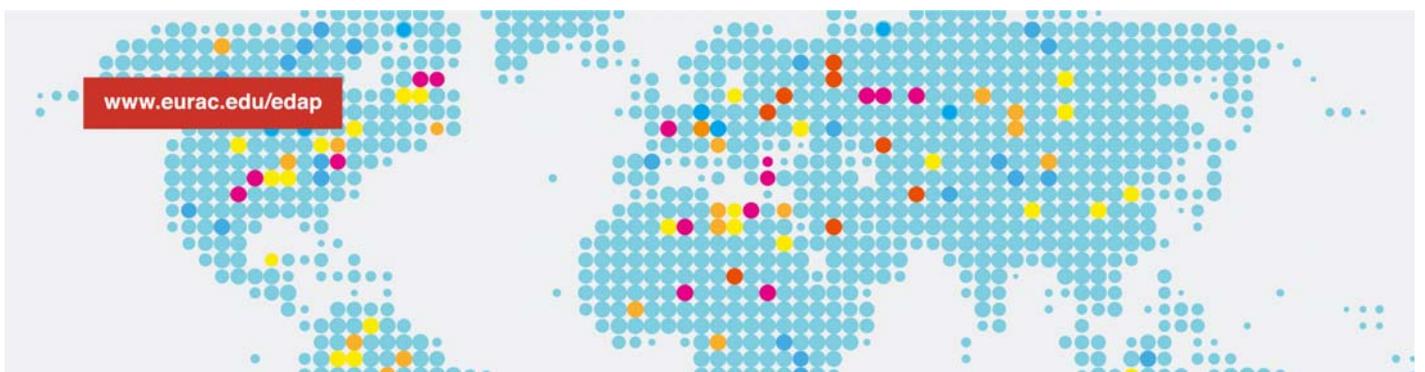


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# Europeanization of Minority Rights: Discourse, Practice, and Change in Turkey

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## Abstract

In the ethnically fragmented countries, it is almost taken for granted that the EU has a positive impact on minority rights protection. Those states made important legislative changes improving the protection level granted to minorities, which without the EU's conditionality would have been impossible. In response to the perspective of membership and the pressure accompanying it, they have adopted legislative changes in the course of the accession process. However, such domestic changes can be misleading in two aspects. Firstly, formal changes may not be followed by behavioral ones and usually a gap between legislative changes and their implementation can be observed. While for the former only rationally induced factors would be sufficient enough to instigate change, for the latter, a certain level of change in attitudes is also necessary. Secondly, the EU's impact cannot be confined to the formal changes. It has an impact on the emergence of new attitudes, identities, and beliefs. These socialization-based changes might not be parallel with formal changes, which in time might lead to opposite behavioral shifts.

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

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### Key words

Minority Rights - Turkey - Europeanization - EU-Turkey relations - Conditionality - Human Rights in Turkey - Enlargement - Democratization.

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# Europeanization of Minority Rights: Discourse, Practice, and Change in Turkey

Zelal Kizilkan-Kisacik<sup>1</sup>

## 1. Introduction

In the recent Eastern enlargement, the EU has set specific democratic conditions for the accession of the candidate countries and developed a new human rights policy, featured as an increased level of conditionality and fulfillment of certain requirements. It has used membership card as an incentive to implement human rights norms and principles in the countries striving to access the EU. All candidate countries have been engaged in a large-scale process of transformation approximating their standards to European practices. In this way, the EU has become an important external dynamic that changed domestic policies of the candidate countries. Promotion of minority and cultural rights has also appeared to be an important aspect of this enlargement discourse in this regard.

Even though minority rights do not pertain to the traditional competence of the EU, the positive influence of the EU on the candidate countries has been strongly noticed. In the ethnically fragmented candidate countries, it is almost taken for granted that the EU has a positive impact on minority rights protection. Those states have made important legislative changes improving the protection level granted to minorities, which without the EU's conditionality would not have been possible. In response to the perspective of membership and the pressure accompanying it, they have adopted legislative changes in the course of the accession process. Turkey is one of those candidate countries becoming the target of human and minority rights promotion policies of the EU. Since the Helsinki Summit in 1999, Turkey has initiated several reforms on cultural and minority rights and hence recorded important progress. Although reforms are considered as not sufficient enough to meet the demanded standards, these amendments have opened the 'Pandora's box', resulting in a normative shift in public discourses.

However, such domestic changes can be misleading. Firstly, formal changes may not be followed by behavioral ones. There is always a gap between legislative changes and their implementation. While only rationally induced factors would be sufficient enough for instigating change for the former, for the latter, a certain level of attitude change is necessary. Secondly, the EU's impact cannot be confined to the formal changes. It has an impact on the emergence of new attitudes, identities, and beliefs. The change in identities

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<sup>1</sup> I thank the referees for their constructive comments and Setenay Ozturk and Graciela Aguirre Holzmann for their linguistic improvements.

and beliefs might not always be parallel with formal changes. It might lead to opposite behavioral tendencies.<sup>2</sup> Legislative changes can conceal deep-rooted political and social tendencies which become more visible in the course of the accession process.<sup>3</sup>

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

This study employs Europeanization as an analytical framework since it considers change as a "two way process".<sup>4</sup> The framework provides an opportunity for analyzing the impact of international changes on domestic level policies. Considering minority protection as a recently emerging area of influence, the framework provides the tools for understanding how the construction of the minority norms at the EU level has an impact on domestic change within the candidate countries. The framework also creates new means for analyzing how opportunities and constraints created by the accession process are instrumentally used or normatively internalized by different actors in domestic structure. On the whole, it gives the analytical tools to be used to understand the interaction of domestic and international factors at the same time.

This paper consists of three parts. The first part analyzes Europeanization as a theoretical framework. Two forms of Europeanization are explored here. These are "policy-Europeanization" and "identity-Europeanization." The second part traces how Europeanization of minority norms in Turkey takes place. The EU's pressure on Turkey to adopt its current minority policies to

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<sup>2</sup> Gwendolyn Sasse, "The Politics of EU Conditionality: The Norm of Minority Protection during and Beyond EU Accession," 15(6) *Journal of European Public Policy* 2008, 842-860, 855.

<sup>3</sup> *Ibid*, 855.

<sup>4</sup> Tanja Börzel, "Pace Setting, Foot-Dragging, and Fence Sitting Member State Responses to Europeanization," 40(2) *Journal of Common Market Studies* 2002, 193-214, 193.

the European ones constitutes basic concern of the discussion. The objective here is to outline the stance of the EU on Turkey's current treatment of minorities. The last part analyzes the direct and indirect impact of the EU accession process on the policies and beliefs/identities concerning ethnic minorities. The aim is to find out policy and societal Europeanization of minority norms in Turkey. The essay concludes with a discussion of the general patterns of norm adoption with respect to the Kurdish minority.

Methodologically, following the analyses of Europeanization as a theoretical framework, the Commission Reports since the Helsinki Decision in 1999 are analyzed in order to determine the pressure of the EU on minority rights in Turkey. Next, the constitutional amendments are explored to determine the degree of policy change. In order to find out the gap between policy changes due to the EU pressure and identity/belief change, the results of open ended interviews with representatives of civil society organizations in Turkey are presented. The focus of the paper is merely on Kurds as a minority group in Turkey, excluding the other non-Muslim minority groups from the discussion. That is why legislative changes and attitudes, which might have implications on the Kurdish groups, are only analyzed.

## 2. Europeanization as Theoretical Framework

Europeanization is a multi-dimensional and comprehensive concept. It is used to explain the different phenomena and processes of change like "the changes in external boundaries," "developing institutions at the European level," "central penetration of national systems of governance," "exporting forms of political cooperation," and "political unification project."<sup>5</sup> It is also defined as a process of first construction, second diffusion, and third institutionalization of formal and informal rules, ways of doing things, shared beliefs and norms at the EU level, and then their incorporation to the domestic discourse, identities, political structures, and public policy.<sup>6</sup> No consensus has yet been reached between scholars in terms of its definition and meaning. But in all definitions, Europeanization is described as "the transfer from "Europe" to other jurisdictions of policy, institutional arrangements, rules, beliefs, and norms".<sup>7</sup> Consequently, the scope of Europeanization is not only limited to the adoption of legally binding legislations drawn at the EU level. It has implications for wider processes of change within the domestic structure.

As no unanimous definition of Europeanization is available, clarifying the definition of the term is necessary in all scholarly debates using Europeanization as a theoretical framework. This study employs two different

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<sup>5</sup> Johan Olsen, "The Many Faces of Europeanization," 40(5) *Journal of Common Market Studies* 2002, 921-952, 923-924.

<sup>6</sup> Claudio Radelli, "The Europeanization of Public Policy," in Kevin Featherstone and Claudio Radelli (ed.), *The Politics of Europeanization* (Oxford, Oxford University Press, 2003), 30.

<sup>7</sup> Simon Bulmer, "Theorizing Europeanization," in Paolo Graziano and Vink Maarten (ed.) *Europeanization: New Research Agendas*, (Basingstoke, Palgrave Macmillan, 2007), 47.

forms of Europeanization. These are “policy-Europeanization” and “societal-Europeanization.”<sup>8</sup> Both of them explain the domains in which the impact of European integration at the domestic level is felt. In policy-Europeanization, Europeanization is defined as the impact of “the development of the EU policies in particular, issue areas embodying new rules, norms, regulations, and procedures” on the domestic level policies.<sup>9</sup> As the EU level policy grows in its scope and depth, the numbers of issue areas, which are traditionally under the jurisdiction of national governments, are also included within the competence of the EU. More and more decisions are taken at the EU level. The EU gradually imposes strong pressure on member and candidate states to adapt their national policies to the European ones. By this way, European integration influences domestic policies.

When addressing “policy Europeanization,” three mechanisms can be identified. These are positive, negative, and framing integration.<sup>10</sup> Positive integration envisages the concrete European institutional model to which member states adapt their domestic institutions.<sup>11</sup> In this mechanism, member states have limited discretion<sup>12</sup> and, consequently, the EU’s pressure is coercive. The level of “compatibility” or “goodness of fit” between the European and national level policies determines adaptation pressure of the EU.<sup>13</sup> Adaptation pressure increases when the misfit is high. In cases where there is a high compatibility between European requirements with the existing national arrangements, however, the pressure decreases.<sup>14</sup> Negative integration does not prescribe specific institutional arrangements, but it defines the rules of the game for different actors.<sup>15</sup> Framing integration only changes “domestic political climate by stimulating and strengthening the overall support for broader European reform objectives.”<sup>16</sup> For this reason,

<sup>8</sup> This categorization is quoted from: Thomas Diez, Apostolos Agnantopoulos and Alper Kaliber, "File: Turkey, Europeanization and Civil Society," 10(1) *South European Society & Politics* 2005, 1-15. Diez also includes political Europeanization as another category. Political Europeanization explains the impact of the European integration on domestic structures and political process including national executives, administrative structures, and political parties. In this study this categorization is excluded, as it is not directly related with the issue.

<sup>9</sup> Thomas Risse and Maria Green Cowles, "Transforming Europe: Conclusion," in Maria Green Cowles, James A. Caporaso and Thomas Risse (ed.), *Transforming Europe: Europeanization and Domestic Change* (New York: Cornell University Press, 2001), 217-238, 218.

<sup>10</sup> Christoph Knill and Lehmkuhl Dirk, "How Europe Matters: Different Mechanisms of Europeanization," 3(1) *European Integration Online Papers* 1999, 2, available at [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=302746](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=302746).

<sup>11</sup> *Ibid.*

<sup>12</sup> Featherstone, Kevin. "Introduction: In the Name of Europe." In *The Politics of Europeanization*, edited by Kevin Featherstone and Claudio Radelli, 1-19. 14, (Oxford: Oxford University Press, 2003)

<sup>13</sup> See the discussion concerning fit/misfit with the EU and national policies in: Thomas Risse, Maria Green Cowles, and James Caporaso, "Europeanization and Domestic Change: Introduction" in Maria Green Cowles, James A. Caporaso and Thomas Risse (ed.), *Transforming Europe: Europeanization and Domestic Change* (New York: Cornell University Press, 2001), 1-20, 6-7. Claudio Radelli, "Whither Europeanization? Concept Stretching and Substantive Change," 4(8) *European Integration Online Papers* 2000, available at <http://eiop.or.at/eiop/pdf/2000-008.pdf>, Tanja Börzel and Thomas Risse, "When Europe Hits Home: Europeanization and Domestic Change," 4(15) *European Integration Online Papers* 2000, available at <http://eiop.or.at/eiop/pdf/2000-015.pdf>.

<sup>14</sup> Börzel and Risse, "When Europe Hits Home: Europeanization and Domestic Change...", 2.

<sup>15</sup> Knill and Dirk, "How Europe Matters: Different Mechanisms of Europeanization...", 2.

<sup>16</sup> *Ibid.*

the influence of framing integration on domestic arrangements is weak compared to positive integration.

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

In ‘societal Europeanization’ or ‘Europeanization of identities’, European integration influences “the construction of the systems of meanings and collective understandings, including social identities.”<sup>17</sup> Europeanization of policy areas has an important impact on the perception, beliefs, values, and collective understanding of individuals and social groups. In this kind of Europeanization, the EU norms not only regulate behavior, but also have an impact on “the way actors see themselves” and, therefore, impact their preferences.<sup>18</sup> With regard to collective identities and beliefs, the term “adaptation pressure” is not strongly relevant.<sup>19</sup> This policy neither prescribes concrete institutional requirements nor changes the institutional context for strategic interaction. However, it affects domestic beliefs and the cognitive structure and thereby influences preferences and strategies of the domestic actors indirectly. It is different from and comprehensive than framing integration, as it encompasses not only changes in “policy beliefs” but also “societal self definitions” evolving in the course of European integration.<sup>20</sup>

In “societal Europeanization,” domestic change is generally considered a process of international socialization which results in “states internalization of constitutive beliefs and practices institutionalized in international environment.”<sup>21</sup> Internalization is the adoption of social beliefs and practices in a way that the actors consider them as their own and follow them

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<sup>17</sup> Risse and Cowles, “Transforming Europe: Conclusion...”, 219 “ See also this discussion in Risse, Thomas. “A European Identity? Europeanization and the Evolution of Nation State Identities,” in Maria Green Cowles, James A. Caporaso and Thomas Risse (ed.), *Transforming Europe: Europeanization and Domestic Change* (New York: Cornell University Press, 2001), 198-217.

<sup>18</sup> Diez, Agnantopoulos, and Kaliber, “File: Turkey, Europeanization and Civil Society...”, 6.

<sup>19</sup> Risse, “A European Identity? Europeanization and the Evolution of Nation State Identities...”, 198.

<sup>20</sup> Diez, Agnantopoulos, and Kaliber, “File: Turkey, Europeanization and Civil Society...”, 6.

<sup>21</sup> Schimmelfennig, Frank. “International Sozialization in the New Europe: Rational Action in Institutional Environment.” 6(1) *European Journal of International Relations* 2000, 109-39, 111.

autonomously.<sup>22</sup> The most important question here is what the constitutive values and beliefs institutionalized at the EU level are. This is a comprehensive discussion which transcends the scope of this paper.<sup>23</sup> It should be sufficient to say here that European integration is elite driven and based on a treaty process. Thereby, the constitutional values form significant constitutive aspects of the EU's identity.<sup>24</sup> According to the recently adopted Article 2 of the Lisbon Treaty, the values of the EU is to exercise "respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities." Socialization in this respect is the process of internalization of these norms to the extent that they become an integral part of the national identities. In minority rights case, it is the re-construction of consensual national identity on the basis of the principle of real equality, guaranteed within the institutional and constitutional structure and internalized at the elite and society level.

However, socialization does not always have to be successful.<sup>25</sup> Legislative changes do not automatically initiate belief and identity changes. Formal rules can be changed due to the EU pressure. Nevertheless, this does not necessarily warrant their parallel internalization. Hence, legislative changes in the field of minority rights may not result in the emergence of the construction of consensual identities. The adopted norms are not to be internalized to the level that they turn out to be an integral part of the national identities. On the contrary, they can go in opposite directions. While the legislations become more liberal and European in consequence of the EU pressure, national identities develop into nationalist and less European ones. The involvement of the EU does not instigate the construction of new identities on the basis of the constitute values and beliefs institutionalized at the EU level.

Both at the policy and identity/belief level, the patterns of Europeanization drawn by the theoretical framework can be employed to the changes in the minority regime of Turkey. In the case of Turkey, these different forms of Europeanization follow opposite directions. On the one hand, the adaptation pressure to meet the Copenhagen political criteria makes policy changes necessary, forcing the governments in power to amend pre-existing minority legislations. On the other hand, such policy changes do not generate the internalization of emerging beliefs, values, and identities attached to those policies. This takes place not only at the elite level but also the society level. Policy changes, as a result of the European integration process, do not result in the construction of new consensual identities or

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<sup>22</sup> See Jeffrey Checkel, "Norms, Institutions and National Identity in Contemporary Europe," 43(1) *International Studies Quarterly* 1999, 84-114; Jeffrey Checkel, "Social Construction and Integration," 6(4) *Journal of European Public Policy* 1999, 545-560.

<sup>23</sup> See a good overview of European values in: Gabriel von Toggenburg, "The Debate on European Values and the Case of Cultural Diversity," 1 *European Diversity and Autonomy Papers* (2004).

<sup>24</sup> *Ibid.*

<sup>25</sup> Schimmelfennig, "International Socialization in the New Europe: Rational Action in Institutional Environment...", 112.

approaches which re-establishes new minority-majority relations on the basis of equality. On the contrary, Europeanization of minority policies in Turkey induces “retrenchment.” National identities and values become less European than they used to be. Recognition of cultural rights of ethnic minorities empowers domestic opposition, opposing reforms. This process also sets the intensification of anti-minority sentiments in motion, both in public discourses and in extreme cases, through manifestation of physical attacks and mobs against minorities.

### 3. Europeanization of Minority Rights in Turkey

In order to place the specific case of Turkey to the Europeanization theoretical framework, four questions should be answered. These are:

- What are the pre-existing domestic policies, cognitions, and beliefs concerning minority protection?”
- What kind of policies, rules, and beliefs regarding minorities are established at the EU level and how is it different from the national ones?
- What is the level of domestic change as a result of the EU’s pressure?

In answering these questions for Turkey’s case, the pre-existing minority regime of Turkey, the exposition of this regime to the pressure of the EU during the accession process, and the degree of domestic change resulting from this pressure should be analyzed.

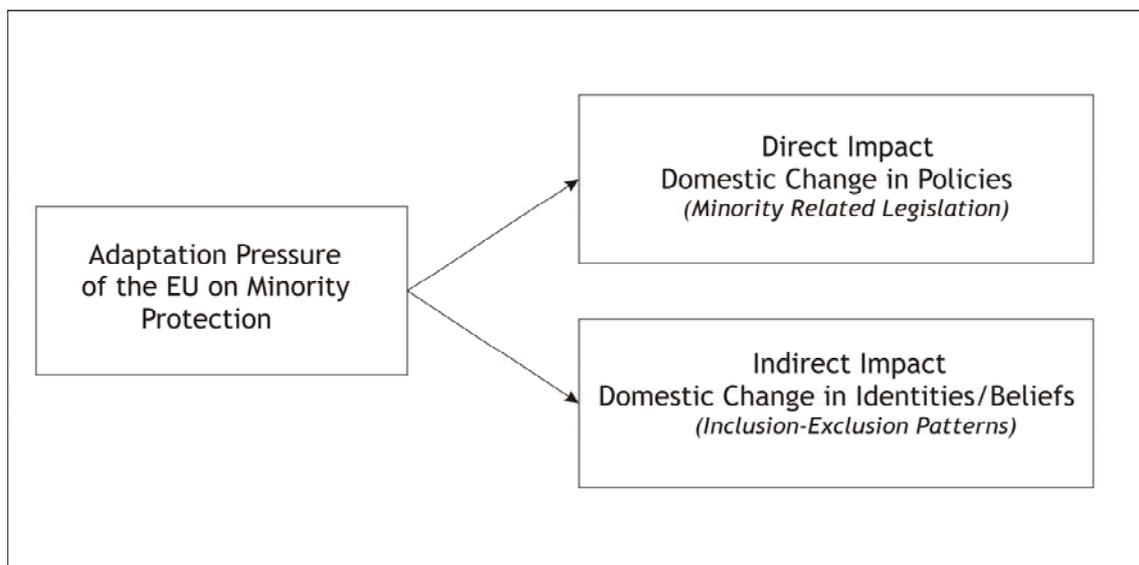


Figure 1: Domestic Impact of European Integration on Minority Protection

Analyzing the Europeanization of the protection of minority rights in Turkey- which is defined as a domestic change arising from the EU’s pressure- is the main issue area of this article. For this reason, the independent variable

of this research is the EU's adaption pressure on the protection of minority rights in Turkey (see figure 1 for variables). The dependent variable is domestic change. Domestic change is operationalized in terms of policy and belief/identity change (see Figure 1). Policy changes are measured by legislative changes. This is the direct and intended impact of the EU. Identity changes are measured by the discourses of political leaders and interviews, forming indirect and unintended consequences of the pressure of the EU.

### 3.1 Minority Protection Regime of Turkey

In order to understand the influence of the European integration on the level of protection granted to minorities, it is necessary to analyze the pre-existing protection system of minority rights of Turkey preceding the start of the Europeanization process and then how such a system has changed due to the pressure of the EU. Turkey's pre-existing official minority policy was based on the Peace Treaty of Lausanne, which was concluded between Turkey and the Allied Powers on 24 July 1923. Following the Turkish national movement, this treaty replaced the Treaty of Sèvres, signed with the Allies on 10 August 1920, partitioning the Ottoman Empire. The treaty outlines the legal framework concerning the protection system of minority rights in Turkey. Additionally, it sets out general provisions for all Turkish citizens regardless of birth, nationality, language, race, or religion, it confers implicit rights to all minorities, and the Treaty also gives explicit rights to non-Muslim minorities. These rights cover the right to use minority languages in schools and in the press, and the right to exercise religious faith (See Table 1). These are individual rather than collective minority rights, granted to "Turkish citizens belonging to" national minorities but not to minority communities. Contrary to the agreements concerning the protection of minority rights signed after the First World War that recognize race, language, and religion as criteria for identifying minorities, Turkey embraces a very narrow definition of the term minority.<sup>26</sup> It only employs religion as a sole criterion for defining minorities.<sup>27</sup> This situation gives rise to the emergence of two different groups of minorities in Turkey: Firstly, the officially recognized non-Muslim minorities, like Greeks, Jews, and Armenians and secondly, the ones holding the basic characteristics of being a minority but lying outside the treaty's official scope, like the Kurds, Alevis, Assyrians, Laz, and so on. The

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<sup>26</sup> Baskin Oran, "The Minority Concept and Rights in Turkey: The Lausanne Peace Treaty and Current Issues," in Zehra Kabasakal Arat (ed.), *Human Rights in Turkey*, (Philadelphia: University of Pennsylvania Press, 2007), 35-56, 37.

<sup>27</sup> "Religion" is used as sole criteria of defining minorities. However, it is not employed by Turkey as all-encompassing criteria. Religion denotes non-Muslim groups but not all religiously different groups. That is why the Alevis whose religious beliefs, rituals, and interpretation of Islam are different from dominant Islamic-Sunni identity are not considered as "minority" in Turkey.

implementation of the rights enshrined in the Lausanne Treaty is restricted to only the former but not to the latter group.<sup>28</sup>

There are several historical, political, and cognitive reasons underlying the existence of such a narrow definition of minorities in Turkey. Historically, the categorization is in line with the *millet* (nationality) system of the Ottoman Empire taken over by the new Turkish Republic. The *Millet* (nation) system shaped the administrative system of the Ottoman Empire which ruled the communities on the basis of religious and sect lines. Non-Muslim minorities could organize as “communities possessing certain delegated powers under their own ecclesiastical heads.”<sup>29</sup> Such a system gave the minorities an important level of freedom *vis-à-vis* state. Their internal affairs were administrated by the members of the communities in question according to their own customs, traditions, and laws. But at the same time, it also created a hierarchy of different communities in line with their religious affiliation. The people of Muslim origins, regardless of their ethnicity and sect, formed the “core” and were considered as a “constituting element,” whereas non-Muslims were the “periphery” of the empire, forming, namely “second class citizens.” Considering that all Muslims belonged to the same “first class” community or nationality, ethnic differences were not used as tools for the exclusion of people to the status of minorities.<sup>30</sup>

Table 1: The Rights granted by the Lausanne Treaty to all Turkish Citizens and Non-Muslim Minorities

General Rights for all Turkish citizens	Particular Rights for Non-Muslim Minorities
The Right to Life and Liberty (Art:38)	Freedom of Movement and of Emigration (Art:38)
The Right to Manifest Religion (Art:38)	Equal Civil and Political Rights (Art:38)
The Right to Use any Language in Private, Commerce, Religion, Press, Public Meetings (Art: 39)	Equal Treatment and Security before Law (Art:39 and Art:40)
For Turkish citizens with another	The Right to Access Public

<sup>28</sup> Granting minority rights to non-Muslim minorities does not mean their full implementation. Turkey has failed to implement the provisions of the treaty fully in two respects. On the one hand, not all of the non-Muslims are given permission to enjoy the rights granted by the Treaty. Turkey only implemented the provisions of the Treaty to Greeks, Armenians, and Jews, excluding other non-Muslim minorities like Syriacs, Chaldeans, Assyrians, and Nestorians from protection system. There is no provision in the Treaty that the rights granted in the Treaty are particularly granted only to these groups. On the other hand, some of the provisions of the Treaty were denied even for three major non-Muslim minority groups, like granting financial assistance (Article 41/2), establishing special commission (Article 42/3), and the right to foundation (Article 43/3). See this discussion in Oran, “The Minority Concept and Rights in Turkey: The Lausanne Peace Treaty and Current Issues...”

<sup>29</sup> Kamel S. Abu Jaber, “The Millet System in the Nineteenth-Century Ottoman Empire,” 57(3) *The Muslim World* 1967, 212-223, 212.

<sup>30</sup> *Ibid*, 214.

native tongue than Turkish; the right to use their native language orally before the Court (Art: 39)	Employment ( Article 39)
	The Right to Establish, Manage, Control Charitable, Religious, and Social Institutions (Art:40)
	The Right to Set up Schools and Institutions of Instruction (Art:40)
	The Right to Education in Minority Language (Art: 40, Art:41)

Politically, the ruling and/or the military elites of the Turkish Republic wanted to establish an ethnically homogenous nation-state and such a state anticipated the construction of a homogenous Turkish national identity.<sup>31</sup> Accordingly, rather than granting positive rights to miscellaneous amounts of groups and promoting their culture and identity, the Kemalist establishment wanted to subordinate different ethnic and religious identities. Such “an exclusive Turkish ethnocentricity,” which sowed the roots of the Kurdish problem as well, prevented the emergence of “hyphenated citizenship” for people claiming to have more than one nationality, like the Turkish Kurds or Turkish Bosnians.<sup>32</sup>

Cognitively, Turkish elites considered minority groups and their external supporters as “scapegoats” in that they have allegedly caused the disintegration of the Ottoman Empire. In the 19<sup>th</sup> century, the Western powers increased their concerns on the non-Muslim minorities and used them as a pretext for interfering with the internal affairs of the Ottoman Empire. Even today, the contemporary Turkish Kemalist establishment embodies the same fear of disintegration and mistrust in its sub-consciousness not only for the non-Muslim groups but also for the Muslim groups other than the dominant Sunni groups of Turkish origin. Located in the “center” of the Turkish system with its institutions and values, the Kemalist elite have always regarded the ethnic and linguistic minorities situated at the “periphery” with suspicion, assuming that further liberalization of their rights would lead to political instability; consequently, they adopted the Ottoman vision of establishing a nation that would be based on a homogenous community of Sunni Muslims.

Indeed, starting from the early years of the Republic, Turkey regards every kind of discrepancy from the standard Turkish-Sunni identity as a threat to its political stability. It constantly tries to eliminate the manifestation of ethnic-linguistic-religious differences in the realm of public and political life. Legally speaking, the word “minority” or “the situation of any other ethnic groups” is not mentioned in the Turkish constitution. Accordingly, the expression of the

<sup>31</sup> Hakan Yavuz, “Cleansing Islam from the Public Sphere,” 54(1) *Journal of International Affairs* 2000, 21-42, 23.

<sup>32</sup> *Id.*, “Turkey’s Fault Lines and the Crisis of Kemalism,” 99 *Current History* 2000, 33-38, 37.

existence of minorities on account of the differences of creed, race, and language are prohibited. Political activities that incorporated the objective of constructing minorities were banned. No ethnic languages have since been permitted in public areas, in party programs, regulations, and so on. All of the acts mentioned above are considered as acts “disrupting the national integrity by means of creating minorities” according to Article 81 of the Turkish constitution enumerated in the provisions on the Law of political parties.

The way Turkey views minorities is directly linked to the contemporary discussions on the minority aspect of the Kurdish problem, leaving the Kurdish people, with a population of approximately 12.000.000-15.000.000 and who simply constitute the largest ethnic community in Turkey, without any minority protection system.<sup>33</sup> The official ideology of Turkey towards the Kurdish issue has so far consisted of denying the existence of a Kurdish minority, accompanied by the brutal repression of those who speak about a Kurdish cause. As Bruinessen (1992, p. 242) states, since 1925 there has been a systemic policy aiming at the detribalization and the assimilation of the Kurds in Turkey.<sup>34</sup> Through this process, everything that is related to a separate Kurdish identity was to be abolished, including language, (traditional) clothing, and Kurdish names.<sup>35</sup> There has been a constant policy of repression applied in Turkey, including the ban on Kurdish language, literature, publication, school, and deportation of thousands of towns and villages.

### 3.2 The EU’s Approach to the Minority Policies of Turkey

The above-mentioned minority policies of Turkey became the target of the criticism of the EU since early 1990s. Under the framework of minority protection, the EU has addressed not only the situation of officially recognized minorities, but also ethnic, religion, and linguistic groups falling outside of the scope of the Lausanne Treaty. Hence, it has exerted pressure on Turkey to enlarge identity and cultural rights accorded to both of these groups.

Internally, the EU does not have clear standards and strategies of minority protection.<sup>36</sup> There are certain legislations that might provide protection to

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<sup>33</sup> It is also related with the situation of the religious rights of Alevis and Property Rights of the Non-Muslim Minorities. Since the focus of this article is only Kurdish ethnic minority, limited emphasis is given to the situation of other minorities in this article.

<sup>34</sup> Martin Bruinessen, *Agha, Shaikh, and State: The Social and Political Structure of Kurdistan* (London: Zed Books, 1992), 242.

<sup>35</sup> *Ibid.*

<sup>36</sup> See the discussion on the constitutional sources of minority protection in: Bruno De Witte, “Politics Versus Law in the EU’s Approach to Minorities ” in Zielonka Jan (ed.), *Europe Unbound* (New York Routledge 2002); Bruno De Witte, “The Constitutional Resources for Minority Protection ” in Gabriel von Toggenburg (ed.), *Minority Protection and the Enlarged European Union: The Way Forward* (Budapest: Open Society Institute 2004); Maria Amor Martin Estebanez, “The Protection of National or Ethnic, Religious and Linguistic Minorities,” in Neuwahl Nanette and Rosas Allan (ed.), *The*

minorities, but the protection of minorities is not their initial concern. Even the word “minority” was incorporated to the primary legislation of the EU with the recently concluded Lisbon Treaty. Externally, minority protection is one of the most prominent topics in the accession process. Having incorporated respect for and the protection of minorities as a condition for membership in the Copenhagen criteria, the EU has monitored the degree to which candidates complied with this condition and has thereby positively influenced the situation of the minorities. Compared with other international organizations, like the Council of Europe and the OSCE, the EU’s impact on transforming its candidate countries is stronger. It has used its political capacity, normative and economic attractiveness, and financial resources at its disposal to transform the countries seeking membership.

In the absence of any consolidated standards on the rights granted to minorities at the supranational level, the “goodness of fit” between the EU and the Turkish minority policies does not determine the degree of adaptation pressure. The EU exerts pressure on Turkey without having standard protection levels applied to all member states. Hence, analyzing the reports of the Commission provides important evidence about how the EU evaluates the situation of minorities and which minorities are de facto recognized by the EU. Thus, the reports of the Commission would provide insights about the concrete demands of the EU and the degree of adaptation pressure to change the situation of ethnic minorities, like the Kurds.

With the Commission’s regular annual reports since 1998, as the key instruments of the EU to evaluate the progress of candidate states, the EU has monitored developments concerning the Kurdish minority. These reports provide important clues with respect to not only the level of normative fulfillment of the EU’s standards, but also the EU’s political and legal position *vis-à-vis* the Kurdish issue. The Commission deals with the Kurdish issue on the basis of three frameworks. These frameworks are all related to, first, the protection of minorities without making any explicit reference to group rights, second, the improvement of individual fundamental rights and freedoms, and third, democratization.

In terms of the framework concerning minority protection, the Commission announces in its first progress report on Turkey in 1998 that “there is a de jure and de facto difference in the treatment accorded to minorities officially recognized under the Lausanne Treaty and those outside its scope.”<sup>37</sup> It points out that the entitlement of a minority status is limited to merely the Armenians, Jews, and Greeks and hence that the Kurds are excluded from the status of being a minority. Focusing on the social and economic features of

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European Union and Human Rights (The Hague: Kluwer 1995); Peter Lang, “Europaesche Union und Minderheitenschutz,” in Manssen Gerrit and Boguslaw Banaszak (ed.), *Minderheitenschutz in Mittel- und Osteuropa* (Frankfurt am Main: Peter Lang, 2000); Gabriel von Toggenburg, “The EU’s Evolving Policies vis-a-vis Minorities: A Play in Four Parts and an Open End,” at *MIRICO- Human and Minority Rights in the Life Cycle of Ethnic Conflicts* (Bozen: European Academy of Bozen/Bolzano, 2008) available at [www.eurac.edu/mirico](http://www.eurac.edu/mirico).

<sup>37</sup> European Commission, “Regular Report on Turkey’s Progress towards Accession,” 1998, 20, available at [http://ec.europa.eu/enlargement/archives/pdf/key\\_documents/1998/turkey\\_en.pdf](http://ec.europa.eu/enlargement/archives/pdf/key_documents/1998/turkey_en.pdf).

the Kurds, the Commission expresses the presence of restrictions on the civil and political rights of the Kurdish minority due to the armed conflict in the south east region of Turkey.<sup>38</sup> Rather than proposing positive measures that should be taken in this regard, the EU makes references to the instruments of the Council of Europe, such as the Framework Convention on the Protection of National Minorities and the European Charter for Regional or Minority Languages. It quotes directly from the report of the Council of Europe, claiming that Turkish citizens with Kurdish origins should have the material opportunity and material resources to use and sustain their native languages and cultural traditions as defined by the conditions pronounced by the above mentioned covenants.<sup>39</sup> What the EU understands from minority rights is the right to broadcast, the right to learn, and the right to receive instruction in the mother tongue as well as the right to use local names.

With regard to the anti-discrimination aspect of the protection of minorities, the focus is placed initially on Turkey's declining to sign the ratification of the Convention on the Elimination of All Forms of Racial Discrimination and to transpose the EC Directive based on Article 13 of the EU Treaty. The EU, as well as the Framework Convention for the Protection of National Minorities (FCNM), generally emphasizes the shortcomings in terms of comprehensive civil or administrative law provisions against discrimination and measures aligning with Article 13 and its secondary legislation, both of which entail a combat against discrimination on the grounds of racial or ethnic origin, religion or belief, disability, age, and sexual orientation. The EU's stress on non discrimination is stronger in social and employment policy. It does not directly allude to the kind of discrimination that the members of a minority group in general and the Kurds, in particular, might face on the grounds of language and religion. Though limited, the Commission Report in 2005 indicates for the first time that minorities in Turkey face "*de facto* discrimination and encounter difficulties in acceding to administrative and military positions." Moreover, in the Accession Partnership document in 2008, it is stated that the efforts to change curricula and textbooks should be intensive in order to eliminate discriminatory language.<sup>40</sup> These statements are important priorities for combating discrimination.

The EU also addresses the Kurdish issue on the basis of general individual human rights framework, which has implicit or explicit implications for the situation of the Kurdish people in Turkey. In the first regular report, the Commission states that the violation of human rights is correlated with the reaction of the government and army to the Kurdish conflict.<sup>41</sup> In the part dealing with the situation of human rights in Turkey, the Commission expresses certain human rights violations with respect to the freedom of

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<sup>38</sup> European Commission, (1998), 20.

<sup>39</sup> European Commission, "Regular Report on Turkey's Progress towards Accession," 1999, 14, available at [http://ec.europa.eu/enlargement/archives/pdf/key\\_documents/1999/turkey\\_en.pdf](http://ec.europa.eu/enlargement/archives/pdf/key_documents/1999/turkey_en.pdf).

<sup>40</sup> Council of European Union, Council Decision of 18 February 2008 on the Principles, Priorities and Conditions contained in the Accession Partnership with the Republic of Turkey and Repealing Decision 2006/35/EC.

<sup>41</sup> European Commission (1998), 20.

expression, freedom of assembly and association, and freedom of press. These are classical human rights which are bestowed on all people regardless of ethnic origin or minorities. But when the EU reviews these issues, it makes references to the situation of the Kurds whose rights are very often violated. The Commission, without directly using the words “Kurdish citizens”, also expresses issues like torture, disappearances, and extra judicial executions, which are highly widespread in the Kurdish regions.<sup>42</sup> In terms of the freedom of expression, the Commission states that the “expression of pro-Kurdish views is fought by the Turkish state.”<sup>43</sup> Moreover, it points out that Turkish courts restrict “the expression of views with which the State disagrees, notably when it concerns the situation of the population of Kurdish origin.”<sup>44</sup> In terms of the freedom of press, the Commission purports that “objective and independent reporting by Turkish media of the Kurdish issue is not possible.”<sup>45</sup>

The Commission recommends “the recognition of certain forms of cultural identity and greater tolerance of the ways of expressing that identity, provided it does not advocate separatism or terrorism,”<sup>46</sup> as a civil and non military solution for the Kurdish issue. It advocates socio-economic development strategies, the establishment of conditions for the full enjoyment of rights and freedoms by the Kurds, the return of displaced persons to their villages, the abolishment of the village guard system,<sup>47</sup> and the development of a comprehensive approach to reduce regional disparities.<sup>48</sup> The Commission also focuses on the conflict resolving aspect of the problem by emphasizing the importance of creating a dialogue with the local counterparts.<sup>49</sup> These solution options are evidently important steps that need to be taken for finding a solution for the Kurdish issue. However, they are neither comprehensive nor precise, and they ignore the inter-dependent and multi-dimensional aspect of the problem.

Overall, the Commission adopts a very careful approach to the Kurdish issue. It abstains from creating any strong negative reaction while dealing with sensitive issues of Turkey. This attitude of the Commission is in line with the general enlargement policy of the European Union. The EU’s primary aim is to sustain progress by means of offering accession as rendered in the “road

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<sup>42</sup> European Commission (1998), 18.

<sup>43</sup> European Commission, “Regular Report on Turkey’s Progress towards Accession,” 2000, 19, available at [http://eski.bianet.org/2006/04/01\\_eng/2000\\_report.pdf](http://eski.bianet.org/2006/04/01_eng/2000_report.pdf).

<sup>44</sup> European Commission (2000), 16.

<sup>45</sup> European Commission (1998), 16.

<sup>46</sup> European Commission (1998), 20.

<sup>47</sup> European Commission, “Regular Report on Turkey’s Progress towards Accession,” 2004, 55, available at [http://ec.europa.eu/enlargement/archives/pdf/key\\_documents/2004/rr\\_tr\\_2004\\_en.pdf](http://ec.europa.eu/enlargement/archives/pdf/key_documents/2004/rr_tr_2004_en.pdf).

<sup>48</sup> Council of European Union, “Council Decision on the Principles, Priorities, Intermediate Objectives and Conditions Contained in the Accession Partnership with Turkey,” 2003, 45, Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32003D0398>

<sup>49</sup> European Commission, “Regular Report on Turkey’s Progress towards Accession,” 2006, 55: available at: <http://www.europarl.europa.eu/sides/getDoc.do?language=EN&reference=A6-2006>

map,” which avoids any adverse criticism of the candidate countries.<sup>50</sup> For this reason, the Commission pays supreme attention to use the right wording when making any references to the situation of the Kurds. It uses expressions such as “Turkish citizens of Kurdish origin,” “Kurdish citizen,” “Kurdish population,” or “cultural rights for all Turks, irrespective of their ethnic origin.” Even though it deals generally with the Kurdish problem under the part of minority protection, it restrains from using the notion of “minority” or “Kurds” apart from the Commission Report of 1998.<sup>51</sup> Instead, it prefers the expression of “the situation in southeast.” It also never uses the notion of “Kurdish people,” which in turn could imply that Kurds be given the right of self-determination. In addition, the Commission does not possess any specific template or framed model on how and what kinds of measures should be adopted and implemented for the Kurdish minority. They generally monitor the evolution of the minority policy in Turkey and propose further measures when it is required. Moreover, when the EU depicts minority rights, it emphasizes individual rather than collective rights. It does not make any implications, such as Kurds being an ethnic group, who should be granted certain rights specific to them as well as substantive/positive elements of the minority rights or provisions.<sup>52</sup> For this reason, in the regular reports, the Commission attempts to refer to Kurdish people, for instance, as “members of a group,” who should be given certain individual rights rather than be given rights as a group. This attitude complies with the general liberal individualistic approach of the EU, upholding the individual rather than the group itself to which the individuals may belong.

### 3.3 The Impact of the EU on Domestic Change in Turkey

Since the Helsinki Council Decision in 1999, the EU has generated important political and legislative reforms with respect to the protection of human and minority rights in Turkey. Particularly, with the coming of the AKP government in power-in the course of 2002-2005 Turkey has undergone an unprecedented transformation in terms of its minority policies. It is well documented and evidently stated in many studies that reforms regarding minority rights took place in this period as a direct outcome of the EU’s adaptation pressure which is based on the explicitly declared conditions and rewards for Turkey.<sup>53</sup> On the other hand, the reforms of the EU led to an

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<sup>50</sup> Gwendolyn Sasse, “Minority Rights and European Union Enlargement: Normative Overstretch or Effective Conditionality,” in Toggenburg *Minority Protection and the Enlarged European Union...*, 61-103, 66.

<sup>51</sup> European Commission, “Regular Report on Turkey’s Progress towards Accession,” 1998, 20.

<sup>52</sup> Kerim Yildiz and Mark Muller, *The European Union and Turkish Accession* (London: Pluto Press, 2008), 177.

<sup>53</sup> See the EU harmonization reforms in general in: Levent Gonenc, “Recent Developments in the Field of Freedom of Expression in Turkey,” 11(2) *European Public Policy* 2005, 241-159. Meltem Muftuler Bac, “Turkey’s Political Reforms and the Impact of the European Union,” 10(1) *South European Society and Politics* 2005, 17-31. Ergun Ozbudun and Serap Yazici, *Democratization Reforms in*

important level of democratization and provided the ground for discussing many fault lines of Turkey; they also have promoted nationalist reactions from the right wing groups. Turkish politics have appeared to be polarized in between not only the Kemalist-secular and the Islamic-conservative front but between the Turkish and the Kurdish society as well. Despite their shortcomings in terms of meeting international standards, those reforms have challenged the institutional-ideological structure of the Kemalist establishment and this has resulted in the reconsideration of what majority-minority relationship should be and in turn reconsideration of the nation-state identity.

### 3.3.1. Europeanization of Minority Policies and Legislations

The EU has exerted strong pressure to promote respect for and protection of minorities in accordance to European standards, including the European Convention on Human Rights and the European Framework Convention for the Protection of National Minorities. As a response to the EU's demands concerning fulfillment of the Copenhagen criteria, Turkey adopted the National Program in 2001. However, the program did not address the question of minorities explicitly. It only stated that the free usage of different languages and dialects of Turkish citizens can be guaranteed.<sup>54</sup> Despite limited focus of the National Program, seven harmonization reform packages were adopted in the period of 1999-2005 in Turkey. These reforms were a direct answer from Turkey to the EU's incentive of membership presented by the Helsinki Council Decision.

In the first harmonization package adopted by the tripartite coalition government of Democratic Social Party (DSP), Nationalist Movement Party (MHP), and Mother Land Party (ANAP) in 2001, some improvements were made concerning the freedom of expression and press. The Law Amending Several Articles of the Constitution No: 4709 on 3 October 2001 changed 35 articles of the Turkish Constitution. Article 26<sup>55</sup> and Article 28<sup>56</sup> of these amendments

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Turkey (Istanbul: Turkish Economic and Social Studies Foundation, 2004), Esin Orucu, "Seven Packages Towards Harmonization with the European Union," 10(4) *European Public Law* 2005, 603-21, Esin Orucu, "The Turkish Constitution Revamped?," 8(2) *European Public Law* 2002, 201-218.

<sup>54</sup> Turkish National Programme for the Adoption of the Aquis, 2001. Available at: [http://ec.europa.eu/enlargement/pdf/turkey/npaa\\_full\\_en.pdf](http://ec.europa.eu/enlargement/pdf/turkey/npaa_full_en.pdf).

<sup>55</sup> Freedom of Expression is regulated by Article 26 of Turkish Constitution (as amended on October 17, 2001) stating that "[e]veryone has the right to express and disseminate his thoughts and opinion by speech, in writing or in pictures or through other media, individually or collectively. This right includes the freedom to receive and impart information and ideas without interference from official authorities. This provision shall not preclude subjecting transmission by radio, television, cinema, and similar means to a system of licensing. The exercise of these freedoms may be restricted for the purposes of protecting national security, public order and public safety, the basic characteristics of the Republic and safeguarding the indivisible integrity of the State with its territory and nation, preventing crime, punishing offenders, withholding information duly classified as a state secret, protecting the reputation and rights and private and family life of others, or protecting professional secrets as prescribed by law, or ensuring the proper functioning of the judiciary. The formalities, conditions and procedures to be applied in exercising the right to expression and dissemination of thought shall be prescribed by law."

<sup>56</sup> Freedom of Press is regulated by Article 28 of the Turkish Constitution, "[t]he press is free, and shall not be censored. The establishment of a printing house shall not be subject to prior permission

loosened the restrictions on the use of minority languages. The phrase “languages prohibited by law shall not be used in the expression and dissemination of thought” is deleted from Article 26. Similarly, “publications shall not be made in any language prohibited by law” was removed from Article 28 of the Constitution. Those articles generally regulated the rights concerning the freedom of expression and broadcasting. This expression was used to ban the use of “Kurdish” without particularly mentioning the term “Kurdish.”<sup>57</sup> Despite its symbolic importance, these legislative changes did not make a real improvement in terms of using minority languages, since the use of minority languages could still be limited by the laws made for securing the “indivisible integrity of the state with its territory and nation.” Broad interpretation of these restriction grounds can still be used against the persons and groups that hold different opinions from state authorities on the basis of political considerations.<sup>58</sup>

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

By this change, the broadcasting of programs in the languages traditionally used in everyday life by Turkish nationals was allowed.<sup>59</sup> After ensuring the legal basis enabling broadcasting in different languages, the implementing regulation called the Regulation Concerning the Language of Radio and Broadcasts on 18 December 2002 was accepted. This regulation authorized only the Turkish Radio and Television Corporation (TRT) to broadcast in non official languages, excluding private enterprises from the right to broadcast.<sup>60</sup>

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or the deposit of a financial guarantee. The state shall take the necessary measures to ensure freedom of the press and freedom of information. ... Anyone who writes or prints any news or articles which threaten the internal or external security of the state or the indivisible integrity of the state with its territory and nation, which tend to incite offence, riot or insurrection, or which refer to classified state secrets and anyone who prints or transmits such news or articles to others for the above purposes, shall be held responsible under the law relevant to these offences...”

<sup>57</sup> Ozbudun and Yazici, *Democratization Reforms in Turkey...*, 18.

<sup>58</sup> Gonenc, "Recent Developments in the Field of Freedom of Expression in Turkey...", 248.

<sup>59</sup> See Article 4 of Law on the Establishment of Radio Station and Television Enterprises and Their Broadcasts Law as amended by the Law No. 4756 on May 21, 2002 and by the Law No.4771 on 9 August, 2002.

<sup>60</sup> According to Article 5 of the Regulation, broadcasting can also be made in the different languages and dialects traditionally used by Turkish citizens in their daily lives. Broadcasts in the different languages and dialects traditionally used by Turkish citizens in their daily lives shall be made by the Turkish Radio and Television Corporation. In these languages and dialects, broadcasts can be made for adults on news, music, and culture. No broadcasts can be made towards the teaching of these

It designated the duration and content of the broadcasts. Broadcasts were to be made in these languages and dialects through a protocol concluded between the Supreme Board of Radio and Television (RTUK) and the TRT. Furthermore, surveys would be undertaken to establish the listener-viewer profile of these broadcasts by TRT. Even though the TRT is a state owned broadcasting enterprise, the regulation imposed several restrictions on the TRT as well. For instance, the TRT was not allowed to broadcast children programs or any themes apart from news, music, and culture.<sup>61</sup> The duration of the broadcasting could not exceed 45 minutes per day and a total of 4 hours per week for the radio and 30 minutes per day and a total of 2 hours per week for TV broadcasts. In addition, it was required that Turkish subtitles be used which would fully correspond to the broadcast in terms of timing and the content.<sup>62</sup> Such broadcasts should not contradict the fundamental principles of the Turkish Republic, nor undermine the indivisible integrity of the state with its territory and nation.<sup>63</sup>

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

This issue was addressed within the framework of the 6<sup>th</sup> Harmonization law. Given the reactions of the TRT, “the Law Amending Several Laws, No: 4928” on 15 July 2003, Article 4 of The Law on the Establishment and Broadcasts of Radio Station and Television Channels regulating broadcasting in local languages was changed. The procedures and principles concerning the above-mentioned law were implemented through the second implementing regulation (enacted on 5 January 2004) on the Broadcast in Languages and

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languages and dialects. Within the framework of the financial contributions of the Radio and Television Supreme Board and the means available to the TRT, broadcasts will be made, also taking on board the views and requests of the administrative authorities, in these languages and dialects through a protocol to be concluded between the Supreme Board and the TRT and surveys will be undertaken to establish the listener-viewer profile of these broadcasts. The duration of radio broadcasts in these languages and dialects shall not exceed 45 minutes per day and a total 4 hours per week. TV broadcasts shall not exceed 30 minutes per day and a total of 2 hours per week. TV broadcasts shall be accompanied by Turkish subtitles which will fully correspond to the broadcast in terms of timing and the content. As regards radio broadcasts, a Turkish translation will be broadcast after the program.

<sup>61</sup> *Ibid.*

<sup>62</sup> *Ibid.*

<sup>63</sup> Law on the Establishment of Radio and Television Enterprises and Their Broadcasts Law No. 3984 of 20 April 1994, as amended by the Law No. 4756 on 21 May 2002 and by the Law No.4771 on 9 August, 2002.

Dialects used traditionally by Turkish citizens. Subsequent to the enactment of the second regulation, the right to broadcast in local dialects and languages was also given to private national radio and television companies provided that the approval of the Supreme Board of Radio and Television (RTUK) was gained.<sup>64</sup>

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

Certain improvements were also made in terms of the teaching of minority languages. The Law on the Education and Teaching of Foreign Languages was changed on 9 August 2002, allowing the “learning of different languages and dialects used traditionally by Turkish citizens in their daily life”.<sup>65</sup> As it is stated above, the law on private educational institutions allows Greeks, Armenians, and Jews to open minority schools. All other Muslim minorities have been deprived of these rights. By this amendment, private courses can be set up for teaching local languages. These courses were to be regulated under the Law on Private Education Institution.<sup>66</sup> As it is for most of the provisions of the Turkish legal system, the employment of such rights should not contradict the “indivisible integrity of state and nation.”

Moreover, this law was further amended on 30 July 2003. The expression “any language other than Turkish cannot be taught as mother language” in Turkish education and training institution was added, restricting the teaching of local languages to only private language courses.<sup>67</sup> The learning and teaching of other languages traditionally used by Turkish nations in their everyday lives can be carried out in private courses only. There can be no education violating fundamental principles of the indivisible integrity of the

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<sup>64</sup> Article 14 of the Law on the Amendment of Certain Laws, Law Number: 4928 on 15 July 2003 states that Law Number 3984 dated 13.04.1994 on the Establishment and Broadcasts of Radio and Television Law’s fourth sentence of the first paragraph of Article 4 is amended as follows. Public and private radio and television organizations can broadcast in different languages used in the daily lives of Turkish citizens.

<sup>65</sup> See Law on the Amendment of Certain Laws, Law Number: 4771 as amended on 3 August 2002, Official Gazette, no: 24841, 9 August 2002.

<sup>66</sup> Orucu, “Seven Packages Towards Harmonization with the European Union...”, 615.

<sup>67</sup> Law on the Amendment of Certain Laws, Law Number: 4963, as amended on 30 July 2003, Official Gazette, no: 2512, 7 August 2003.

State with its territory and nation. The establishment and supervision of such courses are under the jurisdiction of the Ministry of Education. The foreign languages to be taught and learnt in Turkey are determined by the Council of Ministers.

Despite the importance of these amendments, there are important problems in terms of their implementation. With regards to the “curriculum, appointment of teachers, the criteria of enrollment, including age restriction,”<sup>68</sup> there are still important restrictions. According to Article 10, the curriculum of the courses must be approved by the Ministry of Education. It must have a specified name, level, and duration. Moreover, only Turkish citizens with at least a primary education can attend the courses. People under the age of 18 years are not given permission to attend the courses. People following these courses should obey the dress code of the Ministry of Education and so on.

These initiatives have been considered by Kurdish elites to be insufficient in providing a resolution to the language problem of the Kurds.<sup>69</sup> Due to the institutional and legal restrictions, it seems unlikely that this problem will be solved in the near future. Firstly, law makers formulated the provisions as “language and dialects traditionally spoken by Turkish nationals.” They do not address the owners of such rights as “minorities” or they avoid mentioning the name of their native languages. This wording is in line with the traditional-historical minority policy of Turkey, which does not accept the existence of minorities apart from those recognized by the Lausanne Treaty. Moreover, according to Kurban, this wording degrades “the symbolic value of minority languages by conceptualizing them as traditional languages rather than instruments of communication that minorities cherish, cultivate, and enjoy.”<sup>70</sup> Secondly, the collective understanding attributed to the language policies of Turkey remains unchanged. There is no amendment on Article 42 of the Constitution which gives Turkish the mother tongue status. Moreover, Article 3 of the Turkish constitution expresses the language of state as Turkish rather than the official language of state.<sup>71</sup> Without amendment of such rights, it would not be possible to induce the teaching of minority languages as mother tongue in public institutions. This is one of the most important demands of the Kurds. However, it does not seem to be possible in the near future fulfillment of such demands. Article 3 of the Turkish Constitution is an irrevocable provision and Turkey makes important reservations to the provisions and protocols of international instruments which contradict Article 42 and the Treaty of Lausanne.<sup>72</sup>

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<sup>68</sup> MRG, “A Guest for Equality: Minorities in Turkey,” (London: Minority Rights Group International, 2007). p: 16.

<sup>69</sup> *Ibid.*

<sup>70</sup> Dilek Kurban, “Confronting Equality: The Need for Constitutional Protection of Minorities on Turkey’s Path to the European Union,” 35 *Columbia Human Rights Law Review* 2003, 151-214, 197.

<sup>71</sup> *Ibid.*

<sup>72</sup> Turkey has reservation to Article 13 of the International Covenant on Economic, Social, and Cultural Rights because of Articles 3 and 42 of the Constitution, Turkey made reservations to International Covenant on Civil and Political Rights due to the Lausanne Treaty. Turkey also made a reservation to

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

Firstly, on January 2009, the state owned broadcasting enterprise (the TRT) commenced broadcasting 24 hours in Kurdish by means of the newly established TRT 6. However, this has promoted negative reactions both from the opposition parties and the Kurds due to the lack of a sound lawful base for the broadcast.<sup>73</sup> As internal and external pressure surmounted in this direction, a new regulation drafted by Turkey's Radio and Television Supreme Council (RTÜK) was brought into force on 13 November 2009. Actually, this was not a new regulation. It only revised the previous regulation enacted on 25 January 2004 by removing the restriction on the duration of broadcasts in Kurdish by private television stations.<sup>74</sup> The only particular requirement included in the regulation was the use of Turkish subtitles only during the news bulletins, contrary to the previous one that demanded Turkish subtitles be used in the course of all programs and which was yet but an additional burden on the private broadcasting stations.

Secondly, Turkey has begun restoring the names of Kurdish villages as part of the democratic opening process. The renaming of Kurdish villages is subject to the will of the residents of those places. If the inhabitants of any village or town demand to use a Kurdish name for their town, they are supposed to apply to the district governor. Following this, a referendum or referendum-like research shall take place; the village can be renamed provided that the majority of the inhabitants give their consent for such an alteration.<sup>75</sup> This should be considered an important development because under the Turkification policies more than 12,000 villages (approximately 35 percent of all the villages in Turkey) with Armenian, Greek, Bulgarian, and Kurdish names were given a new Turkish name in between 1940-2000.

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Protocol No. 1 of the European Convention on Human Rights on the grounds that it was in conflict with the law on the unification of education

<sup>73</sup> Bianet, 06 January 2009, Kurdish Broadcast in Public Stirs Controversy.

<sup>74</sup> Regulation on the Broadcasting in the Languages and Dialects Traditionally used by Turkish nationals, amended 13 November 2009, Law Number: 27405.

<sup>75</sup> Today's Zaman, Kurdish Initiative Relegated to the dusty Shelves of Parliament, 10. 02. 2001.

Thirdly, the Board of Higher Education in Turkey (YOK) allowed the state-owned Mardin University to found the Institute of Living Languages. The institute would teach Kurdish, Persian, Arabic, and Aramaic. At first, it would only teach postgraduate and doctorate level students. In spite of the fact that this was one of the concrete steps of what has come to be known as the AKP's Kurdish opening, it led to disappointment among some parts of the academic world and pro-Kurdish circles. They demanded the opening of the Department of Kurdish Language and Literature and the Institute of Kurdology instead of the Institute of Living Languages.<sup>76</sup> Turkey's Board of Higher Education refused to give permission to the establishment of the Department of Kurdology on the grounds that there was not enough academic personal. But according to the President of the University, this is not true, as the University has sufficient academic personal at its disposal to teach at both graduate and undergraduate levels.<sup>77</sup> The basic reason for the refusal of Turkey's Board of Higher Education is to restrain the explicit expression of "Kurdology" or "Kurdish language." Using "living languages" is again an effort to conceal the name "Kurdish."

Three points should be accentuated concerning the Europeanization of minority policies and legislative changes in Turkey. Firstly, when the Turkish state adjusts certain legislations which might have implications on ethnic and religious groups that do not enjoy any official minority status, for example, the Kurds and *Alevi*s, it never uses the term "minority." Turkey has addressed the issue under the principles of individual human rights and general democratization norms. Interestingly, those groups themselves do not want to be labeled as "minority," despite their demands, such as the right for education in the mother tongue. This is due to the fact that minorities themselves consider the status of being a minority as being "second class" citizens. Secondly, the constitutional amendments in accordance with the demands of the EU are still far from meeting the standards of the international legal instruments providing the protection of minorities. The reforms have indeed changed several undemocratic characteristics of the Turkish state; nevertheless, the essential features and underlying collective understanding of Turkish constitutional structure remain untouched. The official stance and policies towards the minorities that avoid granting cultural rights to any non-Muslim group are still the mainstream approach of Turkey. As of this day, Turkey still deals with the issues concerning ethnic minorities within the framework of universal human rights and refuses to instigate the discussion of "group rights" or collective rights. To put it more simply, an understanding based on 'One (central) state, one nation, and one language' continues to form the preeminent understanding of the Turkish Republic. Thirdly, there are still important problems regarding the implementation of even these limited minority reforms, owing to the fact that the implementing regulations have introduced important restrictions with regards to the full

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<sup>76</sup> Bianet, "Mardin University insists on Kurdology and Kurdish Language and Literature Department" 15 September 2009.

<sup>77</sup> *Ibid.*

enjoyment of those rights. There are severe reactions from bureaucratic structures such as the Supreme Court. The comprehensive reading of the provisions of the Turkish penal code concerning the territorial integrity of the state and nation has made the implementation of these norms de facto impossible.

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

### 3.3.2. Europeanization of National Identities and Beliefs on Minorities

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

Turkey is one of the cases where identity/belief Europeanization displays reverse paths from "policy-Europeanization." As it is stated above, in terms of policy Europeanization, Turkey has initiated the process of reforms and has recognized, though limited and implicit, certain cultural and political rights of the Kurds. These reforms were followed by the new inclusive discourse of the Justice and Development Party government. The government enunciated the existence of different ethnicities, sub-identities, and cultures in Turkey. It endeavored to produce an alternative solution to the Kurdish issue through democratic means and commenced a policy called "democratic opening." The project foresaw the improvement of cultural and identity rights, an economic stimulus package for the Kurdish region, and possibly an improved amnesty offer for lower-ranking PKK fighters.<sup>78</sup> Indeed, these developments were paradigmatic shifts in the official ideology of Turkey, which had long

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<sup>78</sup> See the content of the recent democratic opening: Justice and Development Party, "The Process of Democratic Opening: The Project of National Unity and Brotherhood," The Head of the Advertisement and Press, January, 2010. <http://www.demokratikacilimkitabi.com>. Last Accessed on 04.03.2010.

renounced the existence of a separate Kurdish ethnicity and adopted a policy of forceful and systematic assimilation.

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

At the political level, the EU and the AKP reforms have resulted in the emergence of an anti-EU block in Turkey. This block consists of the extreme right wing supporters composed of ethno-nationalists, former left wing supporters encompassing anti-imperialist groups, and radical religious groups including anti-Western conservatives.<sup>79</sup> These forces have resurrected the “Sevres Syndrome” of Turkey. This is a perception that Turkey is encircled by internal and external enemies having some hidden agenda to disintegrate the Turkish state. The origins of this perception can be traced back to the Ottoman disintegration and the conclusion of the Sevres Treaty after the end of the First World War. The agreement stipulated the partition of contemporary Turkey on the basis of ethnic lines. Nevertheless, it was never implemented, as it was replaced by the Treaty of Lausanne, which contained more positive terms for Turkey. However, Turkey has never overcome the fear of disintegration. Minorities have been approached with suspicion, since their image as “menace” to the unity of state remains unchanged in the collective memory of the Turkish society. Hence, any set of externally oriented political reforms are today easily perceived as a possible threat that could in time culminate in the destruction of Turkey.

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

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<sup>79</sup> Nicole Pope, “Facing up to the Big Red Apple,” 35(3) *Index on Censorship* 2006, 78.82.

disintegration, like the reforms in the 19<sup>th</sup> century that led to the disintegration of the Ottoman Empire.

At the societal level, the reforms of the EU and the AKP generated nationalist reactions within the Turkish society. The Turkish state had long ignored the existence of a separate Kurdish identity. The Kurds were mostly considered as “mountain Turks” or at least, as Yegen (2006) expresses it more explicitly, “prospective Turks,” who had the potential of being assimilated by converging to Turkish identity.<sup>80</sup> In consequence of the EU and the AKP reforms, this perception has changed. The separate identity of the Kurds was de facto recognized. The cultural and political rights of the Kurds were partially adopted. Furthermore, at least at the governmental level, the state embraced a relatively liberal approach to the Kurdish problem. The different identity of the Kurds has gradually been pronounced. They became relatively more visible in the Turkish society as a result of the forceful displacement of Kurdish groups to the big cities in Turkey.<sup>81</sup> On the other hand, the image of the Kurds as “separatists,” who are in collaboration with external forces, has also been fortified in the course of the EU integration process.<sup>82</sup> This perceptual shift polarized Turkey further along ethnic lines and resulted in the emergence of negative anti-Kurdish discourses in Turkish society. Ethnic confrontation between Turkish and Kurdish groups in the western cities of Turkey has intensified as well. The incidences of attacks and protests against the Kurds have proliferated, signaling a looming large civil war against the Kurds. The problem has shifted from the military sphere to the social-political realm as the Kurds became more visible. This is due to the fact that the Kurds are deemed to be “equal” and free from discrimination as long as they are considered as a part of the “Turkish nation.”<sup>83</sup> As the EU reform process and recently adopted “democratic opening project” underlined and recognized the differences of the Kurdish minority in terms of their language and ethnicity, the image of the Kurds as a “trustworthy” or “faithful” Muslim group was replaced with that of a “principle other group” in the eyes of the Turkish nation.<sup>84</sup>

At the institutional level, it is not possible to observe any shifts in the attitudes and beliefs of the institutions, like the supreme and lower courts of Turkey. Those courts as the implementer of the amended legislations have not sustained any perceptual transformation<sup>85</sup> in parallel to the political reforms. They have interpreted the provisions of the Turkish penal code in a

<sup>80</sup> Mesut Yegen, ““Prospective-Turks” or “Pseudo-Citizens:” Kurds in Turkey,” 63 *The Middle East Journal* 2009, 697-615.

<sup>81</sup> Cenk Saracoglu, “Exclusive Recognition: The New Dimensions of the Question of Ethnicity and Nationalism in Turkey,” 32(4) *Ethnic & Racial Studies* 2009, 640-658.

<sup>82</sup> *Id.*, “The Changing Image of the Kurds in Turkish Cities: Middle-Class Perceptions of Kurdish Migrants in Izmir,” 44(3) *Patterns of Prejudice* 2010, 239-260.

<sup>83</sup> It is for this reason Kurds were perceived for long a component of “nation” rather than “citizen.” The former concept was used for all Muslims as “in-group members,” but later term is employed for non-Muslim minorities which were regarded as the “other” of Turkish nation.

<sup>84</sup> Cenk Saracoglu, ‘Exclusive Recognition’: The New Dimensions of the Question of Ethnicity and Nationalism in Turkey.” *Ethnic and Racial Studies* 32, no. 4 (2009): 640-58, 641.

<sup>85</sup> Interview with Emin Akdar, Diyarbakir Bar Association.

very comprehensive manner on the basis of “unity of state and nation.”<sup>86</sup> For example, recently, the Constitutional Court decided to close down the pro-Kurdish Democratic Society Party (DTP) for “becoming focused on terroristic activities.”<sup>87</sup> The Court imposed a political ban on 37 party members for the duration of 5 years. Following the closure of the DTP, the new Peace and Democracy Party (BDP) was established and they formed a group in the parliament. After the closure of the party, the pressure on pro-Kurdish BDP has escalated. The police started an ongoing operation and arrested most of the local executives of the pro-Kurdish Peace and Democracy Party, including Council members of the party, executives from the women and youth council, county commissioners, and district executives.<sup>88</sup> Almost 1,662 BDP members are now under arrest.<sup>89</sup>

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

Moreover, emerging nationalist feelings and anti-minority sentiments are used against the ruling party (AKP) and the pro-Kurdish party (BDP) by all opposition parties in the parliament. They manipulate the Turkish public by using extreme nationalist rhetoric against ethnic groups and by promoting the fear of disintegration in the case that ethnic groups are given their rights. This creates a vicious cycle. As nationalism grows and forms the dominant part of the domestic politics, political parties, which could normally display the motivation to realize minority reforms, might switch to advocating nationalist discourses instead as they endeavor securing their seats in the next election. At this point of the minority reform process, the question is not whether decision makers have changed their beliefs, perception, and ideas about minority issue<sup>90</sup> as they obviously want to make domestic changes. The problem is to determine how their changing beliefs and perception could be transformed into policies with ultra-nationalism and anti-minority sentiments residing at the society level. For this reason, solving the Kurdish problem in Turkey requires not only the creation of a new definition of Turkish citizenship encompassing various ethnic, linguistic, and religious groups, but

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<sup>86</sup> *Ibid.*

<sup>87</sup> See reasoned decision of Constitutional Court for closing down DTP in Official Gazette, 31.12.2009.

<sup>88</sup> Bianet, Dozens of BDP Members Arrested Again, 15 January 2010.

<sup>89</sup> Interview with Meral Bekdas Danis, General President of Peace and Democracy Party.

<sup>90</sup> Interview with Mehmet Kaya, Former President of Diyarbakir Industry and Trade Association.

also in the creation of a psychological atmosphere and the adoption of confidence building measures at the societal level in which the Turkish public accepts Kurds as equal citizens and the Kurds accepts themselves as an integral part of the society.

#### 4. Patterns of Europeanization of Minority Rights in Turkey

Europeanization of minority rights with respect to the Kurdish ethnic group has taken place in four steps in Turkey. These steps are partial-institutionalization, de facto recognition, limited empowerment, and societal exclusion. The first two steps are the direct impact of the EU and they are related to policy Europeanization. However, the latter step can be conceptualized as the indirect consequences of the influence of the EU, which might be regarded as related to the societal and identity Europeanization.

Firstly, the pressure of the EU led to the “partial institutionalization” of political and cultural rights of the Kurds. The bid for European integration has promoted important, albeit limited, domestic changes in terms of the minority protection system of Turkey. The perspective of membership given by the Helsinki Council Decision stimulated the political reform process. Despite the fact that such changes are far from the protection level granted by the EU and the Council of Europe, the pressure the EU exercised on Turkey to fulfill the Copenhagen criteria resulted in the partial institutionalization of the minority rights in Turkey. Expanding the scope of cultural and identity rights paved the way for changes in the authoritarian-statist political regime and the enjoyment of more rights by the minorities. However, this does not mean that total protection was/has been guaranteed at the constitutional level. Turkey adopted an approach of “reform through gradual legislative change” without even mentioning the term minority. It accommodated the adaptation pressure of the EU by enacting “patchwork minority laws,” like the right to learn, teach, and broadcast in minority language. These changes, nonetheless, are piecemeal and partial in fashion. They do not anticipate any total transformation of minority-majority relations through drafting a new constitution based on broad consensus and ethnically neutral expressions. That is why minority related reforms patching up pre-existing legislative arrangements as a response to the pressure of the EU did not end in the real modification of the essential policies or of the logic underlying political behavior. On the contrary, total revision of fundamental laws and the constitution can barely be observed.

Secondly, the EU has an impact on “de facto recognition” of the Kurdish identity and their minority rights, without making any connotation which puts them in the “minority” status. This is why the impact of the EU on minority rights protection is not limited to the accommodation of Turkey to the policy requirements with respect to minority protection at the legislative level. It has wider implications which reach beyond formal legislative changes. As it is mentioned above, Turkey has maintained a policy of assimilation and thereby refused to accept Kurds as a linguistic and ethnic group differing from the dominant Turkish identity. In the course of the 1990s, the legitimacy of all

walks of identities apart from the officially proscribed Turkish one was questioned. As Turkey wants to create strong institutional ties with the EU, the adaptation pressure of the EU to lift the limitations on Kurdish cultural articulation has augmented. Political reforms concerning the protection of minorities built the way for the open discussion of certain “taboo” issues in Turkish politics, like the Kurdish issue, the Turkish nation state, and identity. For the first time in the history of contemporary Turkey, the existence of a separate Kurdish identity was de facto recognized. Despite the above mentioned constitutional shortcomings, Turkey’s bid for the EU membership stimulates the current position of the Kurds in Turkey as a second regional-ethnic-linguistic group. There is a movement from “there are no Kurds, so they have no rights” to “yes there are Kurds, but what rights should they have?” The contemporary discussion is actually based on “how and what kind of measures should be taken”<sup>91</sup> with respect to resolving the Kurdish problem. This is an important paradigmatic transformation in the official ideology of state.<sup>92</sup>

Thirdly, the EU has an impact on “the empowerment of domestic mobilization” of the Kurds through democratic channels. In the course of the 1980s and 1990s, the Kurdish problem had been mentioned with reference to concepts like terror, violence, separatism, crime, and punishment. The security-defense aspect of the problem had been overemphasized, ignoring the political and cultural dimension of the problem. This picture is still valid in Turkey. Decision makers and the Turkish military in Turkey still consider “violence” as the primary means of treating the Kurdish problem. But the EU harmonization reforms have provided the ground for the discussion of the Kurdish issue on the basis of political and cultural nexus, gradually and indecisively taking it out of “violence” oriented policies.<sup>93</sup> General democratization in terms of the freedom of expression, assembly, and association provided by constitutional amendments makes the expression of Kurdish demands through democratic channels more possible.<sup>94</sup>

Lastly, the pressure of the EU has indirectly resulted in “societal exclusion,”<sup>95</sup> which then resulted in the emergence of anti-minority discourses and discriminatory practices on the minorities and the Kurds. On the one hand, the reforms enforced the consciousness of being different from the dominant Turkish identity among Kurds. On the other hand, the legislative changes prompted a new public image of the Kurds as a group with cultural practices and ethnic identities different than those of the Turkish public. This marked a fundamental perceptual shift, as the Kurds were considered as a

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<sup>91</sup> Interview with Sah Ismail Bedirhanoglu, President of Southeastern Industrialist's and Businessmen's Association, Diyarbakir, Turkey.

<sup>92</sup> *Ibid.*

<sup>93</sup> Interview with Sezgin Tanrikulu, Former President of Diyarbakir Bar Association, Diyarbakir, Turkey.

<sup>94</sup> Interview with Mehmet Kaya, Former President of Diyarbakir Industry and Trade Association.

<sup>95</sup> See the discussion concerning “exclusive recognition” of the Kurds in Cenk Saracoglu, “‘Exclusive Recognition’: The New Dimensions of the Question of Ethnicity and Nationalism in Turkey.....,”645-646 and Cenk Saracoglu, “The Changing Image of the Kurds in Turkish Cities: Middle-Class Perceptions of Kurdish Migrants in Izmir,” 44(3) *Patterns of Prejudice* 2010, 239-260.

component of the Turkish nation and thereby could elude being subject to systematic discrimination employed on the non-Muslim minorities. As the differences of the Kurds in terms of their identity are well articulated, the Kurds were left outside of the scope of the Turkish identity in popular perception. However, Kurdish groups remain vulnerable to the discriminatory practices, as the norms and values embedded in the reforms are not internalized at the public and elite level.

## 5. Conclusion

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

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

In terms of the Europeanization of identities and beliefs with regard to the minority issue, however, it is not possible to draw such a positive picture. While the EU process led to the recognition or at least discussion of certain cultural rights of minorities and thereby made them more visible in the political establishments, it indirectly promoted harsh reactions at both the political and social levels in Turkey. The reaction could be pictured as increasing ultra-nationalism, intensified division between majority and minority groups, and anti-minority discourses. As such, legal changes did not lead to a parallel normative shift among the elite and at the society level in Turkey. In consequence, the legal changes only emphasized "the otherness" of the Kurdish ethnic group rather than establishing a harmonious and consensual relationship between majority-minority groups.

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