in hand with the sizable informal sector because women working in the informal sector also work as unregistered workers. Working as unregistered means lack of social security and social protection, and low wages (Ecevit, 2008: 155;

KSGM, 2009) and in 2009, 58.4% of the women at work were unregistered workers. In addition, the number of women who work at a workplace, but are not registered to any social security institution is very high (KSGM, 2009). Many women in the formal sector work without working contracts, which leads to deprivation of protection and extra wage benefits for women (Ecevit, 2008: 155). Women in the agricultural sector in rural areas also work as unpaid and unregistered family workers (KSGM, 2009).

In many of the reports and studies, it is repeatedly stated that women have had to give breaks to their careers, keep their working life short or have not been able to use their full potential in order to promote in their jobs because of the problems making *reconciliation of work and family life* difficult. Women are supposed to share the responsibilities for caring for the children, elderly and disabled with their families/husbands or with the state. However, the insufficiency and low quality of social support institutions such as crèches and day care centres are important obstacles for women who would like to work (KSGM, 2009). Although maternity rights for working women are provided in laws, the support mechanisms for child, elderly and disabled care are not widespread and/or these services are expensive. Those women who have to leave their jobs due to pregnancy or child care face difficulties in finding new and same level jobs when they would like to rejoin the labour market. In addition, leaving the jobs for a short period also interferes with women's professional careers and creates obstacles for them to promote in their jobs (Türk-İş, ILO, UNFPA, 2005: 106).

Considering the remuneration, *low levels of wages and pay gap*[60] are the visible signs of discrimination against in the Turkish labour market. The fact that women and men do not enjoy equal pay in practice, i.e. the inequality in terms of earnings for women and men for work of equal value, is one of the problem areas that has been highlighted in many of the Progress Reports of the European Commission. In fact, in Turkey there are no regular and sound statistics allowing comparison of levels of earning by males and females in various branches and professions (Toksöz, 2007: 46). There are some statistics on average daily earnings of males and females registered with the Social Security Institution, but these

[60] The gender pay gap is calculated with different indicators but roughly refers to the difference between the hourly earnings of men and women. It is determined by calculating women's overall average pay as a percentage of men's. The pay gap is the difference between this and 100 per cent. So, for example, if women's pay is 80 per cent of men's, the pay gap is 20 per cent. www.statistics.gov.uk/about/data/guides/LabourMarket/concepts/labour/paygap.asp

statistics are seen insufficient to allow comparisons[61] (Toksöz, 2007: 46). According to the results of TÜİK 2006 Earnings Structure Survey, in terms of average gross pays women received 98.5% of what men received, and this rate shows variations due to factors such as occupational group, economic sector, age group, seniority (KSGM, 2008b: 37). A World Bank Report (2006: 54) indicates that female employees earn between 78-83% of men, depending on whether all wage and salary earners or only full-time workers are considered. In some sectors males earn significantly higher than females, reaching to levels 40% in rubber industries and 39% in electricity, gas and steam heating works; and earnings of females are lower than those of males by 29% in paper and paper works, by 14% in pharmaceutics and chemical products; by 7-21% in food, beverage and tobacco industry; by 5-13% in metal and metal works and by 6% in textiles (Toksöz, 2007: 46).

There are mainly two reasons for the pay differences for women and men: concentration of women in low paid, unqualified jobs as a result of gender-based division of labour; and even in equal jobs or jobs of equal value and at the same level of education as men, women are paid lower wages (Türk-İş, ILO, UNFPA, 2005: 99-100; KSGM, 2008: 20; KEİG, 2009: 15). Some studies state that even if women are paid the same base rate of pay, there can still be differences in some secondary benefits or supplementary payments, paid according to work experience (Türk-İş, ILO, UNFPA, 2005: 100). Differences in the average numbers of years of work experience and job tenure is an important factor in explaining the wage gap, emphasising the consequences of women's interrupted or intermittent work lives due to the traditional sexual division of labour in the household (İlkkaracan and Selim, 2007: 588). In addition to this human capital factor, İlkkaracan and Selim (2007: 588) list some more factors causing the differences in pay gaps: allocation of women workers into low-paid private sector jobs, which are not covered by collective bargaining agreements; women's heavy concentration in only few occupations and industries, i.e. the combined effect of industrial and occupational gender segregation. This means that while work experience is the most important human capital variable, the location and type of workplace are also important factors that affect lower wages for women in Turkey (İlkkaracan and Selim, 2007: 589).

The difference in earning levels results in more dependency of women on men and

61 One reason for this insufficiency is that most enterprises state not real but minimum wages paid to their employees to lower their compulsory security contributions (Toksöz, 2007: 46).

perpetuates the patriarchal modes of thinking that men are the first breadwinners while women's income is only complementary, which in turn make lower pay to women socially legitimate (Toksöz, 2007: 45; KEİG, 2009: 15). The actual pay differences also point out the fact that the principle of equal pay to equal work guaranteed by laws is not fully observed and implemented in Turkey.

Women face the risk of *sexual harassment* because of the attitude of society towards working women and for many women this risk constitutes an obstacle for their participation into the labour force. Due to lack of attention from the employees' unions and necessary support mechanisms, sensitivity towards this risk is not at required levels (Türk-İş, ILO, UNFPA, 2005: 107).

Low unionisation rates and women's position in the trade unions is also a factor that exacerbates inequalities for women in the labour market. Women members of the unions of civil servants and workers comprise only 10-12% of the overall number of union members (KEİG, 2009: 17; KSGM, 2008b: 38). This low number of female trade union membership is not only related to the employment structure; to the negative approach of employers towards workers getting organised in trade unions; and, to the fact that considerable number of women work in the informal sector (KSGM, 2008b: 38; Türk-İş, ILO, UNFPA, 2005: 107), but also related to the patriarchal structure and pattern of participation in the employees' organisations (Sancar and Bulut, 2006: 21; KEİG, 2009: 17). These structures exclude women and do not separately define their problems stemming from the gender inequalities; they do not voice women workers' problems at the collective bargaining agreements; they do not establish women's committees or assign only limited authorities to the existing committees; they do not organise training seminars targeting women workers; or they ignore women workers' responsibilities regarding their home-based responsibilities (Türk-İş, ILO, UNFPA, 2005: 107). In addition, there are very few women in the executive boards and decision making bodies of the trade unions. Women are often represented in the trade unions through workplace representatives, and number of women at the executive levels of their branches and central bodies is very low; and women at the top management levels are often responsible for relatively limited impact areas such as social affairs (Türk-İş, ILO, UNFPA, 2005: 107). There are no trade unions, which make use of any positive discrimination mechanisms such as quotas or reserving chairs for women (Türk-İş, ILO,

UNFPA, 2005: 107). The limited number of initiatives[62] can be considered as a positive step, but it is not possible to argue that they could accomplish their mission fully (KEİG, 2009: 18).

Apparent *under-representation of women in top level management positions and in decision-making levels* is a clear indicator of discrimination in both recruitment and promotion processes, where women occupy top level management positions only by 0.08% (Toksöz, 2007: 44). Even in occupations where women dominantly work and in professions where their participation rate is 29%, they are not sufficiently represented at top levels, but rather at medium and low levels of management (KEİG, 2009: 14; Toksöz, 2007: 44; Türk-İş, ILO, UNFPA, 2005: 106). This shows that there are serious obstacles for women to advance in their careers, not only in public and private enterprises but also in professional organisations and trade unions (Toksöz, 2007: 44). Prejudices against women and attitudes that favour men's promotion rather than women; limited institutional support mechanisms to help women reconcile work and family life; and, limited opportunities for women to develop their skills at work with, for example, in-service trainings can be listed among the reasons for women's under-representation at top management and decision-making levels at their work (Ecevit, 2008: 143).

Those gender equality related labour market problems are theoretically supposed to provide the basis for the equality between women and men at work policies. However, the identification of the extent to which the existing policies actually target those inequalities in the Turkish case requires a further analysis of the existing equality between women and men at work policies and legal instruments. In the following section, such an analysis will be conducted in relation to the existing legislation, policy instruments and efforts to comply with the requirements of European integration processes.

4.3 Equality between Women and Men at Work Policies in the European Union

Equality between women and men has been a component of the European Union's social

[62] For example, the Women Workers' Office of Türk-İş Confederation with the support of ILO and UNFPA prepared the Women's Labour Platform in 2005, which was composed of 21 public institutions, universities, civil society organisations, workers' and civil servants' confederations. Through five working committees on different aspects of women's labour, namely education; health, working life, law and trade unions, the members of the Platform worked for two months (15 March-6 May 2005) and prepared commission reports, which included actual situation, impediments and deficiencies, as well as their recommendations regarding the five topics of women's labour. (Türk-İş, ILO, UNFPA, 2005: 4)

policy from the early days of the Union. The Treaty of Rome of 1957 in Article 141 (Article 119 EEC) was an attempt to ensure "equal pay for equal work" for women and men at work. Stemming from the dominantly economic nature of the European Economic Community, the major concern behind such an intervention into the domestic/national labour markets, in addition to ensuring improvement in living and working conditions, was the fact that "competition between Community countries could be distorted by the employment, in some of them, of women who were paid less than men for the same job" (Moussis, 2001: 192). In addition, "equal conditions of employment and remuneration between the sexes could be eliminated only through Community action, as no country could go it alone with a reform which would be likely to alter conditions of competition to its detriment, in particular in industries employing large numbers of women" (Moussis, 2001: 192).

Although the flourishing of the equality issues within the Union has an economic core, the approach of the EU to the equality between women and men has transformed through time. The "equal treatment" and "equal opportunities" approach of the EU in 1970s referred to equality for all citizens and "no individual should have fewer human rights or opportunities than any other" through hard law instruments of directives, evolved in the 1980s into "positive action and positive discrimination" approach through soft law instruments such as resolutions and recommendations, which are "designed to address some of the disadvantages women experience in the labour market through positive action measures" (Rees, 1998: 54). However, starting in the second half of the 1990s, the emphasis to the equality between women and men in the working life has shifted towards "gender mainstreaming" as a long term project, which refers to "the integration of the gender perspective into every stage of policy processes – design, implementation, monitoring and evaluation – with a view to promoting equality between women and men"[63]. This has been considered as a paradigmatic shift in the approach of the EU in the equality issues, since it is supposed to go beyond the equal opportunities policies in a way to make the policy actors rethink the deep-rooted and hidden causes of inequality in the societies, which can be found in the social structures, institutions, values and beliefs, which create and perpetuate the imbalance between women and men (European Commission, 2005: 2).

In addition to relatively recent mainstreaming efforts of the European Union, different

[63] European Commission: http://ec.europa.eu/social/main.jsp?catId=421&langId=en (05 May 2009).

aspects of the equality between women and men at work policies have still been regulated through "hard law" instruments, namely the directives. Legally defined by the European Union as one of the Community legal instruments, the directives "bind the Member States as to the results to be achieved; they have to be transposed into the national legal framework and thus leave a margin for manoeuvre as to the form and means of implementation"[64]. They are "framework laws", different from the regulations which are "binding in their entirety and directly applicable in all member states"[65]. In this regard, they seem to be the most relevant and coercive policy instruments of the EU, concerning the equality between women and men at work policies.

Turkey's application for full membership to the EU and official recognition as an EU candidate country have started the formal candidacy process, throughout which Turkey is expected to transpose the EU *acquis* into its domestic legal system. In the case of Turkey, as a candidate country to the EU, all the official documents that supervise and monitor the Turkey's progress on the way to the EU (namely the Accession Partnerships, the Regular/Progress Reports and the Screening process and its report) take the directives as the focal point when dealing with (both in terms of requirements and responses to them) the equality between women and men at work policies. In this regard, the European directives on the equality between women and men at work policies are binding for Turkey (as it is the case for all member and candidate countries). Although the ways in which Turkey transposes them into the Turkish law is not determined, the transposition is highly monitored by the EU. Thus, in the context of this empirical case study, the relevant EU procedures, as suggested to be identified by the positive integration mechanism of Europeanisation, in the field of equality between women and men at work policies can be defined in form of directives, as pieces of the *acquis* that would have an impact upon the equality at work policies in Turkey.

In the course of EU-Turkey relations from a candidacy/full-membership perspective, reference to the *acquis* related requirements of the EU from Turkey in the field of social policy are covered in the Chapter 19, entitled "Social Policy and Employment", of the negotiation framework. Under this chapter, the equality issues are named under the heading of "Equal Opportunities."

The contours of the harmonisation process are drawn by several official documents. From

[64] http://europa.eu/scadplus/glossary/community_legal_instruments_en.htm, accessed in July 2006.
[65] Ibid.

the EU side, those documents are the Accession Partnerships (2001, 2003, 2006 and 2008), where short and medium term priorities for Turkey are set forth; and, annual Regular and Progress Reports prepared by the European Commission in order to assess the performance of Turkey in adapting the *acquis* since the 1998. From the Turkish side, the National Programmes for the Adoptation of the *Acquis* (NPAA) outline the roadmap for and commitment of Turkey in harmonising *acquis* into its domestic system.

More specifically, regarding different Chapters of the *acquis*, the Screening Process, as a prior stage of the accession negotiations, is an important phase, where the EU authorities come together with the Turkish counterparts in order to analyse in detail the stage at which the Turkish legislation is in line with the EU *acquis*. The screening meetings for the Chapter 19 took place in Brussels as an explanatory meeting on 8-10 February 2006, where the EU authorities presented the pieces of the *acquis* covered under Chapter 19; and as a bilateral meeting on 20-22 March 2006, where the Turkish bureaucrats presented the actual situation of the Turkish legislation in relation to the EU *acquis* in question. All relevant *acquis* in this field was listed in the official documents of the first and second screening meetings, and has continuously been monitored through the Regular and Progress Reports of the European Commission. The following is the list of directives regarding the equal opportunities between men and women at work covered by the social policy *acquis*[66]:

Directive 75/117	Council Directive 75/117/EEC of 10 February 1975 on the approximation of the laws of the Member States relating to the application of the principle of equal pay for men and women
Directive 76/207	Council Directive 76/207/EEC of 9 February 1976 on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions; and,
Directive 2002/73	Directive 2002/73/EC of the European Parliament and of the Council of 23 September 2002 amending Council Directive 76/207/EEC on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions
Directive 79/7	Council Directive 79/7/EEC of 19 December 1978 on the progressive implementation of the principle of equal treatment for men and women in matters of social security
Directive 86/613	Council Directive 86/613/EEC of 11 December 1986 on the application of the principle of equal treatment between men and women engaged in an activity, including agriculture, in a self-employed capacity, and on the protection of self-employed women during pregnancy and motherhood

[66] In some cases, the legal bases for these Directives are laid down in various Treaty Provisions. Whenever a Treaty provision is referred to in the provisions of the Directive that will be analysed, it will be mentioned.

Directive 86/378	Council Directive 86/378/EEC of 24 July 1986 on the implementation of the principle of equal treatment for men and women in occupational social security schemes; and,
Directive 96/97	Council Directive 96/97/EC of 20 December 1996 amending Directive 86/378/EEC on the implementation of the principle of equal treatment for men and women in occupational social security schemes
Directive 92/85	Council Directive 92/85/EEC of 19 October 1992 on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding
Directive 96/34	Council Directive 96/34/EC of 3 June 1996 on the framework agreement on parental leave concluded by UNICE, CEEP and the ETUC
Directive 97/80	Council Directive 97/80/EC of 15 December 1997 on the burden of proof in cases of discrimination based on sex
Directive 2004/113	Council Directive 2004/113/EC of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services

It should also be noted that "the Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast)" was enacted after the screening meetings. This Directive repeals four major directives, with their amending directives from the list above (the Directive 75/117/EEC; the Directive 76/207/EEC as amended by Directive 2002/73/EC; the Directive 86/378/EEC as amended by the Directive 96/97/EC; and the Directive 97/80/EC) with an aim to "simplify, modernise and improve Community legislation in the area of equal treatment for men and women in employment and occupation by bringing together in a single text the relevant provisions from the directives relating to this subject in order to make them clearer and more effective for the benefit of all citizens"[67]. Although the comparison of the Turkish legislation for the aims of the screening could not refer to that Directive due to the timing of the meeting, the analysis of the provisions of this new Directive reveals that it did not bring any major changes to the directives it repealed, but only refined some of the definitions and procedures already introduced in the previous four directives regarding the principle of equal pay and equal treatment between women and men in different aspects of working life.

The provisions of those nine directives comprise the bulk of the content and substance of

[67] http://europa.eu/legislation_summaries/employment_and_social_policy/equality_between_men_and_women/c10940_en.htm

the EU's equality between women and men at work policies, which will be further elaborated directive by directive throughout the analysis of legislative harmonisation in Turkey in Section 4.4.

4.4 Analysing Domestic Policy Change in Turkey: "Goodness of fit" and "Adaptational Pressures"

This section aims at mapping the Turkey's legal transposition performance in the field of equality between women and men at work policies throughout the processes of European integration due to Turkey's official candidacy status. The mapping exercise mainly consists of the analysis of the legislative harmonisation in Turkey in a way to explore the compatibility, i.e. policy fit, of the Turkish legislation with the nine EU directives both in 1999 and by the end of 2010. This exercise also aims to help the identification of the degree of adaptational pressures created by the policy misfit in 1999 at the end of the section. In addition, Turkey's transposition performance will also be summarised; and the outcomes of domestic legal change will be identified by comparing the levels of policy fit in two periods of time, in 1999 as t_0 and by the end of 2010 as t_1.

The first step of mapping the outcomes of domestic policy change is the analysis of legislative harmonisation in Turkey, for each of the nine directives reviewed throughout the screening process in relation to the "Equal Opportunities" section of the Chapter 19. This exercise (Section 4.4.1) consists of three stages. First, the content and provisions and of the directive in question, will be summarised. In the second stage, the legal comparison between the relevant Turkish legislation and the directive both for the period before 1999 and by the end of 2010 will be provided, depending mainly on the official documents of the screening process including the set of questions prepared by the EU representatives and answers prepared by the Turkish authorities, namely by the staff of the Ministry of Labour and Social Security. Those questions highlight important references regarding the content and substance of the equal opportunities provisions, hence the expectations from Turkey towards the adaptation of those particular pieces of the *acquis*. In turn, the answers to those questions highlight the actual status of the relevant Turkish legislation in relation to the directive, as well as the stage of transposition in Turkey. Although the analysis of legislative harmonisation in this section primarily depends on the documents of the screening process, some additional studies providing similar legislative comparison conducted by different actors are also used in order to keep the analysis as comprehensive

as possible. Four important reports can be named in this regard. The publication prepared by the General Directorate for Women's Status and Problems (KSSGM), entitled "The EU Regulations on Equality between Women and Men at Work and Turkey" (Süral, 2002) is an important source to trace the situation of the Turkish legislation before 1999. The study prepared for the Open Society Institute, entitled "Equal Opportunities for Women and Men Monitoring Law and Practice in Turkey" (Şenol et al., 2005); the report prepared by the EU *Acquis* Examination Commission of the Turkish Confederation of Employer Associations (TİSK) entitled "The EU's Social Policy and Employment *Acquis* and Turkey" (TİSK, 2006); and the report prepared by the Women's Labour and Employment Initiative (KEİG) entitled "Equality between Women and Men in Working Life in the EU: A Comparative Examination for Turkey" (KEİG, 2008) are useful resources for a more updated comparison of the Turkish legislation with the EU directives.

Regarding the analysis of the legislative harmonisation, it should be noted that Turkey's adaptation to the EU *acquis* is a very dynamic process and very often new laws are passed, amendments to already existing laws are made, new harmonisation packages are proposed and enacted in Turkey. Although the screening documents and above-mentioned reports give detailed overview of the legislative approximation to the EU *acquis*, since their time of writing, some other new legal measures have been introduced, especially after 2008. Accordingly, whenever it is necessary, the legislative harmonisation refers to the most recent pieces of Turkish legislation existing by the beginning of 2011, depending on the original texts of the legal arrangements and their reasoning. In that sense, the following analysis also updates the previous studies. Still, the possibility of missing a marginal amount of provisions is reserved.

The third stage of the analysis of legislative harmonisation is the identification of the level of policy fit both in 1999 (t_0) and by the end of 2010 (t_1). The 1999 is considered as the best reference point in time because it is the year in which Turkey has been given a formal candidate country status by the EU as announced by the Helsinki European Council Summit. In other words, 1999 is the year in which Turkey became officially bound with the European *acquis* as an intrinsic part of the candidacy process. Although the concept of "fit" may refer to different understandings in different academic disciplines, here it will be identified by first broadly looking at the existence or non-existence of relevant principles and provisions of the EU directives in the Turkish legislation in 1999 and by the end of 2010; and second, by identifying the issues which are not still covered by the Turkish

legislation by the end of 2010. In order to ensure a better identification of policy fit/misfit, this exercise depends both on the input of the Turkish authorities and experts throughout the screening process, and on the findings and perceptions of the European Commission (as the most visible EU actor in this process), as indicated in its annual Regular/Progress Reports and the Screening Report on Turkey. As a result of this exercise, three levels of policy fit will be identified: low, medium and high. High level of policy fit (low level of policy misfit) means that the provisions of the particular EU directive already exist in the Turkish legislation. Medium level of policy fit/misfit means that some aspects of the provisions of the EU directive in question are covered in the Turkish legislation, but in a way to leaving some other principles outside its scope. Finally, low level of policy fit (or high level of policy misfit) means that the provisions of the relevant EU directive do not exist at all in the Turkish legislation.

The degree of adaptational pressures created by each EU directive in Turkey will be identified at the end of this section (Section 4.4.2) in the light of the data and identified level of policy fit derived from the analysis. In that section the level of policy fit in 1999, the degree of adaptational pressures in 1999, the level of policy fit by the end of 2010, the outcome of domestic policy change, and the level of transposition by the end of 2010 are summarised visually in one table. In addition, the issues of policy misfit in the Turkish legislation as a result of its comparison with nine EU directives by the end of 2010 are listed in another table. The difference between the degree fit/misfit in 1999 when Turkey was announced as an official candidate country, and the degree of fit/misfit by the end of 2010 is expected to help in identifying the outcome of domestic policy change in Turkey in a number of categories, such as no change, moderate change and radical change. In addition, such a comparison will also be helpful in identifying the level of legal transposition in Turkey by the end of 2010. The section will conclude with a critical reflection on the potential of existing adaptational pressures created by the policy misfit in explaining the outcome of domestic policy change in the field of equality between women and men at work in Turkey.

4.4.1 Legislative harmonisation in Turkey in the field of equality between women and men at work

4.4.1.1 Directive 75/117

Council Directive 75/117/EEC of 10 February 1975 on the approximation of the laws of

the Member States relating to the application of the principle of equal pay for men and women

4.4.1.1.1 Content of the Directive

The Directive 75/117, which is first directive enacted by the European Communities on equal pay and in the social field (Süral, 2002: 174), prohibits discrimination on the grounds of sex in relation to pay, by clarifying the scope of the Article 141 of EC Treaty[68] on the equality between women and men in matters of employment and occupation. The Directive is repealed by the Recast Directive 2006/54/EC[69] with effect from 15 August 2009.[70]

The Directive defines the implementation of the principle of equal pay "for the same work or for work to which equal value is attributed", as "the elimination of all discrimination on grounds of sex with regard to all aspects and conditions of remuneration"[71] (Article 1/1); and states that "where a job classification system is used for determining pay, it must be based on the same criteria for both men and women" to exclude any discrimination on grounds of sex (Article 1/2). The Directive ensures the opening of the way to judicial process for employees who consider themselves wronged by failure to apply this principle (Article 2) and protects complainants against the employer's reaction, i.e. dismissal or victimisation (Article 5). The Directive asks for the abolition of all discrimination between men and women arising from laws, regulations or administrative provisions which is contrary to the principle of equal pay (Article 3) and requires the nullification or amendment of the provisions appearing in collective agreements, wage scales, wage agreements or individual contracts of employment which are contrary to the principle of equal pay (Article 4). In addition, application of the principal of equal pay should be ensured and can be observed (Article 6)[72] and employees, by all appropriate means, should be informed of measures taken in application of the directive (Article 7).

4.4.1.1.2 Legal comparison: Turkish legislation

In Turkish legislation, since the 1950s, there have always been provisions regarding the

[68] Former Article 119 of the EEC Treaty.
[69] Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast)
[70] The corresponding articles of the repealing Directive 2006/54 are compared with the provisions of the Directive 75/117 and any change regarding the principles is noted.
[71] The statement of "all discrimination" is changed as "direct and indirect discrimination" in the Article 4 of the Directive 2006/54
[72] The Article 6 of the Directive 75/117 does not correspond with any of the provisions of the Directive 2006/54.

principle of equal pay for equal work or work of equal value for men and women in a number of laws. For many laws, which did not refer to the equal pay principle, the Article 10 of the Constitution has been the major reference. In 1967, Turkey signed the Equal Remuneration Convention No. 100 of ILO and the principle was included in the previous Labour Law No. 1475.

With the adoption of the new Labour Law No. 4857 in 2003, the principle was restated that "differential remuneration for similar jobs or for work of equal value is not permissible" and in case of failing to comply with this article, employers or their representatives are fined with an amount[73] for each worker (Article 99/a). For the public sector, Law No. 657 on Civil Servants requires the determination of the salaries of civil servant irrespective of their sex (Article 43), hence no discrimination in terms of salary of civil servants is allowed. In addition, Regulation on Minimum Wage[74] states that no discrimination can be made on the grounds of sex[75] in determining the minimum wage (Article 5). In terms of collective agreements, Law on Collective Agreements, Strikes and Lock-outs No. 2822 forecloses labour agreements that are contrary to the other binding provisions and regulations (Article 5). Another important legal reference regarding the principle of equal pay is found in the Constitution of the Turkish Republic. The Article 10 of the Constitution ensures equality before law and in a separate paragraph states that "men and women have equal rights and the State shall have the obligation to ensure that this equality exists in practice".

In Turkey, neither in the public nor in the private sectors, any job classification system is used for determining the pay. İŞKUR prepared a "Turkish Occupations' Dictionary"[76] but it has not been used for the purposes of classification of pay according to occupations.

The notion and definition of pay is not directly included in the Directive 75/117. However it refers to and is based on the Article 141[77] of the EC Treaty and the ECJ jurisprudence in this regard. Thus, an important component of the directive can be considered as the

[73] In the year 2009, this amount was 50 Turkish Lira, which was equal to, approximately 20 Euro.
[74] Official Journal dated 01.08.2004 Issue: 25540.
[75] In the Regulation, sex is listed among other grounds such as language, race, political opinion, philosophical belief, religion and sect or any such considerations.
[76] Available at www.iskur.gov.tr/Meslek/meslek.aspx.
[77] In the second paragraph of the Article 141 of the EC Treaty the notion of pay is defined as: '"pay" means the ordinary basic or minimum wage or salary and any other consideration, whether in cash or in kind, which the worker receives directly or indirectly, in respect of his employment, from his employer'. In addition, equal pay without discrimination based on sex means that "a) that pay for the same work at piece rates shall be calculated on the basis of the same unit of measurement; b) that pay for work at time rates shall be the same for the same job.'

compliance of the domestic *notion of pay* with the Article 141 and existence of *definition of pay* in the law. The Article 55 of the Constitution refers to the wage and states that "wages shall be paid in return for work and the state shall take the necessary measures to ensure that workers earn a fair wage commensurate with the work they perform and that they enjoy other social benefits". The Labour Law No. 4857 (Article 32/1) and Maritime Labour Law No. 854 (Article 29) defines wage as "the amount provided and paid in cash to a person by the employer or third persons in return for work performed", and Civil Servants' Law No. 657 defines salary as "the amount paid to civil servants based on pay scale for their services" (Article 147).

The *protection against retaliatory dismissal* (Article 5 of the Directive), was already referred in the former Labour Law No. 1475 under the misuse of the right of termination of contract by the employers. Historically speaking, women civil servants have not been subject to such risks of dismissal or unequal pay due to the provisions in the Law on Civil Servants No. 657 dated back to 1965. The new Labour Law No. 4857 regulates the conditions for dismissal and rights for two groups of workers: workers who are not covered by job security system (Article 17) and those who are covered by job security system (Article 18-21). For the former group of workers, if the labour contract of the worker is terminated through misuse of the right of termination, the worker is paid an indemnity equal to three times of the notification period (Article 17/5). In addition, the worker can demand the rights that she/he has been deprived of besides an appropriate indemnity equivalent up to four months' wage if there is any contradiction to the principle of equality in the business relation or termination (Article 5/6). For the workers covered by job security system, application to administrative and judicial authorities against employer in line with the laws or the contract (Article 18/c) or sex, marital status, family obligations, pregnancy, birth etc. (Article 18/d) do not constitute a valid reason for termination. If the termination is decided to be ineffective, the employer is obliged to re-employ the worker within one month or pay an indemnity equal to minimum four and maximum eight months' wage to the worker (Article 21/1). In addition, Article 5/6 is also applicable to this group of workers. The Law on Civil Servants No. 657 in the Article 125/E lists the conditions in which civil servants can be dismissed, among which "dismissal as a reaction to a complaint or to a legal proceeding aimed at enforcing with compliance with the principle of equal pay" is not mentioned.

One of the questions posed by the EU side during screening process was whether or not *the*

right to equal pay extended to all persons covered, including civil servants. The Labour Law No. 4857 states that its provisions apply to all businesses, other than the exceptions given in Article 4, employers and employer representatives and workers of these businesses, regardless of their subject of activity (Article 1) and accordingly the Article 4 lists the exceptions for the specified businesses and business relations[78]. However, Law No. 657 covers all the civil servants (Article 43).

Another question from the EU side was whether or not part-time workers are paid *pro rata temporis*[79]. The Turkish legislation refers to part-time work in the Labour Law No. 4857 Article 13/2 stating that part-time labour contact cannot be subject to different procedures than full-time equivalent worker unless a reason justifying such discrimination exists. Part-time workers' divisible benefits (wage and money) are paid in proportion to the employment time compared to the full-time worker (Article 13/2).

The Article 35 of the Law on Trade Union No. 2821 states that the employees should be informed by the official workplace representatives of the trade unions, in the enterprises where collective bargaining exist.

4.4.1.1.3 Level of fit

The principle of equal pay for work in equal value entered into the Turkish law for the first time in 1950.[80] Previous Labour Law No. 1475, dated 1971, also included provisions on the equal pay to women and men in Article 26/4, with an emphasis on "equal productivity" in addition to the notion of work of equal value, which was not mentioned in the European or ILO provisions. However, during the implementation of that article no problems were encountered since the "productivity" measurements were generally not used (Süral, 2002: 176). In addition, previous by-law on Minimum Wage dated 1972[81] also reinforced non-

[78] The Article 4 of the Labour Law No. 4857 states that the Labour Law do not apply to the following activities and employment relationships: (a) sea and air transport activities; (b) in establishments and enterprises employing a minimum of 50 employees (50 included) where agricultural and forestry work is carried out; (c) any construction work related to agriculture which falls within the scope of family economy; (d) in works and handicrafts performed in the home without any outside help by members of the family or close relatives up to (and including) 3rd degree; (e) domestic services; (f) apprentices, without prejudice to the provisions on occupational health and safety; (g) sportsmen; (h) those undergoing rehabilitation; (i) establishments employing three or fewer employees and falling within the definition given in Article 2 of the Tradesmen and Small Handicrafts Act.

[79] "Pro rata temporis" means being in proportion to the length of time involved. www.eurofound.europa.eu/emire/FRANCE/PRORATA-FR.htm.

[80] With the Law (Official Journal 31.01.1950, Issue 7420) amending some of the articles of the Labour Law No. 5518. Although it was annulled later on, the principle became a part of the Labour Law No. 1475 dated 1971.

[81] Official Journal dated 12.02.1972 Issue 14097.

discrimination in the determination of the minimum wage. For other kind of laws, which did not refer to the equal pay principle, the Article 10 of the Constitution has been a reference, even before its amendment and addition of the specific reference paragraph regarding equality between women and men in 2004.

Equal pay principle, as a part of a broader understanding of gender equality embedded in human rights and in particular to the working life of women, has also been a part of various international conventions that Turkey ratified: the United Nations Convention of Elimination of All Forms of Discrimination against Women (CEDAW) and the Optional Protocol of CEDAW; International Labour Organisation (ILO) Conventions No.100 and No.111[82]; the European Convention for the Protection of Human Rights and Fundamental Freedoms[83] and the European Social Charter[84]. Equal pay principle in particular is referred in the Article 11 on Employment, of CEDAW and ILO Conventions No. 100 on Equal Remuneration for Men and Women Workers for Work of Equal Value and No.111 Convention concerning Discrimination in respect of Employment and Occupation. As stated earlier, Turkey has ratified and been a part of all these international conventions and accepted to implement those international standards.

Looking at the former and recent legislative framework in Turkey, it is possible to argue that the principle of equal pay as a concept put forth in the Directive 75/117/EEC was not alien to the Turkish legislative system both because of the legacy from the first years of the Republic and being a party to various international agreements and conventions since the 1960s (ILO conventions) and the 1980s (CEDAW). Regarding the legal compliance, there is a consensus both at the national and international level that basic legal provisions that ensure the equality between women and men exist in Turkey even before 1999. In the Screening Report, it was also stated that the principle of equal pay for women and men was guaranteed by law, as required by the *acquis*, as pertaining to all employees covered in the scope of Labour Law as well as civil servants. In this sense, the level of policy fit between the Turkish legislation with the Directive 75/117/EEC was *high* in 1999 and it remained high by the end of 2010. However, many Progress Reports (2002, 2003, 2004, 2005, and 2006) and the Screening Report indicated the fact that the gender pay gap for the private

[82] ILO Convention No. 100 was adopted in 1951 and No. 111 in 1958. Turkey accepted both of these conventions in 1967.
[83] This Convention was adopted by the Council of Europe in 1950 and Turkey ratified the Convention in 1954.
[84] European Social Charter, adopted by the Council of Europe in 1961, was accepted by Turkey by Law No. 3581 in 1989.

sector prevailed in Turkey, thus the implementation of the legal provisions were to be guaranteed.

Law No.	*Title of the Law*	*Date of Enactment*	*Date(s) of Amendment*[85]	*75/117/EEC* related Articles
-	Constitution of the Turkish Republic	7/9.11.1982	07.05.2004 (Law No. 5170)	10; 55
4857	Labour Law	22.05.2003	-	5; 32/1; 17; 18-21; 1; 4; 5/6; 13/2; 99/a
657	Law on Civil Servants	16.07.1965	various[86]	43; 147; 125E;
2822	Law on Collective Labour Agreements, Strikes and Lock-outs	05.05.1983	-	5
854	Maritime Labour Law	20.04.1967	-	29
25540	Regulation on Minimum Wage	01.08.2004	-	5
2821	Law on Trade Unions	05.05.1983	25.05.1988 (Law No. 3449)	35

Table 23: List of laws referred in the comparison of Turkish legislation with Directive 75/117

4.4.1.2 Directive 76/207 and Directive 2002/73

Council Directive 76/207/EEC of 9 February 1976 on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions; and, *Directive 2002/73/EC of the European Parliament and of the Council of 23 September 2002 amending Council Directive 76/207/EEC on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions*

4.4.1.2.1 Content of the Directive

Directive 76/207 was issued with the aim of implementing "the principle of equal treatment for men and women as regards access to employment, including promotion, and to vocational training and as regards working conditions and social security" and asking the Member States to actively consider the objective of equality between men and women in the formulation and implementation of "laws, regulations, administrative provisions, policies and activities in the areas referred within the purpose of the Directive" (Article 1). The Directive covers both private and public sectors.

[85] Date of amendment refers to the amendment of the articles mentioned in relation to the Directive in question. The number(s) of the laws which amended those provisions are also noted.

[86] 31.7.1970 Law no. 1327; 15.01.1974 By-law 9; 30.5.1974 By-law 12/1; 15.05.1975 Law No. 1897; 13.10.1978 By-law 14; 20.2.1979 Law no. 2183; 12.02.1982 Law no. 2595 for the Article 43; 31.07.1970 Law no. 1327; 23.12.1977 By-law 2; 08.10.1973 By-law 8; 30.05.1974 By-law 12; 15.05.1975 Law no.1897 for the Article 147; and, 31.07.1970 Law no. 1327; 23.12.1972 By-law 2; 12.5.1982 Law no. 2670 for the Article 125E.

In 2002, the Directive 76/207 was amended with the Directive 2002/73/EC in order to increase the directive's effectiveness as a tool for enhancing national legislation on equal treatment between women and men on the labour market. The Directive 2002/73 further clarified some definitions; inserted new provisions; and replaced or deleted some articles of the Directive 76/207. In 2006, both directives were repealed by the Directive 2006/54/EC with effect from 15 August 2009.[87] The Directive 2006/54 did not make any substantial change to the content of the equal treatment Directive.

Article 2/1 of the Directive reiterates that the principle of equal treatment means that "there shall be no discrimination whatsoever on grounds of sex either directly or indirectly by reference in particular to marital or family status." Article 2/2 provides the *definitions* of the concepts of direct and indirect discrimination; harassment; and, sexual harassment, where the latter two acts as well as "an instruction to discriminate against persons" are also considered as "discrimination on the grounds of sex and therefore prohibited" (Article 2/3 and 2/4). Necessary measures are required to encourage employers and those responsible for access to vocational training in order to "prevent all forms of discrimination on grounds of sex, in particular harassment and sexual harassment at the workplace" (Article 2/5). Article 2/6 expresses the conditions of limited exceptions of equal treatment, such as those due to the genuine and determining occupational requirement by reason of the nature of the particular occupational activities or of the context in which they are carried out. Article 2/7 states that "less favourable treatment of a woman related to pregnancy or maternity leave" also constitutes discrimination; women at the end of the maternity leave should be entitled to return her job or an equivalent post; and Member States can also "recognise distinct rights to paternity and/or adoption leave." In addition, the Member States are free to maintain and adopt measures of "positive action"[88] to ensure full equality in practice (Article 2/8).

The Directive in Article 3 defines the scope of the application principle of equal treatment in public and private sectors in regard to: (a) conditions for access to employment, to self-

[87] The summary of the content of the Directive provided in this section is based on the amended version of the Directive 76/207 with the Directive 2002/73. The corresponding articles of the repealing Directive 2006/54 are also compared with the provisions of the amended Directive 76/207 and no substantial change is noted.

[88] Within the meaning of Article 141(4) of the Treaty, which states that "With a view to ensuring full equality in practice between men and women in working life, the principle of equal treatment shall not prevent any Member State from maintaining or adopting measures providing for specific advantages in order to make it easier for the underrepresented sex to pursue a vocational activity or to prevent or compensate for disadvantages in professional careers."

employment or to occupation, including selection criteria and recruitment conditions, in all branches of activity and at all levels of the professional hierarchy, including promotion; (b) access to vocational guidance and training; (c) employment and working conditions, including dismissals, as well as pay[89]; (d) membership of, and involvement in, an organisation of workers or employers. In order to ensure that, necessary measures, such as abolishment or amendment of any legislation or provisions contrary to the principle of equal treatment, should be taken by the Member States (Article 3/2).

The Directive also requires the existence of judicial and/or administrative procedures for those who consider themselves wronged by failure to apply the principle of equal treatment to them (Article 6/1). Compensation or reparation for the loss and damage sustained by the injured person as a result of discrimination is also foreseen (Article 6/2). The Member States are asked to ensure the engagement of the legal entities, which have a legitimate interest, either on behalf or in support of the complainants in any judicial and/or administrative procedure (Article 6/3). In addition, protection for the employees and their representatives against dismissal or other type of victimisation by the employer as a reaction to a complaint should be introduced (Article 7). Member States are also responsible for the dissemination of information regarding the provisions of this Directive by bringing to the attention of all the persons concerned by all appropriate means (Article 8).

An important component of the Directive is the requirement of an *Equality Body*. The Article 8/a defines it as "a body or bodies for the promotion, analysis, monitoring and support of equal treatment of all persons without discrimination on the grounds of sex"; and the competencies of these bodies are listed as "providing independent assistance to victims of discrimination in pursuing their complaints about discrimination"; "conducting independent surveys concerning discrimination"; and, "publishing independent reports and making recommendations on any issue relating to such discrimination."

Article 8/b requires the promotion of social dialogue between the social partners with a view to fostering equal treatment, including encouraging employers to promote equal treatment and provide information in the workplace in a planned and systematic way. Dialogue is also foreseen with the non-governmental organisations which work to contribute to the fight against discrimination based on sex and to promote the principle of

[89] As provided in the Article 141of the Treaty.

equal treatment (Article 8/c). Effective, proportionate and dissuasive penalties applicable to infringements of the provisions should also be adopted (Article 8/d). Article 8/e on the minimum requirements states that more favourable provisions for the protection of the principle of equal treatment may be introduced or maintained by the Member States, whereas the implementation of this Directive does not constitute grounds for a reduction in the level of protection against discrimination already in force in the fields covered by this Directive.

4.4.1.2.2 Legal comparison: Turkish legislation

Regarding the *principle of equal treatment as regards the access to employment*, in addition to its Article 10 ensuring equality before law, the Constitution guarantees that "everybody has the freedom to work and conclude contracts" (Article 48); "everyone has the right and duty to work" (Article 49); "every Turkish citizen has the right to enter the public service", with no criteria other than the qualifications of the office (Article 70) and "everyone has right to have social security" (Article 60).

Regarding the principle of equal treatment; *exceptions* for the equal treatment; giving *instructions to discriminate* and less favourable treatment related to pregnancy and maternity; and, *prohibition of direct and indirect discrimination* on the grounds of sex in relation to the areas defined in Article 3 of the Directive, the Labour Law No. 4857 indicates that "no discrimination based on language, race, sex, political opinion, philosophical belief, religion and sex or similar reasons is permissible in the employment relationship" (Article 5/1) and "except for biological reasons or reasons related to the nature of the job, the employer must not make any discrimination, either directly or indirectly, against an employee in the conclusion, conditions, execution and termination of his(her) employment contract due to the employee's sex or maternity" (Article 5/3). The general provisions of the Civil Servants' Law on access to employment, promotion, training and working conditions as well as social security for civil servants are regardless of sex. The Law on Collective Labour Agreement, Strike and Lock-out indicates that collective agreements cannot include clauses contrary to binding provisions of laws and regulations (Article 5). Law on Trade Unions No. 2821 states that "any person who is a worker within the meaning of this Law and over 16 years of age may join a trade union" and "any employer within the meaning of this Law may join an employer's union" (Article 20). Law on Trade Unions for Civil Servants No. 4688 indicates that "civil servants can

become members of the trade unions, established in their work branch" (Article 14), where Article 15 lists those who cannot be members to the trade unions, regardless of sex but due to their positions and particular occupations.

In certain occupational laws there have been provisions to define jobs where sex of a worker constitutes a determining factor. An example has been the Nursing Law, where there was a requirement of being woman to be able to perform the nursing profession. However, that condition in the Nursing Law was abolished by Law No. 5634 in 2007.

In the Turkish legislation, there is *no provision prohibiting gender specific advertising* in the private sector. In the public sector, the problem of discriminatory job advertisements, which put conditions of being male for the recruitment, has been observed until when the Prime Ministry published a Circular 2004/7, dated 24 January 2004. In the Circular, throughout the process of recruiting public personnel, all public institutions are asked to determine the conditions of employment in line with the requirements of the job, and to act against giving the impression of discriminating based on sex. In another circular of the Prime Ministry Circular 2010/14[90] entitled "Increasing Women's Employment and Ensuring Equal Opportunities", the public bodies are informed that there should be no discrimination based on sex throughout the participation in job entrance examinations and in-house training courses, as well as promotion in the institution.

In relation to the principle of equal treatment as regards *access to vocational training*, the general provisions on training, working conditions and social security of the Law on Vocational Training do not contain gender discriminatory statements and there exist vocational and technical schools for both boys and girls as a part of the formal education system. In relation to the principle of *equal treatment as regards social security*, the Article 7 of the Social Insurance and Universal Health Insurance Law indicates the period for being considered as insured for different categories of employees and self-employed covered by the scope of the Law.

There are some provisions in the Turkish legislation *to protect women* against particular types of work. The Constitution Article 50 states that "no one shall be required to perform work unsuited to his age, sex and capacity" and "minors, women and persons with physical or mental disabilities shall enjoy special protection with regard to working conditions." The Labour Law No. 4857 indicates that women must not be employed at underground or

[90] Official Journal No. 27591, dated 25 May 2010.

underwater positions such as in mines, cabling and the construction of sewerage and tunnels (Article 72). In the Annex I of the Regulation on Hard and Dangerous Work No. 25494, types of work where women cannot work are listed in detail. In addition, Regulation No. 25548 on Working Conditions of Female Workers at Night Shifts regulates the working durations of women at night shifts as seven and a half hours (Article 5) and requires a medical report from the doctor of the work place (Article 7). The Regulation No. 25425 on Overtime Work and Work for Extra Duration prohibits pregnant worker's overtime work. Similarly, the Regulation No. 25522 on the Working Conditions of Pregnant or Breastfeeding Women, Breastfeeding Rooms and Child Nursing Homes includes provisions to forbid women who have recently given birth from doing overtime and night work (Articles 9 and 10).

In the Turkish legislation, there are *no definitions* for direct and indirect discrimination, harassment and sexual harassment. However, the Labour Law and Penal Code include provisions which concern *sexual harassment* and *discrimination* cases. Article 24/IId of the Labour Law includes sexual harassment and failure of the informed employer to take necessary measures against such situations, as one of the causes where the employee is allowed to terminate the working contract. Article 25/IIc gives the same right to the employer "if the employee attempts sexual harassment against another employee of the employer." Article 105 of the Penal Code foresees a term of three months to two years of imprisonment or a cash fine for sexual assault, and increases this sentence by half if the act is committed by abusing the influential position arising from hierarchy, service-providing or taking the advantage of working in the same workplace. In addition, the Article 122 of the Penal Code refers to the discrimination on the ground of gender, among others, in some cases such as not employing of a person, and foresees sentences of imprisonment or cash fine.

Regarding the *availability of effective judicial protection* to all persons who consider themselves wronged by failure to apply the principal of equal treatment, there are references in various laws such as the Constitution Article 74 on the right to petition; Article 7 of the Law No. 3071 on Petition Rights; the Labour Law Article 91; the Civil Servants' Law Article 21 and the Law No. 5521 on Labour Courts (Articles 1 and 10). Trade unions and confederations may open a law suit and/or represent their members before court (for the workers, Law on Trade Unions Article 32/3; and, for the civil servants Law on Trade Unions for Civil Servants Article 19/f). In the Turkish legislation, there are

no provisions to allow associations to engage either on behalf or in support of the complainant (against sex discrimination) in any judicial or administrative procedure. According to the Law on Administrative Jurisdiction "associations cannot issue a case for an individual or a member, but can issue a case only in the case of general benefits of the association" (Article 2).

Protection against dismissal is addressed in the Turkish legislation with the same provisions referred to in relation to the Directive 75/113 (equal pay).

In the Turkish administrative system, an independent *equality body* as defined in the Directive has never existed. Three institutions perform some similar duties: General Directorate on the Status of Women, which is responsible for the promotion, analysis, coordination and monitoring of gender equality at the national level; Prime Ministry Human Rights Presidency, which is responsible for monitoring the implementation of human rights related regulations, examining human rights violation claims and research at provincial level country-wide; and, Ministry of Labour and Social Security, which is responsible for the investigation of the issues of unequal implementation at work.

There are no such legal provisions in the Turkish legislation, which encourage the prevention of discrimination, social dialogue and dialogue with NGOs (respectively Articles 2/5, 8b and 8c of the Directive).

Some laws in the Turkish legislation foresee a degree of *sanctions* in case of discrimination based on sex. The Labour Law No. 4857 (Articles 17/5, 5/6, 21/1 and 99/a) defines the amount and conditions of paying indemnity to the worker. The Article 122/1 of the Penal Code also foresees imprisonment and cash fines for those practicing discrimination, on grounds which also cover gender. In addition, the Civil Servants' Law defines the conditions for various disciplinary penalties, covering the case of discrimination based on sex (Article 125).

In some cases, upper limits are defined for compensations referred in the provisions: for example Article 21 of the Labour Law indicates that "If …the employer does not re-engage the worker in work, compensation to be not less than the employee's four months' wages and not more than his eight months' wages shall be paid to the worker by the employer."

4.4.1.2.3 Level of fit

Albeit to a limited extent, some of the principles of the Directive such as equal treatment

throughout the employment relationship were already included in the Turkish legislation before the 1999. Some of the contradictory principles in the Turkish legislation, as criticised in the Screening Report such as asking for a gender condition in certain occupational laws (such as the requirement of being a woman in the Nursing Law), were aligned with changes in the relevant laws after 1999.

However, there are still other principles, which have never been regulated or existed in the Turkish legislation before and after 1999. Similar to the previous Labour Law No. 1475, the new Labour Law No. 4857 regulates the employment relationship only after such a relationship is established by signing the employment contract, within which equal treatment has been foreseen. However, the process of *access to employment*, i.e. recruitment process, has not been covered within the scope of the laws (Şenol et.al. 2005: 18). As also stated in the Screening Report, in practice, it is possible to find many instances of gender specific advertising both in the private sector. Thus, many Progress Reports (2002, 2004, 2005, and 2006) as well as the Screening Report indicated the need for further alignment in this regard.

Although direct and indirect discrimination, harassment and sexual harassment are mentioned in various laws, these concepts are *not clearly defined* in the Turkish legislation in a way as provided by the Directive. The Screening Report indicated that as regards access to employment, vocational training and promotion, and working conditions, there are no definitions for direct and indirect discrimination, harassment and sexual harassment in the Turkish legislation and the 2008 Progress Report reiterated this incompatibility. However, by the end of 2010, those definitions have not yet been legally defined in the Turkish legislation.

In addition, there is *no equality body* in Turkey as defined in the Directive. Non-existence of an equality body as a major challenge among others in ensuring gender equality in Turkey has continuously been indicated in almost every Progress Report since 2002, and in the Screening Report, urging Turkey to take the necessary steps to establish an independent equality body.

There are no such legal provisions in the Turkish legislation, which encourage the prevention of discrimination, *social dialogue and dialogue with NGOs*.

Therefore, the level of policy fit of the Turkish legislation with the provisions of the Directives 76/207 and 2002/73 both before and after 1999 can be considered *medium*, since

many major requirements of the Directive have not existed in the Turkish legislation. Only limited number of legislative changes were realised such as the removal of gender condition for joining some professions.

Law No.	*Title of the Law*	*Date of Enactment*	*Date(s) of Amendment*	*76/207 and 2002/73* related Articles
-	Constitution of the Republic of Turkey	7/9.11.1982	07.05.2004	10; 48; 49; 50; 60; 70; 74
4857	Labour Law	22.05.2003		5; 24/IId; 25/IIc; 72; 91; 17/5; 99
5237	Penal Code	26.9.2004	-	105; 122
657	Civil Servants' Law	16.07.1965	12.05.1982 (Law No. 2670) 31.07.1970 (Law No.1327) 23.12.1972 (By-law No. 2) 12.05.1982 (Law No. 2670)	48; 21; 125
5510	Social Insurance and Universal Health Insurance Law	31.05.2006	17.04.2008 (Law No. 5754)	7
6283	Nursing Law		25.04.2007 (Law No. 5634)	1
3308	Law on Vocational Training	05.06.1986	-	10
2822	Law on Collective Labour Agreement, Strike and Lock-out	05.05.1983	-	5
-	Law on Administrative Jurisdiction			2
3071	Law on the Right to Petition	01.11.1984	02.01.2003 (Law No. 4778)	7
5521	Law on Labour Courts	30.01.1950	-	1; 10
2821	Law on Trade Unions	05.05.1983	-	20; 32/3
4688	Law on Trade Unions for Civil Servants	25.06.2001	-	14; 19/f
25494	Regulation on Hard and Dangerous Work	16.06.2004	-	4; Annex I
25548	Regulation on Working Conditions of Female Workers at Night Shifts	09.08.2004	-	5; 7
25425	Regulation on Overtime Work and Work for Extra Duration	06.04.2004	-	8
25522	Regulation on the Working Conditions of Pregnant or Breastfeeding Women, Breastfeeding Rooms and	14.07.2004	-	9; 10

	Child Nursing Homes			

Table 24: List of laws referred in the comparison of Turkish legislation with Directive 76/207 and 2002/73

4.4.1.3 Directive 79/7

Council Directive 79/7/EEC of 19 December 1978 on the progressive implementation of the principle of equal treatment for men and women in matters of social security

4.4.1.3.1 Content of the Directive

The Directive 79/7 aims at the implementation of the principle of equal treatment for men and women in the matters of social security (Article 1). The Directive covers "the working population - including self-employed persons, workers and self-employed persons whose activity is interrupted by illness, accident or involuntary unemployment and persons seeking employment - and to retired or invalided workers and self-employed persons" (Article 2). The statutory schemes which provide protection against sickness, invalidity, old age, accidents at work and occupational diseases, and unemployment, as well as social assistance which supplement or replace those risks are within the scope of the Directive, but the Directive does not apply to survivor's benefits nor family benefits (Article 3/1a and 3/1b). The principle of equal treatment with regards to occupational security schemes is ensured with separate provisions.

The principle of equal treatment in matters of social security refers to existence of no discrimination on the ground of sex as concerning the scope of and access to the schemes; the obligation to contribute and the calculation of contributions; and, the calculation of benefits; where the provisions relating to the protection of women on the grounds of maternity are preserved (Article 4). Member States are responsible for abolishing legislation contrary to the principle of equal treatment (Article 5) and for introducing measures to enable all persons who consider themselves wronged by failure to apply the principle of equal treatment to pursue their claims by judicial process (Article 6).

The Directive excludes the following from its scope: "the determination of pensionable age (old-age and retirement pensions); advantages granted to persons who have brought up children (old-age insurance, acquisition of benefit entitlements following periods of interruption of employment); the granting of old-age or invalidity benefit entitlement by virtue of the derived entitlements of a spouse; the granting of increases of long-term invalidity, old-age, accidents at work and occupational disease benefits for a dependent spouse; the consequences of the exercise, before the adoption of the Directive, of a right of option not to acquire rights or incur obligations under a statutory scheme" (Article 7).

Member States are responsible for periodically examining the justifications for maintaining the exclusions.

4.4.1.3.2 Legal comparison: Turkish legislation

In Turkey, there is a general social security scheme covering the whole working population. Until 2006, social insurance covering old-age, health care, invalidity, sickness, maternity, occupational injuries and diseases, unemployment, and survivor's benefits were provided mainly by four institutions: Retirement Fund for the civil servants; Social Insurance Institution for the workers and agricultural employees; Social Insurance Institution for the self-employed, and self-employed in agriculture; and Turkish Employment Organisation (İŞKUR) for the employees covered by unemployment insurance. The previous social security laws[91] under the three-pillar system of social security system in Turkey were already in line with the Directive (Süral, 2002: 199-200). In May 2006, with the adaptation of the Law No. 5520 on Social Security Institution, former three institutions were brought under the umbrella of the Social Security Institution, to be responsible for the management and the sustainability of the social security system in Turkey.

The Social Insurance and Universal Health Insurance Law No. 5510 enacted in 2006[92] states that social insurance cover "short term insurance branches", namely work accident and occupational diseases, health and maternity insurance; and "long term insurance branches" which are invalidity, old-age and survivor's insurance branches (Articles 3/3, 3/4 and 3/5), where the insurance holder is "the individual, for whom premium should be paid or who should pay premium in terms of short and/or long term insurance branches" (Article 3/6).

According to the Law on Unemployment Insurance Law No. 4447, unemployment insurance is compulsory (Article 48). This law applies to those specified in the Law No. 5510 on Social Insurance and Universal Health Insurance; to those who are subject to the funds referred to in the same Law; and foreign workers working under an employment

[91] Law No. 506 on Social Security dated 1964; Law No. 5434 on Retirement Fund (for civil servants) dated 1949; Law No. 2925 on Social Security of Agricultural Workers dated 1983; Law No. 1479 on Social Security for the Self-employed dated 1971; and, Law No.2926 on Social Security for Self-employed in Agriculture dated 1983.

[92] Date of entry into force of this law changed several times. When the law was enacted in May 2006, the date of entry into force was announced as 1 January 2007. Upon the annulment decision of the Constitutional Court, the date was postponed three times and announced as 1 June 2008 and the Law entered into force finally in October 2008.

contract. The insured unemployed people are provided unemployment benefit; premiums of insurance in line with the Law No. 5510; finding a new job; and, training and vocational training (Article 48). In the screening process the Turkish authorities stated that all the provisions on scope, access to scheme, contributions, calculation of unemployment insurance benefits and services provided are the same for men and women.

Before the enactment of the Social Insurance and Universal Health Insurance Law No. 5510 retirement age was 58 for women and 60 for men for all institutions. Article 28 of the Law No. 5510 indicates that "for the individuals who are deemed to be insurance holder with this Law for the first time", the age condition of retirement will gradually be equalised, and applied as 65 both for women and men as of 31 December 2047.

The pension for civil servants is calculated by reference to the number of years in service and also by reference to the last salary received before retirement. Disputes stemming from the implementation of the laws for statutory social security schemes are dealt with in labour courts.

4.4.1.3.3 Level of fit

The previous social security laws[93] under the three-pillar system of social security system in Turkey in 1999 were already in line with the Directive (Süral, 2002: 199-200). Similarly after 2006, compatibility with the EU was still sustained. By the end of 2010, there is no discrimination between women and men in terms of access to social security, contributions and benefits in the Turkish legislation (Bolcan, 2010: 271). The Screening Report prepared by the European Commission also stated that all provisions as regards statutory social security on scope, access to schemes, obligation to contribute, calculation of contributions and benefits are the same for women and men. Thus, both under the previous system of statutory social security and that after the adoption of the Law No. 5510, the level of policy fit between the Directive 79/7 and the Turkish legislation has been *high*.

Interestingly, throughout the screening process, the European Commission investigated about the retirement ages for women and men in Turkey, although unequal pensionable ages may be permitted under the derogations in Directive 79/7. The Screening Report referred to the social security reform package, which equalised the retirement age for men

[93] Law No. 506 on Social Security dated 1964; Law No. 5434 on Retirement Fund (for civil servants) dated 1949; Law No. 2925 on Social Security of Agricultural Workers dated 1983; Law No. 1479 on Social Security for the Self-employed dated 1971; and, Law No.2926 on Social Security for Self-employed in Agriculture dated 1983.

and women, but also criticised it stating that it would not be equal until 2048. In addition, the Screening Report indicated that further adaptations appeared necessary with respect to different retirement ages for women and men in the civil service. With the enactment of the Law No. 5510 in 2006, different retirement ages for women and men (58 and 60 respectively) were gradually equalised at 65 by 2048. Thus, inequality in this regard was eliminated.

The 2008 NPAA refers to four pieces of primary and secondary legislation to be enacted in the period 2007-2008 with reference to Directives 79/7 and 2006/54: the rearrangements in the Law No. 5510 within the framework of the annulment decision of the Constitutional Court; secondary legislation to be enacted for the implementation of the Social Security Institution Law No. 5502; Implementing Regulation on Insurance Procedures and Implementing Regulation on Health Insurance Procedures for the implementation of the Social Insurances and Universal Health Insurance Law.

Law No.	*Title of the Law*	*Date of Enactment*	*Date(s) of Amendment*	*79/7/EC* related Articles
5510	Social Insurance and Universal Health Insurance Law	31.05.2006	17.04.2008 (Law No. 5754)	3; 28
5502	Law on Social Security Institution	16.05.2006	-	43
4447	Law on Unemployment Insurance	25.08.1999	17.04.2008 (Law No. 5754)	48

Table 25: List of laws referred in the comparison of Turkish legislation with Directive 79/7

4.4.1.4 Directive 86/613

Council Directive 86/613/EEC of 11 December 1986 on the application of the principle of equal treatment between men and women engaged in an activity, including agriculture, in a self-employed capacity, and on the protection of self-employed women during pregnancy and motherhood

4.4.1.4.1 Content of the Directive

As regards those aspects not covered by Directives 76/207/EEC (equal treatment) and 79/7/EEC (equal treatment in matters of social security), the Directive 86/613 aims at ensuring in the Member States the application of "the principle of equal treatment", which means "the absence of all discrimination on grounds of sex, either directly or indirectly, by reference in particular to marital or family status (Article 3)", "between men and women engaged in an activity in a self-employed capacity, or contributing to the pursuit of such an activity (Article 1)." The Directive covers self-employer workers (including farmers and

members of the liberal professions) and their spouses, not being employees or partners, participate in the activities of the self-employed worker (Article 2). Article 4 asks the Member States to take necessary measures to ensure equal treatment "in respect of the establishment, equipment or extension of a business or the launching or extension of any other form of self-employed activity including financial facilities." The Directive also requires ensuring that the conditions for the formation of a company between spouses are not more restrictive than the same conditions between unmarried persons (Article 5).

Where a contributory social security system for self-employed workers exists, Article 6 requires the necessary measures to be taken to enable the spouses who are not protected under the self-employed worker's social security scheme to join a contributory social security scheme voluntarily. In relation to pregnancy and motherhood, the Member States are responsible for the examination of the existence and conditions for the female self-employed workers' and wives of self-employed workers' access to services supplying temporary replacements or existing national social services; or of entitlement to cash benefits under a social security scheme or under any other public social protection system (Article 8). All persons who consider themselves wronged by failure to apply the principle of equal treatment in self-employed activities should be guaranteed by necessary measures to pursue their claims by judicial process (Article 9). The measures adopted in line with this Directive and relevant provisions already in force are required to be brought to the attention of bodies representing self-employed workers and vocational training centres (Article 10).

4.4.1.4.2 Legal comparison: Turkish legislation

In the Turkish legislation, there is no reference to gender in trade legislation and other financial laws. In line with the Article 5 of the Directive 86/613, there is no difference between spouses and unmarried persons in procedures for the formation of a company according to Article 5 of the Law No. 3572 on Opening a Business and Business Licence.

An important element of the Directive 86/613 Article 6 is the existence of the guarantee that spouses of self-employed, who are not protected under the self-employed worker's social security scheme, can join a contributory social security scheme voluntarily. In the Turkish legislation, the Article 50 of the Social Insurance and Universal Health Insurance Law No. 5510 provides the provisions and conditions of the optional insurance, which is "the insurance which allows individuals to be subject to long term insurance branches and

universal health insurance by paying optional premiums." Accordingly, foreign residents in Turkey and Turkish citizens who are (a) not working in a manner to require being subject to compulsory insurance in this Law or working as an insurance holder but less than 30 days a month or not working full time; (b) not being put on pension due to one's own insurance; (c) being over the age of 18; (d) applying to the Institution with a optional insurance request petition; can benefit from optional insurance.

Regarding security during pregnancy and motherhood (Article 8 of the Directive), the new Social Insurance and Universal Health Insurance Law No. 5510 proposes that together with other groups of female workers and civil servants, self-employed women, including those in agriculture, and women who join the contributory social security scheme voluntarily are entitled to the right of maternity insurance and to cash benefits under the social security scheme (Articles 15, 16, 18).

The means of judicial possibilities for persons who consider themselves discriminated (Article 9 of the Directive) are found in the Constitution (Article 125) which guarantees that recourse to judicial review is available against all actions and acts of administration. In addition, according to the Law No. 5510, disputes stemming from the implementation of that law are resolved in labour courts (Article 101). The Turkish legislation is in line with the Directive in this context.

4.4.1.4.3 Level of fit

Before 2006, the existing Law No. 2925 on Social Security for Agricultural Workers, Law No. 1479 on the Social Insurance for Craftsman, Handicraftsmen and Other Self-Employed Persons; and, No. 2926 on Social Insurance for Self-employed at the Agricultural Sector did not refer to maternity insurance and to the provision of security during pregnancy and maternity (Süral, 2001: 201, Şenol et al. 2005: 29 and TİSK, 2006: 54). In addition, the Law No. 2926 on Social Insurance for Self-Employed at Agriculture Sector included the conditionality of being "the head of the family" for women to be able to have the right to get insured. This incompatibility in various laws in the Turkish legislation was also indicated in the 2001 National Programme for the Adoptation of the *Acquis*.

Upon the abolishment of the former provision of "the husband is the head of the household" by the new Turkish Civil Code No. 4721 in 2001, this condition was lifted by the amendments through the Law No. 4956 in 2003 (Şenol et.al. 2005: 30). In addition, with the introduction of the Law on Social Insurance and Universal Heath Insurance (Law

No. 5510), the Turkish legislation was considerably brought is in line with the Directive 86/613, especially regarding security during pregnancy and motherhood. These were a step towards ensuring the application of equal treatment for the female agricultural workers.

It is possible to state that by 1999, the level of policy fit between the Turkish legislation and the Directive was *medium* due to the non-existence of legal arrangements about maternity insurance and existence of the "head of the family" clause. However, due to the changes in the Civil Code in 2001 and with the enactment of the social security law with Law No. 5510 in 2006 those incompatibilities were eliminated. As a result, the Screening Report indicated as regards self-employment that there was no difference between establishment of a company by spouses or unmarried persons, as required by the *acquis*. This means that the level of policy fit between the Turkish legislation and the Directive 86/613 is *high* by the end of 2010.

Law No.	*Title of the Law*	*Date of Enactment*	*Date(s) of Amendment*	*86/613* related Articles
5510	Social Insurance and Universal Health Insurance Law	31.05.2006	17.04.2008 (Law No. 5754)	50; 101; 15; 16; 18
3572	Law on Opening a Business and Business Licence	14.06.1989	-	5
818	Law of Obligations	22.04.1922	-	-
6762	Turkish Commercial Law	29.09.1956	-	-
-	Constitution of the Turkish Republic	7/9.11.1982	14.08.1999 (Law No. 4446)	125
4721	Civil Code	22.11.2001	-	-

Table 26: List of laws referred in the comparison of Turkish legislation with Directive 86/613

4.4.1.5 Directive 86/378 and Directive 96/97

Council Directive 86/378/EEC of 24 July 1986 on the implementation of the principle of equal treatment for men and women in occupational social security schemes and *Council Directive 96/97/EC of 20 December 1996 amending Directive 86/378/EEC on the implementation of the principle of equal treatment for men and women in occupational social security schemes*

4.4.1.5.1 Content of the Directive

As stated in the Article 3/e of the Directive 79/7/EEC, the Council adopted the Directive 86/378 to define the substance, scope and arrangements "to implement, in occupational social security schemes, the principle of equal treatment for men and women" (Article 1). The Directive was amended by the Directive 96/97 and then repealed by the Directive

2006/54/EC with effect from 15 August 2009.[94]

According to the Article 2/1, "occupational social security schemes" are those which are not included in the Directive 79/7 on the principle of equal treatment regarding statutory social security. The Directive does not apply to "individual contracts for self-employed persons; schemes for self-employed workers having only one member; insurance contracts to which the employer is not a party, in case workers; optional provisions of occupational schemes offered to participants individually to guarantee them either additional benefits, or a choice of date on which the normal benefits for self-employed workers will start, or a choice between several benefits; and, occupational schemes in so far as benefits are financed by contributions paid by workers on a voluntary basis" (Article 2/2). The Directive applies to "members of the working population, including self-employed persons, persons whose activity is interrupted by illness, maternity, accident or involuntary unemployment and persons seeking employment, to retired and disabled workers and to those claiming under them" (Article 3).

Article 4 lists the risks against which occupational social security schemes provide protection as "sickness; invalidity; old-age, including early retirement; industrial accidents and occupational diseases; and, unemployment" and "occupational schemes which provide for other social benefits, in cash or in kind, and in particular survivors' benefits and family allowances". The principle of equal treatment regards "the scope and conditions of access to schemes; the obligation to contribute and the calculation of contributions; and the calculation of benefits", without prejudice to the provisions relating to the protection of women regarding maternity (Article 5).

The Directive lists the provisions contrary to the principle of equal treatment for: "determining the persons who may participate in an occupational scheme; fixing the compulsory or optional nature of participation in an occupational scheme; laying down different rules as regards the age of entry into the scheme or the minimum period of employment or membership to obtain the benefits; laying down different rules for the reimbursement of contributions; setting different conditions for the granting of benefits or restricting such benefits to workers of one or other of the sexes; fixing different retirement ages; suspending the retention or acquisition of rights during periods of maternity leave or

[94] The summary of the content of the Directive provided in this section is based on the amended version of the Directive 86/378 with the Directive 96/97. The corresponding articles of the repealing Directive 2006/54 are also compared with the provisions of the amended Directive and no substantial change is noted.

leave for family reasons; setting different levels of benefit, except those for actuarial calculation factors which differ according to sex; setting different levels for workers' contributions; setting different levels for employers' contributions; laying down different standards or standards applicable only to workers of a specified sex as regards the guarantee or retention of entitlement" (Article 6/1).

Member States are asked to eliminate provisions contrary to the principle of equal treatment relating to occupational social security schemes (Article 7). In addition, Member States are responsible to revise those provisions of occupational schemes for self-employed workers in a way to ensure that they are not contrary to the principle of equal treatment (Article 8). The possibility of deferral concerning self-employed persons is given in Article 9, with regard to "determination of pensionable age for the granting of old-age or retirement pensions; and, survivors' pensions." If men and women may claim a flexible pensionable age under the same conditions, this is not considered as incompatible with this Directive (Article 9a). All persons who consider themselves wronged by failure to apply the principle should be introduced measures of judicial procedures to pursue their claims before courts (Article 10) and the workers should be protected against dismissal as a result of their complaint (Article 11).

4.4.1.5.2 Legal comparison: Turkish legislation

There is no occupational social security scheme regulated at the national level. There are two mandatory second pillar type schemes, which operate under separate legislation, for the armed forces (OYAK) and for the employee of the state-owned coal mining enterprise (TTK).

In Turkey, there have been numerous pension funds, within the scope of the temporary Article 20 of Law No. 506 on Social Insurance for workers and replaced statutory social security schemes, for the personnel of the banks, insurance and reassurance companies, trade chambers, industrial chambers and stock exchanges. With the Social Insurance and Universal Health Insurance Law No. 5510 Transitional Article 20, participants of those funds and individuals who are granted with pensions or incomes, as well as their survivors, are included in the scope of this Law, transferred to the Social Security Institution within three years from the issue date of the Article; and fund participants are considered as insured in the scope of the Article 4/a of this Law.

Before the enactment of the Social Insurance and Universal Health Insurance Law No.

5510, there were differences between pensionable ages of women and men (generally 58 for women and 60 for men). With the Article 28 of the Law No. 5510, the age condition for the individuals who are deemed to be insurance holder with this Law for the first time will gradually be equalised, and applied as 65 both for women and men as of 31 December 2047.

In general, there are no different minimum service requirements; and family related benefits for men and women.

In the Turkish legislation there is difference on the termination period of the survivor's benefit between sons and daughters of the insured parent, but there is no difference regarding the amount of survivor's payment between them. Before the adoption of Law No. 5510, daughters who do not work and have no income from social security institutions until getting married (regardless of age), and sons until they are 18 years old, or 25 if they continue their education, were entitled to receive survivor's benefit upon the death of the insured parent. This preferential treatment, which aims to protect female children, is also preserved in the Law No. 5510 (Article 34/b). In addition, daughters receiving pension also have right to marriage support within the scope of rights granted from survivor's insurance (Article 32/c and 37). This preferential treatment changed for the right of benefiting from universal health insurance as a dependant to the insured parent. Article 3/10b defines one of the dependants of the insured person as "unmarried children under 18 years old; or under 20 years old if receiving education in high schools or apprenticeship education; or under 25 years old if receiving higher education, and unmarried children determined to be disabled independent of age", which means that daughter, as well as the son, of the insured parent have to pay premiums after those specified ages in order to benefit from the universal health insurance.

4.4.1.5.3 Level of fit

As also stated in the Screening Report, there has been no occupational social security scheme in Turkey. The Law No. 5510 adopted in 2006 foresees the gradual transfer of the existing pension funds, which used to replace the statutory security schemes, to the Social Security Institution; and changes the condition of the retirement which used to set different pensionable ages for women and men. Thus, both under the previous system of statutory social security (referring to the situation in 1999) and that after the adoption of the Law No. 5510, the level of policy fit between the Directive 86/378, as amended by the Directive

96/97 and repealed by the Directive 2006/54, and the Turkish legislation is *high*.

As it is the case for the Directive 79/7 on equal treatment regarding statutory security schemes, the 2008 NPAA refers to four pieces of primary and secondary legislation to be enacted in the period 2007-2008 with reference to Directives 79/7 and 2006/54: the rearrangements in the Law No. 5510 within the framework of the annulment decision of the Constitutional Court; secondary legislation to be enacted for the implementation of the Social Security Institution Law No. 5502; Implementing Regulation on Insurance Procedures and Implementing Regulation on Health Insurance Procedures for the implementation of the Social Insurances and Universal Health Insurance Law.

Law No.	*Title of the Law*	*Date of Enactment*	*Date(s) of Amendment*	*86/378 and 96/97* related Articles
205	Law on Armed Forces Pension Fund Institution	03.01.1961	-	
506	Law on Social Insurance for workers	17.07.1964	Abrogated on 31.05.2006 (Law No. 5510)	Transitional Article 20
5510	Social Insurance and Universal Health Insurance Law	31.05.2006	17.04.2008 (Law No. 5754)	Transitional Article 20; 4/a; 28; 34/b; 32/c ; 8/10b

Table 27: List of laws referred in the comparison of Turkish legislation with Directive 86/378 and 96/97

4.4.1.6 Directive 92/85

Council Directive 92/85/EEC of 19 October 1992 on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding

4.4.1.6.1 Content of the Directive

The purpose of this Directive, which is a follow-up of Framework Directive on Health and Safety[95], is "to implement measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or who are breastfeeding" (Article 1). The standards brought by the Directive can be considered in two categories: those related to occupational health and safety in a narrow sense, and provisions referring to the realm of employment in a more general way (Falkner et al., 2005: 73). The Directive considers "pregnant workers and workers who have recently given birth or who are breastfeeding" as a specific risk group of workers who need protection, however, it also suggests that this protection should not result in any unfavourable treatment for women in the labour market. Article 2 stipulates that workers

[95] Directive 89/391/EEC.

who inform their employer of their condition of being pregnancy, recently given birth or breastfeeding are eligible to benefit from the rights provided in the Directive.

This Directive states that the Commission will provide guidelines for assessing the risks related to chemical, physical and biological agents, to certain industrial processes, to certain movements and postures and to physical and mental stress (Article 3). The employer is responsible for *the assessment of any risks to the safety or health* and any possible effect on the pregnancy or breastfeeding of workers; decide the measures to be taken; and inform the relevant workers and/or their representatives about the results of the assessment (Article 4). Employer is also responsible for taking necessary measures to avoid exposure of the concerned workers to such risks by temporarily adjusting the working conditions and/or the working hours, by moving the worker to another job or by granting her leave for the whole of the period necessary to protect her safety or health (Article 5). Article 6 refers to Annex II of the Directive, which lists the agents and working conditions in exposure to which pregnant workers (Section A) and workers who are breastfeeding (Section B) may under no circumstances be obliged to perform duties.

The Directive states that those workers concerned are "not obliged to perform *night work* during their pregnancy and for a period following childbirth", and on the basis of a medical certificate, there should be a possibility to transfer those to daytime work or leave from work (Article 7). In the Directive, Member States are asked to ensure that female workers are entitled to *maternity leave* of at least 14 weeks as a continuous period, two weeks of which is compulsory before and/or after confinement (Article 8). Article 9 ensures *time off for ante-natal examinations*, without loss of pay, if such examinations have to take place during working hours. The Directive prohibits *dismissal of workers* in relation to the exercise of their health and safety protection rights during the period from the beginning of their pregnancy to the end of the maternity leave (Article 10). Article 11 on ensuring employment rights provides a *guarantee of an adequate payment* in case of maternity leave as guaranteed in Article 8 and in case of transfer to day time work, leave or adjustment of working conditions as defined in Articles 5, 6 and 7. No previous employment of less than 12 months before date of confinement should be required for maternity leave (Article 11). The Directive invites Member States to introduce measures in order to allow women wronged by failure to comply with these measures to pursue their rights by judicial process (Article 12).

4.4.1.6.2 Legal comparison: Turkish legislation

The Article 50 of the Constitution ensures that no one could be required to perform work unsuited to his age, sex, and capacity. This is to say that, women and children enjoy special protection with regard to working conditions (Şenol et.al. 2005: 20). In addition, some of the principles of the Directive (maternity leave, protection of pregnant women etc.) have already been a part of the Turkish legislation before 1999.

In 2004, the Ministry of Labour and Social Security in consultation with the Ministry of Health issued the "Regulation on the Working Conditions of Pregnant or Breastfeeding Women, Breastfeeding Rooms and Child Nursing Homes (Regulation No. 25522)" based on the Article 88 of the Labour Law. The Regulation provides alignment with the first six articles of the Directive: It gives the definitions as provided in the Article 2 of the Directive for the workplaces where women workers work within the context of the Labour Law. The Regulation asks for that the worker will inform the employer about the periods of pregnancy and breastfeeding, and the employer will assess the situation of the worker in line with the Annex I, II and III of the Regulation. Article 5 of the Regulation describes general and special precautions to be taken concerning the dangerous effects of chemical, physical and biological actions and industrial processes which are considered dangerous for the pregnant and breastfeeding workers. Regarding the working conditions during pregnancy and breastfeeding, it envisages the measures of employing the pregnant worker in lighter position (Labour Law Article 74/4); and, adjusting working conditions and/or working hours and taking necessary precautions for pregnant or breastfeeding worker to transfer her to another work (Article 8). However, in cases where such a transfer is not technically and logistically possible, the Regulation does not grant "paid leave", but instead ensures "unpaid leave" depending upon the request of the worker.

Regarding *night work*, before the adoption of new regulations in 2004, it was forbidden for pregnant women to be asked to work in night shifts (Süral, 2001: 187). Adopted in 2004, the Article 9 of the Regulation No. 25522 and the Article 9 of the "Regulation on the Working Conditions of Female Workers at Night Shifts (Regulation No. 25548)"[96] state that it is prohibited to employ workers who are pregnant, recently gave birth or breastfeeding at night throughout the whole duration of the pregnancy and for six months starting right after the delivery. However, in the cases where health report shows that the

[96] Issued by the Ministry of Labour in consultation with the Ministry of Health, based on the Article 73 of the Labour Law.

breastfeeding worker has no obstacle to work, she is allowed to work, except for the working situations listed in Regulation No. 25522 (Article 13 and Annex I).

Time off for ante-natal examinations was a right already granted to pregnant women before 1999 through the Regulation on the Working Conditions of Pregnant or Breastfeeding Women, Breastfeeding Rooms and Child Nursing Homes dated 1987[97]. This right is also guaranteed in form of paid leave in the new Labour Law (Article 74/3) and Regulation No. 25522 (Article 12). In the Labour Law, sanctions are foreseen for the employers and employer representatives who do not comply with this provision (Article 104).

The right to *maternity leave* already existed in the Turkish legislation; however it was shorter than the period envisaged in the Directive and different for the civil servants and private sector employees. Under the previous Labour Law No. 1475, female workers were granted 12 weeks of maternity leave, while the Civil Servant's Law No. 657 granted the female civil servants nine weeks of leave. In 2003 the female workers through the adoption of the Labour Law Article 74 and Regulation No. 25522 Article 11, and in 2004 the female civil servants with the amendment[98] in the Law No. 657 Article 104/A, were granted 16 weeks of maternity leave. This indicates that they may not be asked to work eight weeks before and eight weeks after the birth of the child(ren). With the changes in the relevant laws, the period of the maternity leave actually became two weeks longer than the minimum 14 weeks envisaged in the EU Directive. At the end of paid maternity leave and upon their requests, civil servants may take up to 12 months of an unpaid maternity leave, whereas this period is limited to six months for the female workers. In the Turkish legislation, there is no requirement of previous employment to be entitled to maternity leave. In addition, as also foreseen in the previous Labour Law 1475 and the Civil Servants' Law No. 657, female workers are allowed daily one and an half hours, which is covered within the working hours, for breastfeeding of children younger than one year old; and the worker decides about the timing and divisibility of that nursing period (Article 14 of Regulation No. 25522). This period for breastfeeding of children younger than one year old was also increased to daily three hours for the civil servants with the amendment of Article 104 of the Civil Servants' Law No. 657[99] in 2011.

[97] Official Journal No. 19427, dated 10 April 1987.
[98] With the Law No. 5223 on Amending some Articles of the Law of Civil Servants dated 14 July 2004.
[99] With the Law No. 6111 on Restructuring some Debts and Amending Social Insurances and Universal Health Insurance Law and some Laws and Statutory Decrees dated 03 February 2011.

An *adequate allowance* is paid for maternity leave according to the Turkish legislation. Salaries of the civil servants are paid in the period of the maternity leave. Maternity insurance foresees allowances for female workers covering the total duration of maternity leave. Article 15 on "sickness and maternity status" of the Social Insurance and Universal Health Insurance Law (No. 5510) defines "maternity status" in relation to sickness and invalidity statuses of a female insurance holder or spouse of a male insurance holder. Article 16 on "rights provided from work accident, occupational disease, sickness and maternity insurance" states that "daily temporary incapacity allowance shall be given to the insurance holder, during the temporary incapacity period arising due to sickness or maternity statuses, from the sickness and maternity insurance." In addition, the same article grants the right to receive nursing benefit applicable by the date of the delivery, with the condition that eligible a minimum 120 days of insurance premiums are paid within one year before birth. Article 18 defines the conditions of the payment of a benefit for temporary incapacity in case of maternity upon submission of a medical certificate for "each day of not working including eight-week periods before and after birth and, in cases of multi birth, adding another two weeks to the said eight weeks before the birth, provided that minimum ninety days short term insurance premium is notified within one year before the birth." In the same article, the amount of the temporary incapacity benefit is defined as "…half of the daily earning to be calculated as per Article 17 in inpatient treatments and two thirds of the same in outpatient treatments."[100] This means that female workers on maternity leave receive allowances in form of a reduced salary.

Protection against dismissal[101] for workers within the meaning of the Directive (pregnant women and women on maternity leave) was a right granted to women even in the previous Labour Law 1475, however there was also a need to openly forbid dismissal of the female worker from the starting of the pregnancy until the end of the maternity leave period (Süral, 2001: 184). Protection against dismissal is also provided in the new Labour Law (Article 18/d) and in the Civil Servants' Law (Article 125/E), where pregnancy and maternity do not constitute a valid reason for the termination of work contract. Protection within the Labour Law covers the workers in the scope of the Labour Law, where

[100] Article 65 of the Labour Law, which stated that ""Premiums for sickness and maternity insurance of the worker in the period where short working benefit is received shall be transferred to the Social Insurances Institution, by Unemployment Insurance Fund, *at a rate of 2/3*." was repealed by Act No. 5763, dated 15 May 2008, Official Journal dated 26 May 2008, and No. 26887.

[101] Provisions referred in relation to the Directive 75/117/EEC (equal pay) are also applicable to this Directive 92/85/EEC.

employees need to fulfil three conditions to be satisfied at the same time: the contract should be for an indefinite period; establishment where the employee is employed should consist of thirty or more workers; and the employee should meet a minimum seniority of six months (Article 18).

4.4.1.6.3 Level of fit

Before 1999, many principles stated in the Directive such as maternity leave, allowances for female workers and civil servants, time off for ante-natal examinations, prohibition from night work for pregnant women were already defined in the Turkish legislation through previous Labour Law No. 1475 and relevant regulations[102] and in the Civil Servants' Law No. 657.

With the adoption of the new Labour Law No. 4857 in 2003 and adoption of two basic regulations based on the new law, many of those principles were consolidated in the Turkish legislation, which sometimes went beyond the minimum requirements of the Directive. For example, the duration of the maternity leave was increased from 12 weeks to 16 weeks for female workers by the adoption of the Labour Law in 2003, and from nine to 16 weeks for the civil servants with the amendment in Law No. 657 in 2004. The Regular Report of 2001 affirmed the preparations for such a change; and the Progress Report of 2004 indicated the realisation of such as change both for the workers and the civil servants.

Some further alignment was also realised in the 2000s. For example, although pregnant women were banned from the night work, the assessment of exposure to risks to the safety or health at work and conditions for night work of pregnant workers and workers who have recently given birth or who are breastfeeding were introduced into the Turkish legislation in 2006 through two new Regulations No. 25522 and No. 25548 based on the relevant articles of the new Labour Law. Upon the adoption of those two regulations based on the new Labour Law, Turkish legislation was brought in alignment with the Directive 92/85. The Progress Report of 2004 also indicated the adoption of those regulations in a way to align with the directive.

Still, in order to ensure implementation, NPAA of 2008 considers the enactment of "Implementing Regulation Amending Implementing Regulation on the Working Conditions of Pregnant or Breastfeeding Women, Breastfeeding Rooms and Child Care

[102] By-Law on Working Conditions of Pregnant and Breastfeeding Women and Breastfeeding and Child Nursing Rooms No. 19427, Official Journal dated 10.04.1987.

Dormitories"[103] as one of the secondary legislation. The enactment of such a Regulation in line with the Directive 92/85/EEC "aims at implementing measures to encourage the protection and improvement of the health at work of pregnant workers, workers who have recently given birth or are breastfeeding; specifying the types of job and periods of work in which it is prohibited to employ these workers, as well as the conditions and procedures to be met in employing these workers; determining the ways how breastfeeding rooms or child care dormitories (kindergarten) shall be established and which requirements these shall satisfy." The institution responsible for the Regulation is the Ministry of Labour and Social Security.

Overall, considering the fact that the basic principles on maternity leave, allowances during maternity leave, time off for ante-natal examinations and prevention of pregnant and breastfeeding women from night work were already a part of the Turkish legislation. Since before the adoption of the new Labour Law further alignment was needed (for example regarding the duration of maternity leave, risk assessment, protection against dismissal), it can be argued that the level of fit regarding Directive 92/85 was *medium* in 1999. After the adoption of the new Labour Law No. 4857 and relevant two Regulations, the Screening Report indicated a considerable degree of compliance in issues such as the 16 weeks of mandatory maternity leave and possibility of granting unpaid maternity leave for civil servants and for workers in the private sector; paid leave for periodical check-ups during pregnancy; the work and worksites in which pregnant women, workers newly given birth and breastfeeding workers cannot perform; and, equal treatment of the employers to workers in concluding the employment contract, establishing its conditions, or in implementing and terminating it on ground of pregnancy, except for biological reasons or work requirements. The only criticism in the Screening report was that Turkey has not accepted Article 8 of the European Social Charter on the right of employed women to the protection of maternity, as also stated in various Progress Reports (2003, 2004, and 2005).

All these mean that the level of policy fit increased to a *high* level by the end of 2010. Looking at the reasoning of the new Law and its Regulations, it is possible to see that the changes were realised in relation to the EU requirements, and in some cases such as the duration of maternity leave, the domestic regulations surpassed the EU requirements, resulting in over-compliance with the EU.

[103] To be enacted after the adoption of the Law on Occupational Health and Safety (NPAA reference number 19.0708.1.04).

Law No.	*Title of the Law*	*Date of Enactment*	*Date(s) of Amendment*	*92/85/EC* related Articles
4857	Labour Law	22.05.2003	16.05.2008 (Law No. 5763)	88; 74/4; 73; 74/6; 104; 74/1; 18/d
657	Civil Servants' Law	16.07.1965	14.07.2004 (Law No. 5223)	104/A; 108; 125/E; 188
			13.02.2011 (Law No. 6111)	104
5510	Social Insurance and Universal Health Insurance Law	31.05.2006	17.04.2008 (Law No. 5754)	15; 16; 18
25522	Regulation on the Working Conditions of Pregnant or Breastfeeding Women, Breastfeeding Rooms and Child Nursing Homes	14.07.2004	-	4; 5; 8; 9; 13; Annex I; 12; 11
25548	Regulation on the Working Conditions of Female Workers at Night Shifts	09.08.2004	-	5; 9

Table 28: List of laws referred in the comparison of Turkish legislation with Directive 92/85

4.4.1.7 Directive 96/34

Council Directive 96/34/EC of 3 June 1996 on the framework agreement on parental leave concluded by UNICE, CEEP and the ETUC

4.4.1.7.1 Content of the Directive

The Parental Leave Directive is well known for being based on a framework agreement through social dialogue among the major European level cross-industry organisations, both employer and labour federations (namely UNICE, CEEP and ETUC), and thus was the first example of that kind of EU-level social policy measures (Falkner et al., 2005: 140). The overall aim of the Directive is to facilitate reconciliation of work and family life for both of the working parents, and to promote equal opportunities and treatment between women and men, especially by enabling and encouraging men "to assume an equal share of family responsibilities", namely those of childcare. In that sense, the Directive can be considered as an attempt to transform the nature of traditional gender roles, where women are seen as the main and only caregivers, and, to promote women's participation in the labour force.

The framework agreement annexed to the Directive sets out minimum requirements and provisions for parental leave, as distinct from maternity leave, and for time off from work on grounds of force majeure. The agreement grants "men and women workers an *individual* right to parental leave on the grounds of the *birth or adoption of a child* to

enable them to take care of that child, for *at least three months*" (Clause 2.1) "on a *non-transferable basis*" (Clause 2.2). Clause 2.3 leaves the definition of "the conditions of access and detailed rules for applying parental leave" to the member states, "as long as the minimum requirements of this agreement are respected." These conditions include granting parental leave on a full-time or part-time basis; making entitlements to parental leave subject to a period of work; establishing notice periods by the worker to the employer; allowing employer to postpone the granting of parental leave for justifiable reasons; or authorising special arrangements for small undertakings (Clause 2.3). The agreement calls for member states to take the necessary measures to protect workers against dismissal on the grounds of an application for, or the taking of, parental leave (Clause 2.4); and to make arrangements for workers to have the right to return to the same job (or to an equivalent or similar job) at the end of parental leave (Clause 2.5). The rights acquired by the worker on the starting date of the parental leave should be maintained and applied at the end of the period of leave (Clause 2.6). Clause 3 states that necessary measures should be taken to entitle workers to take off from work, on grounds of force majeure for urgent family reasons in cases of sickness or accident making the immediate presence of the worker indispensable. Clause 4 allows member states to apply or introduce more favourable provisions than those in the agreement (4.1); and guarantees that implementation of the provisions of this agreement does not constitute valid grounds for reducing the general level of protection afforded to workers (4.2).

4.4.1.7.2 Legal comparison: Turkish legislation

In the Turkish legislation, parental leave right, which also covers working fathers, does not exist. The Labour Law gives female workers the right to be granted an unpaid leave of up to six months after the expiry of their maternity leave (Article 74) and Civil Servants' Law define it up to 12 months for female civil servants (Article 108). In the Labour Law, returning to the same job of the female workers after using the unpaid leave is not guaranteed (Şenol et al. 2005: 31). In the Turkish legislation, right to such unpaid leave is not granted to male employees, so non-transferability of that right is not an issue.

Introducing parental leave into the Turkish legislation has been on the political agenda since the early 2000s. The General Directorate on the Status of Women has been in charge of preparing a draft law in consultation with various ministries and government agencies. "Draft Law Amending the Civil Servants' Law and the Labour Law" was sent to the

Parliament[104] on 14 January 2005 and only on 6 February 2008 it has been forwarded to three parliamentary commissions (Planning and Budgeting Commission as the main commission; Health, Family, Work and Social Affairs Commission and European Union Harmonisation Commission as secondary commissions) to examine the Draft Law and present their opinions in their reports. Upon its establishment in February 2009, the draft law was also sent to the Commission on Equality of Opportunity for Women and Men, on 3 February 2010. By the end of 2010 only the European Union Harmonisation Commission provided a report to the Parliament and the latest status of the Draft Law is stated as "at the commission" for the time being.

Different governmental documents refer to the need for the introduction of the parental leave into the Turkish legislation. 2008 National Programme for the Adoptation of the Acquis (NPAA) mentions the "Law Amending the Civil Servants' Law and the Labour Law" as a legislation "considered beneficial to be enacted in the period of 2007-2008, in order to comply with Directives of 96/34/EC (parental leave) and 92/85/EC (safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding). The NPAA states the aim of the Law as "enabling the mother and the father to share maternity leave without pay, thereby creating a parental leave". Institutions responsible for the preparation and legislation of the Law are given as the General Directorate on the Status of Women and the Ministry of Labour and Social Security.

National Action Plan Gender Equality 2008-2013, prepared by the General Directorate on the Status of Women identifies "making legal arrangements on parental leave in order to share the childcare responsibilities between mothers and fathers" as one of the strategies under Objective One through which "all parties will accelerate efforts to increase women's employment in line with the Ninth Development Plan." In the Action Plan, the Ministry of Labour and Social Security and the General Directorate on the Status of Women are stated as the responsible authorities, as well as the Ministry of Justice, relevant public agencies and institutions, bar association, trade unions and confederations of workers and employers, and NGOs as the collaborating agencies and institutions.

Regarding the content of the Draft Law in comparison to the Directive 96/34/EC, the parliamentary EU Harmonisation Commission stated that the Draft Law bears the elements of harmonisation with the EU legislation and grants the same rights to workers and civil

[104] Period and year of legislation: 23/2; number 1/510.

servants. However, the Commission also pointed out particular issues where the Draft Law does not explicitly cover the minimum requirements of the Directive 96/34/EC, although those are covered in the general reasoning of the law. These are the right to return the same or equivalent/similar jobs after the use of the parental leave and the independent character of the parental leave for women and men as well as its non-transferability. The Commission also proposed some of the rights to be extended, such as the possibility for the right to be used until the child gets 8 years old.

4.4.1.7.3 Level of fit

In spite of the existence of a draft law and numerous references to the issue by the governmental agencies, neither the notion of nor the regulations for parental leave have yet been introduced into or covered by the Turkish legislation by the end of 2010, especially in a way to cover working fathers. This situation was also indicated in the Screening Report and in various Progress Reports prepared by the European Commission such as the 2003, 2005, 2006 reports. This means that the level of policy fit in relation to parental leave directive has always been *low* before and after 1999.

Law No.	*Title of the Law*	*Date of Enactment*	*Date(s) of Amendment*	*96/34/EC* related Articles
657	Civil Servants' Law	16.07.1965	Draft Law (14.01.2005)	104 (A); 108 third paragraph
4857	Labour Law	22.05.2003	Draft Law (14.01.2005)	18 third paragraph (e); 25 first paragraph I (b) second paragraph; 54 first, fifth, sixth paragraphs.

Table 29: List of laws referred in the comparison of Turkish legislation with Directive 96/34

4.4.1.8 Directive 97/80

Council Directive 97/80/EC of 15 December 1997 on the burden of proof in cases of discrimination based on sex

4.4.1.8.1 Content of the Directive

The Directive stipulates the Court of Justice of the European Communities ruling[105] which shifted the burden of proof back to the respondent in particular *prima facie* cases of discrimination. Article 1 of the Directive states its aim as "to enable all persons who consider themselves wronged because the principle of equal treatment has not been applied to them to have their rights asserted by judicial process after possible recourse to other

[105] Danfoss Case 109/88 dated 1989.

competent bodies" by guaranteeing that "the measures taken by Member States to implement the principle of equal treatment are made more effective." Article 2 defines *the principle of equal treatment* as "there shall be no discrimination whatsoever based on sex, either directly or indirectly" (2.1), and introduces the definition of *indirect discrimination*[106] (2.2) as a reflection of the thinking that "it is all the more difficult to prove discrimination when it is indirect" (Reasoning 19). The scope of the Directive applies to the situations covered by Article 141 (ex-Article 119) of the EC Treaty and by Directives 75/117/EEC (principle of equal pay), 76/207/EEC (access to employment, vocational training and promotion) and, insofar as discrimination based on sex is concerned, 92/85/EEC (protection of pregnant workers and those who have recently given birth or are breastfeeding) and 96/34/EC (parental leave); to any civil or administrative procedure concerning the public or private sector, with the exception of out-of-court procedures; and not to criminal procedures (Article 3). *Burden of proof* in Article 4.1[107] means that "when persons who consider themselves wronged because the principle of equal treatment has not been applied to them establish, before a court or other competent authority, facts from which it may be presumed that there has been direct or indirect discrimination, it shall be for *the respondent to prove that there has been no breach of the principle of equal treatment*." Member states will take necessary measures to ensure that, and they may even introduce "rules of evidence which are more favourable to plaintiffs" (4.2). In member states *where the court or competent body itself investigates the facts of the case,* Paragraph 4.1 need not to be applied (4.3). Article 5 requires the member states to bring the measures taken in the directive to the attention of all the persons concerned by all appropriate means. Article 6 guarantees that the implementation of the Directive does not constitute sufficient grounds for a reduction in the general level of protection of workers in the areas to which it applies.

This Directive is repealed by the Directive 2006/54/EC with effect from 15 August 2009. While the definition of the indirect discrimination is refined in the new directive, the content of the 97/80/EC has not been changed regarding the principle of burden of proof.

[106] Article 2.1 (b) of the Directive 2006/54/EC refines the definition of indirect discrimination as "where an apparently neutral provision, criterion or practice would put persons of one sex at a particular disadvantage compared with persons of the other sex, unless that provision, criterion or practice is objectively justified by a legitimate aim, and the means of achieving that aim are appropriate and necessary".

[107] Article 19 of the Directive 2006/54/EC has exactly the same wording of Article 4 (burden of proof) and Article 3 (the scope), except for the reference to repealed directives of 75/117/EEC and 76/207/EEC.

4.4.1.8.2 Legal comparison: Turkish legislation

The Article 5 of the Labour Law on *the principle of equal treatment* (in line with the Article 2.1 of 79/80/EC), indicates that "no discrimination based on language, race, sex, political opinion, philosophical belief, religion and sex or similar reasons is permissible in the employment relationship"[108]; "differential remuneration for similar jobs or for work of equal value is not permissible"[109]; no discrimination can be made between a full-time and a part-time employee; and, the employer cannot "make any discrimination, either directly or indirectly, against an employee in the conclusion, conditions, execution and termination of his (her) employment contract due to the employee's sex or maternity", except for biological reasons or reasons related to the nature of the job.[110] The biological reasons are not defined in law and there is no definition of *direct or indirect discrimination* in the Turkish legislation (Şenol et al., 2005: 28-29).

Article 5 of the Labour Law states that the *burden of proof* in regard to the violation (based on the principle of equal treatment as defined in the same article) by the employer rests on the employee, while reserving the provisions of its Article 20[111]. However, "if the employee shows a strong likelihood of such a violation, the burden of proof that the alleged violation has not materialised shall rest on the employer" (Article 5). Concerning the termination of contract as covered by Articles 18, 19 and 20 of the Labour Law, the burden always lies with the employer as envisaged by the Directive. Therefore, reversal of the burden of proof was introduced into the Turkish legislation in line with the Directive 97/80 with the adoption of the new Labour Law No. 4857 in 2003, as also indicated in the article reasoning of this law. However, during the Screening Process, the EU side laid emphasis on the reversal of burden of proof in a way to cover "all employment relationships, including agricultural workers in companies employing less than a specified number of employees" and "the transposing provisions to cover the whole workforce." In the Turkish legislation, the burden of proof and transposing provisions can only be applied to the work force within the scope of the Labour Law.

Regarding the EU side's question about the existence of "any proceedings in Turkey in

[108] Also related to the Directive 76/207/EEC (equal treatment).
[109] Also related to the Directive 75/117/EEC (equal pay).
[110] Also related to the Directives 76/207/EEC (equal treatment) and 92/85/EEC (safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding).
[111] "The burden of proving that the termination (of employment contract) was based on a valid reason shall rest on the employer. However, the burden of proof shall be on the employee if he claims that the termination was based on a reason different from the one presented by the employer" (Article 20 of the Labour Law).

which it is for the court or any other competent body to investigate the facts of the case" (Article 4.3 of the Directive), the Turkish authorities gives the information that Administrative Courts conduct themselves all sort of investigations related to law suits (Article 20 of Law No. 2577 on Administrative Jurisdiction) for the applications of the civil servants, thus the reversal of burden of proof does not need to apply to those cases. Within the scope of the Labour Law, Labour Courts (Articles 1 and 10 of Law No. 5521 on Labour Courts) fall within the scope of the Directive (Article 3). In this regard, the Turkish law is in alignment with the Directive.

The Ministry of Labour and Social Security, which is the responsible institution for the harmonisation of the Directive 97/80/EC, indicated in the comparative compliance table prepared for the Directive[112] that in relation to bringing information to the attention of the addressees of the Directive (Article 5) "measures taken will be implemented by trade union representatives in the business where a collective labour contract exists." However, in the workplaces where there is no collective labour contract and thus no trade union representative, there is not any mechanism to transfer this information.

4.4.1.8.3 Level of fit

Definitions of direct and indirect discrimination have been not been existent in the Turkish legislation. The reversal of burden of proof as a principle was introduced in line with the Directive into the Turkish legislation by the adoption of the new Labour Law No. 4857 in 2003, and it was realised to adjust with the EU requirement as indicated in the reasoning of the Law. The Screening Report also indicated that in cases of discrimination based on sex, as required by the *acquis*, the Labour Law provided for a shifting of the burden of proof to the employer, when a worker puts forward a situation strongly suggesting the probability of the existence of an infringement.

However, the principle is only applicable within the scope of this law, which means that the employees falling outside the scope of this law can not benefit from the reversal of burden of proof principle. This situation points out that the coverage of the legal arrangement is limited. In addition, the Article 5 of the Labour Law reverses the burden of proof regarding the principle of equal treatment to the employer, only in cases where the employee shows a strong likelihood of such a violation.

[112] Available at http://ab.calisma.gov.tr/index_dosyalar/mevzuat/tablolar/table97-80.doc.

Thus, it can be argued that in 1999 the Turkish legislation was not in compliance with the EU Directive regarding the burden of proof, thus the level of policy fit was low at that time. The changes brought about with the new Labour Law in 2003 about the reversal of burden of proof could brought the Turkish legislation only in partial compliance with the Directive because of the lack of the content-wise elements (definitions), conditional reversal of burden of proof and limited coverage of the legislation. The necessity for further alignment concerning burden of proof was also voiced by the European Commission in the Screening Report and in some Progress Reports of 2003, 2005 and 2006 even after the partial compliance with the Labour Law in 2003. Since no legal changes in this regard were realised after 2003, the level of policy fit by the end of 2010 is *medium*.

Law No.	*Title of the Law*	*Date of Enactment*	*Date(s) of Amendment*	*97/80/EC* related Articles
4857	Labour Law	22.05.2003	-	5, 18, 19, 20
5521	Law on Labour Courts	30.01.1950		1, 10
2577	Law on Administrative Jurisdiction	06.01.1982		20
2821	Trade Union Law	05.05.1983	25.05.1988	35

Table 30: List of laws referred in the comparison of Turkish legislation with Directive 97/80

4.4.1.9 Directive 2004/113

Council Directive 2004/113/EC of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services

4.4.1.9.1 Content of the Directive

The aim of the Directive is "to lay down a framework for *combating discrimination based on sex in the access to and supply of goods and services*", particularly in the field of insurance, to ensure the principle of equal treatment for men and women in the Member States (Article 1). Article 2 provides the *definitions of direct discrimination, indirect discrimination, harassment, and sexual harassment*, as identical with those in the Directive 2002/73/EC[113]. The Directive applies to "all persons who provide goods and services, which are available to the public" which are "offered outside the area of private and family life"[114] (Article 3). The Directive does not cover media, advertising and education (Article

[113] They are also identical with the Article 2 of the Directive 2006/54/EC, which repealed 2002/73/EC.

[114] For example access to premises into which the public are permitted to enter; all types of housing, including rented accommodation and accommodation in hotels; services such as banking, insurance and other financial services; transport and the services of any profession of trade. (Presentation of the EU side at the first screening meeting).

3.3) and does not apply to employment and education (Article 3.4). Article 4.5 provides the *exemption for different treatment* "if the provision of the goods and services exclusively or primarily to members of one sex is justified by a legitimate aim."

Article 5 requires that, in all new contracts concluded after 21 December 2007, *sex cannot be used as an actuarial factor in the calculation of premiums and benefits*. The exception is that "Member States may decide before 21 December 2007 to permit proportionate differences in individuals' premiums and benefits" where the risk assessment is "based on relevant and accurate actuarial and statistical data" (Article 5.2). *Costs related to pregnancy and maternity cannot result in differences in individuals' premiums and benefits* (Article 5.3).

Article 6 states that the principle of equal treatment *does not prevent positive action* to prevent or compensate for disadvantages linked to sex. Article 7 gives the minimum requirements: Member states may introduce or maintain more favourable provisions than those in this Directive for the protection of the principle of equal treatment between men and women (7.1); and, the implementation of this Directive does not constitute grounds for a reduction in the level of protection against discrimination already afforded by Member States in the fields of this Directive. Provisions on remedies and enforcement (Article 8), burden of proof (Article 9), victimisation (Article 10), dialogue with stakeholders (Article 11) and bodies for the promotion of equal treatment (Article 12) are in analogy with Directive 2002/73/EC[115].

Member states are responsible for introducing the rules on "effective, proportionate and dissuasive" penalties (which may comprise the payment of compensation to the victim) applicable to infringements of the national provisions, and ensure the implementation of those (Article 14). The relevant provisions adopted in line with this Directive should be brought to the attention of the persons concerned by all appropriate means by the member states (Article 15).

4.4.1.9.2 Legal comparison: Turkish legislation

Throughout the screening meetings, three aspects of the Directive in relation to the existence in Turkish legislation were subject to review. The first one was the question of

[115] Please see the section on "Directive 2002/73/EC of the European Parliament and of the Council of 23 September 2002 amending Council Directive 76/207/EEC on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions".

whether or not there are *restrictions based on gender, concerning access to goods and services available to public*, offered outside private and family life. The Turkish authorities stated that in Turkey there is no restriction based on gender, concerning that issue. The Penal Code Article 122/1 states that "A person, who by practicing discrimination on grounds of language, race, colour, gender, political ideas philosophical beliefs, religion, sect and other reasons; a) prevents the sale or transfer of personal property or real estate or the performance or enjoyment of a service or who makes the employment of a person contingent on one of the circumstances listed above, b) withholds foodstuffs or refuses to provide a service supplied to the public, c) prevents a person from carrying out an ordinary economic activity, shall be sentenced to imprisonment for a term of six months to one year or judicial fine."

The second issue was the question of whether or not *gender is used as an actuarial factor* for insurance products. The Turkish authorities stated that in Turkey, gender is used as an actuarial factor in some of the life insurance and health insurance products. The third issue was the question of whether or not *health insurance premiums* for women are higher than men; and, *pregnancy and maternity related costs* are taken into account for the purpose of calculating premiums. The Turkish authorities confirmed that "due to different morbidity statistics between men and women for some age groups, health premiums may be higher than that of men's." In addition, it is also stated that "maternity and pregnancy related costs are usually taken into account in the case of maternity expenses coverage."

4.4.1.9.3 Level of fit

The lack of the definitions of direct and indirect discrimination, harassment and sexual harassment; and the non-existence of the equality body in Turkey was already mentioned in relation to the Directives 76/207/EEC and 2002/73/EC. In addition, two substantial elements of the Directive, namely the non-existence of restrictions based on gender concerning access to services (Article 1) and that gender cannot be used as an actuarial factor, nor pregnancy and maternity related costs can result in different premiums and benefits (Article 5) were not regulated in the Turkish legislation in 1999. This means that the level of policy fit in 1999 was *low*.

As also stated in the Screening Report, with the adoption of the new Penal Code in 2004, the restrictions based on gender as regards access to and supply of goods and services were removed, aligning the Turkish legislation with the Article 1 of the Directive. However, as

stated in the Screening Report, further alignment is necessary concerning access to and supply of goods and services, since gender is used as an actuarial factor in some of the life insurance and health insurance products; health insurance premiums may also be higher for women than for men due to different morbidity statistics between women and men for some age groups; and the maternity and pregnancy related costs are usually taken into account in case of maternity expenses coverage. This means that the Turkish legislation is not in conformity with the Article 5 of the Directive. Since there have been no changes in this regard after the writing of the Screening Report, the level of policy fit by the end of 2010 can be considered as *medium*.

It would also be interesting to state that being a relatively recent piece of legislation, the situation regarding the application of this Directive in the EU Member States has been reviewed very recently. The Directive asks the Member States to communicate all available information by 21 December 2009 and every five years thereafter (Article 16).

Law No.	*Title of the Law*	*Date of Enactment*	*Date(s) of Amendment*	*2004/113* related Articles
5237	Penal Code	26.9.2004	-	122/1

Table 31: List of laws referred in the comparison of Turkish legislation with Directive 2004/113

4.4.2 Summary: The level of policy fit/misfit, the degree of adaptational pressures and the outcome of domestic policy change

Depending on the legal comparison of the principles of nine EU directives in the field of equality between women and men at work with the rules and regulations at the domestic level in the Turkish legislation in this regard, it is possible to identify the level of policy fit for each EU directive in Turkey both in 1999 and by the end of 2010. The identification of the level of policy fit in 1999 also helps mapping the level of misfit, which is defined as a condition to identify the degree of adaptational pressures exerted on the domestic policies and institutions. Thus, with the help of the analysis of legal transposition performance in Turkey, the following Table 32 labels the degree of adaptational pressures created by the EU requirements in 1999 as low, medium and high.

When 1999, the year in which Turkey was granted the status of an official EU candidate country, is taken as t0, the transposition performance of Turkey by the end of 2010 (t1), identified with the level of policy fit at that time, is expected to reflect the outcome of domestic policy change in the field of equality between women and men at work since the beginning of the Turkey's official EU integration process. Thus, in Table 32, the outcome

of domestic policy change can also be indicated in three categories, namely no change, moderate change and radical change.

Directive No.	*Level of Fit in 1999*	*Degree of Adaptational Pressures in 1999*	*Level of Fit by the end of 2010*	*Outcome of Domestic Policy Change by the end of 2010*	*Level of Legal Transposition by the end of 2010*
Directive 75/117	High	Low	High	Moderate change	Compliance
Directive 76/207 & **Directive 2002/73**	Low	High	Medium	Moderate change	Partial compliance
Directive 79/7	High	Low	High	Radical change	Compliance
Directive 86/613	Medium	Medium	High	Moderate change	Compliance
Directive 86/378 & **Directive 96/97**	High	Low	High	No change	Compliance
Directive 92/85	Medium	Medium	High	Radical change	Over-compliance
Directive 96/34	Low	High	Low	No change	Incompliance
Directive 97/80	Low	High	Medium	Moderate change	Partial compliance
Directive 2004/113	Low	High	Medium	Moderate change	Partial compliance

Table 32: Level of policy fit, degree of adaptational pressures, and the outcome of domestic policy change in the Turkish case.

In addition, the Table 33 summarises the issues where there is still high and medium levels of policy misfit in the Turkish legislation by the end of 2010 when compared to relevant EU *acquis*

Directive	*Level of Misfit by the end of 2010*	*Issues of Misfit by the end of 2010*
Directive 75/117	Low	---
Directive 76/207 & **Directive 2002/73**	Medium	⇒ No definitions of direct and indirect discrimination; harassment and sexual harassment ⇒ Job advertisements/access to employment ⇒ No equality body ⇒ No provisions for social dialogue and dialogue with NGOs
Directive 79/7	Low	⇒ Different retirement ages for women and men, but to be equalised at 65 by 2048.
Directive 86/613	Low	---

Directive 86/378 & **Directive 96/97**	Low	⇒ No occupational social security system
Directive 92/85	Low	⇒ Longer duration of maternity leave ⇒ Need for protection of pregnant workers against dismissal in wide circumstances.
Directive 96/34	High	⇒ Parental leave right also for men ⇒ Also for the adoption of a child ⇒ On a non-transferable basis
Directive 97/80	Medium	⇒ Indirect discrimination ⇒ Conditional reversal of burden of proof to the employer ⇒ Limited coverage
Directive 2004/113	Medium	⇒ Gender used as an actuarial factor ⇒ Existence of higher health premiums for women ⇒ Inclusion of pregnancy and maternity related costs for higher premiums for women

Table 33: Issues of policy misfit in the Turkish legislation by the end of 2010.

By looking at the findings in two tables, it is possible to make some observations regarding the Turkey's transposition performance in relation to the level of adaptational pressures and the outcome of domestic policy change.

The analysis of the legal harmonisation shows that the level of policy misfit and the degree of adaptational pressures in 1999 have varied within the selected policy field. Three levels of adaptational pressures (low, medium and high) can be identified in this regard. For some of the rules and regulations, the adaptational pressures were *low* since the Turkish legislation was already in line with the relevant EU directives (Directive 75/117, Directive 79/7, Directive 86/378 and 96/97). The adaptational pressures were considerably *high* regarding some other EU directives (Directive 96/34, Directive 97/80, Directives 76/2002 and 2002/73, Directive 2004/113) since those rules and principles (e.g. parental leave right, reversal of burden of proof, equality body, definitions of direct and indirect discrimination, harassment and sexual harassment, equal access to goods and services) have never existed in the Turkish legislation. In the third case, the adaptational pressures were *medium* (Directive 86/613, Directive 92/85), since the Turkish legislation was including only some of the policy principles (e.g. no maternity insurance for women engaged in a self-employed capacity including agriculture during pregnancy and motherhood; and shorter maternity leave duration), and efforts to further alignment with the European rules and regulations were still needed.

With the help of the analysis of legal harmonisation, it is also possible to see to what extent some of the policies have changed and some of them remained the same in the given period of time. When the level of fit in 1999 (t0) is compared to the level of fit by the end of 2010 (t1), it is possible to identify some degrees of policy changes realised through legal tools. This actually refers to the outcome of domestic policy change. Regarding the characteristics of the outcome of domestic policy change in the field of equality between women and men at work in Turkey, it is possible to observe some degree of variation, which can help naming the transposition performance of Turkey in this policy field as "selective harmonisation." The outcome of domestic policy change has occurred in three basic forms. In some cases, there was *no change* at all in a way to introduce the non-existent principles in the Turkish legislation regarding the EU directives (parental leave right, equality body, definitions of direct and indirect discrimination, harassment and sexual harassment). In some cases, there was *moderate change*, which means that some of the existing principles in the Turkish legislation was eliminated to align with the EU requirements (head of the family clause), or a number of new principles were introduced into the Turkish legislation but in a limited way (reversal of burden of proof), or some principles were consolidated in the Turkish legislation through fine-tuning the existing principles (equal pay, equal treatment throughout the employment relationship). Finally in some cases, there was *radical change*, which means that the existing policy principles were substantially changed (equalisation of the retirement age), or some aspects of the existing policy principles were considerably emphasised (duration of maternity leave).

At the end, it is also possible to identify the actual situation of the Turkish legislation compared to the EU directives by the end of 2010. There are three categories in this regard. There are five cases where the Turkish legislation is in compliance with the EU directives (Directive 75/117; Directive 79/7; Directive 86/613; Directive 86/638 and 96/97; and, Directive 92/85), one of which reflects over-compliance (Directive 92/85). Three cases show that there is only partial compliance with the EU rules and regulations (Directives 76/207 and 2002/73; Directive 97/80; and, Directive 2004/113); and in one of the cases, there is incompliance (Directive 96/34). Table 33 summarises the issues of misfit in the Turkish legislation by the end of 2010.

Those three different degrees of adaptational pressures and three different categories of domestic policy change do not indeed display a single line of causality in a way to explain the variation concerning the outcome of domestic change in Turkey due to the European

pressures. This is to say that it is not possible to identify similar types of outcomes expected to occur as a result of the similar levels of adaptational pressures. For example, out of four cases where there was a high level of adaptational pressures, in three cases (equal treatment – Directive 76/207, burden of proof – Directive 2002/73 and Directive 97/80, and removal of the restrictions based on gender as regards access to and supply of goods and services – Directive 2004/113) moderate change has resulted in partial compliance; while in the third case concerning parental leave (Directive 96/34), no domestic policy change has occurred. Interestingly again, in two cases where adaptational pressures were considerably low due to the compatibility of the Turkish legislation with the EU directives in 1999 (Directive 75/117 and Directive 79/7) either a form of moderate change (fine-tuning) (the concept of equality) or some degree of radical change (equalisation of the retirement age) was observed. Two cases with medium level of adaptational pressures exemplified a different form of domestic policy change. In the case of the Directive 86/613, through a number of moderate changes (extending the maternity insurance and eliminating the clause on head of the family) compatibility with the EU requirements was ensured. In the case of the Directive 92/85, through a radical change in the duration of maternity leave, the Turkish legislation over-complied with the EU requirement.

In sum, the legal comparison of the Turkish legislation with the relevant EU rules and regulations helped providing an idea about the existence or non-existence of the EU principles in the Turkish legislation. Depending on the level of fit/misfit, it was also possible to identify the degree of adaptational pressures that would exert pressures on the domestic policies and institutions. However, when the outcome of domestic policy change was also considered, it became very difficult to explain the variation in the outcome with the different levels of adaptational pressures stemming from the policy misfit. Thus, depending on the need to take the analysis one step further, the following section proposes to look deeper into the domestic dynamics of policy change in Turkey, in the light of some suggested mediating factors, in order to explore deeper the causes of the domestic policy change and to test the mediating factors' potential in explaining the variation in the outcome of domestic policy change in the field of equality between women and men at work.

4.5 The Dynamics of Domestic Policy Change in Turkey: Mediating (F)actors and Issues of Contestation

The findings of the legal comparison between the EU directives and the Turkish legislation as summarised in Table 32 point out different levels of policy fit/misfit in the field of equality between women and men at work at the time when, and some time after, Turkey became an official candidate country to the EU. The data shows that different policy principles of the EU rules and regulations have had different levels of policy compatibility with the Turkish policies, which have in turn created different levels of adaptational pressures at the domestic level. However, contrary to the presumptions of the "goodness of fit" argumentation, the existence or non existence of the policy misfit and adaptational pressures have not necessarily created the same level of domestic policy change outcomes, although all the directives have been equally binding and coercive. For example, in several policy issues where considerable degree of policy misfit, hence high adaptational pressures, could be observed at the beginning of Turkey's official candidacy status, no policy change occurred after 11 years. The opposite can also be observed. In the cases where the policy fit was high thus the adaptational pressures were low, there occurred sometimes marginal yet sometimes substantial domestic policy changes. Only in some limited cases, high degrees of adaptational pressures could lead to moderate changes, resulting only in partial compliance between the Turkish legislation and the EU directives. The legal comparison between nine EU directives and the Turkish legislation shows that the compliance performance of Turkey in the field of equality between women and men at work has varied even within the same policy issue. This is to say that Turkey's adaptation with the EU in this policy field has been best characterised by "selective harmonisation", of not only the EU directives but also the individual provisions in those directives.[116] The existence or absence of policy fit/misfit and adaptational pressures has not exclusively conditioned the outcome of domestic policy change, nor has it provided sufficient tools to predict the direction of domestic change in the Turkish case.

The need to explore some additional factors that mediate the impact of the adaptational pressures and the outcome of domestic policy change is underlined both by the proponents and the critiques of the "goodness of fit" argumentation. The former category of authors suggest that "the adaptational pressure is a necessary but not a sufficient condition for

[116] In this regard, it is also possible to see a selective approach in ratifying or not ratifying other international equality standards, such as the ILO conventions No.177 on Home Work.

domestic change (Börzel and Risse, 2003: 58), and "the variations in outcomes are due to mediating factors which intervene between adaptational pressures and the outcomes" (Caporaso, 2007: 30). While the latter category of authors criticise the "goodness of fit" as being "neither sufficient for non-compliance, nor a necessary condition for domestic policy change" (Mastenbroek and Kaeding, 2006: 339); and, as having only limited explanatory power (Treib, 2003), they also suggest the need to consider some other factors that would mediate the outcome of domestic policy change due to the pressures of European integration.

In the Turkish case, in terms of the role of the adaptational pressures for the outcome of domestic policy change, the "goodness of fit" argumentation per se has seemed to have limited explanatory power to explain the end result, i.e. "selective harmonisation." Thus, as suggested both by the policy studies and by different groups of authors of the Europeanisation literature, mediating factors are seen crucial in terms of explaining the degree and outcome of domestic policy change, realised on the way to adjusting to Europe. Thus, this section intends to explore the potential of two mediating variables in explaining the outcome of domestic policy change in Turkey due to the European pressures, as elaborated in the Design Chapter.

The first mediating variable is the role played by *domestic politics*. Domestic politics is construed as a combination of a number of elements, each of which is expected to be influential directly or indirectly in shaping the outcome of domestic policy change throughout Turkey's pre-accession process, while it is also affected by the process itself and by the other elements of domestic politics. Those elements are a) the positioning and ideology of the government *vis-à-vis* the substance of the EU requirements; b) the interests of the domestic societal actors, and c) the distance between the EU requirements and the domestic societal norms. Since the period of the analysis starts with the 1999, the positioning and the ideology of the government majorly refers to the three successive AKP governments, which came to power for the first time in 2002 and stayed in the office throughout the period covered in this research. Thus, the ideology and the positioning of the government as a factor that may influence the outcome of domestic policy change in the Turkish case actually represent an ideological continuity, helpful in understanding the political dynamics in Turkey for the first decade of the 2000s. This ideology is often named as "conservative, right-of-centre party with explicit Islamist roots" and "globalist" (Öniş, 2007: 252), "a pragmatic-conservative and Islam-sensitive" (Cizre, 2008: 1) or in

particular for its approach to women, "conservative" shaped by "religious patriarchy" (Ayata and Türüncü, 2008: 378). Interests of the societal actors refer to the positioning of the actors *vis-à-vis* the EU requirements, which are observable throughout the policy processes by supporting or objecting the proposed changes. In different policy issues, they may vary in a wide spectrum. In the case of equality between women and men at work, they are mainly the women's organisations, confederations of trade unions and employers' unions, business associations and occupational organisations. The societal norms may also exist in a wide range. In the case of gender equality in Turkey, those norms are referred by the overarching notion of patriarchy, which actually embodies the roles and approaches culturally grounded in the society, reflecting cultural and historical arrangements between genders. In this regard, patriarchy "totally appropriates both women's labour and progeny and renders their work and contribution to production invisible" (Kandiyoti, 1988: 279). The prevailing patriarchy in Turkey visualises women as legally, economically and morally dependent on their fathers and husbands; as mothers and care givers, rather than individuals; and, as workers of the household rather than of the labour market. This characteristic of patriarchy is reproduced in different aspects of life such as the educational system, the workplaces, the laws etc. on the one hand; and, on the other, the state policies may constantly reproduce male domination over women (Öztürk and Dedeoğlu, 2010: 15). In this regard, societal norms have a potential to mediate the EU requirements and the outcome policy change in the sense that they feed the political ideology of the government and fed by it, and they can be either used as a justification or fought against by the societal actors. In sum, the way in which all those three factors interact with each other *vis-à-vis* the EU requirements and the outcome of domestic policy change is named as domestic politics in the context of this research, assuming the potential to mediate and eventually explain the outcome of domestic policy change in Turkey in the field of equality between women and men at work.

A second mediating variable is the existence and impact of *external/endogenous factors other than the EU* in mediating the EU related policy change. Since the early years of the Republic of Turkey, general gender equality policies have directly and indirectly been influenced by the developments towards ensuring equality at the international level. In this framework, there are different international systems and frameworks, which have inevitably created exogenous pressures on the equality at work policies in Turkey. The most visible external factors in this regard are the Conventions of the International Labour

Organisation (ILO), the Convention on the Elimination of All Kinds of Discrimination Against Women (CEDAW) and the Directives of the European Union. In addition, the structural adjustment agreements with the International Monetary Fund and the World Bank in the 1990s and at the beginning of the 2000s have also had wider repercussions on some of the equality at work policies. Those external factors have a potential to mediate the impact of the EU requirements and the outcome of domestic policy change in Turkey.

In addition, it is possible to state that the analysis of the documents of Regular/Progress Reports, Screening Report, as well as the domestic legal texts used to identify the level of misfit and the degree of adaptational pressures have not very much helped in explaining how actually the equality between women and men at work policies have been developed and changed and in which way the domestic actors and factors have been influential in shaping the outcomes of domestic policy change. The legal comparison was not sufficient to identify the domestic dynamics, in other words, the elements of domestic politics as the interplay between the societal, political, economic forces for change or resistance, which lay behind the existence or non-existence of domestic legal provisions in line with the directives. This is to suggest that there is a need to go one step further in order to reveal the domestic dynamics, domestic adaptation or resistance processes, which eventually affect the outcomes of the domestic change in Turkey in the light of two mediating variables as suggested above.

A method to do so is process-tracing, which simply refers to "trace the links between possible causes and observed outcomes" in order to identify "an intervening causal process between independent variable(s) and outcomes of the dependent variable" (George and Bannett, 2004: 6 and 117). As Tarrow notes, the goal of this exercise is "to connect the phases of the policy process and enable the investigator to identify the reasons for the emergence of a particular decision through the dynamic of events" (quoted in George and Bannett, 2004: 177).

While tracing the policy processes to analyse the potential of the suggested mediating factors in shaping the outcome of domestic policy change in Turkey, a number of additional sources are used. Those include, but are not limited to, parliamentary debates; governmental plans and programmes; press releases, especially those of the civil society organisations; newspaper articles; in some cases interviews; and, reports prepared by various actors including, trade unions as well as the representatives of the private sector.

The analysis of the policy processes in the field of equality between women and men at work in Turkey reveals two important components of domestic policy change. The first is that a number of policy issues have been more visible and contested than others on the policy agenda in Turkey throughout the 2000s. Those issues are namely the concept of equality, parental leave right, and status of women in social security, which at the same time represents three different degrees of fit, societal mobilisation, and policy outcomes. The concept of equality is a case, where the level of policy fit has always been high, but there were still demands and action for domestic policy change, depending on a "perceived" adaptational pressure. The case of parental leave is quite the opposite: due to the absence of the principle in the Turkish legislation, the level of policy fit was low, and consequently adaptational pressures were high; and there were significant pressure from progressive societal actors in favour of policy change, but still no policy change has occurred. And finally, the status of women in social security is a case, where the level of misfit and the adaptational pressure were marginal, but there observed a government-initiated reform process resulting in a radical domestic policy change, despite opposition from a high number of societal actors.

Secondly, process tracing reveals that some domestic actors as the major elements of domestic politics have been more visible than others in these processes. These actors include a wide range of categories covering state actors such as the government and its ministers, the members of the Parliament (MPs), bureaucratic units; interest groups such as the business associations, employers' unions and confederations, trade unions and confederations, and occupational organisations; civil society organisations such as women's movement and women's NGOs; and the international actors such as the ILO, UN and EU. The interaction between these actors and contested issues allows us to test the potential of the suggested mediating variables in explaining the variation in the outcome of domestic policy change in Turkey.

In the following section, above mentioned three interesting cases as contested issues will be elaborated in the light of the two major mediating variables, domestic politics and external factors other than the EU, in order to explore their potential to explain domestic policy change in Turkey in the field of equality between women and men at work.

4.5.1 The concept of "equality"

Equality between women and men is argued to be one of the issues that Turkey has been

well-prepared within the framework of the adaptation of the European *acquis* (Moroğlu, ?), mostly due to the legacy of Republican tradition and being a signatory to various international agreements and conventions since the 1960s (ILO conventions) and the 1980s (CEDAW). Regarding the legal compliance, there is a consensus both at the national and European levels that basic legal provisions that ensure equality between women and men exist in Turkey. This suggests that the idea of equality between women and men at work has not been alien to the Turkish legislation and the adaptational pressure regarding the Directive 75/117/EC on equal pay has always been low, especially due to the constitutional guarantees.

Actually, in general, many societal actors in a wide spectrum, such as the state actors, women's organisations, trade unions and employer's organisations like TÜSİAD and TİSK, have been in favour of equality between women and men, as a universal value, in the social, economic and political life. In many of those arguments, an abstract understanding of equality has been a signifier of "democratic development", "social welfare", "development of social structure", "modern society" in Turkey. For example, former Minister of Foreign Affairs and Chief Negotiator Ali Babacan (AKP) indicated in a speech that "in the 21st century gender equality is a *sine-qua-non* of human rights, and it is not possible to imagine that Turkey, which targets universally accepted values, would stay out of those developments."[117] Thus, in the context of equality between women and men, numerous references have been made to the concept of equality as a universal value; and to the international agreements, such as CEDAW and ILO conventions, to which Turkey has been a party.

However, when it comes to making legal arrangements for ensuring further equality, the societal actors do not display such a unified and homogenous approach to equality, but instead reflect their own perceptions and understandings of equality in their arguments. The diversity of approaches from the societal actors has been acknowledgeable in a number of legal change processes, initiated in the first half of the 2000s as a part of the efforts to comply with the Copenhagen political criteria of the EU, especially the EU requirements regarding human rights. Within this broader framework of efforts to improve Turkey's human rights records to consolidate some democratic rights in the country, the principle of equality also came to the policy agenda. Actually, the proposed changes to

[117] "Toplumsal Cinsiyet Eşitliğini Geliştirme TAIEX Semineri", Secretariat General for EU Affairs, 7 October 2008, http://www.abgs.gov.tr/index.php?p=42224&l=1.

enforce the principle of equality between women and men were only minor changes that could easily be named as "fine tuning", since the level of policy fit between the EU Directive 75/117 and the Turkish legislation has been high. However, the concept of equality has been one of the mostly contested issues between a number of societal actors, particularly between the AKP government, the opposition party, CHP, and the women's organisations, which all justified their demands with the need to adjust to European equality standards. The concept of equality has remained in the policy agenda throughout the 2000s, within the processes of constitutional amendment of 2004; the announcement of the draft constitution in 2007 by the party in power, AKP; and the constitutional amendment of 2010 following the referendum.

The Article 10 of the Constitution has been the basic reference in the Turkish legislation for the equality principle in general and for the equal pay principle in particular in the 2000s. Before the 2004 amendment, the principle of equality was already safeguarded in the existing Constitution:

> *X. Equality before the law*
>
> Article 10. All individuals are equal without any discrimination before the law, irrespective of language, race, colour, sex, political opinion, philosophical belief, religion and sect, or any such considerations.
>
> No privilege may be granted to any individual, family, group or class.
>
> State organs and administrative authorities shall act in compliance with the principle of equality before the law in all their proceedings.

In 2004, the constitutional amendment was proposed by 198 members of the Parliament from the party in power, AKP, with the aim of changing nine articles, including the Article 10, and annulling one article of the existing Constitution. In the official reasoning of the amendment, those proposed changes were justified on the basis of Turkey's need to fulfil the Copenhagen political criteria. Besides other changes[118], the Constitutional amendment also proposed to add a new paragraph to the Article 10 on "equality before law", which read as "men and women shall have equal rights." The reasoning of the amendment of the Article 10 was explicitly worded in relation to the requirements for equality before the law as stated in the 2003 Accession Partnership with the EU, the international agreements to which Turkey has been a party, and the Charter of Fundamental Rights of the European Union (Articles 20 and 23).

[118] The constitutional amendment included changes such as abolishing death penalty and State Security Courts, strengthening freedom of press, and enshrining the supremacy of the human rights related international and European treaties ratified by Turkey over domestic legislation.

Although it was initiated by the party in power, AKP, the amendment process was indeed taken as an opportunity, by the party in opposition, CHP, and by a number of progressive women's organisations, to criticise the government and to demand to further enhance the equality principle in a way to include the principle of "positive discrimination", which could not directly considered to be an official EU requirement. Before the Constitutional amendment of the Article 10 in 2004, despite its general reference to the equality issues, the lack of a concrete clause on the equality between women and men in the Constitution had been criticised depending on the idea that such a norm would prevent any limited interpretation of the equality within the public law, regarding equality as a mere use of public rights (Süral, 2002: 172). Thus, the amendment in 2004 was perceived as an opportunity for transition to "de facto equality" from a principle of "equality before law" (Şenol et. al., 2004: 14).

The basis of the discussions in the Parliament was the criticisms of the Republican People's Party (CHP), which was the opposition party and one of the only two parties having seats in the Parliament after the 2002 elections. CHP criticised the addition to be made to the Article 10 of the Constitution in the draft constitutional amendment ("men and women have equal rights") with the argument that such an addition would not bring any new element to the existing legal framework but would only reinforce the meaning of existing wording of the article. Instead, some of the CHP member of the parliaments demanded the inclusion of positive discrimination in Article 10. The disagreement between AKP and CHP in the Parliamentary Commission on Constitution was also reflected in the media. The proposal of the opposition party was ignored by the party in power, instead the addition to Article 10 was extended with the sentence "the State shall have the obligation to ensure that this equality exists in practice", which did not mean anything further than a repetition of the existing clause. According to Gönenç (2004), this new arrangement was more comprehensive and effective than the previous one, but it did not go beyond being a "wishful clause" to show the state what to do. In this sense, the new clause of the amendment of Article 10 neither clarified the measures to be taken by the state to ensure the equality between women and men, nor the extent of these measures and the means to be used if these measures are not taken (Gönenç, 2004). Still, the constitutional amendments as a whole were perceived as a positive step by the European Commission in its Progress Report of 2004, which also stated that the amendment of the Article 10 of the Constitution strengthened the principle of equality between women and men.

After the 2004 amendment, the Article 10 of the Constitution stated that:

> *X. Equality before the law*
>
> Article 10. All individuals are equal without any discrimination before the law, irrespective of language, race, colour, sex, political opinion, philosophical belief, religion and sect, or any such considerations.
>
> (Additional paragraph: 7/5/2004-5170/1 art.) Men and women have equal rights. The State shall have the obligation to ensure that this equality exists in practice.
>
> No privilege shall be granted to any individual, family, group or class.
>
> State organs and administrative authorities shall act in compliance with the principle of equality before the law in all their proceedings.

In addition to the disagreement between the party in power (AKP) and the opposition (CHP) in the Parliament, another political highlight of the amendment of Constitutional Article 10 was the disagreement between women's organisations and the State Minister[119] in charge of women and family affairs. After the parliamentary voting for the constitutional amendment, 50 women's organisations, which were not satisfied with the substance of the amendment due to the exclusion of an emphasis on "positive discrimination", sent protest faxes to various members of the parliament, who were known to vote negatively for the inclusion of that principle in the Article 10. In the message, the women's organisations asked for equality not only in the legislation but also in daily life, and regarded the mentality of a negative vote/voter as being "out-dated." What was interesting in due course was that the State Minister in charge of women and family affairs, who was an MP at the time of voting, was the only MP who issued a formal complaint to the attorney about that protest. Upon the complaint with the claim that this reaction was an "insult by targeting", the attorney started a legal proceeding in the court about four representatives of women's organisations as individuals. The court process lasted for about two years and the defendants were judged not guilty in March 2006, upon the withdrawal of the complaint by the Minister. However, throughout those years, any substantive cooperation between at least some of the women's organisations and the Minister had been hindered by a mental/ideational conflict between the two parties. The Minister had been subject to many other criticisms in the media because of her attitude towards the women's organisations.

Three years after the constitutional amendment of the Article 10, the equality issue reappeared in the policy agenda, bringing a new set of discussions, upon the announcement of a new draft constitution by the party in government, AKP. In June 2007, upon the request of Recep Tayyip Erdoğan, the Prime Minister and the head of the party in power

[119] Ms. Nimet Çubukçu, Member of the Parliament, AKP.

(AKP), a scientific commission of six professors[120] started to prepare a draft constitution, which was claimed to be a "civic constitution." It was first submitted to the Prime Minister on 2 August 2007 and completed on 29 August 2007. The draft constitution was released to the public opinion in September 2007.[121]

In the draft constitution, the equality principle was covered in the Article 9, which corresponded to Article 10 of the existing Constitution. The draft Article 9 stated that "everybody is equal before law irrespective of language, race, colour, sex, political thought, religion, denomination and similar reasons (9/1)" and "the measures taken for those who require special protection such as women, children, elderly and disabled cannot be considered as being against the principle of equality (9/3)." The proposed article did not include the statement of "the State shall have the obligation to ensure that this equality exists in practice" of the existing Article 10, which was added to by the Constitutional amendment in 2004.

Some progressive women's organisations, which were known with their progressive approach to equality, severely reacted to the new wording for the equality clause in the draft constitution. The basis for their major criticism was the conservative and out-dated approach towards women in the draft constitution. The inclusion of women among the groups who require special protection in the proposed Article 9 was criticised for reflecting a conservative approach to women, which was claimed to be abandoned in the international literature, especially with the universal acknowledgement of the women's rights as a part of human rights. Women activists and lawyers[122] declared that the draft constitution included even more unprogressive provisions than the existing constitution and it ignored the concept of "equality" by including women as one of the groups who required special protection such as elderly, children and disabled. In its proposed wording, the draft Article 9 was also considered to be in non-compliance with the universal international norms about gender equality. The AKP's approach to women reflected in the draft article 9 was attacked by those progressive women's organisations by stating that "…

[120] Prof. Dr. Ergun Özbudun (Head of the Commission), Prof. Dr. Zühtü Arslan, Prof. Dr. Yavuz Atar, Prof. Dr. Fazıl Hüsnü Erdem, Prof. Dr. Levent Köker and Prof. Dr. Serap Yazıcı.

[121] "Anayasa Taslağı'ndan Ulusal Çalıştay'a", 17 December 2007, Uçan Süpürge, www.ucansupurge.org/arsiv/www.ucansupurge.org/index5bfc.html?option=com_content&task=view&id=4074&Itemid=72.

[122] Lawyer Aydeniz Alisbah Tuskan, the Director of the İstanbul Bar Association's Center of Women's Rights and Lawyer Nazan Moroğlu, the Coordinator of the Union of İstanbul Women's Associations. "Kadınlar Anayasa Taslağını Değerlendirdi: Kadınlar 'Eşitlik ve Kota Anayasada Olsun İstiyorlar", Bianet, 27 September 2007, http://bianet.org/bianet/bianet/101944-kadinlar-esitlik-ve-kota-anayasada-olsun-istiyor.

for the first time in the Republic's history, there is considerable retreat in women's rights in the preparation process of a constitution."[123] In addition, the removal of the statement that "the State shall have the obligation to ensure that this equality exists in practice" was also interpreted as a factor that could be an obstacle to achieve positive discrimination for women.

Those women's organisations intensified their reactions further by establishing the Women's Platform for Constitution together with more than 200 women's organisations in September 2007. They communicated their demands in a press release[124] by stating that:

> "We, as the women's organisations, declare to the public that the termination of the Article 10 of the existing Constitution and the changes proposed by the Article 9 of the draft constitution are by no manner of means acceptable; that we will not allow for losing our acquired rights with the prepared draft law; and, that we will not step back from the point where we have reached at regarding the equality between women and men with the existing Constitution.
>
> We demand a constitution which guarantees equal rights and equal treatment to women and men, which does not make any discrimination based on sex, sexual orientation and marital status between human beings."

The Platform also criticised the removal of the statement added to the Article 10 of the Constitution in 2004, contrary to their expectations of expanding its coverage. It was stated that elimination of the affirmation that "women and men are equal" would be a step backwards in any case. The Platform stated that composing 50 percent of the population, women are individuals and citizens who deserve equal treatment in every aspects of life, and the role of any constitution is to eliminate any kind of discrimination based on gender directly or indirectly and to guarantee equality of opportunities. The demand of the women's organisations was the rearrangement of the constitutional article to ensure equality of outcomes, "de facto" equality, instead of "equality before law."

Reflecting their demands reinforced by the international equality standards, the Platform proposed a new article 9, which mainly preserved the Article 10 of the existing Constitution but also enlarged it with two additions considered to be crucial for ensuring full equality and in order for Turkey to fulfil its requirements brought by international agreements. The first addition was the prohibition of discrimination on the basis of "sexual orientation" and "marital status." The second addition was about the inclusion of "special temporary measures" in the Turkish legislation in order to advance de facto equality

[123] "İKKB Koordinatörü Moroğlu: 'İlk kez kadın haklarında geri adım'", Cumhuriyet. www.yasayananayasa.ankara.edu.tr/?x=entry:entry090518-085502 (posted on 18 May 2009).
[124] Women's Platform for Constitution, Press Release, 2 October 2007, www.kadinininsanhaklari.org/files/02.10.07_anayasa_bulten.pdf.

between women and men as Turkey's obligation in the context of CEDAW. In another declaration entitled "The Demands of the Women's Platform for Constitution for a Democratic, Libertarian and Egalitarian Constitution"[125], those progressive women's organisation once more brought the international agreements and standards to the fore and suggested changes in 26 articles of the proposed draft constitution. It was stated that the draft constitution totally ignored women, especially regarding the approach to equality and it was not in compliance with the international agreements in the field of women's rights.[126] Reflecting a critical reading of the draft constitution from the lenses of gender equality, the changes requested by the Platform can be categorised as progressive and transformative, including proposals for the measures to be taken by the state to ensure equality between women and men in different realms of life.

The pressure from those women's organisations, which was quite visible, could not be totally ignored. The head of the Parliamentary Commission on Constitution[127] indicated that in the proposed draft constitution, the article regarding equality between women and men had been changed in line with the demands of the women's organisations.[128] However, it was not possible to see to what extent the demands of those women's organisations were taken on board since the content of the changes made by AKP was not communicated to larger public. At the end, the "civic constitution" process did not led to any concrete results such as the replacement of the existing Constitution with a new one, and for that time seemingly due to social pressures, the party in power was confined to new amendments in the existing Constitution.

The proposal for the new constitutional amendment came to the agenda in 2010, also by bringing again the equality principle to the policy arena. The amendment was drafted by the party in government, AKP, and it was aiming to change a number of the clauses of the Constitution substantially, including the equality principle. In this regard, in addition to allowing positive discrimination measures in favour of women, children and the elderly, the amendment included changes ranging from changing the composition of the Constitutional Court and of the High Council of Judges and Prosecutors; restricting the

[125] "Anayasa Kadın Platformu'nun Talepleri – Tam Metin", 4 December 2007, Bianet, www.bianet.org/bianet/siyaset/103342-anayasa-kadin-platformunun-talepleri-tam-metin.
[126] "Hükümet Reformlarla Anayasa Tartışmasının Üzerini Örtüyor", Bianet, 11 January 2008, www.bianet.org/bianet/toplumsal-cinsiyet/104118-hukumet-reformlarla-anayasa-tartismasinin-uzerini-ortuyor.
[127] Mr. Burhan Kuzu, Member of the Parliament, AKP.
[128] "Anayasada kadın-erkek eşitliği: 'Anayasa Taslağı Kadınların İstediği Gibi Değişti'", Bianet, 3 December 2007, http://bianet.org/bianet/toplumsal-cinsiyet/103314-anayasa-taslagi-kadinlarin-istedigi-gibi-degisti.

authority of military courts; allowing appeals against expulsion decisions by the Supreme Military Council to be brought before civilian courts; establishing a constitutional base for the Ombudsman service; and, introducing the right to collective bargaining for public servants (Turkey 2010 Progress Report). The amendments were adopted by Parliament in May 2010 and approved in a referendum on 12 September 2010 with a majority of 58% of the votes.

Since it was a very comprehensive amendment targeting mainly at changing the structure and composition of judiciary in Turkey, AKP faced with considerable degree of reactions from a variety of societal actors, including the other political parties in the Parliament (CHP, MHP, BDP), trade unions and trade union confederations, and professional organisations. For example, CHP, as the main opposition party, took the amendment package to the Constitutional Court to annul it entirely, but the Court ruled against the request of annulment and only amended two provisions regarding the judiciary. In general, the amendment process was criticised for not being "proceeded by a consultation process involving political parties and civil society", which resulted in a confrontational political climate, "marked by lack of dialogue and spirit of compromise between the main political parties and the government and strained relations between key political institutions" (Turkey 2010 Progress Report). In this confrontation, the opinions about the amendment and positions in the referendum were divided into three fronts: those for "yes" votes, those for "no" votes, and those for boycotting the referendum.

Regarding the concept of equality after the amendment, the Article 10 of the Constitution is as follows:

> *X. Equality before the law*
>
> Article 10. All individuals are equal without any discrimination before the law, irrespective of language, race, colour, sex, political opinion, philosophical belief, religion and sect, or any such considerations.
>
> (Additional paragraph: 7/5/2004-5170/1 art.) Men and women have equal rights. The State shall have the obligation to ensure that this equality exists in practice. (Additional sentence: 12/9/2010-5982/1 art.) Measures taken for this purpose shall not be interpreted as contrary to the principle of equality.
>
> (Additional paragraph: 12/9/2010-5982/1 art.) Measures taken for children, the elderly, disabled people, widows and orphans of martyrs as well as for invalid and veterans can not be considered as contrary to the principle of equality.
>
> No privilege shall be granted to any individual, family, group or class.
>
> State organs and administrative authorities shall act in compliance with the principle of equality before the law in all their proceedings.

As the additional sentences to the Article 10 show, the major change as a result of the

amendment regarding equality before the law was the introduction of the positive discrimination principle into the Constitution. Actually, in this round of constitutional amendment, neither in the general nor in the article reasoning, there was any reference to the international standards or to the EU requirements. Before the amendment, there were not any visible demands from the societal actors to include positive discrimination in the Constitution. Thus, surprisingly, the amendment of the Article 10 came into being as an own initiative of the government, AKP, and it was used extensively to gain support for the whole amendment package.

Although the degree of political confrontation was very high on many different aspects of the amendment (such as submission of the amendment to referendum as a package in its entirety; changes to the judiciary; lack of participatory and reconciliatory preparation process etc.), none of the societal actors criticised the inclusion of the positive discrimination in the Constitution. Instead, some of them criticised the lack of some further aspects of equality, included among the demands from many women's organisations (Aşan, 2010). A major point of criticism was the lack of a clause on "de facto equality"[129], as requested by the official documents and conventions of CEDAW, EU and Council of Europe.[130] A second point of criticism expanded the principle of equality to sexual orientation, by stating that no constitutional measures were taken about eliminating discrimination against sexual orientation and sexual identity (Aşan, 2010). With those arguments, the Constitution, both in its previous form and after the amendment, was considered to be a "patriarchal" and oppressive constitution, which ignored the rights and freedoms.[131]

Considering the outcome of domestic policy change in Turkey on the concept of equality, one can state that although the level of policy misfit with the EU requirements and adaptational pressures stemming from the misfit were considerably low, some degree of domestic policy change with references to Turkey's EU integration occurred, through the processes of constitutional amendments of 2004 and 2010, and an attempt to policy change was witnessed through the proposal of the new draft constitution in 2007. Analysis of those policy processes and examination of the sources of mobilisation and domestic dynamism

[129] "Kadınlar Referandum Sürecini Değerlendiriyor", Bianet, 16 July 2010, http://bianet.org/bianet/siyaset/123_494-kadinlar-referandum-surecini-degerlendiriyor; Anayasa Değişikliği Paketine İlişkin KESK'in Görüşleri, 03 Nisan 2010, http://www.kesk.org.tr/node/67.

[130] "Kadınlar referandumu iki kere boykot etmeli" by Nihal Tümay, Bianet, 25 August 2010, http://bianet.org/ bianet/siyaset/124378-kadinlar-referandumu-iki-kere-boykot-etmeli.

[131] Ibid.

focussed around those processes show that some factors other than the degree of policy fit/misfit and adaptational pressures have been influential in mediating the outcome of domestic policy change in relation to the concept of equality in Turkey.

First of all, it is possible to see that although the EU requirements fit well with the Turkish legislation and they did not create considerable degree of adaptational pressures on the underlying political and administrative structures, the EU and its requirements have occupied a place in the domestic discourses, used by almost all the societal actors who supported or resisted the policy change. For example, the amendment of Article 10 in 2004 was clearly justified with the need to comply with EU's political accession criteria by the initiators of the amendment, the government, in a situation where there was no visible adaptational pressures stemming from policy non-compliance with the particular piece of the EU *acquis*, due to the already existing provisions of the Turkish legislation. Still, the government included the principle of equality in the constitutional amendment among other human rights related issues, by attributing it a meaning as one of the fundamental values of a democratic society, which was asked to be respected if Turkey wished to become a member of the EU. On the contrary, when the new draft constitution bearing a more conservative approach to the principle of equality came into the policy agenda, this time it was some progressive women's organisations, which used the compliance with the EU argumentation and other international equality standards against the government. Thus, independent from the level of policy fit with the EU requirements, the domestic actors may use the EU as a leverage *vis-à-vis* the other actors, whose positions against the policy issue differ from their own. This is also to suggest that the adaptational pressures are not necessarily determined solely by the level of policy fit/misfit, but they are also shaped and integrated into the domestic discourses by the domestic actors, in a way to back up their own demands with the EU requirements.

Although the EU did not create adaptational pressures that would stem from the incompatibility of the EU rules with the Turkish legislation, a considerable degree of domestic contestations occurred in relation to the concept of equality. The major reason for the contestation was the substance of the domestic policy change, perceived differently by the societal actors and the policy makers. In this sense, some actors like the government considered compliance with the EU as a political condition to be fulfilled on the way to Turkey's full membership, while the societal actors, used it as a means to enhance gender equality in Turkey. The role played by domestic politics with its different components has

a potential to explain the outcome of domestic policy change, especially through an analysis of the positions taken by the societal actors and policy makers regarding the substance of the policy change. The domestic dynamics regarding the concept of equality have shown that the contestations arose basically due to two opposite approaches to the concept of equality: the conservative approach of the party in power, AKP; and, the transformative and progressive approach to some of the women's organisations, and the similar position of the party in opposition, CHP.

The case of the concept of equality supports the argument that ideological positioning of the government, as the most influential actor for initiating and finalising policy change has been considerably influential on the outcome of policy change, vis-à-vis the demands of other societal actors involved in the contestations. For the concept of equality, the positioning of the party in power, AKP, has been characterised by a conservative approach, contented with the "equality before law" approach. Although AKP has been a government that self-declaredly dedicated itself to Turkey's EU accession from the first day of its political term in 2002, in line with its political ideology, it preferred to keep the policy changes in this regard at a minimum standard to be fulfilled in order to comply with the EU requirements, as it was the case in the 2004 constitutional amendments. Such an approach was openly voiced by the Prime Minister himself, Recep Tayyip Erdoğan, for example, in the meeting with women's representatives in July 2010 within the context of "democratic opening" of the government stating that "I do not believe in equality between women and men. That is why I prefer to say equal opportunities. Women and men are different; they are complementary to each other."[132] Such an approach was also prominent in the proposed Article 9 of the draft constitution initiated by the government, where AKP was severely criticised for contradicting the Republican approach to women and equality, and for moving backwards from the already acquired rights of women as initiated in the early years of the Republic and improved with the achievements of the women's movement especially after the 1980s. One of the reasons why AKP could openly put its conservative position towards equality has been the patriarchal societal norms that prevail in the Turkish society regarding the place of women. On the one hand, AKP's election success was partly related to the support of the conservative circles in the society which

[132] "Erdoğan'la açılım buraya kadar: Kadın ve erkek eşit olamaz", soL portal, 20 July 2010. Available at: http://haber.sol.org.tr/devlet-ve-siyaset/erdogan-la-acilim-buraya-kadar-kadin-ve-erkek-esit-olamaz-haberi-31112. Some of the representatives of the women's organisations reacted severely to the prime minister's declaration.

visualise women simply as not being equal to men in general; and on the other hand, the conservative approach of AKP to women as a powerful actor in the society perpetuated the conservative societal norms. Slightly different than the previous policy change, in 2010, although the positive discrimination principle seemed to be inconsistent with the conservative ideology of the government, it was successfully used by AKP as an instrument to provide broader public support to a package of constitutional amendment in a way to give a face value to the amended articles and to mobilise support for the amendment package as a whole. In this process, "making Turkey a democratic country as the EU wants" was an important part of the AKP's discourse, which was used to justify other domestic processes in Turkey.

On the other hand, the demands of the other societal actors, especially those of some women's organisations and the opposition party, could easily be characterised by a more progressive and transformative approach to equality, focusing on "de facto equality" or "equality outcomes" and asking for changing the socially embedded roles and norms that visualise women dependent on men (to their fathers or husbands). Empowered by the previous processes of Turkey's complying with the international standards mainly the UN CEDAW process and empowered by the supportive approach of the EU institutions to the women's organisations in Turkey throughout the monitoring processes of Turkey's European integration, some women's organisations could first make their demands visible at the policy arena, and second, they make use of the international commitments of Turkey as a means to push for domestic policy changes in line with their own demands, which often resonated with the European principles and practices, but also sometimes went beyond the EU requirements. For example, in 2004, those women's organisations and the opposition party did not stand against the amendment *per se*, but instead demanded for a more progressive amendment, namely the inclusion of affirmative action in the Constitution, which went beyond just a rhetorical consolidation of the existing equality provision. In doing so, while the policy priorities of the women's organisations were strengthened by the priorities of the European integration process, those societal actors also instrumentally used the EU (and to some extent CEDAW) as an external source of pressure in a way to increase domestic mobilisation, and in doing so, increase pressure on the government, although the EU *acquis* did not explicitly include any provisions on affirmative action. It is also an interesting finding that the demands of the women's organisations at different points of time throughout the contestations have always gone

beyond the government initiatives, which were criticised as bearing a conservative approach to women.

Other societal actors, mainly the material interest based employers' organisations such as TİSK and TÜSİAD remained rather silent throughout these processes. They seemed to be more interested in the fulfilment of Turkey's obligations on the way to Europe, rather than the substance of the eventual domestic policy change. Considering equality as a fundamental universal value, which Turkey should also ensure in order to be a western, democratic country, hence to be an EU member state, they did not raised their voices against any of the constitutional amendments, which they perceived as a means to ensure the basic EU requirements. In addition, it is also interesting to see that none of the constitutional amendments brought any economic costs to those material interest based organisations, but on the contrary they were perceived to increase the chances of Turkey to become an EU member state, for which those organisations provided an unconditional support.

At the end, it is possible to argue that in the case of concept of equality in Turkey, although the level of adaptational pressures due to policy misfit were low, i.e. Turkish legislation was in compliance with the EU directive before and after 1999, a considerable degree of domestic policy contestation backed up with the existence of the EU requirements and a moderate degree of domestic policy change, which could be labelled as "fine tuning", were observed in Turkey. In this process, the most influential factor for change, or hindering further change, was the ideological positioning of the government since the substance of the outcome of domestic policy change shows that social dynamism and progressive demands were not quite effective in shaping the substance of the outcome. In spite of the existence of progressive demands to be included into the Constitution, the amendment in 2004 remained only as a rhetorical legal change from the government side, which could have created policy change in the daily lives of women only through the existence of political will towards progressive enforcement of the newly added clause, but which has not been the case. The demands of some of the women's organisations and party in opposition regarding positive discrimination could only be guaranteed in the Constitution after the constitutional amendment of 2010, when the government took a step on its own initiative to introduce this principle, even in the lack of any pressures from the domestic actors or from the EU. This latest change has proved to be a political manoeuvre of the government to ensure additional justification to the whole package of amendments, which

included highly disputable structural changes, rather than proving to be a genuine political will to enhance gender equality as various statements of the Prime Minister and AKP members have clearly shown. At the end, the introduction of the positive discrimination principle turned out to be a political strategy in order to increase support for the amendments for its own political purposes as a part of other domestic processes, rather than reflecting a transformative and progressive approach to equality. In this process, AKP government used the EU in a strategic way, although the boundaries and scope of the EU acquis regarding positive discrimination was rather vague.

4.5.2 Parental leave right

Parental leave right is another interesting case regarding the analysis of domestic policy change in Turkey due to European pressures. The legal comparison shows that parental leave right has never existed in the Turkish legislation. This means that it is a policy issue where there has been a high level of policy misfit between the Turkish legislation and the EU *acquis* (no legislation on parental leave right in Turkey), hence a high level of adaptational pressure, (as explicitly stated in various Progress Reports by the European Commission and in the Screening Report) as a result of which, however, no domestic policy change occurred by the end of 2010.

The non-existence of any domestic legal or policy changes in Turkey regarding the parental leave right does not mean that the issue has not been visible in the agenda throughout the 2000s. There has been a high level of awareness and demands among various societal actors in relation to the need to introduce such a right as being an important requirement of the EU (Directive 96/34). In other words, whereas the degree of misfit has been high, hence the adaptational pressures, there has been a high level of support for the adoption of the parental leave right from a variety of societal actors, including all different segments of the policy actors such as the government offices and state institutions (KSGM), trade unions and their confederations, and a number of women's organisations. It is also interesting to see that contrary to the other policy issues regarding equality between women and men at work, there has also been an explicit opposition to the adoption of the parental leave right in Turkey, from the powerful employers' confederation, TİSK.

When the policy discussions about the issue are traced, it is possible to see that actually there has been an attempt to introduce the parental leave right as an EU requirement into

the Turkish legislation by the members of the party in power, as promised to be incorporated into the Turkish legislation in various official documents such as the 2008 National Programme for the Adoptation of the *Acquis* (NPAA). The issue was first brought into the parliament's agenda by Güldal Akşit[133], former State Minister in charge of women's affairs from the party in power, AKP, through a draft law. The General Directorate on the Status of Women (KSGM), functioning under the State Minister, was in charge of preparing this draft law in consultation with various ministries and government agencies. "Draft Law Amending the Civil Servants' Law and the Labour Law" [134] was submitted to the Parliament on 14 January 2005 and only on 6 February 2008 it has been forwarded to three parliamentary commissions (Planning and Budgeting Commission as the main commission; Health, Family, Work and Social Affairs Commission and European Union Harmonisation Commission as secondary commissions) to examine the Draft Law and present their opinions in their reports. Upon its establishment in February 2009, the draft law was also sent to the Commission on Equality of Opportunity for Women and Men, on 3 February 2010. By the end of 2010 only the European Union Harmonisation Commission provided a report to the Parliament and the latest status of the Draft Law is stated as "at the commission" for the time being. Although since then the draft law has been at four parliamentary commissions, only one of which provided opinions on; the latest two NPAAs refer to the intention to align Turkish legislation with the Directive 96/34; and various EU Progress Reports have criticised the lack of such a right in the Turkish legislation, the policy making process in this regard and the main policy makers' approach in relation to it have been characterised by inertia. More interestingly, this is the case in spite of the fact that a range of societal actors, except one, have voiced the necessity to adopt measures of parental leave right in Turkey.

At the state level, the General Directorate on the Status of Women (KSGM) has indeed shown a very positive and supportive approach towards the introduction of parental leave right into the Turkish legislation. Besides taking the role of the coordinating state institution throughout the preparations of the draft law, the representatives of the institution vocalise the necessity of defining the right in the Turkish legislation. For example, the head of the Department of Strengthening Woman's Economic Status at KSGM stated in the Female Labour and Employment Meeting (Güre, 2007):

[133] Güldal Akşit is currently the president of the Parliamentary Commission on Equal Opportunities for Women and Men, which was established on 25 February 2009 with the Law No. 5840.
[134] Period and year of legislation: 23/2; number 1/510.

> "As a matter of fact, establishment of the concept of parental leave in Turkey is a necessity. With this belief, we [KSGM] have been working on this since 1995, much before the start of the EU harmonisation efforts. We have prepared the Draft. Yes, we have started the legal procedure by finalising the Draft upon the examination of the Directive 96/24, and this Draft is in the agenda of the General Assembly of the Parliament since 7 March 2005. We also do not want to say in all the reports that it is in the agenda of the Parliament."

In addition, in the National Action Plan Gender Equality (2008-2013) prepared by KSGM, "making legal arrangements on parental leave in order to share childcare responsibilities between mothers and fathers" was stated as one of the objectives and strategies for action, which was defined within the objective to "accelerate efforts to increase women's employment in line with the Ninth Development Plan." The major responsibility of ensuring this objective has been divided between the Ministry of Labour and Social Security and KSGM, where the Ministry of Justice, relevant public agencies and institutions, Bar Association, trade unions and confederations of workers and employers and the NGOs were defined as the collaborating institutions and agencies.

The basis of domestic support from a wide range of societal actors for the introduction of parental leave right into Turkish legislation, which is a clear EU requirement actually stems from the perceptions of those actors about the substance of the policy principle. As stipulated in the EU directive (96/34/EC), the parental leave right is considered to be a means to increase the participation of women in the labour force, reconciliation of work and family life, and increasing birth rates due to demographic consideration of aging European societies. The idea behind the parental leave right is to ensure sharing of responsibilities between parents in a way that it is not necessarily only the mother who should take care of the children, and thus to ensure a more equal division of labour between the mother and the father in the provision of child care. Such an approach requires the transformation of social norms and gender roles embedded in societies that visualise women as the sole care givers. That is why the right to parental leave has been considered as a progressive step towards enhancing gender equality, and accordingly, it has occupied an important place in the agenda of the women's organisations and feminist movements. Many societal actors in Turkey have approached the parental leave right from a very similar perspective, and by indicating that it is an EU requirement for Turkey, they have supported the introduction of such a right as a means to transform the existing patriarchal societal norms prevailing in the Turkish society, which have deepened the inequalities between women and men and hindered women's participation in the labour market.

Throughout the 2000s, numerous women's organisations have raised their voices in

relation to the lack of and necessity for the parental leave right in Turkey. An important example is provided by the Initiative for Women's Labour and Employment (KEİG)[135], which is "a platform of NGOs, academics, local authorities, trade unions and semi-public institutions to promote a gender perspective in labour and employment issues"[136], founded in February 2007 following a conference on Women's Labour and Employment. In several publications and reports of KEİG, parental leave right has been voiced as a major policy demand, as an important step in order to ensure reconciliation of work and family lives and reorganisation of division of labour. In this context, state policies for parental leave right and provision of care services have been demanded as a part of the Turkey's obligations in the European integration process, in order to eliminate the prevailing understanding in Turkey, which considers child care as the sole responsibility of the mother (KEİG, 2008: 118, 121). Considering it as a part of the reconciliation policies, KEİG has also advocated for a change in the approach to child care in order to take the responsibility from the mothers and employers and to enlarge it also to the local governments in order to ensure the opportunities for the children of working women to benefit from crèches (KEİG, 2008: 121). In this regard, KEİG also criticised the actual legal framework[137] reflecting the existing crèche policy.

The demand for parental leave right has also been voiced in CEDAW Shadow Reports, which have been prepared by some women's civil society organisations, separate from the Turkish government's reports. In the 2004 Shadow Report[138] for the Combined 4th and 5th Periodic Country Report for Turkey, under the section on Economy, Working Life and

[135] In the website of the KEİG, the main aim of the platform is defined as "to make women's domestic and public labour visible and recognised; to disseminate research and information on issues of women's labour and employment; and, to combat discrimination against women by proposing policies towards equal opportunities for employment, decent working conditions and decent income in Turkey."

[136] http://www.keig.org/eng/default.aspx.

[137] In the Turkish legislation, the Regulation No. 25522 on the Working Conditions of Pregnant or Breastfeeding Women, Breastfeeding Rooms and Child Nursing Homes includes provisions on the responsibility of the employers who employ more than 150 female workers to establish crèches for the children of the workers aged from 0 to 6 years old; and for those who employ 100-150 female workers to establish breastfeeding rooms for the children up to 1 year old (Article 15). The children of the female workers of that workplace regardless of their age and marital status, as well as of the male workers who have the custody of their children have right to benefit from those crèches (Article 16). KEİG suggests that the obligation of the employer to establish crèches at the workplace should be determined not according to the total number of female workers, but total number of all workers in the workplace.

[138] The CEDAW-Steering Groups includes 13 women's civil society organisations. Uçan Süpürge (Flying Broom) acts as the secretariat and the members are Anadolu Çağdaş Eğitim Vakfı; Başkent Kadın Platformu; Ev-Eksenli Çalışan Kadınlar Çalışma Grubu; Kadın Adayları Destekleme ve Eğitme Derneği (KA-DER); Kadın Dayanışma Vakfı; Kadının Sosyal Hayatını Araştırma ve İnceleme Derneği (KASAİD); KAZETE; Türkiye Aile Planlaması Derneği; Türk Kadınlar Birliği; Türk Üniversiteli Kadınlar Derneği- Ankara Şubesi; Uluslararası Af Örgütü- Türkiye Şubesi; Uluslararası Bahai Topluluğu, Türkiye Şubesi.

Poverty, those women's organisations criticised the state for not enacting the legal measures such as the parental leave, which would demonstrate and accept that "family responsibilities should be shared equally." The demands of those women's organisations was to ensure reconsideration of the legal arrangements through the lenses of gender equality and to ensure that the state should take legal measures, such as the parental leave, in a way to prove that it did not support discrimination but on the contrary it was against it.

The trade unions have also been actively involved in supporting the introduction of the parental leave right in Turkey throughout the 2000s. The Women's Labour Platform, established in 2005 under the initiative of the Confederation of Turkish Trade Unions (Türk-İş) in cooperation with the International Labour Organisation (ILO) and United Nations Population Fund (UNFPA) consisted of 21 institutions[139] of NGOs, confederations of trade unions of labour, civil servants and employers, universities and public representatives.[140] The need to enact a law on parental leave right was among the recommendations of the Platform, in order to eliminate the understanding which considered child care as the sole responsibility of the women (Türk-İş, ILO, UNFPA, 2005: 111).

Not only the workers' trade union confederation, but also that of the public employees has been a proponent of the parental leave right. The Women's Secretariat of the Confederation of Public Employees' Trade Unions (KESK) dealt with the issues of parental leave and crèches in an organised manner. In 2009, the Secretariat accelerated its efforts with the campaign "Crèche and parental leave is our right!" for working women in the public sector. The campaign voiced three major demands[141]: the regulation of parental leave right through laws; the establishment and betterment of crèches in the public enterprises; increase in the paid maternity leave from 16 weeks to 24. Similar to some

[139] Çalışma ve Sosyal Güvenlik Bakanlığı - Avrupa Birliği Koordinasyon Dairesi; Başbakanlık Aile Araştırma Kurumu; Hacettepe Üniversitesi Kadın Sorunları Araştırma ve Uygulama Merkezi; Orta Doğu Teknik Üniversitesi Kadın Sorunları Araştırma ve Uygulama Merkezi; Ankara Üniversitesi Kadın Sorunları Araştırma ve Uygulama Merkezi (KASAUM); Devlet Planlama Teşkilatı; Ankara Tabip Odası; Kadının Sosyal Hayatını İnceleme Vakfı (KASAİD); Kadın Adayları Destekleme Vakfı (KADER); Cumhuriyet Kadınları Derneği; Ankara Barosu Kadın Kurulu; MEMUR-SEN; Başkent Kadın Platformu Derneği; Türkiye Kadın Dernekleri Federasyonu; TİSK, Türk Kadınlar Birliği; Diyanet İşleri Başkanlığı; Türkiye KAMU-SEN.

[140] The Platform formed five commissions in order to conducted a two-month study (15 March – 6 May 2005) to identify the actual situation in Turkey in relation to the working fields of each commission. At the end of this period, those commissions made some recommendations in line with and offered some solutions to the problems and deficiencies that they identified.

[141] http://www.kesk.org.tr/index.php?option=com_content&task=view&id=1004&Itemid=119 (Updated on 26 June 2009).

women's organisations, KESK criticised the government's policy on the provision of crèches, and instead voiced its demands for free of charge crèches in the public workplaces. Within the campaign, KESK lobbied for their demands in the Parliament by visiting a number of women MPs of different political parties including CHP and Democratic Society Party (DTP), the director of the Parliamentary Commission of Equal Opportunities between Women and Men[142], and the State Minister responsible for Women's Affairs and Family[143]. However, AKP MPs did not respond to the KESK's request for a meeting. In general, the reactions to KESK's demands were supportive and positive from CHP, DTP and the head of the Parliamentary Commission. However the State Minister was rather critical about the demands on crèches, stating that such a responsibility should be taken away from the public institutions and this service should be purchased from the private sector.

Besides the trade unions of private and public sectors, one of the biggest business associations also approached the issue of parental leave supportively. The Turkish Industrialists' and Businessmen's Association (TÜSİAD), which is one of the most powerful business associations in Turkey, stated its support to gender equality in general and to parental leave in particular through a set of reports, backing up its position by the international requirements of Turkey in this field.[144] In one of her speeches[145], the former president[146] of TÜSİAD underlined the importance given by the Association to strengthening of women's status in the society and its meaning for democratic development and social welfare. She also appreciated the EU harmonisation process as a positive driving force for women's rights in Turkey and efforts in Turkey for the reorganisation of legislation for equality between women and men in the context of this process, as well as the efforts of NGOs, primarily the women's organisations. As one of the reasons avoiding women from participating in the labour force, she referred to the non-institutionalisation of the care services in Turkey, and in this regard she suggested that parental leave right should become a law; comprehensive policies for access to care

[142] Ms. Güldal Akşit, Member of the Parliament, AKP.
[143] Ms. Selma Aliye Kavaf, Member of the Parliament, AKP.
[144] TÜSİAD prepared a comprehensive report in 2000 entitled "Walking towards Equality between women and men: Education, Working Life and Politics" taking the international equality policies into account, and updated it in 2008 together with Women Entrepreneurs Association of Turkey (KAGİDER).
[145] Arzuhan Doğan Yalçındağ's speech at the "International Multidisciplinary Women Studies Congress", Sakarya University, 05 March 2009. Available at: www.tusiad.org.tr.
[146] Ms. Arzuhan Doğan Yalçındağ is the first female president of TÜSİAD, who stayed in office for three years from January 2007 to January 2010.

services should be adopted; and local governments should undertake more responsibilities for child and elderly care services. According to TÜSİAD, policies for the reconciliation of work and family life would support women in entering the labour force.

The only negative approach to parental leave right in Turkey came from the Turkish Confederation of Employer Associations (TİSK), which is considered as a very powerful employer confederation in Turkey. In its report[147] of 2006, entitled "Social Policy and Employment: EU *acquis* and Turkey", TİSK elaborated its perception of the parental leave right by arguing that "parental leave came into the agenda [in Europe] due to the aging population and in the context of fighting with the decline of birth rates in the EU member states" and the idea behind the European equality directives was to provide means for substituting the labour force deficit stemming from the aging society and low birth rates. Referring to the Green Report prepared by the European Commission[148], TİSK proposed that those problems would not be confronted with in Turkey before 2040, thus the structural differences of Turkey from the European countries regarding the main elements of equality between women and men (in other words the elements which form the basis of the EU *acquis* and the responses provided by the directives and characteristics of Turkey) should be clearly identified. Providing its own position, TİSK proposed that:

> Parental leave which is also provided for men in order to ensure equality between women and men and to ensure female workers' continuity at work should be reconsidered for Turkey (except for the cases of child adoption) and it should be discussed to what extent parental leave right, under the prevailing conditions, would be exploited by the male workers efficiently and effectively in Turkey.

The basis for the opposition was basically related to the economic costs of legalisation of such a right for the employers. TİSK stated in the report that it should not be the employer who would pay the costs incurred by the parental leave right. The Confederation argued that "in order to encourage childbirth, maternity and parental leave benefits [in Europe] are paid either by the state or from the unemployment insurance" and "under the circumstances in Turkey where those problems have not yet been confronted with, granting such [parental] leave also to the men would result in some negative consequences which are not conceived by the Directive [96/34/EC]." TİSK did not consider the parental leave

[147] TİSK established a Commission to examine the EU *acquis* in the field of social policy and employment and prepared a report entitled "Social Policy and Employment: EU *acquis* and Turkey" in 2006. The timing of the report was particularly interesting: the report was released with a press conference and submitted to the government in March 2006, a couple of days before the start of the screening meetings of the Chapter 19 between the European Commission and the Turkish authorities.

[148] European Commission (2005) *Confronting demographic chance: a new solidarity between the generations, Green Paper*, Belgium, March 2005, pp.27.

right suitable for Turkey, because in the EU member states the birth rates have been low, so there could be a need to encourage women's participation in the labour force in Europe. However, TİSK did not perceive such a risk in Turkey and it suggested that "there is a need to revise the draft law on parental leave which is in the agenda of the Parliament" (TİSK, 2006). Still, TİSK attached importance to the image of Turkey in the accession negotiations with the EU, and in this regard, proposed the Turkish authorities to prepare a five-year plan for the legal harmonisation with the EU regarding equality between women and men. Such a plan would first contribute positively to the image of Turkey for the accession negotiations, and second, it would to bring advantages in providing a transition period for the employers. The position of TİSK *vis-à-vis* the parental leave right was reiterated in 2008. In the opinion report of TİSK on the Turkey's 2008 National Programme for the Adoptation of the *Acquis*, the Confederation clearly recommended the policy makers to postpone the adoption of the parental leave right in Turkey[149]:

> EU harmonisation in some fields, particularly in the fields of working life and environment, should not be hastened; the farthest date for legal harmonisation and its implementation should be obtained; and implementation schedule should be postponed until the last day before accession as a full member. … 'Turkey's realities' should be taken into account, otherwise while encouraging positive discrimination for women; rate of women's stay in employment would gradually decline.

Considering the outcome of domestic policy change in Turkey in relation to the parental leave right, it is possible to state that although the level of policy misfit with the EU requirements and adaptational pressures stemming from the misfit were high due to the non-existence of the parental leave principle in the Turkish legislation, there has been no policy change in Turkey. The draft law initiated by the State Minister (AKP) in 2005 has not lead to any concrete result for the enactment of any legal measures for the parental leave right in Turkey by the end of 2010. Tracing the positions and demands of the societal actors regarding the parental leave throughout the 2000s shows that a number of mediating factors has been influential in resulting in no domestic policy change regarding the parental leave right in Turkey.

First of all, the EU requirement for the adoption of the parental leave right through the Directive 96/34 has helped bringing the issue on the policy agenda in Turkey, and more importantly created a solid basis for many societal actors such as some of the women's organisations and trade unions' confederations to demand for such a right, which has been

[149] "TİSK AB standartları için aceleci değil", Referans Gazetesi, 07 Kasım 2008. Available at: http://www.referansgazetesi.com/haber.aspx?HBR_KOD=109999&KTG_KOD=247.

perceived as a tool to transform already existing gender norms visualising the women as the sole care giver and perpetuating inequalities in the society. In the non-existence of such a right in Turkey, the policy makers also had to take an initiative towards legalising the parental leave right, not to risk the prospects of the EU accession process. In this regard, the intention to adopt a law for parental leave from the Turkish side has been stated in different NPAAs, and the gender machinery (KSGM) under the state ministry prepared draft law and submitted it to the Parliament.

However, neither the demands of the societal actors, the existence of the EU requirement itself, the EU reports criticising the lack of such a right in Turkey nor the initiation of a draft law have not been sufficient to result in any domestic policy change in Turkey in this policy issue. The analysis of the domestic dynamics has shown that the contestations have occurred due to the substance of the EU requirement and perceptions of the societal actors on it. In Turkey, throughout the 2000s, the societal actors have discussed the parental leave right in relation to two basic characteristics of the policy issue: the transformative and progressive role attributed to the existence of parental leave right, and the economic costs that would be created by the legalisation of such a right.

In Turkey, many women's organisations and trade unions' confederations have regarded the parental leave right as a means to overcome the gender based inequalities in the society, where child care was considered as the primary responsibility of women. Such a societal norm has been struggled against by those organisations since it was perceived to affect the working life of a woman negatively and perpetuate inequalities that women face in the society. Thus, parental leave right has been considered as one of the basic premises of reconciliation of work and family life, which would eventually result in a more equal division of labour between the mother and the father in the provision of child care, and hence the transformation of social norms and gender roles embedded in societies that visualise women as the sole care givers. That is why the parental leave right has easily been internalised as an important issue by many progressive women's organisations, and trade unions and their confederations in Turkey when it came to the policy agenda in Turkey as a clear EU requirement.

There is also another interesting dimension of the domestic dynamism created by the entrance of the parental leave issue to the policy making agenda in Turkey. Considering the existing legislation and specific conditions of working for women in Turkey due to the patriarchal social norms hindering women access to labour market, the progressive

women's organisations and trade union confederations have already been, maybe more dedicatedly, involved in a struggle for enhancing the right to have crèches or nursing rooms for children of the working women within the workplace, which was not a requirement of the EU. With the appearance of the parental leave right as an EU requirement, many societal actors have started to consider those two issues together, since both issues could be categorised under the policies aiming at reconciliation of family and working responsibilities of women. This is to say that within this context both issues were in conformity with the positioning and preferences of those actors, which have perceived those issues as a part of their transformative and progressive approach to equality between women and men at work. Thus, those societal actors have used the EU requirements, pressures and rhetoric instrumentally to bring their own demands and interests into the policy making agenda, primarily those of crèches, with the help of the EU requirement, namely that of the parental leave right. But at the same time those organisations have had to reshape their own priorities in the existence of the EU requirement, and prioritise the parental leave right as a policy demand in addition to the right to crèches. However, all those demands and lobbying efforts by those actors were not quite successful at the end in resulting in substantial policy change regarding the issue of parental leave right.

The reason why many societal actors have shown a great interest in and support for the parental leave right has probably been one of the reasons why the party in power, AKP, has shown reluctance for it. From the beginning, it is not possible to argue that AKP has owned the issue the since it seemed to contradict with their own conservative ideological discourse and preferences regarding women's place in the society. The "moderate Islamic" approach of AKP to women first visualises women as mothers, then as individuals. For example, advising newly formed families to have at least "three children" has been one of the most visible signifiers of such an approach. This conservative approach has often been voiced by the Prime Minister himself and his party members, both Ministers and Members of the Parliament.[150] To the extent that the transformative nature of the parental leave concept was not in conformity with political ideology of the party in power, AKP, which attributes traditional and conservative societal roles to women as the sole and main caregivers, it is not surprising to observe a considerable delay in the parliamentary

[150] In 2008, Recep Tayyip Erdoğan, Prime Minister, AKP, gave this advice in a public speech in Uşak where he went to participate in a panel organised for the Women's Day. "Erdoğan: En az üç çocuk doğurun", Hürriyet, 7 March 2008. Available at www.hurriyet.com.tr/gundem/8401981.asp. In the following years, the "three children" advice continued to be given by AKP members in many other occasions.

procedures despite the existence of a draft law, a considerable degree of governmental inertia and lack of political will to adopt the parental leave right at the expense of the support and demands from the societal actors,.

In the case of parental leave right in Turkey, the mismatch between the government's ideology and the substance of the EU directive did not seem to be the only reason for non-existent domestic policy change. A significant exception to the support for parental leave, in other words resistance, has come from the powerful employers' confederation, the Turkish Confederation of Employer Associations (TİSK), due to high costs perceived to be assumed by the employers in granting parental leave to the employees. To the extent that the economic costs perceived by the adoption of parental leave right was high, in spite of its explicit support for Turkey's EU integration process, the Confederation did not abstain from openly putting their demands on the policy agenda for putting off any legal action for the adoption of parental leave right. In addition to the economic costs of the parental leave right for the employers, TİSK also built its objection on the existing societal norms in Turkey, by stating their prediction that in any case male workers would not think of benefiting from such a right.

Although it was not openly declared either by the government or by TİSK, it is obvious in the issue of parental leave right that preferences and interests of those two powerful actors have overlapped. In the existence of a powerful opposition for domestic policy change coupled with the governments ideological positioning, the governmental inertia has assumed a new justification. This is to argue that the governmental inertia for the legal adoption of the parental leave right could also be construed as a result of an alliance between the organised employers and the government, whose preferences and interests overlapped in a particular policy issue. In this regard, the issue of parental leave has the potential to reveal a significant characteristic of the power relations between the societal actors and their relation to the policy makers in Turkey. While the employers' confederation's demands exemplify a powerful position about how to access to and influence the policy making process at the level of government and the parliament, the disregard of the substantial demands of some of the other societal actors such as the progressive women's organisations and trade union confederations exemplifies how political, ideological and economic costs perceived by the societal actors might shape the strategic alliances between some of the actors around some policy issues.

In sum, regarding the issue of parental leave right in Turkey, the European requirements

has led to considerable degree of adaptational pressures and domestic contestations in the presence of a high degree of policy misfit. However, regarding this policy issue, no concrete policy change has yet occurred. This suggests that the existence of the adaptational pressures was not a significant factor that would explain the outcome of no domestic policy change. In this regard, some mediating factors, namely the dynamics of domestic politics, have played a role in shaping the outcome. The inertia for policy change was basically caused by the reluctance of the party in power, AKP and its government due to its conservative ideological positioning *vis-à-vis* the parental leave right, and the resistance of powerful employers' confederation (TİSK) to change due to perceived economic costs, in spite of the abundance of demands from other societal actors for policy change. This reflects a pattern of co-existence of interests of, and interaction between, the government and the employers. This situation points out the uneven distribution of power among the societal actors in pushing their demands to the policy agenda; and the role of the perception, preferences and positioning of the societal actors about the substance of the EU policy requirement.

4.5.3 Equal treatment in the matters of social security

The case of equal treatment in the matters of social security is also an interesting case regarding the analysis of domestic policy change due to European pressures. The legal comparison of the principles of equal treatment in matters of social security and occupational social security schemes (Directive 79/7/EEC; Directives 86/378/EEC and 96/97/EC) and the Turkish legislation shows that the level of policy misfit has been low in Turkey. However, throughout the screening process in 2006, the European Commission also investigated the existence of equal retirement ages for women and men by bringing the issue to the attention of the Turkish authorities although unequal pensionable ages may be permitted under the derogations in Directive 79/7. Since in Turkey the retirement age was different for women and men at that time, the situation was indicated in the Screening Report of the European Commission. Thus, considering the legal comparison of the already existing provisions in the social security legislation it was plausible to state that the level of adaptational pressures in 1999 were low in relation to this policy issue. However, it increased to medium after the screening process since the retirement age appeared to be included as an additional issue by the European Commission.

The Law No. 5510 on the Social Insurance and Universal Health Insurance (SSGSS)

adopted in 2008, equalised the retirement age for women and men at 65 in 2048. Upon this change, the only remaining concern from the European Commission has been the duration of equalisation of the retirement age, which was stated to be "not until 2048." However, the Law No. 5510 regulating the retirement age was indeed an important milestone of the comprehensive restructuring of the Turkish social security system, which reflected a very radical domestic policy change. In other words, the EU related legal harmonisation occupied only a small part of a very large domestic "reform" package regarding the wholesale restructuring of the social security system in Turkey.

Tracing the positions of the AKP government, the opposition party, CHP, and the societal actors in the reform process with a particular focus on the issue of retirement age and impacts of the reform on women, reveals a severe incidence of contestations. In this process, the party in power, AKP, has been the major initiator and advocate of the reform process *vis-à-vis* the high degree of resistance and criticisms from a large number of societal actors against such a radical domestic policy change in the field of social security in Turkey. Actually, the contestations occurred on a wide range of issues, referring to different aspects of the social security reform, but it also included the perceived negative impact of the reform process in general and the Law No. 5510 in particular on women. In particular, the contestation regarding the impact of the process on women focused on the substance of the reform process and referred the issue of the equalisation of the retirement age for women and men. Many societal actors criticised the radical changes due to the conservative approach to women prevailed in the reform process. However, in spite of this dynamism and the existence of high degree of resistance, only a very limited number of societal demands were taken into consideration throughout the process, which did not in fact change the nature and substance of the reform and its legislative outcomes.

At the domestic level, the Social Security Reform process was initiated by the AKP government in the first half of the 2000s. Looking deeper into the domestic reform process, many authors claimed that it was mainly a response to the structural adjustment agreements with the International Monetary Fund (IMF) and the World Bank (Ataay, 2008: 169; Erdoğdu, 2009). The reform initiated in 2006 was seen as an important component of the 19th Stand-by Agreement with the IMF in 2005 (Erdoğdu, 2009). The World Bank's involvement in the process was through efforts of restructuring the health and social security system in Turkey, by conducting comprehensive studies such as "Turkey Reforming the Health Sector for Improved Access and Efficiency" (World Bank,

2003). As a result, IMF and the World Bank appeared as the major drives behind such a comprehensive reform initiative of the AKP government, both by drawing the contours of the reform through recommendations to the Turkish government, as well as providing financial resources for the reform process.

The reform process included the reorganisation and restructuring of the whole social security system as well as the health insurance[151], which were used to be covered by mainly four institutions: Retirement Fund (Emekli Sandığı) for the civil servants; Social Insurance Institution (SSK) for the workers and agricultural employees; Social Insurance Institution (Bağ-Kur) for the self-employed and self-employed in agriculture; and Turkish Employment Organisation (İŞKUR) for the employees covered by unemployment insurance. The main components of the social security reform were a) setting up a single retirement insurance for all employees, employers, self-employed and civil servants, b) creation of a General Health Insurance for the whole population, c) establishment of a system where social benefits and services are based on objective benefit criteria and improvement of their coverage, and d) creation of a new institutional structure (Screening Report of the European Commission, 2006). In this regard, the reform process aimed at simplifying and reducing bureaucracy; equalisation of benefits-liabilities for everybody; and increasing the retirement age gradually to 65 for both women and men by 2048.

In the reasoning of the Social Security Reform[152], three stages were defined. At the first stage of the Social Security Reform, all the social security institutions were brought under the umbrella of a single body called Social Security Institution (SGK) with its Law No. 5502 on 20 May 2006. The second stage of the reform was "to bring together the provisions regarding social security and general health insurance in a single law in order to ensure harmonisation of norms and standards." For this aim, the Law No. 5510 on the Social Insurance and Universal Health Insurance (SSGSS), which also equalised the retirement age by 2048 for everybody among many other changes, was submitted to the Parliament and published in the Official Journal on the 31 May 2006. The third stage of the reform is to clean out the payment without premium system from the social security system and manage it exclusively.

[151] Social insurance covering old-age, health care, invalidity, sickness, maternity, occupational injuries and diseases, unemployment, and survivor's benefits.
[152] Social Security Reform General and Article-based Reasoning, 29 November 2007, www.memurlar.net/haber/ 94668/.

The Social Security Reform process was widely reflected, dominantly with criticisms, in the public opinion. The Social Insurance and Universal Health Insurance (SSGSS) Law and its preparation necessitated numerous amendments in and re-writing of the existing laws. The draft laws prepared in the Parliamentary commissions and submitted to the Parliament received considerable reactions from several societal actors and had been re-sent to the Planning and Budget Commission in the Parliament (KEİG, 2008b: 3). Accordingly, the date of entry into force of this law changed several times. When the law was enacted in May 2006, the date of entry into force was announced as 1 January 2007. The application of the Presidency of the Republic of Turkey and the opposition party (CHP) to the Constitutional Court interrupted the process. With the decision of the Constitutional Court[153], the entry into force date was postponed two times (to 1 July 2007 and 1 January 2008) and some of the articles of the Law were annulled. After the announcement of the date as 1 June 2008, the Law finally took force in October 2008.

In 2006, the head of the Republic of Turkey, Ahmet Necdet Sezer and 116 Members of the Parliament from CHP brought some articles of the Law No. 5510 to the Constitutional Court with a demand to annul those articles and suspend their execution. One of those articles was the Article 28 of the Law No. 5510, which regulated the age of retirement for everybody, in a way to equalise it at 65 gradually by 2048. When the reasoning given by those two policy actors as provided in the Constitutional Court Decision No. 2006/112[154] was examined, it was possible to see that the Article 28 of the Law No. 5510 was considered in relation to the constitutional principles of social state, equality and rule of law. The equalisation of the retirement at the age of 65 was criticised by stating that such an increase would make the use of the right almost impossible for future generations, in a country where the life expectancy was 66 and where flexible and informal forms of employment, as well as unemployment, were very widespread. With the characteristics it reflected, the Article 28 was not considered to be just, reasonable and prudent. Considering those arguments, the Constitutional Court decided to annul some parts of Article 28 in relation to the application of the rule to the civil servants, while keeping the rule applicable to the other employees. This meant that the Court did not reject the principle of the equalisation of the retirement age at 65 at all, but only partially annulled its enforcement for the civil servants. As a result of the overall decisions of the Constitutional Court, the

[153] Constitutional Court Decision No. 2006/111 and 2006/112 dated 15 December 2007.
[154] Constitutional Court Decision No. 2006/112 dated 15 December 2006, published at the Official Journal No. 26392 dated 30 December 2006.

government was expected to amend many of the articles of the Law No. 5510, with a law[155] in 2008. However, in spite of the annulment decision of the Constitutional Court regarding the Article 28 on the equalisation of the retirement age for the civil servants, the amendment did not include any changes in this direction by arguing that there was not any special explanation in the reasoning of the Constitutional Court decision.[156]

The SSGSS Law created a great deal of reactions against the AKP government from a wide range of societal actors. The "Platform of Health, Safe Future for Everybody"[157] is a good example of the coalition between more than 70 components, including trade unions of public and private sector employees (such as DİSK, KESK, Türk-İş), professional organisations (such as TMMOB and Turkish Medical Association - TTB), İstanbul Bar Association, various political parties both from inside and outside the Parliament, and numerous civil society organisations.

Some activist women took their part in this mobilisation against the reform, whose particular position depended on the negative impact of the new Law on women's existing status, especially on the female workers, due to the existing inequalities that women had to cope with in the working life, often due to care related responsibilities attributed to women. One of the issues in this regard was the equalisation of the retirement age for women and men, which was seen as reflecting a formal understanding of equality. The basis of the criticism was that the Law underestimated the working and living conditions as well as the family responsibilities of women and considered those as the same with those of the men.[158] Thus, keeping a difference in the age of retirement according to gender was in fact seen as a justifiable demand. Another point of criticism pointed out to the career breaks that women have to take due to family and care (child, elderly and sick) responsibilities. The changes brought about with the Law such as increasing the number of premium days, changing the conditions of being entitled to the nursing benefit, the decrease in pensions due to decrease of income replacement rate, inclusion of the unpaid birth and maternity leave periods within the periods for which service indebting is foreseen etc. were clearly

[155] Law no. 5754 on "Changing Some Articles of the Law on Social Insurance and Universal Health Insurance and some Laws and Statutory Decrees", dated 17 April 2008. Article 16 of that law included some changes on Article 28 of the Law No. 5510.
[156] Social Security Reform General and Article-based Reasoning, 29 November 2007, www.memurlar.net/ haber/ 94668/.
[157] The web site of the Platform is www.hsggplatformu.org.
[158] Interview with Assoc. Prof. Dr. Kadriye Bakırcı, "Kadınlar çalışma yaşamından geri çekilecek", Evrensel, 11 February 2008. Also available at www.ses.org.tr/index.php?option=com_content&view=article&catid=54 : kadaber&id=350:kadr-yandan-geri-ilecek-.

seen be to the disadvantage of women since it was stated to be almost impossible for working women to reach up to 9000 premium days.[159] In general, those criticisms were referring to the limited capacity of the SSGSS Law to increase women's employment because it was argued that when women would realise that they would not be able to fulfil the conditions of the new Law such as completing 9000 premium days, they would not like to work or they would ask their employer to pay the amount of the premium costs to them as an increase in their salaries by accepting to work without insurance, which will in turn increase the employment in the informal sector. In this regard, the new Law was considered as a step backwards from the rights provided for women in the previous social security system and was stated to have a bunch of negative consequences, affecting the prospects and conditions of working for women considerably.

In this process, it is also possible to observe a high degree of political mobilisation from a considerable number of women's organisations. The "Women for Social Rights Platform", formed by 80 women's organisations, issued a declaration criticising the government for not taking into consideration their demands in the draft SSGSS law, but instead, for deepening the inequalities between women and men in it. The Platform demanded from the government to withdraw the draft law altogether and prepare a new draft law also by consulting women in Turkey as a social partner. In the declaration[160], the women's organisation stated that:

> All the social insurance systems such as SSK, Emekli Sandığı and Bağ-Kur, existed until now, have been discriminatory and unequal systems towards women; however, the new SSGSS draft law, which gathers all those systems under one institution, takes away all the acquired rights of everybody, both women and men, and deepens the inequalities between women and men. This system ignores the domestic labour of women completely and women's labour out of the household considerably. The social security system should
>
> - guarantee social safety for everybody, women and men, in the cases of unemployment, accident, invalidity, elderliness and death, and in particular for women in cases of maternity and pregnancy;
> - assign social rights for women independent of their fathers and husbands;
> - grant women, in return to their domestic labour, rights of early retirement, gender-based depreciation/actual service payments.
>
> Since none of those are provided, we want this law to be withdrawn.

The Platform was not the only actor to criticise the substantial domestic policy change regarding the social security system in general and its negatively perceived impact on women. In 2008, the Initiative for Women's Labour and Employment (KEİG) prepared an evaluation report entitled "What kind of 'social security' does the Draft Law on Social

[159] Ibid.
[160] www.kadinininsanhaklari.org/haberler.php?detay=15

Insurance and Universal Health Insurance promise to women?" as a joint effort of a working group composed of women activists, researchers and trade unionists. In the report, KEİG considered the SSGSS draft law as an important document, revealing the exclusionary approach of the policy makers towards women in Turkey and the conservative role foreseen for women in the family and society, by creating a system which would aggravate the inequalities and hinder the development (KEİG, 2008b: 5-6).

One of the major points of criticism by KEİG was the exclusionary character of the Law, regarding the coverage of population and provision of services. It was argued that the law not only narrowed down the already existing social rights (which had already been limited for the last 50 years), but also excluded many segments of the society from social protection, majorly women, who would not be able to guarantee the requirements of benefiting from the insurance (especially for the retirement insurance), or would not be able to afford the contributions (especially for the health services) (KEİG, 2009: 16; KEİG, 2008b: 6). In this regard, the Law was perceived to favour "the registered employers", who work and pay premiums, instead of granting social security as a social right of the citizens (as stated in the Article 60 of the Constitution) (KEİG, 2008b: 6).

The mentality behind the Law was criticised by KEİG for two aspects: the approach that visualised women to be dependent on their husbands and fathers, perpetuating the patriarchal societal norms; and exclusion and segmentation of women into different categories regarding their right to social security. Firstly, the Law was criticised for ignoring the care work activities that women were supposed to bear. Thus, housewives and women who worked or were employed without insurance in the informal sector, were considered to be dependent on their husbands and fathers, rather than being perceived as individuals who contributed to the social production (KEİG, 2009: 26; KEİG, 2008b: 7). The number of women excluded from the social security system and that would only be able to benefit from some rights under the protection of their husbands or fathers was estimated to be 17-18 million by KEİG (2008b: 8). Secondly, the Law was criticised for pushing a lot of women working inside or outside home out of the social security system and dividing that group of women into two (KEİG, 2009: 26 and 2008b: 7-8). The first category of women are those who received wage and income but were not covered by the Law: those working at domestic services (such as for cleaning), temporary agricultural women workers, those working in small-size manufacturing sector and earning less than minimum income and are exempted from income tax, home-based workers and unpaid

family workers. The second category of women covered unregistered female workers, who worked for an employer but whose social security contributions were not paid by their employers. In addition, KEİG argued that the voluntary insurance, proposed as an alternative in the Law for housewives became very difficult to be accessed due to high premiums (KEİG, 2009: 26).

In sum, KEİG argued that this law was far from strengthening equality for women and/or emancipating them, but on the contrary it would increase the social control on women. It was argued to considerably ignore the differences and inequalities between individuals; and by treating equally to those who are actually unequal, it would result in the increase of inequalities in the society. In general, KEİG did not voice any demands with the argument that the draft law did not bear any characteristics which could be changed in favour of women through piecemeal changes in its individual articles without changing the approach to women penetrated into the law. Instead, KEİG demanded that the law should completely be rewritten since the draft law was a complete attack to women's individualistic and social rights and status (KEİG, 2008b: 11).

Considering the outcome of domestic policy change in Turkey in relation to the case of equal treatment in the matters of social security, it is possible to state that the level of misfit with the EU requirements was low, apart from an additional issue raised by the European Commission during the screening meetings, namely the unequal retirement ages for women and men. Depending on the statements of the European actors in official documents, it is also possible to state that the level of adaptational pressures were low considering the existing provisions of the European directives and the Turkish legislation for the matters of social security in general, but it could be considered as medium regarding the equalisation of the retirement age. At the domestic level, the social security reform process initiated by the AKP government as a comprehensive domestic reform has substantially changed the domestic social security policy and approach, which also has gradually equalised the retirement age with the SSGSS Law in 2008 in line with the European requirements. This means that the reform process has lead to a radical domestic policy change in Turkey.

Tracing the positions and demands of the societal actors throughout the social security reform process especially in the second half of the 2000s shows that some mediating factors has been influential in leading to such a substantial domestic policy change. First of all, regarding the role of the European pressures, it should be stated that the "reform"

process was owned and carried out by the AKP government in line with the requests of and models provided by other external factors than the EU, namely by the World Bank and IMF, as a component of structural adjustment programmes. This suggests that the process of change regarding the restructuring of the social security system in Turkey was not initiated by the EU pressures *per se*. However, the SSGSS Law as an important element of the reform included an important reference to the EU through the gradual equalisation of the retirement age for women and men. In this regard, a domestic reform process mediated by other external factors than the EU pressures integrated an EU requirement regarding the equal treatment in the matters of social security into the process, as an additional justification for a reform, which was not positively approached by many societal actors.

The AKP government justified the need for such a restructuring of the social security system in Turkey with the arguments that the system had been financially unsustainable, and a source of instability over the macroeconomic indicators of the country especially by increasing the transfers from the public budget. In relation to the impact of aging on the social security expenditures, AKP stipulated the argument that although Turkey had a young population, it was expected to age speedily in the future, which necessitated an urgent and comprehensive reform in the social security system. A final argument of AKP for initiating the process was the limited coverage of the previous system, especially regarding the protection against poverty. Actually, those arguments were very much in line with the findings and recommendations of the IMF and the World Bank. Thus, the approach of AKP in this reform process was characterised, on the one hand, by a neoliberal tone, suggesting the transfer of the provision of social security and health services to private sector in a way to disburden the state's financial responsibilities; and, by a conservative one, on the other, without considering the specific effects of the reform process on women.

However, some other policy actors such as the opposition party, CHP, and many of the societal actors in a wide spectrum ranging from to trade union confederations to many women's organisations voiced their opposition to the reform process, since the process was perceived to replace the social state approach with a neoliberal one. Particularly related to the equalisation of the retirement age, many women's organisations justified their demands by using the arguments stemming from their own position to the equality between women and men at work. In this process, instead of supporting their arguments with the international obligations of Turkey contrary to their general strategy regarding other policy

issues, those organisations even criticised the equalisation of retirement age as a policy principle that would severely be to the disadvantage of women in Turkey. In general, they were also concerned with the perceived negative impact of the reform process with all its legal tools on women. Many women's organisations considered the SSGSS Law as a document, which visualised women dependent on their husbands and fathers. In this regard, equalisation of the retirement age for women and men was considered as an unjust practice, which totally disregards women's domestic responsibilities such as child and elderly care. In this sense, the women's organisations did not hesitate to object to or criticise an EU requirement.

In sum, equal treatment in the matters of social security was an interesting case because the Turkish legislation was already considerably in line with that of the EU regarding the equal treatment in the matters of social security, which means that originally the level of policy misfit and adaptational pressures were low. However, adaptational pressure increased with the further investigation of the European Commission about the retirement age throughout the Screening Process in 2006. This finding suggests that adaptational pressures may not only stem from the policy misfit. However, at the end, the policy changed occurred in line with the European requirement. Secondly, it was an interesting case because the case of equal treatment in the matters of social security did not reflect a case where the policy change was initiated by the EU, but rather the EU requirement was integrated into a comprehensive domestic reform process, supported by other external actors than the EU.

The social security reform initiative of the government, through a set of institutional and legal changes, equalised the retirement age, but at the same time curbed a number of rights defined for women under the previous social security schemes. Consequently, the reform process, reflecting the government's policy preferences towards privatisation of the social security and the health insurance system in order to decrease public expenditures, faced a considerable amount of criticism and resistance from different policy and societal actors, depending both on the neo-liberal and conservative approach of the government dominated the substance of the changes. Within the overall resistance, the equalisation of the retirement age of women and men, which turned out to be an EU requirement, also received criticisms from the women's organisations, contrary to the strategy that they followed in relation to other policy issues. In spite of the difficult path that the relevant laws of the reform process went through, neither the constitutional court, nor the opposition party, nor the profession organisations, nor the women's movement were

successful in reversing the process of change. Once more, this situation pointed out the uneven distribution of power among societal actors in pushing their demands in order to reverse a reform process; and, the decisive role of the ideological positioning of the AKP government in resulting in radical domestic social policy change.

4.6 Findings and Conclusions

In this empirical case study, the social policy adaptation of Turkey throughout the 2000s due to European pressures were analysed in the field of equality between women and men at work. In order to explain domestic policy change in this regard, this policy issue was selected for two major reasons. Firstly, equality between women and men at work has been a well established sub-field of social policy in the literature. Secondly, equality between women and men at work has been a policy issue dominantly regulated through hard law policy instruments within the EU governance. Thus, in the Europeanisation literature, it is considered to be a test case where the usefulness of positive integration mechanism can be explored for explaining the direction and outcome of domestic policy change due to European pressures.

Keeping those in mind, this empirical case study was structured in line with the top-down research design as proposed by the scholars of positive integration mechanism, or in other words, in line with the "goodness of fit" argumentation. Adopting such a research design, this case study first identified the relevant EU processes in the field of equality between women and men at work, namely nine EU directives, to which Turkey's alignment was required and closely monitored by the EU in the Turkey's accession processes. The second stage was the identification of the level of policy fit/misfit between the EU rules and regulations (those nine equality directives of the EU) and the relevant Turkish legislation by comparing the compatibility of policy issues and principles through a detailed analysis of the legal harmonisation efforts in Turkey. The level of policy fit/misfit was identified for two periods in time: in 1999 as the time when Turkey was officially announced as an EU candidate country and by the end of 2010. The level of policy misfit was used to identify the adaptational pressures as proposed by the positive integration mechanism. In addition, the comparison between the levels of policy misfit in 1999 and by the end of 2010 helped in identifying the outcome of legal changes in three different degrees of change.

The findings of the legal harmonisation have shown that the outcome of domestic social

policy change due to European pressures in this policy field has not been homogenous in spite of the equally coercive nature of the EU's policy instrument, namely that of each EU directive. On the contrary, Turkey's transposition performance has considerably varied within the same policy field, which was characterised by "selective harmonisation." This finding has suggested that the degree of adaptational pressures stemming from policy fit or misfit may have limited explanatory power for explaining the variation concerning the outcome of domestic change, since only in a few cases the EU adaptational pressures resulted in some degree of change in Turkey.

Insufficiency of the adaptational pressures in explaining the variation in the outcome of and in making presumptions about the direction of domestic policy change necessitated the integration and careful examination of some mediating factors that would have the potential to explain the variation, namely the pattern of "selective harmonisation", in Turkey due to the European pressures in the field of equality between women and men at work. In this regard, it was proposed that domestic politics, being composed of the positioning and ideology of the government; interests of domestic societal actors; and, domestic societal norms; and, external factors other than the EU could help in explaining the variation in the outcome of domestic policy change throughout Turkey's efforts to integrate with the EU throughout the 2000s in this policy field.

In order to observe and analyse how those suggested mediating variables could be influential on the outcome of domestic policy change, the policy processes throughout Turkey's European integration efforts were traced on a number of contested issues. Those issues have been more visible on the policy agenda than the others, and have involved lively interaction of various domestic and international policy and societal actors throughout the policy-making processes. As a result of this analysis, three interesting cases were elaborated in a way to exemplify the cases showing the limited explanatory power of the "goodness of fit" argument, and to provide a space for the analysis of the interaction between different policy and societal actors and factors in the Turkish case in a way to explain domestic policy change due to European pressures.

As a result of the analysis conducted in this empirical case study to explain the domestic policy change in Turkey due to the pressures of European integration throughout the 2000s, it is now possible to present some findings and observations regarding the explanatory power of the level of policy misfit/adaptational pressures; the potential of the suggested mediating variables in explaining the variation in the outcome of domestic social

policy change in the field of equality between women and men at work in Turkey; and, the prospects for the implementation, i.e. actual enforcement, of the whole body of equality at work policies in Turkey by the end of 2010, as a joint product of domestic dynamics and the changes due to the EU integration process.

The first category of findings refers to *the explanatory power of the level of policy misfit/adaptational pressures* as an important element of the "goodness of fit" argumentation. The analysis of the legal harmonisation shows that the level of policy misfit and the degree of adaptational pressures in 1999 have varied within the selected policy field. Three levels of adaptational pressures (low, medium and high) can be identified in this regard. For some of the rules and regulations, the adaptational pressures were *low* since the Turkish legislation was already in line with the relevant EU directives (Directive 75/117, Directive 79/7, Directive 86/378 and 96/97). The adaptational pressures were considerably *high* regarding some other EU directives (Directive 96/34, Directive 97/80, Directives 76/2002 and 2002/73) since those rules and principles (e.g. parental leave right, reversal of burden of proof, equality body, definitions of direct and indirect discrimination, harassment and sexual harassment) have never existed in the Turkish legislation. In the third case, the adaptational pressures were *medium* (Directive 86/613, Directive 92/85, Directive 2004/113), since the Turkish legislation was including only some of the policy principles.

However, it was not possible to observe similar outcomes of domestic policy change as a result of those different degrees of adaptational pressures, where similar degrees of pressures would lead to similar types of outcomes. The findings of the legal comparison show that in some cases where the adaptational pressures were low (e.g. the concept of equality and equal treatment in matters of social security), domestic policy change was observed. Similarly, in some cases where there was a high degree of adaptational pressures (e.g. the case of the parental leave), no policy change occurred. Only in some cases where the high degrees of adaptation pressures were observed such as equal treatment as regards vocational training and promotion and working conditions; and, burden of proof, some degree of domestic policy change could be observed. This is to suggest that a linear, causal relationship between the mere existence of the adaptational pressures and the outcome of domestic policy change is very difficult to establish, so there is a need to identify and examine some factors that would actually mediate the outcome of domestic policy change.

A second observation is related to the process of identifying the adaptational pressures. In

the Europeanisation literature, the adaptational pressures are expected to be caused by the degree of misfit or incompatibility between the EU rules and regulations and the domestic policies (Risse, et.al. 2001). However, in the Turkish case, the adaptational pressures have not only been created by the policy misfit with the EU directives, but at the same time by the intervention of the European actors such as the European Commission and the extra mechanisms throughout the accession process such as the screening process, and by the perceptions of the domestic actors about the existence or non-existence of the European requirements. For example, the policy misfit was considerably low regarding the concept of equality, however, the EU requirements in the field of democracy and human rights were also perceived by the domestic policy makers and societal actors in a way to cover compliance with the concept of equality. Or although the policy misfit regarding the equal treatment in matters of social security was originally low, adaptational pressures increased due to the investigation of the European Commission throughout the screening meetings with the Turkish authorities in the case of the retirement age. Thus, it may not always be possible to identify the adaptational pressures as a direct outcome of the policy misfit in a given policy issue.

These two finding can contribute to the discussion in the literature about the usefulness of the adaptational pressures as a condition for domestic change. In the literature, there are two opposing positions about the usefulness of "goodness of fit" argument. The scholars proposing the positive integration mechanism of Europeanisation argue that "the adaptational pressure is a necessary but not a sufficient condition for domestic change (Börzel and Risse, 2003: 58), and "the variations in outcomes are due to mediating factors which intervene between adaptational pressures and the outcomes" (Caporaso, 2007: 30). On the other hand, some other scholars criticise the usefulness of the concept by stating that "misfit seems to be neither a sufficient for non-compliance, as posited by the early advocates of the hypothesis, nor a necessary condition for domestic change, as was supposed by its later proponents" (Mastenbroek and Kaeding, 2006: 339), or by arguing that "the explanatory value of the goodness of fit assumption is marginal" (Kallestrup, 2006: 75). The findings of this particular case study suggest that policy misfit and adaptational pressures can still be used in a general sense to identify the efforts to be undertaken by the countries in adjusting to Europe, however, they can not be used to make a priori statements about impact of the EU on the countries and they are not sufficient in explaining the variation in the outcomes of domestic change.

The insufficiency of the goodness of fit assumption in explaining the (variation in) domestic policy change necessitates using other factors and variables to explain domestic policy change. In this regard, the second category of findings of this case study refers to *the potential of the suggested mediating variables in explaining the variance in the outcome of domestic social policy change* in the field of equality between women and men at work in Turkey. Those variables or factors are named as the external factors other than the EU; and, domestic politics, as a product of the interplay between the positioning and ideology of the government; interests of domestic societal actors; and, domestic societal norms. This is to say that the outcome of domestic policy change characterising Turkey's social policy adaptations in response to EU pressures has been dependent on those two broad categories of mediating variables, which reflect indeed some degree of interdependence and interaction between themselves and within their different components in relation to the EU pressures and domestic policy change. Those variables can be considered as explanatory conditions that mediate the EU's impact on domestic policies in Turkey. Although those variables or factors might not be equally visible in each policy issue analysed throughout the legal harmonisation and contested issues, they altogether prove to have a potential in explaining the variation in the outcome of domestic policy change in a particular policy field, namely in the field of equality between women and men at work, throughout Turkey's efforts to integrate with the EU in the 2000s.

It has already been stated that the general gender equality policies since the early years of the Republic of Turkey have directly and indirectly been influenced by the developments towards ensuring equality at the international level. Specifically for the equality between women and men at work policies, different stages of the analysis shows that Turkey has also been involved in various international systems and frameworks, which inevitably created exogenous pressures, especially through the instruments of the particular international schemes. These are namely the Conventions of the International Labour Organisation (ILO), the Convention on the Elimination of All Kinds of Discrimination Against Women (CEDAW) and the Directives of the European Union. In addition, the structural adjustment agreements with the International Monetary Fund and the World Bank in the 1990s and at the beginning of the 2000s have also had wider repercussions on various policy areas such as social security. To the extent that the EU requirements are taken as the independent variable within the context of this research, the other external factors (such as ILO, CEDAW and WB/IMF) can be considered among the factors that

mediate "the EU impact" on domestic equality at work policies in Turkey. Their mediating role occurs in relation to contributing to the occurrence of (or hindering) policy change in Turkey, which is actually originated by or for the European requirements. In this regard, the external factors other than the EU mediate the EU's impact on the outcome of domestic policy change in Turkey through some mechanisms. They first have the potential to reinforce, or to be reinforced by, the EU requirements at the domestic level, for example, through cross-references in some policy issues stemming from implicit or explicit interdependency between universally acknowledged norms and principles. Simultaneously, and maybe more influentially, they can empower domestic policy and societal actors; and, at the same time, they can be used instrumentally by those actors to push the EU requirements into the policy agenda.

In this context, one of the observations about the role of the other external factors than the EU in mediating the EU related policy change in the field of equality at work in Turkey is that there is interdependency between international equality norms and standards. This can easily be found in the references of the European directives to other international frameworks, which stipulate equality as a universal value. For example, the Directive 2002/73/EC amending the Council Directive 76/207/EEC[161] considers the right to equality before law and protection against discrimination for all persons as a universal right with references to the Universal Declaration of Human Rights, the United Nations Convention on the Elimination of all forms of Discrimination Against Women (CEDAW), the International Convention on the Elimination of all Forms of Racial Discrimination and the United Nations Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights and by the Convention for the Protection of Human Rights and Fundamental Freedoms. Another example is the Council Directive 96/34/EC on parental leave, which refers to the EU's respect for fundamental rights as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms[162] signed in Rome in 1950. A last example is the recent recast Directive 2006/54/EC on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation, which refers to the Articles 21 and 23 of

[161] The Council Directive 76/207/EEC on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions.
[162] Turkey signed that Convention on 4 November 1950, ratified and entered into force on 18 May 1954. http://conventions.coe.int/Treaty/Commun/ChercheSig.asp?NT=005&CM=&DF=&CL=ENG.

the Charter of Fundamental Rights of the European Union[163] prohibiting any discrimination on grounds of sex and protecting the right to equal treatment between men and women in all areas, including employment, work and pay. This Charter suggested to "bring together all of the rights previously to be found in a variety of legislative instruments, such as national laws and international conventions from the Council of Europe, the United Nations and the International Labour Organisation."[164] Thus, there is interdependency between international norms and standards regarding equality between women and men, which is considered as an important universal human right. Thus, it is interesting to see that those frameworks have generally been mutually supportive in terms of the substance and norms that they are built on, stemming from the universal acknowledgement of equality between women and men as a universal human right, but their impacts have been differential in the domestic context.

Another observation is different international organisations propose changes in different domestic policy issues by using different (policy) tools. However, some of the international obligations, namely the requirements of the EU integration process have been more powerful in creating (legal) domestic change, due to relatively more coercive nature of the legal instruments embedded in the process and high degree of monitoring attached to it. For example, although Turkey signed the CEDAW in 1985, which also included provisions for equality between sexes in employment in its Article 11, it was not until the adoption of the new Labour Law No. 4857 in 2003 that principle of equal treatment in matters of employment entered into the political agenda. Moreover, in the reasoning of the Article 5 of the Labour Law regulating the principle of equal treatment, the EU requirements were clearly prioritised, in addition to the reference to ILO Convention No.100 and the CEDAW, by stating that Article 5 regulates a number of provisions stipulated by the EU Directives such as 75/117, 76/207, 79/7, 86/613, 86/378 and 97/80, as foreseen in the NPAA among the short term priorities.

In addition to the coerciveness of the EU instruments, the cost of non-compliance is higher in the case of European integration (in other words, the risk of not being accepted as a member state to the EU) compared to that of the other international frameworks. Thus, in the case of equality between women and men at work policies, the European integration

[163] Available at: http://www.europarl.europa.eu/charter/pdf/text_en.pdf.
[164] http://europa.eu/legislation_summaries/human_rights/fundamental_rights_within_european_union/l33501_en.htm.

process seems to be the most visible and powerful exogenous factor, more effective in inducing legislative changes, especially since the beginning of the 2000s, at least in the discourses of the government, policy-makers and societal actors. The references to the European integration process in general and to legal instruments of the EU in particular in the policy documents such as the parliamentary debates and reasoning of the legal changes, public speeches of the policy-makers and civil society texts make it clear that if any domestic change is to be achieved for the relevant policy issue at the end, it is - at least at the discursive level - due to the European pressures rather than other external factors.

Following this argument, the mediating impact of Turkey's international obligations other than those of the EU on the domestic policy change have varied first in terms of empowering societal actors, especially some women's organisations and in some cases the trade union confederations. Secondly such a mediating role was visible in terms of those obligations being instrumentally used to reinforce the demands of those societal actors at the domestic level. Especially after the 1980s, the CEDAW requirements and the directives of the European Union have been more visible in creating pressures on the Turkish state. The ratification of the CEDAW by Turkey in 1985 has helped empowering women's organisations to take an active role in gender equality issues and projects funded by international donors such as the UNDP and World Bank have contributed to state and civil society awareness of gender equality issues. Many women's civil society organisations' efforts and international monitoring within the CEDAW process have led to policy and action by governmental bodies, regarding the elimination of fundamental discriminatory provisions against women within the content of the Penal Code and Civil Law, which had also been on the agenda of the women's organisations in Turkey for a long time, but had to a great extent fallen outside the EU competencies. In relation to the gender equality in the labour market, the interest of the women's organisation has historically been less compared to the issues such as violence against women, women and education and women's political representation. The EU accession process since 1999 has built on this background facilitated by the CEDAW process and has provided pressures for rather legal changes regarding equality between women and men at work, which for example resulted in the adoption of new legislation such as the new Labour Law. Thus, in the Turkish case, these two international frameworks have mutually reinforced gender equality issues, but they have led to different outcomes in shaping the domestic change in different equality policy issues. The EU requirements have been more influential in creating domestic legal

changes, while other international processes such as CEDAW helped in defining a role for the women's organisations and civil society regarding the gender equality policies in Turkey. At the domestic level, being empowered by many international processes, societal actors could put their demands more easily on the policy agenda, throughout which the international obligations perceived to be more relevant for their own agenda were used as a support mechanism for their demands.

Before going into the exploration of domestic politics as a mediating factor for explaining domestic policy change in Turkey, it may be interesting to summarise the patterns of Turkey's social policy adaptation to the nine EU directives in the field of equality between women and men at work policies, which have taken different forms in the first decade of the 2000s:

- In some cases, the domestic change was initiated with direct reference to the EU and its particular requirements. As a result, the legal change occurred as a part of wider package of legal changes or amendments to the existing legislation. For example, in the case of concept of equality the change occurred through constitutional amendments. In the case of burden of proof, the issue was introduced through the new Labour Law, among many other issues. In the case of prolongation of maternity leave, a new regulation was adopted and some existing laws were amended. In the case of non-existence of maternity insurance and the elimination of the discriminatory clause on "head of family", the existing laws were changed. In those cases, level of adaptational pressures varied.
- In one particular case, the domestic policy change was initiated with direct reference to the EU and its requirements by preparing an individual piece of new legislation, but the process was prolonged and has not yet been completed in a way to lead any domestic policy change outcomes. This pattern was observed in the case, where the policy misfit was high, namely in the case of parental leave.
- In some cases, the domestic policy change has not been initiated at all. This is the case for the introduction of the issues of definition of direct and indirect discrimination, harassment and sexual harassment, and the equality body into the Turkish legislation. In all those cases, the level of adaptational pressures was high. In one particular case, namely the occupational social security schemes, there was no policy change due to the fact that those schemes do not exist in Turkey, and existing schemes were in

compliance with the EU requirements.

- In some cases, the domestic policy change was not initiated or completed with reference to the EU requirement, but instead it depended on other external factors than the EU. However, the EU requirements were integrated in a domestic reform process, as it was the case for social security reform and the equalisation of the retirement age as a result of the reform.

The analysis has shown that the outcome of domestic policy change due to European pressures has not been homogenous, but there was a variation in the outcomes of domestic policy change even within the context of the same policy field. As the account of legal harmonisation shows, the process and the outcome of domestic policy change is characterised by "selective harmonisation" at the domestic level. As already stated such a variety in forms of adaptation to the EU and concomitant domestic policy change or inertia could not be explained only with the existence or non-existence of policy misfit and adaptational pressures. In addition, although the existence of and interdependency between external pressures give some insights about the association of the domestic with the international, such a relationship alone was not the only condition to lead to such a domestic policy change in Turkey. Neither the interdependency between external pressures, the empowerment of women's organisation by various international processes, nor the coercive nature of the EU requirements could alone explain the "selective" nature of the policy change, hence the resistance to it, in Turkey. The findings of this case study show that the EU pressures and requirements have clearly been filtered and sometimes manipulated by different elements of domestic politics, which eventually resulted in "selective harmonisation" in the field of equality between women and men at work in Turkey, reflecting a variation in the outcome of domestic policy change.

A closer look into the contested issues throughout Turkey's adaptation to the EU processes shows that one of the major reasons for contestations could be observed in relation to the domestic policy and societal actors' perceptions about the substance of the EU requirements, and their positioning and filtering of those requirements from their own (ideological) positions. This is to suggest that different elements of domestic politics were influential on shaping the outcome of domestic policy change in Turkey due to European pressures in the field of equality between women and men at work policies.

In this regard, domestic politics is considered as a variable influential on the outcome of

domestic policy change in Turkey due to European pressures in the field of equality between women and men at work policies throughout the 2000s. It is suggested that the positioning and ideology of the government, interests of domestic societal actors, and, domestic societal norms altogether form domestic politics. In other words, the domestic politics is made up of different elements, which interact among themselves in relation to the EU requirements. Each of those elements might be individually influential on the outcome of domestic policy change; however, this impact is rather differential. In fact, it is the interaction and alliances between them, which actually mediates the outcome. In this regard, tracing and identifying the positions of main domestic societal actors and policy makers in relation to the EU requirements, and the analysis of the interaction and alliances between those different elements of the domestic politics are considered to have an explanatory power for the outcome of domestic policy change in Turkey.

A major component of domestic politics is the government's ideology and positioning *vis-à-vis* the EU requirements, specifically because the government is the central initiator of legislative changes in Turkey. Its mediation potential in the field of equality between women and men at work in Turkey depends on the fact that it is influenced by the European integration process itself, but it also influences the outcome of domestic policy change. In other words, the government could not disregard the EU process and its requirements, especially due to the coerciveness of the EU requirements in this policy field and the state policy to integrate Turkey to the EU; however, it could still manipulate its impact on domestic policies, especially by filtering the EU requirements from party ideological lenses and/or instrumentally using them.

Being a "conservative, right-of-centre party with explicit Islamist roots" and "globalist" (Öniş, 2007: 252), or "a pragmatic-conservative and Islam-sensitive" political party (Cizre, 2008: 1), AKP has openly owned Turkey's European integration process as a priority issue as soon as it came to power. This means that AKP governments have internalised and positively responded to the EU requirements. However, owning this process did not mean an unconditional dedication to the EU accession process in the field of equality between women and men at work policies, which would result in speedy and correct harmonisation of the EU requirements in this policy field. On the contrary, Turkey's social policy adaptation was characterised by "selective harmonisation."

When the legal harmonisation, patterns of policy adaptation, the outcome of legal changes and the analysis of the contested issues in this policy field are considered, it is possible to

see that the government's positioning and ideology *vis-à-vis* the (substance of) EU requirements, in other words the perception of the AKP about the substance of the individual EU requirements, seriously influenced the outcome of domestic policy change. The AKP governments, as the main agent of policy initiation and policy-making since the 2002 elections depending on the majority of their parliamentary seats, have filtered the EU requirements in line with the party's "conservative" ideological standpoint and approach to women, shaped by "Islamist patriarchy" (Ayata and Türüncü, 2008: 384). This conservative approach has often been voiced by the Prime Minister himself and his party members, both Ministers and Members of the Parliament, for example, in advising families to have "three children"[165]; in declaring that the prime minister himself does not believe in equality between women and men[166]; in accusing women for being the reason of rise in unemployment in times of crisis, because they start to search for jobs in crisis periods[167]; and in discriminatory job advertisements, published in the governmental employment organisation (İŞKUR) searching for only male workers even for governmental offices[168]. Another striking example of AKP's conservative ideology regarding the status of women can be observed in the proposed Article 9 of the draft constitution initiated by the government, where AKP was severely criticised for contradicting the Republican approach to women and equality, and for moving backwards from the already acquired rights of women as initiated in the early years of the Republic and improved with the achievements of the women's movement especially after the 1980s.

In the Turkish case, the "selective" approach and filtering have been visible both in the cases where no policy change was observed and in the cases where domestic legal/policy changes occurred. For the former case, although all the directives are equally binding and coercive, there is still no parental leave right (Directive 96/34), no equality body (Directive

[165] In 2008, Recep Tayyip Erdoğan, Prime Minister, AKP, gave this advice in a public speech in Uşak where he went to participate in a panel organised for the Women's Day. "Erdoğan: En az üç çocuk doğurun", Hürriyet, 7 March 2008. Available at www.hurriyet.com.tr/gundem/8401981.asp. In the following years, the "three children" advice continued to be given by AKP members in many other occasions.

[166] In July 2010, Recep Tayyip Erdoğan, Prime Minister, AKP, in the meeting with women's representatives within the context of "democratic opening" of the government stated: "I do not believe in equality between women and men. That is why I prefer to say equal opportunities. Women and men are different; they are complementary to each other." Some of the representatives of the women's organisations reacted severly to the prime minister's declaration. "Erdoğan'la açılım buraya kadar: Kadın ve erkek eşit olamaz", soL portal, 20 July 2010. Available at: http://haber.sol.org.tr/devlet-ve-siyaset/erdogan-la-acilim-buraya-kadar-kadin-ve-erkek-esit-olamaz-haberi-31112.

[167] Mehmet Şimşek, Minister of State, AKP. "Şimşek: İşsizlik krizde çok iş arandığı için artıyor", Radikal, 19 March 2009.

[168] "Ayrımcılık İş Kanunuyla Düzenlenmeli", Bianet, 18 August 2006. Available at: http://bianet.org/bianet/kadin/83934-ayrimcilik-is-kanunuyla-duzenlenmeli--2.

76/207 and Directive 2002/73), no definitions of indirect discrimination, harassment and sexual harassment (Directive 76/207 and Directive 2002/73) regulated in the legislation, and there is a sustained inaction from the government side towards those policy principles. Considering the argument that non-decisions/inaction are equally important since the dynamics behind them reflect the forces playing between political and bureaucratic processes, and between policy and politics, as well as the purposive nature of the policy process (Hill, 1997: 7-8), it is possible to suggest that political activity of the AKP governments throughout 2000s has rather been concerned with "maintaining the status quo and resisting challenges to the existing allocation of values" (Hill, 1997: 7-8), which were embedded in the patriarchal values towards women prevailing in the Turkish society. The overall look at the substance of those provisions which have not been yet transposed into the Turkish legislation shows that they are all transformative provisions[169], in the sense that they are intended to change existing gender roles embedded in European societies, such as the role attributed to women as mothers and care givers; and, to achieve reconciliation of work and family responsibilities through a more equal division of responsibilities between women and men.

Such a filtering is also observable in the cases of domestic policy change due to European pressures, for which the best example is the maternity leave right. In the Turkish legislation, the outcome of domestic policy change was characterised by "over-compliance", meaning that the duration for this right was regulated longer than that the minimum period mentioned in the Directive 92/85. Although this has been represented as an important achievement on the way to EU by the government in many occasions, an alternative reading shows that this is also a sign of AKP's conservative approach to women, where women are appreciated as mothers within the family rather than workers in the labour market. Similarly, in the case of amendment of the Article 10 of the Constitution in 2004, although some degree of policy change due to EU occurred, AKP kept it at the minimum, by being contented with "equality before law", instead of accepting the more

[169] This is not to say that all the EU directives regarding equality between women and men at work can be named as being progressive or transformative of gender roles. In fact, they reflect a variety of policy measures, the nature and political orientation of which are highly debated among (especially feminist) scholars. While some authors criticise the gender equality policies of the EU for following a neo-liberal template at the expense of gender equality, some others consider those policies as being promising for gender equality especially through the introduction of gender mainstreaming. As it is the case in many other policy issues, it is indeed very difficult to assume a particular political position of the EU on different policies such as progressive or conservative, since the EU *acquis* is usually a combination of different positions and policy tools, reflecting different struggles between different forces of power at different points in EU's history.

progressive demands towards ensuring "de facto equality." Interestingly enough, in spite of the limited interpretation of the principle of equality by the government, this legal change was instrumentally used by AKP, with the intention of showing its political party dedication to universal human rights in general, and equality in particular, especially on the way to EU.

All those cases both in the presence and absence of domestic policy change show that in the Turkish context, in spite of the discursive use of the values attached to the European provisions for their expected impact on modernisation of Turkey, there is a clear filtering in the policy-making process of more transformative European provisions by the conservative party in government, AKP. It can be observed that AKP claimed ownership on the costless EU requirements, which refer to equality as a universal value, a human right and a signifier of democracy; whereas real transformative provisions were kept on the agenda but not transposed into the domestic legislation. This means that the perception of the party in power, AKP, about the substance of the EU requirements and their relation to its conservative political ideology towards women and their role in the society have became one of the important decisive factors for the outcome of domestic policy change in Turkey in the field of equality between women and men at work policies, even in the existence of the adaptational pressures from the EU. This finding comes closer to the argument developed by Treib (2003: 1) suggesting the importance of domestic party politics in determining transposition performance, or by Sedelmeier (2009) suggesting the importance of government's ideological orientation (and its parliamentary strength), or by van der Vleuten (2007: 182) suggesting that when ideological costs are high, governments chooses not to transpose the policy. In the Turkish case, even in cases where the government was "sandwiched" by double political pressures from domestic and supranational levels, the government could still choose not to transpose a directive, or prolong the process as much as possible, when it was perceived as being contrary to its own ideological position.

However, reducing domestic politics to the ideology of the government and making unidirectional causal assumptions depending on the government's political ideological positioning could easily mislead the analysis. In other words, political party ideology can not be used as a static variable as a factor to explain domestic policy change. For example, in this case study it is not possible to generalise the findings in this regard by stating that "conservative governments resist to EU lead policy changes in the field of equality

between women and men at work." It is not possible because such a statement would disregard the dynamic nature of the development and functioning of government's ideology and positioning *vis-à-vis* the requirements of the EU and other domestic processes, as well as its interaction with domestic societal actors, in relation to the outcome of domestic policy change. Before going into the analysis of the role of the interests of the societal actors for the outcome of domestic policy change, and the interaction between those and the government's ideology, an example for the dynamic nature of the government's ideology in relation to other domestic processes can be given.

A good example in this regard is the constitutional amendment of the Article 10 in 2010 initiated and supported by the AKP government. With the need for further justification to the whole constitutional amendment package in 2010, in other words, with the need to gain broad domestic support for a substantive policy change in form of a constitutional change, the government introduced the "positive discrimination" principle into the constitution on its own initiative, claiming that AKP would carry Turkey towards an "advanced democracy." Such a policy change occurred in the lack any visible domestic or external pressures, and in spite of the fact that AKP already remained indifferent for the similar demands of the women's organisations in 2004. This shows that conservative political ideology is not something static, but it is rather open to compromises in order to pursue other (domestic) political interests. In this regard, it is very difficult, as shown in another case for example, to argue that parental leave right would never be introduced into the Turkish legislation under the AKP governments, owing to the government's conservative approach to women. On the contrary, such a result would depend on the interaction between the government's ideology and positioning with some other (domestic) processes, factors and actors, and internal calculations of the political party in question. For example, resistance to parental leave right can also be easily compromised when the prospects and benefits of EU candidacy are perceived to come closer by the government. The analysis of the contested issues in this case study has also proved that the government's ideology and positioning is a dynamic entity, which is in constant interaction with, and which can influence and be influenced by, the societal interests and societal norms, within the context of domestic politics.

The *interests of domestic societal actors* is an important element of domestic politics, which has a potential to mediate the outcome of domestic policy change in the field of equality at work in Turkey by themselves being influenced by the EU processes on the one

hand, but also by trying to influence the outcome of domestic policy change in Turkey on the other. In this particular case study, the relationship between the interests of the societal actors and the EU requirements shows that the EU requirements can empower many societal actors at the domestic level; they may help reconsideration of their priorities; and, they may even (re)shape the discourses of those societal actors by introducing new priorities into their agendas. On the other hand, those societal actors may instrumentally use the EU requirements to pursue their own interests and policy agenda at the domestic level. In all those processes, the perceptions of the societal actors about the substance of the particular EU requirements; the subsequent match between those perceptions and the interests of the societal actors; and, concomitantly the interaction between those actors and the government play an important role on the outcome of domestic policy change.

Compared to many other policy fields, equality between women and men at work policies is a field where a high degree of societal mobilisation can be observed. As the analysis of the contested issues has shown, the policy and societal actors, which have been actively involved in the policy discussions and processes, include the political parties apart from the government (opposition party and other parties in the parliament); material-interest based actors such as the employers' organisations, confederation of the employers' unions, confederations of trade unions, occupational organisations; and, some women's organisations as a part of the wider civil society.

As already stated, it is possible to observe that many women's organisations have been empowered by the EU processes and Turkey's other external obligations and processes. The support of the European Commission for the involvement of the women's organisations in the gender equality policies has been explicitly stated in many Regular/Progress reports. This support sometimes took the form of including women's organisations' complaints into the reports. For example, in the 2008 Progress Report, those complaints were about limited degree of consultations to the civil society organisations organised by the government on the direction and implementation of gender policy, and about the extent to which their expressed positions were eventually taken into account. In some other cases, the European Commission's support underlined the important role of women's civil society organisations in the gender related policy processes, by pointing out the lack of an effective dialogue of the civil society organisations with the government on gender-related issues, as it was the case in the 2009 report; and, the lack of a comprehensive approach to women's rights with the participation of women's

organisations, as it was the case in 2010 report. Thus, especially with the EU accession process, the women's movement has had legitimacy to bargain with governmental authorities, first since the government had to assure "adherence to liberal and democratic priorities in introducing EU criteria into their policy proposals"; and, second women's organisations could "voice their demands more forcefully" through EU-related policy-making processes and projects (Coşar and Onbaşı, 2008: 331). In addition, as discussed in relation to external factors other than the EU, the involvement of the women's organisations for example in the CEDAW reporting processes was another form of the international support for the women's organisations. Those kinds of support have empowered many women's organisations domestically, at least in the sense that they could put their demands on the policy agenda through various activities such as campaigns, lobbying activities or press releases. However, such an empowerment did not mean to be effective directly on the outcome of domestic policy changes.

Another type of relation between the interests of the societal actors and the EU requirements is that the EU requirements have led the societal actors to (re)consider their priorities, and even to (re)shape their discourses in line with the EU requirements that have not occupied a focal place in their agendas previously. In addition, the vague boundaries and scope of the EU *acquis* in some instances, such as the affirmative action, helped the women's organisations to stretch the EU requirements in a way to support their own priorities and demands. As the historical development of the equality policies and women's movement in Turkey have shown, by the beginning of the 2000s facilitated by the EU accession agenda, the interests of the women's organisations have considerably enlarged and been diversified in a way to cover gender policy issues such as women's access to labour market, female employment and equality at work, besides the more traditional issues such as violence against women, political participation of women, women's reproductive health and women's access to education. Besides such a general shift of interest, some particular EU requirements could also enter the agendas of the women's organisations. For example, while many of the women's organisations indeed prioritised the fight for crèches for working women, with the appearance of the parental leave right as an EU requirement at the domestic level, they have extended their policy demands to include parental leave right, in a way to couple it with their own priority, namely the right to crèches. In the same vein, while the parental leave right has not historically been an issue of interest for the employers, the EU requirement mobilised the Confederation of

Employers' Associations, reacting to this particular requirement, in a way to insert such an issue to the agenda of the confederation.

The societal actors have also instrumentally used the EU requirements to pursue their own interests and policy agendas at the domestic level. For example, in the case of concept of equality where the adaptational pressures were indeed low, many women's organisations built their arguments on the necessity to comply with the EU requirements throughout the policy processes, even sometimes by overstating the degree of adaptational pressures. Their demands went beyond the minimum EU requirements, by asking for a more progressive provision, namely "positive discrimination", which has been one of the major policy demands of the women's organisations historically, to be included into the policy change in the 2004 constitutional amendment. In some cases, such as the parental leave right, where there was governmental inertia, some societal actors such as women's organisations, and confederations of civil servants' and workers' trade unions tried to push the government to change the existing domestic policy in line with their own priorities by using the EU requirements as leverage. In this case, they could also voice their demands about the crèches, which was intentionally attached to the issue of parental leave right.

When the positioning of the societal actors *vis-à-vis* the EU requirements was considered, it is possible to see different patterns of pursuing interests at the domestic level *vis-à-vis* the domestic policy proposals or the lack of those. In the cases where proposals for policy change existed, different societal actors have either supported or confronted to the government's proposals in relation to the EU requirements. In this regard, EU requirements were either used to initiate or support a policy change (e.g. women's organisations and confederations of trade unions and employers in the case of parental leave right; women's organisations and the opposition party in the case of the concept of equality), or were they criticised to oppose a policy change (e.g. confederation of employers' association in the case of parental leave; women's organisations and many others in the case of equalisation of retirement age). In the case of equal treatment in matters of social security, or more specifically for the equalisation of the retirement age, where radical policy change was observed as a part of a general reform process, many women's organisations explicitly confronted the government about the substance and negative impact of the proposed changes on women's status in Turkey. In this case, they did not build their demands on the EU requirements but on the contrary they did not refrain from criticising it. Similarly, despite the general support for Turkey's EU accession process, the employers were

reluctant, even critical, about any policy change regarding the legalisation of parental leave right in Turkey, and they could voice their demand from the government to postpone such a change as long as possible. In some cases such as the concept of equality, reversal of burden of proof, prolongation of the duration of maternity leave, the societal actors also remained silent in a way to show that they were contented with the proposed change. For example, since the powerful employer organisations such as TÜSİAD and TİSK have been supportive of Turkey's EU accession efforts in general on the way to Turkey's eventual EU membership, they were contented with a basic/minimum understanding of equality as the government proposed in the context of constitutional amendments regarding the concept of equality.

It is also interesting that throughout the support or confrontation to the proposed changes or sustained inertia, the societal actors' positions were not always supportive of the EU requirements. This also suggests that there has been some discrepancy between the interests, positioning and discourses of the societal actors *vis-à-vis* the processes of Turkey's integration to the EU in general, and *vis-à-vis* the EU requirements in a particular policy issue or area. Although many of the societal actors supported Turkey's EU accession processes in general, they could still object to some particular EU requirements in line with their domestic interests, namely due to their more progressive ideological positioning, or perceived economic costs of the EU requirements on particular societal actors. This suggests that the main determinant of the support or opposition to the policy change was not the mere existence of the EU requirement, but it was rather the match between the substance of the EU requirement and the interests and preferences of the societal actors. In the case of women's organisations and to a lesser degree of the confederations of the trade unions and civil servants, this was characterised by the progressive/transformative nature of the EU requirements. When it was not perceived to be transforming the gender norms and inequalities in the Turkish society, those women's organisations could also criticise the EU principles. Similarly, the reason why many women's organisations confronted with the government's proposals for policy change was the perceived conservative nature of those proposals and the government's conservative ideological standpoint reflected in the policy proposals. In the case of employers' interests, this was characterised by the economic costliness of the EU requirements on that particular societal actor. In spite of the general support given to the Turkey's EU accession process, the employers did not refrain from voicing their demands against the EU requirements. The

interesting point was that employers' interest in this policy issue was in line with the government's preferences, which concomitantly led to a policy alliance, providing an additional justification for the government's inertia. This finding also suggests that similar to the government, the societal actors have also filtered the EU requirements from the lenses of their own interests on the one hand, and instrumentally used the EU requirements and pressures to push or put their own priorities on the policy agenda.

It is interesting to see that although a high number of societal actors have been mobilised in relation to the EU requirements, their influence on the outcome of domestic policy change has been differential, reflecting an imbalance between the societal interests regarding their access to and influence on policy-making, and the relation between the societal actors and the government. When the limited role of some of the societal actors such as the women's organisations and the confederations of trade unions on the actual outcome of domestic policy change is concerned, the power relations especially between the government, those organisations and the confederations of the employers at the domestic level reveal that those actors are differentially empowered in relation to resources and access to policy-making processes; and that political, ideological and economic costs for the societal actors shape the strategic alliances between some of the actors around some policy issues, while leaving some of the demands for and resistance to change out of the scene.

The distance between the EU requirements and the societal norms prevailing in the Turkish society can easily be considered as a factor that complements the dynamics of domestic politics, and accordingly contributes to shaping the outcomes of domestic policy change in Turkey. Two types of impact of societal norms can be named: the interaction between those norms, in this case patriarchy, with the government's ideology and the interests of the societal actors in relation to the EU requirements; and, the role played by those norms in relation to the implementation of the equality at work policies as they stand in Turkey by the end of 2010. It was already indicated that with regards to gender equality in general, patriarchy in a broad sense is a wide-spread and prevailing societal norm in the Turkish society. As a societal norm, it proved to have a potential to mediate the EU requirements and the outcome policy change in the sense that it had fed the political ideology of the government party, AKP, and it has been fed by it on the one hand, and it was either used as a justification or fought against by the societal actors. The electoral success of AKP in 2002 with 34.2% of the votes and 66% of the parliamentary seats, and in 2007 with 46.7% of the popular votes (Atasoy, 2009: 2, 4) and 62% of the parliamentary

seats, depended on a wide electoral support from religious, conservative, Islamist and right-wing circles (Aydın and Dalmış, 2008: 213), which can be considered as the most open population to and the bearers of patriarchal societal norms and values in the Turkish society. Thus, AKP, as a political party, depends on the conservative values of its electorate. In addition, evidence shows that religious patriarchy and religio-conservative approach of AKP, in which women are basically considered as mothers (Ayata and Tütüncü, 2008: 278), is one of the major reasons of the government's selective approach to the EU requirements and subsequent policy changes or governmental inertia in this regard.

Some of the societal actors, namely the progressive women's organisations and the confederations of trade unions and civil servants' unions, have been fighting against those patriarchal and conservative societal norms, which have visualised women as legally, economically and morally dependent on their fathers and husbands; as mothers and care givers; and, as workers of the household rather than of the labour market. Moreover, those actors have also been fighting against the reproduction of such societal norms through government's conservative ideology. Actually, this has been the major reason of contestations on various policy issues in relation to the EU requirements. On the other hand, when the employers considered that domestic transposition of EU requirements would be economically costly to them, one of the reasons for their objection was the existence of and distance between the patriarchal societal norms and the EU requirement, in a way to prevent any substantial change with regards to gender equality. The employers used the argument that even if the legal arrangements concerning the parental leave right were in place, it would remain as a dead letter in terms of their actual enforcement, because most male workers would not benefited from them due to the discrepancy between the essence of the right (i.e. equal sharing of child-care responsibilities between women and men) and the prevailing male dominant societal norms in the Turkish society. Thus, some of the societal actors depend on the existing patriarchal and conservative norms to back up their own interests and positions opposing to any policy change in this regard. All those evidence show that existence of the societal norms in contradiction with the principles of the EU requirements and their interplay with the government's ideology and the interests of societal actors in a way to provide them justification for their actions and priorities have a complementary impact on the outcome of domestic policy change due to European pressures in the field of equality between women and men at work policies in Turkey.

Secondly, the distance between the EU requirements and the societal norms have a

considerable impact on the implementation of the existing policies. This impact will be discussed in detail below as one of the factors within the context of prospects of implementation.

The third category of findings refers to *the prospects for the implementation, i.e. actual enforcement, of the policies* which have changed as a result of the EU integration process. Many other case studies analysing the enforcement performance of the new EU member states, usually the Central and Eastern European Countries (for example, Falkner and Treib, 2008; Krizsan, 2009), suggest that even in the cases where comprehensive formal transposition of the EU directives were ensured, proper implementation/enforcement may still not take place. Among the reasons for poor implementation or "enforcement failure" in Hungary, Krizsan (2009: 4) suggests some structural factors such as the absence of political will, shortages of financial and human resources, and the low resonance of norms. With a similar concern, Falkner and Treib (2008: 306) state that although many of the legal arrangements were made to fulfil the EU's social policy *acquis*, they have largely remained dead letters in the countries that they analysed, namely in the Czech Republic, Hungary, Slovakia and Slovenia. They explained the detrimental factors for the enforcement problems with the insufficiency of the enforcement systems, and concomitant systemic failures at the application stage, such as the shortcomings in the court systems, the inadequate organization of labour inspections and the shortcomings in the civil society systems (Falkner and Treib, 2009: 308-309).

In the Turkish case of equality between women and men at work policies, it is possible to state that domestic policy change was observed in general, and, even if some of those are only partial changes. As the 2010 Progress Report still indicates, "overall, the legal framework guaranteeing women's rights and gender equality is broadly in place" in Turkey (European Commission, 2010a: 26). In this regard, the Table 32 shows that Turkish legislation by the end of 2010 broadly complies with the EU directives in issues such as equal pay; equal treatment in employment, in access to goods and services, and, in the matters of social security; maternity leave; and, reversal of burden of proof, particularly through the Constitution, the Labour Law and its relevant regulations, the Law of Civil Servants, and the Penal Law. However, as the 2010 Progress Report states, "sustained further efforts are needed to turn this legal framework into political, social and economic reality" (European Commission, 2010a: 26).

Thus, when it comes to actual implementation of the equality at work legislation, it is not

possible to argue that all the transposed legislation about equality at work has actually been or will be properly implemented at the domestic level, similar to some new EU member states due to similar reasons. Although many of the legal changes due to European requirements were realised in the first decade of the 2000s, and it is still early to make a detailed analysis of the implementation, i.e. practical enforcement of the equality provisions, it is still possible to make some observations about the prospects of implementation in Turkey.

The role of EU in terms of monitoring implementation or actual enforcement is actually vague. In almost all of the Regular/Progress Reports, the European Commission has been contented with stating that "the administrative capacity for effective implementation of the *acquis* in the area of social policy and employment needs to be strengthened", however, there are no other mechanisms, such as judicial and litigation procedures at the European level, in case of the lack of or poor implementation in Turkey. In the absence of strong European pressures towards effective implementation, the actual or potential enforcement performance in Turkey can be perceived to be negatively affected by some factors such as the lack of political will from the policy-making and implementation actors towards ensuring enforcement of the existing laws and regulations; the existence of patriarchal values in the society against women; and, the situation of the Turkish economy, labour markets and the status of women working in it.

It is possible to indicate some signifiers for the lack of genuine political will towards implementation of the equality at work legislation. One of those is the limited the coverage of the legal arrangements in Turkey. Actually, the existing equality at work legislation only covers 26.0% of women in Turkey, which is the rate of women's labour force participation (covering both employed and unemployed women) in Turkey according to 2009 data. This is to say that the equality legislation concerns only one out of four women in Turkey. Moreover, the coverage of the Labour Law, which has been a product of Turkey's EU accession process, further limits the implementation of the principle of equality between women and men at work. For example, measures taken against dismissals based discrimination between women and men are only valid for women "engaged for an indefinite period, who are employed in an establishment with thirty or more workers and who meet a minimum seniority of six months" which means that many women who are employed in small-size enterprises are excluded from enjoying these rights (Şenol et al., 2005: 22). If the enormous size of the informal sector (almost half of the total employment)

is also considered, then the expected impact of the legal tools to overcome inequalities in the labour market will even be smaller. Or for example, in accordance with the Law on Trade Unions, employees should be informed about their rights stemming from the principle of equality by the representative of the trade union. However, in practice this means that only the employees in the workplaces where collective bargaining agreements exist will be informed, depending on the implementation performance of the trade union, but workers in workplaces that do not have collective bargaining agreements will not be reached due to the lack of special mechanisms for informing employees (Şenol et al., 2005: 14, 52). This is the case for the existing Turkish legislation, and this will probably be the case even if all the EU *acquis* is transposed into the Turkish law.

Another signifier of the lack of political will towards implementation is the low sanction power defined in those laws. For example, in spite of the existence of equal pay principle in the Turkish legislation for a long time, there is still considerable degree of pay differentials in the labour market. Another example is that the fine foreseen in the Article 99 of the Labour Law for the employer who violates the principle of equal treatment as stated in the Article 5 is only around 25 euro for each employee, which is far from being deterrent (Şenol et al., 2005: 14). Another example is stated by the unionists that even if a court finds the termination of employment to be invalid and judges for the reinstatement of the employee, in practice, in most cases the employer pays the compensation determined by the court and the employees lose their job (Şenol et. al., 2005: 13). All those examples show that even if the EU directives are transposed, the determination of the sanction power attached to non compliance with that legislation depends on the political will of the policy makers, towards ensuring the implementation in order to genuinely eliminate the existing inequalities in the labour market.

A last signifier of the lack of political will is the insufficient human and financial resources for the general gender equality policies and the national action programme, as also stated in the 2010 Progress Report (European Commission, 2010). There is no equality body in Turkey, which could help ensuring and monitoring the implementation of the equality at work legislation. Indeed, its non-existence as required by the EU *acquis* is stated to be a major challenge in ensuring gender equality in Turkey (European Commission, 2009: 23). Although the consultative Parliamentary Committee on Equal Opportunities for Men and Women established in March 2009 received positive feedback from the European Commission (2009: 22), its role is majorly defined within the context of legislative

processes, not for ensuring or monitoring the implementation. In the lack of an equality body, the General Directorate on the Status of Women KSGM has assumed the role of the gender machinery in Turkey. However, this institution suffered from the lack of a legal basis for more than a decade after its establishment in the 1990s, and it gained a legal status only in 2004. In a way to represent the lack of political will in implementing gender equality policies, this institution has always suffered from insufficient human resources and a considerably limited amount of budget (Şenol et. al., 2005: 35). The Ministry of Labour and Social Security, which has been the institution responsible for the legal harmonisation in Turkey regarding the equality at work *acquis*, is also the institution in charge of labour inspections. Despite the efforts of the Ministry to train its personnel including labour inspectors in the framework of some EU Programmes such as the Gender Equality Programme, it is neither possible to reach at the exact number of people who received training in those institutions (Şenol et. al, 2005: 48-49), nor the impact of those trainings on the actual practice of those personnel.

Another important factor that would influence the actual or potential enforcement performance in Turkey concerning the equality at work policies is the patriarchal and conservative norms and values prevalent in the society. In the Turkish case, it is possible to observe a gap between the legal basis and the social acceptance of legal rights, which is to suggest that even though legal rights for women exist, the ability to use and the practice of them, in other words their implementation, are largely determined and constrained by conservative social norms in the society (Onar and Müftüler-Baç, 2010: 3). Those norms, which depend on the male dominance over women and on the vision that the place of women is at home as mothers and care givers and as workers of the household, intentionally or unintentionally limit the choices and decisions of working women or the women who would like to participate in the labour force. The traditional family structures and prevailing patriarchal values, are not only perpetuated by the male members of the family but also by the older women in the family such as the mothers-in-law or grandmothers as the transmitters and protectors of dominant social values and norms (Onar and Müftüler-Baç, 2010: 3). For example, when a working woman gives birth, the family expects her to quit her job and take care of her child, instead of benefiting from the unpaid maternity leave. Or for example, among others, the difference in earning levels depends on the societal norm that men are the major breadwinners while women's income is only complementary, which in turn make lower pay to women socially legitimate (Toksöz,

2007: 45; KEİG, 2009: 15). In the case of an incidence of sexual harassment at the workplace, it is highly probable that women would not feel themselves comfortable to follow the legal procedures, due to concerns about negative reactions from their male counterparts and due to fear that instead of the perpetrators, the women will be accused. Data shows that in Turkey women especially those from small settlements do not talk about or report sexual harassment cases; very few women fill complaint of such instances; and more than half of the women who are sexually harassed at the workplace leave their jobs (Şenol et. al., 2005: 55-56).

A last factor that would negatively affect the implementation of equality at work legislation in Turkey is the situation of the Turkish economy in general and the economic crises that negatively affect the economy. It is very probable that many women will not be able to use their rights in the laws with the fear of losing their jobs, when the low performance of economy and high levels of unemployment are considered. This situation would become more serious especially in times of financial crises.

A final observation, before concluding this chapter, is about the capacity of the existing equality at work policies in Turkey, in the form that they took by the end of 2010, to solve the existing problems of inequality in the labour market. At the beginning of the case study, the social problems that women face in the labour market were identified because they were considered as the major reasons, i.e. policy problems, for policies to be made. Identification of these social problems was also important for the analysis of the extent to which the existing policies, supposed to respond to these problems and ensure equality between women and men at work, has actually been successful in eliminating the prevailing social problems in Turkey. For this aim, the most important structural problems of the labour market in Turkey were identified as the low level of women's employment and labour force participation rates; prevailing gender-based segregation of the labour market, economic sectors and occupations; the substantial informal sector and unregistered work; limited provision of reconciliation of work and family life provisions such as the care services; low levels of wages and persisting pay gap; the risk of sexual harassment; low unionisation rates and women's position in the trade unions; and, under-representation of women in top level management positions and in decision-making levels as a clear indicator of discrimination in both recruitment and promotion processes. All those problems have also been repeatedly indicated in the Regular and Progress Reports of the European Commission throughout the 2000s.

Depending on the analysis of the legal harmonisation in Turkey, which also helped in summarising the substance of the equality at work legislation in Turkey in the form that it took by the end of 2010, it is possible to argue that the capacity of the exiting policy tools to overcome the policy problems regarding women in employment is quite limited. The "selective harmonisation" and filtering of EU requirements especially regarding the reconciliation of work and family responsibilities, and definitions of indirect discrimination and sexual harassment have even increased the insufficiency of the existing legal framework's problem solving capacity, in particular concerning the prevailing problems of low female labour force participation and employment rates, gender based segregation of the labour market, or the risk of sexual harassment in the workplace.

In sum, the outlook of the equality policies in Turkey by 2010 seems to be far from solving the existing problems of the women in the labour markets. Moreover, it is also questionable whether or not those problems would be solved when and if all the relevant EU directives are transposed into the Turkish legislation, especially if one considers the prevailing problems in the European labour markets regarding working women. The evidence shows that, in spite of the existence and eventual full transposition of the European directives in the EU member states, women still earn on average in the EU around 17.6% less than men, which affects women's lifetime earnings, social security protection and pensions; gender stereotypes prevail, which create gender gaps in the share of care and household duties; occupational and sectoral segregation persists, where women continue to be concentrated in traditionally feminised and often lower-paid sectors; and women occupy fewer positions of responsibility in all spheres of society (European Commission, 2010b: 8-9).

Chapter 5: Employment Policy

5.1 Introduction

For millions of people in the world, paid work is "the major and only source of income" (Deacon, 1998: 280), and thus "the defining feature of their lives" (May, 2006: 93). For the working population, paid employment is not only the source of living, but it is also the basis of social standing and self-respect. In this context, employment policy is a central concern for social policy when its classical function is defined as "to manipulate and support labour market" (Alcock et al., 2000: 259).

Employment policy has been a separate policy issue for the European Union (EU) for the few decades and has brought about a considerable change in terms of the EU's mode of governance and regarding the role of the national governments in this process. Utilising "soft law" policy tools through the Open Method of Coordination, the European Employment Strategy has developed as a product of confrontations and compromises between different political forces within the EU throughout its history.

While the EU was deepening in the context of the development of European level employment policy, it was also widening. Upon the official announcement of Turkey as an EU candidate country in 1999, European employment policy and the European Employment Strategy has been a concern of domestic policy in Turkey, regardless of the eventual timing of Turkey's full accession to the EU. Considering the increasing density of the Turkey-EU relations and its inevitable impact upon employment policy in Turkey, this chapter intends to analyse how the European integration has affected the outcome and dynamics of domestic employment policy change in Turkey.

This changing nature of the relationship and its visible impact on Turkey has stimulated the research questions for this explanatory and qualitative research: What has been the impact of the European integration processes on Turkey's domestic employment policy? and, what have been the factors that affect domestic employment policy change in Turkey in the light of European employment policy and why? Accordingly, informed and enriched by the policy studies and Europeanisation theoretical frameworks, a number of sub-questions are developed: How and through which mechanisms has the European integration affected employment policy issues in Turkey? What have been the domestic factors effective in leading to domestic employment policy change (or resistance)? What have been the exogenous factors other than the EU, *vis-à-vis* the internal dynamics, that played a role in

domestic employment policy change in Turkey, and how have they interacted with the EU requirements? Accordingly, why have the characteristics of the selected social policy fields changed, or remained stable?

In this regard, the Europeanisation literature provides well-developed analytical tools to analyse domestic *policy* change in individual countries due to the pressures of European integration. The exploration and explanation of the domestic policy change in Turkey under the pressures of its EU accession processes throughout the 2000s being the main concern of this research, this chapter comprises of an empirical case study on the analysis of the domestic employment policy change as a subfield of social policy in Turkey.

There are two main reasons for choosing the employment policy for this case study. The first reason is that the employment policy is considered to be a good example of a policy case, where the framing integration mechanism proposed by the Europeanisation literature can be utilised and tested in its potential to explain domestic social policy change in Turkey. Since the number of case study in the context of framing integration is quite scarce and varied in terms of the explanations that they provide to explain the outcome of domestic policy change, this case study can be considered as a humble attempt to operationalise the framing integration mechanism and test its propositions in the Turkish case. The second reason is that this research limits its scope within the social policy field. Considering the Chapter 19 of the EU *acquis communautaire* in the context of accession negotiations, employment policy is clearly defined within the context of social policy by the European Union.

The framing integration mechanism depends on the non-existence of the concrete European models but instead existence of "soft law" policy instruments to which the member states. Representing the "weakest" form, European policy "neither prescribes concrete institutional requirements nor modifies the institutional context for strategic interaction, but affects domestic arrangements even more indirectly, by altering the beliefs and expectations of domestic actors" Knill and Lehmkuhl (1999: 2). In the literature, the European employment policy is considered to be a good case for analysing such an impact of the European integration process on its member states. In the case of candidate countries, although the procedural aspects of the mode of governance differs to an extent from those of the member states, the European policy can still have an impact at the domestic level in form of framing the existing employment policy. Thus, being an official candidate country, employment policy in Turkey can easily be expected to be affected by

the processes of European integration, in the way that it is suggested by the framing integration mechanism of the Europeanisation literature.

This empirical case study utilises the framing integration mechanism of the Europeanisation literature in order to be able to test the potential of this mechanism in answering the research questions, and explaining the outcome of domestic employment policy change in Turkey. In this context, the dependent variable of this research is taken as the outcome of domestic policy change. In this regard, it is expected to observe a pattern for the outcome of domestic employment policy change due to the EU accession processes. Accordingly, the independent variable is the EU level employment policy. It can be defined in three aspects, namely as a mode of governance, as the employment policy review requires in the case of the candidate countries; the targets of the employment policy as identified in the Lisbon Strategy; and, the substance of European employment policy, as to be identified through an analysis of the employment guidelines. In order to be able to identify the framing effect of the European integration, the overall principles and concepts of the European employment policy should be defined and presented in form of frames, so that the form in which the EU level policy may alter the beliefs and expectations of the actors at the domestic level could be analysed. As also proposed by the scholars of the framing integration mechanism, it is possible to define some variables that are expected to mediate the outcome of domestic employment policy change in Turkey. In this context, two main mediating factors are suggested to have a potential to explain the outcome of domestic change: *domestic politics* as the interplay among the government's positioning and ideology, the interests of the domestic societal actors, and the distance between the European requirements and the domestic societal norms; and, the *external factors other than the EU*.

This empirical case study is structured as follows. After this introduction, Section 5.2 provides an overall analysis of the EU level employment policy in three different aspects, with the aim to identify the procedures, targets and, in a very general sense, the dominant substantial policy frames of the European employment policy. The rest of the chapter is intended to be designed in line with a bottom-up approach, which prioritises the domestic level and identifies the points of intervention from the international actors. Section 5.3 gives a general background of the development of employment policy in Turkey in a way to emphasise the changing economic orientation of the country since the 1980s and its impact on the development of employment policy in the following decade. Section 5.4

analyses the domestic employment policy change. This is realised first by looking at the development of the policy and the conditions that have shaped it throughout the first decade of the 2000s, in a way to emphasise the particular points in time that facilitated the intervention of the EU and other external factors, namely the IMF and the World Bank. Secondly, the components of the employment policy in Turkey by the end of 2010 are analysed in a way to show the substance of the domestic employment policy by that time. At the end of Section 4.5, the outcome of the domestic employment policy change is summarised by comparing the elements of the employment policy in 1999, when Turkey officially became an EU candidate country (t_0), with those by the end of 2010 (t_1). Section 5.5 is structured in a way to complement the bottom-up approach, by tracing the domestic employment policy processes throughout 2000s in Turkey. Focusing on contested policy issues throughout the process of change, this section aims at having a closer look at the interplay between domestic policy makers and societal actors. This exercise intends to discover the significance of some factors influential in mediating the outcome of domestic employment policy change throughout Turkey's EU accession processes. Section 5.6 concludes this case study by summarising the findings in a way to explore the potential of the suggested mediating factors, namely domestic politics and external factors other than the EU, in explaining the outcome of domestic employment policy change in Turkey throughout the 2000s.

Before going into the analysis, two features of this empirical case study should be underlined. As it was the case for the previous case study, the first one refers to the time period that this case study covers. The starting point of the analysis dates back to 1999 as the time when Turkey was officially announced as an EU candidate country, and covers a period of 10-11 years until the end of 2010. At the domestic level, the first decade of 2000s covers the rule of three successive Justice and Development Party (AKP) governments, which came to power after the 2002 election, after a long period of coalition governments in the 1990s. In that sense, the positioning and ideology of the government as an important element of domestic politics represents a political/ideological continuity, which both affects the outcome of domestic policy change *per se*, and at the same time affects the modes of interest articulation between the societal actors and the government.

Secondly, it is important to clarify the meaning and limits of the policy issue that will be dealt within this case study. Employment is an area of social policy with strong links to wider economic policy and public policy (Alcock et al., 2000: 259). It is not only

interconnected with many welfare issues such as social security, taxation, health, social care and education for those in the formal labour market, but also has wider repercussions for other types of employment such as the informal economy, unpaid domestic, caring and voluntary work (May, 2006: 94). The relation between the employment policy and the economic policy occurs in the sense that management of the economy is considerably linked to the interference with the working of the labour markets, which can also occur for reasons other than welfare ends (Hill, 1996: 174).

In such a wide range of the coverage of employment policy, Hill (2000: 209) broadly divides the coverage of employment policy into four aspects of work, which may in time involve varying emphases and/or combination of those: the overall level of labour market participation[170]; the characteristics of work[171]; the nature of the supply of labour[172]; and, the demand for labour[173]. In the context of this case study, employment policy is also considered as a combination of those different aspects of work. In the contemporary world, all those four components of the national employment policies are increasingly affected by the changes of the discourse at the global level with the impact of globalisation, internationalisation of capital, increasing perceived need for ensuring competitiveness,

[170] The overall level of labour market participation refers to the government interventions either to increase or decrease the overall employment levels, hence the quantity of labour. Policy measures can aim to maximise participation, or conversely may enable some people to withdraw from labour market by introducing pensions and sickness benefits. The level of participation can also be influenced by other policies such as the measures for the elimination of discrimination against women and encouragement of women already excluded from the employment to enter the labour force; education policies offering opportunities for young people; or immigrations policies which may affect the size of the labour force (Hill, 2000: 209).

[171] Regulation of the characteristics of work may include any attempts from the governments to regulate some aspects of work and of employer-employee relations such as the recruitment practices and termination of employment (e.g. dismissal, redundancy, retirement), remuneration or pay (e.g. minimum wages, equal pay requirements) and benefits (pensions, sick pay, redundancy payments), working time (e.g. maximum working time, rest breaks, flexible working requests), holiday and other leave (e.g. maternity, paternity, parental, career leave), workplace health and safety, prevention of discrimination and promotion of equal opportunities, and employee rights to information and consultation (May, 2000: 113).

[172] The measures to influence the nature of the supply of labour refer to the quality of labour, employability of the workforce and productivity, managed through education and training policies. In contemporary policy, the emphasis on the "supply side" measures reflects the understanding that "there is something wrong with the victims of unemployment" rather than questioning the deficit of demand in the labour market (Hill, 2000: 223). In spite of variations in approach, there is widespread agreement on the need for lifelong learning (May, 2006: 110). The nature of the supply of labour is also linked to the mobility of workers between countries, where countries may subsidise immigration or attempt to control the number of migrants (May, 2006: 108).

[173] Demand for labour basically refers to the creation of work by the governments in many different ways, for example by taking explicit job creation measures within the state as an employer itself, or outside the public sector or through "Keynesian" demand creating economic policies. In some cases, more indirect social policy innovations such as the availability of health, social care or education opportunities or increase in the supply of houses, can lead to creation of employment (Hill, 2000: 210). Besides the measures on job creation, governments can "intervene to influence employers' decisions over the location of work", with more economic development or national security purposes through the instruments of planning, subsidies, infrastructure and reallocation of government agencies (May, 2006: 108).

economic/financial crises, technological changes and/or demographic changes. In this context, the shift of emphasis from one of those components of the employment policy to another is likely to signify a shift in the overall understanding of employment policy in a domestic setting. Thus, it should be noted that the approach to employment policy in this case study is at a rather macro level, trying to cover all different aspects of the policy, even at the expense of staying at a general level rather than going into the details of each and every aspect of the employment policy, which could indeed provide sufficiently rich material for many different individual researches.

5.2 Employment Policy in the European Union

European Union's employment policy is a relatively new creation, compared to the Union's equality between women and men at work policies. Within a history of around 20 years, it has not only proved its existence as a separate policy issue in the EU political agenda but has also brought about, or has been the cause of, a considerable change in the EU's mode of governance and national governments role in this process. Thus, the root causes of the development of an employment policy at the European level, its working and policy-making principles and its substance deserve more attention, in order to be able to identify what really the European employment policy is, and to understand how and through which mechanisms it can affect national employment policies.

The literature basically focuses on two interrelated aspects of the EU employment policy. The first aspect is its mode of governance and policy-making, namely the analysis of the new approach to policy-making through the use of the Open Method of Coordination (OMC) and the European Employment Strategy (EES) and the tools embedded in that approach such as guidelines, benchmarking, peer reviewing and best practices. The second aspect is the substance of European Employment policy, for which the discussions revolve around the extent of a paradigm shift compared to the previous European approaches to the employment and unemployment, through the innovation of or increasing use of the concepts such as competitiveness, flexibility, security (or flexicurity), employability, adoptability, entrepreneurship, life-long learning and active labour market policies. In this section, after a short history of the development of the EU employment policy, the substance of the European policy and the methods used to transfer it to the national level will be elaborated in order to shed light on the analysis of the domestic change in Turkey's employment policy in its EU accession process.

5.2.1 Development of the European employment policy

In the early decades of the European integration, European level employment policy initiatives were "partial and fragmented" (Tidow, 2003: 79). The provisions of the Treaty of Rome for social or employment policy were "highly ambiguous" (Rhodes, 2005: 285) and the Treaty did not mention employment among the basic responsibilities of the European Community in Article 2 (Roberts and Springer, 2001: 31). In addition, since employment policy lacked a solid treaty basis, contrary to the case of equality between women and at work policies, traditional policy tools (i.e. directives) could not been used to regulate the national employment policies.

Historically, the development of the European employment policy, especially after the 1970s, reflects "a two-way conflict, or double cleavage", one between federalists and subsidiarists, based on their perception for and against the EU's social dimension advancing distributive policies and politics to the European level; and the other between socialists/social democrats and market liberals, reflecting the competing conceptions of how labour markets and social systems should be organised (Rhodes, 2005: 282).

Due to the market-oriented nature of the Treaty of Rome, social and employment policies were approached as tools for correcting market failures, rather than for creating a supranational welfare state (Rhodes, 2005: 285). Moreover, towards the end of the 1970s, the establishment of the European Monetary System and the Single Market are argued to represent "not only the rejection of 'social dimension', but also an intended exclusion of employment policy concerns" (Tidow, 2003: 79). Thus, the steps made were often small and only after major clashes and compromises between member states, as it was the case in the Single European Act (SEA) of 1987 when the Community competences were strengthened only for health and safety issues where "regulation could be justified as preventing potential market distortions" (Rhodes, 2005: 286).

However, the peaking of mass unemployment and/or low levels of employment participation rates by the early 1990s, coupled with the need to restructure existing employment relations and welfare states, pushed the issue of employment into the political agenda, but also as a measure not to put the EMU project at risk (Goetschy, 2003: 61). In the 1990s, employment policy emerged as a major EU policy focus "as an attempt to react to the deep economic and political crisis of early 1990s" (Tidow, 2003: 78), against the problem of chronic unemployment in the EU. Those challenges, coinciding with a

paradigm shift in the understanding of the policy problems and approaches to those with new policy instruments, was forced by two issues for Mosher and Trubek (2003: 65): the expansion of income maintenance programmes and early retirement as means of dealing with unemployment weakened the fiscal base for the welfare state through low levels of workforce participation; and, "methods used to finance welfare state expansion had made it harder to create low wage jobs and make work pay." The demise of the idea that economic growth alone would solve the unemployment problem, lead the European countries towards searching for other solutions, the direction of which was determined to a great extent by the market values and market-driven solutions such as "increased flexibility" and "greater competitiveness" (Roberts and Springer, 2001: 44).

By the time of the Maastricht Treaty (TEU) of 1992, more member states were in favour of European regulation of employment and other social issues (Rhodes, 2005: 286). Accordingly, the TEU named a "high level of employment" within the responsibilities of the EU, improved by the idea of "employability" of workers through education and vocational training (Roberts and Springer, 2001: 31).

The first significant policy document pointing out unemployment as a major problem and proposing solutions to overcome that problem, thus bringing employment as a policy to the European agenda, was the 1993 White Paper on Growth, Competitiveness and Employment[174]. Argued to reflect "a mixture of the market orthodoxy and lingering social democratic values" (Roberts and Springer, 2001: 45), the White Paper stated that "higher growth and employment can only be achieved through promotion of the competitiveness of European industry", and identified "labour market inflexibility that traced back to specific institutional, legal and contractual circumstances in each country" as a major cause of structural unemployment in Europe (van Apeldoorn, 2003: 127). In this context, the way to economic recovery was seen in "massive investment programme to renew the infrastructure of the EU", which would in turn "create jobs and make European firms more competitive", where governments should also "remove barriers to flexibility" (Roberts and Springer, 2001: 45). However, the projects required by the White Paper did not receive full support from the member states, which caused funding challenges (Roberts and Springer, 2001: 45).

In the 1994 Essen Council, another employment-related programme was proposed and five

[174] European Commission (1993) White Paper on Growth, Competitiveness and Employment: The Challenges and Ways Forward in the 21st Century, COM (93) 700, December 1993.

priority areas of initiatives to increase employment were selected: vocational training; greater labour market flexibility and competitiveness; reduction of nonwage labour costs; more effective labour market policies; and, measures to assist certain groups of unemployed in entering the workforce (Roberts and Springer, 2001: 45).

At the Amsterdam Council of 1997, an employment chapter was added to the Treaty of Amsterdam (ToA), which is argued to complete "the legal evolution of the status of employment policy" (Roberts and Springer, 2001: 31). In the Treaty, the European Employment Strategy (EES), its aim and mode of functioning were established, the main objective of which was the achievement of "a high level of employment, through the promotion of a skilled, trained, adaptable workforce and labour markets responsive to economic change" (Rhodes, 2005: 292). To this end, coordination of employment policies and cooperation between the member states were encouraged, through the obligation to participate in the formal procedures set out in the non-binding (employment) guidelines, to be produced by the Community without any sanctions. The employment chapter is the prototype of "soft law", which "does not provide for the EC to draft certain types of employment-creating directives", but rather in which the member states are the primary actors, to act in coordination in terms of their employment policies and make annual reports to the EU (Roberts and Springer, 2001: 31). This also means that the result of the establishment of the employment chapter in the ToA was "less of a substantive and more of a procedural nature" (Tidow, 2003: 88). Goetschy (2003: 64) argues that the Employment Title in the ToA indeed characterises three elements: "it is based on the previous experience of Essen procedure (1994) establishing a multilateral monitoring procedure for national employment policies; the procedural approach of the EES was inspired by the convergence process in the macroeconomic field set up in the Maastricht Treaty (1992); and it is the national level which remains primarily responsible for employment policies and achievements, though employment is considered an issue of common concern for both the national and the Community level."

Even before the ratification of the ToA, the 1998 Employment Guidelines addressed the member states and setting four pillars of action, were approved at the Luxembourg European Council in 1997 and the new process of employment policy was initiated to be repeated on a yearly basis. This process, also known as Luxembourg process, "builds on more subtle mechanisms of policy coordination than legal force, employing means such as diffusion and standardisation of concepts and knowledge, persuasion through peer review

pressure, continuous pressure through repetition and recurrent procedures etc." (Jacobsson and Schmid, 2002: 90).

The 2000 Lisbon European Council is one of the most important milestones of the development of the EU employment policy and approach. In the Council "full employment" was re-established as the EU's major social and employment policy objective (Goetschy, 2003: 82). The Council did not only confirm its support for the OMC as a method of policy-making, but also identified a ten-year strategy introducing new quantitative objectives for the European Employment Strategy, i.e. employment rate targets, of 70% overall employment rate and 60% female employment rate by 2010 (Rhodes, 2005: 292). In addition, the Lisbon Council provided an "integrated EU strategy", aiming at articulation of employment and other policy fields, including macroeconomics, structural economic reforms, social protection, education and training, and implementation of new technologies" in order to enhance the chances for full employment (Goetschy, 2003: 59). It is argued that the approach to employment in Lisbon developed into "a new reform initiative of structural policies" (Tidow, 2003: 96), where the conditions of return to full employment were seen in structural reforms of the EES, in appropriate macroeconomic policies at both national and European levels, and in better EU coordination among various policies (Goetschy, 2003: 82). According to Tidow (2003: 96), while the social concerns over employment were pushed into the background, the conclusions of the Lisbon Council, coupled with its special emphasis on education, represent "a further shift towards supply-side restructuring primarily designed to boost competitiveness and innovation."

Table 34 summarises the policy profiles, the models of employment policy, and the models of labour market reform envisaged at different phases of the development of European employment policy throughout its history, including the Lisbon European Council.

Post-Maastricht crises	1993 White Paper	1994 EC Essen	1996/7 IGC	1997 EC Amsterdam	1997 EC Luxembourg	2000 EC Lisbon
Policy-profile	- Keynesian - Schumpeterian - neo-liberal	- (Schumpeterian) - neo-liberal	- Schumpeterian - (neo-liberal)	- Schumpeterian - neo-liberal	- Schumpeterian - neo-liberal	- Schumpeterian - new-Keynesian consensus
Model of employment policy	- measures - intervention	- non-binding coordination	- non-binding co-ordination - measures - otherwise indefinite	- co-ordination - incentive measures	- convergence method	- employment pact - employment is fit into structural policies and new methods of open co-ordination
Model of labour market reform	- human resource management	- flexibilization	- controversial or indifferent	- without specific profile	- bench-marking - active labour market policy / employability	- bench-marking - emphases on education / employability

Table 34: European Employment Policy: Phases of development (Tidow, 2003: 82).

By 2005, due to serious structural difficulties such as an ageing population, decline in economic performance, slowing down of the labour productivity growth, quality of work and inclusive labour markets, it became clear that EU should take further action to catch the targets set out in Lisbon.[175] Accordingly, the Lisbon strategy was revamped with a revision of the EES, through integration of employment guidelines with macroeconomic and microeconomic guidelines for a period of three years, instead of its annual cycle; and the Integrated Guidelines for Growth and Jobs (2005-2008), as the basis for the Lisbon Programme and national reform programmes, started to be implemented.[176]

The European Employment Strategy also took its place under Title IX (Articles 145-150) in the Treaty of Lisbon (The Treaty on the Functioning of the European Union), published on 9 May 2008 in the Official Journal of the EU. In July 2008, within the new integrated guidelines, the European Council issued the guidelines for the employment policies of the member states for the period of 2008-2010.

The severe financial and economic crisis of 2009 necessitated the reconsideration of its impact on employment in Europe. A special employment summit took place in Prague in May 2009 "to identify good practices in mitigating the worst effects of the crisis, to improve the employment situation to the future, to stimulate the coordination between the EU, its members and the social partners."[177] The summit identified (ten) actions to fight unemployment and create new jobs, emphasising that "future action on employment should be guided by a number of principles and aim at maintaining employment and create jobs; increase access to employment particularly to the young and upgrade skills, match labour market needs and promote mobility."[178] "Europe 2020: A New Strategy for Jobs and Growth" was concluded in Brussels European Council in March 2010. It sets out "a vision of Europe's social market economy for the 21st century" to turn the negative effects of the crisis such as "high levels of unemployment, sluggish structural growth and excessive levels of debt" coupled with the intensifying long-term challenges such as "globalisation, pressure on resources, climate change, ageing", into "smart, sustainable and inclusive

[175] http://ec.europa.eu/employment_social/employment_strategy/develop_en.htm.
[176] http://ec.europa.eu/employment_social/employment_strategy/eestm_en.htm (Last update: 19/09/2005)
[177] Employment Summit, 7 May 2009, Main messages, Available online at: http://ec.europa.eu/social/BlobSer vlet?docId=2671&langId=en.
[178] http://ec.europa.eu/social/main.jsp?langId=en&catId=89&newsId=507&furtherNews=yes (07 May 2009).

economy delivering high levels of employment, productivity and social cohesion." [179]

5.2.2 The European Employment Strategy as a mode of governance

The European employment policy is a good example of a policy setting, where common problems exist across Europe, but the conditions do not allow developing uniform policies and there is great uncertainty about the best way to deal with problems (Mosher and Trubek, 2003: 84). Instability and lack of consensus caused by the "the changing nature of the employment 'problem'; the diversity of European labour market organisation and industrial relations; and the 'essentially contested nature of employment regulation'" (Rhodes, 2005: 281) necessitated continuous renovations and innovation of policy tools. Eventually at the Lisbon European Council in 2000 this situation gave birth to a "new mode of governance", namely the European Employment Strategy (EES) based on the principles of the Open Method of Coordination (OMC), to achieve political consensus on employment policy.

Within this "new mode of governance", the EES includes setting up of new tools and procedures, argued to be shaped by the "modern public management" understanding (Goetschy, 2003: 75, 83). In this sense, the EES establishes and utilises targets, deadlines, common statistical tools, benchmarking, best practices, and peer review process, in which peer pressure, evaluation and recommendations become core elements of policy transfer. In this mode of European policy-making, the major policy document that provides the policy substance is the "employment guidelines" produced by the European Council and Council. The whole EES policy cycle is "structured but unsanctioned" by the European level institutions with the objective of promoting "convergence while allowing diversity", which is "often a convergence of outcomes, not of policies" (Mosher and Trubek, 2003: 81). In this new structure, the EES is characterised by "non-hierarchical participation of actors" and "a new problem-solving logic based on deliberation and 'policy learning'" (Rhodes, 2005: 292); as well as policy integration and coordination across multiple levels of government and across separate policy domains (Mosher and Trubek, 2003: 81).

Such use of the OMC and the development of the EES also reflect a shift from hard law to soft law, i.e. "diversification of policy modes away from the distinctive Community method" (Rhodes, 2005: 283). In contrast to traditional modes of governance, these new policy instruments are "only marginally – if at all – based on legislation" (de la Porte and

[179] http://ec.europa.eu/eu2020/index_en.htm.

Pochet, 2004: 71) and they do not rely on "top-down command and control-type regulation backed by sanctions" (Mosher and Trubek, 2003: 64). Rather, the compliance with the European employment policy and EES depends on "the assurances made by Member States to follow the guidelines, supported by multilateral surveillance of Member State activities, 'naming and shaming' mechanisms, the iterative elements of the process, and its capacity to shape the discourse of debate" (Mosher and Trubek, 2003: 70). Such an approach leads to harmonisation from below by "strengthening competitive elements" and by "diffusion of common problem-solving philosophies", through which "the European strategic points of reference are processed within national institutional frameworks", and in turn they are "themselves modified and restructured as a result of these transnational pressures" (Tidow, 2003: 91). Interventions through the new mode of governance aim to introduce new practices into national labour market regimes, which in turn, "transform and restructure labour market regulation in the member states" (Tidow, 2003: 91). The aimed outcome of this process is not to establish a common employment policy, but rather to ensure the coordination of national policies within an overall European framework, through a new policy paradigm for employment policy embodied in benchmarks, guidelines and recommendations for national policies (van Apeldoorn, 2003: 130). In this framework, the EES process also rests on "the self-regulation of private actors, the co-regulation of private and public actors as well as the delegation of tasks to new public actors (regulatory agencies) in policy formulation" (de la Porte and Pochet, 2004: 71). To the extent that the EES comprises of non-binding and flexible instruments, it is named as a "voluntarist form of governance" with "weaker implementation capacities and uncertain links between policy inputs and outputs" (Rhodes, 2005: 284).

The principles and methods of the EES cycle set out the roles of the actors and relations between them in form of "policy coordination" (Rhodes, 2005: 293). The process starts with the agenda setting at the European Council level and composition of the "employment guidelines" (initially annual, later for a three-year period) by the European Commission and then their endorsement by the Council. The guidelines provide the basis for the National Action Plans (NAP), to be prepared each year by the member states, where they demonstrate the measures taken to comply with the objectives of the guidelines (Roberts and Springer, 2001: 49). The NAP process involves "a discursive practice which suggests a particular perspective and a cognitive structure for understanding and describing labour market" in line with the pillars of the guidelines (Jacobsson and Schmid, 2002: 90). In

addition, the process based on guidelines provides "a margin for adaptation at national level", but also involves processes of "benchmarking, multilateral surveillance and peer review" aiming to encourage member states to transpose specific policy objectives of the guidelines into national programmes in accordance with their particular socioeconomic circumstances (de la Porte and Pochet, 2004: 71). Upon the preparation of the NAPs, the Commission, with the input of the Employment Committee and to be endorsed by the Council, makes individual recommendations[180] to the individual states (Rhodes, 2005: 295) for "corrective action" (de la Porte and Pochet, 2004: 71), in which member states may be requested to make changes in their NAPs (Roberts and Springer, 2001: 49). As Tidow (2003: 91) argues, this whole process does not only evaluate the national programmes, but also simultaneously provokes a discussion of the distinct substantive policy orientations.

In the next step, the Commission and the Council draft a joint employment report to assess the change in the European employment situation. In addition, the NAPs are peer-reviewed (named as the Cambridge process) to monitor employment and employment policies in the member states, within a two-day meeting of the Employment Committee composed of two delegates from each member state and two members from the Commission (Rhodes, 2005: 295). The process continues with the bilateral discussions between the Commission and each member state regarding its measures to implement its NAP (Roberts and Springer, 2001: 49).

Those "iterative and multi-level procedures" (Mosher and Trubek, 2003: 68) provides for "benchmarking, in which best practices of member states are held up as models for others to emulate" (Roberts and Springer, 2001: 49). Through the use of best practices, benchmarking aims at significantly improving competitiveness (Tidow, 2003: 92) in order "to build fairly close and meaningful connections between national labour regimes without requiring much institutional harmonisation" and "balancing policy convergence and institutional diversity" (Teague, 1999: 54 quoted in Tidow, 2003: 91).

The EES policy cycle works slightly different for the candidate countries, through the process of "Employment Policy Review", which was initiated in 1999 by the European Commission as a cooperation process with the candidate countries in the field of employment. Referring to a gradual transition, the main aim of the European Commission has been to ensure that candidate countries develop their employment policies and

[180] Rhodes (2005: 295) also states that this recommendation tool is a key element that distinguishes the EES from other areas covered by OMC, as defined in the ToA (Article 128 paragraph 4).

institutions in line with the EES in a way to prove their competencies for the implementation of the Employment Chapter. In this process, the Commission provides financial and technical support to the candidate countries to align their employment policies in line with EES and to establish and develop their institutional capacities. This cooperation also covers the candidate countries' preparation for structural funds including European Social Fund (ESF). In other words, the Employment Policy Review is the tool of the Commission "to influence policy-making" in the candidate countries in the employment area while, at the same time, continuing the classical task of "screening" the accession process in the candidate country (Schüttpelz, 2004: 13).

The first step towards the preparation of the candidate countries for full application of the European Employment Strategy, in accordance with the Lisbon Strategy for Growth and Jobs, is the "Joint Assessment of the Employment Policy Priorities" (JAP), prepared and to be signed, jointly by the candidate country and the European Commission. JAP is an important policy document, which addresses the specific employment challenges of the candidate countries in line with the European requirements and officially identifies the commitments of the candidate countries, as well as of the Commission, towards fulfilling those requirements related to the labour market and employment. The JAP process is designed for the candidate countries "to reform their employment systems" by discussing the common goals of "improving work conditions, increasing employment, developing workers' skills, establishing a well-functioning labour market, and ensuring competitiveness and sustained economic growth", through "extensive consultation between the national governments (through related ministries such as the labour, finance and education ministries), the trade unions, the social partners and the European Commission."[181]

As a preparation stage of JAP, the candidate countries were expected to prepare the "Employment Background Study" in cooperation with the European Training Foundation. Following the signature of the JAPs, the next stage is the monitoring and reviewing of the employment policies, conducted jointly by the Commission and the candidate country. The candidate country annually reports to the Commission in a common format about the progress of the country's main policies and objectives, as well as the measures to implement the priorities set out in the JAP. In a set of technical meetings, the main

[181] European Commission, Directorate General Employment, Social Affairs and Equal Opportunities, "Candidate Countries", http://ec.europa.eu/social/main.jsp?catId=841&langId=en.

commitments of the JAPs are discussed between the Commission and national government representatives and the social partners to encourage policy action. The Commission defines the common policy themes to be included in all the reports, which require the comparability of the labour market statistics through identical and similar data and indicators. (DPT, 2007: 93)

As it is the case for the member states, the European Commission is certainly the dominant agent of transfer in the employment policy adaptation process of the candidate countries (Schüttpelz, 2004: 13). Within the EES process, the role of the Commission is often defined as a "norm entrepreneur", which has the capacity to set the agenda, to influence the preferences of member states throughout the policy process, to orient debates, to propose indicators and benchmarks, to advance new ideas, to pressure states to comply with the guidelines, benchmarks and recommendations (de la Porte and Pochet, 2004: 72).

5.2.3 Substance of the European employment policy

As an essential part of the Lisbon Strategy, the Employment Guidelines of the EES and of the integrated guidelines for growth and jobs, present common priorities to the member states national employment policies. They play a central role for employment policies of the member states, especially in terms of the functioning of labour markets, employment levels, productivity and social inclusion.[182] Thus, the Employment Guidelines is the place where the substance of the European employment policy and the EES, i.e. policy tendencies and paradigm shift in terms of employment at the European level, can best be seen and analysed.

Between the years of 1998-2002, the employment guidelines were organised annually and under four pillars. *Improving employability* pillar referred to the access of the unemployed to the labour market by making unemployment systems more active and increasing the skills of workers (Mosher and Trubek, 2003: 68). Transition from passive to active measures necessitates revision and adaptation of the benefit, tax and training systems.[183] This is seen as a "'preventive approach' to avoiding long-term unemployment and on the implementation of 'activation policies'" (Goetschy, 2003: 64-65). *Developing entrepreneurship* pillar aimed to encourage starting and running new and smaller businesses, especially the small and medium-sized enterprises (SMEs), as well as hiring

[182] Ibid.
[183] Council Decision of 13 March 2000 on guidelines for Member States' employment policies for the year 2000, (2000/228/EC).

employees in those businesses, by reducing administrative burdens and by making taxation system more employment-friendly (Goetschy, 2003: 64-65). *Encouraging adaptability both for employees and businesses* pillar entailed policies to ensure flexibility of organisation of work, forms of work and work arrangements, with the aim of making undertakings productive and competitive, also keeping the balance between flexibility and security.[184] *Strengthening equal opportunity policies for women and men* pillar mainly required the adoption of the gender mainstreaming approach in implementation of all four pillars; reducing the gap in unemployment rates between women and men, in representation of women in all sectors and occupations and gender pay gap; reconciling work and family life through implementation of EU directives and provision of high quality care services for children and other dependants; and, facilitating re-integration into the labour market.[185] In short, the guidelines for the years 1998-2002 sought higher employment participation, more active unemployment systems, more skills, more employment intensive growth, fewer obstacles to low-skill work, flexibility with security, smaller companies and entrepreneurship, and gender equality (Mosher and Trubek, 2003: 71-72).

Employment Guidelines 1998-2002
1. Improving employability
- Tackling youth unemployment and preventing long-term unemployment - Transition from passive measures to active measures - Encouraging a partnership approach - Easing the transition from school to work - Promoting a labour market open to all
2. Developing entrepreneurship
- Making it easier to start up and run businesses - Exploiting new opportunities for job creation - Making the taxation system more employment friendly
3. Encouraging adaptability of businesses and their employees
- Modernising work organisation - Support adaptability in enterprises
4. Strengthening equal opportunities policies for women and men
- Gender mainstreaming approach - Tackling gender gaps - Reconciling work and family life - Facilitating reintegration into the labour market

Table 35: Four Pillars of the Employment Guidelines 1998-2002.

[184] Ibid.
[185] Ibid.

In 2001, the 'horizontal objectives', which specify a set of overarching goals compared to individual strategy elements of the specific guidelines (Mosher and Trubek, 2003: 72) based on four pillars, have been added to the employment guidelines, for "building conditions for full employment in a knowledge-based society."[186] The member states were required to set national targets for increasing the rate of employment in order to contribute to the overall European objectives of reaching an overall employment rate of 67% and that of 57% for women by 2005; reaching an overall employment rate of 70% and that of more than 60% for women by 2010; and, reaching an employment rate of 50% among older persons aged 55 to 64.[187] Besides those overall employment rate targets, the horizontal objectives included "the promotion of quality of work; the promotion of lifelong learning; further incorporation of the social partners into the process; translation of the guidelines into action by the Member States in a balanced and integrated manner; and, developing better common indicators to gauge progress" (Mosher and Trubek, 2003: 72).

In 2003, in line with the revision of the European Employment Strategy, the emphasis was placed on medium-term orientation and implementation of the policies recommended in the guidelines.[188] New guidelines are structured in ten "result-oriented" priorities (Rhodes, 2005: 295) around three overarching objectives: full employment; improving quality and productivity at work; and strengthening social cohesion and inclusion (Table 36).[189]

Employment Guidelines 2003-2004
Overarching Objectives
- Full employment - Improving quality and productivity at work - Strengthening social cohesion and inclusion
Specific guidelines
1. Active and preventative measures for the unemployed and inactive 2. Job creation and entrepreneurship 3. Address change and promote adaptability and mobility in the labour market 4. Promote development of human capital and lifelong learning 5. Increase labour supply and promote active ageing 6. Gender equality 7. Promote the integration of and combat the discrimination against people at a disadvantage in

[186] Council Decision of 19 January 2001 on Guidelines for Member States' employment policies for the year 2001, (2001/63/EC).
[187] Council Decision of 18 February 2002 on Guidelines for Member States' employment policies for the year 2002, (2002/177/EC).
[188] Council Decision of 4 October 2004 on guidelines for the employment policies of the Member States, (2004/740/EC)
[189] Council Decision of 22 July 2003 on guidelines for the employment policies of the Member States, (2003/578/EC).

the labour market 8. Make work pay through incentives to enhance work attractiveness 9. Transform undeclared work into regular employment 10. Address regional employment disparities
Good governance and partnership in the implementation of the employment guidelines
Involvement of parliamentary bodies, social partners and other relevant actors Adequate allocation of financial resources

Table 36: General and Specific Objectives of the Employment Guidelines 2003-2004.

Starting in 2005, the employment guidelines are embedded into the "integrated guidelines for growth and jobs" together with the Broad Economy Policy Guidelines, which together form a single text as the principal policy instrument for developing and implementing the Lisbon Strategy. In other words, employment measures are then coupled with the macroeconomic and the microeconomic policies of the European Union (EU) presenting "a strategic vision of the challenges facing Europe" and enabling "the Union to channel member states efforts towards priority measures."[190] This means that different sectors of the economy are expected to mutually strengthen each other and "developments in the fields of economics, labour and social affairs are mutually reinforcing"[191] in order to "attract more people into employment and modernise social protection systems."[192] Accordingly, the new employment guidelines are more streamlined, in accordance with three priorities: attract and retain more people in employment, increase labour supply and modernise social protection systems; improve adaptability of workers and enterprises; increase investment in human capital through better education and skills.[193] In addition, three horizontal objectives and targets are defined in the Guideline 17[194]: achieving full employment, improving quality and productivity at work; and, strengthening social and territorial cohesion. In the 2008-2010 employment guidelines, there is also an emphasis on an integrated flexicurity approach and policies, addressing simultaneously "the flexibility of labour markets, work organisation and labour relations, reconciliation of work and private life, and employment security and social protection." (Table 37)

[190] http://europa.eu/legislation_summaries/employment_and_social_policy/growth_and_jobs/c11323_en.htm.
[191] Council Decision of 15 July 2008 on guidelines for the employment policies of the Member States (2008/618/EC)
[192] http://europa.eu/legislation_summaries/employment_and_social_policy/growth_and_jobs/c11323_en.htm.
[193] http://ec.europa.eu/employment_social/employment_strategy/eestm_en.htm (Last update: 19/09/2005)
[194] Those three priorities are presented jointly for the guidelines of 2005-2008 and 2008-2010 here, as stated in the Council Decision of 12 July 2005 on Guidelines for the employment policies of the Member States (2005/600/EC) and Council Decision of 15 July 2008 on guidelines for the employment policies of the Member States (2008/618/EC).

Employment Guidelines 2005-2008 and 2008-2010 as a part of the integrated guidelines for growth and jobs
Horizontal objectives
(17) Implement employment policies aiming at achieving full employment, improving quality and productivity at work, and strengthening social and territorial cohesion.
1. Attract and retain more people in employment, increase labour supply and modernise social protection systems
(18) Promote a life-cycle approach to work. (19) Ensure inclusive labour markets, enhance work attractiveness, and make work pay for job-seekers, including disadvantaged people, and the inactive. (20) Improve matching of labour market needs.
2. Improve adaptability of workers and enterprises
(21) Promote flexibility combined with employment security and reduce labour market segmentation, having due regard to the role of the social partners.
3. *Increase investment in human capital through better education and skills*
(22) Ensure employment-friendly labour cost developments and wage-setting mechanisms. (23) Expand and improve investment in human capital. (24) Adapt education and training systems in response to new competence requirements.

Table 37: Employment Guidelines of 2005-2008 and 2008-2010 as a part of the Integrated Guidelines for Growth and Jobs (Council Decision 2005/600/EC and Council Decision 2008/618/EC).

Looking at the European employment policy, its mode of governance and policy orientation of the employment guidelines, the most important characteristics of the European employment policy as a whole appear to be the increasing dependency between the employment and macroeconomic priorities of the EU; the measures for increasing competitiveness and the role of the private sector; the supply-side orientation; a shift from passive to active labour market policies, also perpetuated with the concept of "employability"; and the emphasis on flexibility, which is recently revised in form of "flexicurity."

The substance of the employment policy in the European Union is suggested to have reflected a "paradigm shift" from the classical understanding of the employment policy and unemployment problem from a welfare state point of view and its policy measures such as income maintenance and protection of employees, towards a design in compatibility with the discourse of "competitiveness in the global economy", as dispersed in all areas of European socio-economic policy making. The objective of this new employment policy approach can be defined as "to facilitate the operation of the market, not to hinder its functions" (Roberts and Springer, 2001: 27). It is assumed that "unemployment results from high cost of labour in Europe, partly the result of excessive social security charges employers must pay" (Roberts and Springer, 2001: 44), thus, the important provisions of the guidelines point out to "the measures to decrease taxes on the private sector so that it

will create new jobs" and hire new employees in those jobs (Roberts and Springer, 2001: 50-51). In this context, the private sector (especially the service sector) and the market are considered as the real source of employment creation and the engine of the growth.

In this framework of competitiveness and the role of the private sector, the other side of the approach is the new role defined for the employees and unemployed, which are seen as the bearer of the human capital, hence a resource for economic innovation, structural change and competitiveness (Tidow, 2003: 93). This new supply-side "egalitarianism" does not anymore aim at a "de-commodification of human labour" but instead opts for "equal opportunities for commodification" (Streeck, 1999: 12 in Tidow, 2003: 97). Thus, labour power becomes a commodity offered on the market (van Apeldoorn, 2003: 131). In this regard, the approach to unemployment signifies "the inadequate ability of the individual to be employed" (Tidow, 2003: 93), thus, labour market reform requires "workers to 'adjust' to the 'new conditions'" imposed by the global capital and competitiveness (van Apeldoorn, 2003: 114). Accordingly, the EU employment policy focuses on the goal to ensure that "employees are ready for available jobs" (Roberts and Springer, 2001: 51). This supply-side orientation and the use of the term "employability" refer to the new role of the state: to invest in education, training, high technology, infrastructure, etc. and to provide education and training for unemployed, especially for the young and long-term unemployed. In this regard, lifelong learning and the investment in human capital have become necessary "to follow the structural changes in the economy and remain employable" (Tidow, 2003: 93) and to improve "the capacity of labour (rather than just capital) to adapt to the exigencies of the global economy" (van Apeldoorn, 2003: 125). This means that the focus of the EES on "structural labour market reforms" (Goetschy, 2003: 82) has developed considerably as "a supply-side strategy focusing on altering structural impediments to employment" (Mosher and Trubek, 2003: 71), one of which is seen as the employees' lack of skills and training sufficient to be employed in a changing labour market.

In line with the changing perceptions of unemployment and the new roles defined for the private sector and the employees, the European employment policy emphasises that the national employment policies should "shift from income support for the unemployed to an active policy of returning them through training to the workforce as well as encouraging job creation in the private sector" (Roberts and Springer, 2001: 50). This is a "shift from passive to active policies" (de la Porte and Pochet, 2004: 75), which also reflect a move of

attention from "employment protection to employment promotion" (Rhodes, 2005: 281). In this setting, the role of the state is also changing from being the provider of the unemployment payments towards identifying "the at-risk unemployed" and preparing them "for re-entry into the workforce" (Roberts and Springer, 2001: 51) through active labour market policies. In order to enhance "accessibility" of the unemployed, shift in emphasis from passive to active labour market policy refers to a "qualitatively different (rather than weaker) expenditure profile", where "the focus is less on cost-intensive employment measures, and more on qualification, education and training and stronger interdependence" (Tidow, 2003: 93).

A last but not the least important characteristic of the European employment policy is its emphasis on flexibility. It refers to the assumption that "globalisation and technological progress are rapidly changing the needs of workers and enterprises"[195] and "European unemployment is caused by regulations that prevent employers utilising their employees in the most efficient manner", in other words "national laws make it difficult to fire employees" (Roberts and Springer, 2001: 44). Thus, the model of work where "male full-time worker works on a normal working week for one company his entire life" should be changed towards a model which allows "companies more flexibility in terms of working time, envisions greater heterogeneity in the types of workers (men, women, full-time, part-time), and supports workers who will shift companies and careers much more often" (Mosher and Trubek, 2003: 71-72). Such a flexible labour market model, to be further promoted by improving the "adaptability" of workers, is seen as the basis of the whole employment strategy aiming to reduce unemployment (van Apeldoorn, 2003: 131). On the other hand, the priorities of this liberal market flexibility, which was also "evident in the shift from the four-pillar approach to three core objective structure" was seen difficult to reconcile with the priorities of the social democratic solidarity approach (Rhodes, 2005: 298). In other words, "this new flexibility must be fostered while new mechanisms for providing security to workers" (Mosher and Trubek, 2003: 72) should be integrated in order to prevent "a segmentation of labour market between different types of workers" (Rhodes, 2005: 298). In order to overcome this EU dilemma of "how to maintain and improve competitiveness whilst preserving the European social model"[196], the concept of flexicurity came into the agenda. It is defined by the EU as "a policy strategy to enhance,

[195] European Commission, Employment Social Affairs and Equal Opportunities, What is Flexicurity? http://ec.europa.eu/social/main.jsp?catId=116&langId=en.
[196] Ibid.

the flexibility of labour markets, work organisations and labour relations on the one hand, and security (of employment and income) on the other."[197] Including a strong emphasis on active labour market policies, life-long learning and training, support to jobseekers, and equal opportunities for all, the flexicurity concept reflects a shift from a "job security" mentality to an "employment or employability security" mentality, where the policy approach is less towards the protection of jobs, and more towards the protection of people.[198]

In sum, European employment strategy reflects a shift from "Keynesian paradigm of market-correcting and market-steering macro-economic full-employment policies, sometimes complemented by micro-economic interventionism", towards "a new transnational policy paradigm of market-making employment policies" (van Apeldoorn, 2003: 130). Ideologically, this transformation is argued to be one of "the nationally defined Keynesian welfare state regime into a Europeanising Schumpeterian workfare state regime" (Tidow, 2003: 97). The objective of those policies is neither "redistribution" (van Apeldoorn, 2003: 130), nor "wholesale deregulation" (Roberts and Springer, 2001: 50) but by focussing on supply-side of (un)employment, setting quantitative objectives, and trying to create the opportunity to participate in the market, the ultimate objective fits into the existing integration project within the context of a neo-liberal restructuring (Tidow, 2003: 78). Assigning new roles to the employees, avoiding "unemployment and protecting workers' income" (van Apeldoorn, 2003: 125) and losing its character as an instrument for eliminating social inequality, the European employment policy is detached more from the context of the social policy, and directed towards the economic, competition and structural policy (Tidow, 2003: 93).

5.3 The Background for the Development of Employment Policy in Turkey

Although the 1961 Constitution of the Republic of Turkey introduced and the 1982 Constitutions preserved the principle of "social state", it is difficult to argue that Turkey has ever had a welfare state tradition and practice (Yalman, 2007: 655). In this regard, the employment policy in Turkey has been, for decades, characterised by "neglect and disorientation", where consistent and systematic employment policies with long term objectives have been very difficult to observe (Taymaz and Özler, 2004: 26). For the last

[197] Ibid.
[198] Ibid.

thirty years, the macro-economic policy orientation in Turkey has considerably shaped the development of employment policy as a function of economic growth and competitiveness; and the involvement of the international finance institutions, as well as of the EU, in macro-economic policy design and structuring of the labour market, was a significant factor that shaped the positions and moves of the domestic policy actors in terms of making and implementation of employment policy.

In this section, the background for the development of the piecemeal employment policy in Turkey, as well as the domestic and global conditions that have shaped it throughout the 1980s and 1990s, will be summarised. This exercise is an attempt to approach the development of employment policy in Turkey from a 'bottom-up' perspective, where "the set of actors, ideas, problems, rules, styles and outcomes at the domestic level" (Exadaktylos and Radaelli, 2009: 510) are prioritised and the critical junctures or turning points in terms of employment policy are identified. It is expected that this background will inform the readers about how the employment policy of the 2000s has been conditioned by the domestic dynamics, as well as global or international interferences into the policy domain.

The first critical juncture at the background of the development of today's employment policy was the 1980, when Turkey's economic policies have been sharply directed towards "opening up the Turkey's economy to international competition, joining the process of globalisation", and "integration into the economies of highly industrialised western European countries" (Kazgan, 1993: 69), in a way to substantially shift the inward-oriented and import-substituting model of industrialisation within the developmentalism of the 1960s and 1970s towards an export-orientation strategy. Since the 1980s, this changing economic policy paradigm has enormously affected the dynamics of the labour market by initiating a radical transformation in both economic and institutional terms, and has eventually and continuously subordinated the approach to employment and unemployment in general, and to the formulation of an autonomous employment policy in particular. In addition, the new economic policy orientation has changed the role of the state as an employer, and reduced the conditions of state intervention into economy. Last but not the least, the aim of integration with the world economy has also made Turkey susceptible to international pressures and discourses and increased the role of the international finance institutions especially in the economic policy domain. As a result, the approach to employment and unemployment, as a function of macro-economic policies, has started to

be developed in line with the neo-liberal policy orientation initiated at that time.

The 1990s occur as a test ground for the new economic policy orientation of the 1980s. Characterised by political and economic instability and concomitant economic and financial crises, the role of the international finance institutions continued to increase, with an increasing negative effect on the structure of the labour market. As an outcome of the instability and implemented economic policies, employment policy problems were exacerbated through the changing structural composition of the labour market, rising unemployment and expanding informal sector. On the other hand, the establishment of the custom union in 1996 brought the European Union as a more influential external actor into the domestic political agenda. In this period, the approach to employment continued to be shaped in a supply-side orientation, where demands for more flexibility came into the picture. Thus, the 1990s show both the preliminary outcome of the new economic policies initiated in the 1980s, but also the causes of the employment policies to be developed in the 2000s. Moreover, throughout the 1990s, a new approach to employment and unemployment, subordinated by the macro-economic policies, started to take its place among the employment policy priorities as stated in the Development Plans. Last but not the least, Turkey was officially recognised as a candidate country to the EU in 1999, which prepared the ground for political and legislative changes in Turkey in the field of employment policy among others throughout the 2000s.

In the following two sub-sections, those arguments for different critical junctures of the development of the Turkish employment policy will be analysed in detail, with a particular emphasis on the significant roles played by the international actors such as IMF, World Bank and the EU in this transformation, and with regards to the positioning of the policy-makers and other policy actors towards those policies.

5.3.1 The 1980s: Transformation of the labour market and structural adjustment

1980 is no arguable a critical juncture in the Turkish history, in which the economic liberalisation programme, coupled with a military coup d'état and a military regime afterwards, gave the start of an overall socio-economic and political transformation in Turkey. In terms of the employment policies and approach to employment/unemployment problem, the period of 1980-1989 is characterised by a neoliberal economic policy orientation, which radically transformed the labour market in Turkey, as a part of the comprehensive transformation of economy, society and politics. Kazgan (1993: 73)

defined it as “the iron hand of the military regime and its civilian bureaucrats had come to the support of the invisible hand of the market.”

The transformation starting with the 24 January 1980 decisions (and following arrangements in 1983) consisted of an economic stabilisation programme aiming, in line with the IMF recommendations, to realise market economy, to slow down inflation, to increase exports and to encourage savings (Kılkış, 1980: 31-35 in Yılmaz, 2003: 183). It was the most concrete evidence of Turkey’s efforts to integrate into the world economy under free market conditions in line with the target of outward-oriented growth under the surveillance of IMF (Özkaplan, 2008: 6). The main orientations of this liberalisation programme were the realisation of a free market economy depending upon private entrepreneurship, as well as minimising state intervention into the market; liberalisation of interest rates and controlling inflation; establishing a free foreign exchange market and liberalising exchange rates; liberalisation of export and import regimes; increasing entry of the foreign capital; and, regulation of wages and trade union activities (Özkaplan, 2008: 6). These were to be implemented through new macroeconomic policies: an exchange rate policy implemented through devaluations; an export regime gradually directed towards liberalisation; making export-orientation a national priority through subsidies such as an expensive foreign exchange rate, cheap credits and tax returns; removing price controls and subventions on a considerable number of basic goods; and contracting domestic demand (Boratav, 2003: 149). The regime change via the coup d’état on 12 September 1980 provided important complementarities to this new economic policy orientation, by eliminating serious obstacles for the implementation of this liberalisation programme (Boratav, 2003: 148) and especially by creating “the base for new industrial relations which included the regulation of the labour market, reforming trade union structures and codifying a new labour law” (Bahçe, 1998: 4).

In this regard, the relationship between the neoliberal economic policy transformation of the 24 January programme and the military regime was not an “external” phenomenon, but on the contrary it refers to the importance of the military regime and the following governments in their support for the realisation of this transformation of labour markets and its stabilisation (Şenses, 2003: 152-153). By putting labour market dynamics and trade unions under considerable pressure and playing a role for the deterioration of real wages as an outcome of this repressive environment, first the military regime and then the successive governments of the 1980s played a significant role for the transition into the

new model based on exports (Şenses, 2003: 152-153).

Within the transition period of 1980-1983 under the military regime, the first aim of the new industrial relations was to prevent the crises similar to those of the 1970s[199] (Bahçe, 1998: 4). An important mechanism was the imposition of military measures in order to oppress the labour markets, and in this regard, compulsory arbitration, strike and lock-out bans, banning trade union activities, adoption of Law on Trade Unions No. 2821 and Law on Collective Bargaining, Strike and Lock-outs No. 2822 are considered as "domestic" dynamics that facilitated "the neo-liberal policy change" (Özkaplan, 2008: 4) and controlling the labour market through legal and institutional changes (Boratav, 2003: 150) in the following years.

In this process, while the trade unions were the main target of the military regime, employer organisations were the main allies. Considering trade unions, which were highly political, demanding and active in the pre-coup era, as the "greatest barrier to the normalisation of the economic performance and prosperity" and with the increasing burden of crisis of the 1970s, businessmen and employer organisations seemed in favour of the new regime and economic liberalisation orientation (Bahçe, 1998: 4). They were mainly interested in stabilising labour relations and their preferences towards economic policy's shift to an export-oriented pattern resulted in criticising a highly rigid labour market and wage costs as barriers for international competitiveness of Turkish industry (Bahçe, 1998: 11). In this period, Turkish Confederation of Employer Associations (TİSK), Turkish Industrialists' and Businessmen's Association (TÜSİAD) and The Union of Chambers and Commodity Exchanges of Turkey (TOBB) represented the most influential and diversified interests and they were very vocal throughout the 1980s (Bahçe, 1998: 5). TİSK and TÜSİAD supported the military regime (and later on the elected ANAP government) as it facilitated the implementation of the 24 January stabilisation programme, curbing the deficiencies of the labour relations and restoration of industrial peace (Bahçe, 1998: 12). They had close relations with successive governments in the 1980s and the military regime followed the opinions of the employer organisations in making the new labour market policies (Boratav, 2003: 150) and in the construction of new industrial relations (Bahçe, 1998: 11).

[199] Until the coup, the Turkish economy faced an increasing number of strikes and lock-outs: in 1979 the number of strikes was 179 with 25,000 workers on strike; where these numbers increased to 220 and 34,000 in 1980 (Bahçe, 1998: 4-5)

In relation to the transformation of the labour markets, the military regime first intervened in the strikes which started before the coup and banned the major trade unions, namely Confederation of Revolutionary Trade Unions (DİSK), Confederation of Turkish Nationalist Workers (MİSK) and Confederation of Turkish Real Trade Unions (Hak-İş), whereas Confederation of Turkish Trade Unions (Türk-İş) continued to function and Hak-İş was reopened in 1983 (Bahçe, 1998: 5). For the period of 1980-1984, strikes and other collective activities of workers, as well as the layoffs by the employers, were prohibited. As the only remaining labour confederation in the 1980s, Türk-İş remained silent over the labour reforms and justified the trust of military regime between 1980 and 1984 (Bahçe, 1998: 19), whereas employer organisations criticised the prohibition of layoffs because of its rigid nature and their need for a more flexible environment, besides their general support to the stabilisation programme and the military regime (Bahçe, 1998: 29).

Another step was to reduce the severance payments[200], as an important component of the protective employment policy approach. The severance payment was about 0.1% of GDP in 1980 and was considered as a great problem (and cost) for both government and employers before the coup: the new Law No. 2319 (which increased the number of situations in which a worker could not get a severance payment), and Law No. 2320[201] and Labour Law No. 1475 put a ceiling on severance payments, where the maximum was established as 7.5 times the monthly minimum wage (Bahçe, 1998: 6).

Another significance of this period is the changing role of the state as an employer. The free-market economy of the new policy orientation called for "a substantial reduction in the government's role in direct productive activity and in its intervention in the price mechanism" (Kazgan, 1993: 73). In this period, subsidies to State Economic Enterprises (KİTs) were started to be reduced and KİTs were aimed to be transformed into profit making organisations on the one hand; and, the government's economic activity was directed towards infrastructure investments, in particular to energy production (Kazgan, 1993: 73). Besides changing role of the state as an employer, some crucial steps were taken to reduce state intervention in the economy, aiming deregulation in all markets. The major policy tools in restructuring the economy in line with export-orientation relied on

[200] Severance payment is simply defined as "the amount paid by the employer to reward the employee's loyalty to work and workplace proportional to his/her seniority in the cases of termination of the employee's service contract under certain conditions" (Işıklı, 2002: 93 in Özşuca, 2003: 94).
[201] Law No. 2320 enacted on 23 October 1980 brought the upper limit to the severance payments back, which was actually annulled by the Constitutional Court in 1979.

reductions in income and consumption of labour classes and agricultural producers: the real wages and salaries and real agricultural price supports were eliminated, whereas support for exports of manufactures was increased and price controls on a large number of goods were either reduced or completely lifted (Kazgan, 1993: 73-77). Implementation of such policy tools would eventually change the balance between different sectors in the economy, hence the sectoral distribution of employment, and have a direct impact on the expansion of informal sector in the following decades.

In November 1983, general elections were held and the period of the Motherland Party (ANAP) governments started. Headed by Turgut Özal, ANAP governments followed the military regime's targets in relation to decreasing wages and agricultural support aspects of distribution policies; whereas they had had to change their tools as the authoritarian and SAB practices had ended (Boratav, 2003: 152).

After the general elections of 1983, the civilian government of ANAP sustained the new economic policy orientation towards integration of the economy into regional trading blocks as well as the international economy through "efforts to liberalise further the goods, foreign exchange, money and capital markets" (Kazgan, 1993: 79). Abolishment of the prohibitive approach to imports for facilitating transition to a more liberalised import regime (Kazgan, 1993: 79), generous subsidies to exports and a flexible foreign exchange system, which targeted gradual real devaluations (Boratav, 2003: 155) were among the most important characteristics of the period starting from 1984 in terms of external economic relations.

That period was also the years in which the State Economic Enterprises (KİTs) were drifted towards financial crisis, through a considerable degree of reduction in the financial support of the KİT investments, which caused, for instance for the industrial KİTs, technological depreciation and decline of production (Boratav, 2003: 155). The changing approach to State Economic Enterprises would later on pave the way to further discussions about the role of privatisation in the new economic policy orientation, which was already internalised as a programme by the ANAP government, but would rather be widespread in 1990s and 2000s (Boratav, 2003: 155).

In terms of labour market regulations, new laws for trade unions and collective bargaining were passed in 1983. The Law on Trade Unions No. 2821, defining the framework for union activities, internal structure and functioning of the trade unions; and, Law on

Collective Bargaining, Strike and Lock-outs No. 2822 were legislated, as complemented by the new 1982 constitution (Bahçe, 1998: 7-9). Although ILO found the Article 12 of the Act No. 2822 contrary to the International Labour Code which was ratified by Turkey (Ketenci, 1985: 188 in Bahçe, 1998: 10), both laws brought strict principles for labour relations, especially towards breaking the ties of the trade unions with political life, and the political authority intervened excessively in labour relations (Bahçe, 1998: 10).

Still, after the ratification of the Laws no. 2821 and 2822, in 1984, rights of collective bargaining and to strike were restored. The oppressive policies against the trade unions and their activities started to be removed and trade unions began to use the right to strike demanding increase in wages, against the background of wage depression before 1984 and the deteriorating living standards of workers (Bahçe, 1998: 25). Hak-İş and MİSK reopened in mid-1980s and Türk-İş became more active. Trade union activities intensified in 1987, when it was increasingly the workers in the private sector on strike due to coming collective bargaining and general elections, and in 1989 it was the public sector workers who went on strike growingly due to privatisation attempts and deteriorating wages (Bahçe, 1998: 25).

As a result of those efforts, at the end of the 1980s real wage increases were realised (Kazgan, 1993: 79). However, the trade unions continued to lose power in this period due to the legal and institutional framework created by the military regime, and they remained too ineffective to force the state, whose repressive policies towards labour were generally supported by the employer organisations, to realise their own demands of change in favour of labour (Bahçe, 1998: 79).

The *approach to employment and unemployment* problems in the 1980s had developed in line with the neoliberal economic policies which put a stamp on Turkey's economy policies. An important aspect in this regard is that in contrast to other important policy changes such as foreign trade liberalisation and financial liberalisation, the labour markets measures did not formally take place in the structural adjustment programme, however, they were affected the most by that neoliberal economic policy transformation (Şenses, 2003: 152-153).

The neoliberal policy approach towards labour markets assumed that foreign trade and industrial policies implemented before the 1980 in Turkey had not created sufficient employment, but this could be overcome by the positive contributions of the neoliberal

transformation (Şenses, 2003: 152-153). In this context, flexibility of real wages and employment were "an important link between the microeconomic and macroeconomic targets of structural adjustment programme" (Çağatay and Berik, 1990: 120 in Bahçe, 1998: 2), under the neoliberal argument that labour market deregulation facilitates the increase in economic activities which would in turn generate more jobs (Bahçe, 1998: 2). By eliminating the distortions in the relative factor prices and leading to a structural change towards labour-intensive areas through new investments in the export-oriented production structure, the neoliberal restructuring was expected to overcome the inability to create any significant increase in employment, especially in the manufacturing sector, of the pre-1980 period (Şenses, 2003: 152-153). This means that the rationale behind the changes in the labour demand and real wage trend reflected a shift from import-substitution to export-promotion, where the labour market reform aimed to diminish the real wage rigidity and employment rigidity, in other words, to increase the flexibility of real wages and employment through labour market deregulations (Bahçe, 1998: 80). Thus, labour market reforms, as less explicit parts of structural adjustment programmes, aimed to remove the constraints on market dynamics in labour markets and contribute to a more rapid increase in employment, together with structural change in national economic dynamics (Bahçe, 1998: 2).

From the perspective of an influential category of policy actors, namely from the employers' point of view, in the 1980s, employment creation was seen as the function of the state (for TÜSİAD) and similarly the solution of unemployment problem was left to the government (by TİSK) without further clarification about the nature of such intervention (Bahçe, 1998: 14). Accordingly, the role of the state was seen as an arbitrator (by TÜSİAD), only when necessary to intervene in labour relations (Bahçe, 1998: 17). Government was also seen as the authority to take necessary measures to improve the skill formation of workers (Bahçe, 1998: 14).

As a result of the new economic policy orientation throughout the 1980s under the structural adjustment policies (SAP) implemented after 1980 and the concomitant radical labour market reforms, labour supply in Turkey passed through a transformation. The declining participation rate as a result of the decline in growth rate of labour demand; internal migration from rural to urban areas as a result of the detrimental effects of SAP on rural households; decline of self-employment opportunity; rise of a more educated unemployment due to increase in educated and skilled labour force without a parallel

increase in demand for it; and increased feminisation but slow adaptation process of the female labourers were all among the characteristics of the transformation of the labour supply in the 1980s (Bahçe, 1998: 79-80).

The government's approach to employment as stated in the Fifth Five-Year Development Plan (1985-1989) was quite in line with the suppositions of the neoliberal labour market policies. The decline of unemployment by the end of the planning period was foreseen in relation to the realisation of the planned growth rate through export-oriented strategies and auxiliary economic and social policies to solve the employment problem. The employment policy in the planning period prioritised small enterprises and an industrial structure which follows technological innovations (Ekin, 2000: 375 in Boduryan, 2004: 121). Some of the other basic targets of the Fifth Plan were to facilitate employment of the unskilled labour force through providing formal education as well as vocational and in-service training; to increase employment opportunities through accelerated foreign capital flow and development of free zones; to encourage development and spread of handicraftsman and small-sized industry, which have positive effects on employment and production; and to implement construction, infrastructure and public works projects in order to eliminate regional unemployment (DPT, 1984: 128). In addition, the Fifth Plan also defined some principles for the employment policy as to integrate employment policy into industrial and sectoral policies; to define the increase in employment with the size of investment, productivity of investments, and as a function of production sector and production technique; to prioritise the fight against youth unemployment; to prioritise labour-intensive sectors and bring investments for such sectors to the cities; and, to encourage the development of entrepreneurship, as well as supporting the establishment of own businesses (DPT, 1984: 131-132).

In August 1989, all the restrictions on capital movements were removed and foreign exchange regime was fully liberalised meaning that Turkey on the way to integrating into world economies and globalisation left the domestic financial markets to the supervision of world finance system, and entered the 1990s with a outward-oriented macroeconomic outlook (Yeldan, 1999: 273).

Contrary to the neoliberal expectations, by the end of the 1980s, the positive impact anticipated by the neoliberal model in terms of employment (Şenses, 2003: 155), and expected relationship between the formal employment and foreign trade liberalisation and development of export-oriented industries (Özkaplan, 2008: 6) did not occur in spite of the

increased employment flexibility in line with the shifting strategy and the labour market reform in the 1980s (Bahçe, 1998: 81). The increase in employment in the post-1980 period even lagged behind the employment increases of the pre-1980 period (Şenses, 2003: 155). Failure to create employment was not the only characteristic of this period; it was also the low quality of the created employment. Shrinking share of the public sector in total employment resulted in an increase in the flexible forms of employment based on low levels of productivity and low wages in the private sector; and unregistered employment and informal sector expanded as the private sector's preferred type of employment for cost minimisation (Şenses, 2003: 156; Özkaplan, 2008: 6). In addition, in the labour-intensive sectors where the competitiveness depended on low wages, the working conditions had worsened, and tendencies towards employment with payments under the minimum wage and without insurance, and piecework production at home had increased (Şenses, 2003: 156). In sum, towards the end of the 1980s, the labour market transformation and the new strategy resulted in "an economy weak in job creation, a less protected environment for labour and a repressed labour market" (Bahçe, 1998: 81).

Considering *the impact of external pressures in this period*, Kazgan (1993: 69) argues that external pressures from international financiers, namely the IMF and the World Bank were influential in opening up the economy to international competition or joining the process of globalisation started with a change in policy orientation initiated in early 1980s. Thus, the main success of the economic policy-makers was to gain considerable support of the international financial environments in order to minimise the balance of payment deficits of Turkey (Boratav, 2003: 160). Although Turkey had already signed the Ankara Agreement in 1964 and its Additional Protocol in 1973, integration with the European Community did not become the major pressure for Turkey to pursue outward-oriented economic growth under a free-market economy via structural adjustment policies (Kazgan, 1993: 69). The instability of the international economic system of the 1970s (i.e. tensions in monetary relations, rising petroleum prices, and increasing rivalry in international trade and investment) brought about major strains in international economic relations with Europe (Eralp, 2009: 153). Economic elites and political actors in Turkey even started to challenge the customs union relationships with the European Community, because of the fact that they were unable to meet the requirements of competition with their European

counterparts (Eralp, 2009: 154).[202] Accordingly, policies targeting integration in the customs union in order to be a part of western Europe remained laggard and those agreements did not appear as an external pressure in the 1970s (Kazgan, 1993: 69).

Furthermore, the coup d'état of the 1980 increased the divergence of Turkey-European Community relationship. The authoritarian military regime attracted the antipathy of the European side, which was already struggled through in Greece, Spain and Portugal in the context of democratic transitions in those countries. However, the policy-makers in Turkey were aware of the fact that successes achieved through "outward-oriented economic growth under a free-market economy via structural adjustment policies" would also enhance Turkey's possibilities towards accession to the European Community, and with such a motivation, the government of the time, ANAP, applied for full membership on 14 April 1987 (Kazgan, 1993: 70). This means that although the distance between Turkey and Europe in terms of approaches to democracy and human rights enlarged, under the terms of export-oriented economy, European Community was considered as "a stable market for Turkish export as well as a source of funds and technology" (Eralp, 2009: 156). However, it would not been the negatively-perceived full membership application which would appear as an external pressure on the economy policies, labour markets and employment in the 1990s, but the completion of the customs union in 1995.

5.3.2 The 1990s: Instability, crises and multiplication of external actors

The 1990s were characterised by instability and crises, with an increasing involvement of external actors in domestic economic orientation. Until the mid-1990s, the new economic policy orientation and the transformation of labour markets were accompanied by sizable increase in the public deficit and concomitant speedy and non-stable inflation, and the instability, which would lead to severe crises in the 1990s (Şenses, 1996: 698). In spite of the liberalisation attempts, the problems of public deficits, chronic high inflation, lack of investments in the manufacturing sector and the perceived insufficiency of the structural changes to enhance competition in the public and private sectors continued (DPT, 1995: 6). The persisting instability was used by the government as a justification for low levels of nominal wage increases, which led to real wage losses, vis-à-vis high inflation (Şenses, 1996: 698). The increasing financial problems of the social security institutions were often

[202] The most well-known political slogan of this time was "They are the partners, we are the market." which was voiced by both the leftist and right-wing political and economic actors (Eralp, 2009: 154).

related to the public deficits, and coupled with the impact of the employers' demands to decrease the labour costs, it gave way to the creation of a new agenda towards regression of the social rights (Şenses, 1996: 698).

Against this background, besides lowering chronic inflation and reaching at a constant surplus in current account balance, the Sixth Five-year Development Plan (1990-1995) continued to target at an economic structure open to international competition, where the growth was defined within the framework of free competition and ensuring continuity and diversity of exports (DPT, 1995: 5). Such a growth was expected to increase employment opportunities and reducing unemployment through qualified labour force planning and increasing quality of education (DPT, 1989: 1-3). Within this framework of macro-economic policies, the role of the state was defined as providing only guidance and support, which was also reflected by the objectives of privatisation of the KİTs and increasing the role of private sector in development.

Within the context of its targets, and in line with the full membership application in 1987 and approaching completion of common market in 1995, the Sixth Plan made references to the objective of accelerating the preparation and harmonisation efforts in line with target of full membership and integration to the European Community (DPT, 1989: 29). Those references can be categorised in three lines: the European Community as one of the major external actors in terms of Turkey's external competitiveness; the full membership perspective; and, until the full membership, realisation of the accumulated commitments in the field of customs union. In defining its production structure, the relations with the European Community and the target of full membership were taken as equally important as Turkey's foreign competition possibilities and conditions of the world trade (DPT, 1989: 29). In this regard, in the Sixth Plan's period, customs duties for the industrial products exported from the Community would gradually be decreased; speedy adjustment to the Community's Common Customs Tariff for the exports from the third countries would be ensured; official taxes and cuts received from exports would be decreased; and efforts would be made for the removal of other funds received from exports (DPT, 1989: 29). In realising those responsibilities in relation to the target of integration to the European Community, the impact of those policies, which would make Turkey's industry and Turkish economy in general open to competition would also be considered and on the one hand policies to increase competitiveness would be pursued, and sensitive sectors would be identified (DPT, 1989: 29).

The Sixth Five-Year Development Plan (1990-1995) identified the main principles of the employment policy in line with encouraging investments, which was expected to increase employment creation. In this sense entrepreneurship and support for those who would establish their own enterprises, as well as support for small and medium-sized enterprises were emphasised. In terms of labour supply, the employment policy priorities focussed on training of the qualified labour force in order to increase the quality of the existing labour force at all levels both within and outside the education system (DPT, 1989: 302). In terms of sectoral distribution of the employment, the potential of the service sector for employment opportunities was to be supported (DPT, 1989: 303). In the rural areas development of non-agricultural economic activities was planned in order to create new working areas and additional income opportunities for the rural households (DPT, 1989: 303).

Those employment policy priorities were also accompanied by some institutional and legal changes. Among those the most significant ones were the restructuring the Employment Brokerage Institution (which was the main governmental body in charge of job finding and worker placement) in order to increase effectiveness of the labour market; collection of the labour market data in line with the international standards; and encouraging and prioritising part-time work while making necessary legal changes in this regard.

However, as a result of the public deficit increasing constantly in the Sixth Plan's period, the State Planning Organisation (DPT, 1995: 6) acknowledged that the expected benefits from the outward-orientation and liberalisation of the economy did not realise; contrary to the targets, finance policy developed towards an expansionist trend; an instable growth structure based on domestic demand occurred; and, increases in the prices became chronic. This were listed among the causes of rapidly deteriorating internal and external balances and the severe crisis in the monetary, capital and foreign exchange markets at the beginning of 1994 (DPT, 1995: 6).

With the pressure of the crisis, the government adopted an "Economic Measures Implementation Plan" on 5 April 1994, with the aims, as stated in the governmental documents, at stabilising economy rapidly, narrowing down the public deficits, establishing a growth structure based on foreign demand, and starting structural reforms to sustain economic stability (DPT, 1995: 6). This was an IMF-financed stabilisation package, which also targeted at some complementary concrete measures, some of which could negatively affect the labour markets: assuring stability in money markets; increasing

taxes in order to obtain funds for internal and external debts, decreasing real wages, selling KİTs and clearing their deficits, eliminating subsidies to agriculture, increasing the retirement age, raising prices over 70%, and devaluating Turkish lira by 38,8% (Başol, 1996: 51-54 in Yılmaz, 2003: 186). The programme also emphasised the measures to be taken for encouraging foreign capital and privatisation (Yılmaz, 2003: 186). In this framework, 5 April Programme became an important component of increasing the medium and long term growth potential (DPT, 1995: 6).

The Seventh Five-year Development Plan (1996-2000) prepared in 1995 confirmed, once more, Turkey's full will and intention to integrate with the world economies, to take part in the globalisation processes, and to fully participate in the European integration (DPT, 1995: 2). Economic targets of the Seventh Plan were focussing on the development of a competitive environment with a focus on the financial system; and, on the implementation of macroeconomic and the structural adjustment policies in order to create a stable and sustainable growth environment (DPT, 1995: 20). The role of the state in the economy and as an employer was continued to be challenged in the Seventh Plan by stating that "the state should withdraw from the production through privatisation and it should be minimised in order to perform its fundamental duties" (DPT, 1995: 20). In this model, the functions of the state were defined as "a regulation making body and in relation to the enforcement of those regulations in order to ensure supremacy of the competitive market" (DPT, 1995: 20).

In addition, in the Seventh Plan, completion of the customs union with the European Community was considered as "a step towards full membership to the EU", and as "an opportunity for Turkey to utmost benefit from the advantages of the globalisation" (DPT, 1995: 2). In order to be able to use this opportunity, radical changes were considered as a necessity in the economic and social infrastructure, and in role of the state in economy, as well as its structuring (DPT, 1995: 2). In this regard, reorganisation of the policies of education, science and technology, industrialisation, trade, competition and labour markets were underlined, in addition to the economy policies within a proper macroeconomic environment (DPT, 1995: 3). The realisation of the customs union with the European Community was considered both as a source of opportunities for Turkey, and as a source of new responsibilities, which increased "the importance of change and renewal" in Turkey with the perceived need to make and implement structural decisions (DPT, 1995: 19). One of the main concerns in relation to the completion of the customs union was the possibility

of competitive difficulties in some sectors (DPT, 1995: 11). In this regard, an outward, highly competitive, export-oriented private industrial structure, which would make use of the raw materials and human resources efficiently, would be developed; structural problems of the industrial sector would be solved in line with a programme, prioritising those sectors with competition difficulties; and privatisation would be accelerated (DPT, 1995: 67).

Regarding employment, similar to the Sixth Plan, the Seventh Plan reiterated the basic principle of increasing productive employment through the realisation of a high level of growth based on stable, investment-intensive and competitive economic terms (DPT, 1995: 53). In this regard, the most effective factor was defined as the realisation of investments in the industrial sector, with sufficient levels of technology for competitiveness, and the service sector, with high added values. To the extent that technological development was prioritised, the development potential of the employment was linked to increasing the quality of labour force, especially through education and training. It was planned to exploit the potential of the small and medium-sized enterprises for creation of employment and accordingly those enterprises and individual entrepreneurship were planned to be supported through projects and training financially, organisationally and technologically (DPT, 1995: 53). The underlying norm of all those initiatives was to increase competitiveness of enterprises. In addition, the public employment would be lessened, and in order to increase employment and to narrow down the size of informal economy, the additional costs on wages, which were considered as a kind of employment tax, would be decreased down to those in the European countries (DPT, 1995: 54). In terms of the restructuring of the labour market, the arrangements would refer to both security and flexibility; and adjustment efforts in form of skill training and re-training would be intensified. In this regard, the importance of the active labour market policies as an outcome of the globalisation and EU integration processes were prioritised (DPT, 1995: 54). For those who were expected to lose their jobs in several sectors in relation to the customs union, and as a result of privatisation, programmes would be developed to increase new employment opportunities and to support their self-employment (DPT, 1995: 54).

Throughout the Seventh Plan's period (1996-2000), a number of supply side policies were implemented, reflecting the changing approach of the state towards employment. Within the framework of the active labour market policies, the employment and training project

was continued to be implemented. This policy initiative aimed to increase efficiency in employment services; to enable functioning of private employment offices; to increase the skills of the unemployed and low-skilled workers; to establish an examination and certification system of professional standards; to establish a vocational counselling system; and, to increase effectiveness in the making of labour market decisions (DPT, 2000: 103). In addition to those active labour market policies, tax duties of the employees and labour costs for employers were reduced by Laws No. 4325[203] and 4369[204] (DPT, 2000: 105). In this overall framework, the deteriorated income distribution was targeted by policies to alleviate poverty, rather than by income maintenance policies. However, even the poverty alleviation policies could not eventually been sufficiently implemented owing to the high inflation and burden of interest payments on the state budget and to the insufficiency of the social security and social assistance systems (DPT, 2000: 16).

The Seventh Plan included numerous legal and institutional changes, to accompany the foreseen economic structure. As proposed in the previous Plan, law of the restructuring of the Employment Brokerage Institution was sent to the Parliament (DPT, 1995: 55). In addition the Economic and Social Council was planned to be established legally. It was also planned to revise the existing Labour Law No. 1457 in order to regulate flexible, part-time, and other non-standard types of work; and adopt the Law on Unemployment Insurance in order to guarantee an income for the unemployed, so that a more effective functioning of the labour market would be ensured by eliminating the risks for being unemployed without such a security (DPT, 1995: 55). The adoption of an Agricultural Labour Law for paid labourers in agriculture; an Job Security Law to eliminate unreasonable termination of the work contracts, as well as the uncertainties in collective redundancies; and a Law on Public Employee's Trade Unions, Collective Agreements and Strike; as well as the revision of the Laws on Trade Unions, Collective Agreements and Strike and Lock-outs were among the other legal changes mentioned in the Seventh Plan (DPT, 1995: 55).

As aimed in the Plan, the Law on Unemployment Insurance No. 4447[205] was adopted in August 1999. The adoption of the law had references to the EU application and defined

[203] Law No 4325 on Employment Creation and Subsidising Investments in the State of Emergency Regions and in the Priority Regions for Development and Amending Income Tax Law No 193 published in the Official Journal No. 23239 on 23 January 1998.
[204] Law No 4369 adopted on 22 July 1998 publised in the Official Journal No. 23417 on 29 July 1998.
[205] Law No. 4447 on Unemployment Insurance adopted on 25 August 1999 published in the Official Journal No. 23810 dated 08 September 1999.

within the reference of one of the nine social security risks by ILO (DPT, 2000: 17). However, the revision of the Labour Law turned out to be the adoption of a new Labour Law, but not before 2003.

Within the period of the Seventh Plan, on the 1 January 1996, the Customs Union between Turkey and the European Community was established.[206] This was seen to accelerate the radical economic change that Turkey had been experiencing since the early 1980s and gradual opening of the Turkish economy to the outside world (EC, 1998: 22). With the context of the customs union, Turkey removed the custom and equivalent taxes received from the industrial exports from European Community and European Free Trade Area (EFTA) and started to apply Common Customs Tariff of the European Community to the industrial products from third countries (DPT, 2000: 43). In this regard, numerous legal arrangements, in line with the European legislation underlined in the Association Council Decision No. 1/95, in the fields such as foreign trade, customs, competition, intellectual and industrial rights, state subsidies, industrial legislation and consumer protection were adopted and implemented within the period of the Seventh Plan (DPT, 2000: 318). The acceptance of Turkey as an official candidate country to the European Union on the basis of the same criteria as applied to the other candidate states in the Helsinki Summit of 1999 would further alter the outlook of the policies throughout the 2000s.

Throughout the 1990s, the *composition and the conditions of the labour markets and employment* were affected considerably by the instable economic conditions and concomitant crises. In 1994, the rate of inactive employment increased to 19.3%, including both the open unemployed (10.5%) and underemployed (9.3%) (DPT, 1995: 50). A striking finding was that according to the Economic Outlook of the OECD in July 1996 and June 1998, the labour force participation rate of the population aged 15-64 decreased from 64.7% in 1983 to 54% in 1998, being much lower than that of the OECD average of 69.8 in 1998 (Petrol-İş, 1999: 457). In 1999, it further decreased to 51.8% (DPT, 2000: 16). For both the Sixth and Seventh Plans' periods, the increase in employment concentrated in the services sector (DPT, 1995: 49; DPT, 2000: 102). There was a noticeable decline in the employment of the big manufacturing industrial enterprises, while the employment increased in the small and medium-sized enterprises (SMEs), which comprised of the 99.2% of all enterprises in the manufacturing industry, and 55.9% of total

[206] Decision No. 1/95 of the EC-Turkey Association Council of 22 December 1995 on implementing the final phase of the Customs Union.

employment in (DPT, 1995: 50; DPT, 2000: 18). By the end of the 1990s, in spite of the existence of policies targeting at the shrinking of the agricultural sector, the total share of agriculture was 45.1%, where 57.8% of the workers are unpaid family workers, 74% of which were female labour (DPT, 2000: 103). The low rates of unemployment in the rural areas also owed to a large extent this characteristic of the agricultural sector, as well as the high number of self-employed in this sector. In that period, industry comprised of 15.2% of the economy, whereas services sector had a share of 39.7% (DPT, 2000: 102).

Maybe the most distinctive characteristic of the labour market in the first half of the 1990s was the fall of employment and real wages at the same time (Şenses, 1996: 698). The severe economic crises in the 1990s, considered as an outcome of the changing economic model in Turkey, interrupted the extension of growth which had great importance to increase employment, and on the contrary, resulted in considerable recession of real wages (Şenses, 2003: 159). In addition to delays of the severance payments, if paid at all; increase in working hours despite the decrease of the real wages; and worsening of the working conditions, the 1994 crisis provided a justification for the employers to dismiss a considerable degree of workers (Şenses, 2003: 160).

In addition to the negative impact of crises on the labour market, it was privatisation, which caused unemployment in the 1990s. Although it was accepted and underlined in the Specialisation Commission's Report of the Eighth Five-year Development Plan that privatisation does cause unemployment and decreases the membership to trade unions, the arrangements required by the IMF within the context of stand-by agreement resulted in layoffs of the employees of the State Economic Enterprises through privatisation (Yılmaz, 2003: 192). The shrinking of agricultural sector and removal of subsidies with the aim of harmonising the agricultural product prices with those of the world prices was another reason causing unemployment of the workers who used to work in the agricultural sector (Yılmaz, 2003: 192).

Also as a result of growing unemployment, another mechanism that affected the labour market by the end of the 1990s was the increase in the marginal forms of employment without social security, due to the extensive lay-offs in the private sector, non-unionisation and privatisation. (Özkaplan, 2008: 9). The data shows that the manufacturing sector, where the formal employment was the most intensive, was covering only the 57% of total employment (Yeldan, 2001), and the formal employment in the private manufacturing enterprises employing more than 10 employees decreased by 25% from 1988 to 1992

(Boratav, Yeldan and Köse, 2000: 6). Women's participation was increasing more in the service sector rather than in the industrial sector, and the 1990s was characterised by increasing levels of poverty among urban workers due to the increasing amount of female and child labour, mostly in the informal economy, and the high levels of labour force turnover (Özkaplan, 2008: 9).

The tendency of the private sector towards the informal sector and the contraction of public employment, in parallel to the legal changes that diminished the effectiveness of the trade unions, severely affected the rate of trade union membership. Among the reasons of decreasing number of membership to the trade unions, the use of contract personnel; lay-offs; use of temporary workers and subcontractors, as well as the increasing rate of unemployment could be listed. Moreover, use of technology and flexibilisation of the production system and shift of demand towards skilled labour accelerated the stratification of the labour market (Özkaplan, 2008: 10).

In spite of the political relaxation in the labour market actors in the 1990s, the increase in real wages could not be sustained and with the impact of the 1994 crisis and its aftermath, decreasing real wages became a sign of wage flexibility in the labour market (Şenses, 1996: 697). In addition to the wage flexibility, efforts to decrease public employment through encouraging voluntary retirements, closing down of the posts which were freed for different reasons and accelerating privatisation were seen as the examples of the intentions to ensure employment flexibility (Şenses, 1996: 698).

Despite the wage flexibility and growing share of the informal sector in overall production, flexibility of/in the labour markets started to be discussed more and more, especially by the employers' organisations throughout the 1990s. For the growing interest in this concept, three main reasons were mentioned: (i) increase in the labour costs due to the rapid increase in the wages as a result of the 1989 and 1991 collective bargaining; and complaints of the employer organisations about this situation, due to concerns about the customs union's possible negative effect on competitiveness; (ii) the reaction of the employers on the drafts of Unemployment Insurance Law and Job Security Law, as well as the efforts to establish trade unions for civil servants, of the social democratic wing of the coalition government of 1991; and, (iii) suggestions of the international organisations, mainly of the World Bank, towards flexibilisation of the labour markets (Şenses, 1996: 694).

Particularly after 1994, the employers in Turkey demanded a more flexible labour law due to the vast area of application of that type of legislation; and increasing demands of the private sector to modify the legal conditions of the labour contract were in several occasions openly voiced by their representative bodies such as TÜSİAD (Özdemir and Yücesan-Özdemir, 2006: 315). For the 1994 crisis, the failure of the new economic policies was related to the rigidities of the labour legislation both by the employers' organisations and in the official governmental documents. Those rigidities referred to statutory protection for workers against employer practices in the realm of the technical division of labour, which were considered as a source of impediment of the successful transformation towards an export-oriented strategy (Özdemir and Yücesan-Özdemir, 2005: 66) from the employers' point of view; and they were "excessive burden and cuts that increase labour costs which affects employment negatively" from the governmental point of view (DPT, 1995: 50). Within this context, employers' organisations intensified their demands for a "modern", in other words "flexible", individual labour law to regulate the conditions of the labour contract, to increase working time flexibility and to alter limitations on the freedom of individual employers (Özdemir and Yücesan-Özdemir, 2006: 315). From the governmental side, "the need for increasing flexibility and regulating new types of work", both as a strategy to increase employment and as a part of the EU harmonisation process and ILO norms, were repeatedly voiced in the Five-year Development Plans (DPT, 2000: 104; DPT, 1995: 14; DPT, 1995: 54).

An important observation considering the *role and impact of external pressures in the 1990s* is the growing emphasis and reference to the European Community, although the economic policy was to a large extent under the conditions of the agreements with IMF and the World Bank. The total elimination of protection of imports from and exports to the Community within the customs union was a requirement that went beyond the policies of structural adjustment towards an outward-oriented free-market economy, as a result of the pressures exerted by external financiers (Kazgan, 1993: 70). The completion of the customs union in 1996 was considered as "a must if ultimately Turkey is to accede to the Community and/or to integrate into Europe at large", if Turkey did not want to remain outside Europe (Kazgan, 1993: 70). Regarding the working conditions and labour market legislation, there were also references to the signed ILO Conventions (a total of 39 in 1999) in the governmental documents, but they were also considered as a complementary part of the European system in general, and of the EU harmonisation efforts in particular

(cf. DPT, 1995: 4; DPT, 1995: 51; DPT, 1995: 54; DPT, 2000: 104). With the declaration of Turkey as a candidate country in the Helsinki Summit of 1999 and with the pre-accession strategy, the motive of "westernisation" would growingly turn into a more concrete process of European integration, an important period of transformation in Turkey throughout the 2000s (Eralp, 2009: 159).

5.4 The Development and Elements of the Employment Policy in Turkey throughout the 2000s

From a "bottom-up" perspective, the 2000s deserve a particular attention for analysing the domestic employment policy change due to the pressures created by the EU accession processes. There are a number of peculiarities of this period in terms of the development of the employment policy in Turkey as well as the development of all its elements. Firstly, it is possible to observe that by the end of 1990s, neither the economic outlook, nor the situation of the labour market was close to the targets of the domestic policy priorities of the 1990s. By the beginning of the 2000s, the Turkish economy displayed an unstable outlook and the social structure was adversely affected by the macroeconomic factors worsening the conditions of the labour market. In addition to the existing problems of the labour market, two economic and financial crises increased the problems of the labour markets further. Secondly, in this period, there is an observable intervention from the international finance institutions regarding the development of the employment policy. A third and important peculiarity of this period is the increasing weight of the EU pressures domestically, upon the announcement of the official candidacy of Turkey to the European Union in 1999. As a result of all those developments, throughout the 2000s, the employment policy has been characterised by a considerable effort for legal and institutional restructuring in a way to consolidate the new economic policy orientation, which approaches employment and unemployment as a function of macro-economic policies, followed from the 1980s onwards on the one hand, and with the piecemeal measures taken to lessen the negative effects of the economic and financial crises on the labour market on the other.

Section 5.4 is structured as follows. In the first part (Section 5.4.1), the development of the employment policy throughout the 2000s in Turkey will be summarised in three interrelated categories, namely Turkey's relations with the IMF and the World Bank; Turkey's changing relations with the European Union; and, domestic politics and

intensification of domestic institutional and legislative changes in the framework of the employment policy. This exercise has a two-folded aim: to see the critical junctures for the development of the employment policy in Turkey in a way to show how the employment policy of the 2000s has been conditioned by global or international interferences to complement the analysis of the domestic dynamics, which will be elaborated in Section 5.5. The second aim of this part is to historically summarise the domestic attempts and initiatives that restructure the employment policy. Section 5.4.2 briefly analyses the major components of the employment policy by the end of 2010, in a way to show the outlook of the domestic employment policy in Turkey with all its institutional and legal elements and policy tools by the end of 2010. In the last part (Section 5.4.3) the aim is to identify the level and patterns of domestic employment policy change in Turkey.

5.4.1 The 2000s: Crises, external anchors and intensification of domestic institutional and legal changes

Due to the inability to keep the targets of the domestic policy priorities of the 1990s, by the beginning of the 2000s the Turkish economy displayed an unstable outlook which adversely affected the social structure. The macroeconomic factors such as instability, low productivity in economy, dominance of traditional sectors in production, investment and exports, and insufficiency in production, use and expansion of technology were among the characteristics of this period (DPT, 2000: 216). Regarding the labour market, inequitable income distribution, inactive labour force in agriculture, increasing unemployment and expanding informal sector continued to be the major policy problems. Against this background, the macro-economic policy orientation has considerably shaped the development of employment policy, throughout the 2000s, as a function of economic growth and competitiveness in line with the neo-liberal orientation; and the involvement of the international finance institutions, as well as of the EU, in macro-economic policy design and structuring of the labour market, was a significant factor that has directly or indirectly affected the outlook of the employment policy outputs in Turkey.

Since the tendency to approach employment policy as a function of neo-liberal economic policies has also prevailed throughout the 2000s, the first characteristic of the development of the employment policy in Turkey in this period refers to the relations of Turkey with the IMF and the World Bank, within the context of stand-by agreements and cooperation regarding the macro-economic policies. Such a relationship has had an indirect impact on

the dynamics of the labour market, through IMF recommendations such as shrinking the agricultural sector, privatisation of the State Economic Enterprises (KİTs), or liberalisation of the social security. The role of the World Bank in development of the employment policies has actually been more direct, through implementation of programmes for the labour force, especially for the displaced workers as a result of the privatisation of the KİTs or conducting labour market studies and making direct policy recommendations for Turkey to be considered in developing the Turkish employment policy.

Another influential factor for the development of the employment policies in Turkey throughout the 2000s has been the changing nature of the relations between Turkey and the European Union within the context of an accession perspective. Through the use of accession instruments such as the economic accession conditionality as indicated in the Accession Partnership documents, which mutually strengthened the IMF conditionality, the EU has had indirect impact on the labour market and for the development of the employment policy. However, more importantly, the EU has also had considerable direct pressure on the Turkish employment policy instruments, both through the European Employment Strategy and Employment Policy Review processes, and through the accession monitoring mechanisms via the Regular/Progress Reports, which identified the major problem areas, both in terms of functioning of the labour market, and to be targeted by the employment policy in Turkey.

A third characteristic of the development of the employment policy throughout the 2000s in Turkey has been the changing domestic political conditions (i.e. single party governments of the AKP) and the concomitant institutional and legal changes that intend to consolidate a neo-liberal approach in the framework of the employment policy. Both the Development Plans of the decade (Eighth and Ninth Plans) and the National Programmes for the Adoptation of the *Acquis* (NPAAs) prepared within the context of the EU pre-accession process have reflected the changing employment policy understanding towards a more neo-liberal employment policy. On the other hand, the institutional/legal measures introduced in this period have referred to the piecemeal efforts to alleviate the negative impacts of the economic and financial crises of the 2000s on the labour market and labour force, rather than reflecting a long-term strategy to the overcome the problems of the labour market.

This section on the development of the employment policies in the 2000s in Turkey focuses on all those three characteristics from a domestic perspective. Actually, all those

dynamics should be considered as mutually supportive factors that have shaped today's employment policy in Turkey, as moulded in the domestic policy making and implementation processes. Thus, the analysis will also try to show how the interdependency of external factors (IMF, WB and EU) with the domestic dynamics has been shaped in critical junctures of two severe economic and financial crises of 2000/2001 and 2008/2009.

At the end of the 1990s, the unsustainable tendency in the macroeconomic balances resulted in a Monitoring Agreement, signed with IMF in July 1998. After the Letter of Intent in December 1999, the Macroeconomic Programme for 2000-2002, supported by a three-year Stand-by Agreement of IMF started to be implemented in 2000[207] (DPT, 2000: 12). With those letters of intent and agreements, Turkey received 20.5 billion US dollars of credit from IMF from 1999 to 2002 (Boratav, 2003: 182).

The unstable economic balances and deteriorated structure of the labour market by the end of the 1990s also attracted attention in the Eighth Five-Year Development Plan (2001-2005) prepared in line with a Long-term Strategy (2001-2023) aiming to guide the economic and social transformation of Turkey towards the 100th anniversary of the Republic in 2023 (DPT, 2000: 22). Within the Long-term Strategy, an export-oriented, technology-intensive production structure in order to generate high levels of added-value was reiterated as the policy orientation of the government, to be complemented through a transformation of the country's economic and social structure, hence the restructuring of the state (DPT, 2000: 22). In this regard, Turkey's candidacy to the EU was considered as an opportunity for ensuring consistency with the international norms and standards and meeting the conditions required by the information society (DPT, 2000: 22).

In line with the Long-term Strategy, the main objectives of the Eighth Five-year Development Plan (2001-2005) continued to adhere to the principle of integration with the world within the perspective of European Union membership, to become a more important power both in the world and the region (DPT, 2000: 219). The macroeconomic policies

[207] The main aims of this Programme were to reduce inflation; to pull down real interests; to structure public finance balances; to establish a sustainable growth rate; and, to realise structural reforms rapidly (DPT, 2000: 12). This Programme for decreasing the inflation had three general targets: reform of public finance; a monetary programme depending on the nominal anchor of exchange rate; and, structural reforms towards social security, privatisation and agricultural sector (Özkaplan, 2008: 10). Thus, as stated in the additional Letter of Intent of the Undersecretariat of Treasury (dated March and June 2000) privatisation would gain speed; taxes would be collected in cash; wage increases would be realised in line with the inflation targets; budgetary funds would be closed and social security would be privatised; and, the subsidies and support purchases in agriculture would be removed within the framework of the programme (Yılmaz, 2003: 192).

continued to focus on a continuous and stable growth and to provide competitiveness and adaptive capacity in economy, accompanied by basic transformations within the process of European Union membership and integration with the world towards an efficient, elastic and productive economic structure that would increase economic efficiency in order to meet the Maastricht criteria (DPT, 2000: 25, 27). A specific title was reserved for the relations with the European Union in the Eighth Plan and it was clearly stated that the European Union was one of the focal points in Turkey's globalisation process, and adaptation of the EU legislation was seen as a tool of approximation to international norms and standards in general (DPT, 2000: 25, 48).

In the Eighth Plan, employment and working life were dealt within two separate sections, which altogether defined the objectives, principles and policies, as well as the foreseen legal and institutional arrangements. In addition to employment and working life, the section on social insurance systems provided important insights in reflecting the overall vision and approach of the government to employment for the first half of the 2000s, which was quite in line with that of the previous periods. In the Eighth Plan the increase of the employment rate and reduction of unemployment were seen as functions of the increased rate of productive investments and a stabile economic growth (DPT, 2000: 103). The importance of the non-agricultural sectors within the employment structure was emphasised (DPT, 2000: 103) and SMEs were continued to be considered as important with their potential to create employment and to support the development of the industrial sector by providing input, hence the need to support the SMEs and individual undertakings through education, projects, financing, organisation, marketing and technology (DPT, 2000: 104). Another way of increasing employment was indicated as the incorporation of new and other non-standard working types into legal arrangements (DPT, 2000: 104). In the Eighth Plan, the active labour market policies were emphasised through training of the labour force to be able to meet the needs of the economy (DPT, 2000: 103), and from the perspective of reducing unemployment, in particular among the youth, women and disabled persons in order to prevent redundancy of unqualified people working at a low wage level and develop their skills (DPT, 2000: 104). Increasing the quality of the labour force was also considered as a need within the framework of harmonisation with the EU and in line with technological developments (DPT, 2000: 104).

Regarding the working life, the Eighth Plan fundamentally aimed at the development of the relationship between economic growth and contemporary working and living standards of

the employees (DPT, 2000: 106). In this regard, an important element of the restructuring in the labour market was underlined around the concept of flexibility, taken as a requirement of the labour market and as a way to prevent unregistered employment within the labour market (DPT, 2000: 106). The legal and institutional arrangements foreseen for this field included the harmonisation of the labour legislation with international norms and standards, particularly with the norms and standards of ILO and EU; definition of new types of work legally; adoption of Agricultural Labour Law; revision of the legislation of unionisation rights; arrangements of the trade union rights for civil servants; adoption of a law on the organisation and functions of the Economic and Social Council; rearrangement of the social dialogue and multilateral consultation mechanisms; revision of legislation on health and safety at work in line with the EU and ILO norms (DPT, 2000: 106-107).

Last but not the least, the Eighth Plan provided very general principles and policies in terms of legalisation of the informal economy. The Plan established the link of the unrecorded (informal) economy with taxation, employment and illegal activities (DPT, 2000: 212). The major objective to combat with the informal economy was stated as the removal of the factors underlying the unrecorded economy (DPT, 2000: 213). Legalisation of informal economy was considered to create a positive impact on economy, by eliminating unfair competition; to increase the tax revenues; to reduce total cost of labour, contributing to legal employment and efficiency in economy (DPT, 2000: 213).

While Turkey was implementing the exchange-rate based inflation reduction programme under the IMF surveillance, and domestically shaping its employment policy priorities around the new paradigm reflected by more flexibility of labour markets through for example definition of non-standard jobs, more usage of active labour market policies, provision of more training to the employees etc. as reflected in the Eighth Five-Year Development Plan, the country was hit by two severe economic and political crises, in November 2000 and in February 2001[208] (Yeldan, 2009a: 129). Together with the 2001 crisis, all domestic macroeconomic projections and targets *de facto* became invalid (Sönmez, 2009: 60).

[208] In 2001, GSYH decreased by 7.4%; increase of wholesale prices reached up to 61.6%; the Turkish lira devaluated against foreign currencies by 51%; unemployment increased by 2% and 3% respectively in 2001 and 2002; and real wages sharply reduced by 20% in 2001 (Yeldan, 2009a: 130). Compared to the growth rate of 7.4% in 2000, Turkish economy contracted at a rate of 9.5% after the 2001 crisis (DPT, 2006: 24) and the considerable contraction of the financial sector imposed a serious burden on public finance (DPT, 2006: 33).

The 2000/2001 crises had been a critical juncture for the development of the employment policy in Turkey in at least three senses. Firstly, the crises provided justification for the government for further cooperation with the IMF and the World Bank. Although many economists included the IMF programmes among the reasons of the crises in Turkey (Boratav, 2003: 183), the government continued to collaborate with the IMF for the management of the February 2001 crisis. The "Programme towards a Strong Economy"[209] was announced in 14 April 2001 and it was consolidated by a stand-by agreement with the IMF in 2002. This "Programme towards a Strong Economy" was also used as a basis for the first Pre-Accession Economic Programme (PEP) that Turkey submitted to the EU in October 2001 in line with the requirements of the Accession Partnership (EC, 2001: 37). Secondly, the EU openly supported the disinflation and structural reform programme agreed with the IMF and the World Bank through the first Accession Partnership (2000)[210] prepared upon the announcement of Turkey's official candidacy and adopted in 2001 for Turkey. Under the short-term priorities the EU asked Turkey to ensure the implementation of that programme, in particular to ensure the control of public expenditure. In this context, some other short and medium-term priorities[211] regarding economic criteria were very much similar to IMF recommendations. Similar priorities for Turkey were to be repeated in the following two Accession Partnerships of 2003 and 2005, but also by adding new priorities such as to continue with market liberalisation, to facilitate and promote the inflow of foreign direct investments; and to implement means to address the problem of the informal economy. In that sense, the role of the international financial institutions *vis-à-vis* the priorities of the Accession Partnership of the EU were considered to be complementary. This was acknowledged by stating that "cooperation between Turkey and the international financial institutions (IFI) is receiving an impetus and a new focus through the Accession Partnership", where "the grant resources available under the

[209] The Programme was a disinflation and structural adjustment programme aiming at "setting up the infrastructure for the restructuring of the public administration and economy in an irreversible way" as announced by the Undersecretariat of Treasury in 2001 (Sönmez, 2009: 60). At the domestic level, the basic strategy of the Strong Economy Programme did not change much from the previous programme principles of lowering inflation and restructuring of the economy on the basis of public finance reform. Only the priorities of the strategies were shifted towards prioritising reforms in the banking and finance sectors, by pushing the inflation target to a secondary importance, in order to encourage speculative foreign capital inflows and international finance institutions, and consequently to obtain better conditions for financial stability (Özkaplan, 2008: 12).

[210] Council Decision of 8 March 2001 on the principles, priorities, intermediate objectives and conditions contained in the Accession Partnership with the Republic of Turkey (2001/235/EC).

[211] Those priorities included a focus on the financial sector reform, the agricultural reforms, privatisation of state-owned entities (KİTs), and the pension and social security system.

Accession Partnership serve as seed money and a catalyst for larger amounts of development finance from the IFI", in particular the World Bank, with a view to facilitating the co-financing of projects relating to pre-accession priorities. And thirdly, as it will be elaborated in relation to the domestic dynamics of employment policy change in Section 5.5, the 2000/2001 crises have changed the perceptions of the domestic actors towards external actors. Although the business actors, who were slowly adapting to changes in the European and international contexts by the end of the 1990s but hit by the crisis in 2001, underlined the urgent necessity of the "IMF anchor", but they also started to need another one, namely the "EU anchor", in order to achieve much-needed macroeconomic stability in Turkey (Eralp, 2009: 158). Facilitated by the formal candidacy status given in 1999, but also perpetuated with the loss of legitimacy on the part of the Turkish state as a result of the deep effects of the crisis on all segments of society, the economic crisis contributed to the emergence of a vocal pro-EU coalition and broader public support for the reform process in a perspective of becoming a full member of the EU (Öniş, 2003). The transnational business elites and representatives of the international financial community also conceived the EU as a "permanent anchor" in the Turkish context, complementary to and in a view of consolidating the reforms pushed by the IMF, in the absence of which the economic reform process could easily be reversed (Öniş, 2003).

Right after the 2001 crisis, partially covering the priorities of the Eighth Plan, but also in line with the programmes and principles of the IMF and the World Bank, a number of legislation, aiming to reshape distribution relations, social security mechanisms, financial system, economic infrastructure and public administration were passed by the Parliament (Boratav, 2003: 182-183). In 2001 the agricultural support in form of price supports provided through inputs and support purchases by the state were terminated and this mechanism was replaced by direct income supports for producers, for the farmers who became registered to the "farmer registry system" (DPT, 2006: 29). Moreover, in line with the principles of the IMF-initiated stabilisation programmes, which suggested the opening up or adjustment of some sectors to the global markets and to the conditions of global competiveness, as well as restructuring the state in line with the principle of competition; and in line with the priorities of the Accession Partnership, such as the market liberalisation in the areas of energy and agriculture, particularly on tobacco and sugar; ensuring the process of privatisation; and reforming the agricultural and financial sector, a

number of regulatory and supervisory authorities as autonomous institutions were established[212] (Bayramoğlu-Özuğurlu, 2009: 278-279).

In 2001, in accordance with the Accession Partnership priorities, the Turkish government and European Commission started to conduct an Employment Policy Study. The objective of this Study was to observe the progress in adaptation of employment system so as to formulate an employment policy in line with the European Employment Strategy and produce a Joint Assessment Paper to focus on basic issues encountered in the field of employment.[213] The Turkish government assigned the role of preparing the Background Study on the Labour Market and Employment in Turkey to Turkish academics. The objective of the Background Study was to provide a comprehensive analysis of the labour market in Turkey, together with the relevant institutional framework and delivery mechanisms, emphasising the current situation in terms of employment, participation and unemployment, by also making use of the historical data to establish trends and patterns of adjustment during the post-1980 period (Tunalı, 2003: 9). The draft report was presented and discussed at a seminar held in Ankara on 17 February 2002 with participation of the representatives from the European Commission, the European Training Foundation, foreign embassies and around 200 government officials (within a wide range of ministries and governmental offices), researchers and representatives from NGOs (such as the representatives of the employers' and trade union confederations namely TESK, TİSK, TOBB, Türk-İş) as social partners. The preparation of the Background Study and acceptance of it by the European Commission was the initial step towards Turkey's involvement in the European Employment Strategy. The next step in Turkey's involvement in the European Employment Strategy was the acceptance and bilateral signing of the Joint Assessment Paper (JAP), which would indicate the candidate country's commitments in the fields of labour market and employment in line with the European Employment Strategy. Although the draft JAP was prepared by the Turkish authorities, sent to the European Commission and was expected to be finalised by 2006, it would still not be able to be agreed by the end of 2010.[214]

[212] Those include Banking Regulation and Supervision Agency (BDDK) in 1999; Telecommunications Authority in 2000; Energy Market Regulatory Authority (EPDK) and Turkish Sugar Authority in 2001; and, Public Procurement Authority (KİK) and Tobacco and Alcohol Market Regulatory Authority (TAPDK) in 2003.

[213] Information from the Screening Document of "Answers from the Turkish side to non-exhaustive list of questions for Chapter 19 Social Policy and Employment" prepared in 2006.

[214] Upon the finalisation of the JAP, the last stage of the process will be the preparation of National

The November 2002 elections opened a new page for domestic politics in Turkey by paving the way for three successive single-party Justice and Development Party (AKP) governments until the end of 2010. Preserving its political Islamic tendencies but leaving its previous anti-IMF and anti-liberalism discourse (Yeldan, 2009a: 131), the AKP government accepted the "IMF anchor" and especially the "EU anchor" as the main supporters of economic and political stability in Turkey (Eralp, 2009: 159). With the power of having the absolute majority in the Parliament in 2002, AKP continued to implement the post-crisis economic and political measures. Under the image of a "strong government" and without being exposed to significant societal opposition (BSB, 2006: 29), AKP would even carry the structural adjustment and concomitant reforms further in due course. With this reform drive Turkey entered a reform period by 2003 in which the Parliament under the majority of AKP passed several important reform packages in a short span of time (Eralp, 2009: 159).

In the changing political context under the first AKP government, the rest of the 2000s became a very active in terms of realisation of legal and institutional changes regarding the employment policy in Turkey. Those changes were realised, on the one hand, within the perspective of Turkey's approximation to the European employment policy, as stated in the 2003 National Programme for the Adoptation of the *Acquis*, which identified the "development of a national employment plan consistent with the European Employment Strategy" and "harmonisation of Turkish Labour Law with EU legislation" as two of the five priorities[215] within the context of Social Policy and Employment Chapter. On the other hand, the legal and institutional changes could be considered as the consolidation of the restructuring of the labour market in Turkey dating back to the 1980s.

In May 2003, the new Labour Law No. 4857 was adopted, in line with the changing conditions of Turkey, the International ILO conventions and the EU legislation, to bring a flexible structure to the working life (DPT, 2006: 48). The new Labour Law is considered as an important legal change introducing flexitime and flexible modalities of employment (such as flexible working time and temporary employment relationships) by taking into account the relevant EU legislation were envisaged as the means to promote the growth of

Employment Action Plan as the basis of a "National Reform Programme" in the field of employment.

[215] Other three priorities were the alignment with EU acquis in the field of public health and participation in the EU Programmes in this regard; development of social protection and social inclusion; and, strengthening the administrative capacity of the Ministry of Labour and Social Security, and participation in European Social Fund and Dublin Foundation

employment (Pennings and Süral, 2006: 7). In addition to the adoption of the new Labour Law, the Turkish Employment Organisation (İŞKUR) was established with Law No. 4904[216] in 2003, replacing the Employment Brokerage Institution existing since 1946 (İŞKUR, 2007: 31). This referred not a change of name, but a total restructuring of employment services and of the institution in line with the changing market economy and conditions of the labour market (DPT, 2007: 76). İŞKUR became the main implementing agency for active labour policies in Turkey and has been the institution to carry out efforts for the involvement of Turkey into the European Employment Strategy. In addition to restructuring of the İŞKUR, the Law No. 4904 provided the authorisation for the establishment of private employment offices, which has been an obligation for Turkey stemming from international agreements. There were many other legal and institutional changes realised in the field of employment policy in this period. The Law No. 4473[217], known as job security law, was adopted in 2002 and entered into force in March 2003. The private pension system, as envisaged in the Eight Plan, launched in 2003 as "a complementary element of the social security system and in terms of creating long-term funds" (DPT, 2006: 34). Based on the Law No. 4904, the Labour Market Information Advisory Board was established with the Regulation[218] of the Ministry of Labour and Social Security in 2004. The Advisory Board was considered as a step towards establishing the environment of constant dialogue and cooperation between relevant institutions and organisations in order to set up an information system concerning the labour market. In 2005, the definition of the Small and Medium Size Enterprises was legally brought in line with the EU *acquis* (DPT, 2006: 31).

In addition to those initiatives aiming at restructuring the labour market and changing the approach to employment and unemployment, some other legal measures were also taken in order to be able to eliminate of the negative effects of the economic crises on the labour market. For the unemployment insurance established in 1999, the total cut from the contributors of the Fund was decreased from 7% to 4% (employees' and state contribution

[216] The Law on Turkish Employment Organisation No. 4904 was published in the Official Gazette No. 25159 dated 5 July 2003.
[217] Law No. 4473 on Amending Labour Law, Trade Unions' Law and Law on the Regulation of the Relationships between Employees working in Press Profession enacted on 09.08.2002 and published in the Official Journal on 15.08.2002.
[218] The Regulation on the Working Procedures and Principles of the Labour Market Information Advisory Board, published in the Official Journal No. 25390 on 02.03.2004.

%1 each, employers' contribution 2%) (BSB, 2008: 106). In addition, the Law No. 5084[219] was put into effect in 2004 aiming to increase investments and employment opportunities through application of tax and insurance premium incentives, provision of energy support and provision of no-cost land and premises to investments in some cities. In order to increase employment, the Law No. 4747[220] postponed the payment of the employer's share of social security premiums for one year for every new worker employed (Tunalı, 2003: 98). However, those piecemeal measures did not reflect a long-term strategy towards increasing employment and decreasing unemployment in a sustainable way.

While those legal and institutional changes were taking place, the decision taken at the Brussels Summit of 16-17 December 2004 stated that Turkey fulfilled the Copenhagen political criteria "sufficiently." Upon the adoption of the Negotiating Framework, the accession negotiations were launched on 3 October 2005, marking a new period in the relations between Turkey and the EU. Also in 2005, the AKP government signed the 19th stand-by agreement[221] with the IMF, in order to prolong the process of structural adjustment until 2008. Once more, the programme aimed at radical arrangements towards restructuring the political and social life through medium-term budgeting and financial reforms in relation to social security, pensions and general health insurance, which would in general reflect privatisation of those services (Sönmez, 2009: 62). "Adequately reflecting the needs and commitments to further reform" in the process of European integration, the Pre-Accession Economic Programme submitted to the Commission in December 2006 largely adhered to economic policy agreed in particular in the stand-by arrangement with the IMF and in the Country Assistance Strategy with the World Bank, revised in 2006 (EC, 2007: 26).

In addition to the role played by the IMF in shaping the macroeconomic policies of Turkey through structural adjustment throughout the 2000s, the World Bank was also involved in the transformation of the labour market through initiating and supporting programmes in

[219] Law No. 5084 on the Incentives of Investments and Employment and Making Amendment to some Laws, date of enactment 29.01.2004, published in the Official Journal No. 25365 on 06.02.2004.
[220] The Law on the Postponement of Payment of some of the Non-wage Costs with the aim of Fostering Employment and on Amending SSK Law, Bağ-Kur Law and Decree No. 631, enacted on 20.03.2002 and published in the Official Journal No. 24713 on 01.04.2002.
[221] The Letter of Intent from the Turkish government dated 26 April 2005 regarding the stand-by agreement stated that the programme focussed on producing high level of non-interest surplus so that debt could be reduced and this means that the main priority of the fiscal policy until May 2008 was to reduce the internal debt stock to sustainable levels by obtaining the financial discipline and to reach at the non-interest surplus that could protect macro-stability (Sönmez, 2009: 61).

relation to the labour market in Turkey. The Privatisation Social Support Project (PSSP) of the World Bank was targeting the workers who were to lose their jobs as a result of the privatisation of the KİTs through a mix of passive and active measures (Tunalı, 2003: 95). Including the job placement, counselling and training services via İŞKUR and KOSGEB, the first PSSP (2000-2005) was followed by a second PSSP to be implemented throughout 2006-2008. In addition, the World Bank conducted and published "Turkey Labour Market Study"[222] in 2006, as an element of World Bank's support for Turkey, with the expectation that "the findings and conclusions of the study would contribute to the design of a comprehensive development programme aimed at sustaining high growth in the economy by attracting more investment and financing while generating more and better jobs" (World Bank, 2006: i).

In 2006, the Ninth Development Plan[223] (2007-2013), as the most recent development plan, was prepared to serve as the fundamental policy document setting out the economic, social, and cultural transformations foreseen in Turkey. The vision of the plan is "Turkey, a country of information society, growing in stability, sharing more equitably, globally competitive and fully completed her coherence with the European Union", within the framework of the Long-term Strategy (2001-2023) (DPT, 2006: 11). The Plan's economic policy orientation still focuses on increasing competitiveness. All the economic policy provisions envisage an economic structure, which would have a high technological capability and a qualified labour force, that could rapidly adapt to changing conditions; and, which is competitive in domestic and international markets, stable and highly productive (DPT, 2006: 73). In this regard, "increasing employment" is defined as one of the five economic and social development axes with three particular targets (i) improving the labour market; (ii) increasing the sensitivity of education to labour demand; and, (iii) developing active labour market policies[224] (DPT, 2006: 14). The Plan foresees the preparation of the National Employment Strategy, which is to emphasise the need and efforts to direct the agricultural labour force (after the shrinking of this sector) towards non-agricultural sectors; and development and encouragement of entrepreneurship, as an

[222] The underlying approach of the Study, as well as the recommendations of the World Bank to Turkey regarding the labour market, will be discussed in detail in Section 5.5.
[223] This last Development Plan covers a period of seven years, and thus not anymore a five-year plan. As designed as the basic strategy document that would contribute to the EU accession process, planning period was adjusted to the EU fiscal calendar, covering the period of 2007-2013 (DPT, 2006: 11).
[224] The priorities defined for the employment policy in Turkey, as well as the measures to be taken in this regard, are elaborated in detain in Section 5.4.2.

important factor for increasing employment (DPT, 2006: 92). In fact, the approach for employment in the Ninth Development Plan reflects many of the suggestions of the IMF/World Bank and the EU, especially regarding the policy tools to be used to increase employment, for example placing the responsibility of being employed on the employees through measures such as education and training and use of active labour market policies.

In addition to the Ninth Development Plan, the 2008 National Programme for the Adoptation of the *Acquis* (NPAA) identified five employment related priorities from the Turkish side. One of those was the finalisation of the work on the JIM in response to the European Social Inclusion Strategy and JAP in response to the European Employment Strategy and active implementation of both follow-up processes, envisaged to be completed by the Ministry of Labour and Social Security in 2009[225]. Another priority relevant to employment was the provision of an analysis for undeclared work in Turkey and drawing up a plan to tackle this problem in the context of an overall action plan, which was envisaged to be finalised in 2009 in a way to meet the opening benchmark. Regarding the priority of enhancing capacity to assess and monitor labour market and social developments; the 2008 NPAA envisaged, throughout the period of 2010-2012, the establishment and enhancing institutional capacities of Vocational Guidance Centres in 81 Provincial Directorates of İŞKUR, to function at EU standards; setting occupational barometers and labour force profiles at local and regional levels, monitoring the developments and changes in labour market, and enhancing policy-making and cooperation capacities of Provincial Employment Boards. The remaining two priorities were defined as the establishment of conditions for an effective social dialogue at all levels; and continuing transposition of the *acquis* and strengthening the administrative and enforcement structures including the labour inspectorates, in association with social partners.

Apart from the publication of the NPAA in 2008, some other important legislative and policy-oriented changes, which would have direct effects on the functioning of the labour market and on substance of employment policy in Turkey, were realised that year. As a part of the process of Social Security Reform, initiated by the AKP government in the first half of the 2000s, for the reorganisation and restructuring of the social security system as well as the health insurance, in line with the continuous recommendations of the IMF,

[225] By the end of 2010, neither JAP nor JIM could be finalised.

World Bank and the European Union, and as stated in various Development Plans and government documents, the Law No. 5510 on the Social Insurance and Universal Health Insurance (SSGSS)[226] entered into force in October 2008[227], after a long process of political struggles and judicial review by the Constitutional Court.

Another development in 2008 was the publication of a policy document with the financial assistance of the European Commission on women's employment, namely the Gender Equality National Action Plan (2008-2013), for the first time in the history of Turkey, although it had been an inherent part of the European Employment Strategy since its beginning, and low levels of female labour force participation had continuously been underlined by the EU reports and the World Bank for a long time. Women's employment was also targeted in 2010 through a Prime Ministry Circular No. 2010/14[228] on "Increasing Women's Employment and Ensuring Equal Opportunities."

Towards the end of the 2008, contrary to the AKP's prediction that the global crisis would be "tangential" to Turkey[229], the negative effects of the global crisis on the Turkish economy[230], were started to felt increasingly. The Turkish economy grew only by 0.9% in 2008 (EC, 2009: 33) and the burden of adjustment increasingly fell on the real economy, in particular the industrial sectors and the labour market (Yeldan, 2009b: 3). Due to the global economic crisis the Turkish economy contracted sharply, in particular at the beginning of 2009 and the labour market was particularly affected through rising unemployment. Since

[226] SSGSS aimed at bringing together the provisions of social security and general health insurance in a single law in order to ensure harmonisation of norms and standards, as a part of the general social security reform process. In this regard, the SSGSS was a complementary step of other elements of the reform process, namely the merging of all social security institutions into one single body called Social Security Institution (SGK) with Law No. 5502, already adopted in 2006; and cleaning out the payment without premium system from the social security system and manage it exclusively. It is also important to reiterate here that the SSGSS Law received a great deal of reactions from a wide range of societal actors, several of which formed platforms and coalitions in their efforts to protest and criticise the SSGSS.

227 Law No. 5510 was first submitted to the Parliament and published in the Official Journal on the 31 May 2006 and date of entry into force was announced as 1 January 2007. However, due to the application of the Presidency of the Republic of Turkey and the opposition party (CHP) to the Constitutional Court, its date of entry into force was postponed several times throughout 2007 and 2008.

[228] Published in the Official Journal No. 27591 on 25.05.2010.

[229] In the opening ceremony of the 2008-2009 academic year of the Dicle University on 20 October 2008, The Prime Minister Recep Tayyip Erdoğan also mentioned the global economic crisis by stating that "Even this global crisis will hopefully be tangential to us. I believe that it will not, and will not be able to, hit us, as it did the others. Because we have not shown sluggishness, have not given any concessions from the fiscal discipline, we got our feet on the ground." His speech was later on very much criticised by several economists with the argument that he underestimated the possible effects of the global crisis on Turkey.

[230] Although the crisis affected adversely almost all sectors of the economy, the industry was particularly hit by a large fall in domestic and mainly in external demand; and, on the demand side private consumption and particularly private investment were affected severely by the crisis (EC, 2009: 33). In the first half of 2009, the slowdown in investment accelerated sharply, and private investment fell considerably (EC, 2009: 33).

the demand fell the unemployment rate increased to 11% in 2008 and 14% in 2009, from the average of about 10% in 2006-2007 and with the rise in unemployment, the number of people receiving unemployment insurance increased more than double in 2009 compared to 2007 (ILO, 2010: 1). The employment in the agricultural sector, which had been shrinking since 2000, increased to nearly 5.3 million in 2009 from under 4.9 million in 2007, due to the fact that some of those who lost their jobs after the contraction in industrial output went back to work in agricultural sector (ILO, 2010: 1). Moreover, the number of unemployed people who lost their hopes to find a job due to difficult labour market conditions increased unemployment more, and the ratio of unregistered workers to total employment reached at a high level of about 43%, reflecting considerable numbers of people in informal employment. (ILO, 2010: 1). Thus, the first direct impact of the contraction in the economy in terms of the labour market was felt on employment, which brought the risk of transforming the crisis of the real economy into an employment crisis (BSB, 2011: 42).

To address the global financial and economic crisis, the government adopted several fiscal measures and stimulus packages to combat the loss of jobs and output (ILO, 2010: 2). Those mainly consisted of consumption tax cuts; tax incentives for large investments and investments in certain regions and sectors; zero-interest loans to SMEs; inducements for citizens to repatriate savings held abroad; and, incentives to increase employment (EC, 2009: 61). Once more, piecemeal employment policy measures were preferred over a comprehensive employment policy approach.

The first stimulus package to combat unemployment was the adoption of, what is known as, "the employment package" [231] in May 2008. The package covered priorities of reducing the labour costs; increasing the employment of women, youth and disabled people; improving active labour market policies; reducing informal economy; facilitating the foundation of private employment agencies; regulating the relation of sub-employers' status; and, reducing the bureaucracy for establishment of new enterprises (NPAA, 2008: 19). In particular, the package provided incentives to employ young workers (aged 18-29), women and people with disabilities by reducing non-financial burdens and social security contributions (reduction of 5%), which had acted as a disincentive to formal employment; and reducing employment costs for five years for newly employed people in the those

[231] Law No. 5763 on Amending Labour Law and some Laws adopted on 15.05.2008 and published in the Official Journal on 26.05.2008.

categories (EC, 2008: 35). For instance, the amendments stipulate, among other things, that the employers' share of social security premiums for newly hired women employees are to be covered by the Unemployment Insurance Fund for a five-year period, starting with 100% in the first year and ending with 20% in the fifth (EC, 2008: 61). In addition, the unemployment payments were increased by 11% (ILO, 2010: 2) and unemployed persons registered with the İŞKUR would also benefit from job matching, guidance and vocational training, to be funded by the Unemployment Insurance Fund (EC, 2008: 61). The concrete measures taken by the package also included increasing incentives for employers with 50 or more workers to employ disabled workers at the rate of 3%; lifting the obligation for private sector to employ ex-convicts and terror victims; and, lifting of administrative requirements of the private enterprises regarding the establishment of sports facilities, kindergartens and workplace health and safety units (ILO, 2010: 2).

In February 2009, the Prime Ministry adopted the Circular No. 2009/3[232], announcing the "Action Plan for the Strategy to Combat Unregistered Economy" for the years of 2008-2010. This Strategy was prepared in line with the "increasing competitiveness" axis of the 2008 Annual Plan to materialise the policy priorities of the Ninth Development Plan and EU *acquis* Harmonisation Programme. The underlying approach behind the Strategy was that increasing competitiveness of the economy and ensuring a health structure for the public finance would only be possible by decreasing unregistered economy. In this regard, three objectives of the Strategy were to encourage registered activities through strengthening the formal employment creation potential and increasing voluntary compliance; to strengthen the inspection capacity and increasing the sanctions through developing the inspection capacity, sharing databases and ensuring deterrence of sanctions; and, to ensure and strengthen institutional and social commitment through training and publicity and through ensuring, strengthening and sustaining institutional cooperation.

In February 2009, the measures previously taken by the employment package of 2008 complemented by the Law No. 5838[233], also known as "crisis measures law", through a further set of measures, where the Short-Time Work Programme (reduced working time fund) was extended from three to six months and the payments under the programme were increased by 50% (Yeldan, 2009b: 4). In May 2009, a new package was enacted,

[232] Circular No. 2009/3 on the Action Plan for the Strategy to Combat Unregistered Economy" published on the Official Journal No. 27132 on 5 February 2009.
[233] Law No. 5838 on Amending Some Laws enacted on 18.02.2009 and published in the Official Journal No. 27155 on 28.02.2009.

introducing some measures to encourage job creation, by using Unemployment Insurance Fund, first to cover the employers' share of the social security premiums of any extra employment following April 2009; and second to support investment costs for infrastructure investments, in particular in the South-East Anatolia region (Yeldan, 2009b: 4; EC, 2009: 62).

A further measure targeted the SMEs engaged in export, to which the government offered credits with no interest credit, with extended repayment possibilities in two years instead of one (ILO, 2010: 2). In addition, in order to stimulate demand and prevent lay-offs, the value-added tax rate for several items and private consumption tax rates for motor vehicles (from 18% to 8% were reduced until the end of September 2009 (Yeldan, 2009b: 6). In addition, resources allocated for active labour market programmes[234], including vocational courses, job training, on-the-job training, entrepreneurship and guidance for job applicants and public workfare programmes, implemented by İŞKUR were significantly increased in 2009 and 2010 (ILO, 2010: 3).

In 2009, another incentive was realised for increasing employment by the Law No. 5921[235], which was intended to encourage employment by taking over, from the employers and workers, the insurance and universal health insurance premiums of the unemployed workers benefiting from the unemployment insurance. Those premiums were to be met by the unemployment insurance for the remaining duration of unemployment payments, in order to create an advantage for the employers to employ workers with lower costs (İŞKUR, 2009: 13).

In September 2009, the Turkish government submitted to the European Union, after a delay of several months, both the annual Pre-accession Economic Programme (PEP) for 2009-2011 and the Medium-Term Plan for 2010-2012, taking both the current global crisis conditions and the improvements that are yet to come into consideration (EC, 2009: 33). The PEP reiterated that the approach to employment was focussed on sustainable growth in a competitive economy and information society and the basic priorities in this regard were to develop employment opportunities, reduce unemployment, enable labour market to function effectively, establish an effective relation between education and employment,

[234] Those active labour market programmes is further discussed in the following section.
[235] Law No. 5921 on Amending Unemployment Insurance Law and Law on Social Insurances and Universal Health Insurance adopted on 11 August 2009 published on the Official Journal No. 27323 on 18 August 2009.

enable shifting of labour exiting from the agricultural sector to other sectors, and promote active labour market policies (PEP, 2009: 73).

An important development of the 2010 has been the preparation of the government a "National Employment Strategy" document. In line with the decision of the Economic and Social Council of 5 February 2009, a permanent "Employment Advisory Committee" was established in order to prepare "National Employment Strategy" and an implementing Action Plan, under the authority of the Ministry of Labour and Social Security and six sub-committees were established for the National Employment Strategy workshops.[236] Two workshops were organised by the Ministry of Labour and Social Security on 18-20 December 2009 and 19-21 February 2010, with the participation of the social partners, bureaucrats, employers' organisations, trade union confederations, and university academic staffs. In those workshops, the participants discussed different aspects of the Strategy document under six sub-committees on the impact of macroeconomic policies on employment; increasing the flexibility of the labour market; strengthening the relation between the labour market and education; increasing labour force participation of the disadvantaged groups; social protection; and sector-specific policies in sectors such as agriculture, textile, construction, tourism, informatics, health and finance.[237] The opinions collected in those workshops were planned to be used in the preparation of the final draft of the Strategy document. The Economic Coordination Board examined the last draft of the Strategy document at the beginning of June 2010 and the Employment Summit was gathered on 8 June 2010 in order to share the final draft of the National Employment Strategy Document, prepared by the Economy Coordination Board. A big number of social partners were invited to the Summit.[238]

Although the Strategy has not been officially released by the end of 2010, it is still possible to have a rough idea about the content of the Strategy through the information provided at

[236] http://www.tisk.org.tr/isveren_sayfa.asp?yazi_id=2620&id=118.
[237] Ibid.
[238] Those included the ministers and high level representatives of the Undersecretariat of Treasury, State Planning Organisation, Undersecretariat of Foreign Trade, Ministry of Finance, Ministry of Labour and Social Security, Ministry of Industry and Trade, Ministry of Agriculture and Rural Affairs, Turkish Statistical Institute, Social Security Institution, as well as the representatives of employers' organisations (TİSK, TÜSİAD, TOBB, MÜSİAD, KAGİDER, Confederation of Businessmen and Industrialists of Turkey (TUSKON), Turkish Exporters' Assembly (TİM), Union of Turkish Chambers of Agriculture (TZOB), Association of Anatolian Businessmen (ASKON)), of confederations of public and private sector workers' trade unions (Türk-İş, Hak-İş, DİSK, Memur-Sen, KESK, Türkiye Kamu-Sen) and of artisans (TESK). "İstihdam Zirvesi 8 Haziran'da", Cumhuriyet, 5 June 2010. Available online at: http://www.cumhuriyet.com.tr/?hn=146092.

different stages of the Strategy's preparation process. It is suggested that some of the measures to be taken in the package are to reduce employers' contribution to unemployment strategy from 2% to 1%; to receive support from the trade unions in the fight against unregistered employment; to allow employment in the public institutions which has open job positions; to provide enterprises with financial support for their equipment needs; to simplify the eligibility procedures for short-time work programme; to reduce social insurance premiums of young people who establish jobs; to ensure part-time and flexible work forms; to encourage the employers who pay their insurance premiums regularly; to give investment and management credits to firms; and to provide incentives for employment-intensive sectors, primarily for the service sector. It was also argued by the representatives of AKP that through support to 90 thousand firms, establishment of 30 thousand jobs, which in turn would guarantee employment possibilities for 900 thousand people.[239] Short after the Employment Summit, the Minister of Labour and Social Security made important statements[240] that with the aim of increasing employment and reducing unregistered employment within the target of lowering unemployment below 10%, the Strategy included both short and long-term approach up to 2023, pointing out six problem areas, namely unregistered employment, overtime, severance payment, inefficiency of private employment offices, lack of qualified personnel, problem of crèches and other rigidities of the working life. In this regard, some of the measures foreseen in the package were including the reorganisation of overtime and severance payments; as well as measures for public employment, vocational training, flexible work, incentive premiums for women. By calling it "a bitter recipe", the Minister stated that although there were many formulas, increasing employment required sacrifices from the state, employers and trade unions.[241]

Indeed, all the efforts towards the finalisation of the National Employment Strategy and an Action Plan to implement it reflect a change in the mode of governance towards a long-term approach to employment policy in Turkey, as well as an approach participatory for social partners, very much in line with the requirements of the European integration process, voiced many times in the Progress Reports by the European Commission within

[239] "İşsizliğe Çözüm Bulundu", HaberTürk, 23 February 2010. Available online at: http://www.haberturk.com/ekonomi/haber/208677-Issizlige-cozum-bulundu.aspx.
[240] "İşsizlik 'biraz acı reçete' ile düşecek, işveren, sendika ve devlet paylaşacak", Hürriyet, 13 June 2010. Available online at: http://www.hurriyet.com.tr/ekonomi/15007686.asp?gid=373.
[241] "İşsizlik 'biraz acı reçete' ile düşecek, işveren, sendika ve devlet paylaşacak", Hürriyet, 13 June 2010. Available online at: http://www.hurriyet.com.tr/ekonomi/15007686.asp?gid=373.

the framework of Turkey's involvement in the European Employment Strategy. However, to what extent the substance of the proposed Strategy will be different than what has already been implemented throughout the 2000s remains to be seen.

5.4.2 Components of the Employment Policy in Turkey by the end of 2010

In the previous section, the development of the employment policy in Turkey, as well as the conditions that has shaped it, throughout the 2000s were given in a detailed account from a bottom-up perspective, in which the policy problems, allocated resources and the governmental approach, as well as the intervention of the external factors, were traced. That narrative showed that the macro-economic policy orientation in Turkey has considerably shaped the development of employment policy as a function of economic growth and competitiveness; and the involvement of the international finance institutions, as well as of the EU, in macro-economic policy design and in efforts for structuring the labour market, has been a significant factor that has shaped the positions and moves of the government, as well as the priorities and elements of domestic employment policy in Turkey throughout the 2000s. As a result, the components of the employment policy by the end of 2010 reflect a pattern of transformation in the employment policy of Turkey. Many of those elements/tools have been introduced or radically changed in the first decade of the 2000s with the efforts to consolidate the employment policy of the changing economic policy orientation towards a neo-liberal one.

This section is organised in two parts. First, the latest employment policy priorities of the government as defined in the Ninth Development Plan will be summarised in order to draw the contours of the approach to the employment policy in terms of its substance. In the second part, first the major institutional framework, both the labour market related governmental institutions, and in particular İŞKUR, will be scrutinised in a way to show the changing nature of and approach to the provision of employment services in Turkey. Following this, the major legislative framework, namely the Labour Law, as the policy instrument shaping the framework for the working conditions in the labour market will be elaborated in a way to show the transformation in the understanding of the Labour Law. Next, the employment policy instruments such as the passive labour market policies (the unemployment insurance, severance payments, in advance notice payment etc.) and the active labour market policies in Turkey will be examined. At the end of the section, two particulars issue of employment policy, namely the measures taken to increase women's

employment and those to combat informal economy, will be summarised.

5.4.2.1 Main employment policy priorities for 2007-2013 in Turkey

The major policy document, from which the priorities, targets and instruments of the labour market and employment policies in Turkey can be identified, has been the Five-Year Development Plans prepared by the State Planning Organisation (DPT). The latest of the Development Plans is the Ninth Development Plan[242] (2007-2013) issued by the government in 2006. It reflects the latest development policy orientation and priorities as a basis to actual policies to be made and implemented in Turkey by the beginning of the second decade of the 2000s. Including a specific focus on "increasing employment" and in the lack of the Joint Assessment Paper (JAP) and the National Employment Strategy, the Ninth Plan can be considered as the most important official document that shapes the national employment policy in Turkey and defines a role for the EU within the context of the national policy priorities in the first decade of the 2000s.

The Ninth Plan was prepared to serve as the fundamental policy document setting out the economic, social, and cultural transformations foreseen in Turkey. The vision of the plan is "Turkey, a country of information society, growing in stability, sharing more equitably, globally competitive and fully completed her coherence with the European Union", within the framework of the Long-term Strategy (2001-2023) (DPT, 2006: 11). There are two peculiarities of the Ninth Development Plan. First, the Plan is designed as the basis for the necessary documents in EU accession process like the Pre-Accession Economic Programme and the Strategic Coherence Framework, as well as for the other national and regional plans and programmes (DPT, 2006: 11). This approach goes beyond the previous emphasis and reference attributed to the EU process, but further associates Turkey's development prospects with the EU membership perspective intensified with the launch of full membership negotiations on 3 October 2005. In that sense, the accession process is considered as a comprehensive renovation and reform process, at the end of which convergence to the economic and social standards of the EU is expected (DPT, 2006: 21). In addition, an eventual EU membership is anticipated to raise the growth potential of Turkey as a result of the increase in foreign direct investments and efficiency in the use of resources. Thus, the approach of the Ninth Plan to the European integration process is

[242] This last Development Plan covers a period of seven years, and thus not anymore a five-year plan. As designed as the basic strategy document that would contribute to the EU accession process, planning period was adjusted to the EU fiscal calendar, covering the period of 2007-2013 (DPT, 2006: 11).

assumed within a balance among the requirements of EU membership, national priorities of Turkey and the needs of the sectors that are likely to be affected more by the harmonisation process (DPT, 2006: 22).

Second, the Ninth Development Plan reflects a shift in the understanding of the planning concept towards a "strategic approach", as a result of the redefinition of the role of the state in economy (DPT, 2006: 11). This strategic approach argues to increase predictability; to realise a more efficient functioning of the market institutionally and structurally; to prioritise problems; and, to focus on basic goals and priorities in line with the macro balances of the development vision (DPT, 2006: 11). In line with the new understanding of the planning concept, the Ninth Plan was organised around five "strategic objectives"[243], considered as economic and social development axes, one of which is particularly dealing with "increasing employment." Three particular targets are identified under the axis of "increasing employment": (i) improving the labour market; (ii) increasing the sensitivity of education to labour demand; and, (iii) developing active labour market policies (DPT, 2006: 14). Main objectives of the "increasing employment" axis in general are defined in the framework of an employment-focused sustainable growth, together with creation of skilled human resources required by a competitive economy and information society; improvement of employment opportunities; reduction of unemployment; and making the labour market more efficient. The Plan foresees the preparation of the National Employment Strategy, which is to emphasise the need and efforts to direct the agricultural labour force (after the shrinking of this sector) towards non-agricultural sectors; and development and encouragement of entrepreneurship, as an important factor for increasing employment (DPT, 2006: 92).

The main objectives of *improving the labour market* first refer to a labour market, which is more flexible and active through keeping a balance between flexibility and job security (DPT, 2006: 92, 117). The restructuring of the labour market includes gradual reduction of the burden on employment in such a way to encourage the development of new employment opportunities, to increase the number of decent jobs and to reduce informal employment. Taking the competitiveness of the economy into account, the wage policy is planned on base pay to strengthen the wage-productivity relation, to contribute to the

[243] Five strategic objectives of the Ninth Development Plan are increasing competitiveness; increasing employment; strengthening human development and social solidarity; ensuring regional development, increasing quality and effectiveness in public services.

flexibility of labour markets and to support productive employment. Increasing the ability of employers and employees to adapt to the transformation in the labour market; strengthening the existing social dialogue mechanisms and culture through new mechanisms; and, enhancing the capacities of the employment agencies to adapt to the changes in the labour market caused by globalisation and technological advances, diversification of their service fields, as well as the expansion of their target groups considering the requirements at local level are among the other objectives of this policy priority. Last but not the least, maybe for the first time with such clarity in a development plan, increasing women's participation in the labour force and employment and their access to childcare and other similar services are envisaged, together with a vision of providing equal opportunities for the women, young people, long-term unemployed, disabled and former convicts, as the groups who encounter difficulties in the labour market. (DPT, 2006: 92-93, 117)

In terms of *increasing the sensitivity of education to labour demand*, the Ninth Plan underlines the need to strengthen the interaction between education and labour market, through a lifelong learning strategy to be developed, in order to supply the qualified labour force required by the market. This strategy is planned to cover mechanisms to support increasing formal and non-formal education opportunities; strengthen the horizontal and vertical relationship between the types of education; structure apprenticeship and public education towards these types of education; as well as to support the involvement of the private sector and NGOs in this area. With this strategy, the training of the workforce in line with the demands of the economy is planned in order to develop the information systems related to the labour market; to provide the education (including vocational and technical education) and labour market with a more flexible structure; and to increase employment and labour productivity. In order to determine the tendencies of the labour supply and demand, labour market need analyses are to be conducted in addition to the collection of data through household surveys on education levels, employment and professional status. A National Professional Qualification System is envisaged to be established based on occupational standards, examination and certification, in accordance to which a vocational education structure is to be developed. (DPT, 2006: 93-94, 117)

In terms of *developing active labour market policies*, the Ninth Plan envisages to improve qualifications and skills of the unemployed, disadvantaged groups and labour force leaving the agricultural sector through active labour programmes shaped by the needs of the labour

market. Those policies include labour force training and vocational training courses, primarily entrepreneurship and employment guaranteed programmes, professional counselling and guidance services, and training seminars in the industry. In addition, it is aimed to financially support micro-scale projects for creating employment (DPT, 2006: 94, 118).

Apart from the Development Plans as the major references for the official employment policy priorities in the Turkish context, it should be noted that Turkish Employment Institution (İŞKUR) has also the duty of contributing to the development of the national and local employment policy in line with the economic and social policies. The mechanism for such contribution is the İŞKUR's General Assembly, composed of the representatives of the social partners to assist the development of the national employment policy; to evaluate the impact of the implemented policies; and to assist in protecting, development and spreading of employment and prevention of unemployment (İŞKUR, 2009: 36). The General Assembly meets once in two years and publishes its decisions as policy proposals to the government. The decisions of the Assembly are often very general proposals, pointing out the major issues in relation to the employment policy.

The main issues raised in the II., III., IV. and V. General Assembly decisions can be summarised as follows (İŞKUR, 2003; İŞKUR, 2005; İŞKUR, 2007; İŞKUR, 2009b): the need to ensure social dialogue efficiently; the need to prepare the economic policies and employment policies in harmony in a way to increase industrialisation, competitiveness and investment potential; the need to decrease the burdens on employment such as taxes, insurance premiums and bureaucratic formalities; the importance of investments to be considered in relation to employment; the need to implement and increase active labour market policies; the need to take measures to combat informal and unregistered economy; the need to develop the use of vocational training and life-long learning and establish their links with the labour market needs, in a way to increase employability of the labour force; the need to pay special attention to the employment of women and disadvantaged groups such as disabled; the need to develop the potential of entrepreneurship; the need to create employment opportunities for those leaving the agricultural sector; the need to increase implementation of flexible working arrangements as defined by the Labour Law; the need to increase İŞKUR's capacity in providing its services; and, the need to better the conditions, payments periods and amounts of the unemployment insurance and not to use Unemployment Insurance Fund for reasons other than its aims. Since the third General

Assembly in 2005, a particular importance has been given to the preparation and implementation of a National Employment Strategy, in order to reduce unemployment, increase the quality of employment, as well as to ensure full employment, in alignment with the European Employment Strategy. In this regard, the Assembly has proposed that this Strategy should be related to the sustainable growth strategy and be based on social dialogue, prioritising the ways of "employment creation productivity" (İŞKUR, 2009b), entrepreneurship and competitiveness of the economy. In preparing those decisions, there is not often any consensus between the employers' and trade unions' representatives on the controversial issues such as flexibility, severance payments and temporary employment (İŞKUR, 2009b).

5.4.2.2 Institutional Framework

Since the employment policy is a multi-dimensional policy field, a number of governmental institutions share the responsibility of policy-making and implementation to different extents. The Ministry of Labour and Social Security is one of the major institutions in charge of labour market in Turkey. The duties of the Ministry include regulation and inspection of working life, employee-employer relations and health and safety at work; provision, spreading and development of social security opportunities; and, protection and development of rights and benefits of the workers from Turkey working abroad (DPT, 2007: 75). In addition, the Ministry explores the problems of and solutions for the working life; explores and implements the measures to provide the labour force required by the economy; takes measures to ensure employment possibilities and increase living standards of the employees; takes measures to protect the employees and support work in order to develop working life; compiles and publishes labour statistics; and, carries out inspection functions on occupational health and safety and on social aspects of workplaces (DPT, 2007: 76).

The Turkish Statistical Institute (TÜİK), also called Turkstat, established in 1984 and restructured in 2005 with Law No. 5429[244], collects, evaluates and publishes all kinds of data regarding economic, social and cultural activities in the country through general population census, general agriculture census and general industrial and workplaces census. TÜİK is an important institution for the employment policy since it, in particular,

[244] Turkish Statistics Law No. 5429 enacted on 10.11.2005 and published in the Official Journal No. 25997 on 18.11.2005.

collects the labour market data, for different stages of policy making primarily for the preparation of the development plans and annual programmes and for the monitoring and evaluation stages of the economic decisions and measures. TÜİK collects the statistics regarding labour force through Household Labour Force Survey (HLFS)[245] launched in 1988 with the technical assistance of ILO and UNDP. Collection and publication of the data in international standards had been repeatedly required from Turkey by the European Commission in the Progress Reports before 2006. For the time being, the statistical infrastructure in Turkey is considered as making considerable progress in transposing the *acquis*, especially with the adoption of a new statistical law, which also strengthened the institutions coordinating role (EC, 2006: 49).

Other important state institutions regarding the employment policy have been the State Planning Organisation (DPT)[246], the Ministry of National Education[247] (MEB) and the State Personnel Presidency[248]. There are also some other state offices involved in the labour market and employment policy processes namely Higher Board of Education (YÖK), National Productivity Centre, Administration for Disabled People, Social Service and Children Protection Institution (SHÇEK), General Directorate on the Status of Women (KSGM), (Small and Medium-sized Enterprises Development Organisation (KOSGEB), Undersecretariat of Treasury, and Ministry of Finance. Besides the public institutions, a number of social partners, namely the confederations of trade unions and those of the employers, the NGOs and the chambers, are also involved in the development of

[245] The main objective of the Survey is to obtain information on the structure of the labour force in the country, including information on economic activity, occupation, status in employment and hours worked for employed persons; and information on the duration of unemployment and occupation sought by the unemployed. The survey was redesigned using the latest international standards where historical and international comparability of the data were given priority in the survey design (TÜİK, 2010: 172). Survey results have been published on a monthly basis since 2005.

[246] Established in 1961, the State Planning Organisation (DPT) had a crucial role in the making of policies, as well as identifying the policy priorities, regarding the labour market and employment through producing development plans, annual programmes and other policy documents in this field. DPT is also in charge of providing coordination and cooperation between the institutions which make policies in the relevant fields; calculates investment budget; and provides advisory functions to the government in those fields (DPT, 2007: 78). In 2011, DPT has been transformed into the Ministry of Development.

[247] The Ministry of National Education (MEB) is the institution which has the responsibility for personnel training, through formal and vocational education and training, in accordance with the quantity and quality needed by the labour market. MEB also works in close cooperation to and conducts projects with the work places, as well as the employer and employee organisations (DPT, 2007: 78).

248 The State Personnel Presidency, affiliated to the Prime Ministry, directly works for the implementation and adaptation of the personnel regime in line with the changing and developing conditions of the day, especially in the fields of personnel regime, training, cadre, employment of contract and temporary personnel, financial and social rights of the civil servants, their personal records, discipline and promotion, organisation and capacity-building, and transfer of excessive and off personnel, in all public institutions and organisations centrally (DPT, 2007: 78).

employment policies in Turkey.

The implementation agency of the employment policy in Turkey is the Turkish Employment Organisation (İŞKUR), which is a relatively young institution established in 2003. İŞKUR functions under the Ministry of Labour and Social Security, but it is an autonomous public institution with its own legal entity and administrative and financial procedures. Indeed, the restructuring of İŞKUR is both a signifier of the impact of the EU accession process on domestic employment policy in Turkey, and of the domestic efforts to consolidate the new understanding of employment policy throughout the 2000s.

Previously, the tasks of İŞKUR, but in a much narrower sense of mediation between job finding and worker placement, had been regulated as a public service, in line with the Labour Law[249] of 1936, by the Employment Brokerage Institution[250] established in 1946. The activities of this previous institution went hand in hand with the necessities of the time.[251] In the 1990s, the restructuring of the labour markets in line with new macro-economic policy orientation under the surveillance of international finance institutions, the acceleration of European integration processes by the beginning of the 2000s (c.f. EC, 2000: 51; EC, 2001: 68; EC, 2002: 98), as well as the growing problems of Turkish labour market, created new pressures for change in the structure and services of this institution. For example, the Progress Reports of the European Commission repeatedly underlined that Turkish Employment Organisation was needed to be restructured and strengthened (in 2000, 2003, 2005, 2008). In this sense, although İŞKUR is considered as the successor of the previous employment institution, its establishment in 2003 reflected a radical change in line with the changing conditions of the market economy, especially in terms of the organisational structure and job definition which have been expanded towards provision of new services and functions (DPT, 2007: 76). The Law No. 4904[252] was prepared in harmony with the EU *acquis* in a way similar to those agencies in the developed countries, and provided for the participation of social partners in the Turkish Employment Organisation in line with the ILO Convention No. 88 (İŞKUR, 2009: 35).

According to its Law, İŞKUR was established to assist the activities of protection,

[249] Labour Law No. 3008 dated 1936.
[250] Law No. 4837 dated 1946.
[251] In the 1960s institution concentrated on sending workers abroad to match the labour force demands of the industrialised countries, especially to Germany, but with the slowing down of this demand considerably after the oil crisis of 1973, the services of the institution also receded (İŞKUR, 2009: 35).
[252] Law on Turkish Employment Organisation No. 4904 dated 25 June 2003 published in the Official Journal No. 25159 on 5 July 2003.

development and spreading of employment opportunities and preventing unemployment; to contribute to the development of the national employment policy; and implement the unemployment insurance operations (DPT, 2007: 76). In addition, İŞKUR has the responsibility to conduct labour market information services through collection, analysis and publication of labour market data at local and national levels, and perform labour force needs analysis towards identification of labour demand and supply; as a part of active labour market policies, to perform job and profession analyses, to provide job and profession counselling services, to develop and implement training and vocational education programmes targeting employability of labour force; to provide job and worker finding activities as an mediator and to perform the duties given to the institution in relation to private employment offices. İŞKUR is also the institution to follow up the decisions taken by the EU and international institutions in relation to labour force, employment and working life, as well as to implement the bilateral and multilateral agreements, conventions and recommendations that Turkey is a party to within the İŞKUR's field of operation (DPT, 2007: 76-77; İŞKUR, 2009: 36). In this regard, İŞKUR has been the main counterpart of the European Commission for drafting the JAP on employment policy priorities and carries out the efforts for Turkey's alignment with the European Employment Strategy and the institution.

The organisational structure of the institution also reflects a radical change. The General Assembly of İŞKUR brings together a total of 79 members (46 social partners and 33 representatives of the public institutions) in a participatory way and in line with the principles of social dialogue in order to assist the development of the national employment policy in line with the economic and social policies of the state; to evaluate the impact of the implemented policies; and to assist in protecting, development and spreading of employment and prevention of unemployment (İŞKUR, 2009: 36). In this regard, the General Assembly meets once in two years and publishes the decisions consisting of the employment policy orientation and priorities of the General Assembly. Similarly, the Executive Board of İŞKUR is composed of six members, three assigned by the Ministry, and three from the employees', employers' and merchants' and craftsmen's confederations, from those with the highest number of members.

In fact, the EU accession process was not only influential on the restructuring/establishment of İŞKUR, but also on financing the efforts to enhance its institutional capacity, as well as to support Turkey's ability to implement policies and

services aligned with the European Employment Strategy (World Bank, 2006: 98). In 2003, within the framework of the 2002 pre-accession assistance, the European Union introduced a technical assistance programme entitled "Active Labour Force Programmes Project" to implement an Active Labour Market Policy (ALMP) strategy in Turkey. The Project, which lasted for a period covering 2003-2006, included institution building through policy development and improving İŞKUR's operational performance, a grant scheme to finance ALMP, and developing model employment offices (World Bank, 2006: 98; Öke, 2005: 32). Based on the experiences of this Project, "Active Employment Measures and Support for Turkish Employment Organisation at Local Level Project" was initiated in 2007 to improve the existing capacity to design, develop and implement policies and programmes in order to contribute to human resource development aligned with European Employment Strategy in Turkey (İŞKUR, 2009: 87). The general objectives of the Project was to implement more efficient active employment measures according to labour market needs at local level, and to increase the employability of young unemployed and women through improving the institutional capacity of İŞKUR. With a budget of 20 million Euros (16 million from the EU, and 4 million as Turkish government's contribution), the Project included two components of Institution Building, where the target group is the senior personnel of İŞKUR and social partners which need support for contributing to the decision-making processes; and, Grant Scheme for Active Employment Measures, having the target group of women and young unemployed registered to İŞKUR. In addition to those EU support schemes, İŞKUR also implements various other projects with domestic funds, EU support and within other international cooperation frameworks.[253]

The employment services that İŞKUR provides are analysis and monitoring labour market activities; labour market information consultative committee; development of labour market information system; national and local employment policy development; job placement services within the country and in abroad; implementation of passive and active

[253] Some of the major projects targeting labour market and employment in Turkey are Promoting Youth Employment Grant Scheme (2009-2011), Increasing the Quality of Public Employment Services Grant Scheme, Promoting Women Employment Grant Scheme (2009-2010) within the framework of the Instrument for Pre-accession Assistance (IPA) of the EU; Support for Women's Employment Grant Scheme (2010-2011), Social Inclusion Grant Scheme (2010-2011) and Euroguidance – Türkiye, within the partnership of the European Commission and the Turkish Government; Increasing Labour Market Mediation Activities for the Benefit of the Employability of the Long-term Unemployed (2008-2010) and Strengthening İŞKUR's Institutional Capacity, A Developed Employment Strategy for the Disabled and Occupational Rehabilitation Project (2007-2009) within the cooperation with the Netherlands through MATRA fund; and the Project on Active Labour Market Policies for Advancing Gender Equality through Decent Employment for Women in Turkey (2009-2010) and I. National Youth Employment Summit (2008) in cooperation with ILO.

labour market policies; and, receiving applications of and authorising private employment offices. Table 38 shows the İŞKUR's domestic job placement performance for the period of 2004-2009.

	2004	2005	2006	2007	2008	2009*
Applications	646.182	516.703	564.388	656.696	1.275.674	1.095.397
Open Vacancies	109.678	113.827	151.794	186.922	178.620	119.235
Public	48.904	34.655	32.747	16.936	14.360	14.037
Private	60.774	79.172	119.047	169.986	164.260	105.198
Job Placement	76.257	81.685	85.882	111.375	109.595	74.992
Registered Labour Force	855.024	943.061	1.140.632	771.087	1.095.105	1.783.071
Registered Unemployed	811.948	881.261	1.061.853	707.671	987.840	1.626.066

Table 38: Domestic job placement activities of İŞKUR (İŞKUR: 2009: 46) *2009 data is of 30 September.

A radical change in the provision of a main employment service was the establishment of *private employment offices*, allowed by Law of İŞKUR No. 4904. This development has been argued to end the monopoly of İŞKUR in job finding and placement services (Çiner, 2007: 271; TİSK, 2003b, İŞKUR, 2009: 58). The task of the private employment offices to be established by the natural and legal persons was defined as mediation of finding suitable workers for various jobs and finding suitable jobs to job seekers (Article 17 of Law No. 4904). With the publication of the Circular on Private Employment Offices[254] in 2004, İŞKUR has started to receive the applications for the establishment of the private employment offices, and the number of total authorised private offices increased from 23 in 2004 to 377 in 2009 (İŞKUR, 2009: 59). As shown in Table 39, since their establishment in 2004, the annual highest number of workers placed by those private offices was reached in 2007.

2004	2005	2006	2007	2008	2009
1.177	10.580	19.789	90.524	43.852	17.746

Table 39: Job Placement Data of the Private Employment Offices (İŞKUR, 2009: 59). The data for 2009 is of 30 September 2009.

The establishment of the private employment offices was not only an issue that has been referred to in relation to Turkey's international obligations, and recommendations by international organisations such as the World Bank[255] (World Bank, 2006: xiii), but also was an issue raised and demanded especially by the domestic employers' organisations[256].

[254] Circular on the Private Employment offices published in the Official Journal No. 25378 on 19 February 2004. This Circular was recently replaced by the Circular on 1 August 2008 in the Official Journal No. 26954.

[255] For example, the World Bank recommended Turkey that the remaining item on the policy agenda for active labour market policies is to license private employment agencies to provide the full range of employment and training services (World Bank, 2006: xiii).

[256] The domestic dynamics behind the establishment of the private employment offices will be further elaborated as a contested issue in the following section.

5.4.2.3 The Major Legislative Framework: The New Labour Law No. 4857

The major legal framework that regulates the employee-employer labour relations is the new Labour Law No. 4857[257] adopted in 2003. Two considerations marked the adoption of the new Law from the government's point of view: to bring more flexibility to the labour market; and to transpose the relevant EU *acquis*, especially those in the field of Labour Law. The general reasoning of the Law indicated that the adoption of this law, rather than revising the previous one, reflected the changing economic, social and political conditions of the working life. In this regard, the Law was produced as an outcome of the need for flexibilisation, which could not be realised due to the rigid provisions of the previous law but on the contrary resulted in increased number of derogatory practices in the labour market, such as employing unregistered workers. A further motivation for adoption of the Law was the requirement to adjust the EU and ILO norms, especially those which did not exist in the Turkish labour law before.

The introduction of the new Labour Law No. 4857 has been an effort to ensure flexibility in the labour market. To ensure this, the Law introduced some new regulatory changes, which did not exist in the Turkish labour legislation before; it invalidated a number of already existing practices or institutions; and, it amended a number of provisions existed in the previous laws. Maybe the most significant characteristics of the Law is the introduction of the provisions on non-standard, atypical, flexible forms of employment, namely part-time work (Article 13), fixed-term work (Article 11), on call work (Article 14), sub-contracting (Article 2), temporary employment relationship (Article 7) and compensatory work (Article 64), which were argued to be introduced mostly in line with the relevant EU legislation. Another feature of the new Labour Law was the provisions that have changed the conditions of work towards more flexibility. Those included flexibilities on the duration and organisation of working time namely weekly working time (Article 63), beginning and ending of daily working time (Article 67); duration of the rest breaks (Article 68); paid annual leave (Article 53); introduction of the "compensatory work" (Article 64), which was considered differently from "overtime work" (Article 41); and introduction of the concept of "overwork." The Labour Law regulated in detail the collective dismissals in a way to reduce the overprotective measures in this regard and to simplify the employment conditions (Article 29) (Özşuca, 2003). In addition, the Law

[257] Labour Law No. 4857 adopted on 22 May 2003 published in the Official Journal No. 25134 on 10 June 2003.

reduced the costs of layoffs by establishing a Special Severance Payment Fund (Transitional Article 6), which would in turn reduce firms' hiring and firing costs (Taymaz and Özler, 2004: 24). Regarding employment protection, although the Labour Law included many of the articles of the Law No. 4773 on Job Security, it reduced the coverage of employment protection by excluding those establishments employing less than 30 workers, legally providing extensive flexibility to small enterprises (Taymaz and Özler, 2004: 24). Allowing the establishment of private employment offices (Article 90) was another sign of the flexibility brought by the Labour Law.

5.4.2.4 Passive labour market policies

One of the policy tools used for finding solutions to the unemployment problem is the passive labour market policies. Aiming at overcoming the negative outcomes of the unemployment problem, those policies include measures towards ensuring a certain amount of economic security for the unemployed (DPT, 2007: 63). In Turkey, there are a number of passive labour market policies. Some of those, such as severance payment, have been practiced for a long time in history, while some others, such as the unemployment insurance, wage guarantee fund, short-time work payments, have been introduced towards or in the 2000s as response to the changing conditions of labour markets, especially worsened by the crises in the first decade of the 2000s. Indeed, passive labour market policies have always been very controversial for the societal actors, namely the employers' organisations and the trade unions.[258]

The *severance payment* for workers with indefinite employment contracts was the only passive labour market instrument widely used in Turkey until the establishment of the unemployment insurance in 1999 (Tunalı: 2003: 95). It has been perceived as the most rooted and widest obligation of the employer and among the elements of the job security concerns of the trade unions and workers, *vis-à-vis* the flexibility concerns of the employers.

Severance payment is simply defined as "the amount paid by the employer to reward the employee's loyalty to work and workplace proportional to his/her seniority in the cases of termination of the employee's service contract under certain conditions" (Işıklı, 2002: 93 in Özşuca, 2003: 94). It was introduced to the Turkish legislation in 1936 with the first

[258] The domestic dynamics behind the passive labour market policies will be further elaborated as a contested issue in the following section.

Labour Law No. 3008. Throughout the 2000s, it has two components: seniority payment and in advance notice payment (Tunalı, 2003: 96). According to the former Labour Law 1457 (Article 14), which is still valid until the establishment of the Severance Payment Fund as stipulated in the temporary Article 6 of the new Labour Law 4857, seniority payment is equal to a full month's (30 days) salary for every year of service, to be entitled after one year service and for certain categories of termination, which include death; resignation for just cause such as, as a result of retirement, marriage (only for women) or military service obligations (only for men), dismissal initiated by the by the employer for reasons other than worker misconduct and firing for economic reasons (World Bank, 2006: 86; Tunalı, 2003: 96). There is also an upper limit[259] for the severance payment, which is the annual retirement bonus payable to highest state official subject to Civil Servants Law No. 657 (World Bank, 2006: 86). The in advance notice payment[260], as a function of years of service, covers the wage payable to a worker for the period stipulated under the in advance notice requirement when the employer wants to terminate the work contract immediately (Tunalı, 2003: 96-97).

The *unemployment insurance* is a relatively new policy tool, established in August 1999 with the Law No. 4447.[261] It is defined as an insurance branch to compensate, for a definite period and extent, the income loss due to unemployment of the insured worker, who loses his/her job without any intention and fault of the worker, while working in a workplace, although he/she has the ability, health conditions and willingness to work (İŞKUR, 2009: 73). It covers the unemployment allowances for periods ranging from 180 to 300 days; payment of sickness and maternity insurance premiums during the period specified by law; finding a new job; and assistance with vocational training, development and education programmes (NPAA, 2001: 334). In order for the insured workers to benefit from the unemployment insurance, they are required to work for 600 days paying premiums for the last three years and working continuously for the last 120 days before termination of the contract, and to be separated from the job involuntarily, without his/her own fault (İŞKUR, 2009: 73). The system does not include civil servants or the self-employed; it is mandatory,

[259] The upper limit to severance payment was brought by amending the Labour Law of that time with the Law No. 2792 dated 11 December 1982 dated 11 December 1982.

[260] If the employee has worked less than six months, then the period of in advance notice is two weeks; if tenure is between six months and one and a half years, then the period is four weeks; if tenure is between one and a half and three years, then the period is six weeks; if tenure exceeds three years, then period equals eight weeks. (Tunalı, 2003: 96)

[261] Law No. 4447 on Unemployment Insurance adopted on 25 August 1999 published in the Official Journal No. 23810 dated 08 September 1999.

covering all industries and occupations; and benefit levels are earnings-related (World Bank, 2006: 89). The legal framework for the system is considered to follow the standard OECD blueprint (World Bank, 2006: 89).

The first premium cuts were started in June 2000 and the first payments were made in March 2002. The Ministry of Labour and Social Security has the duty to collect the premiums, whereas the İŞKUR is in charge of all other services and procedures in relation to the unemployment insurance. The Law No. 4447 originally indicated to establish an Unemployment Insurance Fund to be composed of the premiums from three parties, 3% by the employee, 2% by the employer and 2% by the state based on the insured worker's gross wage used to for determining the social security premium. Starting from 2002, the total premium cut was reduced to 4%, where employees contribute 1%, employers 2% and state 1%. The premiums of unemployment insurance are collected in the Unemployment Insurance Fund managed by a board consisting of the employee, employer and Treasury representatives, and is headed by the Director General of İŞKUR (Tunalı, 2003: 97).

By September 2009, a total number of 1.931.333 workers applied for the unemployment insurance and a total of 1.676.066 workers received it (İŞKUR, 2009: 74). As shown in Table 40, the number of workers who applied for the insurance, as well as the total amount paid to the applicants, started to increase by 2008 especially with the effect of the crisis and only in mid-2009 it decreased to an extent (İŞKUR, 2009: 74-75).

Year	Applications	Eligible and Granted	Not Eligible
2005	208.051	186.231	21.820
2006	330.694	199.441	21.253
2007	246.877	221.582	25.295
2008	381.678	331.894	49.784
2009 as of 30 September	475.416	379.220	96.196

Table 40: Unemployment Insurance Payments (per application) (İŞKUR, 2009: 74)

An important aspect of the unemployment insurance is its coverage. The insurance excluded a large number of people especially those working informally and unregistered. It is stated that an important deviation from the OECD blueprint is the simplified monitoring of continuing eligibility, primarily due to the sizable informal sector and limited capacity of employment offices to monitor the current status of recipients (World Bank, 2006: 89). In addition, considering the fact that stable labour relations are not widespread in Turkey, the eligibility requirements of benefiting from the insurance in the Law have been very heavy (BSB, 2008: 107). Moreover, there are two more conditions that restrict benefiting from the system: the period of staying in system is short (for example for those who

worked for at least 600, the maximum period of insurance payment is at most 180 days); and, a lower floor and ceiling for the payments are identified (between the half and all of the minimum wage) (BSB, 2008: 107). As a result, the Fund could make payments only to a very limited number of unemployed with a minimum amount of payment. For example, in 2006 only less than 4% of the unemployed workforce could get unemployment benefits (EC, 2007: 30).

Another element of the passive labour market policies has been the *Wage Guarantee Fund*[262], which was initially established as part of the Labour Law No. 4857 (Article 33) but later annexed to the Unemployment Insurance Law No 4447[263] in May 2008. The Fund was established as a part of the Unemployment Insurance Fund in August 2003 with the aim to compensate three-month unpaid wages of the employees who had been adversely affected from their employers' declaration of bankruptcy and/or revelation of inability to pay. To be eligible for the fund, the employee has to be continuously employed by the firm a minimum of one year before the declaration of inability to pay (İŞKUR, 2009: 76).

The revenues of the wage guarantee fund is calculated as the 1% of employer contribution to Unemployment Insurance Fund premiums collected by the Social Security Institution. Although, as shown in Table 41, the payments and number of workers benefited from the Fund increased considerably in 2009 as a result of the crisis; the assets of the Fund is still almost 3.5 times more than the total amount of payments made from the Fund (İŞKUR, 2009: 76).

	2007		**2008**		**2009**	
	Person	*Amount*	*Person*	*Amount*	*Person*	*Amount*
Total	2.223	3.602.134	827	1.071.807	10.463	19.775.776

Table 41: Wage Guarantee Fund payment data (İŞKUR, 2009: 76). Numbers for 2009 are as of 30 September.

As another component of the passive active labour market policies, the *Short-Time Work Programme*[264] was initiated in 2003 with the Labour Law No. 4857, to compensate workers employed in enterprises where, due to crisis or other adverse conditions, weekly employment hours were considerably reduced, or production was completely stopped permanently or partially stopped temporarily. Under those conditions, given the approval

[262] Regulation on the Wage Guarantee Fund, Official Journal No. 27272 dated 28 June 2009.
[263] With the Law No. 5763 on Amending Labour Law and Some Laws, published in the Official Journal No. 26887 dated 26 May 2008.
264 Regulation on Short-Time Work and Short-Time Work Payment, Official Journal No. 25419 dated 31 March 2004.

of the Ministry of Labour and Social Security, those workers are granted short-time work payments. In order to be able to benefit from the payment, the employee should apply for the payment; the employer's application should be approved by the Ministry; and by the starting time of the short-work, the employee should be satisfying the general conditions for eligibility for unemployment insurance (İŞKUR, 2009: 77).

Short-time payments are paid so as to compensate for the lost working hours over weekly non-worked periods. The amount of the daily payments paid to eligible workers is at the level of unemployment insurance scheme, which is set at 40% of the daily average gross income of the worker over the last four months of his/her employment. However, the payment cannot exceed 80% of the gross minimum wage set for workers above 16. Initially the short-time work payments were granted for the duration of the short-time work and a maximum period of three months only. In February 2009, the short-time work payments were increased by 50% and the programme was extended by six months twice in order to lower the effects of the crisis.

Year	Persons Paid	Amount (TL)
2005	21	10.567
2006	217	64.398
2007	40	22.051
2008	0	0
2009 as of 30 September	149.952	125.090.739
TOTAL	150.230	125.187.755

Table 42: Short-time Work Payments (İŞKUR, 2009: 77)

The *job loss compensation* is a second termination payment for the displacement of workers as a result of privatisation. It was defined in the Law No. 4046[265] for the workers of the state-owned enterprises but displaced as a consequence of preparation of those enterprises for privatisation; privatisation of them; down-sizing or partial or complete termination of their activities; their closing down for a definite or indefinite period, or their liquidation (İŞKUR, 2009: 79). In addition to those workers' compensations stemming from the law and collective agreements, İŞKUR is responsible for paying job loss compensation to those workers; assisting them in finding a new job; training them for occupational development and new skill acquisition; and paying for their social security cuts to the relevant institutions on their behalf. The amount of compensation depends on the service years and final wages. With the amendment of the Article 21 of the Law No.

[265] Law No. 4046 on Privatisation adopted on 24 November 1994 published in the Official Journal No. 22124 dated 27 November 1994.

4046 in 2005[266], it was adopted that job loss compensation would be twice the daily net minimum wage. The disabled workers are allowed to job loss compensation, which is four times higher than the daily net minimum wage. In order to be eligible for this compensation, the displaced workers should apply to İŞKUR in latest 30 days after the job contract is terminated (İŞKUR, 2009: 79).

Between March 1995 and October 2002 job loss compensation was paid to 14.049 individuals (Tunalı, 2003: 98). Table 43 shows the number of application and eligible workers for the job loss compensation between 2005 and 2009.

Year	Applications	Eligible
2005	4.380	4.380
2006	2.431	2.431
2007	260	260
2008	657	657
2009 as of 30 September	435	435

Table 43: Job Loss Compensation Payments (İŞKUR, 2009: 80)

5.4.2.5 Active labour market policies

In general, the active labour market policies (ALMPs) are considered within the framework of increasing importance of a qualified labour force supply to the markets to support the increasing competitiveness of the countries (İŞKUR, 2009: 61). In addition, those policies are perceived as an important instrument to prevent the transformation of the unemployment into long-term unemployment, created especially due to economic recession, shocks and large-scale restructuring (DPT, 2007: 97). In this regard, active labour market policy is a policy tool to facilitate employment of the unemployed; to assist them in establishing their own work; and to ensure the adaptability of the labour force to the labour market so that the labour market functions properly (İŞKUR, 2009: 61). With the philosophy of increasing employability, the most important characteristic of the ALMPs is flexibility, both in terms of the fields in which they are implemented, and in terms of their target group, instrumental to the adaptation to the changing conditions of the labour market (DPT, 2007: 63).

In Turkey, the active labour market policies started to enter the employment policy agenda from the 1990s onwards, especially through some initiatives largely funded by the World Bank (World Bank, 2006: 97). For the first time, the Seventh Five-Year Development Plan (1996-2000) referred to use of the ALMPs as a necessity and priority within the context of

[266] With the Law No. 5398 on Organisation of Privatisation Applications and Amending some Laws adopted on 03 July 2005 published in the Official Journal No. 25882 dated 21 July 2005.

globalisation and EU harmonisation processes in Turkey, in relation to the concomitant needs of the flexible and secure labour market and of ensuring adaptation to the market conditions through skill training and re-training programmes (DPT, 1995: 54). In the 2000s, the active labour market policies have been conceived as the most important instrument of the European Employment Strategy by the government (DPT, 2007: 97), and thus, the use of ALMPs has been encouraged and the institutional capacity was strengthened. With the establishment of the İŞKUR, as a part of the restructuring of the labour market and as the institution to be primarily in charge of those policies, the share of ALMPs policies compared to the passive policy measures has increased considerably in Turkey.

The importance given to ALMPs increased during the Eighth Five-Year Development Plan period. In the Ninth Development Plan, the active labour market policies are conceived as an instrument "to increase employability by improving the skills and qualifications of the labour force", and they cover programmes such as labour force training; vocational education and labour force adaptation programmes; vocational consultancy and counselling services; development of job searching strategies; providing disadvantaged groups such as the unemployed, disabled, women and youth with opportunities of job-finding; entrepreneurship training; and, employment-guaranteed education programme (DPT, 2006: 48). All those elements of the ALMPs are implemented by İŞKUR in Turkey. In addition, there are also programmes and projects within the context of bilateral and/or multilateral international technical assistance, grants and loans in order to encourage and strengthen the implementation of ALMPs in Turkey (İŞKUR, 2009: 61).

The first active labour market policies were implemented back in the mid-1990s, for the workers displaced as a result of the privatisation of the state-owned enterprises (KİTs), through "Privatization Implementation Assistance and Social Safety Net Project", initiated and funded by the World Bank's "Privatization Implementation and Adjustment Loan" in 1994-1995. Aiming at the development of alternative employment opportunities, the labour component of the project aimed at designing, financing and installing "a package of transitional labour adjustment and regional support services linked to privatisation"; one of the specific component of which was the provision of labour adjustment services to provide re-training, small business development, public works programmes, job-search assistance and counselling (Kikeri, 1997: 33).

Throughout the 2000s, one of the components of the ALMP implemented by İŞKUR has

been the *Privatisation Social Support Project* (PSSP), supported by the loans of the World Bank in order to support and monitor the social impact of the government's Economic Reform Programme and its privatisation initiatives; and, to contribute in mitigating the negative social and economic impact of the privatisation of state-owned enterprises (İŞKUR, 2009: 68). The first PSSP was implemented for the period of 2002-2005, and the second PSSP as a continuation of the first phase was implemented for the period of 2006-2008. Although the Project also included some passive labour market measures such as provision of severance and related payments to workers displaced due to the privatisation of KİTs; the majority of the components included active measures such as labour re-deployment services to displaced workers and assistance in rapidly re-entering the labour market; and in-depth job counselling, temporary community employment, and worker re-training.[267] Within the context of the re-deployment component of the Project, İŞKUR provided three types of services, namely job counselling, training and temporary community employment programmes up to six months.

	Job Counselling			***Training***			***Community Employment Prog.***		
	Prog.	Benefited	Employed	Prog.	Benefited	Employed	Prog.	Benefited	Employed
2002	1	560	59	38	1.777	1.185	4	34	14
2003	7	2.886	173	269	7.353	4.023	29	417	77
2004	4	1.420	135	177	4.703	2.872	22	260	45
2005	1	300	30	200	5.389	3.049	21	266	47
2006	1	296	34	72	1.486	904	9	113	14
2007	0	0	0	160	3.089	1.724	16	180	27
2008	0	0	0	228	4.443	2.160	15	138	23
Total	**14**	**5.462**	**431**	**1.144**	**28.240**	**15.917**	**116**	**1.408**	**247**

Table 44: Activities within the context of Privatisation Social Support Project (İŞKUR, 2009: 70)

Table 44 shows the activities realised by İŞKUR within the context of the Privatisation Social Support Project. For the period of 2002-2005, İŞKUR implemented 773 projects from which 25.365 workers benefited, and out of which 11.709 were employed. For the period of 2006-2008 İŞKUR implemented 501 projects from which 9.745 people benefited, and out of which 4.886 were employed (İŞKUR, 2009: 70).

Another ALMP instrument used by İŞKUR is the *labour force training courses*. Those courses aim at training and increasing employability of the most disadvantaged people in the labour market, namely young people, women, disabled, ex-convicts, long-term unemployed and unemployed within the context of the unemployment insurance, in the fields and occupations required by the labour market. For this aim, İŞKUR regularly

[267] Information available at the World Bank website under the section of Turkey. www.worldbank.org.tr /external/default/main?pagePK=64027221&piPK=64027220&theSitePK=361712&menuPK=361744&Projectid=P069894.

organises employment-guaranteed labour force training courses, vocational training courses for those who would like to establish their own work, occupation development courses, vocational training and rehabilitation activities targeting disabled people, vocational training for ex-convicts, and trainings for the unemployed covered by the unemployment insurance (İŞKUR, 2009: 62). In addition to those, İŞKUR also implements projects for labour force trainings, financed from the training budget of İŞKUR, unemployment insurance fund, fines collected from those who did not employ disabled or ex-convicts, and grants and credits received from cooperation with the international organisations.

As shown in Table 45 in the period of 2005-2008, İŞKUR mostly opened training courses within the framework of the unemployment insurance, followed by those for ex-convicts.

	2005		**2006**		**2007**		**2008**	
Type of course	*Course*	*Persons*	*Course*	*Persons*	*Course*	*Persons*	*Course*	*Persons*
For ex-convicts	90	1.402	126	2.019	413	6.188	283	3.916
Employment-guaranteed	28	579	246	5.025	196	9.327	368	8.666
Within unemployment insurance	89	1.379	118	1.687	275	4.329	442	6.839
For self-employed	29	448	38	648	86	1.698	279	4.622
PSSP	222	5.955	82	1.895	176	3.269	243	4.581
For disabled	42	1.710	94	3.047	179	7.880	273	3.582
TOTAL	**500**	**11.473**	**704**	**14.321**	**1.325**	**32.691**	**1.888**	**32.206**

Table 45: Labour force adjustment services (İŞKUR, 2009: 62)

With the additional financial and legislative measures taken by the government after the crisis both the types of programmes, as well as the number of participants, increased considerably in 2009. Table 50 shows the new types of programmes and the participants benefited from those in 2009.

	Courses	**Participants**
For ex-convicts	268	3.579
Employment-guaranteed	723	16.297
Within the context of unemployment insurance	24	399
For self-employed	304	6.655
For disabled	155	1.886
Labour force training courses	3.888	81.688
Temporary Public Employment Programme (TPEP)	1.390	42.571
Centre of Attraction Project	12	450
South-Eastern Anatolia Project (GAP) II	486	11.187
South-Eastern Anatolia Project (GAP) II TPEP	13	814
Grant Projects	374	10.043
Internship	253	563
Entrepreneurship	2	21
Vocational training of employed	20	397
TOTAL	**7.912**	**176.550**

Table 46: Labour force adjustment services in 2009 as of 25 October 2009 (İŞKUR, 2009: 63)

Another ALMP measure by İŞKUR is the *vocational and occupational counselling* services, which aim at assisting individuals to choose the job and occupation that suit the most to their will and situation by comparing their skills with the requirements and conditions of the occupations; ensuring individuals benefiting from the training opportunities related to those occupations; ensuring adjustment of the individuals to the jobs; and, systematically assisting to the solution of problems related to the placement of the individuals in those jobs. Within the framework of the work performed in 57 Occupation Information Centres, those measures are implemented through 26 Vocational and Occupational Counselling Offices for the individuals who are at the stage of choosing an occupation; who have difficulties in acquiring an occupation and choosing a job; who would like to develop their skills; who would like to change their occupations or jobs; and, who have difficulties in finding jobs (İŞKUR, 2009: 64).

	Number of Individuals benefited from the services of the Occupation Information Centres	**Number of individuals benefited from Job Searching Skills Seminar**	**Vocational and Occupational Counselling Services**	
			Individual talks	*Students worked with*
2005	55.912	21.392	1.645	68.207
2006	52.033	74.776	2.124	67.223
2007	61.909	88.864	2.600	90.015
2008	62.562	91.746	4.154	110.445
2009	59.657	93.933	5.005	89.059

Table 47: Vocational and occupational counselling services (İŞKUR, 2009: 65). 2009 data is as of 30 September.

Occupation Research and Development is another ALMP conducted by İŞKUR. In parallel to the renewed technological infrastructure of the labour market and development of the production systems, this measure includes activities of occupation research, collection of information and job analysis, in order to identify the new occupations emerged in the labour market, as well as the changes in the job definitions of the existing occupations (İŞKUR, 2009: 66). As a result, occupation information sheets are prepared; occupations' standard job definitions and descriptions are identified, classified, coded in line with the International Standard Classification of Occupations (ISCO-88); and included in the system and Turkey's Occupation Dictionary.

	Number of newly added occupations	**Number of updated occupations**	**Total number of occupations in the Turkish Occupation Dictionary**
2005	115	8	2.682
2006	120	5	2.802
2007	128	45	2.930
2008	1.000	14	3.930
2009	239	-	-

Table 48: Job and occupation analysis activities (İŞKUR, 2009: 66). Data for 2009 is as of 30 September.

İŞKUR also provides *training services in the enterprises* for the employed workers within the context of the ALMPs. Those trainings aim at positively contributing to the labour force performance by increasing the management culture, quality and job security of the labour force; and, developing the management and training skills of the first and middle level managers (İŞKUR, 2009: 67). Those seminars are organised in package programmes such as worker development seminars, first level managerial seminars, and middle level managerial seminars; or in modules of seminars on themes such as time management, total quality management, human relations and stress, human relations and communication, and health at work and security. Since 2005, the total number of seminars realised in the enterprises are 2.274, with a total number of participants reaching at 50.995 (İŞKUR, 2009: 68).

In addition to the ALMPs implemented by İŞKUR, some other governmental institutions, municipalities and NGOs conduct those types of policies in their own fields of work and capacities. The Ministry of National Education is the institution in charge of vocational training, including apprenticeship training, within the context of informal education services of the Ministry. Those trainings are implemented by public and private institutions, enterprises, municipalities, NGOs, and İŞKUR (World Bank, 2006: 98). In addition, Small and Medium-sized Enterprises Development Organisation (KOSGEB), which functions under the Ministry of Industry and Trade, performs ALMP programmes for the self-employed and small businesses (DPT, 2007: 64). Some other ALMP measures also include micro-credits and supports for establishing own businesses.

5.4.2.6 Women's employment

Although female labour force participation rates have been alarmingly low especially throughout the 2000s in Turkey and women's employment has been an important component of the European Employment Strategy, this policy issue received very limited attention until the mid-2000s in the Turkish employment policy context. In general, the overall problem of non-employment of women has often been targeted through various programmes and projects at the state and civil society levels; through international programmes and donor assistance; and in cooperation with the women's organisations and private sector, rather than being tackled through laws and regulations. The projects and programmes have often been small-scale, sometimes local projects, which could not guarantee women's entry to the labour market, or extensive job opportunities for women.

Starting by mid-2000s, many reports drafted or commissioned by the governmental agencies and international organisations, such as the Ninth Development Plan, Medium-Term Programme (2006-2008), 2006 and 2007 Annual Programmes and the World Bank Labour Market Survey for Turkey (2006) underlined the low level of female employment as a serious problem. However, rather than relating the problems and solutions directly to employment, most of these have offered solutions in the context of social inclusion and poverty alleviation (Toksöz, 2007: 51). Those reports mainly focus on three categories of solutions: the promotion of flexible employment and encouraging women towards this type of employment; female entrepreneurship; and, vocational training for women and increasing women's education levels (Toksöz, 2007: 51; Ecevit, 2008: 182; KEİG, 2009: 19), which overall reflect a shift in approach towards the active labour market policies.

As a policy tool, *flexible types of employment* are argued to enable the labour force participation for more persons, especially women, since it helps to reconcile family life with the professional life (KSGM, 2008: 25). Moreover, it is argued that the introduction of flexible working arrangements would be particularly important for women (World Bank, 2006: 78) and more flexible labour market regulation may reduce the barriers of businesses hiring women (DPT and World Bank, 2009: 23). *Female entrepreneurship* is seen as another tool for solving the problem of women's unemployment in Turkey, even, for the recent years, as the only way of increasing women's employment (Ecevit, 2008: 183; KEİG, 2009: 21). Encouraging and supporting women to work for their own account is intended to increase women's income levels with mechanisms other than paid-work in public and private enterprises. In other words, this approach envisages business start-ups mostly by urban and middle income group women through training in entrepreneurship (Toksöz, 2007: 62). In addition, female entrepreneurship is also referred as a means to improve household welfare as a part of poverty elimination, where income generating skills and household-based small scale production and trade activities are expected to improve income levels of women (Toksöz, 2007: 62). To this end, various programmes, projects and activities have been carried out by public institutions, professional organisations and non-governmental organisations often with the financial support of international donors.[268] Increasing women's level of *education* and providing *vocational training* opportunities for women is the third policy tool emphasised for increasing the low

[268] Some of projects and programmes were supported by the EU such as "Support Women Entrepreneurship through Training Centres and Relays in Turkey" by TESK (2007) and "Support Women's Entrepreneurship" by TESK and KOSGEB (2005).

rates of female labour market participation. The lower chances for girls and young women to benefit from educational opportunities are also seen as a reason of gender inequalities in employment.

These issues and problems in relation to low levels of labour force participation for women are all stated in various governmental reports such as Five Year Development Plans, Annual Programmes, KSGM reports, and those prepared or supported by international organisations such as ILO, World Bank and the European Union. In spite of the abundance of proposals coming from domestic and international actors to increase women's employment and employability, for a long time it has not been possible to argue that there is a macro policy or political will to solve these problems in Turkey (Ecevit, 2008: 116). There has not been any single self-definitive policy framework, but instead statements are often found scattered under various policy headlines in plans and programmes as a part of public policies (Toksöz, 2007: 51 and 2007b: 74).

Against that background, in 2008 a policy document, the Gender Equality National Action Plan (2008-2013), was prepared in the framework of the Twinning Project Promoting Gender Equality, which has been implemented by the General Directorate on the Status of Women and the Ministry of Social Affairs and Employment of the Netherlands with the financial assistance of the European Commission. This Action Plan was an effort to define "the objectives and implementation strategies as well as the policy makers, for the purpose of promoting gender equality in various aspects of the lives of women and men" (KSGM, 2008b: 6). Besides other issues[269], the National Action Plan focused on the topic of women and economy "in order to reach the target stated in the Ninth Development Plan that the labour force participation rate of women should raise to 29.6 per cent by the end of 2013" (KSGM, 2008b: 39). This National Action Plan and its policy document on "women and economy" covered issues including the significance of the role of women in economy; an overview of the legal framework with regard to gender equality; an analysis of the current situation of women compared to men based on statistics; the obstacles in this area for reaching gender equality; an overview of relevant government policies; and a listing of objectives and strategies for action to be implemented between 2008 and 2013 (KSGM, 2008: 2). This means that the National Action Plan as a policy framework and document, to an extent, described the present situation in women's employment; identified problem

[269] These issues are promoting gender equality in Turkey; education; economy; poverty; power and decision making mechanisms; health; media; environment; and, human rights and violence.

areas; identified objectives and strategies for solutions; identified relevant governmental and non-governmental actors for implementation; and, proposed monitoring and evaluation processes.

In the field of women and economy, three objectives and related strategies for action are foreseen for the period 2008-2013:

> Objective 1: All parties will accelerate efforts to increase women's employment in line with the Ninth Development Plan.
> Objective 2: Women's economic position in rural areas will be improved.
> Objective 3: Gender discrimination in the labour market will be combated and the gender gap in wages will be decreased.

Objective 1 directly targets at increasing low level of female labour force participation rates. Looking at the strategies attached to that objective, it is possible to see that the emphasis is still on the education and (vocational) training; women's entrepreneurship; and, awareness-raising. As a relatively new policy emphasis, some of the strategies attached to this Objective target at decreasing the prevalence of mentality, traditional structure and other obstacles that constrain women's participation in economic and social life; enhancing the availability of care services; and making efforts to cover women within the social security system. To reach these targets, the National Action Plan has defined certain roles and responsibilities for all the agencies and institutions involved.

An important development regarding women's employment was observed in 2010. The Prime Ministry Circular No. 2010/14[270] on "Increasing Women's Employment and Ensuring Equal Opportunities" stated that increasing women's employment and ensuring equal pay for equal work are a must in order to strengthen women's socio-economic status; ensure equality between women and men in the social life; and to reach the targets of sustainable economic growth and social development. In order to identify the actual problems in the field of women's employment and to ensure monitoring, evaluation, coordination and cooperation of the efforts undertaken by all relevant parties towards the elimination of those problems, the Circular aimed at establishing a "Women's Employment National Monitoring and Coordination Committee", to be composed of high level government officers (from various ministries, general directorates and institutions), employer's and employee's representatives, as well as the NGOs and university representatives working on women's employment. The Circular can be considered as an effort to mainstream gender equality in the making of new policies and implementation of

[270] Published in the Official Journal No. 27591 on 25.05.2010.

the existing legislation regarding employment policies, and ensuring the implementation of the equality provisions of the Labour Law No. 4857 in the private sector.

5.4.2.7 Measures to combat Informal Economy

The high level of undeclared, unregistered work in the enlarging informal sector has long been a very serious problem of the labour market in Turkey. Since 2001 every year, the large size of the informal sector has also been stated as a major challenge for Turkey in the Progress Reports of the European Commission. As indicated in Chapter 3, almost half of the employed population work in the informal economy in undeclared, unregistered works. In fact, informal economy as a policy problem has references to a wide range of different policy areas, and accordingly different policy tools, such as taxation as a part of fiscal policy, employment and illegal activities. In this section, the policy tools to combat informal employment will be outlined.

Throughout the instability of the 1990s in Turkey, although informal economy was defined as a problem area, fighting against it remained only as a political rhetoric (Savaşan, 2011: 31). Just before the economic crises of 2000/2001, the Eighth Five-Year Development Plan listed very general principles and policies in terms of legalisation of the informal economy in order to positively affect the economy by eliminating unfair competition; to increase the tax revenues; and, to reduce total cost of labour, contributing to legal employment and efficiency in economy (DPT, 2000: 213).

In the mid-2000s, some concrete steps were taken by the AKP government to combat informal economy. The Ninth Development Plan included "the struggle against the informal economy" as a priority under the heading of increasing competitiveness (DPT, 2006). In addition, under the employment section, the restructuring of the labour market was also foreseen as a means to reduce informal employment. The 60th Government Programme considered informal economy as a problem that would decrease the productivity of the enterprises and hinder their development, in a way to decrease their competitiveness. In this line, the AKP government declared its intention to fight against the informal economy, especially through decreasing taxes.

The need to take measures to combat informal and unregistered economy were also among the main issues raised in the İŞKUR General Assembly decisions throughout the 2000s (İŞKUR, 2003; İŞKUR, 2005; İŞKUR, 2007; İŞKUR, 2009b).

"The Struggle against Informal Employment" (KADİM)[271] project was initiated by the AKP government in 2006, as a control mechanism in the labour market. The project aimed at the prevention of is the prevention of informal employment, particularly of illegal foreign employees (World Bank, 2010: 3). In the context of the project, a commission consisting of relevant public institutions and several social interest groups (trade unions, employer associations), as well as vocational institutes and non-governmental organisations was established, and an executive coordinating unit was set up within the Ministry of Labour and Social Security (World Bank, 2010: 3). This project was considered as a comprehensive initiative including extensive inspections and awareness-raising activities in the sectors which intensively depend on informal employment (Savaşan, 2011: 31). However, the European Commission underlined the insufficiency of such initiatives in the Progress Reports by stating that "there has been few systematic effort to reduce the substantial employment in the informal economy" (EC, 2006; EC, 2007).

In 2009, the AKP government announced "The Action Plan for the Strategy to Combat Informal Economy[272] (2008-2010)." This Strategy was prepared in line with the "increasing competitiveness" axis of the 2008 Annual Plan to materialise the policy priorities of the Ninth Development Plan and EU *acquis* Harmonisation Programme. The approach to the informal economy in this strategy was in close relation to the aims of increasing competitiveness of the economy by reducing unregistered economy. Three objectives of the policy document were (1) to encourage registered activities through strengthening the formal employment creation potential and increasing voluntary compliance; (2) to strengthen the inspection capacity and increasing the sanctions through developing the inspection capacity; and, (3) to ensure and strengthen institutional and social commitment through training and publicity and through ensuring, strengthening and sustaining institutional cooperation. The Plan covered a three-year period, with 105 actions to be implemented (World Bank, 2010: 3). Indeed, in the 2009 Progress Report on Turkey, this initiative taken by the government in 2009 was positively perceived by the European Commission. However, this action plan as a combination of a series of incentives and legal sanctions was also criticised for lacking measurable targets and indicators (EC, 2009).

In addition to those initiatives, some piecemeal measures to combat with the negative

[271] Prime Ministry Circular No. 2006/28 on "The Struggle against the Informal Employment (KADİM) Project", Official Journal No. 26309 dated 04 October 2006.
[272] Prime Ministry Circular No. 2009/3 on "Action Plan to Fight against the Informal Economy (2008-2010)", Official Journal No. 27132 dated 05 February 2009.

effects of the economic crises on employment were also taken. For example, the stimulus package to combat unemployment, also known as "the employment package"[273], dated May 2008 also focused on reducing informal economy besides other objectives of reducing the labour costs; increasing the employment of women, youth and disabled people; improving active labour market policies; facilitating the foundation of private employment agencies; regulating the relation of sub-employers' status; and, reducing the bureaucracy for establishment of new enterprises (NPAA, 2008: 19).

5.4.3 The outcome of domestic employment policy change in Turkey

The first part of the bottom-up analysis in form of a narrative in the previous two sections about the domestic development and outlook of the different components of employment policy by the end of 2010 gives an overall idea about the nature and patterns of employment policy change domestically in Turkey. The evidence shows that compared to the period before 1999 (t0), the year in which Turkey was granted the status of an official EU candidate country, the employment policy priorities and its elements by the end of 2010 (t1) largely reflect a comprehensive restructuring of the existing institutional framework and the introduction of new legal and policy tools that intend to consolidate a new approach to employment policy. Table 49, summarises the outcome of domestic employment policy change in Turkey in three categories, namely no change, moderate change and radical change.

Components of Employment Policy	*Status before and in 1999*	*Status by the end of 2010*	*Outcome of Domestic Policy Change*
Institutional Framework			
İŞKUR	Existed as Employment Brokerage Institution since 1946.	Totally restructured in 2003.	Radical change.
Private Employment Offices	Non-existent.	Established in 2003-2004.	Radical change.
Major Legal Framework			
Labour Law	Labour Law No. 1475 dated 1971	New Labour Law No. 4857 in 2003.	Radical change.
Passive Labour Market Policies			
Severance Payment	Introduced with the first Labour Law No. 3008 in 1936; until the 2003 regulated with the Labour Law No. 1475 dated 1971.	Planned to be terminated upon the establishment of the Severance Payment Fund as indicated in the new Labour Law No. 4857 in 2003.	No change but attempts to radical change in the existence of high degree of contestation.

[273] Law No. 5763 on Amending Labour Law and some Laws adopted on 15.05.2008 and published in the Official Journal on 26.05.2008.

Unemployment Insurance	Non-existent.	Introduced in 1999.	Radical change.
Wage Guarantee Fund	Non-existent.	Introduced in 2003 with the new Labour Law No. 4857 and annexed to Unemployment Insurance Law No. 4447 in 2008.	Radical change.
Short-Time Work Programme	Non-existent.	Introduced in 2003 with the new Labour Law No. 4857.	Radical change.
Active Labour Market Policies			
Various programmes and training courses such as Privatisation Social Support Project, labour force training courses, vocational and occupational counselling services, training services in the enterprises.	First time in the Seventh Five-Year Development Plan in 1995, limited number of programmes and services.	Increasingly started to be used after the establishment of İŞKUR in 2003.	Moderate change.
Women's Employment			
Gender Equality National Action Plan	Non-existent.	Published for the first time in 2008.	Radical change.
Informal Economy			
The Action Plan for the Strategy to Combat Informal Economy	Non-existent.	Published in 2009.	Radical change.

Table 49: The outcome of domestic employment policy change in Turkey.

Depending on the input in the previous two sections, it is possible to make some observations regarding the outcome of domestic employment policy change in Turkey throughout the 2000s. When the components of employment policy by the end of 2010 (t_1) are scrutinised, it is possible to see that in 1999 (t_0) many of the components were either non-existent (such as İŞKUR, new Labour Law No. 4857, the unemployment insurance, any measures regarding women's employment and informal employment etc.), or were used to a limited extent (such as the active labour market policies). Thus, in the former case, there is *radical change* in a way to introduce a number of new elements into the Turkish employment policy. In the latter case, there is *moderate change*, which means that some of the existing tools in Turkish employment policy have started to be used increasingly, such as the active labour market policies. Finally in some cases, there is *no change* yet in practice, but there have existed many attempts to change the policy tools in the existence of high degrees of contestation, as it is the case in the issue of severance payments.

The nature of the domestic employment policy change in Turkey reflects many practices that inseminate new policy paradigms to the understanding of employment policy

domestically. There is a growing emphasis on increasing the *flexibility* of the labour market and there are serious efforts to ensure this through legislation. The new Labour Law is a good example of this effort, which introduced both non-standard, atypical, flexible forms of employment and flexibilities on the duration and organisation of working time, for the first time in Turkey. The establishment of İŞKUR reflects a complementary nature for the new approach to employment in terms of changing the conditions and provisions of labour market services. The increasing use of *active labour market policies* refers to the concepts of *adoptability and employability*, shifting the burden of being unemployed on the employees, rather than considering unemployment as a result of structural problems of the labour markets. In that sense those policies can be considered as a part of a *supply-side strategy* to alter impediments to employment aiming to make employees ready for available jobs, rather than creating new jobs. In addition to those changing paradigms in approaching employment, it is also possible to observe a number of piecemeal measures taken to tackle with the negative impact of the 2000/2001 and 2008/2009 crises in Turkey. The analysis of those measures, which lacked any long-term vision, show that they rather aimed at reducing the burden on the employers as a way to increase the employment (or decrease unemployment) in the times of crises.

The predominant efforts towards restructuring the domestic employment policy in Turkey throughout the 2000s make it possible to name the major characteristic of domestic employment policy change as "comprehensive substantive framing." The pattern of observed policy change is comprehensive because it includes many different aspects of employment policy ranging from the institutional set-up to major legal framework and different policy tools. It is substantive to the extent that the nature or the substance of the policy has considerably changed. And finally, framing refers to the observation that many of the restructured or newly introduced elements of employment policy in Turkey are rooted in some common sets of "policy frames[274]" such as increasing flexibility, employability of employees through training and vocational training, adaptability, or using the active labour market policies rather than the passive ones within a supply-side orientation.

[274] Policy frames can be defined as "the underlying structures of belief, perception and appreciation on which policy positions rest" (Schon and Rein, 1994: 23). In addition, Verloo (2005: 20) also suggests that a "policy frame" is an "organising principle that transforms fragmentary or incidental information into a structured and meaningful problem, in which a solution is implicitly or explicitly included."

Actually, a broad comparison between the European (Section 5.2) and Turkish employment policies in the 2000s (Section 5.4) makes it arguable that there is a visible congruence between two policies in terms of the substance of policy, although such a congruence is very difficult to be observed in terms of the procedures of European employment policy. This is to say that the emphasis of the European employment policy and the tools proposed to be involved in its context, (namely increasing the dependency between the employment and macroeconomic priorities of the EU; taking measures to increase competitiveness and the role of the private sector; following a supply-side orientation; shifting from passive to active labour market policies to increase "employability"; and emphasizing flexibility, or "flexicurity") show a great deal of similarity to those introduced into the Turkish context throughout the 2000s. However, without the analysis of dynamics of domestic change, neither the identification of the existence of domestic policy change in Turkey nor its congruence with the European policy are *per se* sufficient to claim that the change is due to the European pressures. This is to suggest that to what extent the employment policy change in Turkey is due to the pressures of EU accession process, or is a part of the domestic reform processes can only be analysed through a closer look at the dynamics of domestic employment policy change in Turkey throughout the 2000s. Thus, the following section will present the evidence which illuminates those dynamics in light of some suggested mediating factors, proposed to explore the causes of the domestic employment policy change deeper and to test the potential of mediating factors' in explaining the outcome of policy change in Turkey.

5.5 The Dynamics of Domestic Employment Policy Change in Turkey: Mediating (F)actors and Issues of Contestation

The analysis of the development of the employment policy throughout the 2000s and the outlook of its components in Turkey make it possible to argue that the substance of the employment policy in Turkey by the end of 2010 has visible parallels to the European employment policy principles, although a congruence is very difficult to be observed in terms of the procedures of European employment policy (non-existence of JAP and NAP); and, in terms of the concrete employment targets of the Lisbon Process (70% overall employment rate and 60% women's employment rate). Regarding the substance in a very general sense, the European employment policy principles, objectives and substance can be grouped in form of "frames" according to the internalisation and use of the concepts, ideas and instruments in a way that they inherently refer to a particular definition of the policy

problem and particular suggestion of a solution for that problem. Such an exercise depending on the data provided in Section 5.2 shows that the European employment policy has extensive references to supply-side policies; employability of the labour force, adaptability of the enterprises and employees, and flexibility; the shift from passive to active labour market policies, especially through training; the role of private sector and competitiveness; and, the relation of the employment policy with macro-economic policies. The outcome of domestic employment policy change in Turkey as characterised by "comprehensive substantive framing" also suggests that many of those frames can be found in different components and instruments of the employment policy in Turkey. Those policy principles have extensively been used by the government in the development plans, in the mid-term economic programmes, in the reasonings of the legal changes in Turkey and there are also numerous references in the official governmental documents to the EU and EES.

In the Europeanisation literature, an explanation for the framing impact of the European integration at the domestic level is suggested to be "learning." The argument is that the European employment policy depends on the use of soft law, namely the OMC as a new, emerging mode of governance at the European level. The methods of OMC, hence those of the EES, diverge considerably from the law-making system of the hard law instruments, and OMC is self-declaredly organised as "mutual learning processes[275]" through periodic monitoring, evaluation and peer review. This process is different than "vertical imposition of models coming from Brussels" and has a larger potential for ideational convergence policy learning (Bulmer and Radaelli, 2005: 351, 349). However, many Europeanisation scholars also find out that it is difficult to "trace the causal link between learning and policy change" empirically and the evidence of learning is little and differential among different types of learning (Radaelli, 2008: 241); and there are "fundamental methodological problems regarding the mode of functioning and extent of policy learning in the empirical analysis of causal connections" (Hartlapp, 2009). For example, Radaelli (2008: 241) finds out that evidence of learning at the top (or "EU-level learning") is limited, cognitive convergence driven by the top (or "hierarchical learning") is even more limited, and there is almost no evidence of learning from below ("bottom-up learning" or "social learning"). He concludes that OMC provides more evidence of redefinition of policy discourses (social learning) and political learning than instances of policy learning

[275] Lisbon European Council, Presidency Conclusions, 23-24 March 2000.

(Radaelli, 2008: 251).

In the Turkish case, it is also very difficult to state that "learning" has been a decisive element of the outcome of domestic policy change. In a very limited and slow-going context, Turkey has not yet taken part in the iterative and bilateral and multilateral governance processes of EES such as sharing good practices and experiences, comparison of national results with those of the best performers, and collectively redefining objectives and policies. Thus, in the Turkish case, there is also little evidence to suggest that from a procedural point of view, EU has influenced Turkey's employment policy through "learning" mechanisms.

Although the explanatory power of "learning" mechanism is limited in the Turkish case, there are still a number of factors within the context of framing integration mechanism that can help explaining the outcome of domestic employment policy change in Turkey. As suggested by the scholars of framing integration mechanism of Europeanisation, European level policy can still contribute to "altering expectations and beliefs of domestic actors in such a way to motivate domestic institutional change" (Knill and Lehmkuhl, 2002: 262) and/or they can provide "additional legitimacy to domestic reformers in search of justifications, by 'inseminating' possible solutions in the national debate, and by altering expectations about the future" (Radaelli, 2003: 43). In this regard, the domestic level gains a particular importance and the role of the domestic actors, their interests and positions *vis-à-vis* the EES and other external interventions become significant.

This is also argued to be the case in the emerging literature on EES and framing integration. It is suggested that adaptation of the national employment policies to the EES does essentially depend on the "governmental actors" (De La Porte and Pochet, 2004), or on "the national governments" as the key actors in the policy areas where "the supranational institutions have very weak powers" (Bulmer and Radaelli, 2004). The domestic impact of European framing in any particular area is argued to vary "greatly according to the nature of dominant national belief systems and the existing institutional opportunities for and constraints on reform" (Knill and Lehmkuhl, 2002: 262). In addition, many scholars applying the framing integration mechanism refer to the importance of domestic policy actors. For example, Mailand (2008) focuses on the strategic use of EES by national and subnational actors for external legitimacy of unpopular measures and reforms. Stiller (2006, 43) suggests that Europeanisation by framing is conditional upon the domestic actors' use of EU. Schüttpelz (2006: 153) proposes that it was the domestic

actors and political structures that shaped the results of Europeanisation. In addition, "societal effects" are also expected to shape the adaptation in each country (Roberts and Springer, 2001: 52). Rhodes (2005: 299-300) states that "the existing institutional dynamics, agendas of the social partners, and national political circumstances" determine the degree of national adaptation and implementation. In sum, it is possible to argue that a common denominator of many of the case studies within the Europeanisation literature using framing integration mechanism is the focus on the role of the domestic actors and institutions in determining the counties' responses to the European employment policy, in particular to the EES. Thus, the positions and perceptions of the domestic policy actors occupy an important position in the analysis of domestic change due to the European integration in the field of employment policy as an example of the soft law policy instrument of the EU.

Thus, the Section 5.5 aims at providing evidence about the dynamics of domestic employment policy change, in a way to explore the causes of the change deeper and to test the potential of mediating factors', as proposed in the Design Chapter, in explaining the outcome of policy change in Turkey as characterised by "comprehensive substantive framing."

The first mediating variable is the role played by *domestic politics*. As elaborated in the previous case study, domestic politics is understood as a combination of a number of elements, each of which is expected to be influential directly or indirectly in shaping the outcome of domestic policy change throughout Turkey's pre-accession process, while it is also affected by the process itself and by the other elements of domestic politics. Those elements are a) the positioning and ideology of the government *vis-à-vis* the substance of the EU requirements; b) the interests of the domestic societal actors, and c) the distance between the EU requirements and the domestic societal norms. Since the analysis of domestic policy change starts with the 1999, the positioning and the ideology of the government majorly refers to the three successive AKP governments, which came to power for the first time in 2002 and stayed in the office throughout the period covered in this research. Thus, the ideology and the positioning of the government as a factor that may influence the outcome of domestic employment policy change in the Turkish case actually represent an ideological continuity, helpful in understanding the political dynamics in Turkey for the first decade of the 2000s. In the context of employment policy, by the end of the 2010, the government's ideology bears considerable degree of neo-liberal tones in a

way to support the integration of Turkey into global capitalism, "through an EU-inspired process of trans-nationalization" (Atasoy, 2009: 7). Abandoning the anti-IMF and anti-liberal reaction that the AKP tried to embrace throughout its election campaign (BSB, 2003), from the first days of its term after the 2002 election, AKP has increasingly shaped its economic programme in line with a neoliberal market-oriented economic model (Atasoy, 2009: 9) and with the neo-liberal policies that have favoured foreign capital and market (BSB, 2003) throughout the first decade of the 2000s. Interests of the societal actors refer to the positioning of the actors *vis-à-vis* the EU requirements, which are observable throughout the policy processes by supporting or objecting the proposed changes. In the case of employment policy, the societal actors are mainly the confederations of employers' unions and business associations, confederations of and individual trade unions, and women's organisations, in particular to women's employment. The societal norms in the case of employment policy particularly refer to the overarching notion of patriarchy, which has a considerable effect on the conditions of women's employment. In this regard, patriarchy has a potential to mediate the EU requirements and the outcome employment policy change in the sense that they feed the ideology of the government and fed by it, and they can be either used as a justification or fought against by the societal actors. In sum, the way in which all those three factors interact with each other *vis-à-vis* the EU requirements and the outcome of domestic policy change is named as domestic politics in the context of this research, assuming the potential to mediate and eventually explain the outcome of domestic employment policy change in Turkey.

A second mediating variable is the existence and intervention of *external/endogenous factors other than the EU* in mediating the EU related policy change. As the background for the development of the employment policy since the 1980s shows, both the macro economic policies and the employment policy as a function of it have directly and indirectly been influenced by the interventions of the international finance institutions, namely the IMF and the World Bank. As a result of the structural adjustment programmes with the IMF and through the financial and expertise support of the World Bank, inevitable exogenous pressures have been created over the components and conditions of the employment policy in Turkey. To the extent that those interventions and the EU requirements regarding the employment policy mutually support each other, those external factors have a potential to mediate the impact of the EU and the outcome of domestic employment policy change in Turkey.

In light of two mediating variables suggested above, and in order to complement the bottom up approach in a way to analyse whether or not the EU and other external factors helped in "altering expectations and beliefs of domestic actors in such a way to motivate domestic institutional change" (Knill and Lehmkuhl, 2002: 262) and/or they provide "additional legitimacy to domestic reformers in search of justifications, by 'inseminating' possible solutions in the national debate, and by altering expectations about the future" (Radaelli, 2003: 43), there is a need to go one step further towards the dynamics of domestic adaptation processes. A method to do so is process-tracing, as utilised in the previous case study. To trace the policy processes for analysing the potential of the suggested mediating factors in shaping the outcome of domestic employment policy change in Turkey, the additional sources such as the governmental plans and programmes; press releases, especially those of the confederations and business organisations; newspaper articles; in some cases interviews; and, reports/publications prepared by various actors including, trade unions as well as the representatives of the private sector are used.

The analysis of the policy processes regarding the employment policy reveals some important aspects of domestic employment policy change. Since many of the employment policy components were newly introduced or were tried to be radically transformed throughout the 2000s, high level of contestations among the policy-makers and societal actors occurred. A number of policy issues or components of the employment policy have been quite visible on the policy agenda throughout the 2000s. The introduction of the new Labour Law, the establishment of the private employment offices, the introduction and use of the unemployment insurance and efforts to terminate severance payments, and women's employment are the major issues of contestations in this regard. In addition, the use of active labour market policies and measures to combat informal economy/employment also received the attention of many societal actors. In fact, all those issues have cross-references to each other sometimes in a perceived causality and sometimes by constituting the basis of a particular position of the societal actors when defining a policy problem and offering solutions for it. For example, unemployment insurance can be considered as a reason to oppose severance payments, or active labour market policies and flexible forms of work to be regulated through the Labour Law and private employment offices can be considered as a means to increase women's employment. Such complementarities between different elements of the employment policy also bring about some categorical positions taken and divides created by different societal actors in line with their interests.

Secondly, process tracing reveals that some domestic actors as the major elements of domestic politics have been more visible than others in these processes. These actors include a wide range of categories covering state actors such as the government and its ministers, bureaucratic units; interest groups such as the business associations, employers' unions and confederations, trade unions and confederations, and occupational organisations; civil society organisations such as women's NGOs. In addition, the international actors such as the IMF, World Bank and the EU have been quite visible in those processes, too. The interaction between these actors and contested issues is expected to be helpful in testing the potential of the suggested mediating variables to explain the outcome of domestic employment policy change in Turkey.

In the following section, the contested issues will be elaborated in the light of the two major mediating variables, domestic politics and external factors other than the EU, in order to explore their potential to explain domestic employment policy change in Turkey.

5.5.1 The Introduction of the New Labour Law (Flexibility vs. Job Security)

The major legal framework that has regulated the employee-employer labour relations is the new Labour Law No. 4857[276] adopted in 2003. The general reasoning of the Law indicated that the adoption of this law, rather than revising the previous one, reflected the changing economic, social and political conditions of the working life. The Law was produced as an outcome of the need for flexibilisation, which could not be realised due to the rigid provisions of the previous law and on the contrary resulted in increased number of derogatory practices in the labour market, such as employing unregistered workers. A further motivation for adoption of the Law was the requirement to adjust the EU and ILO norms, especially those which did not exist in the Turkish labour law before. Thus, two considerations marked the adoption of the new Law from the AKP government's point of view: to bring more flexibility to the labour market; and to transpose the relevant EU *acquis*, especially those in the field of Labour Law.

The new Labour Law was a controversial piece of legislation with a complex history (World Bank, 2006: 78). The process of making of the new Labour Law was started in June 2001 by the Ministry of Labour and Social Security, with the formation of a tripartite scientific commission, composed of nine university professors, three appointed by the

[276] Labour Law No. 4857 adopted on 22 May 2003 published in the Official Journal No. 25134 on 10 June 2003.

government[277], three by the Turkish Confederation of Employers' Association (TİSK) and one by each of the three labour confederations (Türk-İş, Hak-İş and DİSK) (Süral, 2005: 408).

The preparation of the Labour Law actually coincided with the adoption process of the Law No. 4773 on Job Security in August 2002, and brought the social partners in confrontation about the Labour Law, due to the flexibility demands from the employers' side and job security demands from the trade unions' side. The employers, for example TİSK[278], and TOBB[279], emphasised repeatedly that the Labour Law was needed to be in line with the technological development and conditions that globalisation created so that rigid labour legislation could have been eliminated. In addition, TİSK sent a letter to 550 members of the parliament on 15 December 2002 demanding the adoption of the Labour Law and stated that if the Labour Law and the job security had not been simultaneously implemented, the unemployment would have increased (Çelik, 2003). On the other hand, workers' confederations reacted severely to the provisions of the draft Labour law, especially those regarding flexible working times and forms of employment, severance payment and provisions on job security (World Bank, 2006: 78). Türk-İş Lawyers Committee criticised 36 articles of the draft Law, by stating that the Law abandoned the principle of protection of worker and shifted its emphasis towards protection of enterprise (Çelik, 2003). Although the AKP government, which came to power after the 3rd of November 2002 elections and thus undertook the process of adoption of the new Labour Law since then, prepared a law to postpone the entry into force of the Job Security Law, it was vetoed by the Head of the Republic and that Law came into force on 15 March 2003 (Çelik, 2003). And only months after this, the new Labour Law No. 4857 was adopted by the Parliament on 22 May 2003, and went into force in 10 June 2003. One of the moves of the new Law was to increase the application of the job security law for enterprises employing 10 workers to 30 workers, and to decrease the job security compensation from 6-12 months to 4-8 months, meaning that some of the provisions of the Law on Job Security were already changed before that Law could go into effect (Çelik, 2003). In April 2004, a number of implementing regulations of the Labour Law came into force. Those

[277] 57th Government of the Republic of Turkey, which was a coalition government of social democrats (DSP), nationalists (MHP) and liberals (ANAP), stayed in the office from 28 May 1999 to 18 November 2002.
[278] "Seçim sonrasının önemli işlerinden biri: Katı çalışma mevzuatından kurtulmak", by Bülent Pirler, TİSK General Secretary, İşveren Dergisi, September 2002.
[279] "2003'te Yeni bir İş Yasası", by M. Rıfat Hisarcıklıoğlu, Head of TOBB Executive Board, İşveren Dergisi, September 2002.

were concerning working time, overtime work and special procedures for shift workers, as well as the employment of children and young workers, which defined the minimum ages for different types of work, appropriate areas and conditions for work and responsibilities of the employer and of the state in a way to transposing the *acquis* on the protection of young people at work (EC, 2004: 108).

There are different views about the new Labour Law as an outcome of a confrontation between social partners. While some suggests that the Law did not bring fully what the employers demanded within the tripartite system of preparation (Süral, 2005), the others argue that it is "to 'reregulate/deregulate' individual labour law in line with the neoliberal conceptualisation of capital–labour relations" (Özdemir and Yücesan-Özdemir, 2006: 317), and this process proved the political effectiveness of the organised employers, resulting in the "softening" of the "rigid" provisions of the previous law, as criticised by the employer organisations (Çelik, 2003). In addition, the middle-way approach argued that the eventual Labour Law Code was intended to be a 'compromise', because at the end of the legislative process, the provisions to allow flexible employment (subcontracting, temporary help) were weakened seeming to be in favour of the trade unions, and job security protections were revised to apply only to enterprises with at least 30 employees as a result of the employers' lobbying (World Bank, 2006: 78; Süral, 2005: 408).

As a result, neither the employers nor the trade unions were happy with the result. In spite of the considerable degree of flexibility brought by the Law, TİSK[280] criticised the Law for lowering the flexibility functions and continued demanding more flexibility in a way to disburden the enterprises through circulars to be issued by being based on the Law, so that the 'mistakes' made in the Law could be eliminated by the government (TİSK, 2003b). On the other hand, although the confederations of trade unions stated that they could consider the reasons necessitating more flexibility, one of the common concerns of the confederations[281] pointed out that there was no evidence to prove that flexibility increased employment, but on the contrary flexibility arrangements could create results that

[280] Mr. Refik Baydur, the Head of the Executive Board of TİSK, in his opening speech made at the Seminar on the Role of the Temporary Work Forms and Private employment Offices on Employment Creation (TİSK, 2003b).

[281] Mr. Süleyman Çelebi, Head of DİSK, Speech made at the International Seminar on Flexibility and Employment on the way to EU (TİSK, 2005); Mr. Salim Uslu, Head of Hak-İş, Speech made at the International Seminar on Flexibility and Employment on the way to EU (TİSK, 2005); Mr. Salih Kılıç, Head of Türk-İş, Speech made at the International Seminar on Flexibility and Employment on the way to EU (TİSK, 2005).

decreased it. Thus, increasing flexibility was not considered as an effective tool for decreasing unemployment by the trade union confederations; but it was rather perceived as an arrangement to lessen the labour costs to the favour of the employers. Another common concern of the trade union confederations was the need to ensure a balance between the flexibility arrangements and social security and protection for the workers, with the conditions that right to get organised and collective bargaining right would be fully ensured. In this regard, the confederations emphasised the need for social dialogue mechanisms.

Between those two fronts, the statement of the head of İŞKUR[282] is quite explanatory for the legal changes realised towards flexibility. He argued that Turkey needed flexible type of work and there was no choice of being for or against those arrangements, since it was not only the domestic actors who made the decision, but rather the conditions of globalisation and global competition that required Turkey to realise those changes (TİSK, 2003b). Indeed, the recommendations of the World Bank and the EU were also in the same direction. For example, the World Bank's "Turkey Labour Market Study" underlined the need for reform in order to achieve the desired effect of increasing flexibility of the labour market by liberalising labour regulations (World Bank, 2006: xiii). In a similar vein, the 2007 Accession Partnership referred to the labour market imbalances and the need to improve incentive structures and flexibility in the labour market to increase participation and employment rates. In other words, the new Labour Law was a product of the changes in the economic and social orientation of world economic system, as well as the need to adjust to those changes, in a way that was justified with the requirements to adjust to the EU *acquis*, as well as the ILO norms.

However, to what extent the new Labour Law fully transposed all the relevant EU *acquis* in the field of Labour Law remains another question. Besides bringing flexibility to the labour market in Turkey, it is already stated that one of the aims of the adoption of a new Labour Law was to fulfil the efforts to align with the EU *acquis*. However, this reasoning voiced by the government several times did not mean that the relevant EU *acquis*[283] was to

[282] Mr. Necdet Kenar, the General Directorate of İŞKUR, in his speech made at the Seminar on the Role of the Temporary Work Forms and Private employment Offices on Employment Creation (TİSK, 2003b).

[283] New provisions on *flexibility and atypical types of employment* largely drew on Council Directive 93/104/EC, of 23 November 1993, concerning certain aspects of the organisation of working time as amended by Directive 2000/34/EC of June 2000; Council Directive 94/33/EC of June 1994 on the protection of young people at work; Council Directive 97/81/EC of 15 December 1997 concerning the Framework Agreement on part-time working concluded by UNICE, CEEP and the ETUC as amended by Council

be fully transposed at the end of the process. Several studies have shown that some of the principles of the EU directives were not included in the Law; some of them were only partially covered; or some provisions even conflicted with the EU regulations. For example, Taymaz and Özler (2004: 24) indicated that the Law disregarded any social dialogue, employee participation and consultation and employees' right to be informed. Hendrickx and Sengers (2006: 98) stated that the provisions relating to part-time work in Law were considered in a minimalist way and no measures were taken to stimulate part-time work. Çelik (2003) argued that the working times, overtime work and annual leave in the Law contradicted with the minimum EU norms. Taymaz and Özler (2004: 24) argued that those provisions that have not yet been incorporated into the Labour Law were those which would add some costs on enterprises (for example the provision on maximum weekly working time, and minimum period of annual leave), which would increase the costs of the firms a few percentage points of the wage bill. Moreover, some of the new concepts introduced by the new Law, such as "on call work" and "compensatory work" did not exist in the EU directives, and some of the worker protective provisions of the EU legislation were not transposed to the Labour Law (Çelik, 2003).

From a legal perspective the adoption of this Law implied some changes in the classical conceptualisation of the labour law, through a shift in the regulatory scope of a labour contract and the introduction of new types of labour contracts and of new conditions of work (Özdemir and Yücesan-Özdemir, 2005: 69). The critical opinions on the Labour Law indicated that this Law included the principle of "protection of workplace" rather than "protection of the worker" and legalised "flexibility" as a product of the market rationale; and the new forms of work and employment introduced by the Law would weaken the trade unionism; damage the continuity of the income; and would create problems for social security issues such as health, pensions and unemployment insurance (Çelik, 2003). In addition, to what extent the flexible work forms introduced by the Law would contribute to increasing employment, decreasing unemployment and unregistered activities remain to be contested.

The labour market in Turkey has already been flexible, especially due to the sizable informal economy and unregistered labour (Pennings and Süral, 2006: xi). This has also been valid regarding the real wage flexibility (Onaran, 2000: 206). In times of crises,

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Directive 98/23/EC of 7 April 1998; and Council Directive 99/ 70/EC of 28 June 1999 concerning the framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP (Süral, 2005: 408).

Turkish enterprises had already used methods such as unpaid leaves, collective leaves, short-time work, payments proportional to the duration of work, compensatory work sometimes by asking the approval of the trade unions (Özşuca, 2003: 106). In this regard, the adoption of the new Labour Law can also be construed as the regulation of such exercises through law in order to legalise the practices and demands of the employers (Özşuca, 2003: 107). In other words, those changes realised by the new Labour Law were targeting at bringing more flexibility into the "formal" labour market, as a key factor to increase competitiveness and employment, as well as to implement the EU *acquis* (Pennings and Süral, 2006: xi). Especially through the legal introduction of atypical forms of work that already existed in practice and that was the most welcomed aspect of the new law by employers (Taymaz and Özler, 2004: 24), the new Labour Law was expected to make undertakings productive and competitive (Süral, 2005: 413). Leading to the possibility of using discretion for the employers, changing definitions of work and pay, and changing working hours through the Law would enhance the employers' adaptability to the market demand and contraction and expansion of the market; as well as contributing to their competitiveness by enabling them to decrease labour costs; but it would also put a big pressure on the employees, by decreasing their motivations and productivity (Özşuca, 2003: 107).

In sum, the adoption process of the new Labour Law displays some characteristics of the dynamics of domestic employment policy change in Turkey. The government greatly grounded its argument on the need for a radical legislative change on the need for further flexibility of the labour market in Turkey, in line with the necessities of the global competition and requirements of aligning with the EU *acquis* in the field of Labour Law. In this position, increasing flexibility was considered as a means to cope with some labour market problems such as eliminating derogatory practices due to rigidity of the previous legislation and unregistered work, and increasing employment eventually. In a similar vein, the employers continuously demanded more flexibility, considered as a way to disburden the employers so that employment would increase. Interestingly, the positioning of the government and the employers in terms of defining the problem (low degrees of or unregistered employment, unemployment) and suggesting the solution for it (more flexibility) were very much in line with the recommendations of the World Bank and the EU towards more flexibility in the Turkish labour market, in order to increase participation and employment rates. In this regard, not only the EU and WB recommendations

supported each other, but also they provided additional justification for the government and the employers at the domestic level.

However, the trade unions did not share the vision that more flexibility would increase employment, but on the contrary, they believed that more flexibility could even decrease the employment. Perceiving flexibility as an arrangement to favour employers by decreasing their labour costs, the trade unions showed a stand against flexibility without security. The trade unions' demand to ensure a balance between flexibility and social security and protection of workers was indeed the basis of the confrontation between the government and the organised employers on the one hand, and the confederations of the trade unions on the other. This positioning of the trade unions was not too different than the proponents of the flexicurity at the European level. In that sense, it was also possible for the trade unions to base their arguments on some of the European employment policy principles and use those as justification for their own demands.

It is also interesting to observe in the case of adoption of the new Labour Law that in spite of the high degree of congruence with the World Bank and EU recommendations towards flexibility, the government was hesitant to legalise some principles, which would bring additional costs to the employers or some security related provisions. Using the leeway stemming from the vague boundaries and scope of the EU employment policy, the government preferred to start the radical change in a way to increase flexibility of the labour market in Turkey in line with the demands and interests of the employers, but has delayed the adoption of some of the European principles regarding the security of the workers.

5.5.2 The Unemployment Insurance (Activisation of the Passive Measures)

The unemployment insurance was introduced into the Turkish legislation for the first time in August 1999 with the Law No. 4447 by the 57th government[284]. The reasoning of the law indicated that unemployment insurance was both a requirement of the "social state" principles as stipulated in the Constitution, and, a requirement of the aim of integration into a modern and democratic world. In this regard, income guarantee policies such as the unemployment insurance, was conceived both an inherent part of the right to work, and

[284] 57th government of the Republic of Turkey was a coalition government formed by Democratic Left Party (DSP), Nationalist Movement Party (MHP) and Motherland Party (ANAP) in May 1999. This government adopted the first three EU harmonisation packages after Turkey's official candidacy to the EU in 1999, and remained in the office until the AKP's election victory in November 2002.

was intended to help wide-spread implementation of social security. In addition, it was also indicated in the reasoning that Turkey was the only country which did not implement unemployment insurance among the OECD and EU countries, and such a lack was a factor that complicated social approximation of Turkey to the EU. The legal framework adopted for the establishment of such a system is considered to follow the standard OECD blueprint (World Bank, 2006: 89) and an unemployment insurance fund was established.

Since its introduction, the unemployment insurance has been an issue of contestation among the social partners/societal actors, especially in terms of its perceived overlap with the already existing severance payment system. This is to say that the unemployment insurance, as a protection in case of unemployment, gave the opportunity to the employers to discuss and question the existence of the severance payment obligation. For example, TOBB's position in the Special Expertise Commission established for the preparation of the Ninth Development Plan was that the Unemployment Insurance Fund should be considered as a social insurance, and severance payments should not exist together with this insurance (DPT, 2007: 107). Thus, the employers approached the unemployment insurance as a means to help them demand the termination of the severance payments in due course. In spite of such instrumental approach and meaning attached to the unemployment insurance system, many employers' organisations, especially TİSK, opposed the unemployment insurance by stating that the economic and social situation of the country was not in a position to ensure proper implementation of the unemployment insurance, and it considered this arrangement as being unjust for those who would like to enter the labour market for the first time, because the insurance foresaw help for the unemployed, who had already find chance to work (TİSK, 2000b: 15 in Özsuça, 2003: 117).

In spite of their negative approach at the beginning, the Unemployment Insurance Fund started to receive considerable attention especially from the employers' organisations in the following years, due to the increasing financial assets of the Fund. Especially owing to heavy eligibility requirements of benefiting from the insurance and difficulties regarding stable labour relations, the Fund could make only limited amount of payments serving to a limited number of unemployed in mid-2000s. Also considering the surplus that the Fund has produced through two main revenues, namely contributions and returns on the Fund's financial investments, it was possible to see that current expenditures of the Fund was lower than its incomes (World Bank, 2006: 92). Such a situation has also provided a

borrowing opportunity for the Treasury (BSB, 2008: 107). Considering the powerful financial accumulation of the Fund, the employers have made various recommendations to the government, in order to use the fund for several other purposes than its original purpose. For example, in 2007, TOBB suggested that the Fund's net balance could be used for creating additional employment, and for two years in all extra employment increase, the social security premiums could be covered from the Fund (BSB, 2008: 107). In their "Alternative Employment Package" proposal, TİSK suggested a very similar use of the Fund stating that resources accumulated in the Unemployment Insurance Fund should be used by the state to cover the labour costs such as wage and insurance premiums of the employers who ensure additional employment to the long-term unemployed (Özkaplan, 2008: 4). In addition, TİSK recommends the usage of the resources of the Fund towards providing prevalent occupations to the unemployed covered by the Fund and towards developing professional skills of those who are under high unemployment risk (TİSK, 2006). In other words, the suggestions of the employers' have been towards shifting the use of the Fund, which is originally a passive labour market policy tool, in the direction of the active labour market policies, especially towards provision of training and education to the unemployed.

The World Bank has also stated its concerns about the existing unemployment insurance system and the Fund in Turkey. In "Turkey Labour Market Study", after conducting several simulation exercises, the World Bank suggested that the system should be reformed and one of the options could be using the unemployment insurance fund for financing enhanced active labour market programmes (World Bank, 2006: 96). Another reform strategy recommended by the World Bank has gone beyond the modification of existing parameters, but more fundamentally has proposed to change the architecture of income support for unemployed workers, in a way to involve transformation and integration of the existing severance and unemployment systems into "fully funded individual accounts to provide income support to workers who have lost their jobs" (World Bank, 2006: 96). In addition, the World Bank recommended that the premiums could be lowered, because the Fund had a "massive surplus" (World Bank, 2006: x).

Actually in 2009, the AKP government adopted the Law No. 5921[285] intending to curb the

[285] Law No. 5921 on Amending Unemployment Insurance Law and Law on Social Insurances and Universal Health Insurance adopted on 11 August 2009 published on the Official Journal No. 27323 on 18 August 2009.

negative effects of the economic crisis and to increase employment. The Law aimed to encourage employment by taking over, from the employers and workers, the insurance and universal health insurance premiums of the unemployed workers benefiting from the unemployment insurance. Those premiums were to be met by the unemployment insurance for the remaining duration of unemployment payments, in order to create an advantage for the employers to employ workers with lower costs (İŞKUR, 2009: 13). In addition, the Law stipulated that if additional workers, who had been unemployed for the last three months, were employed until the end of 2009, the employers' contribution of insurance premium of those additional employees were to be paid from the unemployment insurance fund for six months. In addition to those incentives for the employers, the AKP government realised another important change in the structure of the unemployment insurance through the same law. Accordingly, some portion of the interest incomes of the Unemployment Insurance Fund was transferred to the general budget (75% in 2009 and 2010 and 25% in 2011 and 2012) to be used for the infrastructure investments for economic and social development, especially in the South Eastern Anatolia Project.

Such a change in the usage of the unemployment insurance and transfer of funds to the general budget received considerable reaction from the confederations of the trade unions. Before the adoption of the Law, Türk-İş, Hak-İş and DİSK sent a joint letter[286] to the Head of the Republic by stating that those changes were contrary to the insurance technique; they would overthrow the actuarial balances; and would cause the Fund not to be able to cover the unemployment payments if and when the number of unemployed would increase. Rather than transfer of funds to the general budget, the confederations demanded betterment and simplification of the conditions of benefiting from the Fund for the unemployed, and asked for increases in the unemployment payments to a level to cover the minimum needs of the unemployed.

In sum, the unemployment insurance was reflecting interesting dynamics of policy change in some senses. It was introduced under a coalition government, with intention to contribute to social security domestically, and to ease Turkey's EU accession process internationally. After 2002, the AKP governments indeed intervened with the use of this policy tool, in a way to turn it into an active labour market policy tool, in line with the

[286] Letter to the Head of Republic by Türk-İş, Hak-İş and DİSK with the subject of "Our veto request for the Law No. 5921 on Amending Unemployment Insurance Law and Law on Social Insurances and Universal Health Insurance". Available online at: www.turkis.org.tr/source.cms.docs/turkis.org.tr.ce/docs/cumhurbaskani.pdf.

approach of the World Bank.

From the employers' point of view, at the beginning, the unemployment insurance was used as a means to oppose to another passive labour market policy tool, namely the existence of the severance payment system, as will be elaborated in the following section. When the financial accumulation of the Fund became a promising resource, the employers changed their previous opposition and started to support the government's intention to use the Fund as a resource for active labour market policies, such as provision of training for the unemployed. The contestations between the government, whose position was also supported by the employers, and the trade unions occurred at this point regarding the perceived use of the Unemployment Insurance Fund. Throughout the contestations, it is possible to observe congruence between the perceptions and positions of the government and the employers on the one hand, and the World Bank's recommendations on the other.

5.5.3 The Severance Payments (Rigidity vs. Job Security)

The severance payment for workers with indefinite employment contracts was the only passive labour market instrument in the Turkish legislation until the establishment of the unemployment insurance in 1999 (Tunalı: 2003: 95). Since it had originally been planned to consider the new Labour Law and a new legal arrangement for the severance payment together, there was no new provisions in the new Labour Law about the severance payment (Limoncuoğlu, 2007: 289). In order to avoid legal gaps until the establishment of a Severance Payment Fund, the Transitional Article 6 of the new Labour Law No. 4857 indicated that entitlements to severance pay would be protected in view of Article 14 of the previous Labour Law no. 1475. After the envision of the establishment of the Severance Payment Fund in line the new Labour Law in 2003, the issue has come to the agenda of the government and the societal actors several times especially in the second half of the first decade of the 2000s, in form of severe confrontations at the domestic level.

The major reference point for the opponents of the severance payment has been the perceived "rigidity" of the labour market in Turkey. Besides encouraging and rewarding the seniority, the regulations regarding the severance payments have mostly been conceived as a threshold to discourage firing of workers and considered within the context of ensuring job security (Arıcı, 2000: 32 in Özşuca, 2003: 95). This is also the point where the relevance of the severance payment to the (un)employment problem becomes more visible. The employers conceive the severance payment as a high cost and an impediment

for firing and hiring workers, and thus as an impediment for employment creation, and blame the existence of this payment for hindering their ability to be flexible enough to adopt themselves to the market conditions. Considering severance payments as a "problem", some employers' organisations such as TOBB believed that that solution of this problem would contribute to the increase of employment (DPT, 2007: 107). Employers' organisations claim that severance payment assumes the functions of the job security and unemployment insurance, and considering the existence of unemployment insurance and job security law, they demand either the termination of or some reductions[287] in the severance payment. In other words, the unemployment insurance and job security provisions have been seen as a reason for the reorganisation, and if possible termination, of the severance payment system (TİSK, 2004).

Moreover, the employers' representatives also criticise the provision of the new Labour Law on the possible creation of the Severance Payment Fund. They argue that such a fund "does not exist anywhere in the world" and it would bring new costs and premium increases to the enterprises especially when many workers demand their rights. In addition, the employers state that severance payment in Turkey is 3.5 times more than the OECD average, so it should be reduced by also taking vested rights into account and a delicate balance between security and flexibility should be established by re-regulating the severance payments (TİSK, 2003b; TİSK, 2006). In 2009, through a joint study entitled "Severance Payment Working Report", different segments of the employers represented by TOBB, TÜSİAD and TİSK declared their demands to change severance and in advance notice payment systems in a way to bring less burdens to the employers.[288]

Actually, it is not only the employers, but also the EU and the World Bank, which consider the severance payments as a signifier of rigidity of the labour market in Turkey. Many of the Progress Reports of the European Commission repeatedly stated that the Turkish labour market was rigid, for example, due to high severance payments and sizable social security wedge (in 2005, 2006, 2008), and high costs of hiring and firing (in 2006, 2007, 2008). Similarly, stating that Turkey was currently implementing two approaches of the labour

[287] For example, Mr. Refik Baydur, the Head of the Executive Board of TİSK, in his opening speech made at the Seminar on the Role of the Temporary Work Forms and Private Employment Offices on Employment Creation (TİSK, 2003b) stated that some reduction in the severance payments could be made through increasing the year of entitlement to the severance payment up to three years and decreasing the annual amount paid down to 15 days from 30 days (Özşuca, 2003: 96; TİSK, 2003b).

[288] "Hükümetin 'Tek Paket' Kozu" by Aşkın Süzük, soL portal, 28 October 2009. Available online at: http://haber.sol.org.tr/yazarlar/askin-suzuk/hukumetin-tek-paket-kozu-19814.

market regulation, that is, both protecting jobs and protecting workers, the World Bank recommended Turkey to shift its labour market policies towards the latter and to increase flexibility of the labour market by liberalising labour regulations, by reducing the severance requirements and by easing the eligibility requirements for the unemployment insurance to ensure its wider availability (World Bank, 2006: xiii).

Many trade unions, on the other hand, consider the severance payment as an important element of social security and as an acquired right. Accordingly, they react against any attempts of the government or the employers towards its termination. The confederations of trade unions, for example Türk-İş, consider severance payments in a way to go beyond the sole economic considerations by arguing that severance payment is one of the acquired rights of the worker, and it is a multi-dimensional issue which has a social dimension concerning not only the workers themselves but also their families which provide for their lives with the labour of that worker.[289] In this context, the confederations of the trade unions, for example Türk-İş and DİSK, criticise the attempts of the government targeting the elimination of the severance payments in line with the demands of the employers. Türk-İş states that the government should not defend insecure labour and target severance payments; reiterates that they will not take part in severance payment discussions; and, any attempts towards curbing this right constitutes a reason for general strike.[290] In a similar vein, DİSK considers severance payments as one of the most important vested rights and immunity of the working class and states that if the severance payment would be terminated or transferred to a Fund, they will fight against it with all effective tools of struggle including the general strike.[291] In several occasions, DİSK stated their determination to fight against the campaigns of the employers against the seizure of this right.[292] In addition, the member trade unions of the confederations also support their severance payment right. For example, Turkish Municipal and General Workers' Union (Belediye-İş) suggests that severance payment is not the reason why unemployment could not be decreased in Turkey, and such a discourse is seen as a tool to gain the support of the

[289] "Türk-İş'ten kıdem tazminatı tepkisi", Cumhuriyet, 22 April 2010. Available online at: http://www.cumhuriyet.com.tr/?hn=133438.
[290] Ibid.
[291] "DİSK Başkanlar Kurulu sonuç bildirgesi açıklandı", soL portal, 24 July 2009. Available online at: http://haber.sol.org.tr/sonuncu-kavga/disk-baskanlar-kurulu-sonuc-bildirgesi-aciklandi-haberi-16063.
[292] "DİSK: Kıdem tazminatı kalkarsa grev yaparız", soL portal, 02 June 2009, Available online at: http://haber.sol.org.tr/sonuncu-kavga/disk-kidem-tazminati-kalkarsa-grev-yapariz-haberi-14255.

unemployed, which does not depend on any scientific validity and could not be proven.[293]

Interestingly, not all the confederations of the trade unions have been against the transformation of the severance payment system. For example, Confederation of Turkish Real Trade Unions (Hak-İş), which is known with its proximity to the AKP government, has supported the transfer of the severance payments to a fund, with the argument that there is a severe problem for the workers in the private sector regarding the use of the severance payment right due to the lack of implementation of the legislation.[294]

The government's positioning towards changing the system of severance payment has depended on the idea that it is a factor that increases the rigidity of the labour market and increases the pressures on the enterprises, and in practice the compliance with it is "only partial." In addition, the government has continuously stated in the government programmes that the financial burdens on employment should be decreased.[295] It is often stated by the government that both the employers and employees use a number of practices to avoid payments. For example, sometimes the employers fire the workers with a particular year of seniority and then hire them back to by-pass paying higher severance payments (Özşuca, 2003: 97); employees are asked to resign rather than being dismissed, in order to avoid severance obligations; or employees are fired before the end of one year to avoid severance (World Bank, 2006: 70). Thus, this means that although the severance payment system, as an element of the passive labour market policies, exists in Turkey, there are also problems regarding its implementation and as a result, the protection offered to workers from severance pay is considerably less than that suggested by the requirements (World Bank, 2006: 86). Such a standpoint is very much in line with the definition of the problem, as well as the solutions to overcome it, by the World Bank, regarding the existence of the severance payment in Turkey.[296]

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[293] Information from the website of Turkish Municipal and General Workers' Union (Belediye-İş). Available online at: www.belediyeis.org.tr/bilgi.php?fid=a5&m=17&lang=tr.

[294] Hak-İş Konfederasyonu'nun Kıdem Tazminatı Konusuna Yaklaşımı: Her Çalışanın Kıdem Tazminatı Garanti Altına Alınsın, 18 July 2011, Available at: http://www.hakis.org.tr. "Hak-İş kıdem tazminatı için 'FON'a destek verdi", *Yeni Şafak*, 15 June 2011, available at: http://yenisafak.com.tr/Ekonomi/?i=330055.

[295] 60th Government Programme Action Plan. Available at: ekutup.dpt.gov.tr/plan/ep2008.pdf.

[296] World Bank recommended basically two reform options towards changing the severance payments system in Turkey. In the World Bank's "Turkey Labour Market Study" (2006) those were modifying the existing parameters, or fundamentally changing the architecture of income support for unemployed workers. Former option included "to bring Turkey's severance arrangements into line with those in comparable countries". An interrelated option was to make severance payments "a part of the wage guarantee fund that is being established under the Unemployment Insurance Fund", which "could allow for workers to receive at least some severance in the event of employer liquidation, bankruptcy, etc." A more radical reform, preferred by the World Bank, would be "to create fully funded individual accounts to provide income support to workers

In sum, contestations around the transformation of the severance payment system in Turkey have been a highly visible throughout the 2000s. The major point of contestation has been the consideration of the severance payment as a signifier of rigidity and an obstacle to increase employment by the employers, *vis-à-vis* the social security concerns of many of the trade unions. This is a product of the approach to unemployment problem, which visualises unemployment as a result of high cost of labour that employers must pay, and any decrease in the labour costs are expected to provide the private sector an opportunity to create new jobs. Contrary to the employers, many trade unions have not considered the existence of the severance payment as a reason for unemployment, but rather supported the right as an acquired right of the workers. The government's positioning has indeed been very much in line with the demands of the employers on the one hand, and with the recommendations of the World Bank and the EU on the other. Using the lack of implementation regarding the right of severance payment, the government has justified the transfer of the severance payment into a fund[297], rather than giving way to develop the methods to ensure its implementation.

5.5.4 The Private Employment Offices (Privatisation of the Employment Services)

A radical change in the provision of the main employment service was the establishment of private employment offices, allowed by Law of İŞKUR No. 4904 and later by the Circular on Private Employment Offices[298] in 2004. Once the İŞKUR has started to receive the applications for the establishment of the private employment offices, the monopoly of İŞKUR in job finding and placement services ended (Çiner, 2007: 271; TİSK, 2003b, İŞKUR, 2009: 58).

With the view to reorganise the employment services in line with the changing market economy and conditions of the labour market and to implement active labour market

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who have lost their jobs", which would involve transforming and integrating the current severance system and the Unemployment Insurance Fund, where employees or employee-employer combinations would contribute to individual worker accounts transferable across enterprises; employees would benefit from it only when separation is involuntary; part of contribution could go to a pooled unemployment insurance fund for unemployed workers who exhaust their accounts; and on retirement, unused funds in individual account could be transferred to pension account (World Bank, 2006: 87-88). The latter option proposed by the World Bank simply refers to financing of the unemployment insurance and even their pensions, by the employees themselves, and even for the other unemployed people.

[297] "İşçi hakkı 'Türkiye'nin sorunu' oldu!", soL portal, 24 January 2010. Available online at: http://haber.sol.org.tr/ekonomi/isci-hakki-turkiye-nin-sorunu-oldu-haberi-23166.

[298] Circular on the Private Employment offices published in the Official Journal No. 25378 on 19 February 2004. This Circular was recently replaced by the Circular on 1 August 2008 in the Official Journal No. 26954.

policies, the institutional restructuring of the implementing agency of the employment policy in Turkey has been a part of the Turkey's EU harmonisation efforts and the recommendations of the World Bank. Indeed, the restructuring of the Turkish Employment Organisation (İŞKUR) was a product of the EU technical assistance programme to support Turkey's ability to implement policies and services in line with the European Employment Strategy. To licence the private employment offices within the context of such a restructuring was also recommended by the World Bank to ensure the provision of the full range of employment and training services as a part of the active labour market policies (World Bank, 2006: xiii).

The government's support for the establishment of the private employment offices was already observable from the inclusion of this issue in the Law of İŞKUR. The arguments behind taking a radical step in this regard was explained with the lack of service provision in the labour market *vis-à-vis* the high population in Turkey, and in this regard, private and public services were seen complementary to each other within a positive competitive environment, towards provision of services with lower costs (TİSK, 2003b). In addition, as stated by the General Director of the İŞKUR in 2003, Turkey was the only country, which did not make arrangements on the private employment offices until 2003, within the EU countries (TİSK, 2003b). In preparing the legislation for the private employment offices, the international legal framework was also taken into consideration, primarily the ILO Convention No. 96[299], but also the Convention No. 181[300], which was not yet signed by Turkey by that time[301]. In the following years, the AKP governments have continued to support the functioning of the private employment offices. In the 60th Government Programme, it was indicated that the establishment of the private employment offices would be encouraged and, diversification of their services would be ensured, especially through legal amendments in the Labour Law No. 4857 and in the Law of İŞKUR No. 4904.[302]

The establishment of the private employment offices was an issue also raised and demanded by the employers. From the employers' perspective, the establishment of the private employment offices was important to increase efficiency of the labour markets. For

[299] ILO Convention 96 Fee-Charging Employment Agencies Convention (Revised), 1949.
[300] ILO Convention 181 Private Employment Agencies Convention, 1997.
[301] Turkey has not yet signed this Convention by 2011, according to last updated information from http://webfusion.ilo.org/public/db/standards/normes/appl/appl-byCtry.cfm?lang=en&CTYCHOICE=0660.
[302] 60th Government Programme Action Plan. Available at: ekutup.dpt.gov.tr/plan/ep2008.pdf.

example, the head of the executive board of TİSK criticised the previous work of İŞKUR for lacking a "functional working order" and stated that establishment of those private offices was an important development in order to ensure the implementation of the atypical work forms so that the efficiency of the labour market would be ensured; to find solutions to the unemployment problem; and, to play a role in increasing productivity in employment (TİSK; 2003b). In various publications, TİSK made further references to the private employment offices in a way to define a role for those offices for the implementation of active labour market policies (a role which has actually not been defined in law for those offices); fast provision of the qualified labour force finding services requested by the employers; decreasing informal employment; and supporting women's and young people's participation in the labour force (TİSK, 2006). Another important employer association, TÜSİAD, demanded for increased effectiveness for job-seeking in the labour market and ensuring qualification matching, in a way to effectively bring together the unemployed and the enterprises, and therefore, underlined the need to increase the functionality of İŞKUR and as well as the use of private employment offices (TÜSİAD, 2008: 82). In addition, another emphasis of the employers on the establishment and functioning of the private employment offices was the expectation about the regulation of temporary employment/work relations through private employment offices. TİSK perceived such a regulation as an important factor for increasing employment, as it has been the case in the EU countries, but has not been implemented in Turkey. Accordingly, TİSK demanded a change in the relevant article of the Labour Law (Article 7) to realise this system (TİSK, 2006). TÜSİAD also made a statement by the time of the adoption of the Law No. 5920 demanding the legalisation of such a regulation.[303]

The regulation of temporary employment in relation to private employment offices was indeed the major reference point of a severe domestic political contestation. The government took a step towards regulating "temporary work relations" through private employment offices, in line with the demands of the employers, through the Law No. 5920[304], which would add a new paragraph to the Article 7 of the Labour Law. The text of the addition was stating that "'temporary work relation in a professional sense' refers to the private employment office's transfer of the worker, with whom the office made a work

[303] "TÜSİAD 'özel istihdam'da aceleci", soL Portal, 12 July 2009, Available online at: http://haber.sol.org.tr/dev let-ve-siyaset/tusiad-ozel-istihdamda-aceleci-haberi-15530.

[304] Law No. 5920 on Amending Labour Law, Unemployment Insurance Law and Social Insurances and Universal Health Insurance Law adopted on 26 June 2009.

contract to supply temporary workforce demand, to another employer in order to perform paid work; and this function is performed by the private employment offices authorised by İŞKUR" (Article 1). The government also used the requirement to harmonise the EU Directive No. 2008/104 on Temporary Agency Work, as an additional justification for the proposed change.

This law was severely criticised by the trade unions confederations and in the media by calling it a "slavery law" and using the notions of "worker for rent/for sale"[305]. The confederations of the trade union, namely DİSK, Türk-İş and Hak-İş[306], reacted to this Law mainly for three reasons. Their first concern focused on the procedural disregard of the confederations' opposition to the change. Although the change that the Law would bring about "temporary work relationship" was discussed in the Tripartite Consultative Committee on 24 June 2009 in line with the Labour Law provisions, and all three confederations communicated their negative opinions, as also acknowledged by the Ministry of Labour and Social Security, the Law was still brought to and accepted at the Parliament[307], by by-passing the social partners, judiciary and academic circles. The second concern of the confederations regarded the inconsistency of the proposal with the international norms. Although the EU Directive No. 2008/14 was used as a justification for the proposed change by the government, the confederations stated that the Law No. 5920 was actually against it in the sense that it did not include the limitations and protective provisions of the Directive. Moreover, the ILO Convention No. 181 on 'private employment offices' including the "temporary work relationship" was not signed by Turkey, and even if Turkey had signed it, that Convention would also refer to serious protective measures in line with the ILO Recommendation No. 188. In this regard, the confederations criticised the misuse or partial transformation of the international norms

[305] "5920 Sayılı Geçici İşçi Kiralama ve Kölelik Kanunu", by Can Semercioğlu, bianet, 7 July 2009; "TBMM'de aklı selim galip geldi kiralık işçi olayı yeni Kanun'da yok", by Ali Tezel, HaberTürk, 15 July 2009.

[306] Türk-İş Opinion entitled "Workers for Rent as a new Slavery System can not be accepted. We want respect for human being and work for human dignity" Türk-İş, August 2009. Available online at: www.turkis. org.tr/source.cms.docs/turkis.org.tr.ce/docs/turk_isg%C3%B6rusu.pdf; DİSK Opinion on the legal change on "the Authorisation of the Private Employment Offices to Establish Temporary Work Relation as an Occupational Activity", DİSK, 2009 Available online at: www.disk.org.tr/default.asp?Page =Content& ContentId=800; "Hak-İş, 'Kiralık İşçi' Düzenlemesinin Veto Edilmesini İstedi", Cihan Haber Ajansı, 07 July 2009, Available online at: http://www1.haberler.com/hak-is-kiralik-isci-duzenlemesinin-veto-edil mesini-haberi.

[307] Rather than as Draft Law by the government, the Law was brought to the Parliament as a proposal of members of Parliament. The Confederations criticise this method as an attempt for by-passing the social partners, judiciary and academic circles.

into the Turkish context, as well as prioritising the provisions of unsigned Conventions over already signed but not implemented Conventions due to the pressures from the employers. Last but not the least; the confederations were very critical of the content and meaning of the legal change. In this regard, Türk-İş declared that the authorisation of the private employment offices for 'renting' the workers that they employ would not increase employment, but it would deteriorate peace at work, hinder the opportunities of the workers to get organised, and cause the workers to be employed in an insecure environment where the workers would lose their rights to severance payments, in advance notice payment, annual leave, unionisation, strike and collective bargaining and with low levels of pay, which would not be convenient with human dignity. In addition, DİSK stated that under the high unemployment conditions of the country, "temporary work relationship" would increase "modern worker brokerage" and "pay roll companies", deregulate and divide the labour market, and increase prearranged procedures that would eliminate the protection as provided in the Articles 2 and 3 of the Labour Law, regarding real employer/sub-contractor applications. Hak-İş also underlined that this Law would resolve the workers' rights especially that to get organised, as defined in the Labour Law and Collective Bargaining Law. Moreover, it was also indicated that since those temporary workers would not be counted among the total workers of an enterprise, it would be for the benefit of the employers to hire temporary workers; and, such a law would deteriorate the conditions of the permanent and contract workers since temporary workers would become an alternative to and increase the pressure on those workers.[308]

With all those reasons, the confederations had a meeting with the Head of the Republic and demanded his veto of the Law. Eventually, the Law was vetoed partially and sent back to the Parliament by stating that the change was not in harmony with the EU criteria and realised arrangement could have resulted in other situations apart from its real aim, and could have resulted in negative implications for those workers within the definition of the law article, which was not aimed by the law, such as abuse of their labour and situations contrary to human dignity, and would have resulted in the deterioration of the peace at work[309]. Upon the ultimate vetoing of the Law No. 5920, the Parliament omitted the article

[308] "5920 Sayılı Geçici İşçi Kiralama ve Kölelik Kanunu", by Can Semercioğlu, bianet, 7 July 2009; "TBMM'de aklı selim galip geldi kiralık işçi olayı yeni Kanun'da yok", by Ali Tezel, HaberTürk, 15 July 2009.

[309] "TBMM'de aklı selim galip geldi kiralık işçi olayı yeni Kanun'da yok", by Ali Tezel, HaberTürk, 15 July 2009; "Sendikaların 'kölelik kanunu'", Milliyet, 10 July 2009.

on ‘temporary work relation’ from the text and accepted the rest of it as a new Law No. 5921[310].

In sum, the government’s position towards establishing the private employment offices was shaped with the argument of adjusting the employment services to the changing market economy and conditions of the labour market in a way to implement active labour market policies in the course of Turkey’s EU accession processes, and as recommended by the World Bank. This position was also considerably in line with the demands of the employers, which perceived the existence of the private employment offices as a means to increase the efficiency of the services and as a means to fulfil their demands towards fast provision of qualified labour force in line with their particular needs in the labour market, also covering the implementation of the atypical work forms. The employers defined the existence of the private employment offices and the regulation of temporary work relations to be conducted by those offices as a solution to decrease unemployment and informal employment, by depending on the use of private sector tools, rather than those of the public sector.

The trade unions’ reaction against the private employment offices depended on the intention of the government to regulate temporary work relations through those offices. Considering it as a factor that would deteriorate the conditions of the labour market and curb the acquired rights of the workers, the trade unions did not considered temporary work as a means to increase employment. This way of defining the problem and proposing the solution for it was quite different from those of the employers and the government.

What was interesting is that in resisting the proposed policy change, the trade unions based their arguments on the inconsistence of the proposal with the relevant EU level regulations and with the ILO conventions, and used such an inconsistency instrumentally as an additional justification for opposing the change to support their arguments. On the other hand, although the government also based their position on the necessity to comply with the relevant EU directive and the ILO convention for the policy change, proposed within the context of the Law No. 5920, the government pursued a selective approach by focussing on the international principles which ensure flexibility and disregarding the security related provisions of the referred EU directive and the ILO conventions. In this

[310] Law No. 5921 on Amending Unemployment Insurance Law and Law on Social Insurances and Universal Health Insurance adopted on 11 August 2009 published on the Official Journal No. 27323 on 18 August 2009.

regard, to justify its move, the government could even refer to an ILO convention which was not yet signed by Turkey. In this case, international norms and principles, particularly the EU directives and the ILO conventions provided additional legitimacy both for the proponents and opponents of the policy change, owing to the vague boundaries and scope of the principles regarding the private employment offices and temporary work regulations at the international level.

5.5.5 The Active Labour Market Policies (Supply-side Strategies)

In Turkey, the active labour market policies (ALMPs) started to be implemented from the 1990s onwards, especially through some initiatives largely funded by the World Bank (World Bank, 2006: 97). It would not be misleading to argue that, since then, the increasing use of the ALMPs has been an outcome of the impact of international obligations of Turkey, as also openly voiced in many official documents prepared by the governments. For the first time, the Seventh Five-Year Development Plan (1996-2000) referred to use of the ALMPs as a necessity and priority within the context of globalisation and EU harmonisation processes in Turkey, in relation to the concomitant needs of the flexible and secure labour market and of ensuring adaptation to the market conditions through skill training and re-training programmes (DPT, 1995: 54). More specifically, the active labour market policies have been conceived as the most important instrument of the European Employment Strategy by the AKP governments (DPT, 2007: 97), and thus, the use of ALMPs has been encouraged and the institutional capacity was strengthened to ensure their implementation. With the establishment of the İŞKUR by the AKP government, as a part of the restructuring of the labour market and as the institution to be primarily in charge of those policies in order to adjust to the changes witnessed in the labour markets due to globalisation and technological developments[311], the share of ALMPs policies compared to the passive policy measures has considerably increased in Turkey. From the government's point of view, the ALMPs have been tools to ensure "qualified labour force supply" to the markets to support the increasing competitiveness of the countries, to facilitate the employment of the unemployed, to assist unemployed in establishing their own work, and to ensure the adaptability of the labour force to the labour market so that the labour market functions properly (İŞKUR, 2009: 61) Referring to the concept of "employability", the most important characteristic of the ALMPs is flexibility,

[311] 60th Government Programme Action Plan.

both in terms of the fields in which they are implemented, and in terms of their target group, instrumental to the adaptation to the changing conditions of the labour market (DPT, 2007: 63). "Entrepreneurship" as another element of the ALMPs has been considered as a preferable alternative to eliminate unemployment especially among the young people and women[312].

ALMPs have also been favourable policy tools for the employers. This is probably due to the low costs of such policies on the employers, as well as the design of those policies in a way to satisfy the changing needs of the labour markets towards more flexibility, where the employers need an "adaptable" labour force, as also targeted by the ALMP. Both employers' organisations and trade unions participate in some of the ALMP projects implemented by İŞKUR as social partners.

While the share of the ALMPs in Turkey, especially those implemented by İŞKUR, has increased considerably especially throughout the 2000s, the measures implemented in Turkey have been considered to be limited compared to the OECD and EU countries (Özşuca, 2003: 151). This was also voiced by the international institutions that the total volume of those policies has been insufficient in Turkey. In its Screening Report of Turkey on Chapter 19 dated 2006, the European Commission stated that the institutional capacity of İŞKUR has been developing to carry out various projects to increase employability of the labour force through active labour market measures. But in some Progress Reports, the European Commission indicated that active labour market policies were not implemented efficiently in Turkey (in EC, 2000; EC, 2006; EC, 2007), ALMPs did not have a broad scope and have had limited success in reducing unemployment and in correcting imbalances (EC, 2005: 51; EC, 2006: 28; EC, 2007: 30). Thus, the European Commission continuously stated the need to develop ALMPs further in Turkey. Another international institution, the World Bank, stated that Turkey has had a very limited experience and capacity in the area of active labour market programmes and it suggested that İŞKUR should be provided with more resources to carry out active labour market policies; and a positive step in this direction was the EU's technical assistance programme for İŞKUR to support Turkey's ability to implement policies and services that are aligned with the European Employment Strategy (World Bank, 2006: xiii). As a remaining item on the ALMP policy agenda, the World Bank recommended that private employment agencies

[312] 60th Government Programme Action Plan.

should be licensed to provide the full range of employment and training services (World Bank, 2006: xiii).

The government's, employers' and international actors' emphasis upon ALMPs indeed reflects very similar patterns regarding the identification of the policy problem and the solutions offered to solve them. The increasing use of ALMPs in Turkey is a sign of preferring activisation over passive labour market policies. This reflects a "supply side" emphasis, which assumes that "there is something wrong with the victims of unemployment" rather than questioning the deficit of demand in the labour market (Hill, 2000: 223). In line with the concept of employability, in order to reduce unemployment and to correct imbalances at the labour market, "the inadequate ability of the individual to be employed" (Tidow, 2003: 93) is foreseen to be increased through a combination of methods such as training, so that the labour supply can match the needs of the employers and the enterprises and the unemployed can be ready for available jobs.

Since the ALMPs are costless for the employers and for the trade unions, and education and training are perceived to be useful for increasing the skills of the labour force, there has been no significant contestation between the societal actors and the government about the implementation of ALMPs in Turkey. The problem in relation to the ALMPs rather stems from the monitoring at the international level, especially by the European Commission and the World Bank, of Turkey's ALMP implementation performance, which is obviously considered to be inefficient and ineffective in reducing unemployment in Turkey.

5.5.6 Women's Employment (Flexible Employment, Entrepreneurship, Training vs. Societal Norms)

Although the labour market in Turkey has been characterised by low female labour force participation and employment rates and high rates of unemployment for women, and in spite of the importance of and the existence of a concrete target rate for women's employment in the context of European Employment Strategy, women's employment received almost no attention from the policy makers until the mid-2000s in Turkey. In the Ninth Development Plan, Medium-Term Programme (2006-2008) and the 2006 and 2007 Annual Programmes women's employment was indicated as a policy problem, however, this policy problem was not regarded as being a result of structural and cultural obstacles for women in entering the labour market in Turkey, which could have been solved by

adopting a long-term and well-structured approach to be implemented through laws and regulations. In spite of the abundance of proposals coming from domestic and international actors, such as the World Bank and the European Union, to increase women's employment and employability, for a long time it has not been possible to argue that there was a macro policy or political will to solve these problems in Turkey (Ecevit, 2008: 116). Instead, the policy approach towards increasing women's employment has been characterised by an emphasis on the use of active labour market policies.

Some of those ALMPs were realised in form of small-scale programmes and projects implemented by state and civil society; international programmes and donor assistance; and in cooperation with the women's organisations and private sector. Those initiatives have been perceived to offer three categories of solutions for increasing women's employment in Turkey: the promotion of flexible employment and encouraging women towards this type of employment; female entrepreneurship; and, vocational training for women and increasing women's education levels (Toksöz, 2007: 51; Ecevit, 2008: 182; KEİG, 2009: 19).

The government's position regarding flexible types of employment as a policy tool to increase women's employment depends on the idea that introduction of those types of work may help women to reconcile their care responsibilities and working life, and makes it easier for the employers to hire women. This position is very much in line with the statements and recommendations of the World Bank (DPT and World Bank, 2009: 23). However, especially the women's organisations and some of the trade unions do not share such a solution to the problem. They criticise the idea by stating that flexible types of employment and part-time work are often used by the employers to decrease the labour costs (KEİG, 2009: 20) and flexible employment types may easily lead to loss of acquired rights (wage, social benefits, paid leave, social security, severance pay, membership to trade unions, right to collective bargaining, etc.) of the employees (KSGM, 2008: 25-26). In addition, it is also stated that flexible work causes concentration of women in low-paid and unqualified part-time or occasional jobs, which in turn results in the preservation of gender based inequality and discrimination in labour market, as the experiences in many Western countries have shown (Toksöz, 2007: 51).

Female entrepreneurship is seen as another tool for solving the problem of women's unemployment in Turkey, even, for the recent years, as the only way of increasing women's employment (Ecevit, 2008: 183; KEİG, 2009: 21). From the AKP government's

point of view, female entrepreneurship, as a part of the ALMPs, was the only reference to women's employment in the 60th Government's Programme, which suggested information and training support for women throughout their establishment of their own jobs. Throughout the 2000s, various programmes, projects and activities in this regard have been carried out by public institutions, professional organisations and non-governmental organisations often with the financial support of international donors and the EU.[313] In addition to the support of the government, the private sector and the employers also considered the initiatives of female entrepreneurship as a way of increasing women's employment. However, the impact and outcomes of these activities in increasing women's employment in Turkey have been questioned by some other societal actors, especially by some women's organisations and the trade unions. One concern in this regard was that under the unstable economic and political conditions in Turkey, for women to start their own businesses, where they are also blocked by patriarchal socio-cultural values is not considered as an easy task (Toksöz, 2007: 62). Even when the businesses are started, then the question of how their sustainability can be ensured often remains unsolved, especially due to the weak business development perspectives (Toksöz, 2007: 63). From a gender equality perspective, it is also stated that own account working is one of the forms of employment with the least protection, remuneration and stability (Toksöz, 2007: 52). Another concern regarding the impact and outcomes of the numerous projects regarding female entrepreneurship suggested that where the capacitates of the non-governmental women's organisations involved in the implementation of entrepreneurship projects have been limited, and where the established structures of the governmental institutions as well as that of the professional organisations remained intact, the impact of these small-scale projects to encourage women's entrepreneurship would inevitably be limited (KEİG, 2009: 21-22). Moreover, in these projects, to the extent that creation of sustainable and profitable enterprises come to the fore, the gender equality perspective is left to the objectives of the agency or organisation that implements the project (Toksöz, 2007: 62), or those that finance the project.

A third tool for increasing women's employment in Turkey has been considered as increasing women's level of education and providing them vocational training opportunities. One of the reasons why women face inequalities in this regard was

[313] Some of projects and programmes were supported by the EU such as "Support Women Entrepreneurship through Training Centres and Relays in Turkey" by TESK (2007) and "Support Women's Entrepreneurship" by TESK and KOSGEB (2005).

considered to be the lower chances for girls and young women to benefit from educational opportunities. Although none of the societal actors would object to the provision of more education and training for women, they also indicated from a gender equality perspective that those *per se* would not be a sufficient condition to increase women's employment rates, because the data showed that women's participation rates are still lower than their male counterparts among the women and men with same level of education. Thus, some of the women's organisation reiterated that the reason for low levels of women's employment is not only the low levels of education, but also the patriarchal ideology perpetuated by the family and state institutions that would hinder women to participate in the labour force (KEİG, 2009: 20). In addition, when the quality of the training opportunities were considered from the gender equality lenses, the women's organisations indicated that the type and quality of (vocational) training also reproduced the gender-based segregation in the labour market (KEİG, 2009: 20).

At the domestic level, regarding the issue of women's employment, a major contestation between the employers (TİSK) and a high number of women's organisation occurred, when TİSK organised a summit on women's employment in 2006. The final declaration of the summit focused on a number of suggestions. Those included the preparation of a National Employment Strategy in harmony with the EU, which would also include a "National Women's Employment Strategy." The main axis of this strategy was suggested to include policy measures, such as covering the premiums of the employers by the state, which would encourage employers to hire women; and, measures to encourage female entrepreneurship (TİSK, 2006b: 267). In addition, education and vocational training, flexicurity, private employment offices and social dialogue were considered as important component of solution for the problems regarding women's employment (TİSK, 2006b: 268). In the same declaration, the role of the civil society organisations in increasing women's employment was also elaborated in a way to underestimate the previous efforts of the women's NGOs. Actually, this was the issue which resulted in the biggest contestation between the TİSK and a high number of women's organisations. By issuing a press release[314], 38 well-known and active woman's organisations criticised the exclusion of women's organisations and academics from the summit and the attitude of the final declaration towards the women's organisations. It was indicated that although the summit

[314] "Kadın Örgütleri Ortak Basın Açıklaması", March 2006, in Güre, Serap (ed.) Kadın Emeği ve İstihdamı Toplantısı Raporu, İstanbul Bilgi University, 24 February 2007.

referred to the multi-dimensional character of the women's employment problem, the recommendations in the declaration were excluding major solutions by reflecting a narrow-minded perspective and ignoring any gender equality perspective. Instead, those women's organisations considered the real causes of the problems in relation to women's employment outside the household and their promotion at work as the traditional gender roles within family, and the male dominance over women, as well as gender-based discrimination, prevalent in the family and in the society. In addition, macro-economic policies of the governments were criticised because of their ineffectiveness and inadequateness for creating regular and secure employment and because of their lack of a gender equality perspective. Referring to alternative suggestions not only to increase female employment but also to ensure a decent working conditions for women to enjoy equal opportunities with men, those women's organisations recommended that new active mechanisms should be developed in order to change the existing mental constructions and to question and transform gender-based discrimination. Developing active labour market policies and including those within the context of a comprehensive women's employment policy was seen as a shared responsibility of the government and the private sector.[315]

Against that background, an important policy document, the Gender Equality National Action Plan (2008-2013), was prepared by the government in 2008. Actually, the Action Plan was produced within the framework of the Twinning Project Promoting Gender Equality, which has been implemented by the General Directorate on the Status of Women and the Ministry of Social Affairs and Employment of the Netherlands with the financial assistance of the European Commission. In this document, it is possible to observe that the proposed solutions to increase women's employment still predominantly focus on education and (vocational) training; women's entrepreneurship; and, awareness-raising. Some of the strategies of the government in this policy document are increasing women's employability through education, vocational training, entrepreneurship, adult education and labour force programmes in line with the demand of the labour force market; providing supportive training; implementing employment-guaranteed vocational training courses for women; and encouraging and supporting the entrepreneurship of women through training, financing, and consultancy services (KSGM, 2008b: 40-41). A relatively new policy emphasis, "raising social awareness with the participation of men to decrease the

[315] "Kadın Örgütleri Ortak Basın Açıklaması", March 2006, in Güre, Serap (ed.) Kadın Emeği ve İstihdamı Toplantısı Raporu, İstanbul Bilgi University, 24 February 2007.

prevalence of mentality, traditional structure and other obstacles that constrain women's participation in economic and social life", is also a part of this policy document. However, regarding this new emphasis, it is not possible to find any concrete measures defined in the Action Plan, apart from naming the institutions that would be responsible for or be collaborative to achieving the objectives.

An important development regarding women's employment happened in 2010, with the announcement of the Prime Ministry Circular No. 2010/14[316] on "Increasing Women's Employment and Ensuring Equal Opportunities." Some of the women's organisations considered this circular as a positive promising step towards overcoming a serious problem in Turkey. However, two particular concerns were also voiced, first, regarding the insufficiency of the measures taken in the Circular in ensuring concrete progress for women's employment, and the necessity of comprehensive legal and institutional reforms in this regard; and, second, regarding concerns about the political will to implement the provisions of the Circular.[317]

In sum, women's employment has been considered as a serious problem of the labour market in Turkey by the government, by the societal actors including the employers, the representatives of the workers and women's organisations; and, by the international actors, namely the European Union and the World Bank. Although all the domestic actors, and the World Bank reports, referred to the European Employment Strategy and Turkey's EU accession process in relation to the need to solve this problem, the suggested solutions to increase women's employment and labour force participation have not always referred to the same type of solutions. The initiatives of the government and the recommendations of the employers have pointed out some particular policy tools, namely increasing female entrepreneurship, introduction of flexible types of work, and increasing education and training opportunities for women through the use of active labour market policies. Among those policy tools, only the use of active labour market policies has been a common point of reference for almost all the domestic and international actors. Actually, those suggestions and demands were very much in line with the principles stated in the European employment guidelines, such as the development of entrepreneurship and encouraging the use of active labour market policies, which provided some of the domestic actors with

[316] Published in the Official Journal No. 27591 on 25.05.2010.
[317] Basın Açıklaması Kadın Emeği ve İstihdamı Platformu, 28 May 2010. Available at: www.kadinininsanhaklari.org/haberler.php?detay=51.

additional justification for their positions.

A common reference point for the confederations of the trade unions was the need for an efficient social dialogue in creation of the policies to increase women's employment (TİSK, 2006b: 18). On the other hand, the women's organisations have emphasised more structural problems such as the embedded societal norms that perpetuate inequalities and discrimination for women in entering the labour market, and accordingly they considered the women's employment from a gender equality perspective, rather than from a pure economic perspective.[318] In that sense, the demands of the women's organisations considerably differed from the existing policies and policy tools to increase women's employment.

A final observation regarding the suggested and existing measures dealing with women's employment is that despite the recent policy documents, the problems and dominant approaches towards their solutions regarding the women's employment have barely been turned into policy considerations through "hard" policy tools which are directed at the elimination of the barriers and reasons for low female labour force participation rates, that is, women's non-employment. In this regard, the concern of the women's organisation regarding the implementation of the Gender Equality National Action Plan and the Circular of the Prime Ministry remains to be plausible.

5.5.7 Informal Economy (Competitiveness vs. Protection of Workers)

Being a major characteristic of the labour market in Turkey, informal economy as a policy problem in the context of employment policy has gained increasing visibility, especially after the economic crisis at the beginning of the 2000s. In fact, in the context of Turkey's EU accession process, all the Progress Reports and the Accession Partnership documents have continuously pointed out the existence of a large size informal economy in Turkey. The Accession Partnerships of 2003, 2005 and 2007 specifically asked Turkey "to implement means address the problem of the informal economy." In addition, in various reports, the World Bank also underlined that "informality is widespread and it has been rising in many parts of the economy", and informal employment is most widespread especially among young and older workers and among women (World Bank, 2010: i).

In the course of the first decade of the 2000s, a number of policy initiatives to combat

[318] "Kadın Örgütleri Ortak Basın Açıklaması", March 2006, in Güre, Serap (ed.) Kadın Emeği ve İstihdamı Toplantısı Raporu, İstanbul Bilgi University, 24 February 2007.

informal economy in general and informal employment in particular have gained impetus. The AKP government's approach to the need to combat informal economy has been to a great extent shaped within the context of increasing competitiveness of the Turkish economy. It was conceived that informal economy hinders competitiveness of the economy in general, and it reduces the productivity of the enterprises and competitiveness of the private sector. In this regard, one of the emphases of the AKP governments was the relation between the taxation policy and the informal economy. For example, an aim of the taxation policy of the 2006-2008 Mid-Term Plan of the government was reducing the informal economy. Such a relation is established in two senses. First, it should be ensured that the informal economic activities should be taxed, so that tax revenues could be increased. Second, the factors that would encourage informality, such as the labour costs in form of taxes and social security premiums of the employers, should be reduced. Such an incentive was taken in 2008 through the "employment package", with targeted labour tax cuts. This emphasis is indeed in line with the definition provided by the European Commission about the causes of the informal economy, which were indicated to be "the weaknesses in tax and expenditure policies, as well as in law enforcement" (EC, 2010). In addition, the World Bank also considers high taxes on labour as a factor that reduce employment in the formal sector (World Bank, 2010: 39).

Another reference point of the AKP governments in relation to solve the problems created by the informal economy has been the focus on the need to introduce and expand the flexible work models, as stated, for example, in the 2010-2012 Mid-Term Plan. Introduction of flexible types of work has been considered as a means to eliminate the reasons for the employers to hire unregistered employees to avoid the labour regulations, which are considered to be rigid, especially by the employers. This position is also in line with the problem definition of the World Bank stating that rigid or protective labour market regulations provide an incentive for informal employment (World Bank, 2010: 40). In this regard, the World Bank points out the need to "create flexibility within the law", for example through the labour law, rather than "outside the law (through informality)" (World Bank, 2010: v), which would make formalisation less costly for employers (World Bank, 2010: 57). In addition, the World Bank suggests Turkey some policy actions, namely removing restrictions in the legislation on part-time and short-term contracts; redesigning severance pay and unemployment insurance in tandem; and, targeted labour tax cuts (World Bank, 2010: v).

Indeed, many of the organised employers have also been demanding similar policy measures regarding informal employment. For example, TİSK considered the root cause of the development of informal employment as the taxation system that was depended on employment (TİSK, 2000). Accordingly, its solutions to reduce informal employment were focusing on the reduction of tax rates; reduction of legal and financial obligations such as the tax, social security premiums, severance and in-advance notice payments, for the enterprises making collective agreements; introduction of flexibility and atypical work types into the labour regulations and private employment offices; simplification and reduction of red tape and formalities regarding employment procedures; and, prioritisation of measures to encourage employers instead of increasing the sanctions (TİSK, 2000). Referring to the practices and policy measures in the EU countries and principles of the European Employment Strategy, TİSK (2003b) mainly focuses on four types of solutions: reduction of non-wage labour costs such as tax and social security premiums; restructuring of taxation and social security systems; reducing red tape; and, flexibilisation of the labour regulations. In a similar vein, considering the reduction of informality as a crucial factor throughout Turkey's accession negotiations with the EU, another employers' organisation, TÜSİAD, voiced its recommendations in a comprehensive report prepared on informal economy in Turkey. In this report, some particular recommendations were made to combat informal economy on the way to EU: (1) encouraging formal activities (reducing tax burdens on employment; reducing severance payment; reducing the contribution of the employer to the unemployment insurance; implementation of temporary regional minimum wage; implementation of tax exemption for minimum wage; flexibilisation of labour regulations); (2) increasing the formal employment creation potential of the economy; (3) implementation of active labour market policies; (4) strengthening the inspection capacity and increasing sanctions; (5) strengthening social consensus on combating informality; (6) establishment of an institution responsible for combating informality (TÜSİAD, 2006: 143-154).

The position of the trade unions adopts a different perspective to the existence of and fight against the informal economy and employment. This position focuses on the workers working in the informal sector under heavy work conditions without being subject to the regulations of the Labour Law and without being registered to any social security institution. This position prioritises the need for protection of the workers under informal employment. In addition, existence of a large informal sector also appears to be an obstacle

for the workers to get organised under the roof of the trade unions. The tendency of the private sector towards the informal sector and the contraction of public employment, in parallel to the legal changes that diminished the effectiveness of the trade unions, severely affect the rate of trade union membership (Özkaplan, 2008: 10).

In this vein, the confederations of the trade unions, such as Türk-İş, demand the formalisation of the informal economy. For example, the head of Türk-İş stated that informal economy resulted in a decrease in the tax and insurance revenues; in inequality regarding competition between the enterprises; in unhealthy working conditions and lack of social security for the workers employed in the informal economy.[319] In this regard, it was suggested that a multi-dimensional National Action Plan is necessary to combat informal employment with the participation of all social partners.[320]

Another confederation of the trade unions, DİSK, also approaches the problem of informal employment from a worker focused perspective. Criticising the AKP government's approach that "lower the taxes and lower the employment costs, the less the employers depend on informal employment", DİSK states that the government prefers implementing incentives for the private sector and uses its resources to encourage private sector to create jobs, rather than bringing sanctions, conducting inspections and enabling getting organised in the trade unions, which are seen as the methods for combating informality.[321] Another emphasis of DİSK is the increasing use of sub-contracting as a form of temporary work and working without security, which encourage informal employment. DİSK also argues that the government considers informal employment as a means to reduce unemployment, however, considering the right for everybody to have decent jobs, insecure and temporary jobs are not considered as a means to overcome the effects of the crises by DİSK. The confederation also supportively refers to the European Social Charter and the practices in the EU countries in terms of the shorter working hours, as a means to combat unemployment. Accordingly, DİSK recommends some measures in order to combat informal employment and unemployment: elimination of sub-contracting and informal

[319] Speech of Mustafa Kumlu, the head of Türk-İş, at the introduction conference of the EU-funded project entitled "The Outsiders Lose", implemented by the Belediye-İş Trade Union, 25 December 2010, Çorum. Available at: www.turkis.org.tr/index.dyn?wapp=haberdetay0&did=EC70E6E1-8F91-4DB3-86A1-C38E1681 D3C4.
[320] Ibid.
[321] "AKP İşsizliğe Karşı Çözümü Buldu: Kayıtdışı, Güvencesiz ve Geçici Çalışma", *April 2010 Informal and Employment Report*, prepared by DİSK Research Institute (DİSK-AR), 26 July 2010. Available at: http://www.disk.org.tr/default.asp?Page=Content&ContentId=980.

employment; implementation of job security for everybody without discrimination; guaranteeing right to get organised under trade unions; reconsideration of public entrepreneurship and services in a way to create employment; reduction of weekly working hours; and, a minimum of one month paid vacations for everybody.[322]

In sum, informal economy and informal employment are seen as a serious policy problem by almost all the domestic actors, including the policy-makers and the societal actors, as well as the international institutions such as the European Commission and the World Bank. The measures taken to combat informal economy and to reduce informal employment throughout the 2000s to a great deal reflect a focus on the taxation policies and introduction of flexible types of work, in a similar pattern with the recommendations of the World Bank and the European Commission. It is possible to observe that some of the societal actors, such as the employers, base their recommendations on very similar policy demands, too. However, criticising the AKP government, the trade unions adopt a more worker-centred perspective towards the existence and negative effects of informal employment.

5.6 Findings and Conclusions

In this empirical case study, the social policy adaptation of Turkey throughout the 2000s due to European pressures were analysed in the field of employment policy. In order to explain domestic employment policy change in this context, this policy issue was selected for two major reasons. Firstly, employment policy has been a policy issue regulated through soft law policy instruments at the European level. Thus, in the Europeanisation literature, it is considered to be a case where the framing integration mechanism can be utilised to explain the outcome of domestic policy change due to European pressures. Secondly, employment policy has been an intrinsic component of the social policy both in general and at the European level.

In this context, this empirical case study was structured in a bottom-up research design as proposed by the scholars of framing integration mechanism. Accordingly, in the lack of hard law instruments, this case study first drew the contours of the European employment policy with regards to its three characteristics, namely the development of the policy at the European level; the mode of governance and policy-making (Open Method of Coordination and the European Employment Strategy); and, the substance of the European

[322] Ibid.

Employment Policy through its guidelines, to which Turkey's approximation was expected and closely monitored by the EU through the Employment Policy Review and Regular/Progress Reports. The second stage was to briefly summarise the development of the employment policy at the domestic level in Turkey since the 1980s, as a product of a new economic policy orientation. At the third stage, the development of the employment policy throughout the 2000s, right after Turkey's official acceptance as an EU candidate country in 1999, and the outlook of the components of the employment policy in Turkey by the end of 2010 were analysed. This exercise helped identify the outcome of domestic employment policy change in Turkey. The findings of the analysis at the domestic level have shown that the outcome of domestic employment policy change in Turkey has been characterised by "comprehensive substantive framing", which mainly refers to radical change in form of insemination of new policy paradigms to the understanding of employment policy in Turkey. This finding also meant that the relation between the outcome of domestic employment policy change and Turkey's EU accession processes could be established in relation to the framing effect of the EU, especially in the existence of a slow-going and limited procedural compliance with the EU in the field of employment policy, and in terms of the inability of Turkey to catch the concrete targets of the European Employment Strategy.

Turkey's non-attendance at the European level employment policy processes, as well as the little evidence found by the Europeanisation scholars, made it almost impossible to argue that the impact of the European employment policy on Turkey would be mediated through "learning" mechanisms. In the absence of learning mechanisms, the visible congruence between the European level policy frames and discourses, and those of the employment policy in Turkey necessitated the integration and careful examination of some mediating factors that would have the potential to explain the outcome of "comprehensive substantive framing" in Turkey. In this regard, it was proposed that domestic politics, being composed of the positioning and ideology of the government; interests of domestic societal actors; and, domestic societal norms; and, external factors other than the EU could help in explaining the outcome of domestic employment policy change in Turkey in relation to the EU accession processes throughout the 2000s.

In order to test and analyse how those suggested mediating variables could be influential on the outcome of domestic employment policy change, policy processes regarding seven components of employment policy in Turkey were traced, also by depending on the critical

junctures when the EU and other international actors intervened into or provided justifications for the employment policy issues in Turkey. This exercise aimed to show whether or not the European level policy contributed to "altering expectations and beliefs of domestic actors in such a way to motivate domestic institutional change" (Knill and Lehmkuhl, 2002: 262) and/or helped in providing "additional legitimacy to domestic reformers in search of justifications, by 'inseminating' possible solutions in the national debate, and by altering expectations about the future" (Radaelli, 2003: 43). The process tracing in relation to different components of the employment policy in Turkey showed that seven issues have been more visible on the policy agenda continuously throughout the 2000s, and the discussions and contestations on those issues involved clear positions regarding the policy-makers and societal actors.

As a result of the analysis conducted in this empirical case study to explain the domestic employment policy change in Turkey throughout the processes of Turkey's EU accession throughout the 2000s, it is now possible to present some findings and observations regarding the explanatory power of the framing integration mechanism and of the "learning" approach in this context; the potential of the suggested mediating variables in explaining the outcome of domestic employment policy change in Turkey; and, the prospects for the implementation, i.e. actual enforcement, of the employment policy measures in Turkey by the end of 2010, as a joint product of domestic dynamics and the changes due to the EU integration process.

The first category of findings refers to *the explanatory power of framing integration* mechanism and the "learning" approach that is suggested to explain domestic policy change in the case of employment policy. To the extent that the European employment policy and the EES comprise of non-binding and flexible instruments, with limited degree of coerciveness, it is named as a "voluntarist form of governance" with "weaker implementation capacities and uncertain links between policy inputs and outputs" (Rhodes, 2005: 284). In the absence of binding EU policy instruments, but the "soft law", the literature on Europeanisation has tried to seek different mechanisms that would explain the impact of the EU employment policy composed of EES and the guidelines on the domestic employment policies. The mechanism is called "framing integration" mechanism, where coordination among policy actors, both at the domestic and EU level becomes important.

Many other studies in the literature have identified the ways of understanding the EU impact on the national employment policies. In this regard, the studies have mainly

referred to two different levels of the EU impact, first to the role played by the EES in shaping the national policies both including the mode of governance and employment policy-making, and second to the impact of the EES on the outcomes of the policies, namely to reduce employment and increase the employment rates (Mosher and Trubek, 2003: 73). In fact, both of those analyses have been considered very difficult and tricky, due to the existence of multiple factors, including domestic forces and other external influences on the one hand, and on the other hand, the weakness of the link between the impact of the implementation of the EES *per se* on macro-variables such as any possible increase in employment rates and decrease in the unemployment (Mosher and Trubek, 2003: 73, 76).

When the ways of analysing the EU impact through EES and guidelines on the Turkish employment policy are considered, a number of observations can be made. First of all, it should be stated that the findings of this empirical case study is supportive to the argument of the "framing integration" mechanism of the Europeanisation literature, "soft law" has also created domestic employment policy change in Turkey. This is to say that even in the absence of the hard law instruments, which are more coercive policy tools, domestic change can still be observed. However, the impact of European employment policy through the use of "soft law" on the Turkish employment policy can be examined at three levels of analysis, going beyond the two-level analysis of the literature focusing only on the mode of governance and convergence of outcomes, but leaving the analysis of the substance of the policy underdeveloped.

Thus, in this case study, it is suggested that in the lack of "hard law" policy instruments, the adaptation of the employment policy in Turkey to that at the European level can be traced in three aspects of the European employment policy. The analysis has shown that in terms of the mode of governance and its procedural aspects, the adaptation performance of Turkey is quite low. Turkey as a candidate country followed a slightly differentiated pattern of alignment with the EES since the 1999, called "Employment Policy Review", which included the preparation of the background study on Turkish labour market; preparation of the Joint Assessment Paper (JAP) on employment policy priorities and bilateral acceptance of that document; and, preparation of the National Action Plan. This process of "Employment Policy Review" has included the European Commission's financial and technical support to Turkey to align the employment policy in line with EES and to establish and develop their institutional capacities, thus European influence on

domestic policy-making, as well as EU monitoring of the accession process in Turkey. The impact of the EU in this process can be linked to the mechanisms of the Employment Policy Review. If the procedural compliance with the EES is considered, there is little impact of the EU on the procedures. Apart from the preparation of the background study, no other significant steps were made. The JAP has not been able to signed by the end of 2010, although in many documents it was referred to be finalised shortly especially in the second half of the 2000s. Thus, any identification of joint employment policy priorities by the EU and Turkey and commitments of Turkey towards fulfilling the requirements related to the labour market and employment cannot be traced from an official document. In that regard, the only source of information remains to be the development plans at the domestic level. In addition, in Turkey there is no National Action Plan for employment policy, only towards the beginning of the second decade of the 2000s, there are some domestic efforts to prepare one.

It is often stated in the literature that EES does not seek structural convergence but convergence of outcomes to the EU targets. Thus, as the second aspect, in terms of the observable targets, Turkey is still far away from reaching the targets of the European employment policy. When the labour market indicators and the data for the Turkish labour market (Chapter 3) are considered, it is not difficult to argue that there is almost no impact of the EES and guidelines on the Turkish employment policy outcomes in terms of the betterment of the labour market indicators. None of the targets of the EU could be reached, nor do they seem to be reached in the near future. As also stated in various Progress Reports of the European Commission, the unemployment is still high (especially for young people and for women), labour market participation rates are low (especially for women), the informal economy is big and Turkey should create millions of jobs to be able to catch the EU Lisbon targets of 70% overall employment rate and 60% women's employment rate. Moreover, even in the case of any betterment in terms of increasing employment and decreasing unemployment, it would still be difficult to determine to what extent those positive changes would owe to the impact of the EES on the Turkish employment policy.

For the Turkish case, only looking at the impact of the EES on the mode of governance and the convergence towards EU targets would give a wrong impression that Turkish employment policy has not been affected by the EU employment policy. Thus, a third level analysis, which is often neglected in the Europeanisation literature analysing the domestic employment policy changes in the EU member states, can be the impact of the EU and

EES on the substance of the employment policies on the Turkish employment policy. In terms of the substance of the employment policy, there is a visible congruence between the Turkish and European employment policy. The policy frames composing of principles, objectives and substance in terms of internalisation and use of the concepts, ideas and instruments in particular way to define policy problems and offer solutions to them can be detected in relation to the European employment policy, and the analysis shows that in this regard, there is a great deal of parallels between the employment policy in Turkey and that at the European level. In other words, almost all aspects or "frames" in relation to the substance of the EU employment policy, namely the focus on supply-side policies; emphasis on employability of the labour force, adaptability of the enterprises and employees, and flexibility; the shift from passive to active labour market policies, especially through training; the role of private sector and competitiveness; and, the relation of the employment policy with macro-economic policies can be found in different components and instruments of the employment policy in Turkey. To what extent the outcome of domestic employment policy change characterised as "comprehensive substantive framing" owes to the European pressures and Turkey's EU accession processes remains to be explored.

In this regard, in the Europeanisation literature, an explanation for the framing impact of the European integration at the domestic level is suggested to be "learning." Depending on the dominant use of soft law through the Open Method of Coordination, it is argued that European employment policy and the EES diverge considerably from the law-making system of the hard law instruments, is self-declaredly organised as "mutual learning processes[323]" through periodic monitoring, evaluation and peer review. This is suggested to create a larger potential for ideational convergence policy learning (Bulmer and Radaelli, 2005: 351, 349). However, in relation to learning, many scholars admit that it is difficult to "trace the causal link between learning and policy change" empirically and the evidence of learning is little and differential among different types of learning (Radaelli, 2008: 241). In this regard, the limited evidence of learning is also found out as a result of empirical studies conducted on the EU member states (cf. Radaelli, 2008; de la Porte and Pochet, 2004: 73).

In this vein, it is also very difficult to state that "learning" has been a factor that would

[323] Lisbon European Council, Presidency Conclusions, 23-24 March 2000.

explain the outcome of domestic policy change in the Turkish case. In a very limited and slow-going process, Turkey has not yet taken part in the iterative and bilateral and multilateral governance processes of EES, but only in the processes of Employment Policy Review. Accordingly, it becomes very difficult to argue from a procedural point of view that in the Turkish case, EU has influenced Turkey's employment policy through providing opportunities for learning. In this regard, the official EU documents also continuously stated that in the area of employment, Turkey should continue its efforts to develop a national employment policy/strategy in line with the EES (EC, 2004: 111); Turkey is not yet sufficiently prepared (EC, 2008: 61); an overall employment strategy is absent and the impact of the piecemeal employment measures such as the employment packages has to be seen in due course (EC, 2009: 64).

If the "learning" mechanism is not a very influential factor to explain to what extent the outcome of domestic employment policy change characterised as "comprehensive substantive framing" owes to the European pressures and Turkey's EU accession processes, but there is evidence about the congruence between the European employment policy frames and those in Turkey, then, there is a need to explore the dynamics of domestic employment policy change in Turkey, as elaborated under the exploration of the potential of suggested mediating variables in explaining the outcome of domestic employment policy change in Turkey. In this regard, the second category of findings of this case study is *the potential of the suggested mediating variables in explaining the outcome of domestic employment policy change* in Turkey throughout the 2000s. Those variables or factors are named as the external factors other than the EU; and, domestic politics, as a product of the interplay between the positioning and ideology of the government; interests of domestic societal actors; and, domestic societal norms. This is to say that the outcome of domestic employment policy change has been mediated by those two broad categories of variables, which reflect indeed some degree of interdependence and interaction between themselves and within their different components in relation to the EU pressures and domestic policy change. Although those variables or factors might not be equally visible in each policy issue analysed, they altogether prove to have a potential in explaining the outcome of domestic employment policy change in Turkey throughout the 2000s.

Regarding the external factors as a mediating variable, the analysis of the development of the employment policy in Turkey since the 1980s shows that employment policies have

been directly or indirectly intervened by the policies, recommendations and funds of two categories of external actors, namely the international finance institutions (the IMF and the World Bank), and the European Union and to a limited extent ILO.

The indirect influence of the external pressures on the employment policy has been experienced via the impact on the changing macroeconomic policy orientation of the country towards export-oriented growth strategy and integration into the world markets, and subsequent restructuring of the labour market in Turkey. In this scenario, the employment policy has been a function of the economic growth and competitiveness, which are the main targets of the macro-economic policy. In this regard, Turkey's close cooperation with the IMF and the World Bank has been decisive for the economic orientation of the country, which goes beyond simple compliance with the international norms but rather refers to the paradigmatic change in economic policies. Many elements of the structural adjustment towards an outward-oriented free-market economy pursued by the Turkish governments, and by the AKP governments in the 2000s, together with the IMF have had deep impact on the labour markets. For example, the emphasis on privatisation of the KİTs has resulted in diminishing public employment and increasing unemployment; dissolution and shrinkage of the agricultural sector has resulted in increasing unemployment and increased the need and pressures to create jobs in other sectors to absorb those who leave the agricultural sector; and, increased unemployment has lead to increase in the informal/unregistered economy.

In the context of liberalisation of the markets, the completion of the Customs Union in 1996, formal candidacy status of Turkey in 1999 and start of the accession negotiations with the EU in 2005 can be considered as a complementary element of the restructuring of the Turkish economy, where the EU appeared a major source of economic and political change in Turkey. Especially with the pressure to fulfil the economic Copenhagen criteria for the opening of the negotiations, the IMF expectations and EU conditionality considerably overlapped and reinforced each other (Öniş and Şenses, 2007: 271). This mutual reinforcement between the exogenous actors was also perpetuated by a wider conjuncture, especially after the 2000/2001 economic crisis. Since then, the domestic actors, especially the business elites, both felt the necessity of the IMF anchor, but at the same time, started to consider the EU as a more permanent anchor to solve Turkey's persistent economic problems and enhance macro-economic stability, hence the governance of the economy (Eralp, 2009: 158-159; Ülgen, 2006: 4).

Mutual support between international organisations has been explicitly indicated in many of their official documents. For example, the Accession Partnership documents of the European Union strongly underlined regarding the economic criteria that on the way to the EU, Turkey should "continue to implement the current structural reform programme agreed with the IMF and the World Bank, in particular, ensure the control of public expenditure" (Accession Partnership of 2005). In addition, the financial support of IMF and the World Bank to the ongoing restructuring was considered to complement the EU's pre-accession financial assistance to Turkey (Accession Partnership, 2003). It is also an interesting observation that although the EU *acquis* has not explicitly referred to some of the components of the IMF-led programmes such as privatisation at the EU level, all of the Accession Partnership documents have demanded Turkey to accelerate and continue with privatisation of state-owned enterprises (Erdoğdu, 2005: 32). A very similar position was also taken against dissolution of agricultural sector. Indeed, the position of the IMF and the World Bank to dissolve the agricultural sector and the measures taken in this regard were contradictory to the Common Agricultural Policy of the EU (BSB, 2007: 119), to which Turkey should also align in the context of the accession to the EU process. For example, while the EU support to agriculture in the Member States was almost around the half or one-third of the agricultural added-value to the national income, in Turkey this amount went down to only 7%. However, interestingly enough, the EU required Turkey not to divert from the IMF recipes, which has indeed drawn away Turkey's agricultural structures from the EU rather than ensuring approximation to it (BSB, 2007: 119).

Another signifier of the complementarity between external actors was the perception of the EU by international finance community as a "permanent" anchor for Turkey (Öniş, 2003). Accordingly, in many reports prepared, for example by the World Bank, to analyse the situation of labour market in Turkey and make some recommendations to reform it, those international finance institutions made numerous references to the need for Turkey to realise some changes to be able to align with the European Employment Strategy and Lisbon targets.

More direct influence of international actors on the employment policy in Turkey can be first observed through the implementation of programmes/projects funded by the World Bank for the displaced workers due to privatisation by the mid-1990s. Later on, the formal candidacy status of Turkey to the EU and the start of the accession negotiations, through which Turkey was required to align with the European Employment Strategy and its

guidelines, stipulated a more concrete role for the EU in the development of various components of the employment policy, both at the institutional and policy levels, in Turkey. For example, the EU was directly involved in the institutional reorganisation of the Turkish Employment Institution (İŞKUR) through large-scale financial and technical assistance. A lot of EU-funded thematic programmes and projects, mostly within the context of active labour market policies, were also implemented targeting the perceived problems of the labour market in Turkey. In addition, the adoption of the new Labour Law was directly linked to the EU accession process by the AKP government.

However, it can also be argued that "external dynamics *per se* would be insufficient to explain major policy shifts", where the existence of a "supportive domestic policy coalition" becomes crucial (Öniş and Şenses: 2007: 257; also see Özkaplan, 2008: 4). Before going into the exploration of domestic politics as a mediating factor for explaining domestic employment policy change in Turkey, it may be interesting to summarise the patterns of outcome of domestic change in the first decade of the 2000s.

The analysis of the components of the employment policy in Turkey has shown that many of those components such as İŞKUR, new Labour Law No. 4857, the unemployment insurance, any measures regarding women's employment and informal employment etc. have been introduced into the Turkish employment policy throughout the 2000s for the first time in history. There have been some other elements such as the active labour market policies, which have started to be increasingly used with a particular emphasis throughout the 2000s. Although in one case, namely the severance payments, there has not been any change by the end of 2010, the evidence and contestations have shown that there is a serious effort to change this element radically in due course. All those suggest that there is a radical change and transformation in the context of employment policy in Turkey, which can be labelled as "comprehensive substantive framing."

An interesting observation at this point is that although the EU pressures came in the form of "soft law" through EES and guidelines, it has also resulted in hard law outcomes in the domestic setting. Some of the changes regarding the functioning of the employment policy in Turkey were realised in form of institutional changes through laws, as it is the case for restructuring of Turkish Employment Institution (İŞKUR) or in form of adoption of legal texts regarding the characteristics of work towards flexible work forms, as it was the case for the new Labour Law and piece-meal employment packages.

The nature of the domestic employment policy change in Turkey reflects many practices regarding the introduction of policy approaches to employment policy domestically. There is a growing emphasis on increasing the *flexibility* of the labour market and there are serious efforts to ensure this through legislation. The new Labour Law is a good example of this effort, which introduced both non-standard, atypical, flexible forms of employment and flexibilities on the duration and organisation of working time, for the first time in Turkey. The establishment of İŞKUR reflects a complementary nature for the new approach to employment in terms of changing the conditions and provisions of labour market services. The increasing use of *active labour market policies* refers to the concepts of *adoptability and employability*, shifting the burden of being unemployed on the employees, rather than considering unemployment as a result of structural problems of the labour markets. In that sense those policies can be considered as a part of a *supply-side strategy* to alter impediments to employment aiming to make employees ready for available jobs, rather than creating new jobs. In addition to those changing paradigms in approaching employment, it is also possible to observe a number of piecemeal measures taken to tackle with the negative impact of the 2000/2001 and 2008/2009 crises in Turkey. The analysis of those measures, which lacked any long-term vision, show that they rather aimed at reducing the burden on the employers as a way to increase the employment (or decrease unemployment) in the times of crises.

As already stated, this nature of the domestic employment policy in Turkey by the end of 2010 reflects considerable degree of parallelism to the problem definitions, principles and policy tools of European employment policy. The extent to which the outcome of domestic employment policy change characterised as "comprehensive substantive framing" owes to the European pressures in the processes of Turkey's EU accession is considered to depend on the exploration of the impact of the EU policy frames on changing the beliefs, expectations, problem definitions and demands of the major actors of domestic politics, and/or how the EU was instrumentally used by those actors to justify their demands and/or domestic reforms initiatives.

In this regard, domestic politics is considered as a variable influential on the outcome of domestic employment policy change in Turkey throughout the 2000s. It is suggested that the positioning and ideology of the government, interests of domestic societal actors, and, domestic societal norms altogether form domestic politics. In other words, the domestic politics is made up of different elements, which interact among themselves and use the EU

requirements, as well as the other external factors, instrumentally. Each of those elements might be individually influential on the outcome of domestic policy change; however, this impact is rather differential. In fact, it is the interaction and alliances between them, which actually mediates the outcome. In this regard, tracing and identifying the positions and interests of main domestic societal actors and policy makers throughout the processes of domestic policy change, and the analysis of the interaction and alliances between those different elements of the domestic politics are considered to have an explanatory power for the outcome of domestic policy change in Turkey. The way in which the problem definitions and solutions offered to solve those problems at the domestic level are shaped by the European policy frames or by the interventions of other international institutions and/or in a way to provide additional justifications to the domestic actors is also an important part of this analysis.

A major component of domestic politics is the government's ideology and positioning vis-à-vis the issues of employment policy throughout the processes of policy changes, specifically because the government is the central initiator of legislative changes in Turkey assuming a considerable degree of parliamentary power. When the period of unstable "coalition governments" ended with the AKP's election victory in 2002, the new single party AKP governments needed to increase its credibility both in the eyes of the domestic actors, especially the business circles, and of the international organisations. In this context, the AKP governments, just like its predecessors, has had limited room for independent economic policy making, *vis-à-vis* the international pressures both from the IMF and the EU, and from the demands of the domestic big business (Ülgen, 2006: 4). Coming from a political Islamic tradition, AKP did not have a distinctive economic programme before the 2002 elections (BSB, 2003). However, right after establishing the government in 2002, AKP abandoned the anti-IMF and anti-liberal reactions that it tried to embrace in its election campaign, and did not hesitate to accept neo-liberal policies, favouring the transnational capital and the market forces (BSB, 2003). After the 2000/2001 crisis, both accepting IMF as an anchor for macro-economic policy orientation through numerous stand-by agreements and the structural adjustment programmes, and following the EU agenda as a way of receiving support from the business environments and the media, AKP passed critical political reforms in the context of political Copenhagen criteria, which had been influential with the start of the accession negotiations with the EU in 2005 (Eralp, 2009: 159). The result was that Turkey has had two anchors throughout the

2000s: IMF for macro-economic stability and the EU for political and regulatory reforms (Ülgen, 2006: 3).

In the context of employment policy, by the end of the 2010, the government's ideology reflects considerable degree of neo-liberal tones in a way to support the integration of Turkey into global capitalism, "through an EU-inspired process of trans-nationalization" (Atasoy, 2009: 7). With an overall approach to increase competitiveness of the Turkish economy, AKP government initiated and introduced a considerable amount of employment policy changes throughout the 2000s. As shown in relation to seven different issues of employment policy in Section 5.5, increasing flexibility and decreasing or eliminating the rigidities of the labour market in Turkey in line with the necessities of the global competition (e.g. new Labour Law, measures to combat informal employment and increase women's employment) and establishing or restructuring of the institutional set up in this regard (e.g. İŞKUR and private employment offices) has been the underlying approach of the AKP governments towards the employment policy. This position was also strengthened by the adoption of a supply-side emphasis through the increasing use of active labour market policies with a focus on the importance of education and training in reducing unemployment, rather than creation of new jobs; and a focus on entrepreneurship, especially in the case of women's employment. In all the relevant policy changes, the justification of the need to align with the EU and an eventual EU membership has been continuously used by the AKP governments throughout the 2000s, and recommendations of the World Bank on specific aspects of employment policy in Turkey were followed.

However, reducing domestic politics to the positioning and ideology of the government and making unidirectional causal assumptions depending on the government's political ideological positioning could easily mislead the analysis. The positioning and ideology of the government is also a dynamic concept. In this regard, under the close surveillance of the IMF and the EU, the way in which the positioning and ideology of the AKP governments regarding their economic and social policy approaches has been shaped in a close interaction with the demands and interests of particular domestic societal actors, has a potential to explain the outcome of employment policy change in Turkey throughout the 2000s.

In this regard, the interests of the societal actors as another element of domestic politics have a potential to mediate the outcome of domestic employment policy change in Turkey both by themselves being influenced and sometimes empowered by the EU policy frames

and recommendations of the World Bank on the one hand, but also by trying to influence the outcome of change in Turkey on the other. In this case study, the relationship between the demands of the societal actors based on their interests and the EU policy frames shows the European level policy discourses can provide additional justifications to interests of the many societal actors at the domestic level and help them in communicating their demands to the government; and, they may (re)shape the discourses of those societal actors. On the other hand, those societal actors may instrumentally use the EU policy principles to support their own positions and demands at the domestic level. In all those processes, the perceptions of the societal actors about the substance of the particular EU requirements; the subsequent match between those perceptions and the interests of the societal actors; and, concomitantly the interaction between those actors and the government play an important role on the outcome of domestic employment policy change.

Compared to many other policy fields, employment policy is a field where a high degree of societal mobilisation and contestations can be observed. As the analysis of the contestations and positions on different elements of employment policy has shown, the societal actors which have been actively involved in the policy discussions and processes include the material-interest based actors such as the employers' organisations, confederation of the employers' unions, confederations of trade unions, occupational organisations; and, some women's organisations especially in the case of women's employment.

At a macro level, the main support for Turkey's articulation into the world markets through the conditions of the IMF and the World Bank unsurprisingly came from the employers, who have also supported the EU process as a way of ensuring economic stability, attracting foreign investments and ensuring the conditions for competitiveness. Depending on their rewarding experience with the customs union, Turkish industrialists became stronger and more straightforward supporters of the EU project (Ülgen, 2006: 2). In their support to the EU, contrary to the experiences in other EU candidate countries, there have not yet been any significant divisions within the business community, especially between the big business and the small and medium-sized interests, since the integration process has rather been slow, and it has not yet created diversified impact on different sectors (Ülgen, 2006: 5).

In fact, the employers' demands regarding the components of employment policy reflected their inherent interests and expectations, both short-term and long-term, including

increasing competitiveness of the private sector, as well as elimination of economic costs that are incurred on them as a result of labour market regulations. As shown in Section 5.5 in relation to different components of the employment policy, the employers' constant emphasis has been on the need to increase flexibility of the labour market in Turkey (e.g. new Labour Law). In addition, they have favoured the privatisation of the labour market services in a way to cover the implementation of temporary work relations (e.g. private employment offices). The labour costs such as the taxes, social security premiums and severance payments that the employers have to cover have stimulated the demands of the employers for the elimination of the perceived rigidities of the labour market in Turkey, with the argument that it would eventually increase employment and reduce unemployment and informal employment. Their demands for active labour market policies have also been a product of their interests in matching their needs for qualified labour, in a way to increase employability. In supporting all their demands at the policy making level, the employers have instrumentally used references to the EU principles and Turkey's eventual membership constantly, in a way that was empowered by the policy discourses and frames at the European level.

On the other front, the interests of the representatives of the workers have naturally focussed on the security related aspects of employment policy change, *vis-à-vis* the flexibility demands of the employers (e.g. new Labour Law, unemployment insurance). In addition, the trade unions also tried to keep the acquired rights of the workers throughout the processes of comprehensive restructuring (e.g. severance payments). Some interesting patterns can be observed in relation to the positions and interests of confederations of the trade unions. First, while the many of the confederations highly criticised Turkey's cooperation with the IMF and World Bank, they were less sceptical about the EU and even less for the ILO norms. Moreover, they often backed up their reactions to the proposed legislative changes towards introducing more flexibility into the labour market by using the EU as an anchor. For example, the reaction of the confederations of trade unions to the proposed arrangement of "temporary work relationship" was criticised as being contrary to the EU directives in the sense that the legislative change did not include the protections envisaged by the relevant directives. Actually, this was also a sign of the vague boundaries and dynamic nature of the European policy, shaped by different historical processes and contestations at the European level. The extensive flexibility demand of the employers in line with the international recommendations for changing the forms of work conditions has

been criticised many of the examples, but not totally rejected by the workers' representatives. Instead, those demands were balanced with "flexibility with security" demands of the confederations, in line with the European flexicurity discussions. This has been an instance of (re)shaping the trade unions discourses in line with the EU frames that have not existed in such a form in their agendas previously. All those are to suggest that although the policy frames of the European employment policy could not fully empower the trade unions apart from their role in relation to social dialogue, the EU has still provided them additional justifications, *albeit* in limited instances, to argue their demands and positions in relation to the components of employment policy. Although in one instance the EU argumentation helped the trade unions to object and hinder policy change (e.g. temporary work relations), it is still not possible that the overall concerns of the trade unions about the security of the workers have been seriously considered by the policy makers.

It is interesting to see that although a high number of societal actors have been mobilised in relation to the EU requirements, their influence on the outcome of domestic employment policy change has been differential, reflecting an imbalance between the societal interests regarding their access to and influence on policy-making, and the relation between the societal actors and the AKP governments. In this regard, a factor that has explanatory power to explain the outcome of employment policy change in Turkey can be considered as the interaction between the AKP government and the employers, characterised by a neo-liberal economic approach, based on the common argument about the need for Turkey to integrate into the world economic system, to keep pace with globalisation, and to increase competitiveness of the Turkish economy in that sense. These can be seen as the underlying reasons for the restructuring of the labour markets and concomitant outcomes of domestic employment policy change including the priorities and components of the employment policy. Such an interaction between policy and societal actors has been shaped by the demands and interests of the employers and AKP governments' support for those on the one hand, and mutually reinforcing nature of the international requirements (both from the EU and international finance institutions) on the other. The impact of the European policy frames on the employment policy in Turkey can be considered in this regard, in a way to provide additional justification for the domestic actors, who would like to inseminate and consolidate a new approach to employment policy in Turkey, characterised by the dependency between the employment and macroeconomic priorities; measures to increase

competitiveness and the role of the private sector; a supply-side orientation; a shift from passive to active labour market policies to increase "employability"; and, increasing flexibility. Moreover, it should be stated that the alliance between the AKP government and the business circles seems to be so strong that the proposed or realised changes can sometimes even go beyond the EU norms and provisions, towards ensuring more flexibility to the employers, by ignoring the protections provided by the EU legislation, as it was the case for temporary work relations. Only in such instances, it is the confederations of the trade unions which instrumentally use the EU and ILO norms to ensure at least some degree of protection and security for their members in the de-regulated labour market in Turkey.

As a last element of domestic politics, *the distance between the EU requirements and the societal norms* prevailing in the Turkish society can easily be considered as a factor that contributes to shaping the outcomes of domestic employment policy change in relation to the women's employment. Two types of impact of societal norms can be named: the interaction between those norms, in this case patriarchy, with the government's ideology and the interests of the societal actors in relation to the EU requirements; and, the role played by those norms in relation to the implementation of the women's employment policies as they stand in Turkey by the end of 2010.

As further elaborated in Chapter 4, patriarchy prevails as a wide-spread societal norm in the Turkish society. In relation to the problem of low levels of women's employment and low levels of female labour force participation rates, patriarchy has been emphasised and criticised by a high number of women's organisations as a structural and cultural problem that perpetuate inequalities and discrimination for women in entering the labour market. In this regard, the policy tools that have been used to combat the problems regarding women's employment, namely the focus on flexible types of work, female entrepreneurship, and education/training for women have severely been criticised by the a number of women's organisations due to their lack of focus on the elimination of structural and cultural problems. Although a National Action Plan on Gender Equality has been published by the AKP government towards the end of the 2000s as a product of the EU emphasis, the proposed policy tools have not changed in a way to include the demands of the women's organisations. On the contrary, the policy measures taken by the government reflected a focus on women's employment from a neo-liberal economic approach with a focus on flexible form of work, which would give the women the possibility to work and at

the same time continue their perceived responsibilities of care giving. Such an approach helps arguing that regarding women's employment, the demands of the employers have been met by the AKP government, in a way to enable the government to reserve its conservative approach to women.

Secondly, the distance between the EU requirements and the societal norms have a considerable impact on the implementation of the existing policies. The National Action Plan for Gender Equality and the Prime Ministry Circular on Increasing Women's Employment and Ensuring Equal Opportunities are soft policy instruments, which do not indeed target the elimination of the prevailing social norms that hinder women's employment in Turkey. Even if more promising measures would be taken at the government level, there is still the risk that patriarchy remains as a factor that would remain as an obstacle for increasing women's employment.

The third category of findings of this case study refers to *the prospects for the implementation, i.e. actual enforcement, of the employment policies* which have considerably changed throughout the 2000s. First, it is important to state that there has not been a long-term perspective and independent but integrated employment policy in Turkey, but it has rather been considered as a function of macro-economic policies, where the expectation has been that the development and economic growth as well as increasing competitiveness would ensure an increase in employment and decrease in unemployment. However, contrary to the expectations, even leaving aside the question of to what extent Turkish economy sustained the economic growth, the growth model of the changing macro-economic policies has fallen short of creating decent and sufficient jobs, especially in the existence of high levels of population growth, dissolution of the agricultural sector of occurrence of several economic and financial crises; and the impact of economic growth on employment has remained limited. The phenomenon known as "jobless growth" observed in Turkish economy, but not specific to Turkey, shows that high levels of unemployment characterised the most important problem for the Turkish employment policy, especially in the aftermath of economic crises of 2000/2001 and 2008/2009. Moreover, the rise in unemployment and people losing their hopes to find decent jobs in the labour market increased the number of people working in the informal/unregistered economy, which remain to be another problem of the employment policy in Turkey. With the increasing degree of privatisation, state's role as an employer has also changed considerably. This changing role, as openly voiced in governmental plans and

programmes, was also accompanied by new duties assigned to the state, reflecting a shift from social state, guaranteed under the Constitution (although Turkish state has never been a welfare state); towards a regulatory and guidance state for the labour markets. In this regard, the dynamics of the labour market and solution of the employment problem have been left to the private sector both in form of private employment offices, and as the main motor of creating jobs through increasing investments.

With this overall context, especially in the 2000s, the employment policy in Turkey has composed of different elements and instruments, targeting different aspects of the employment policy problems rather than eliminating the structural causes of unemployment, eliminating informal sector, and ensuring high levels of labour market participation rates. The analysis has shown that the paradigm shift in the employment policy understanding in Turkey, in line with the EES, was characterised by a shift from demand-side policies towards supply-side policies, especially through the concept of "employability" to be ensured by extensive training, without questioning the deficit of demand for labour; from protection of workers to protection of employment and workplace through the concept of "adaptability"; and, from classical full-time secure jobs to flexible, fixed and part-time jobs in terms of conditions and types of work. All those changes were also intertwined with encompassing structural changes both in the public institutions and in the organisation of the labour market in Turkey, as well as with the increasing use of active labour market policy tools, compared to those of the passive policies. In terms of implementation of the employment policy through less passive but more active labour market policy instruments, the potential of those instruments and employment services provided to overcome the unemployment problem and increase employment in Turkey also remain limited considering the total number of people benefiting from those type of support *vis-à-vis* the total number of unemployed announced in millions in Turkey.

A last observation is that although Turkish employment policy priorities and instruments have shown significant congruence, in terms of substance, to the European employment policy in general and EES in particular, the new paradigm in Turkey has not yet proven to solve the existing problems of the Turkish labour markets, and it still remains to be seen that the presence of a national employment strategy would effectively and structurally deal with those problems. Moreover, it also remains to be discussed to what extent the emphasis of certain concrete EU guidelines have been suited to the structural problems of the Turkish labour markets. In this context, there is no linkage established between reasons of

the economic crises and the causes of the problems of the labour market, and the macro-economic policies implemented under the surveillance of international finance institutions in Turkey.

Conclusions

This research was conducted in an attempt to provide an in-dept explanatory analysis of Turkey's social policy adaptation to the pressures of European integration throughout Turkey's EU candidacy and pre-accession processes in the 2000s. In this regard, being two major elements of social policy, "equality between women and men at work policies" and "employment policy" were selected as two empirical case studies, in which domestic policy change in Turkey could be analysed.

For this analysis, two interrelated theoretical frameworks, namely Europeanisation literature and policy studies, were used in a complementary way. Considerably being built on policy studies literature, the literature on Europeanisation of domestic policies provided valuable insights for the analysis of domestic policy change stemming from the EU accession processes in Turkey. In addition, the Europeanisation literature equipped the research design of two empirical case studies (top-down vs. bottom-up) and provided justifications for their selection in a way to test the explanatory power of two different integration mechanisms (positive integration and framing integration). In this framework, policy studies literature helped in identifying different stages of any policy process, among which policy-making and implementation became the major emphasis for this study. Moreover policy studies helped sketching an overview of possible mediating variables affecting the policy process, and underlined the importance of the domestic actors involved in those processes. The use of both theoretical frameworks ensured a complementary, richer and holistic approach to the analysis of Turkey's social policy adaptation to the pressures emanating from the accession process of Turkey to the EU in general and to the analysis of the outcome of domestic policy change in Turkey and in particular.

The changing nature of the relationship and its visible impact on Turkey has stimulated two major research questions for this explanatory and qualitative research: What has been the impact of the European integration processes on Turkey's domestic policies? and, what have been the factors that affect domestic social policy change in Turkey in the light of European requirements and why? Accordingly, informed and enriched by the policy studies and Europeanisation theoretical frameworks, a number of sub-questions are developed: How and through which mechanisms has the European integration affected some social policy issues in Turkey? What have been the domestic factors effective in leading to domestic social policy change (or resistance)? What have been the exogenous

factors other than the EU, *vis-à-vis* the internal dynamics, that played a role in the domestic social policy change in Turkey, and how have they interacted with the EU requirements? Accordingly, why have the characteristics of the selected social policy fields changed, or remained stable?

Two case studies in an attempt to explore and explain the social policy adaptations and outcome of domestic policy change throughout Turkey's efforts in the pre-accession process, were chosen to be "equality between women and men at work policies" as a test case of positive integration, and "employment policy" as a test case of framing integration. Each case study was structured in a different research design, and can be considered in its own entirety, through which the explanatory power of that particular integration mechanism was explored and questioned. In addition, although it could have also been acknowledged that hybrid constellations of integration mechanisms could be probable in reality, the each empirical case study in this research was intended to limit its focus on one single integration mechanism for analytical purposes in order to see and show whether or not there would be any variation in the outcome of domestic policy change, due to uses of different integration mechanisms in explaining the domestic policy change in Turkey. In addition, as proposed by many Europeanisation scholars, two mediating variables were suggested as factors to be influential on the outcome of domestic social policy change in Turkey. They were namely domestic politics, as a combination of the positioning and ideology of the government, the interests of the domestic societal actors, and, the distance between the EU requirements and the domestic societal norms construed in a relational approach among each other; and, the external/endogenous factors other than the EU.

The empirical case study on equality between women and men at work policies provided a case where the domestic policy change could be analysed through "positive integration" mechanism of the Europeanisation literature due to the "hard" nature of the EU mode of governance. This is to say that the primary instrument of the European integration in this policy field was "hard law", in particular nine EU equality Directives. In line with the "goodness of fit" and "adaptational pressure" conceptualisation of the Europeanisation literature, this case study adopted a top-down research design, where the starting point was the EU's equality at work policies and relevant EU directives, as the independent variable. Accordingly, the analysis of the domestic policy change, as the dependent variable of the case study, included two parts. In the first part, the relevant EU *acquis* was compared with the Turkish legislation in 1999 and by the end of 2010 in order to determine the degree of

adaptational pressures created by the European accession processes since 1999. This exercise helped in identifying the outcome of domestic policy change in the field of equality between women and men at work policies and in categorising the compliance performance of Turkey as "selective harmonisation." Considering the insufficiency of the adaptational pressures conceptualisation in explaining the variation in the outcome of domestic policy change, the second part of the analysis focussed on the exploration of the dynamics of domestic policy change through process tracing, on three particular issues, namely the concept of equality, the right of parental leave, and women in social security, derived from the analysis of the legal transposition in Turkey. A closer look at those as interesting cases and issues of contestation also provided the opportunity to test the potential of the suggested mediating variables in explaining the outcome of domestic policy change in this policy field. The findings of the analysis were discussed in detail in the conclusion part of the empirical case study, under three categories: explanatory power of the policy misfit/adaptational pressures; the potential of the suggested mediating variables in explaining the variation in the outcome of domestic social policy change in the field of equality between women and men at work in Turkey; and, the prospects for the implementation, i.e. actual enforcement, of the whole body of equality at work policies in Turkey by the end of 2010, as a joint product of domestic dynamics and the changes due to the EU integration process.

Regarding the explanatory power of "goodness of fit" conceptualisation, the findings of this case study suggested that although the level of policy misfit and the degree of adaptational pressures in 1999 varied within the selected policy field and three levels of adaptational pressures (low, medium and high) were identified, it was not possible to observe similar outcomes of domestic policy change as a result of those different degrees of adaptational pressures, where similar degrees of pressures would lead to similar types of outcomes. This insufficiency of the adaptational pressures approach necessitated the need to identify and examine some factors that would actually mediate the outcome of domestic policy change.

Accordingly, the second category of findings referred to the potential of the suggested mediating variables in explaining the "selective harmonisation" pattern of the outcome of domestic social policy change. As the first mediating variable, it was stated that other external factors than the EU played a role in the domestic policy change both by reinforcing the EU requirements at the domestic level (i.e. the interdependency between

international equality norms and standards), and by differentially empowering the domestic policy and societal actors such as the women's organisations. Domestic politics, as the second mediating variable, was also an influential factor in explaining the outcome of domestic policy in this policy field. While the government's conservative ideology *vis-à-vis* the (substance of) EU requirements, in other words the perception of the AKP about the substance of the individual EU requirements, seriously influenced the outcome of domestic policy change in form of filtering of the transformative provisions of the EU requirements; it was indeed the interaction and alliances between the policy and societal actors, as well as the role of the societal norms, namely patriarchy, which actually mediated the outcome of change. The relationship between the interests of the societal actors and the EU requirements showed that the EU requirements could empower many societal actors at the domestic level; they helped reconsideration of their priorities; and, they even (re)shaped their discourses by introducing new priorities into their agendas. On the other hand, those societal actors also instrumentally used the EU requirements to pursue their own interests and policy agenda at the domestic level. In all those processes, the perceptions of the societal actors about the substance of the particular EU requirements; the subsequent match between those perceptions and the interests of the societal actors; and, concomitantly the interaction between those actors and the government played an important role on the outcome of domestic policy change to be characterised by "selective harmonisation." The distance between the EU requirements and the societal norms prevailing in the Turkish society was also considered as another factor that complemented the dynamics of domestic politics, and accordingly contributed to shaping the outcomes of domestic policy change in Turkey. Two types of impact of societal norms were observed: the interaction between those norms, in this case patriarchy, with the government's ideology and the interests of the societal actors in relation to the EU requirements; and, the role played by those norms in relation to the implementation of the equality at work policies as they stand in Turkey by the end of 2010.

Finally, the third group of findings of this case study referred to the prospects for the implementation, i.e. actual enforcement, of the policies which have changed as a result of the EU integration process. It was impossible to argue that all the transposed legislation about equality at work had actually been or would be properly implemented at the domestic level due to reasons such as the lack of genuine political will, characterised by the limited the coverage of the legal arrangements, the low sanction power defined in the

laws, and the insufficient human and financial resources; the patriarchal and conservative norms and values prevalent in the society; and, the situation of the Turkish economy in general and the economic crises. In addition, it was also argued that the capacity of the existing equality at work policies in Turkey, in the form that they took by the end of 2010 is quite limited to be able to solve the existing problems of inequality in the labour market in Turkey.

The empirical case study on employment policy provided a case where the domestic policy change could be analysed through framing integration mechanism as suggested by the Europeanisation literature due to "soft" nature of the EU's employment policy instruments. This is to say that the dominant European mode of governance in this policy field was "soft law", as a part of the Open Method of Coordination. Since this mode of governance was considered as a "new and innovative" mode of policy transfer, a brief discussion of the development of employment policy at the European level in terms of the politics of employment policy, as a new and innovative mode of governance, and in terms of its substance through a brief analysis of its guidelines was also provided in this case study. Actually this exercise helped in identifying the characteristics of, as well as the policy frames prevalent in, the European employment policy. The empirical case study on employment policy, in line with the presuppositions of the framing integration, adopted a bottom-up research design, where the starting point was the domestic development of employment policy in Turkey, which has been considered as a function of the new macro-economic policy orientation since the 1980s, rather than as an independent policy area. This bottom-up research design started from the domestic level in order to first identify the outcome of domestic employment policy change at the domestic level and then link it to the impact of the EU and other external factors. In this regard, after a short introduction of the background of employment policy in Turkey in the 1980s and 1990s, the development of the employment policy in Turkey throughout the 2000s, and the main components of the employment policy in Turkey by the end of 2010 were analysed. As a result of this exercise, it was found out that the outcome of domestic employment policy change in Turkey was characterised by "comprehensive substantive framing." In the next step, the dynamics of domestic employment policy change in the light of the two mediating variables were explored, in a way to search for the framing impact of the EU in form of providing additional justification for the domestic policy and societal actors, and/or in a way to alter their beliefs and expectations. The findings were discussed in detail in the

conclusion part of the case study, under three categories: the explanatory power of the framing integration mechanism and "learning" as an explanatory factor; the potential of the suggested mediating variables in explaining the outcome of domestic employment policy change in Turkey; and, the prospects for the implementation, i.e. actual enforcement, of the employment policy measures in Turkey.

Regarding the explanatory power of the framing integration mechanism, this case study stated that even in the absence of the hard law instruments, which are more coercive policy tools, "soft law" also created domestic employment policy change in Turkey. However, it was also stated that there was a need to go beyond the two-level analysis of the literature focusing only on the mode of governance and convergence of outcomes, by adding a new level to the analysis, namely the substance of the policy. This was due to the fact that only by looking at the almost non-existing approximation of the Turkish employment policy within the context of EES procedures such as the lack of JAP and lack of NAP; and the considerable divergence of Turkish labour market indicators from the quantitative targets of the Lisbon strategy (70% overall employment rate and 60% female employment rate) would be misleading in understanding the outcome of domestic employment policy change in Turkey. In this regard, there was no evidence in the Turkish case that domestic employment policy change occurred as a result of "learning" as proposed by some Europeanisation scholars, due to the limited interaction between Turkish authorities with their counterparts and the European Commission in the context of EES policy cycle, but interaction only in the processes of Employment Policy Review.

Thus, by looking at the substance of the employment policy, this case study suggested the existence of a visible congruence between the Turkish and European employment policy, in terms of the policy frames composing of principles, objectives and substance in terms of internalisation and use of the concepts, ideas and instruments in particular way to define policy problems and offer solutions to them. In other words, there were considerable parallels between the principles and components of the employment policy in Turkey by the end of 2010 with those at the European level: the focus on supply-side policies; emphasis on employability of the labour force, adaptability of the enterprises and employees, and flexibility; the shift from passive to active labour market policies, especially through training; the role of private sector and competitiveness; and, the relation of the employment policy with macro-economic policies can be found in different components and instruments of the employment policy in Turkey. In this regard, the

outcome of domestic employment policy change was characterised by "comprehensive substantive framing" identifiable through the introduction of many new policy principles and restructuring of the relevant institutions throughout the 2000s.

In order to be able to identify to what extent the outcome of domestic employment policy change characterised by "comprehensive substantive framing" owed to the European pressures and Turkey's EU accession processes, the second category of findings of this case study suggested that two mediating variables were influential in explaining the outcome of domestic employment policy change in Turkey. The elaboration on the external factors other than the EU, as the first mediating variable, showed that the involvement of the EU and ILO in shaping of the employment policy on the one hand, and that of the international finance institutions (namely IMF and World Bank) in shaping the macro-economic policies on the other, were mutually reinforcing processes. The EU explicitly supported the economical restructuring processes pursued by the Turkish governments under the IMF surveillance, and IMF and the World Bank supported Turkey's integration with the EU underlining the importance of various individual elements of the European Employment Strategy (EES). From the majority of domestic actors' point of view, IMF and EU were perceived as two anchors to ensure macro-economic stability in Turkey and the competitiveness of Turkish economy.

In line with the propositions of the framing integration mechanism, this case study suggested that the exploration of the impact of the EU policy frames on changing the beliefs, expectations, problem definitions and demands of the major actors of domestic politics, and/or exploration of how the EU was instrumentally used by those actors to justify their demands and/or domestic reforms initiatives would be an important part of the analysis of domestic employment policy change in Turkey. This was shown in relation to the second mediating variable, namely domestic politics, being composed of the positioning and ideology of the government, interests of domestic societal actors, and, domestic societal norms. The findings of the case study suggests that the government's ideology and positioning *vis-à-vis* the issues of employment policy throughout the processes of policy changes reflected a considerable degree of neo-liberal tones, with a focus on integrating Turkey into the world economic system, keeping pace with globalisation, and increasing competitiveness of the Turkish economy in that sense. It was also suggested that under the close surveillance of the IMF and the EU, the way in which the positioning and ideology of the AKP governments regarding their economic and social

policy approaches were shaped in a close interaction with the demands and interests of particular domestic societal actors, namely the employers, throughout the 2000s. Both short-term and long-term interests and expectations of the employers reflected in their demands towards increasing competitiveness of the private sector, as well as elimination of economic costs that are incurred on them as a result of labour market regulations were backed up constantly with the references to the EU principles and Turkey's eventual membership, in a way that was empowered by the policy discourses and frames at the European level. On the other hand, the security demands of the representatives of the trade unions were filtered by alliance between the government and the employers and the overall concerns of the trade unions about the security of the workers were not seriously considered. Still, on a very limited number of occasions, the instrumental use of EU principles helped the trade unions object and hinder policy change. In relation to the interests of the societal actors and their relations with the positioning of the government, it was possible to argue that the European employment policy frames provided additional justification for the domestic actors, especially to those who would like to inseminate and consolidate a new approach to employment policy in Turkey, characterised by the dependency between the employment and macroeconomic priorities; measures to increase competitiveness and the role of the private sector; a supply-side orientation; a shift from passive to active labour market policies to increase employability; and, increasing flexibility. Being the third element of domestic politics, the distance between the EU requirements and the societal norms prevailing in the Turkish society was a factor that contributed to shaping the outcomes of domestic employment policy change in relation to the women's employment.

As a third category of findings of this case study, the prospects for the implementation, i.e. actual enforcement, of the employment policy measures in Turkey suggested that the restructuring and transformation of employment policy throughout the 2000s did not yet prove to be a real solution to the problems of the labour market in Turkey, namely in increasing employment, increasing labour force participation rates, especially for women, decreasing unemployment or reducing informal employment.

Those findings on each empirical case study were already discussed at the end of each case study in detail. Now the aim of the remaining few pages is to see the potential of a comparison between the findings of two case studies in deriving some insights for future research on domestic policy change in Turkey or in other countries.

The first observation is that it is difficult to *differentiate the pure impact of the EU on the outcomes of the domestic policy change*. This has two aspects. First, as both case studies have shown, especially after the 1980s, Turkey has always been under the surveillance and pressures of international organisations. At certain points, those pressures were so interwoven that any pure impact of the EU becomes blurred. In addition, this situation also owes to the inconsistency from the European side, especially regarding the employment policy, which is still under construction and under the influence of conflicting societal forces at the European level. Considering those factors, the exploration the potential of influence of other external factors than the EU gains particular significance in terms of explaining the domestic policy changes. This is a factor that justifies the use of relevant external factors other than the EU as a mediating variable, which would be useful in explaining the analysis of domestic policy change in different country case studies and in relation to different policy areas.

The second observation is about *the role of the EU policy instruments in analysing domestic policy change* in a domestic setting. In the case of the use of hard law instruments, the coercive and hierarchical nature of those tools was not sufficient to push the country in question towards domestic change and there was variance in the degree of compliance amongst the policy issues and directives of the same policy area. In the case of soft law, although the EU requirements were more general, more inconsistent and blurred, and based more on targets and outcomes, the impact of the EU policy frames seemed higher. Thus, the findings of two case studies show that it is not possible to argue that one particular type of mode of governance would lead more domestic policy change than the other. Even in the existence of hard law instruments, domestic change can and did occur only partially or selectively; and in the existence of less coercive policy instruments requiring voluntary compliance, European level policy can lead to considerable change.

Actually, those observations lead to the conclusion that the impact of Europe and other international frameworks on Turkey has not been automatic. In this context, in many studies, *the role of the domestic politics* in explaining the outcome of domestic policy change is often underestimated. Moreover, although there are some studies pointing out the importance of different elements of domestic politics such as the “national preferences” (Mastenbroek and van Keulen, 2006; Mastenbroek and Kaeding, 2006), “domestic party politics and political party preferences” (Treib, 2003) and “government’s ideological orientation and its parliamentary strength” (Sedelmeier, 2009), a comprehensive and

relational approach regarding different elements of domestic politics and the patterns of their interaction in relation to the EU requirements is lacking. In this regard, the findings of two case studies show that the approach to domestic politics as a combination of the positioning and ideology of the government in particular relation to the European requirements and policy principles; the interests of the domestic societal actors; and, the distance between the EU requirements and the domestic societal norms have a potential to mediate, and hence explain, the outcome of domestic policy change. In this regard, the relational approach to domestic politics refers to tracing and identifying the positions of main domestic societal actors and policy makers in relation to policy issues, and identifying the power relations between those actors and their differential empowerment in relation to their resources and access to policy-making processes, relational nature of their interests, and how political, ideological and economic costs for the societal actors shape the strategic alliances between some of the actors around some policy issues, while leaving some of the demands for and resistance to change out of the scene. In relation to the impact of European processes on this variable, it becomes important to observe how the European integration process is perceived by the domestic actors and how this process is used by those actors. Employing such an approach in the Turkish case, it was possible to see how external pressures have often been filtered by domestic actors or instrumentally used in line with their perception about the nature and substance of the EU requirements to support their own positions and demands at the domestic level. In this regard, two case studies show a considerable interdependence between the AKP governments and the organised interests of the employers throughout the 2000s. A similar pattern of filtering and/or instrumental use has also been valid for the societal actors, who have pushed their own demands for or resistance to change, but could not be successful in changing the policy in line with their own interests. Thus, it is possible to suggest that a relational and dynamic approach to domestic politics has a great potential in mediating and eventually explaining the domestic policy change in different country case studies and in relation to different policy areas.

Last but not the least, the outcome of the domestic policy change in both cases shows that *the realised policy changes have not always corresponded with the actual "policy problems"* of that policy field. Considering the presupposition of the policy studies literature that policies are made to eliminate some social problems, the domestic policy change in Turkey showed that the problems related to the policy fields were neither

sufficiently articulated in the policy-making processes nor targeted through changing the policies. In most cases, the problem definitions were "imported" as a result of the exposure to external pressures, thus the problem-solving capacity of the policy changes adjusted to the domestic problems remained limited. For example, even the full transposition and implementation of the EU *acquis* in the field of equality between women and men at work could not be argued to solve the problems of the working women, or full alignment with the EES and the guidelines to reduce the unemployment and increase the employment rates. Moreover, there is not sufficient evidence that some of the EU norms, for example flexibility in the field of employment, would result in elimination of social problems even in the member states. Actually, there are also many studies that show that in the EU member states, the outcomes of the policy changes in line with the EU requirements have sometimes been quite limited in terms of solving those problems, especially in relation to unemployment and gender inequalities in the labour markets.

In addition, *the lack of implementation* was also a reason for such a low level of problem-solving capacity. In some cases, the coverage and implementation potential of the legislative changes were limited such as the coverage of the Labour Law or of the unemployment insurance; and, in many cases legal changes were deemed to be non-implementation due to the inconvenient conditions such as the sizable informal sector, or low levels of sanctions for those who do not comply with the legislation, for example those who act in a discriminatory way conflicting with the equality provisions regarding the equal treatment principle. Indeed, implementation/enforcement aspect is an emerging and unexplored field of research, which would merit a more in-depth analysis in light of factors to explain the implementation performances of individual countries.

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Samenvatting

De intensiteit van de relaties tussen Turkije en de Europese Unie (EU) zijn aanzienlijk versterkt na 1999, vanaf het moment dat het relatiepatroon is verschoven naar een perspectief op volledig lidmaatschap. Deze verandering in de aard van de Turkije-EU relaties heeft de impact van de EU op Turkije onvermijdelijk gemaakt, ongeacht of Turkije een EU lidstaat zou worden. Het proces bevat zowel prikkels als uitdagingen voor Turkije en heeft bijgevolg enkele dynamieken gestimuleerd, door het Turks binnenlands beleid, met al haar relevante instellingen en actoren, te beïnvloeden om zich, gewild of ongewild, aan te passen aan de condities van de pretoetredingsprocessen.

Het is tegen deze achtergrond dat de doelstellingen van het gevoerde onderzoek zich situeren. Het onderzoek richt zich op de analyse van de aanpassingen van het Turks sociaal beleid en de reikwijdte en de richting van de verandering van het Turks binnenlands beleid onder de gecreëerde druk binnen de EU pre-toetredingsprocessen, dit vooral in 2000s binnen twee geselecteerde sociale beleidsdomeinen, en wil het resultaat van de binnenlandse beleidsveranderingen verklaren in het licht van twee specifieke mediërende variabelen. Voortbouwend op literatuurstudie in het domein van beleidsstudies en vertrekkende van het theoretisch kader rond Europeanisering, werden volgende onderzoekvragen geformuleerd: “wat was de impact van processen van Europese integratie op het binnenlands beleid van Turkije?” en “welke waren de factoren die de uitkomst van het verandering in het het beleid hebben beïnvloed en waarom?”

Het onderzoek is opgebouwd uit twee empirische ‘case studies’, namelijk de gelijkheid tussen mannen en vrouwen in het arbeids- en tewerkstellingsbeleid. Elke case study is ontworpen opdat de verklaringskracht van een mechanisme tot Europeanisering wordt getest, namelijk de positieve integratie en geplande integratiemechanismes, in de verklaring van de veranderingen van het binnnelands beleid, die gecreëerd zijn door de druk van de EU toetredingsprocessen. Door de variaties in de resulaten te verklaren wordt de rol van twee mediërende variabelen geëxploreerd. De eerste variabele is de binnenlandse politiek, die wordt beschouwd als de combinatie van een aantal verschillende elementen, met name de positionering en de ideologie van de regering, belangen van de binnenlandse maatschappelijke actoren en de afstand tussen de toetredingsvereisten van de EU en de binnenlandse maatschappelijke normen.

Er wordt verwacht dat elk van deze elementen een directe of indirecte invloed heeft op de vorming van de uitkomsten van binnenlandse beleidsveranderingen, terwijl deze ook worden beïnvloed door het proces zelf en door andere elementen van de binnenlandse politiek. De tweede mediërende variabele is het bestaan van andere externe/endogene factoren dan die van de EU, welke de eisen van de EU voor politieke verandering op het binnenlands niveau kunnen versterken, en differentieel het binnenlands beleid en maatschappelijke actoren die bemiddelen in de binnenlandse beleidsveranderingen versterken.

De eerste case belicht de veranderingen in het binnenlands beleid met betrekking tot de gelijkheid tussen mannen en vrouwen in het arbeidsbeleid. In deze case werd gebruik gemaakt van de literatuur met betrekking tot het Europese “positieve integratie” mechanisme. Omdat “hard law” voor dat domein het voornaamste integratie-instrument is, meer bepaald de negen EU-richtlijnen. In lijn met de 'goodness of fit” conceptualisering, wordt in deze case een “top-down” onderzoeksdesign aangenomen. De bevindingen van deze case tonen dat het resultaat van binnenlandse beleidsveranderingen in dit beleidsveld

worden gekarakteriseerd door “selective harmonisation” refererend aan de variatie met betrekking tot de uitkomsten. Dus, wordt gesuggereerd dat de aanpassingsdruk per se niet voldoende is om deze variatie te verklaren, en wat de variatie verklaart, was de rol van de voorgestelde mediërende variabelen.

De tweede empirische casestudie analyseert met behulp van het “framing integration” mechanisme, de binnnelandse veranderingen in het Turks tewerkstellingsbeleid, omdat de dominante Euopese manier van bestuur binnen dit beleidsveld “soft law” is. In lijn met de vooronderstellingen van het geplande integratiemechanisme, neemt de case een “bottom-up” onderzoeksdesign aan, om te bekijken of Europees beleid de geloofsverwachtingen van binnenlandse actoren al dan niet wijzigt of hen voorziet van aanvullende legitimiteit voor binnenlandse beleidsveranderingen. De bevindingen van de case tonen dat de resultaten van veranderingen in het binnenlands tewerkstellingsbeleid in Turkije gekarakteriseerd worden door “comprehensive substantive framing”, refererend aan de verandering van een brede waaier aan aspecten, zowel in de essentie, van tewerkstellingsbeleid in Turkije, gevormd door specifieke beleidskaders. Ook in deze case spelen de mediërende variabelen een belangrijke rol in de verklaring van het binnenlands tewerkstellingsbeleid.

Als onderdeel van de algemene conclusies, wordt een variatie in termen van de impact van de EU op twee sub-domeinen van sociaal beleid geobserveerd via de analyse van deze twee cases. Bij het bekijken van de variatie is de eerste observatie dat het moeilijk is om de pure impact van de EU op de resultaten van de binnenlandse beleidsveranderingen te differentiëren. Ten eerste, dankzij de onderlinge afhankelijkheid en het onderling ondersteunende karakter van de internationale verplichtingen; ten tweede, dankzij de vaak onderschatte rol van de binnenlandse politiek. De tweede observatie is gerelateerd aan de rol van de EU beleidsinstrumenten, gesuggereerd dat het type en de dwang van het instrument op zich geen voldoende factor is om het resultaat van binnenlandse veranderingen te beïnvloeden. De derde observatie suggereert dat de interactie tussen de binnenlandse actoren en hun posities vis-à-vis de Europese eisen afhankelijk zijn van de gepercipieerde essentie van EU eisen, meer dan de wijze van Europees bestuur. De laatste observatie suggereert dat de gerealiseerde beleidsveranderingen niet altijd overeenkomen met de actuele politieke problemen binnen dat beleidsveld, ten eerste dankzij de “geïmporteerde” aard van probleemdefinities en hun beperkte probleemoplossende capaciteit in de beleidscontext, en ten tweede dankzij het gebrek aan implementatie in Turkije.

Résumé

La densité des relations entre la Turquie et l'Union Européenne (UE) a intensifié après 1999, quand le mode des relations s'est évolué vers une perspective de l'adhésion Européenne. Ce changement dans la nature des relations Turquie-UE a rendu inévitable l'influence de l'UE dans Turquie, sans tenir compte du fait que Turquie serait ou ne serait pas éventuellement membre état de l'UE. Ce processus qui implique des motivations et stimulations nouvelles, a provoqué certains dynamiques par influençant les politique intérieure en Turquie, avec toutes ses institutions et acteurs appropriés à se conformer, volontairement ou involontairement, aux conditions du processus de pré-adhésion.

C'est dans ce contexte que cette thèse a le but d'analyser les adaptations de la politique sociale de la Turquie et dans quelle mesure et direction le changement de la politique intérieure a lieu sous la pression émanant du pre-adhésion processus, spécialement dans les années 2000, sur les questions de deux politiques sociales choisies, et propose d'expliquer le résultat de changement de politique intérieure à la lumière de deux variables médiatrices particulières.

Informée par la littérature sur les études de politique et la base théorique de 'Europeanisation', les questions principales de le recherche sont formulées comme les suivantes: 'Quel a été l'impact du processus d'intégration européenne sur les politiques intérieures de la Turquie?' et 'Quels ont été les facteurs influençant le changement des politiques intérieures en Turquie et pourqoui?'

La recherche est composée de deux études de cas, notamment l'égalité entre femmes et hommes dans le domaine de politique du lieu de travail et du politique d'emploi. Chaque étude de cas est conçue pour interroger le pouvoir explicatif du mécanisme 'Europeanisation', notamment les mécanismes d'intégration positive et intégration d'encadrement, afin d'expliquer le résultat du changement de politique intérieure en Turquie a cause des pressions créées par le processus d'accession a l'Union Européenne.

En expliquant la variation en matière des résultats, le role de deux variables médiatrices est exploré. La première variable est la politique intérieure qui est considérée comme la combination d'un certain nombre d'éléments, notamment la position et l'idéologie du gouvernement, les intérets des acteurs domestiques sociaux et la distance entre les obligations de l'UE et les normes domestiques sociaux. Chacun de ces éléments est attendu de subir une influence directe ou indirecte sur le résultat du changement de politique intérieure. Ils sont aussi influencés par le processus et autres éléments de la politique intérieure. La deuxième variable médiatrice est l'existence des facteurs endogènes autre que l'UE, qui peut renforcer les obligations de l'UE pour le changement de politique au niveau intérieur et peut donner pouvoir a la politique intérieure et les acteurs sociaux qui servent comme médiateur pour le changement de la politique intérieure.

La première étude de cas concerne le changement de politique intérieure dans le domaine de l'égalité entre femmes et hommes dans la politique de travail. Dans ce cas, le mécanisme de 'l'intégration positive' de la littérature de 'Europeanisation' est utilisé, parce que l'instrument essentiel de l'intégration Européenne dans cette domaine de politique est 'loi dure' (hard law) incarnée dans neuf Directives particulières de l'UE. En suivant la conceptualisation 'goodness of fit', cette étude de cas adopte une méthode de recherche 'top down'. Les conclusions de la recherche montrent que le résultat du changement de politique intérieure dans cette domaine de politique est caractérisé par 'harmonisation sélective', qui correspond a une variation concernant le résultat. C'est pourcela que les

pressions d'adaptation par soi ne sont pas suffisantes d'expliquer la variation. Ce qui explique la variation est le role des variables médiatrices suggérées.

La deuxième étude de cas analyse le changement de politique intérieure d'emploi en Turquie, par le mécanisme d'intégration d'encadrement, étant donné que le mode dominant de gouvernance Européen dans cette domaine de politique est 'loi modérée' (soft law). Suivant les présuppositions du mécanisme d'intégration d'encadrement, l'étude de cas adopte une méthode de recherche 'bottom up' afin de révéler si la politique Européenne change les anticipations des convictions des acteurs locales ou procure une légitimation supplémentaire pour le changement de politique intérieure. Les conclusions de cette étude de cas montrent que le résultat du changement de la politique intérieure d'emploi en Turquie est caractérisée par un 'encadrement complet et substantif', correspondant a un changement avec plusieurs aspects et un changement dans la substance de la politique d'emploi en Turquie, qui seraient déterminés par les encadrements des politiques particuliers. En plus, dans cette étude de cas, les variables médiatrices jouent un role important pour expliquer le résultat du changement de la politique d'emploi intérieur.

En tant que conclusions générales, une variation à l'égard de l'impact de l'Union Européenne sur deux sous-domaines de politique sociale est observée par l'analyse de ces deux études de cas. La première observation concernant la variation est qu'il est difficile de différencier l'impact pure de l'UE sur les résultats du changement de politique intérieure, premièrement à cause de l'interdépendance et la nature réciproque des obligations internationales, et deuxièmement, à cause du role des politiques intérieures qui est souvent sous-estimé. La seconde observation se réfère au role des instruments de politique de l'UE, suggérant que le type et le niveau coercitif de l'instrument en soi n'est pas un facteur suffisant qui influence le résultat du changement intérieur. La troisième observation propose que l'interaction entre les acteurs locales et leurs positions à l'égard des obligations Européennes dépend en la perception de la substance des obligations de l'UE, plus que le mode du gouvernance Européen. La dernière observation suggère que les changements de politique qui ont été réalisé ne correspondent pas toujours aux problèmes actuels de politique au niveau intérieur, premièrement à cause de la nature 'importée' de définitions des problèmes et leur capacité limitée de résoudre les problèmes, et deuxièmement, à cause du manque d'implémentation en Turquie.