Give Me Not Just What I Need But What I Want!

EU’s Promotion of Fight against Corruption in Turkey

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Abstract
Corruption has been a severe and permanent problem in Turkey. The decision of the EU to grant Turkey candidate status in Helsinki Summit in 1999 and the financial crisis of 2000–2001 have been the turning points in the fight against corruption. In order to abide with EU requirements, successive governments have introduced number institutional changes and adopted several legislative amendments in various branches of the legal system. Moreover, several anti-corruption strategies and action-plans were adopted. In addition to efforts conducted at the national level, Turkey also actively supported the anti-corruption initiatives at the international level by ratifying the main conventions on anti-corruption. Yet, the formal rule adoption in domestic legislation has varied across different anti-corruption measures and mostly remained decoupled from the rule application in administrative practices, which explains why corruption has remained at a persistently high level in the country. The empirical evidence suggests that the compliance to EU measures is mostly shaped by the domestic incentives and political preferences of the ruling elites who pick and choose from the EU requirements and use the EU strategically to gain and keep the electorate, and consolidate their power. However, successful rule adoption does not necessarily lead to rule application.

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1. Introduction

The transformative power of Europe hits legal frameworks, public policies, domestic institutions of the target states. With the enlargement of the European Union (EU), the impact of Europeanization has reached to its South Eastern neighbors (Börzel and Risse 2003; Schimmelfennig and Sedelmeier 2005; Börzel 2010; Börzel and Risse 2012; Elbasani 2012; Schimmelfennig 2012). With the Helsinki decision granting Turkey the candidacy status in 1999, Europeanization hit Turkey, as well.

EU accession created pressure for the adaptation for deep-seated reforms in Turkey, especially between 1999 and 2004 when the credibility of EU conditionality was still high (Saatçioğlu 2010; Yılmaz 2011). Sizeable and credible EU incentives empowered pro-reformist coalitions vis-à-vis nationalist forces to push for domestic change in response to the Copenhagen criteria and acquis communautaire, regarding the democratic quality of the political regime and good governance (Aydn/Keyman 2004; Baç 2005; Grigoriadis 2009; Önış 2007; Tocci 2005). With the decline of the credibility of accession conditionality due to domestic and external dynamics since 2005, the reform process has considerably slowed down (Noutcheva and Düzgit 2012; Yılmaz 2012). Yet, the adoption of EU requirements continued in some areas while implementation and enforcement of adopted laws stayed mostly limited. The fight against corruption is not an exception.

In line with the EU requirements on the fight against corruption a series of structural reforms have been launched since the beginning of the 2000s aiming to restructure the legal framework and the public institutions in order to enhance efficiency, transparency, and accountability in provision of the public services (Aydn and Çarkoğlu 2009) and promote fight against corruption. Despite high misfit, substantial costs and weaker EU incentives after 2005 the incumbent governments have continued to introduce formal institutional changes in response to the EU demands. Yet, the formal rule adoption has varied across anti-corruption policies and has been largely decoupled from the rule application. Why is there still Europeanization despite these unfavorable conditions and why has the domestic impact of the EU been differential?

This paper aims to explore the ongoing and, to a large extent, differentiated compliance with the EU anti-corruption measures and subsequently traces the factors accounting for the variation on dependent variable. The paper proceeds in the following steps. I begin with unpacking the EU demands towards Turkey in fighting corruption and outlining the initial misfit between national and European policies. The third part of the paper maps the policy change in fighting corruption and presents the puzzling policy change. Section four traces the process and factors leading the various compliance patterns in Turkey’s anti-corruption policies for over a decade. The empirical data comes from in-depth analysis of the primary documents, expert interviews with key policy makers and secondary literature. I argue that the institutional adoption to the EU requirements has been mostly shaped by the domestic policy choices and political agenda of the ruling elites rather than EU pressure for adaptation. The political elites pick and choose from the EU reform agenda, induce domestic change in line with their own political preferences and use the EU strategically to gain and keep the electorate, and consolidate their power. However, successful rule adoption does not necessarily lead to rule application.
2. Corruption in Turkey: High Initial Misfit

Corruption is narrowly defined as the abuse of power for private gain (EC 2003: 6). There are different forms of corruption such as ‘grand or political corruption’ and ‘petty or administrative corruption’ (Shleifer and Vishny 1993; Krueger 1994). While the former refers to the abuse of political power to shape rules and regulations in the interest of small political or economic elite, the latter applies to intentionally created distortions in the implementation of rules and regulations by state officials (World Bank 2000). All types of corruption undermine the legitimacy and effectiveness of government, destroys political and economic stability, discourages investment, and lowers the quality of infrastructure and public services (Ades and Tella 1994; Mauro 1995).

Corruption has been a severe and permanent problem in Turkey. Corruption was listed as one of the most serious problems of Turkey along with unemployment and poverty in several public and global surveys. The paternalistic mode of governance (father state) and centralized bureaucratic machinery that are inherited from the Ottoman Empire, turned into a web of patronage based networks with the introduction of multi-party politics in 1950s. These clientelistic relations perpetuated due to several institutional factors, such as the gap between center and periphery, lack of civil mobilization, the limits on political freedoms, rights, and democracy in general, and the calcification of bureaucratic mechanisms (Mardin 1973; Buğra 1994; Güneş-Ayata 1994, Baran 2000). In 1980s and 1990s, the corruption and clientelistic ties were largely embedded in the Turkish political-bureaucratic and economic-financial system, which was revealed by various events such as Susurluk accident in 1996 when a car carrying a parliamentarian, a former police chief and a Mafia figure crashed into a truck and the 1999 Marmara earthquake where nearly 18.000 people died due to corrupt city planning and deficiencies in procurement and contracting of state construction services (Brayne 2004, Baran 2000). Yet, the most important turning point was the economic crises of 2000-2001, which was set off by a harsh clash between the prime minister and President over reluctance of the government to fight with corruption in the banking sector (Currency 2001).

The pervasiveness of the corruption has also been recognized by international organizations, official documents and individual studies (Acar and Emek 2008). For instance, according to overall assessment of the World Bank (WB) Governance Index that identifies various

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2 Shleifer and Vishny (1993) defines political corruption or grand corruption as collusion between officials and private citizens at the expense of the state”. It is the State capture, or exactly of its representatives in one of the three branches of the political power, executive, legislative and judiciary. This type of corruption includes any firm’s influences on the formation of rules and laws (orders in Council, parliamentary laws etc). The administrative or petty corruption “involves the abuse of power by officials to extract rents from private agents”. This corruption of the civil servant in ineffective administrations is a traditional case of rent-seeking in Krueger (1994) meaning, namely the search by companies of tax advantages or licenses

3 In the 2001 study “Household View on the Causes of Corruption in Turkey and Suggested Preventive Measures", the bribery and corruption were listed as the third most important problem in Turkey right after inflation and unemployment, in 2003 study “Business’ View on the Causes of Corruption in Turkey and Suggested Preventive Measures” bribery and corruption were listed as the second most important problem right after inflation and in 2004 study “Society’s View of Public Administration, Public Services and Reform” bribery and corruption were listed again listed along with unemployment and inflation as the three most important problems.


5 See, for instance, Transparency International Corruption Perceptions Indexes, International Institute for Management Development Competitiveness Yearbooks, World Bank Worldwide Governance Indicators, and European Commission’s Regular Progress Reports for Turkey

governance indicators, between 1996 and 2004, the control of corruption seems to be severely low. In WB’s Index Turkey ranks somewhere in the middle on the global scale.

**Figure 1 Control of Corruption in Turkey (1996-2004)**

<table>
<thead>
<tr>
<th>Year</th>
<th>Percentile rank</th>
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<tbody>
<tr>
<td>1996</td>
<td>61.3</td>
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<tr>
<td>1998</td>
<td>65.6</td>
</tr>
<tr>
<td>2000</td>
<td>48.9</td>
</tr>
<tr>
<td>2002</td>
<td>40.8</td>
</tr>
<tr>
<td>2004</td>
<td>50.7</td>
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The Corruption Perceptions Index (CPI) of Transparency International, which can be regarded as one of the most popular index measuring perceptions of corruption, also places Turkey among the group of countries perceived as the most corrupt in Europe. In late 1990s and in the beginning of the 2000s, Turkey never scored more than 3.8 and generally fluctuated around the digits of 3, which is a considerably low score out of ten. The results these two global indexes were consistent with each other; while Turkey ranked 101 out of 204 countries in World Bank’s 2004 index, it was 77th out of 145 countries in TI’s index for the same year.

**Figure 2 Score and Ranking of Turkey on TI CPI (1980-2004)**

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<tbody>
<tr>
<td>Score</td>
<td>4.06</td>
<td>4.05</td>
<td>3.54</td>
<td>3.21</td>
<td>3.4</td>
<td>3.6</td>
<td>3.8</td>
<td>3.6</td>
<td>3.2</td>
<td>3.1</td>
</tr>
<tr>
<td>Rank</td>
<td>33/54</td>
<td>33/54</td>
<td>33/54</td>
<td>38/52</td>
<td>54/85</td>
<td>54/99</td>
<td>50/90</td>
<td>54/91</td>
<td>64/102</td>
<td>77/133</td>
</tr>
</tbody>
</table>

Source: Edited From TI Corruption Index And Yasar, Muhammet Murat 2005, Phd Dissertation, A Complex Systems Model For Understanding the Causes of Corruption: Case Study – Turkey, University of North Texas, 2005

Given the absence of an effectively functioning legal system, Turkish political-bureaucratic and economic-financial system have been vulnerable to the corrupt practices. Apart from the domestic political and economic developments in the late 90s, the EU membership process has been a decisive factor in fight against corruption in Turkey. After Turkey was given the candidacy status in 1999, the EU has set a formal agenda and a timetable for eventual rule adaption in fighting corruption. Countries wishing to become members of the EU are expected to develop a comprehensive strategy and improve the legal framework in order to
fight against corruption and need to put them in practice in daily life. The anti-corruption measures should be also promoted within various institutions that enable public authorities, such as the police, the customs, and local governments (Vachudova 2009). There are a number of other areas that do not fall under the label of anti-corruption policy per se, yet are clearly regarded as of major importance in the fight against corruption. The most important of these are reforming public procurement, civil and administrative service, state financial control and audit, and judicial structure. Apart from that, EU membership requires to accede, ratify and implement several international conventions making bribery a civil and/or criminal offense in domestic legislation such as the UN convention on Corruption, the Council of Europe Criminal and Civil Law Conventions and the OECD Convention Anti-bribery Convention.

The anticorruption measures in Turkey have often met with resistance of the ruling class since they undermine their capacity to ensure the loyalty of important parts of the population (Karklins 2005). Yet, in the beginning of 2000s the fight against corruption has become relatively more effective in the country (Omurgulsen/Doig 2012). In order to abide with EU requirements, successive governments have introduced a number of institutional changes and adopted several legislative amendments in various branches of the legal system since there was no general anti-corruption law in the country. In addition to the efforts conducted at the national level, Turkey also actively supported the anti-corruption initiatives at the international level by ratifying the main conventions on anti-corruption. This impressive amount of anti-corruption initiatives illustrates the existing misfit between EU and domestic institutions, policies and political processes, which put pressure on governments for adaptation (Börzel and Risse 2003).

3. Europeanization of Fight against Corruption (FaC) in Turkey

Europeanization is only likely to result in domestic change if there is some misfit between European and domestic policies, processes, and institutions as the key determinant of the costs actors face in the adoption of and adaption to EU norms and rules (Borzel 1999, Cowles, Caporaso et al. 2001; Börzel and Risse 2003; Börzel and Risse 2007). Its impact is mediated or filtered by domestic factors such as veto players, norm entrepreneurs and formal or informal institutions (cf. Börzel/Risse 2003). Another factor upon which the EU’s domestic impact hinges is the EU pressure to push the countries towards downloading the acquis communautaire and introducing institutional reforms mostly based on the consistent application of conditionality. In the accession process, misfit combines with external incentives for adaption to EU norms and rules (Kelley 2006; Lavenex 2004; Schimmelfennig/Trauner 2010).

EU accession created pressure for the adaptation for deep-seated reforms in Turkey, especially between 1999 and 2004 when the misfit with EU demands for political and economic reforms is high and conditional incentives the EU exerts was still credible (Saatçioğlu 2010; Yılmaz 2011). Sizeable and credible EU incentives empowered pro-reformist coalitions vis-à-vis nationalist forces to push for domestic change in response to the Copenhagen criteria and acquis communautaire, regarding the democratic quality of the political regime and good governance (Aydın/Keyman 2004; Baç 2005; Grigoriadis 2009; Öniş 2007; Tocci 2005). With the decline of the credibility of accession conditionality due to domestic and external dynamics since 2005, the reform process has considerably slowed down (Noutcheva and Düzgit 2012; Yılmaz 2012). Yet, despite high misfit, substantial costs, and less credible incentives the adoption of EU requirements continued in some areas even
after 2005 while implementation and enforcement of adopted laws stayed mostly limited. The fight against corruption does not seem like an exception. The decision of the EU to grant Turkey candidate status in Helsinki Summit in 1999 and the financial crisis of 2000–2001 have been the turning points in the fight against corruption in Turkey (Bryane 2004). The successive governments enacted comprehensive anti-corruption strategies since then aiming to take imperative legal and institutional measures and established anti-corruption units in order to form further anti-corruption strategies and to direct and monitor their implementation. In the next section I first unpack FAC measures and then map the policy change in each sector across time.

3.1 Mapping Policy Change in FaC

In the area of corruption there is no clearly binding acquis (Vachudova 2009). This paper traces EU progress reports and puts together the measures related with fight against corruption in different categorizes. The FAC measures aiming at improving control of corruption and reducing incentives for corrupt activities are categorized in four categories: anti-corruption strategy (ACS), judicial independence (JUD), civil service and administrative reform (CSAR), and public financial management and control (PFMC).

The anti-corruption strategy includes measures which appears under democracy and rule of law section of the political criteria in the acquis. These measures are related with adopting national strategies and action plans and signing international conventions against corruption, money laundering, bribery and fraud. A strong and independent judicial structure is an indispensable element of an effective anti-corruption strategy. Judicial independence covers the reforms of the judiciary and appears under chapter 23-Judiciary and fundamental rights of the acquis. Civil service and administrative reform and state financial control and audit are also crucial components of an effective anti-corruption strategy. The former covers a wide range of issues including access to information and enhancing e-services and e-government, establishing an ombudsman, developing codes of ethics for public officials, lifting the political immunity of parliamentarians, and reducing red tape, which can be found in different parts of the acquis. On the other hand state financial control and audit refers to financial management, internal and external control/audit, banking surveillance, civilian control of military expenditures, transparency in financing political parties and their election campaigns, and managing public procurement, which are related to chapter 5-public procurement and chapter 32-public internal financial control of the acquis.

In order to measure adoption of FAC measures across time I coded the EU Progress Reports with the content analysis program MAXQDA to account for progress or lack thereof. I coded a statement with the term formal adoption, once the progress report mentions formal anti-corruption arrangements, including strategies, laws, institutions, procedures and adherence to international conventions. I also included progressive statements into the formal adoption in cases where the progress report hinted at preparatory measures, training/twinning activities, strengthening of the administrative capacity and technological improvement that were undertaken to adopt a policy. Second I coded statements limited/partial once a rule adopted with exemptions or the adoption is partial or incomplete. I coded statements as shallow adoption once a rule has been adopted, but its implementation is explicitly mentioned as being lacking or encountering problems. I also coded rule adoption without involvement of stakeholders and adoption leading to unintended/subverted outcomes as shallow adoption. Finally no adoption was used as a code to mark statements which implied a lack of rule adoption and implementation or where the Commission explicitly announced that “further
progress was needed”. The number of statements per year is subsequently divided by the entire number of statements made in this year and percentages are drawn up in order to come up with a weighted account of statements for each year.

The compliance codings of FAC measures display a diverse picture ranging from formal adoption to non-adoption. Yet, the average codings of formal adoption and progressive adoption outweigh limited, shallow and non-adoption codings (Figure 5). This result confirms several individual studies which argues that Turkey’s anticorruption legislation is robust on paper (Adaman 2011; Albion 2011; Ömürgünüşen /Doig 2012, Bryane 2004). While the rate of formal adoption codings reach to its peak in 2004 (65.85%), the non-adoption codings also ranged in its lowest level in the same year (9.2%) which might be an indication of credible and sizeable conditional incentives the EU offered. Between 1999 and 2004 when the credibility of EU conditionality towards Turkey was still high (Saatçioğlu 2010; Yılmaz 2011) the fight against corruption has become more effective.

With the decline of the credibility of accession conditionality after 2005 due to domestic and external dynamics (cf. EU’s absorption capacity, statements of European leaders on the undesirability of Turkish accession, Cyprus conflict), the formal adoption codings have toned down (Noutcheva and Düzgit 2012; Yılmaz 2012). After 2004 Turkey drastically decreased its formal adoption patterns. Yet, there is revival in formal and in progressive adoption after 2007. The rate of non-adoption codings also illustrates a decreasing trend in the post-2007 period. On average, non-adoption codings range at around 10 percent per year codings while limited adoption fluctuates between 20 and 30 percent each year. Yet, the increasing trend of limitations to and exemptions from EU rules should be noted after 2003 (Figure 6). Overall the formal rule adoption in combating corruption is generally appreciated by the international organization such as the EU and the GRECO. Yet, convergence towards all relevant EU rules has not progressed in equal terms.

Figure 5 -FAC Compliance Codings
Besides the variation on policy change across time the coding results reveal divergent outcomes with regard to the measures in fighting corruption. The adoption of EU rules is more successful in some reform areas than in others. Overall the formal adoption scores better on average in all areas. Yet, formal adoption codings in the judicial independence (JUD) outweigh the codings in public financial management and audit (PFMA) in which the formal adoption is highly limited with exemptions and partial convergence. While the civil service and administrative reform (CSAR) scores the highest range of non-adoption codings, in the anti-corruption strategy (ACS) the highest rate of shallow adoption is measured (Figure 7). The highest number of codes are measured in public financial management and control (PFMC) since it includes various measures in fighting corruption, I again unpack it in order to provide more detailed insights into the divergent outcomes. The measures related to the public financial management and control (PFMC) is divided in three subcategories: Internal/external control and audit, public procurement and civilian control of military expenditure. The formal adoption codings score better on average in all three areas. Yet, the highest coding of non-adoption codings is measured in control and audit while shallow/subverted adoption percentage is remarkable in public procurement (Figure 8).
The empirical evidence illustrates that formal adoption of the acquis communautaire in anti-corruption policy has been differential e.g., varies across time and policies. While ‘external incentives model’ can account for the overall moderate level of Europeanization, it cannot explain the differential impact of the EU. The recent decrease in the credibility of conditionality also limits the explanatory power of the rationalist mechanism to count for the recent revival in formal adoption. Why is there still Europeanization despite these unfavorable conditions and why has the domestic impact of the EU been differential and led to divergent outcomes?

### 3.2 Divergent Outcomes in FAC

The successive governments have developed comprehensive anti-corruption strategies and action plans setting of a formal agenda and a time-table for legal and institutional changes and ratification of various international conventions about combating corruption (Figure 9).
Figure 9 Anti-Corruption Programs and Agencies

<table>
<thead>
<tr>
<th>Anti corruption state programs and strategies</th>
<th>Anti corruption Agencies</th>
<th>Policy formulation/coordination/implementation</th>
</tr>
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Apart from measures taken at the national level the government signed United Nations Convention against Transnational Organized Crime and three Council of Europe Conventions on corruption (Council of Europe’s Criminal Law Convention, the Council of Europe’s Civil Law Convention on Corruption and the Council of Europe’s Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime) and adopted laws to ensure their implementation. Turkey also approved the recommendations made by the OECD Financial Action Task Force (FATF) on Money Laundering in 2003 and participates in monitoring the application of anti-corruption measures taken by the OECD Working Group on Bribery in International Business Transactions. More importantly, Turkey has joined GRECO in 2004 and agreed to implement their recommendations. The overall formal adoption performance is evaluated in a very positive manner, with regard to adopting anti-corruption strategies and signing various international conventions about combating corruption. Yet some principles of international conventions have been partly incorporated into Turkish domestic legislation in order to implement international standards in those conventions which have given rise to limited and shallow adoption. For instance, although Turkey has been a part of OECD anti-bribery convention since 2000 and enacted implementing legislation in 2003 the form of the “Amendment to the Law regarding Prevention of Bribery of Foreign Public Officials in International business Transactions, country has yet to implement key anti-bribery measures”.

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A strong and independent judicial structure and an effective legal oversight are indispensable elements of an effective anti-corruption strategy. In order to strengthen the judicial structure and independence/impartiality of the judiciary, various legal measures were taken. The Criminal Proceedings Law and Law on Misdemeanours were amended to establish clear provisions on corruption offences, bribery, trading in influence, abuse of power and embezzlement. The new Penal Code, which entered in force in 2005 also introduced the concept of liability of legal persons in cases of corruption. Lately, in 2010, a package of 26 amendments to the constitution was put to a public referendum and passed with 58 percent in favor. The changes also include judicial reforms. With the legal changes composition of the Constitutional Court and the High Council of Judges and Prosecutors are changed. The amendments aimed to improve independence and impartiality of judiciary and make it more transparent and responsive to the demands of society. Besides legal changes several institutional arrangements have been made to strengthen the judicial structure. A Justice Academy has been established which is an exclusive training institution for judges. As a part of e-Transformation Turkey, the Ministry of Justice has prepared a “National Judiciary Informatics System (UYAP)”, which is to implement a very ambitious information system between the Courts and all other institutions of the Ministry.

Administrative and civil service reform is another crucial component of an effective anti-corruption strategy. The incumbent government has enacted several laws and issued by-laws such as Law on Access to Information in 2003, Law on the Establishment of the Council of Ethics for the Public Service-CEPS in 2004, by-Law concerning the Principles of Ethical Behaviour of the Public Servants in 2005. The Law establishing the Ombudsman was adopted in 2006 but canceled by Constitutional Court in 2008. Yet, the establishment of an ombudsman as a constitutional institution through the Constitutional Amendment was
eventually accepted in the 2010 Constitutional Referendum. Moreover a number of important anti-corruption measures and ethical rules of conduct have become part of the organizational laws of many public bodies such as the Banking Regulatory and Supervision Agency—BRSA, the Public Procurement Agency—PPA. The Government adopted a regulation on the code of ethics with which investigators and auditors should comply while doing their jobs. The government has promulgated a code of ethics for investigators and auditors, and in 2009 and 2010 some 7,000 civil servants received ethics training (EC 2010:15) However, no progress has been made on extending ethics rules to academics, military personnel and the judiciary. GRECO reports also underlines that there is no progress in providing Ethics Council with sufficient independence, providing it with an appropriate budget and staff. The incumbent government recorded no progress in limiting the immunity of Members of Parliament concerning corruption-related offenses.

Recruitment of civil servants is based on an objective test which is done nationwide by the Centre of Student Selection and Placement since 1999. Room for nepotism is extremely narrow. Promotion to medium-level managerial positions generally requires a competitive exam. However, the comprehensive civil service reform required to modernise human resources management has yet to materialise. Such a reform would ensure transparency and merit-based advancement and appointments, in particular to high-level positions. Red tape has not been reduced. Work on providing basic public services on-line (e-government) continued, with a view to increasing transparency and accountability. Regulatory impact assessments (RIAs) and application of RIA guidelines enhanced the quality of regulations on several projects.

A new law on public financial management and control (PFMC) was adopted in 2003. With regard to implementation of the law, an effective internal audit system, in the form of autonomous units within all State institutions, is not yet operational. The new Law on the Turkish Court of Accounts in 2011 marks progress on implementing the Public Financial Management and Control Law, by granting the TCA an external audit mandate over most public expenditure. The TCA is able to initiate its own investigations only in terms of financial and performance supervision but with limitations and exemptions for several institutions. Further measures are needed to complete the existing legislation and ensure its effective implementation to increase transparency on the financing of political parties and election campaigns. More resources are also required in order to better detect illegal practice, in particular to extend the current monitoring mechanism to election campaign funding of parties and candidates. The Law on Public Procurement was adopted in 2002 and came into force in a year. The Public Procurement Agency have been amended in order to cover several important anti-corruption measures and ethical rules of conduct which aims to promote transparency in public finance (Ömürgonülşen /Doig 2012). Yet, through various (4761, 2002; 4964, 2003; 5812, 2008 etc.) amendments to the law, Turkey has reduced the level of compliance with the acquis.

In general, enhanced transparency in political party finance and the lifting of parliamentary immunity have met with serious resistance. These reform areas are decisive in consolidating power for the government as one of the interviewees put it. In the next section I am going to provide more detailed insights into the performance differences across sectors which is substantiated with secondary literature and interview material.
4. Zooming into the Domestic: Strategic Elites, Strong State but Weak Capacities

4.1 Domestic Incentives

The Europeanization literature defines differential empowerment of political actors as one of the decisive factors shaping EU’s transformative power. Yet, EU empowerment hinges on certain domestic conditions. In order to have an impact, EU incentives or socialization and persuasion efforts have to align with domestic incentives, political preferences, or survival strategies of ruling elites, so that the latter can use EU policies and institutions to push their own political agenda, please their constituencies, and regain or consolidate their power (Ademmer 2011; Ademmer/Börzel 2012; Börzel/Pamuk 2012; Spendzharova/Vachudova 2012; Woll/Jacqout 2010).

In the beginning of 2000s the fight against corruption has become more effective. Between 1999 and 2002, the tripartite coalition government formed by the Democratic Left Party (DSP), the Motherland Party (ANAP) and the Nationalist Action Party (MHP) had initiated the reforms. The coalition government engineered a large-scale anti-corruption operations enacted a new law intended to combat organised crime, with the intention of curbing the power of the Turkish mafia and other illegal organisations. The 2000-2001 financial crisis in which the President harshly criticized the government for being reluctant to fight with corruption in the banking sector (Currency 2001) had a deep political impact by penalizing the three established parties in the incumbent coalition government in 2002 elections and creating political space for the AKP (Onis 2010).

In 2002, AKP gained a landslide victory in general elections and took the office with a strong commitment to combat poverty, injustice and corruption. The election results of 2002 demonstrated the high level of policy dissatisfaction with previous policy failures due to the ineffective governing structure based on clientelistic ties, corruption, inefficiencies and deficiencies of state mechanisms. The Turkish voters who perceive corruption as one of the most important problems in Turkey and dissatisfied with the previous governments’ activities in fighting corruption have voted for the AKP, which has been plagued by many allegations of corruption. AKP government underlined that “In 1994, 1999, and finally the years referred to by the 2001 crisis, the growth rate has stopped, and inflation and interest rates have rapidly raised, unemployment has increased and more importantly, corruption has increased to macro levels which upset the balance of our people who had lost their hopes for the future, our credibility has been lost for many years in the international arena”.

In contrast to coalition government, AKP was a party coming from periphery and strongly underlying that it is a party in the service of nation for a decisive struggle against corruption. Corruption, in the government program, was defined as “a fundamental problem that damages the trust relationship between state and its citizens and that by reason of extortion of public resources, has cost Turkey its huge resources for years”9. Moreover, the in the election campaigns the party declared that the government would go on waging an all-out war against corruption without concession. The government often “attaches religious values to the corruption measures and ethics (public administration for the God’s sake, charitable state) and pronounces fight against corruption and poverty together”10. Many voters supported the party

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10 Interview with a Turkish expert from a Western donor organization, Ankara, 03.04.2012
with the hope that the party’s conservative leanings would translate automatically into strong public ethics (Albion 2011). This has raised expectations concerning a significant decrease in the level of corruption in coming years (from 12% in 2003 to 24% in 2007).\footnote{Transparency International: Global Corruption Barometers}

In recent elections the party has fundamentally highlighted the idea of fighting corruption and acting on this idea through various measures to ensure political support (Sarlik and Bali 2008). In 2007 elections, AKP was reelected with 46.7 percent of the vote while in 2011 elections it has increased its voting share to 50 percent. As in the case of post-communist countries, fight against corruption has figured prominently in elections as an argument for electing ‘fresh’ leaders (Vachudova 2009), and has been the biggest campaign promise of the AKP. The anti-corruption initiatives have also helped to boost foreign direct investments by more than ten times between 2002 and 2007. While the net foreign direct investment was \(1,082,000,000\)\$ in 2001, it has reached to \(22,047,000,000\)\$ in 2007.\footnote{The World Bank Data on Turkey available at http://data.worldbank.org/indicator and Index Mundi on FDI, net inflows in Turkey available at http://www.indexmundi.com/facts/indicators/BN.KLT.DINV.CD/compare#country=tr}

Recent surveys illustrates almost 60 percent of the participants assess the government’s actions in the fight against corruption as effective (TI Corruption Barometer 2010)\footnote{Transparency International: Global Corruption Barometer 2010, in: http://www.transparency.org/policy_research/surveys_indices/gcb/2010/results}

In several instances the government has acted less willing to take actions in FAC. Leaving several reform areas untouched, the government acted strategically and picked and choose from EU’s to do list. While the level of legal adoption is considerably high in conducting anti-corruption strategies and enhancing judicial independence, the level of compliance in promoting good governance of public finance and civil service stayed more limited. In several instances, the legislation intended to increase the level of compliance with the acquis have reduced such compliance. Through amendments to the public procurement law, Turkey has brought exceptions to the regulatory framework. Turkey has not repealed derogations contradicting the acquis, nor has it further aligned its legislation, or its scope, particularly on utilities, concessions and public-private partnerships. Very recently new legal changes have limited the authority of Turkish regulatory agencies including Public Procurement Authority which has become subject to increasing political intervention (Ozel 2012). Similarly the new Law on Court of Auditors, which adopted in 2011 has brought limitations in controlling several public institutions with regard to monitoring the performance (Ozsemerci 2012).

Moreover the constitutional amendments in 2010 have been criticized mainly for retaining substantial provisions that compromise judicial independence, in particular with regard to the powers of the Minister of Justice in the High Council (Albion 2011; Noutcheva and Düzgit 2012). TEPAV argued that instead of enhancing the independency and neutrality of the courts the legal changes weakened the role of courts in mechanisms of checks and balances\footnote{TEPAV (EPRI) The relationship between civil society and fight against Corruption, January 2011}. GRECO Compliance Report 2008 also underlines the strong influence of the executive power over judiciary.

Last but not least there are also controversial cases, which put government under imputation. No indictment has been submitted to the courts yet with regard to the investigation into the charity Deniz Feneri concerning a fraud case in Germany. A German court convicted three Turkish men on Sept. 17, 2008 accused of funnelling \$26 million in charitable contributions raised by Deniz Feneri to conservative companies in Turkey. The case sparked a bitter argument between Prime Minister Erdoğan and some Turkish newspapers after news reports
were published implicating Erdoğan and the Justice and Development Party (AKP) government in the case. In 2009 former head of the Radio and Television Supreme Council (RTÜK) and four senior executives of the television network Kanal 7 were detained. Changes to the prosecutorial team investigating the case raised concerns.

The empirical evidence suggests that EU demands for domestic change are likely to have an impact in Turkey, even if they are costly and even if the membership perspective is no longer credible, if EU policies align with the political preferences and survival strategies of political elites. AKP government strategically adopted EU rules on FAC and highly instrumentalized these measures to boost FDI and gain and keep the electorate. The ongoing reform process has become a tool to for its legitimacy and popularity. Has the reform process been effective in decreasing level of corruption in the country?

4.2 Limited or too much statehood?

On paper, Turkey’s anticorruption legislation is robust (Adaman 2011; Albion 2011; Ömürgünülşen /Doig 2012, Bryane 2004). In spite of the measures token, progress in the fight against corruption remains limited. The amendements in legal infrastructure and in most of the administrative institutions and mechanisms are not operated properly in practice. The European Commission’s Progress Report on Turkey 2010 makes a remark, claiming that ‘effective implementation of the strategy is necessary to reduce corruption’15. The progress report in 2011 repeats the limited progress that has been made on implementing the strategy and the action plan to combat corruption16. The weak enforcement of anti-corruption policies may explain why corruption has remained at a persistently high level in the country. Despite Turkey’s adoption of international conventions, the data suggests little has changed.

For instance, according to overall assessment of the World Bank Governance Index that identifies major governance failures, the control of corruption seems to be severely low and despite some fluctuations over. While the country has a better performance than Bulgaria and Romania -the EU’s newest members-, Western Balkan countries (except Croatia), it is still behind the CEE 8 (Figure 1). In the recent surveys the country ranks after Western European countries and most of the CEECs17

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The findings of World Bank study are consistent with what TI’s CPI. The country’s score on the CPI remain bleak. While Turkey was ranked as 64 of 180 with a score of 4.1 in 2007, in 2011 the score did not change drastically: Turkey is ranked 61 of 182 with a score of 4.2 on a 0 (highly corrupt) to 10 (highly clean) scale, indicating relatively high levels of public sector corruption. The TI has mentioned that Turkey made no progress compared with the last year. Global Integrity\(^{18}\) also confirms the strong legal infrastructure in fight against corruption in Turkey but points out the gap between rule adoption and enforcement in its recent reports.

\(^{18}\) Global Integrity Score Card 2008: Turkey http://report.globalintegrity.org/Turkey/2008
The institutional and administrative capacity of states and degrees of statehood in general play a crucial role in mitigating the transformative power of the EU. Turkey suffers less from problems of limited statehood than most of the Western Balkan candidate countries. At the same time, the socio-political culture and administrative structures may seriously impair EU-induced reforms.

The continuing strong state tradition (“unquestionable state) and socio-political and administrative culture are the main factors mitigating EU’s impact of socialization and social learning (Baran 2000; Omurgulsen and Doig 2012).

The “unquestionable state” is strong cultural value, which is a negative aspect of the bureaucratic ruling tradition, in Turkey by itself. This is the main obstacle to transparency and accountability of government . . . “protecting the interests of the State” is one of the official duties of civil servants. Every kind of activities which are done in the name of protecting the interests of the State, even if it is a crime or offence, might be seen, not legally but morally right. Also, some other cultural values encourage the concealment of crimes or offences committed in the name of the State (Emre et al 2003:45)

Corruption has been mostly associated with the authoritarian political systems with limited political freedoms and administrative capacities and the economies in which the functioning of the market is distorted by state interventions and intransparent regulatory framework (Sandholtz and Koetzle 2000; Shen and Wiliamson 2005)The literature also points out the cultural explanations of corruption (Lambsdorff 1999; Sandholtz and Rein Taagepera 2005). In Turkey, all three factors tend to have an explanatory power for the corruption. Scholars argue that the paternalistic mode of governance (father state) and centralized bureaucratic machinery that are inherited from the Ottoman Empire, turned into a web of patronage based networks with the introduction of multi-party politics in 1950s. The clientelisitic relations perpetuated due to several institutional factors, such as the gap between center and periphery, lack of civil mobilization, the limits on political freedoms, rights, and democracy in general, and the calcification of bureaucratic mechanisms (Mardin 1973; Mardin 1975; Buğra 1994; Güneş-Ayata 1994, Baran 2000)\textsuperscript{19}. Today the continuing state tradition and socio-political

\textsuperscript{19} In January 2003, the Parliamentary Investigation Committee, which was established as part of anti-corruption strategy, published a report on the reasons, and economic and social dimensions of corruption in the country. The report also repeats similar arguments.
and administrative culture shape the implementation of the adopted laws and the effectiveness of the institutions (Ömürgönülşen /Doig 2012).

Moreover, the fragmented structure of the legal and institutional infrastructure (i.e. many legal documents and control institutions), and connectedness of the overall anti-corruption and public ethics approaches and related institutions are the most serious obstacles for enforcement of the adopted rules (U.Ömürgönülşen and Öktem 2005; Acar and Emek 2008; Omurgulsen and Doig 2012). There is no central body in charge of developing and evaluating anti-corruption policies, inadequate coordination of the various institutions involved in the fight against corruption, Moreover there is no independent body in charge of monitoring the implementation of anti-corruption measures (TI 2012). According to Global Integrity 2010, the audit reports of TAC are usually ignored or only given superficial attention by the government and do not lead to policy changes. A Law on Public Inspection Authority (Ombudsman) has been adopted but canceled by Constitutional Court in 2008 (Ergün 2007; Ömürşen / Doig 2012). With constitutional amendments in 2010, the ombudsman institution has become a constitutional institution. Yet, it is not operational.

The role of civil society organizations and media in monitoring the implementation and enforcement of the adopted rules, and making sure that the reforms respect both national and international laws is widely recognized. However, there is scant evidence that NGOs have much impact on the policymaking process, despite promises by the AKP to pay more heed to the public voice in its decision-making. The government did an inadequate job of reaching out to NGOs in the process of formulating and discussing the legislative amendments concerning anti-corruption and judicial reforms (TEPAV 2011). It even sidelined the country’s most influential NGO, the Association of Turkish Businessmen and Industrialists (TÜSIAD). More specifically the 2010 strategic action plan on reducing corruption was designed with no consultation of non-governmental actors and civil society only has limited oversight over the implementation of national anti-corruption policies (TI 2012).

Media can also play a role in monitoring activities of the government. Turkish mass media is lively but not of high quality. It suffers from the fact that Turkey’s major newspapers and television channels belong to giant holding companies, which tend to regard their media operations as instruments to influence the authorities and advance their own business interests. Moreover, in 2008 a business conglomerate headed by Erdoğan’s son in law, took over the influential media group Sabah/ATV in an auction. And in 2009 Turkey’s biggest media conglomerate, the Doğan Media Group (DMG)—a vocal opponent of the AKP through its best-selling newspapers and popular TV stations—was hit with fines for alleged tax evasion. These are argued to limit media pluralism and constrain the role of media as a watchdog for government activities.

This conclusion illustrates that the institutional adoption to the EU requirements has been mostly shaped by the domestic policy choices and political agenda of ruling elites in the incumbent government rather than EU’s conditionality. The political elites picked and choose from the EU reform agenda, induce domestic change in line with their own political preference and avoid in economically and politically costly measures. At the end Europeanization has had little effect on the informal institutions of clientelism and patronage

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20 Transparency International, U4 Expert Answer Overview of corruption and anti-corruption in Turkey, January 2012
and on the level of corruption but has been used in several instances for domestic concerns and occasionally been subverted and given rise to unintended consequences.

**Bibliography**


