

**The Europeanization Process:
Barrier or Facilitator In Turkey's Transition To Competitive Authoritarianism?**



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Abstract

The central research question presented in this thesis is: To what extent does Europeanization create barriers and/or opportunities for a transition towards competitive authoritarianism in Turkey? In order to answer this question, this thesis employs an institution-centered theoretical framework of a qualitative case study that uses process tracing to analyze formal and informal institutional change in Turkey. Institutional change is operationalized by the conversion/layering model, which identifies how the characteristics of institutions have been transformed by the Europeanization process. This study determines that under the AKP administration, the Europeanization process has created more opportunities than barriers for Turkey to transition from democracy consolidation towards a competitive authoritarian regime.

Abbreviations

AKP	Justice and Development Party
CA	Competitive Authoritarianism
CPJ	Committee to Protect Journalists
EEC	European Economic Community
EU	European Union
HI	Historical Institutionalism
HSYK	Board of Judges and Prosecutors
IPA	Instrument for Pre-Accession Assistance
NGO	Non-Governmental Organization
NPAA	National Program for Adoption of Acquis
NSC	National Security Council
TESEV	Turkish Economic and Social Studies Foundation

Dedication

I dedicate this thesis to the Turkish youth who lost their lives in the struggle for freedom and justice during the Gezi Park protests. I also dedicate it to my mother and father, whose unconditional love and curiosity for life and knowledge has made this thesis possible.

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Chapter 1 -The AKP: Wolf in Sheep's Clothing?

Turkey's controversial relationship with the nexus of European institutions spans a period of over fifty years. The controversy stems from Turkey's geographical location, large population size, human rights record, as well as the question of whether Turkey's culture and values are compatible with that of Europe's. By moving away from its Ottoman legacy towards a secular republic that embraces western ideals, Turkey, a Muslim majority country, has continuously attempted to align itself with the west.

The historical trend of Turkey's modernization project has created a path-dependent process, entrenching Turkish institutions within a western oriented trajectory. Turkish policymakers have traditionally believed that strong, impartial and secular institutions create necessary conditions for the consolidation of democracy. The Islamic Justice and Development Party's (AKP) rise to power in 2002, and the granting of EU candidacy status in 2005 are critical junctures in Turkey's modernization project.

Identifying itself as a conservative party that is dedicated to western ideals, the AKP initially committed itself to the EU accession process. However, after winning a second (2007) and third (2011) term in office, thus effectively consolidating its power, there has been growing indications that an incremental yet important shift is taking place in Turkey's institutional setting. On the one hand, it is assumed that the Europeanization process is transforming Turkish institutions, yet there is fear that rather than the consolidation of democracy, Turkey is moving towards a competitive authoritarian regime. The fundamental question is – what is facilitating this shift?

In order to answer this question, this thesis employs an institution-centered theoretical framework to understand the role Europeanization plays in Turkey's regime transition. Whilst literature exists on explaining how the Europeanization process affects domestic structures, or how institutional change can occur through elite led endogenous factors, there is little research conducted on the synthesis of these two factors.

The goal of this thesis is to fill this gap by looking at institutional change both as a mechanism that is constrained and/or aided by an exogenous factor, in this case the Europeanization process, and as an institution-dependent endogenous process affected by change in the elite structure. The research will determine what role, if any, Europeanization plays in regime transition in Turkey. The main research question presented in this thesis is: To what extent does Europeanization create barriers and/or opportunities for a transition towards a competitive authoritarian regime in Turkey?

I argue that the Europeanization process has created more opportunities than barriers for the AKP administration to shift towards a competitive authoritarian regime. I claim that these opportunities are related to type of institution (formal/informal), and scope of institutional change (layering/conversion). In order to demonstrate this, this thesis begins by defining key concepts. Second, literature introduces factors that can cause a transition to a competitive authoritarian regime. Third, the theoretical framework summarizes key tenets of historical institutionalism, emphasizing the institutional conversion/layering model as well as presenting the hypotheses of this thesis. Fourth, the research method outlines the case selection, methodology and data, and shows how the variables are operationalized. Fifth, an analysis of institutional change in Turkey's formal and informal institutions identifies how the Europeanization process has created more opportunities than barriers for Turkey to transition towards a competitive authoritarian regime.

The thesis concludes by arguing that whilst institutional entrapment through Turkey's historical involvement with the nexus of European institutions has occurred, a more salient driving force for institutional change has transpired as a result of the unintended consequences incurred by the Europeanization process. This has created opportunities for the AKP administration to decrease institutional entrapment and pursue regime transition.

This conclusion has important implications. It suggests that institutions matter, that democratization is not always a linear process, and that the Europeanization process does not necessarily consolidate democracy in EU candidate countries. This thesis recommends that if the EU wants to strengthen its role as a normative power, it must design stronger mechanisms that constrain unintended consequences induced by the Europeanization process. Second, the findings identify that exogenous and endogenous factors, reinforced by formal and informal institutional change, can cause incremental yet potentially path breaking consequences on regime stability. Literature has largely ignored the combination of these factors in explaining path breaking institutional change, demonstrating that the results of this thesis may potentially shape future research.

Chapter 2 - Concept Definition

Europeanization refers to the European Union's impact on member and candidate states' domestic political structure. The large scale Europeanization process carried out in Eastern Europe in the 1990's increased academic interest in the process. Whilst literature explicitly concerned with the Europeanization of domestic institutions exists, "we still lack consistent and systematic concepts to account for the varying patterns of institutional adjustments across country and policy sectors" (Knill and Lehmkuhl, 2002, p.1). The Europeanization literature has focused mainly on explaining Europeanization as a theory, yet there is also a need to understand the Europeanization process as a

model of institutional change. In this thesis, Europeanization refers to the EU's impact on domestic institutions in EU candidate countries.

Douglass North describes institutions as “the rules of the game in a society, ... the humanly devised constraints that shape human interaction” (North, 1990, p.3). Formal institutions are defined as organizational patterns, rules, and procedures that govern the behaviour of groups and individuals. Such institutions often have an implicit or explicit understanding of acceptable behaviour. Informal institutions, in comparison, are rules and procedures that are created, communicated, and enforced outside of official channels, yet are as critical as formal institutions in structuring the rules of the game (Burnell, Randelli and Rakner, 2011).

The degree to which formal rules enable or constrain elites vary considerably. In certain cases, formal institutions may exist only on paper, where what guides actors are unwritten, informal rules. In such cases, actor behaviour is expected to deviate substantially from prescribed formal rules (Helmke and Levinsky, 2006). It is important to recognise that informal institutions have a powerful, and in certain cases systematic effect on institutional outcomes and regime transitions. This distinction will be of particular relevance in the analysis section of this thesis.

Within the context of regime transition, this thesis uses an institution based approach, referring to the formation and persistence of formal and informal institutions. This approach examines the effect of constraints on individual choice and behaviour, which is reinforced by the relationship between formal and informal norms and rules that affect regime stability (Brinton and Nee, 1998). These relationships have implications for the durability and change in institutions. Within the context of regime transition, “institutions endure to the extent that they are not disrupted by exogenous shocks ... or so long as shifts in other opportunities do not lead individual actors and coalitions to defect from institutional arrangements” (Clemens and Cook, 1999, p.445).

This thesis will examine whether the Europeanization process (an exogenous shock) has created a condition that allows the AKP administration, whose rise to power shifted the elite structure (an endogenous factor), to pursue regime transition. Regime transition in this context refers to a shift from democracy consolidation to competitive authoritarianism in Turkey. Using Linz and Stepan's (1996) classification, this thesis defines democracy consolidation as a system where no institutional actor spends significant resources attempting to create a nondemocratic regime; where a strong majority of public opinion holds the view that democratic institutions are the most appropriate way to govern collective life; and where the elite are bound to specific laws and institutions sanctioned by the democratic process. Competitive authoritarian regimes are “civilian regimes in which formal democratic institutions exist and are widely viewed as the primary means of gaining power, but in

which incumbents' abuse of the state places them at a significant advantage *vis-à-vis* their opponents" (Levitsky and Way, 2010, p.5).

Competitive authoritarianism is distinct from non-competitive authoritarian regimes because the former has constitutional channels through which opposition groups can compete in a meaningful way for executive power. Elections are held regularly and opposition parties are not legally barred from them and the democratic procedures are meaningful enough for opposition groups to take them seriously as a means to contest for power. According to Levitsky and Way (2010), competitive authoritarian regimes are not democratic, however, because the incumbent abuses the state and violates key attributes of democracy, including free elections, broad protection of civil liberties, and a reasonably level playing field.

Within the context of free elections, competitive authoritarian regimes have competitive elections that allow major opposition candidates to campaign publicly, however, elections are often not fair. The incumbent has unequal access to finance and the media, as well as the ability to abuse state institutions, manipulate voter lists, falsify results, and/or intimidate voters. Nevertheless, abuses are not systematic enough to prevent opposition from running, or render the act of voting meaningless.

Within the context of civil liberties, competitive authoritarian regimes nominally guarantee and respect them. Opposition groups are allowed to operate, independent media exists to a certain extent, and citizens can freely meet and protest against the government. Yet, liberties are frequently violated. Opposition politicians, independent judges, journalists, human-rights activists, and other government critics are subject to harassment and/or arrest. The incumbent raises the cost of opposition activity, causing activists to remain on the side-lines, encourages self-censorship of the media, and hinders the opposition's capability to organize and challenge the government.

A skewed playing field occurs when state institutions are widely abused so that the incumbent is systematically favoured at the expense of the opposition. This is reinforced by unequal access to resources, monopolization of private-sector finance and access to the media, and/or through the existence of 'biased referees', which allows for uneven access to the law, making the judiciaries and other independent arbitrators rule systematically in the favour of the ruling party (Levitsky and Way, 2010). Likewise, the incumbent uses the security apparatus to protect its own interests. Thus, in such a regime, the military and/or the police are not independent and impartial institutions of the state as found in democratic regimes, but rather function to the advantage of the ruling party.

In sum, competitive authoritarianism entails real but unfair competition. Opposition parties are legal and compete seriously in elections, however, they are subject to surveillance, harassment, and in

certain cases violence and/or arrest. The ruling party has unequal access to resources, private-sector finance, and the media, and impartial institutions, such as the judiciary, are politicized and skewed in favour of the incumbent. Yet, such factors do not prevent opposition victories, making the incumbent fear an election loss and thus work hard to prevent it, whilst opposition leaders believe they have some chance of victory.

Chapter 3 - Paths to Competitive Authoritarianism

The third wave of democratization, reinforced by Fukuyama's *end of history* positivist paradigm, led to extensive literature stressing the trump of democracy in international relations. In general, the literature focused on democratization as a linear, step by step process. Little attention was paid to understanding the converse affect; the transition from authoritarianism to a liberalized authoritarian regime, or indeed the process of democratic breakdown. Elementary literature on the subject include Robert Dahl's (1971) classification of "near polyarchies" describing electoral, non-democratic regimes, Guillermo O'Donnell and Philippe Schmitter's (1986) emphasis on the inherent uncertainty and variation in the outcome of regime transitions, and Juan Linz, Larry Diamond and Seymour Lipset's (1990) "semi-democracy" classification, outlining multi-party electoral regimes that lack freedom and fairness in the electoral process.

The post-cold war period has witnessed a rise in the number of hybrid regimes – regimes that are neither clearly democratic nor conventionally authoritarian. Whilst early literature outlined above briefly touched upon the subject, there has been a growing need in political science to identify causal mechanisms that can lead to the emergence of a hybrid system. Scholars of transition politics, led primarily by Steven Levitsky and Lucan Way (2002), identify three ways a regime can transition towards a competitive authoritarian regime.

The first way is when there is complete collapse of an authoritarian regime due to endogenous reasons, followed by the emergence of a new, competitive authoritarian regime. Total regime collapse can occur due to poor regime performance, including in the economic area causing high inflation or unemployment; regime de-legitimation, where a significant segment of society no longer regard the incumbent as necessary or appropriate; and/or through regime elite defection, where there is a dissolution of the key political elite, including the armed forces (Dix, 1982).

Nevertheless, the internal collapse of an authoritarian regime does not necessarily signal the onset of a democratic transition (Hadenius and Teorell, 2007). Pointing to post-communist countries such as Russia, Serbia and Ukraine, Levitsky and Way (2002) highlight how weak electoral regimes have emerged, more or less by default, in the wake of an authoritarian breakdown. Likewise, whilst there

are cases of initial opening characterized by free and fair elections, as in parts of sub-Saharan Africa in the 1990's, a strikingly high number of states have reverted to establishing competitive authoritarian regimes (Schedler, 2009). This is believed to be caused by a weak civil society and a lack of democratic tradition, which is reinforced by successors who inherit a skewed playing field and politicized state institutions, which can be used to weaken and/or disadvantage the opposition. These structural factors create opportunities for elected governments to rule autocratically. However, because of the collapse of the previous authoritarian system, such a transition disables the government to revert to total authoritarian rule.

The second way a transition can occur is through the decay of a total authoritarian regime caused by external pressure. The third wave of democratization created pressure for political liberalization in authoritarian regimes. Such pressure raised the cost of sustaining authoritarianism and created incentives for domestic elites to adopt or strengthen formal democratic institutions. International financial institutions linked loans to conditionality that emphasized liberalization (Pepinsky, 2007; Levitsky and Way, 2002), which was consolidated through pressure exerted by western regimes espousing the importance of elections (Diamond 2002; Brownlee, 2004) This forced autocrats to make political concessions (Huntington, 1991; Papaioannou and Siourounis, 2008; Schedler, 2006).

Yet, external pressure is not strong enough to consolidate a democratic regime. Whilst incumbents may hold multiparty elections, it is easy for them to manipulate electoral rules and extend their survival. Such election victories create a veil of public and international legitimacy (Schedler, 2006), however, lack real democratic meaning. The incumbent often manipulates or selectively adheres to the new democratic rules. This means that autocrats can hold elections to satisfy external pressure, while still maintaining a grip on power. Thus, an authoritarian regime might be dismantled due to external pressure, however, this may simply mean a transition to a competitive authoritarian regime.

The third way a transition to competitive authoritarianism can occur is when there is an endogenously induced democratic breakdown. Within the literature, scholars argue that this can transpire due to structural reasons, including inhospitable conditions for democracy, or due to inappropriate institutional design, which makes democratic breakdown easier to occur (Boix, 2003; Acemoglu and Robinson, 2006; Haggard and Kaufman, 2012). Such factors include the existence of an unstable, or easily changeable constitution, which makes changing the rules of the game easy to pursue; and/or unfavourable history, including the democratic background of the state, its political culture, and the degree of development of its civil society (Diskin, Diskin and Hazan, 2005).

The transition can also occur due to actor-based reasons (Mainwaring and Perez-Linan 2012; Higley and Burton, 2006), including political polarization caused by miscalculation, or misrule of elites;

and/or through a power-shift in the elite structure, which places a new coalition of hegemonic actors at an advantage *vis-à-vis* the old power base. These freely elected governments may find that they are disadvantaged or dissatisfied by existing institutional arrangements and thus attempt change the status quo by promoting new institutional arrangements that serve their interests. Consequently, the new coalition can undermine democratic institutions through selective, incremental abuses of the democratic system, but lack the will and means of eradicating the system entirely, resulting in a transition to a competitive authoritarian regime.

This thesis proposes a fourth way a regime can transition towards competitive authoritarianism. This approach combines endogenous factors listed in the third way above, with exogenous factors. More specifically, it looks at the role international organizations play in empowering or constraining domestic actors to pursue regime change. The rationalization of this approach is tied to the fact that international organizations, through leverage and linkage, can have substantial influence on domestic governments. The prevailing view in international relations is that through external pressure and incentives, international organizations, such as the EU, aid in the democratization process of a country. However, it is also possible that the Europeanization process can cause the adverse effect, becoming a legitimizing and facilitating factor in an incumbents non-democratic practices. Employing Cowles, Caporaso and Risse's (2001) framework, this thesis argues that the Europeanization process can create barriers and/or opportunities, making domestic institutions stronger or weaker against a transition towards a competitive authoritarian regime in EU candidate countries.

Barriers against this shift include the Europeanization's role in creating institutional entrapments of administrative structures and procedure, which reinforce democratic administrative procedures in candidate countries (Knill, 2001); the creation of cooperative informal institutions, where the Europeanization process acts as a normative power, establishing an informal understanding of democratic institutional behaviour and logic of change (March and Olsen, 1989); and/or through democratic institutional arrangements and traditions that are reinforced by the Europeanization process (Cowles and Risse, 2001).

Europeanization's role in creating opportunities that weaken domestic institutions, making it easier for the elite to pursue regime transition, include the redistribution of power capabilities among the domestic elite, empowering some actors at the expense of others and thus placing them in a stronger position to induce change; the institutional reconfiguration process, which allows norm entrepreneurs to take advantage of the impetus of change driven by Europeanization, making it easier for them to legitimise change; and/or through the process of unintended consequences, where the Europeanization process creates conditions under which institutional reform produces unintended procedural and policy consequences (Cortell and Peterson, 2001).

In sum, current literature outlines three ways a regime can transition towards competitive authoritarianism; authoritarian collapse due to endogenous reasons, authoritarian breakdown through external pressure, or democracy breakdown due to endogenous reasons. This thesis introduces a fourth way in which endogenous factors, outlined in the third approach, are strengthened by an exogenous factor; in this case Europeanization's role in creating barriers and/or opportunities that strengthen or weaken institutions against regime transition in candidate countries.

Chapter 4 - Historical Institutionalism

In order to determine the extent to which Europeanization sets barriers and/or opportunities for a regime transition in Turkey, this thesis employs new-institutionalism in its theoretical framework. The theory assumes that institutions matter and attempts to identify what role institutions play in the determination of societal and political outcomes. The theory comprises of three subdivisions; historical institutionalism, rational choice institutionalism, and sociological institutionalism.

Historical institutionalism (HI) will be selected for this research. The alternative two approaches do not prioritise the role of history in the study of how institutions determine political action. Rational choice treats history simply as a series of disconnected events in which strategic choices are selected by utility maximising individuals. Similarly, sociological institutionalism argues that individuals are driven by norm based motives. In contrast, HI proposes that political action can only be understood as a process that unfolds over time.

Historical inclusion is of particular significance to this research because it allows for theorizing about historical dimensions of causation (Rueschemeyer and Stephens 1997; Mahoney 2000). Within the context of institutional change, instead of identifying the transition to competitive authoritarianism in Turkey from a 'snapshot view', HI allows for capturing the incremental changes taking place over a period of time, categorizing Europeanization's role in the process, and classifying whether it is creating barriers and/or opportunities against regime transition under the AKP.

With regard to how institutions change, HI makes two claims, which I label as orthodox-HI and neo-HI. Orthodox-HI assumes that policy-makers make conservative choices, which maintain existing policy patterns within institutions. Pierson (2000) attributes this to the idea that once a pattern has been established, there exists a self-reinforcing process which make institutional configurations, and hence policies, difficult to change. Nevertheless, this does not mean that change does not transpire. Orthodox-HI assumes that national policy making is characterised by extended periods of relative stability known as 'path dependence', interrupted by exogenous disruptive formative moments.

Path dependence is defined as a relationship whereby “what happened at an earlier point in time will affect the possible outcomes of a sequence of events occurring at a later point in time” (Icoz, 2011, p.513). Once a path is created, it is often difficult to shift from one path to another. Pierson labels this 'increasing returns'; the idea that the “further steps along the same path increases with each move down that path due to the relative benefits of the current activity compared with other possible options” (Pierson, 2000, p.252). Disruptive formative moments are characterised by attempts to establish new priorities, policies and administrative decisions in public policy, occurring primarily as a result of exogenous factors. Krasner (1984) defines this as 'punctuated equilibrium' where the static functioning of an institution is punctuated by a sudden external change.

Whilst the orthodox approach stresses institutional 'stickiness' and change transpiring as a result of exogenous factors, neo-HI deals with the question of how and why institutions gradually change over time. Thelen and Streeck (2005) claim that the absence of analytical tools to characterise and explain modes of gradual institutional change makes orthodox-HI literature rely, explicitly or implicitly, on a strong punctuated equilibrium model that draws a “sharp distinction between long periods of institutional stasis, periodically interrupted by some sort of exogenous shock” (Thelen and Streeck, 2005, p.3). Orthodox-HI pays very little attention to explaining how institutions can be gradually transformed by endogenous factors. In contrast, neo-HI expects that a shift in the structure of the domestic elite, including the incorporation of a previously marginalized coalition, can alter the power-base of the new elite *vis-à-vis* the old elite, making endogenous change possible (Mahoney and Thelen, 2010; Rezende, 2012).

Before examining how institutions can be endogenously transformed, it is important to note that Thelen limits the discussion to formal institutions that are the product of conscious design and redesign. Akin to Thelen, Pierson claims that unlike informal institutions, formal institutions possess “greater staying power, because obstacles to revision are higher” (2000, p.251). By excluding informal institutions, the theory makes an assumption about what type of institution is more likely to act as a barrier against change. For this reason, it is more likely that the Europeanization of formal institutions, due to their higher durability and consequential institutional structures compared to informal institutions, act as a greater barrier against regime change. This leads to the first hypothesis of this thesis:

Hypothesis 1: Formal institutional change is more likely to create barriers against a transition towards a competitive authoritarian regime in Turkey than informal institutional change.

Following the classification of which type of domestic institution is more likely to create a barrier

against regime transition, it is necessary to identify *how* institutions can be endogenously changed. The reconfiguration of the elite structure plays a critical role in understanding the process. In this thesis, this change refers to the emergence of a new elite group that incrementally prevents the pre-existing powerful class to mobilize their power resources and thus allows the new elite to change the status quo. The new elite coalition can employ the strategy of institutional layering or institutional conversion to do so.

Institutional layering, a concept initially developed by Eric Schickler (2001), involves the partial renegotiation of certain elements of a given set of institutions while leaving others in place. Since options available to decision makers today are dependent on previous choices, this approach recognizes that the process is in some ways path-dependent, as argued by the orthodox approach. However, Schickler includes the notion of innovation into this 'lock-in' effect, arguing that actors can work around existing frameworks, adding new layers to existing institutions. Thelen (2005) claims that this demonstrates how norm entrepreneurs can accommodate and adapt to the pre-existing system, working around the elements that they cannot change to restructure the system to suit their own needs.

Institutional conversion, on the other hand, occurs when old institutions are given new purposes or functions. Thelen (2005) defines this as a process where an institution designed with one set of goals in mind is redirected to other ends. A change in the elite structure can empower the new elite to change the status quo through strategically reinterpreting existing institutions in new ways. This makes conversion a more evident way of inducing change because it requires radically altering the characteristic of the institution to serve new goals.

I predict that conversion is a greater barrier against regime transition. This is because any changes made to an institution through conversion is more obvious and thus the political challenge for inducing such change is higher. Layering, on the other hand, causes institutional change but avoids the political challenge of dismantling existing institutions, which “eschew outright revision but nonetheless effect dramatic changes on the ground, [demonstrating how] powerful actors can work around institutional barriers to change” (Shapiro, Skowronek and Galvin, 2006, p.174). This leads to the second hypothesis of this thesis:

Hypothesis 2: Institutional conversion is more likely to create barriers against a transition towards a competitive authoritarian regime in Turkey than institutional layering.

In sum, historical institutionalism goes beyond a “snapshot view” of institutional change, allowing for the time sequence of events to be examined, and identifying whether the Europeanization process has created barriers and/or opportunities for a transition from democracy consolidation to a competitive

authoritarian regime in Turkey. Orthodox-HI claims that institutional change transpires as a result of exogenous factors. Neo-HI claims that endogenous factors can cause incremental institutional change, introducing the concept of agency into institutional configurations.

In order to understand how the dependent variable is linked to the independent variable, this thesis synthesises the orthodox-HI and neo-HI approach. In line with the fourth way listed in the literature review, I argue that regime transition, understood as institutional change in Turkey, is transpiring as a result of an exogenous (Orthodox-HI) *and* endogenous factor (Neo-HI). The exogenous factor in this case is the Europeanization process, which is characterized as a disruptive formative moment transforming Turkish institutions by altering domestic priorities, policies, and administrative decisions as part of the *acquis*. It is presumed that the Europeanization process is empowering some actors and weakening others during this process, enabling the new elite to work around (institutional layering) or transform institutions (institutional conversion). The endogenous factor is characterized by the rise of the AKP, which is changing the power structure of the Turkish elite coalition. I predict that the combination of these factors is strengthening or weakening respective Turkish institutions against a transition towards a competitive authoritarian regime.

Chapter 5 – Research Design

5.1 Case Selection:

This thesis employs a qualitative analysis of a case study as the primary research method. Whilst large-n quantitative studies are suited for deducing generalizable causal claims, they offer limited opportunity to uncover causal mechanisms (Lieberson, 1991). A case study that focuses on Turkey will enable this thesis to carry out a comprehensive examination of institutional change. It will also aid in determining the extent to which the Europeanization process is creating barriers and/or opportunities in this process. This will help in identifying what *type* of institution is strong or weak in the face of a potential or actual regime transition and *why* this is the case. Such an approach is important because whilst the Europeanization process is largely understood as a method of democracy consolidation, this study examines whether it can also create institutional opportunities for domestic elite to pursue a transition to a competitive authoritarian regime.

Turkey is selected as the case study because it is the only EU candidate country that currently appears to be regressing from democracy consolidation towards a competitive authoritarian regime, especially since the developments of the 2013 Gezi Park protests. The period covered in this study is from 1923 to 2014. Three sub-periods have been identified; 1923-1950, which classifies the origins of Turkish institutions from the establishment of the Turkish Republic to the introduction of a multi-party system; 1950-2002, which determines whether a lock-in effect and path dependence has occurred during Turkey's multi-party period and the foundation of Turkey-EU's institutional relationship; and finally

2002-2014, when Turkey became an EU candidate country under the AKP administration, which identifies whether the Europeanization process has created barriers and/or opportunities for the newly established elite coalition to pursue regime change.

5.2 Methodology and Data:

The case study will use the method of process-tracing. Process-tracing is defined as a “procedure for identifying steps in a casual process leading to the outcome of a given dependent variable of a particular case in a particular historical context” (Vennesson, 2008, p.231). Process-tracing can take a number of forms, including an analytical form, as employed in this thesis, which converts a historical narrative into an analytical causal explanation supported by theory. Rather than merely narrating history, this approach will pay attention to the dynamics and historical junctures at which the ruling elite might have chosen one path over another. Through process-tracing, I will focus on the sequence of events that have resulted in institutional change. This is understood as Europeanization’s effect on formal and informal institutions (Independent Variable 1), and institutional change through conversion or layering (Independent Variable 2). Such an examination will aid in determining the type of institution and method of institutional change most resilient to regime transitions.

In order to identify the Europeanization’s effect on these two variables, I will make use of secondary data, including EU level data, which entails key Turkey-EU documents¹, including the Instrument for Pre-Accession Assistance (IPA), outlining areas where the EU assisted Turkish institutions to prepare for the accession procedure, the National Program for Adoption of Acquis (NPAA) outlining which Turkish institutions must be altered to fit the *acquis*, as well as annual progress reports, highlighting formal and informal institutional changes in Turkey.

National level data includes official and legal documents, comprising of an examination of the nine harmonization packages operationalized since 2002, as well as constitutional amendments, and the most recent Democratization Package issued following the Gezi Park protests. I will also make use of NGO reports, including Amnesty International, Freedom House, Gallup World Poll, the Turkish Economic and Social Studies Foundation (TESEV), Bipartisan Policy Centre, Carnegie Foundation, Commissioner for Human Rights of the Council of Europe, PEN International, Committee to Protect Journalists, as well as English and Turkish speeches, press releases, journals, and newspaper reports.

5.3 Operationalization:

Dependent Variable:

The dependent variable is “transition to competitive authoritarianism”. In this thesis, this transition is

¹ See European Union Commission key documents on Turkey: http://ec.europa.eu/enlargement/countries/detailed-country-information/turkey/index_en.htm

understood as a shift from democracy consolidation, which is defined as institutionalization of democracy (O'Donnell and Schmitter, 1986; Schedler, 2006), to a competitive authoritarian regime. Within this thesis, this transition is understood as institutional change that systematically favours the AKP and allows the party to violate key democratic attributes, including civil liberties and the skewing of an even playing field. It also entails a shift that empowers the AKP to attain monopoly over resources, the media, and impartial institutions, including the judiciary and the security apparatus of the state. Whilst Turkey's competitive electoral system remains intact, the transition entails the political apparatus of the state to function to the advantage of the AKP, thus identifying a potential or actual transition towards a competitive authoritarian regime.

Independent Variable:

In order to identify whether the Europeanization process has created barriers and/or opportunities for a regime transition in Turkey, I will operationalize my independent variable by dividing institutions into formal and informal categories (IV1). I will identify which of these two categories of institutions are easier to reconfigure. I will then determine how institutional change has occurred by looking at layering and conversion, and identifying which method is most resistant to regime change. These two variables serve as an indicator in determining which type of institution and under what conditions particular institutional configurations are or are not re-negotiable.

Type of Institution (IV1)

The first independent variable is categorized as institutional type. As part of Turkey's Europeanization process, this variable is defined as changes made to formal and informal institutions. I divide formal institutions into four categories. Category one includes the government and the constitution. Category two includes the main security institutions, namely, the military and the police. Category three deals with the judiciary. Category four deals with freedom of speech, assembly, and press.

Informal institutions will be operationalized by examining practices within formal institutions. Such practices include organized corruption, including bribery, patronage and clientelist networks; informal mechanisms of repression, which uses formal institutions to repress opposition, and the use of informal violence to suppress opposition. Whilst examining all of the formal and informal institutions affected by the Europeanization process in Turkey exceeds the scope of this thesis, the selected institutions are varied enough to provide a strong sample in identifying a potential or actual regime transition.

Scope of Institutional Change (IV2)

The second independent variable is the scope of institutional change. Guy Peters, Jon Pierre and Desmond King state "historical institutionalist ... are not clear about what sort of change should be reckoned to be significant enough to say that there has been a deviation from the path" (2005, p.1287).

Yet it is important to note that incremental modifications can eventually lead to substantial changes. Whilst initially such changes might be minimal, they may progress enough to actually alter existing institutional paths.

Thus, rather than look at the *degree* of change, which views incremental change as unimportant, this thesis will identify the *scope* of institutional change. Scope of institutional change is understood as change in the defining characteristics of an institution. Defining characteristics are understood as norms, rules, principles, values, and the collective identity of an institution. Thus, the scope of institutional change will determine whether a gradual (layering) or total shift (conversion) of these defining characteristics is taking place in the formal and informal institutions labelled above.

In order to do this, I will identify whether institutional change under the AKP government is altering the secular, democratic and impartial characteristics of Turkish institutions. Whilst it is presumed that these changes are indeed very incremental, they may indeed serve as an indicator to determine whether a potential path-breaking process is taking place, causing democratic characteristics of institutions to gradually be replaced with competitive authoritarian ones.

In sum, qualitative data extracted at the international and domestic level will aid in identifying the time sequence of institutional adaptation in Turkey. I will test my dependent variable – transition to a competitive authoritarian regime - by examining changes in formal and informal institutions, and operationalizing the layering/conversion model. This will determine how the Europeanization process has created barriers and/or opportunities against regime transition.

Barriers created by the Europeanization process include strong institutional entrapments of administrative structures and procedures, strengthening of cooperative informal institutions that establishes an informal understanding of democratic behaviour and institutional change, and consolidation of institutional arrangements and traditions that are reinforced. Opportunities include the redistribution of power capabilities among the elite, the institutional reconfiguration process that creates momentum for institutional change, legitimacy created by Europeanization process that decreases the political challenge of carrying out institutional change, and unintended consequences, referring to conditions under which the institutional reform process in Turkey has caused unintended procedural and policy consequences. This analysis will determine if the hypotheses proposed in this thesis are valid, namely; formal institutions are a greater barrier against regime transition than informal institutions; and institutional conversion is a greater barrier against regime transition than institutional layering.

Chapter 6: Identifying and Analyzing Institutional Change

As discussed in the theory section, institutional development should be understood in the context of their historical origins which often emerge from the strategic actions of political elite. Once established, orthodox-HI claims that institutions will progressively become entrenched, especially if the existence of the institution functions to the advantage of the hegemonic elite. The premise is that unless an exogenous shock occurs, these deeply-rooted institutions shape the behavioural patterns of elites, reinforcing the rules of the game.

Yet path dependence does not mean that change, either gradual or radical, is not possible. Indeed, the neo-HI school of thought attempts to move the discussion away from understanding institutional persistence towards identifying mechanisms that allow for gradual, endogenous institutional change. Neo-HI assumes that whilst institutional ‘stickiness’ exists, a transformation of the elite structure can facilitate institutional change. It is presumed that if the existing institutional setting does not function to the advantage of the new elite, then the elite will have an incentive to change the status quo. Change in the power structure can thus strengthen the new elite coalition to pursue change, decreasing institutional entrapment within the state. In the case of Turkey, this has gradually transpired through the increased strength of the AKP *vis-à-vis* the old secular elite and army.

Second, the Europeanization process, understood in this case as institutional change to fulfil the *acquis*, has created momentum for institutional transformation. Whilst these changes on the surface seem to be in line with the Europeanization process, and thus democracy consolidation, this chapter will determine whether the Europeanization process has resulted in the unintended consequence of the AKP elite using the Europeanization process as a tool to change the status quo, reconfiguring formal and informal institutions to push for a transition towards competitive authoritarianism through modes of layering and conversion. In identifying this trend, it will be possible to determine whether the Europeanization process has strengthened or weakened institutions against regime transition under the AKP administration.

This chapter is structured in the following way. Part I briefly introduces the first two sub-periods spanning from 1923-1950 and from 1950-2002, highlighting the origins of Turkish institutions and Turkey-EU’s institutional path. In order to understand how a shift in the power-base of the elite structure has taken place, this section will also briefly trace critical junctures that led to the rise of the AKP. Part II presents formal and informal institutional change between the periods 2002-2014. Formal and informal institutions are broken into four categories and changes are analysed in each institution. Category one deals with the main political institutions, including the government and the constitution. Category two deals with the main security institutions, namely, the military and the police. Category

three deals with the judiciary. Category four deals with freedom of speech, assembly, and press. The focus of this analysis will be to determine what role institutional *type* and *scope* of institutional change plays in creating strong or weak institutions against regime transitions.

Section I: The Foundation of Turkey's Institutional Setting

This section will begin by providing a brief historical overview of Turkey-EU relations. This is relevant in the context of understanding the origins of Turkish political institutions, as well as highlighting path-dependence and institutional 'stickiness' that according to orthodox HI theory, should make shifting from the western-oriented, European path difficult for the AKP to pursue.

6.1. 1923-1950:

The dismantling of the Ottoman Empire in 1923 led to the internal restructuring of social, political and economic life in Turkey, as well as the establishment of the new Turkish Republic. The founders of the Republic, led by Atatürk, embarked on a path to transform Turkey into a secular nation-state. Having chosen in the initial path to modernize along western lines, the Republic was founded on the principles of secularism, the rule of law, a pluralistic and participatory democratic system, and the protection of fundamental human rights and freedoms.

Within the context of its institutional foundation, Turkey carried out a comprehensive national project to distance itself from its Eastern ties and bring itself closer to a western modelled state. This included abolishing the Sultanate and Caliphate, replacing the Islamic law with a Swiss inspired civil code, Italian penal code, and German commercial code. The French model of secularism was adopted, which established strict state control over religious expression and institutions. Religious courts were abolished, and the new constitution created an independent and strictly secular judiciary.

The use of Arabic was outlawed, and the Latin alphabet replaced Arabic script, the calendar was changed from Islamic to Gregorian and the clocks were changed to follow European time. Women were discouraged from wearing headscarves and were eventually banned from wearing them in all public institutions, including government buildings and public schools. The Turkish Grand National Assembly was established in 1924, which created the offices of the Prime Minister and President. The Assembly was elected by direct election through popular representation and the party system was created. However, Turkey remained a one-party system under Atatürk's Republican People's Party until the multi-party system was introduced in 1950.

Turkey's democratization project, which occurred under a one-party system, was seen as a necessary civilizing force (Lewis, 1961; Huntington, 1968). The idea was to strengthen political institutions of the state and counter a resurgence of Ottoman, Islamic movements. In order to achieve these

objectives, the ruling secular elite believed that political power had to be concentrated in the hands of a few trustworthy guardians. Thus, the period of single-party rule is a critical juncture in understanding the foundation of Turkish political institutions. Whilst on the surface such a system may appear to be anti-democratic, it was seen as a necessary measure to entrench and consolidate democratic rules and norms within the newly established secular institutions.

6.2. 1950-2002:

The Turkish political system was opened up to multiparty competition in 1950. The process proved to be turbulent and was marked by a polarizing political setting. Turkish secular policymakers believed that stability was necessary to further consolidate the modernization project initiated in 1923. They thought the best way to achieve this would be through alignment with Europe. Turkey's application to the European Community in 1959 and the signing of the European Economic Community (EEC) in 1963 had an important effect on democracy consolidation in Turkish institutions.

The EEC acted as an anchor during Turkey's initial experience with multiparty politics. Mehmet Dosemeci claims that the "EEC remained the central symbolic nexus of the Turkish social-imaginary, resonating with and amplified by the Atatürkist project and Turkey's Ottoman past" (2013, p. 9). By integrating itself into the nexus of European institutions, Turkish democracy consolidation focused on increasing the strength of political institutions, creating a path dependent process of Turkish political reform that mirrored the European experience. The multi-party system was gradually consolidated, allowing for the introduction of marginalized parties to be incorporated into the system, the constitution strengthened, the military's role, whilst still substantial, was professionalized, and efforts were made to reinforce the judiciary's independence.

In 1995 Turkey joined the EU customs union. This further reinstated Turkey's European path trajectory. The signing of the treaty signified the continuation of the Atatürk's civilizational project of the 1920's and 1930's. Whilst an economic agreement, the EU's evolving role as a normative power, promoting the protection of human rights and liberal democracy, meant that if Turkey wanted to strengthen its relationship with the EU then it would have to further align not only its economic institutions, but also its political ones as well.

In 1997 the EU decided to not include Turkey in their latest enlargement round. Turkish policymakers saw this a major blow. Yet, others viewed this as a necessary process, arguing that "the Luxembourg summit, far from having slammed the door in Turkey's face, marked a substantial advantage in its efforts to join the EU and will prove to have been the launching pad for eventual accession" (Barchard, 1998), thus the message was 'not now', rather than 'never'. Turkey spent another seven years trying to convince the EU that it was fully committed to the process, eventually being granted

EU candidacy status in 2005.

An overview of these two sub-fields demonstrates that since 1923, Turkish policymakers have tried to exploit opportunities to strengthen the Turkish-European political relationship. Incremental returns along the path of Turkey's Europeanization process, which in essence began with the founding of the Republic, has aided in consolidating Turkish institutions. Incremental returns in this context refer to Turkey's inclusion into the nexus of European institutions, which Turkey viewed as a necessary step to further consolidate its democracy as well as distance itself from its Eastern neighbours.

However, from 1923 until the rise of the AKP in 2002, the power-base of the elite structure remained in the hands of the Atatürkist elite. The first sub-period, from 1923-1950, saw a single party system that initiated a nation-wide project to modernize the state along western, European lines. The second period, 1950-2002, saw the introduction of a multi-party system and the strengthening of Turkey's relationship with European institutions. The fact that three military coups took place in 1960, 1980, and 1997 to halt non-secular activities demonstrate that the power-base has always been retained in the hands of the secular elite. The notion from the very start was that strong secular institutions would create necessary safeguards against religion, whilst the constitution and judiciary, shaped after a western model, coupled with a strong and independent military, would increase the exist costs and consolidate the democracy project espoused by Atatürk himself.

According to the orthodox-HI approach, since the elite initially chose to modernize the state along western lines, Turkish political development has become increasingly path-dependent. What the orthodox approach fails to consider, however, is a shift in the power-base of the elite structure. Neo-HI emphasizes the role of agency in institutional change, claiming that a shift in the elite structure can alter the institutional setting and make one elite group increase its power at the expense of another group. An examination of critical junctures that led to the AKP's rise *vis-à-vis* the old secular elite will aid in identifying the consequences of this development.

6.3. Critical Junctures:

The first critical juncture that led to the rise of the AKP occurred during the modernization efforts of the Turkish economy in the 1980s. Hoffman and Werz (2013) argue that this development had “unintended consequences for the country's established elites ... who had benefited from the strong state and military apparatus ... and macroeconomic conditions of the Turkish economy”. Economic liberalization led to the rise of a new growth and business class in Anatolia. This would later become a crucial constituency for the AKP.

The second critical juncture is tied to the events that shaped the Turkish political landscape in 1997.

When the AKP, led by Erdogan, came to power, the party feared the resistance of what is commonly referred to as the Turkish 'deep state'; a clandestine network of military officers, and their civilian counterparts who, for decades, have suppressed those that were considered a threat to the secular order. The relevance of this to the rise of the AKP is that by 1997, Turkey was on the verge of political turmoil. The then Prime Minister, Erbakan, a committed Islamist and mentor to Erdogan, had proven to be ineffective in the eyes of the secular establishment and military. Following a series of ultimatums from the military, Erbakan resigned. His Welfare Party was banned, as were three other Islamic parties that both Erbakan and Erdogan had once belonged to. Erdogan, then mayor of Istanbul and quickly gaining popularity nationwide, was imprisoned for inciting religious hatred. Erdogan's arrest and Erbakan's resignation were assertions of the military's self-appointed role as the protectors of secular Turkey.

The events of 1997 deeply shaped Erdogan and the AKP's ideology. The AKP elite concluded that an Islamic movement parallel to those in the past would be futile. They believed that it was necessary to create an Islamic party that could speak to the masses, yet not insist on a prominent role of religion in the state. Following an economic crisis and raging inflation, a large portion of Turkish voters who identified themselves as moderately religious and keen to see Turkey recover from the economic crisis, voted for the newly formed moderate Islamic AKP in the 2002 national parliamentary elections (Somer, 2004).

As a means of consolidating the party's legitimacy, the AKP committed itself to the EU accession process. However, examining institutional change as part of the Europeanization process under the AKP appear to indicate incremental, yet path breaking developments. Whilst institutional entrapment has occurred due to Turkey's involvement in the nexus of European institutions, a second, more salient driving force for institutional change is transpiring as a result of unintended consequences incurred by the Europeanization process (exogenous factor) and the shift in the power-base of the elite structure (endogenous factor). It is likely that the combination of these two factors is decreasing the strength of institutional entrapment and thus allowing for institutional change through modes of layering and conversion. The next section of this chapter will break down these institutional changes into four categories.

Section II: 2002-2014 Institutional Change

Category 1: Political Institutions

The Copenhagen political criteria requires candidate countries to achieve stability of institutions guaranteeing democracy, the rule of law, human rights, and respect for and protection of minorities. Although Turkey has half a century worth of experience with multi-party democracy, there exists a

problem with the ‘goodness of fit’ between Turkish democracy and the Copenhagen criteria. Guillermo O’Donnell’s (1994) ‘delegative democracy’ term suits the Turkish case in the sense that Turkish democracy is not fully consolidated (institutionalized), yet it is enduring. The Copenhagen criteria and other EU-Turkey specific documents, including the Accession Partnership Document and the National Programme for Adoption of the Acquis (NPAA), highlight the need for Turkish democracy to be further consolidated and institutionalized.

1.1. Government:

The 2002 election results made the AKP the first single party government to take office since 1987. In its 2003 Progress Report, the EU Commission stated that “political and economic reforms have received new impetus because of the determination of the [AKP] government to meet the Copenhagen criteria”. By 2009, however, the Commission’s tone had changed. Stating that despite its strong political mandate and majority in parliament, limited progress has been made in the area of political reforms. The EU also noted a lack of dialogue and spirit of compromise between the main political parties. In 2010, the Commission expressed the need for the AKP to pursue greater transparency, accountability, and participatory mechanisms. In the 2013 report, the Commission concluded that the AKP has increasingly failed to consult stakeholders on the adoption of key policies.

The AKP has used the Europeanization process to frame and legitimize reforms. For example, the AKP independently pushed to revise the law banning women wearing headscarves in state institutions, arguing that those who opposed the change were anti-European. In October 2013, for the first time in Turkey’s history, female parliamentarians wore headscarves in the parliament. This legislation, which has profoundly altered the secular, collective identity that the Republic was founded on, was passed without consulting relevant stakeholders. In fact, the party has used its parliamentary majority to push through a large number of contested laws, ranging from increasing religious education to the banning of Twitter and YouTube in March 2014.

The trend of decreasing consultation is a sign of increased vertical links *vis-à-vis* horizontal links. Horizontal links are path-reinforcing processes that rely on consultation with relevant stakeholders, including the main opposition parties and civil society organizations. Such a network is an integral part of democracy consolidation. Vertical links are potentially path breaking because they rely on informal channels within the AKP itself that connect central and local offices and pro-government businesses. These informal channels often bypass or even undermine official hierarchy, enabling clientelism and corruption to cultivate.

In formal institutions such practices are constrained by the notion of accountability and the accepted rules of the game. However, vertical informal channels, with no clear mechanism of checks and

balances, enable the ruling coalition to “establish networks to gain political support through the distribution of individual or collective goods to prospective voters” (Sayari, 2011, p.1). Opposition parties have accused the AKP of systematically bribing businesses and voters to increase its constituency. This has helped the AKP to monopolize its power resources at the expense of other stakeholders, especially the main opposition parties.

This trend is also apparent in the parliamentary immunity clause. The issue of immunity has remained a stumbling block for Turkey’s EU accession process. As stated in the 2005 Progress Report, the EU has been exerting pressure on the Turkish government to narrow parliamentary immunity as a means of combating political corruption. Although opposition parties and the Europeanization process demands such change, the AKP have failed to pass legislation, despite making numerous promises. Given the closure of previous Islamic parties, it is understandable why the party is keen to retain the immunity clause. However, the AKP have progressively issued waivers lifting the immunity of minority parties. This means that parliamentary inviolability is over-protecting members of the ruling majority and under-protecting members of the minority.

In sum, the AKP has incrementally abused state institutions so that the ruling party is systematically favoured at the expense of the opposition. This indicates a transition to competitive authoritarianism. By framing legislative changes as a necessary part of the Europeanization process, the AKP is altering the characteristic of institutions without consulting other stakeholders. The lifting of the headscarf ban, the increase of religious education, and the banning of Twitter and YouTube are just a few examples of where the incumbent has used institutional layering to incrementally change the status quo.

The AKP have relied on informal channels to strengthen its ability to induce such change. The use of vertical ties in informal channels are allowing the AKP to abuse formal institutions through organized corruption, including bribery and clientelist networks to expand its constituency without being constrained to the rules found in formal institutions. This, in turn, strengthens its ability to induce legislative changes in the government that are potentially path breaking.

In theory, through institutional entrapment of administrative structures, the Europeanization process should create a barrier against these developments in the government. Instead, by redistributing the power capabilities among the elite, the Europeanization process has had the unintended consequence of providing the AKP an opportunity to take advantage of the impetus for change and legitimize actions that weaken the power of the opposition.

Second, the Europeanization process, which lacks mechanisms to constrain informal networks, is having the unintended consequence of facilitating the AKP’s use of informal institutional channels to

strengthen its own party base. This implies that informal institutions are less durable to change, and that institutional layering, which relies on less apparent means of inducing institutional change, create opportunities for the AKP to induce change that functions the advantage of the party.

1.2. Constitution:

Turkey began its EU accession process with a military-drafted constitution drafted during the 1980 military coup. Pressing for a more democratic constitution, the Europeanization process has played a major reform facilitator role, demanding specific constitutional reforms. In response to the EU's demands, the parliament has amended the constitution over a hundred times and has implemented numerous constitutional reform packages under the AKP. The packages have sought to operationalize Turkey's NPAA objectives. Amendments include abolishing the death penalty; allowing broadcasting in languages other than Turkish; revising the role of the National Security Council; abolishing the State Security Court; and dispatching penalties for criticizing state institutions, including the military (Rumford, 2002; Carkoglu and Rubin, 2003; Martin and Dimistris, 2004). Europeanization induced reforms have reinforced institutional practices and arrangements within Turkey's domestic institutional settling, creating a barrier against regime transition.

Following the 2011 parliamentary elections, where the AKP successfully won a majority position for the third consecutive time, a conciliatory committee was formed between the four political parties in parliament to work on a new civilian constitution. Rather than work around the existing military-drafted one, the AKP pushed for drafting an entirely new constitution. According to neo-HI theory, such a strategy falls under institutional conversion. This thesis claims that conversion is a greater barrier against regime transition because it requires more obvious change and thus the political challenges for inducing such change is higher. However, the AKP have been able to legitimize this strategy because the Europeanization process has called for the redrafting of a civilian constitution. The Europeanization process has created an opportunity for the AKP to radically alter the constitution in a manner that will dismantle the previous constitution and potentially favour the AKP at the expense of the opposition.

The AKP's main strategy of achieving this is through the proposed replacement of the current parliamentary system with a presidential one. The AKP is keen to issue this change for two reasons. First, the constitution only allows for a prime minister to remain in office for three terms. Second, the publicly elected president currently only enjoys symbolic powers. As Prime Minister Erdogan cannot run for a fourth term, the proposed constitutional change will strengthen the prospect of his re-election as president, and extend his symbolic powers to executive powers. Whilst the redrafting of a civilian constitution is in line with the Europeanization, an unintended consequence of the reform process may be the establishment of a presidential system in which the AKP will enjoy extensive executive power

over the state apparatus. This in turn creates an opportunity for regime transition.

The proposed constitutional amendments will also make elections for the single-chamber legislative assembly and the president, who would hold the executive power, to be conducted on the same day. Gursel (2013) claims that this would “ensure that the political tendency of voters shapes simultaneously both parliament and the presidency, and that both elections eventually produce the same political outcome”. As a result, the mechanisms for creating checks and balances between the legislative and executive powers will be constrained. The AKP's proposed presidential system would give the president substantial power, including dissolving the parliament, calling parliamentary and presidential elections, and governing Turkey through presidential decrees that would have supremacy over the legislative process.

Within the context of a transition to competitive authoritarianism, this would heavily skew the political playing field in favour of the AKP, making state institutions systematically favour the party at the expense of the opposition. The proposed presidential system would also eradicate the separation of powers, making it significantly challenging for institutions to provide the necessary checks and balances within the state apparatus.

Whilst the current redrafting remains in gridlock, with the main opposition parties opposing the planned presidential system, it is apparent that the Europeanization process has pushed for a new civilian constitution to be drafted. I initially predicted that a barrier against a transition to competitive authoritarianism was created by the Europeanization's role in reinforcing institutional arrangements and traditions. However, through pushing for institutional reconfiguration, the Europeanization process has actually created an opportunity for the AKP to pursue institutional conversion that will potentially transform the characteristics of the constitution. Whilst it is not currently clear whether the proposed changes will transpire, what is apparent is that if they do, they will systematically favour the AKP at the expense of the opposition, which demonstrates that the unintended consequence of the Europeanization process may be an institution that functions to the advantage of the incumbent, signifying an opportunity for regime transition.

Category 2: Security Institutions

2.1. Military:

The Turkish military is a key component in identifying whether a change in the defining characteristics of Turkish institutions is leading to a path-breaking transition towards competitive authoritarianism. As an institution, the military has played a central role since the founding of the republic. As stated in Section I of this chapter, the institution has developed persistence against

religion and internalized democracy consolidation as a critical factor of its foundation. Whilst it has intervened three times in civilian governmental affairs, on each occasion, rather than pushing for widespread reform, the military has been quick to return to its barracks.

Despite these coups, which might traditionally be considered as being both unpopular and undemocratic, the Turkish military has retained its position as the most respected and admired institution in the country. The Gallup World Poll², which measures public faith in a country's institutions, concluded that Turks are more likely to express confidence in their country's military than in any other national institution. 81% of participants said they have confidence in the military, followed by 69% who are confident in religious organizations, 67% who are confident in the judiciary system and courts, whilst confidence in the national government waned in at 56% percent. The military have historically fostered the view of the defender of the secular state by staying clear of intervention in issues that do not directly threaten the secular, democratic fabric of the state.

The strong influence of the military on civilian life has been an area of concern for the EU. Significant changes have been made to civilian-military relations since Turkey became an EU candidate country. These constitutional and legislative reforms, especially reforms in the National Security Council (NSC) have been welcomed by the EU. The NSC has traditionally been the most important institutional channel for the military to play an active role within the political system. Beginning with the redrafting of the Constitution in 1982 until EU-induced reform, the NSC comprised of five military members; including the Chief of the General Staff and the Force Commander of the Army, Navy, Air and Gendarme; four members of the government, including the Prime Minister, as well as the Minister of Defence, Interior, and Foreign Affairs; and the President. The NSC has gradually evolved its legal powers, gaining authority to make decisions in various issues.

The evolution of the NSC's executive powers is synonymous with the tenets of illiberal democracy. Indeed, the democratic control of the military refers to “political control of the military by the legitimate, democratically elected authorities” (Cotter, Edmunds and Forster 2000, p.268). The EU was highly concerned with the NSC's role in Turkish politics. Consequently, one EU requirement for Turkey's EU accession was the conversion of the NSC into a consultative body with a civilian majority. In the 2001 constitutional amendments, the NSC's civilian members were increased. Further measures were taken to increase the transparency of the military and defence.

The most radical reform was introduced in the Seventh Harmonization Package in 2003. Onis and Yilmaz (2005) state that the package represents a path-breaking development in Turkish civil-military

2 Results are based on face-to-face interviews with 1,001 adults in Turkey in May 2007, aged 15 and older. For results based on the total sample of national adults, one can say with 95% confidence that the maximum margin of sampling error is ± 3 percentage points. See www.gallup.com for further information.

relations. The main goal of the package was to curb the power of the military by reforming the NSC. The legislative changes introduced fundamental alterations to the duties, functions, and composition of the institution. Changes included removing the executive and supervisory powers of the secretary general of the NSC; the secretary general, who had previously been a high ranking military officer, would now be a civilian nominated by the Prime Minister; access of the NSC to any public agency was removed; and military and defence expenditures were made more transparent.

In its annual progress report in 2003, the European Commission stated that the amending of the duties of the NSC has brought the framework of civil-military relations closer to the practice found in EU member states. Additional reforms were introduced in 2004 and 2005 reform packages, where representatives from the NSC were removed from the Supervision Board of Cinema, Video and Music; the Council of Higher Education; the Radio and Television High Council; and in 2006 the right of military courts to try civilians for offences related to criticising of the military was removed.

Further legislation was passed in 2009 allowing civilian courts to try military personnel in peacetime for crimes subject to Heavy Penal Code jurisdiction, including in the event of attempted *coup d'etat*'s, crimes affecting national security, and organised crime. Following the passing of the legislation, senior members of the armed forces were charged with being involved in planning a coup against the AKP government, dubbed the 'Ergenekon Terror Organization'. Further constitutional amendments in 2010 removed the provision providing immunity for the perpetrators of the 1980 coup. The Chief of the General Staff and commanders of the army, navy, air force and gendarmerie have since been tried before a tribunal for offences committed during the course of their official duties. Following the Ergenekon case, in 2011, the 'Sledgehammer' trial led to the further arrest of 323 retired and active duty military personnel, as well as opposition politicians, judges, journalists, human rights activists, and other government critics.

These reforms, especially in the context of the alleged crimes committed by the military, confirm the profound shift in the balance of civil-military relations in favour of the AKP administration. Nevertheless, whilst on paper Turkey now had a legal system that resembles EU standards, many academics, legal experts, and NGO's question the validity of the Ergenekon and Sledgehammer trials. Prosecutors, supported by leading members of the AKP, have accused military officers and their civilian accomplices with membership in a secret network, charging them with crimes ranging from attempted bombings, to intimidation of religious minorities, to coup plots. Whilst the Progress Reports issued by the Commission initially implied consolidation of a nascent democracy, the Commission's tone has also since shifted.

The basic details of the Sledgehammer trial, as outlined by Dani Rodrik (2013), is concerned with

alleged plans to destabilize the country and topple the then-newly elected AKP government, with selected cabinet members to be installed following the coup. The plan was allegedly leaked by a retired general who handed a CD containing the plot information over to a pro-government news agency in 2003. Legal experts have drawn attention to the fact that the information on the CD refers to a lecture delivered in 2005; the reference to an organisation founded in 2006; and criticism of AKP policy that the AKP had not yet implemented in 2003. Once the indictment and supporting files were made public in 2010, further fabricated evidence was discovered. Most strikingly was a document containing a large number of files in which entities such as hospitals, NGOs, and companies, were referred to by names that they would acquire years after 2003.

Yet, the prosecutors made no attempt to account these discrepancies into their indictment. In fact, the prosecutors behaviour varied sharply from European legal norms. In a functioning democracy, such discrepancies would come under the scrutiny of the media, the executive, and public opinion. Instead, government-friendly media and political figures further reinforced frenzy against the defendants. Prime Minister Erdogan openly supported the prosecutions, arguing that he believed that the defendants were indeed guilty. The verdict of the trial found 200 military officers guilty for attempting to topple the AKP government in 2012. This encompassed life imprisonment to three retired four-star generals, including the former commander of the air force and navy, as well as a number of three-star generals who received 16-18 years in prison.

The Ergenekon trial followed a similar pattern. The case was instigated by an anonymous informant who provided extensively detailed information about the nature of crimes and individuals who were supposedly planning to commit them. This was then followed by a highly publicised search and seizure by the police, arrests, and a campaign by the pro-government media to discredit the legitimacy of the suspects. Gareth Jenkins, a British journalist who is among the few to look into the thousands of pages of evidence produced by the prosecutor, states “The indictments are so full of contradictions, rumours, speculation, misinformation, illogicalities, absurdities and untruths that they are not even internally consistent or coherent” (2009, p.2). Indeed, no real material evidence such as fingerprints, eye witness accounts, or hard evidence linking the defendants to the alleged crimes have been discovered.

The alleged clandestine network, linking 300 prosecuted military, NGOs, journalists, opposition politicians, judges, government officials, and university professors were handed down draconian sentences in August 2013, including 21 life sentences. The AKP have lauded the verdicts as a victory for democracy and the rule of law, yet there is widespread belief that the Ergenekon case has turned into a witch hunt, spearheaded by zealous prosecutors under government control, against opponents of Erdogan and his ruling AKP administration.

A key development within a transition from democracy consolidation to competitive authoritarianism is the violation of civil liberties. This includes the harassment and/or arrest of opposition politicians, independent judges, journalists, human-rights activists, and other government critics. In the case of Turkey, the military personnel can be added to this list. Rather than create a barrier through strengthening institutional entrapment of civil-military relations, the Europeanization process, which induced institutional reconfiguration in the military, has had the unintended consequence of creating an opportunity for the AKP to disempower the military's checks and balances over the government. The normalization of civil-military relations as part of the Europeanization process has created an opportunity for the AKP to, in effect, deprive the military of its powerbase and make incremental, yet path breaking changes to the military. Once successfully dismantling the powerbase of the military the AKP have further consolidated its own power by targeting other dissident groups.

The AKP has used the strategy of layering to achieve such aims. Under the guise of normalizing civil-military relations as part of the Europeanization process, the AKP made very incremental changes, adding to and altering legislation and laws throughout the years rather than attempt to disempower the military through radical institutional conversion. Such a strategy was met with less political resistance because the changes were incremental enough to appear like they were creating a more democratic institution. In turn, the Turkish military, which has historically retained legitimacy in the eyes of society by advocating the westernization and democratization of the Turkish state, found that it could not reject these seemingly legitimate reforms without losing credibility.

Thus, by framing the reform process as a necessary step to join the EU, the AKP used the Europeanization process, which called for the strengthening of civil-military relations, as an opportunity to deprive the military from its previous powerbase, altering the legal system through a strategy of layering; adding and amending laws in the NSC and Constitutional court that gravely decreased the power of the military. This eventually resulted in the arrest of hundreds of military personnel in the coup trials, creating an opportunity for regime transition.

2.2. Police Force:

The dismantling of the military institution has had a radical effect on the police force. Historically overshadowed by the supreme role of the military, the Turkish police remained decentralized, their main tasks constrained to maintaining public order, addressing petty crimes, and directing traffic. Ozcan and Gultekin (2000) claim that the lack of respect for the police in contemporary Turkish society stems from its impartiality and lack of legitimacy, making the police be viewed as a corrupt institution whilst the military the saviour of democracy, restoring order when a threat to the secular democratic state occurred.

The aftermath of the 1980 coup, which took place to suppress sectarian unrest, led to a political regime which placed greater emphasis on order, stability, and executive effectiveness. As a means of suppressing the revival of social fragmentation, the police were given a bigger role to restore order. This led to a dark period for Turkey's human rights record, including unlawful acts carried out by the police force. The EU voiced these concerns and emphasized the need for the Turkish police to be educated in line with EU standards on democratic policing and human rights. Adhering to the Copenhagen criteria, the police force gradually transformed itself into a modern, professional institution.

EU induced reforms have included increasing the years of education in the police academy; the restructuring of management so that the Higher Education Council supervises police curriculum; the publishing of periodic articles and pamphlets which allows various national and international non-governmental organisations to follow changes in police conduct and make recommendations; as well as seminars held between the police academy and the Secretariat General of the EU on issues including training on the protection of human rights for senior officers and the police force at large. These developments indicate that through consolidation and entrapment of institutional arrangements, the Europeanization process has created a barrier against regime transition.

Yet alongside these reforms, a more fundamental shift in the defining characteristics of the police force has taken place. In *Turkey Reframed: Constituting Neoliberal Hegemony* (2014) Akca, Bekmen and Ozden argue that the AKP have substituted the military with a police and judiciary-centred security state form. Using Uysal's (2012) study, the authors argue that through the re-education agenda pushed by the EU reform process, the AKP administration has created a security force who view social protests as irrational, emotional, savage, and destructive, instinct-oriented acts of the masses, who should be treated as the enemy as if in a war (2014, p. 39). This mentality has justified the use of force to suppress collective action.

The practice of proactive policing has increased, including surveying, controlling, and pacifying potential criminals. This preventative-based policing strategy both violates the right to privacy and extends the control of the police over society at large. Coupled with this is weak regulation that allows the police to act independently and without fear of legal recrimination. The dismantling of the military institution, which was aided by the Europeanization process, has created an opportunity for the AKP to strengthen the role of the police force. However, rather than be an effective, professional, and impartial institution, the police have increasingly become a tool to suppress dissidents of the incumbent regime.

The most clear example of this development can be found in the 2013 Commissioner for Human Rights of the Council of Europe (2013) report following the Gezi Park protests. With regard to police

force, the report states that Turkish authorities need to adopt clearer rules about the proportionate use of force by law enforcement officials. The impunity of law enforcement officials committing human rights violations is also a grave problem. The Commission called on Turkish authorities to publicly condemn all instances of misconduct by law enforcement officials and remove all legislative and administrative obstacles to effective investigation.

Rather than follow the Commission's advice, Prime Minister Erdogan hailed and encouraged the police for their successful crushing of the Gezi Protests, stating "I and my government congratulate our police wholeheartedly. On behalf of this country and nation, I would like to thank my police for standing up against incidents that have been going on for weeks, with sacrifice and patriotism" (Hurriyet Daily News, 2013). Erdogan continued, stating that the police have passed a very important and challenging democracy test with success, adding that they have been following orders within the authority granted to them directly by himself. The use of the words 'our police' and 'my police' demonstrate the AKP mentality. Rather than view the police as an impartial institution of the state as found in democratic states, the incumbent views the police as its own security apparatus that controls dissidents. The state authorised police response to the mass protests is a strong indication that the Europeanization process has had the unintended effect of increasing the role of the police *vis-à-vis* the military.

This has enabled the police, which has historically remained marginalized, to have a much larger role over society at large. This reconfiguration falls under the conversion category because it radically alters the norms, principles, rules, and collective identity of the police. Whilst this thesis predicted that conversion is a greater barrier to regime transition because it is more visible than layering, it appears that in the case of the police, the AKP have been able to strategically redeploy the functioning of the police through exploiting the legitimacy created by Europeanization process and replace the military with the police as the main security apparatus.

A central way of achieving this transition has been through the AKP's use of informal channels. Whilst officially the AKP have pushed for the professionalization of the police force under the Europeanization process, it has relied on the informal and unregulated use of violence as a means of issuing state control. Whilst the police force may appear to be more professionalized, the operationalization of their tasks and duties demonstrate the systematic violation of civil liberties. This means that whilst in theory the Europeanization process should have created a barrier by pressing for the professionalization of the police force, it has facilitated change by pushing for reconfiguration of civil-military relations. This has had the unintended consequence of strengthening the role of the police *vis-à-vis* the military, and transforming the police force into a direct instrument of the AKP.

Category 3: The Judiciary

The EU requires all candidate countries to have a strong independent judiciary and a constitutional court as institutional prerequisites for democracy. Substantial judicial reforms have taken place since Turkey began its accession process. During the negotiation process, the Turkish Ministry of Justice was asked to prepare a strategy report to enhance its independence, neutrality and effectiveness. The report, released in 2009, included goals such as strengthening its institutional independence; further developing its neutrality; and continuing progress on issues related to the EU harmonization process³.

In addition, four judicial reform packages have been implemented under the AKP. The Turkish Economic and Social Studies Foundation's (TESEV) *Democratization Program Policy Report Series on Judicial Reform Packages*⁴ provides a sound synthesis of these developments. The aim of the packages are to ensure that judicial institutions function more efficiently and are further aligned with the Europeanization process, including accelerating court procedures, relieving the case load of the court, increase efficiency in the judicial process, restructuring the Justice Ministry and administrative judicial bodies, strengthening freedom of speech and privacy, as well as reducing the scope of the anti-terror law.

These judicial reform packages suggest that the Europeanization process has created strong institutional entrapments of administrative structures and procedures as a barrier against regime transition. However, a further examination of a series of legal changes reveal a different situation. In 2005 when the AKP began to revise the Penal Code, many hoped for a broad legal change as part of Turkey's EU bid. Yet, when the new Code was passed into law, its redefinition of terror crimes seemed to contradict the EU process. Indeed, the new Code, which was further amended in 2008, has made acts of demonstrations, including chanting slogans and holding up banners a crime of terror. Individuals are now deemed members of armed organizations on extremely vague grounds, including those associated with certain political organizations.

Akca *et al.* claim that this “new form of state of exception makes a distinction between the 'acceptable' citizen and the terrorist, with the latter deemed to fall within the scope of an exceptional legal order” (2014, p.38). Besides certain Kurdish citizens, who have historically been categorised as internal enemies, the amended Code now expands the ‘non-acceptable’ citizen to include the secular elite, including civil and military bureaucrats, journalists, and scholars. Again, the authors claim that the key distinction here is that the decision about who is a citizen and who is a terrorist is now directly taken by the 'sovereign' – in this case the AKP government and the judiciary, who are to an important extent, under the control of the party.

³ See <http://www.sgb.adalet.gov.tr/yrs/Judicial%20Reform%20Strategy.pdf> for further information

⁴ See <http://www.tesev.org.tr/assets/publications/file/06122013161517.pdf> for further information

The Bipartisan Policy Center's *Legislating Autocracy? Recent Legal Developments in Turkey* (2014) report provides further insight into how the AKP is decreasing the independence of the judiciary. The 2010 constitutional referendum greatly altered the structure of the Board of Judges and Prosecutors (HSYK). The HSYK is the main administrative organ of the Turkish judicial system. It supervises the legal curriculum of students, admission into the legal profession, and the appointment, promotion, and disciplining of judges and prosecutors. As the Turkish legal system does not include juries, judges are the sole arbitrators of all legal cases. The HSYK's control over the selection of judges grants it significant influence over the administration of justice. Its independence, therefore, is critical.

The 2010 referendum initially brought a number of amendments that strengthened the independence of the HSYK. Changes included increasing the number of board members, democratizing how these board members were to be elected, as well as renovating the institution's structure. The power and responsibilities of the HSYK were broadened, opening the dismissal of judges and prosecutors to judicial review by the Council of State. Transparency was enhanced as hearings became published for public reference. Most notably, however, were changes made to separate the institution from the executive, including granting of a separate building and budget, and removing the power of the Ministry of Justice over the board. The Europeanization reform process appeared to consolidate the HSYK's independence and impartiality, creating a barrier against regime transition.

However, two years later, in 2012, as part of the Europeanization process, the AKP put forward suggestions for a new civilian constitution to be drafted (section 1.2 of this chapter), including making reforms to the HSYK that would reduce its independence. However, the multi-party constitutional commission failed to reach an agreement on the redrafting of the constitution. No agreement meant a halt on the redrafting plan for almost two years. In the wake of the 2014 scandal, directly linking Prime Minister Erdogan and fellow AKP members to widespread corruption, the AKP pushed through parliament legislation by using its majority position in parliament.

This legislation has undone many of the 2010 HSYK reforms. On February 15, 2014, the Turkish parliament approved an amended version of the HSYK legislation amidst grave opposition. The new law strengthens the power of the Ministry of Justice over the HSYK, thus subjugating the judiciary to executive influence. The Bipartisan Policy Center's report states that this legislation gives the Ministry of Justice “the ability to unilaterally issue decrees in HSYK's name, decide on disciplinary action against members of the judiciary, and wholly set the agenda for all board meetings” (2014, p.15). The bill gives direct authority to the ministry to appoint inspectors to assess judicial and prosecutor conduct.

Both Turkish and international legal experts have raised concerns about changes made to the law, and its potential effects on the rule of law and judicial independence in Turkey. Opposition within the HSYK has called the amendments unconstitutional, the acting head of the HSYK stating “with the legal amendment, the board will report to the Justice Ministry. This amendment is against the Constitution and the formation of an independent body” (Hurriyet Daily Newspaper, 2014). The President of the European Commission for Democracy through Law also expressed concern, stating “no law in this area should be adopted, and even less implemented, before its compatibility with international standards and the Turkish Constitution has been thoroughly examined and confirmed” (Hurriyet Daily Newspaper, 2014).

Similarly, politicians from the main opposition party have stated that “the Prime Minister wants to become the 'prime chief' of the country. He is working to create a judiciary that will issue decisions that the Prime Minister likes” (Today’s Zaman, 2014). The opposition party has appealed to the Constitutional Court, however, to date, the Court has yet to take up the appeal, even though the law has since gone into effect. The law, which now gives the Minister of Justice the power to appoint or remove approximately 1,000 unelected HSYK staff, has already been operationalized. To date, the Minister has appointed five new deputy secretary-generals, a new head of the inspection board, as well as a new head of the Justice Academy.

The AKP's move to take control of the HSYK, a strategic body that shapes the judiciary, greatly challenges judicial independence. This is coupled with amendments made to the Constitutional Court which gives the President substantial influence over appointing judges to the Court. The judicial system has also been mobilized to crackdown on dissidents as apparent in the expansion of the Terror Clause under the Penal Code, as well as limiting the power-base of the old secular elite and opposition groups, as detailed in the Ergenekon and Sledgehammer cases outlined in the military section above.

Within the context of identifying a transition to competitive authoritarianism, the Europeanization process initially created barriers against such measures, pushing for enhancing the independence of the judiciary through four judicial reform packages and thus strengthening the administrative structures and procedures of the judiciary. Nevertheless, through the method of institutional layering, the AKP incrementally expanded the Terror clause under the Penal Code. This has had a chilling effect on the rights of Turkish citizens, raising the cost of opposition activity and thus causing activists to remain on the side-lines – a central tenet of competitive authoritarianism. Second, the AKP incrementally induced changes within the HSYK between the years 2010-2012. Whilst these changes have gradually transformed the characteristics of the institution, changes were met with little political resistance because they appeared to be in line with the Europeanization process of strengthening the judiciary’s independence. However, subsequent changes have undone many of these reforms, making the

institution heavily influenced by the executive.

The Europeanization process has aided in these developments. The transformation of the judiciary as a formal institution whose independence needed to be enhanced under the Europeanization process made it easier for the AKP to legitimize its actions and push for incremental institutional change. This caused less internal resistance precisely because the Europeanization process demanded such changes. The unintended consequence of the Europeanization process has been its facilitating role in enabling the AKP to transform the judiciary into an instrument of the incumbent. This has allowed the AKP to enjoy unequal access to the law, and ensure that the institution rules systematically in favour of the incumbent party; indicating an opportunity to transition to competitive authoritarianism.

Category 4: Freedom of Expression, Assembly & Press

Human rights is a major obstacle for Turkey's EU accession. In 1996, the Council of Europe officially began monitoring Turkey's development in this area. As apparent in the Commission's annual progress reports, the issue is often framed from the Kurdish perspective. Whilst this remains a critical issue that Turkey must resolve, human rights and individual liberties remain an issue at large. The functioning of a healthy society is an important component of any viable democracy. Whilst the Europeanization process is often seen as a bureaucratic, legal procedure, affecting the formal state structure, it also shapes civil society and human rights in candidate countries.

After coming to power, the AKP committed itself to making progress in important areas of free expression, addressing long standing taboos of minority rights, including Kurds and Alevis, the Armenian question, and strengthening dialogue with Kurdish minorities. Yet as the AKP has consolidated its power, an atmosphere of intimidation has deepened. In a Carnegie report published in 2013, Max Hoffman and Michael Werz state that the AKP's "increasingly authoritarian practices in the field of freedom of expression ... are at odds with its stated objective of establishing an advanced democracy" (May 14, 2013, p.1). Thus, whilst the AKP has officially committed itself to both the Europeanization process and consolidating democracy in Turkey, the way it deals with the day-to-day issues of democracy demonstrate its unaccommodating behaviour. This is apparent in the areas of freedom of expression and assembly, and the press.

4.1. Freedom of Expression and Assembly:

Freedom of expression is a cross-cutting issue affecting several categories of rights and freedoms, political rights and freedoms, as well as freedom of speech and assembly. Efforts to align legislation with EU standards began in 2001. The 2004 EU progress report stated it was hopeful that the new Penal Code adopted that year would have a positive effect on a number of areas related to human rights. In the 2005 report the Commission stated that progress had indeed occurred, pointing to the

release of a significant number of prisoners detained for crimes related to freedom of expression. However, what the report failed to mention was that Article 301 of the 2005 new Penal Code made it a crime to publicly insult Turkish identity. As outlined in the judiciary section above, this article has resulted in an amass of suppression and punishment for non-violent expressions of opinion.

After the 2007 elections, where the AKP won a majority position in parliament for a second time, the Commission claimed that the number of prosecutions of non-violent opinions expressed by journalists, writers, publishers, academics, and human rights activists had doubled compared to 2006, the legal basis for this coming from the new Penal Code passed in 2005. In 2007 the Commission stated; “judicial proceedings and threats against human rights defenders, journalists, and academics have created a climate which has led to occurrences of self-censorship”. This trend is highlighted again in the 2011, 2012, and 2013 reports, stating that there is a chilling effect on freedom of expression which has led to even wider self-censorship.

The Europeanization process, by establishing an informal understanding of democratic behaviour and logic of institutional change, should in theory create a barrier against this trend. Yet through modes of institutional layering, the AKP’s use of the Europeanization process to initially legitimize institutional change has led to the unintended consequence of incrementally creating ‘biased referees’ in the judiciary and police; thus preventing these nominally impartial institutions to protect such rights.

With respect to peaceful assembly, existing restrictions were eased with the third reform package introduced in 2002, which reduced the time required to request permission to hold demonstrations, and a reduction in the age requirement for organizing them. New institutions, such as the Department of Associations, were established in 2005, contributing to the transfer of competencies previously falling under the responsibility of the police to civilians. Yet, in 2011, the Commission stated that there was a shortfall in the implementation of the constitutional right to demonstrations and meetings, where excessive administrative restrictions on freedom of assembly persisted.

The 2011 onwards annual progress reports make it clear that the EU has been concerned about the freedom of expression and assembly under the AKP government. The most fundamental test for the AKP’s commitment to upholding these freedoms transpired in the 2013 Gezi Park protests, where the state and the security forces were faced with the duty of protecting demonstrators, observers and reporters, as well as ensuring that freedom of expression was properly safeguarded. Yet protesters and journalists alike were subjected to brutal, and in some cases lethal force by the authorities, with thousands of arbitrary arrests.

The government and pro-government media’s reaction to the protests attempted to de-legitimize the

movement, justifying the use of force as necessary whilst making no recognition of the participants democratic right to protest and be heard. Freedom of expression was violated during the protests. There was intense pressure put on people voicing their support. The government, security forces, media regulators and pro-government media conglomerates made it difficult for those expressing support for, or even attempting to report on, the millions on the streets.

With regard to freedom of assembly, PEN International's report on the protests state that the “draconian tactics employed by security forces across Turkey ... especially the arbitrary dispersal of peaceful protesters through indiscriminate and excessive use of force, were an unlawful reaction on, and a glaring violation of, the right to freedom of assembly” (2014, p.6). The EU strongly condemned the government, calling on the AKP administration to immediately halt the excessive use of force, as well as guarantee and respect the rights of all citizens to freedom of expression and peaceful assembly.

To summarize, legislation aimed at increasing freedom of expression and assembly has paradoxically resulted in regressive practices. Whilst the EU Commission has expressed that some legislative changes have resulted in more freedoms, it has also noted that there is a problem with the operationalization of these changes, as apparent in the manifestation of the Gezi Park protests. The number of politicians, journalists, writers, trade unionists, and NGOs consequently been convicted and sentenced for non-violent expression have increased, whilst protesting these developments have increasingly become more difficult.

The existence of self-censorship is a critical part of a transition towards competitive authoritarianism. Levitsky and Way claim that whilst competitive authoritarian regimes guarantee and respect civil liberties, they frequently violated them. This raises the cost of opposition activity and creates an atmosphere of fear. Whilst it is assumed that the Europeanization process should create a barrier against this by increasing institutional entrapments of administrative structures and procedures, as well as reinforce an informal understanding of democratic behaviour, again the AKP have used the Europeanization process to legitimize change, which has decreased internal opposition and created the unintended consequence of enabling the AKP to weaken civil liberties in Turkish society.

The AKP have achieved this through transforming the police and judiciary into impartial institutions that use informal mechanisms of repression and violence to protect the incumbent and suppress the opposition. Thus, the Europeanization process has indirectly created an opportunity for the AKP by pushing for formal institutional reconfiguration, enabling the ruling elite to take advantage of the impetus for change in formal institutions. The trickledown effect of reconfiguring the judiciary and police has manifested in the suppression of key civil liberties in Turkey.

4.2. Freedom of Press:

Freedom of the press plays a crucial role in democracy consolidation, providing citizens with information and creating space for different views to be publicly expressed. The Turkish media has traditionally operated within a limited legal framework, especially in periods of turmoil and military coups. However, improvements were noted in the 1990's, with increased resources given to independent press agencies, and the opening up of press restrictions. Once becoming an EU candidate country, the Europeanization process created further impetus for change.

In 2001, a number of constitutional amendments were adopted to align Turkey's press freedom with EU standards. The preamble of the constitution, which had stated that it was a crime to express "thoughts or opinions contrary to Turkish national interests" was changed to state that it was a crime to participate in "activities contrary to Turkish national interests". Further changes were implemented in 2002, revising certain articles in the Press Law, no longer making it necessary for editors and journalists to disclose their sources. Turkey successfully fulfilled the criteria to "strengthen legal and constitutional guarantees for the right to freedom of expression in line with article 10 of the European Convention of Human Rights" (Council of Europe, 2001) as outlined in the Accession Partnership document. These developments were in line with Turkey's commitment to "review the Act on Press, in relation to the scope of the offences and penalties" as outlined in the NPAA. Whilst these Europeanization induced reforms indicate a barrier against regime transition, more recent changes point to an adverse effect.

Freedom House published its annual rankings on May 1 2014. In the report, Turkish press freedom regressed from the 'partly free' to the 'not free' category. The Foreign Minister's statement following the report demonstrate the AKP's obscene view on the freedom of press; "Turkey allows for all kinds of views to be openly expressed. In this respect, press freedom in Turkey is freer than countries deemed to be 'partly free', and it has deeper roots in terms of freedom than 'free' countries. The category that Freedom House puts Turkey in is not based on objective information, which shows that the report is based on perception. In fact, our [Turkish] journalists should reject this report" (Tremblay, 2014).

This quote is just one of many issued by public officials of the incumbent, claiming that NGO reports are greatly exaggerated. Yet, the Committee to Protect Journalists (CPJ) argues that "the government of Prime Minister Erdogan has waged one of the world's biggest crackdowns on press freedom in recent history" (2012, p.6). CPJ draw attention to the fact that Turkey jailed 40 journalists in 2013, more than any other country, including China and Iran, for a second year in a row. This perspective is shared by The Freedom House, whose *Democracy in Crisis: Corruption, Media, and Power in Turkey* (2014) report further demonstrates the deterioration of press freedom. The report carries out an

investigation into government efforts to pressure and intimidate journalists and the overly close relationship between media owners and the AKP administration. The report claims that the AKP has incrementally employed a variety of strong-arm tactics to suppress the media's role as a check on the government's power.

The report has found that the administration has achieved this through a number of ways, including; intimidation, where the Prime Minister himself has frequently attacked journalists by name, often causing them to lose their jobs; imprisonment, where dozens of journalists remain imprisoned under broadly defined antiterrorism laws as part of the revised Penal Code outlined in the Judiciary section above; the firing of journalists for covering the Gezi Park protests in the summer of 2013; and buying off or forcing out media moguls, leading to those critical of the government being subjected to large tax investigation, while companies sympathetic to the government have received substantial government contracts (Freedom House, 2014). These relationships have allowed the AKP to build an informal yet powerful party-affiliated network of media professionals whose livelihoods depend on the survival of the AKP.

A consequence of this has been the skewing of the electoral playing field, making it more difficult for opposition parties to have their views expressed outside of smaller, independent news agencies. Moreover, the government's anti-press campaign, spanning from Prime Minister Erdogan's personal attack against journalists to the more systematic method of pressuring news organizations to filter news and silence critical journalists, has led to widespread self-censorship, with news agencies and journalists fearing heavy fines, being fired and/or being imprisoned.

The 2013 Gezi Park protests provides one of the best contemporary examples of mass self-censorship and disinformation by the mainstream media. The day the protests began on May 31st 2013, no major TV network channel broadcasted the events on television. In fact, CNN Turk, a subsidiary of CNN International, broadcasted a penguin document throughout the day instead. This led to an international campaign calling for CNN International to revoke CNN Turk's franchise license, as well as penguins becoming a symbol of the resistance movement. On the second day of the protests, almost all major newspapers issued identical headlines protecting the Prime Minister and calling the protesters looters and marginal terrorists, suggesting that the newspaper agencies were told what to print by the incumbent.

As it became clear that the police force could not suppress the movement as quickly as previously presumed, news agencies reluctantly began to report on the Gezi Park protests, however, the information that was reported was largely untrue, including the renounced scholar and anti-war activist Noam Chomsky accusing the Yeni Safak newspaper of fabricating parts of an interview they

conducted with him via e-mail that made him appear to support the actions of the AKP government during the Gezi Park protests.

A more contemporary example of the crackdown on the press occurred on May 31st 2014, which marked the one-year anniversary of the protests. Ivan Watson, the CNN news correspondent in Istanbul, was detained by police while he was on air reporting on the events in Istanbul. Following his arrest, Prime Minister Erdogan stated “[CNN] doesn’t care about a free, impartial and independent press. they are assigned to work like spies”, claiming that Ivan Watson has been “caught red handed trying to bring chaos to Turkey” (Al Jazeera, 2014).

The crackdown on press freedom in Turkey is both systematic and far reaching. Formal institutions, including the judiciary and the police, have become facilitators in aiding the AKP to suppress opposition. Likewise, a network of informal institutional channels that tie the major media moguls to the Prime Minister himself means that almost all of the major press agencies function to the advantage of the incumbent. The monopolization of the access to the press, and the incumbents use the judiciary and police to strengthen its position, clearly violate the Europeanization process and the consolidation of democracy.

The developments of press freedom are very similar to freedom of speech and assembly outlined above. Through the use of formal and informal institutions, the AKP has radically altered the norms, principles, rules, values, and collective identity of civil society and press freedom in Turkey. Furthermore, in line with the proposed hypotheses of this thesis, through incremental changes induced by institutional layering, the AKP have gradually moved Turkey's press from the category of ‘free’ to ‘not free’. The Europeanization process has aided in this development by redistributing power resources among the elite. Second, by pushing for institutional reconfiguration of formal institutions, the Europeanization process has had the unintended consequence of facilitating the AKP’s transformation of the Turkish institutional setting.

Informal practices within these formal institutions have consequently also been transformed. This demonstrates that institutions are more than just structures of cooperation; they are structures of power that can shape the norms and values of society. Thus, a shift in the power structure implies more than just material forces, it entails ideational power which legitimises the monopoly of dictating meanings, identities, norms, values, 'way of doing things', and because institutions have strong normative settings, they act as a powerful tool for the elite to issue incremental institutional changes that transform the very core of a state, including how freedom of expression, assembly, and the press are viewed and protected, creating an opportunity for regime transition.

Chapter 7 – Conclusions and Recommendations

The final chapter of this thesis is concerned with determining what these changes mean. Put differently, the fundamental question is: Has the Europeanization process created barriers and/or opportunities for a transition towards competitive authoritarianism under the AKP and what does this mean in terms of institutional strengths and weaknesses? Answering this question poses a challenge for a number of reasons, demonstrating the limitations of this thesis.

First, isolating the Europeanization process as a trigger for institutional change is difficult. It is more likely that the Europeanization process, coupled with other domestic factors, has created barriers and/or opportunities against the regime transition. Second, the role historical origins of domestic institutions play in the process of change should not be discredited. A situation where the Europeanization process could have created a barrier, for example in the judiciary, may have had the unintended effect of creating an opportunity because of the lack of historical institutionalization of the structure. Finally, measuring the degree of institutional change is difficult because changes have occurred at evolutionary incremental levels, rather than sudden, path breaking changes. A more worthwhile exercise is to examine the scope of change – has there been a shift in the defining characteristics of the institutions?

I have attempted to examine the scope of institutional change by looking at Europeanization's role in transforming the defining characteristics of Turkish formal and informal institutions. I have done this by looking at the behaviour of institutional actors and the EU Commission, changes in legal documents, policies and reform packages. I have based my analysis on an institution-based theoretical framework, emphasizing the Europeanization reform process and shifts in power structures of the elite. I have argued that institutional change was triggered by Europeanization (exogenous factor), coupled with the rise of the AKP in 2002 (endogenous factor).

The combination of these external and internal factors have legitimized the AKP as a change entrepreneur. The AKP devoted its first term to political reform and strengthening civil and minority rights. In the party's second term, Prime Minister Erdogan used his popularity to disempower the military and generals who have historically served to protect the secular state. When the party won its third term in office in 2011, Gardner (2014) claims that Erdogan seemed "no longer to face any challenge to his power or any checks and balances on his whims ...prosecuting journalists, violating due process against political foes from the army to academia". This stems from the simple fact that the characteristics (norms and rules) of these institutions were favoured by the old, secular elite, not the AKP. Thus, the AKP, who was discontent with the existing arrangements, has used the Europeanization process to delegitimise the status quo and promote new institutional arrangements

that empower the party *vis-à-vis* the old secular elite.

Barriers and/or opportunities created by the Europeanization process are critical in understanding this power shift. The purpose of this thesis was to identify whether the process constrains or empowers the new elite coalition to change the status quo and thus aid in the transition from democracy consolidation to competitive authoritarianism in Turkey. In order to operationalize this question, I divided Turkish institutions into four categories. The idea was to trace institutional changes and then determine which institutional configurations are easier to change.

Hypothesis 1 of this thesis predicted that formal institutions, due their stronger durability, are a stronger barrier against regime transition than informal institutions. After analyzing formal and informal institutional change, it would appear that this is not necessarily the case. Informal channels of corruption, suppression and violence have created opportunities for the AKP to increase its power *vis-à-vis* the opposition, demonstrating that informal practices are susceptible to change. Yet, the Europeanization process has also created opportunities for the AKP to induce potentially path breaking changes in formal institutions, most noticeably in the constitution, military, and the judiciary.

Second, I was interested in determining how changes were taking place, namely; in what cases has institutional change occurred as a result of layering, where the adding of new rules has changed the fundamental structure of an institution at a very incremental pace, causing less internal resistance by stakeholders, and in what cases has institutional change occurred as a result of conversion, where the adding of new policies and laws has strategically made institutions serve new purposes. The analysis has found that institutional layering occurred within the government, military, judiciary, and freedom of speech, assembly, and press. Institutional conversion, on the other hand, occurred within the constitution and the police force. This implies that Hypothesis 2 of this thesis, namely that institutional conversion is a greater barrier than institutional layering holds validity. In the majority of the cases, the AKP used the Europeanization process to legitimize incremental changes. In turn, such changes were met with less internal resistance because they initially appeared to be in line with democracy consolidation espoused by the Europeanization process, and thus were not considered to be path-breaking.

In conclusion, the Europeanization process initially created barriers against regime transition by strengthening institutional entrapments of administrative structures and procedures and consolidating institutional arrangements and traditions in line with democracy consolidation. However, opportunities to transition towards a competitive authoritarian regime have outweighed barriers. Opportunities identified in this thesis include the Europeanization process becoming a legitimizing factor for inducing institutional change, the redistribution of power capabilities among the elite which has

empowered the AKP *vis-à-vis* the opposition, and unintended consequences induced by the reform process, which have enabled the AKP to pursue incremental yet potentially path breaking institutional changes.

Akin to Erik Meyerson and Dani Rodrik's analysis, western depictions of Turkish politics appear to be catching up with Turkey's authoritarian reality. Whilst the EU initially believed that the AKP was attempting to create a more open and democratic Turkish state, once the AKP won a third term in office, the EU came to realize that the party has been "using the institutions of the state for redistribution and political intimidation, manipulating the judiciary and indeed the Europeanization process for [the party's] own political ends" (2014, p.1). This observation has important implications for EU policy. If the EU is serious about consolidating itself as a normative international organization, it must create mechanisms that constrain unintended consequences induced by the Europeanization process. (see Appendix A)

Second, this thesis contributes to regime transition literature by introducing a new way in which a shift from democracy consolidation towards a competitive authoritarian regime can occur, namely, actor-based endogenous factors, aided by an exogenous institution. Whilst the conclusion reached in this thesis is specific to the Turkish case, it has wider relevance in the context of understanding how democracy consolidation may not necessarily follow a linear path, and highlights the uncertain role international organizations can play in regime transitions.

Third, historical institutional theory has largely ignored the role of informal institutions. Yet the findings of this thesis demonstrate that informal institutions can have a profound effect on both formal institutions and regime stability. Lastly, historical institutional theory has generally viewed minor institutional changes as inconsequential. Yet this thesis demonstrates that incremental institutional change in both formal and informal institutions can indeed produce potentially path-breaking outcomes. These findings indicate that potential future research on regime transition and institutional change should consider the role of both exogenous and endogenous factors, as well as the relevance of incremental yet potentially path breaking changes in both formal and informal institutions.

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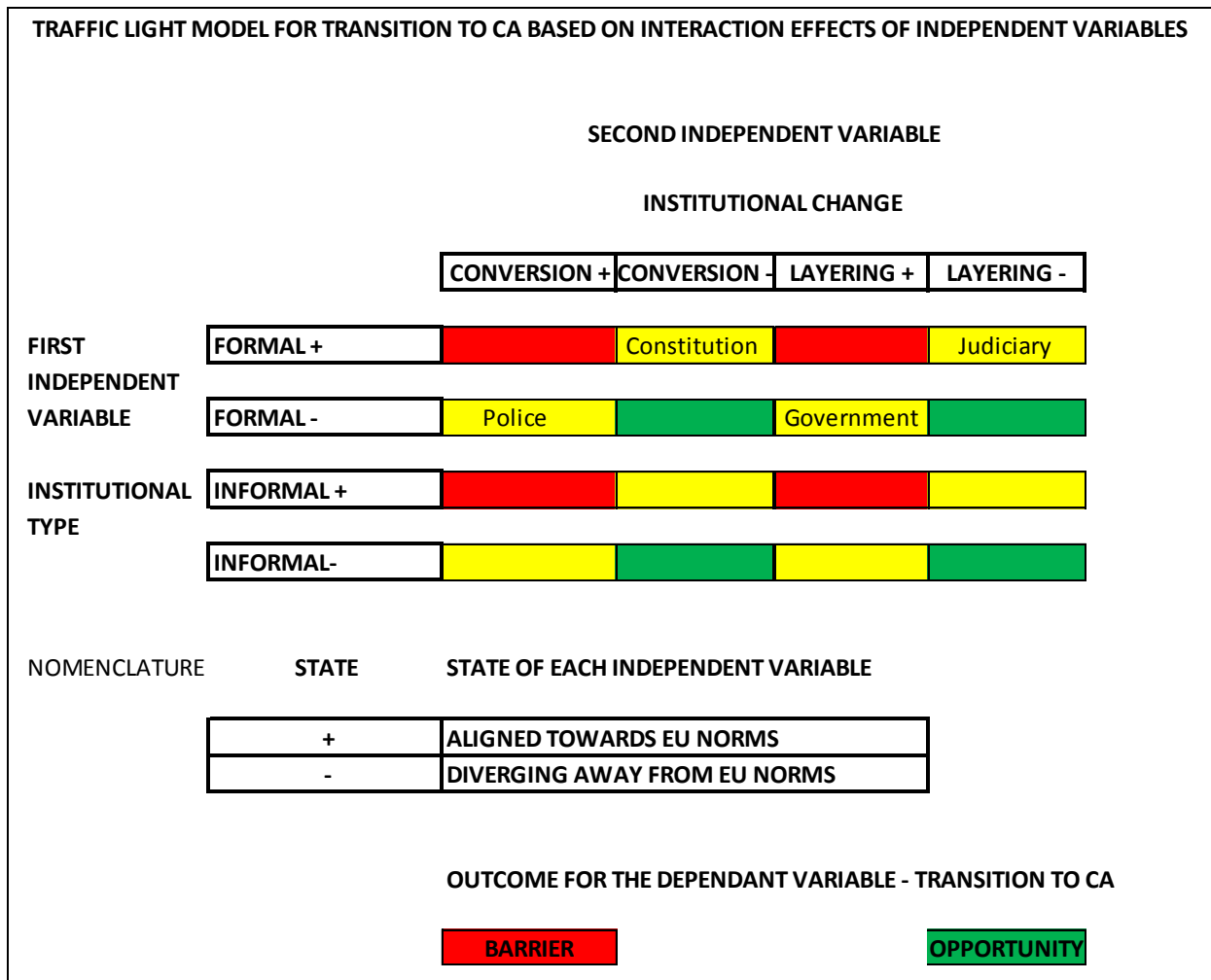
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Appendix A: Model Showing Examples of Unintended Consequences Found in the Turkish Case



The yellow areas are possible ways in which domestic elite in EU candidate countries can abuse and/or distort the Europeanization process, as demonstrated by the examples found in the Turkish case study. This identifies how the EU can potentially control these unintended consequences by creating mechanisms in these areas.