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## **Transnational Exchange and the Need for Turkey's EU Membership: Predicting Turkey's Accession to the European Union in Terms of Historical Institutionalism**

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Revisited MA Thesis in European Studies (First version August 2009 "Predicting Turkey's Accession to the European Union: An Assessment in Terms of Liberal Intergovernmentalism and Historical Institutionalism")

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Although Turkey's candidacy for European Union (EU) membership was recognized by the Helsinki Council in 1999, it remains uncertain whether the member states will actually agree to Turkish accession in the future. This article assesses the probability of Turkey's EU membership. Academics have mostly tried to explain previous EU enlargements by using liberal intergovernmentalist or constructivist approaches. Many of these explanations had their shortcomings. This is why here the assessment of the probability of Turkish EU accession is conducted in terms of historical institutionalism which combines aspects of both approaches. It is assumed that support for accession is caused by the Commission's influence on national preferences under the condition of transnational exchange. The historical institutionalist assessment evaluates both the existence of cross-border interactions in the economic, cultural and personal areas and Turkey's democratization process. It predicts that Turkish membership is likely to happen.

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## 1. Introduction

In spite of Turkey's recognition as a candidate country at the Helsinki Summit in December 1999 and the following opening of negotiations in October 2005 (Narbone/Tocci 2009, 23), Turkey's accession to the European Union (EU) is still questioned by politicians, citizens and elites in the EU. Addressing this opposition US President Barack Obama spoke out in strong favor of Turkey's EU membership at the meeting of the EU Council and the US government in Prague on 4 April 2009. Obama stated that the US and Europe should "approach Muslims as [their] friends, neighbors and partners (...)". To do so, he said, "[m]oving forward towards Turkish membership in the EU would be an important signal of your commitment to this agenda and ensure that we continue to anchor Turkey firmly in Europe" (Charter 2009a).

During Obama's visit in Ankara in 2009, he repeatedly stressed his support for Turkish EU accession (Baldwin/Erdem 2009). But both French President Nicholas Sarkozy and German Chancellor Angela Merkel immediately expressed their opposition to Turkey's accession (sueddeutsche.de 2009). France's Foreign Minister Bernard Kouchner argued that Turkey's membership was not possible because of Turkey's behavior at the summit of the North Atlantic Treaty Organization (NATO). Turkey had originally opposed Anders Fogh Rasmussen's appointment as NATO Secretary-General because the Danish prime minister had defended Danish cartoonists making fun of Prophet Mohammed (Naughton 2009). In the past it has become increasingly clear that the political leaders of the largest<sup>1</sup> EU member states, Germany and France, rather oppose Turkish membership because they consider the EU to be a "Christian club" which Turkey could not join and instead prefer a "privileged partnership" between the EU and Turkey (ibid.; EurActiv 2009; Yilmaz 2009, 79-80; 84).

Until now countries with which negotiations were opened have always been accepted to join the EU. But Turkey's negotiation process is assumed to take ten to fifteen years (Aybet 2006, 530) and was declared to be "an open-ended process, the outcome of which cannot be guaranteed beforehand" (European Commission 2005, 1). Although the adoption of the Copenhagen Criteria and the *acquis communautaire* are supposed to be sufficient requirements for membership, Turkey's accession to the EU is likely to depend on other issues (see Müftüleri-Baç 2008, 201).

First, Turkey's human rights record is officially criticized by the EU. The last Commission progress report of 2009 complains about the missing ratifications of the Convention against Torture (OPCAT) and of three additional Protocols to the European Convention on Human Rights (ECHR). Further, the European Court of Human Rights (ECtHR) published a total of 381 judgments stating that Turkey had violated the ECHR (European Commission 2009a, 13-14).

The second problem is the dispute over Cyprus. The report says "Turkey has made no progress on normalising bilateral relations with the Republic of Cyprus". Turkey has vetoed Cyprus's membership in several international organizations and in the Wassenaar Agreement on the Code of Conduct on Arms Exports and Dual-Use Goods. Further, Turkey has not implemented the Additional Protocol (ibid., 32) which includes Cyprus in the customs union (Narbone/Tocci 2009, 24).

Both issues in addition to the open opposition of certain member countries such as France and Germany prove to be major obstacles to Turkish accession. Turkey's EU membership is far from certain.

A lot of academic literature on the accession of Turkey to the EU has been published. A large part of the literature mainly deals with the relations between the European Union and

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<sup>1</sup> "Largest" refers to population numbers.

Turkey as such describing the steps of the accession process in the past (Arikan 2003; Müftüler-Baç 1997; Narbone/Tocci 2009; Üçer 2006; Ugur 2003). A lot of publications focus on the role of Islam in Turkey and the question of European identity (Avci 2006; Barchard 2005; Brewin 2003; Hunter 1995; Kedourie 1998; Kreis 2004; Lundgren 2006; Öniş 2009; Shankland 2005). Interpretations of legal texts on Turkish fundamental rights complement this literature (Gönenç 2004; Özbudun 2005). In the context of the academic debate on the ‘Europeanization’ of Turkey (Müftüler-Baç 2008; Oguzlu 2004) the country’s foreign and security policy – including the Cyprus issue – is also discussed by many authors (Buharali 2004; Çayhan 2003; Demiralp 2003; Desai 2005; Duke 2003 Müftüler-Baç 2000; Park 2005; Ulusoy/Verney 2009). Another strand of academic research estimates the impact of Turkish accession on the EU economy (Barysch 2005; Burrell/Jacobus 2005; Flam 2004; Kalegasi 2008; Lejour/Mooij/Capel 2004). This often also includes the calculations of EU budget costs caused by Turkey’s inclusion in various EU funds such as the Common Agricultural Policy (CAP) and the regional policy (Flam 2004; Oskam/Longworth/Vilchez 2005; Temel 2005).

But how do all these issues influence the decision on Turkey’s membership in the European Union? Is Turkish accession probable? The application of theories can help to answer these questions. But a straightforward theoretical based assessment of the probability of Turkey’s EU membership is missing. Thus my research question is the prediction of the probability of Turkey’s EU membership: *Is Turkey’s accession to the European Union probable to happen?*

The assessment of the probability of Turkey’s EU accession can only be done within a theoretical framework that provides assumptions. These assumptions can be applied to the case of Turkish EU membership to formulate hypotheses. To answer the research question the theory of historical institutionalism is applied. The assessment of the probability of Turkish accession to the EU is conducted in terms of ‘historical institutionalism’.

The theory of historical institutionalism defines the conditions under which institutions can influence the preferences of actors and thus policy outcomes (Hix 2005, 17). It is assumed that only if cross-border exchange between actors in Turkey and the EU countries exists, the Commission can influence the member states in such a way that they favor Turkish accession to the European Union (Sandholtz/Stone Sweet 1998, 5). Thus my hypothesis is the following: *Because transnational exchange between Turkey and EU member states takes place, Turkey’s accession to the EU is probable to happen.*

The analysis will evaluate whether there is economic, personal or cultural transnational interaction between Turkey and EU states.<sup>2</sup> Since these exchanges are expected to lead to the democratization of Turkey, it is tested whether Turkey has become more democratic by comparing the EU system of values such as laid out in ‘The Charter of the Fundamental Rights of the European Union’ to the values stated in ‘The Constitution of the Republic of Turkey’. If all these conditions are fulfilled, the Commission is likely to influence the member states pushing them to agree to Turkey’s membership in the EU.

Both secondary literature sources and press articles<sup>3</sup> are used for this analysis. Primary literature sources such as official European Union documents and press releases are used as well.<sup>4</sup> The paper is structured as follows: First, the critical issues in the relations between Turkey and the EU are analyzed as far as they are relevant for the research objective. In the following part, the analytical design of this research paper is unfolded in more detail. Third,

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<sup>2</sup> Transnational exchange always refers to exchange between *actors* or *social groups* in these states not to the state itself. For reasons of convenience this is described as exchange or interaction between Turkey and the EU countries or states.

<sup>3</sup> A lot of newspaper articles are used because the topic of Turkish accession is very up-to-date and news on Turkey’s EU membership appear very frequently.

<sup>4</sup> For basic information, websites of institutions are used as well.

the assessment of the probability of Turkish accession is conducted in terms of historical institutionalism. The theory of historical institutionalism is described first including the presentation of the hypothesis before it is applied. It is concluded whether the hypothesis could be proven and an attempt is made to predict the probability of Turkey's accession to the EU. The conclusion sums up the results, gives an answer to the research question and an outlook for future research.

## **2. Most Critical Issues between Turkey and the European Union**

The relations between Turkey and the EU have always made progress but have also had their setbacks. A few main issues that have dominated these relations can be identified. They remain crucial for the decision on Turkey's accession to the EU. In the following, four critical issues will be discussed which are of importance for the research objective, the prediction of Turkey's EU accession.<sup>5</sup> Two positive and two negative examples of EU-Turkey relations are picked. Positive features are the success of the customs union enforced in 1996 and Turkey's participation in the European Security and Defence Policy (ESDP). Both the conflict between Greece and Turkey and the EU's approach to human rights reforms in Turkey had a negative impact on Turkey's accession process.

### **2.1. The Customs Union**

The customs union between Turkey and the EU has prepared Turkey very well for joining the Single Market when it becomes a member of the EU. The customs union between Turkey and the EU was decided in 1995 and entered into force in January 1996 (Kreis 2004, 102; Müftüler-Baç 1997, 56) as "the starting point for higher levels of economic integration" and as the "prelude to membership" (Narbone/Tocci 2009, 22). Turkey is the only associate member of the EU that could establish a customs union with the EU (Çayhan 2003, 45). The base for both the customs union and possible future membership was already created by the accepted associate membership in the EEC in 1959 and by the Association Agreement of 1964, the so-called Treaty of Ankara (Kreis 2004, 102; Müftüler-Baç 1997, 54). The customs union is far-reaching and very successful. It covers industrial goods as well as the harmonization of technical legislation, the abolishment of monopolies and the protection of intellectual property (Lejour et al. 2004, 23). Although the union did not include agricultural products, it gives special trade preferences to agricultural products today (Burrell 2005, 149). In 1998, a bilateral agreement was signed to further liberalize trade of agricultural products between Turkey and the EU (Quaisser/Repegather 2004, 34). Turkey also applies the EU's external tariff for trade with non-EU countries (Barysch 2005, 4).

The customs union has had a very strong impact on trade between Turkey and the EU, which is twice as high today as it was before 1995. The EU is by far Turkey's biggest trading partner (ibid., 4-5). The EU exports to Turkey have nearly doubled between 1995 and 2002 (Quaisser/Repegather 2004, 35). But "the impact of the customs union agreement goes beyond exports and imports" (Barysch 2005, 4). Turkey also implemented a competition policy following the example of the EU and set up an independent anti-trust authority that the OECD considers to be Turkey's most effective agency. The system for state aid control has still to be improved though. The liberalization of trade in service would further improve the economic situation of both the EU and Turkey, benefiting companies and consumers (ibid., 4-5).

Turkey has also strongly gained from lowering trade barriers for products from non-EU countries (ibid., 4). In the customs union Turkey is obliged to sign Free Trade Agreements

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<sup>5</sup> The relations between Turkey and the EU cannot be discussed in its full complexity here.

(FTA) the EU has agreed on with third countries. Thus Turkey has FTAs with the European Free Trade Association (EFTA), Israel, the Former Yugoslav Republic of Macedonia (FYROM), Croatia, Bosnia-Herzegovina, Tunisia, Morocco, the Palestinian Authority, Syria, Egypt and Albania (European Commission 2007a). For 2010 a Mediterranean free trade area including Turkey is envisaged (Council 2008, 12). There are also negotiations on FTAs with Lebanon, Faroe Islands, Jordan, GCC and Montenegro. But negotiations with other countries such as Mexico, Chile, Mercosur, Algeria, Serbia, Kosovo, ACP Countries, Ukraine, ASEAN, South Korea, India, and Central American Common Market (CACM) have not been successful. Turkey has problems fulfilling her obligations of the customs union because it cannot conclude agreements with all third countries the EU has FTAs with. Some third countries do not want to offer the same trade privileges to Turkey that the EU offers to them and are not willing to negotiate with Turkey. Moreover, the market is distorted and Turkish competitiveness is decreased if a third country only enjoys the privileges of an EU Free Trade Agreement but does not grant the same to Turkey. Thus it is problematic that the EU does not allow Turkey to take part in the EU negotiations on bilateral trade agreements with third countries (IKV 2010).

At the Copenhagen Council in December 2002 the EU member states stressed their intention for “extending and deepening” the customs union especially through the liberalization of services and public procurement (Council 2008, 12). More progress has to be made especially regarding Turkey’s inclusion in Free Trade Agreements with third countries. But so far the customs union between Turkey and the EU has been a success in Turkey-EU relations and gives an incentive for Turkey’s inclusion in the Single Market.

## **2.2. Turkey’s Participation in the European Common Foreign and Security Policy**

Turkey has proven to be a reliable and very important partner for the EU’s Foreign and Security Policy (CFSP) in the past. Even more so Turkish EU accession is expected to benefit the EU’s role as a soft power in the world as well as its hard power elements such as the European Security and Defence Policy (ESDP).

Firstly, Turkey as an optimal mediator between the Muslim and the Christian world can strengthen the EU’s soft power in the world. Although disputes over water resources, territorial claims and ideology have sometimes made Turkey’s relations with her neighbors in the Middle East difficult, Turkish economic links with this region and her ability to promote security in the region (Desai 2005, 381) could become very important for the EU future role in the Middle East. For instance, Turkey’s final decision against the military engagement in the war in Iraq created a conflict with her American ally but was welcomed by most EU member states such as Germany and France (Buharali 2004, 7-8). In addition, Turkey is willing to play a key role in the reconstruction and stabilization of Iraq: “Turkey maintains its positive and multi-dimensional engagement towards the reconstruction and transition of Iraq with its substantial humanitarian, financial, and technical assistance to this country” (Demiralp 2003, 6). Thus with Turkey as a member the EU could realize her soft power aspirations more easily.

In addition, Turkey’s EU accession is expected to bring stability to the EU border regions because of Turkey’s extraordinary geostrategic position (Müftüleri-Baç 2008, 209). Turkey could contribute to the aim of the ‘EU Security System’ to promote stability and security in her immediate neighborhood (Desai 2005, 374).

As an associate member of the Western European Union (WEU) and member of NATO, Turkey was worried to be left out of the new European security structure when the

WEU was to be integrated in the EU and the ESDP was to be developed at the Cologne Summit and the following Helsinki Summit in 2000<sup>6</sup> (Çayhan 2003, 39-40). This is why Turkey made the agreement on the use of NATO assets for ESDP operations conditional on her inclusion in the decision-making process of the ESDP (ibid., 2003, 47-48). In the end both Turkey and the EU were willing to compromise on the issue. Turkey intended not to harm her relations to the EU (Buharali 2004, 7) while the EU wanted to include Turkey since her army is the largest as well as the most experienced European army in the NATO. Further Turkey is geographically close to many crisis areas (Çayhan 2003, 46).

At the end of 2002 the Berlin Plus Agreement was signed (Freire 2008, 13) guaranteeing that every NATO member like Turkey could take part in EU-led military operations which used NATO assets and capabilities. In other operations the Council is allowed to ask for assistance (Buharali 2004, 7; Çayhan 2003, 40). The consensus also included that Cyprus and Malta would not take part in EU military decisions and operations as demanded by Turkey (Freire 2008, 13). Shortly after the agreement, the ESDP launched its first military operation 'Concordia' in FYROM with Turkey taking part in it (ibid.). Since then Turkey took part in several other ESDP operations such as the police mission 'Proxima' in Macedonia (Buharali 2004, 7), in EUFOR DR in the Congo (Council List), and the military mission 'Althea' (Bertin 2008, 65) as well as in the police mission in Bosnia and Herzegovina (BiH) (Buharali 2004, 7). In BiH for instance, Turkey is in military terms, the third strongest country (EUFOR BiH). Thus Turkey contributes immensely to the ESDP even though it is not an EU member.

Because the EU and Turkey were able to reach a compromise with the Berlin Plus Agreement, cooperation between Turkey and the EU in security and defense policy works very well and is a good basis for the complete inclusion of Turkey in the ESDP as soon as Turkey accedes to the European Union.

### **2.3. The Disputes between Greece and Turkey**

Regarding another issue of foreign relations the EU and especially Greece as an EU member created frustration on the Turkish side. Turkey's dispute with Greece, especially over Cyprus but also over the Aegean Sea, is used by Greece to make Turkish accession more difficult.<sup>7</sup> When Greece became a full member of the EU in 1981, the EU could not play the role of a mediator anymore (Müftüler-Baç 1997, 68). Rather Greece has tried to determine the EU's policy towards Turkey (Arikan 2003, 158). In the long-run Greece achieved that the EU made Turkey's membership conditional on the settlement of the disputes with Greece (ibid., 169, 171): "It is undoubtedly the case that Greece, as a member of the Community, has become one of the key factors in the development of relations between Turkey and the EC" (Müftüler-Baç 1997, 64).

During the negotiations on the Customs Union in 1994, Greece raised concerns based on the Cyprus conflict (Arikan 2003, 165; Müftüler-Baç 1997, 68). The EU adopted the Greek line but also used the linkage to delay membership (Arikan 2003, 167). At the European Council in Luxembourg in 1997, the EU made the declaration of Turkey's eligibility for EU membership conditional on the settlement of the dispute with Greece. Turkey was supposed to create stable relations with Greece, solve the disputes by legal rules including the International Court of Justice (ICJ), and to achieve a political settlement of the Cyprus

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<sup>6</sup> The Treaty of Maastricht 1992 made the WEU the security and defense component of the EU (Çayhan 2003, 36).

<sup>7</sup> The history of the Turkish disputes with Greece over Cyprus and the Aegean Sea in its full complexity cannot and does not need to be presented here.

problem (Arikan 2003, 168-69; Ugur 2003, 168). Turkey strongly opposing this conditionality froze the political dialogue with the EU and threatened to withdraw her membership application (Arikan 2003, 169; Narbone/Tocci 2009, 22). But soon after the summit, the Turkish government carried on negotiations on the 'European Strategy for Turkey'. Turkey achieved that the Cardiff Summit of 1998 included a non-conditional statement supposedly demonstrating that resolution of the Cyprus dispute was not a pre-condition for negotiations (Ugur 2003, 170).

When the Helsinki European Council in December 1999 recognized Turkey's candidacy (Narbone/Tocci 2009, 23) the EU added the criterion of 'good neighbourliness' to the Copenhagen Criteria (Ulusoy/Verney 2009, 111, 116). This means that Turkey has to resolve outstanding border issues and any other dispute in accordance with the UN Charter or in bringing it to the ICJ (Arikan 2003, 171; Narbone/Tocci 2009, 23). This way the EU created an official linkage between the settlement of the Greek-Turkish conflict and Turkey-EU relations (Ulusoy/Verney 2009, 116). Again Turkish Foreign Minister Ismail Cem clarified that Turkey "rejects the idea of any explicit conditions concerning relations with Greece or the Cyprus issue" (quoted in Narbone/Tocci 2009, 23, 172-174).

But with the election of the AKP as the government party and the proposal of the UN Annan Plan in late 2002, Turkey's attitude towards the conflict changed to a more consensus-oriented one (Ulusoy/Verney 2009, 117). Turkey, including her military, committed herself to the resolution of the Cyprus issue (Buharali 2004, 8; Ulusoy/Verney 2009, 119). The Turkish Cypriots pressured the Turkish government to negotiate on the Annan Plan and voted in strong favor of the Annan Plan in 2004. But more than 75 per cent of the Greek Cypriots rejected the plan (Ulusoy/Verney 2009, 118-120). Although Turkey's change in her Cyprus policy led to the opening of accession negotiations, this consensus-oriented approach has become difficult to continue due to domestic opposition. Further, Cyprus' EU accession has made Cyprus another potential veto player in the decision on Turkey's membership (*ibid.*, 120-122). Greece had strongly supported Cyprus' membership. In the negotiations on the customs union Greece had declared that it intended to veto the customs union in 1995 in case the settlement of the Cyprus issue was a precondition for Cyprus' membership (Arikan 2003, 165). The EU followed Greece in her standpoint and never made Cyprus' EU accession conditional on the settlement of the conflict (*ibid.*, 175). Therefore, the apparent contrast between the EU approach to Cyprus' EU membership and its approach to Turkish membership has further weakened the EU credibility in its policy towards Turkey.

As a consequence Turkey has "hardened" her position towards Cyprus as a series of negative developments reveal: Turkey's government vetoed Cyprus' attempt to join the International Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Technologies, insisted on Cyprus' exclusion from the ESDP, and refused to open Turkish ports and airports to ships and aircrafts of Cyprus. The Council summit in December 2006 clarified that "only in those negotiation chapters directly related to the customs union" was Turkish accession conditional on the recognition of the Republic of Cyprus (Ulusoy/Verney 2009, 122). But this was why the EU suspended negotiations on eight chapters of the acquis in December 2006. Turkey has not implemented the customs union protocol to include the Republic of Cyprus because it refuses to recognize the Greek Cypriot government (Narbone/Tocci 2009, 24; Ulusoy/Verney 2009, 121).

Especially, the European Parliament (EP) tends to stress the issue of Cyprus as a precondition for membership (Ulusoy/Verney 2009, 115). Today the Greek-Turkish dispute, especially the Cyprus conflict, is still one of the main issues that block Turkey's EU accession.

## 2.4. Human Rights in Turkey

The guarantee of human rights is mentioned in the political criteria of Copenhagen which define the “stability of institutions guaranteeing democracy, the rule of law, human rights and respects for and protection of minorities” as a condition for membership (quoted in Arıkan 2003, 31). Since the acceptance of Turkey’s candidacy in 1999 a very significant amount of domestic reforms regarding human rights has been passed by the Turkish parliament. There were major constitutional reforms in 2001 and 2004. Since 1999 there are formal restrictions on the National Security Council, some sections of the European Convention on Human Rights are ratified, and laws to strengthen the freedom of the press and women rights were passed (Gates 2009, 409). In August 2002, a package of human rights reforms was decided on that abolished the death penalty in peacetime, legalized broadcasting and education in a language other than Turkish such as Kurdish, abandoned penalties for criticizing state institutions and military, lifted restrictions on demonstrations and association, and allowed non-Muslim religious foundations to buy and sell real estate. Between November 2002 and July 2004 nine further reform packages were passed including the strengthening of control over the army and the final abolishment of the death penalty (Avci 2006, 69-74).

But the implementation of the reforms has not always been successful (Avci 2006, 74; Gates 2009, 410). A striking example is the Penal Code reform introducing stronger punishment for torture and honor killings. To calm down opposition of the radicals, Turkish Prime Minister Erdoğan intended to include a clause making adultery a criminal offence. Due to domestic opposition and the EU criticism, the law was finally passed without the critical passage. Also, the ban of the pro-Kurdish People’s Democracy Party (HADEP) in March 2003 by the Constitutional Court justified by its supposed financial support of the terrorist organization PKK was seen as a setback in democratic reforms (Avci 2006, 74). The close-down of the Kurdish Democratic Society Party (DTP) by the Constitutional Court in 2009 and the protests that followed cause further concern (Hürriyet 2009b). The missing ratification of several protocols and violations of human rights were criticized by the latest report of the Commission in 2009 (European Commission 2009b).

The implementation problems may be due to domestic issues such as the government’s fear that these reforms could support people intending to challenge the government. But the slowing down of the democratization process is at least partly directly owed to the EU limited funding of human rights reforms. Gates points out that while the EU stressed the importance of human rights, the EU financial Pre-Accession Assistance (IPA) given to Turkey for reforms prioritize social and economic cohesion instead of human rights. The amount of money for assistance given to Turkey has risen but the percentage given to human rights reform has not consistently increased and is relatively small compared to the amount supplied for social and economic cohesion. In 2003 eleven per cent was given to human rights reform, while 31 per cent was given to economic and social cohesion. Until 2005 aid for human rights policy had increased to 17 per cent but dropped again to five per cent in 2006. At the same time, financial support for economic and social cohesion increased from 32 to 40 per cent (Gates 2009, 403-404).

This prioritization reflects the different stances of the Commission and the European Parliament. Although the Commission keeps mentioning human rights problems, it also initially pushed for Turkey’s accession and always stresses the progress achieved in human rights reform. The Commission stated that other issues should be prioritized over human rights problems in the accession process (ibid., 405-407).

On the other hand, the Members of the European Parliament (MEPs) stress the necessity of human rights reforms for Turkey’s accession. The EP makes the accession talks conditional on the progress in human rights reforms (ibid., 407):

In late 2000, for example, the EU approved a 135 million Euro pre-accession aid package, and MEPs lobbied to include a clause that would authorise the Council to take punitive measures in cases where human rights were violated in Turkey. MEPs also demanded the right to determine when and whether the Council should suspend accession talks entirely with Turkey in case of human rights violations (ibid.).

Because the Commission ultimately decides on the distribution of IPA, priority is given to social and economic cohesion instead of human rights reforms (ibid., 408-409). The different approaches of the EP and the Commission make a more successful implementation of human rights reform difficult in Turkey (ibid., 411). But human rights reform is made a condition for membership by the EP. Thus, the EU's inconsistent approach to human rights reforms in Turkey makes it difficult for Turkey to comply with the political criteria.

## **2.5. Interim Conclusion of Turkey-EU Relations**

It must be concluded that the relations between Turkey and the EU have been positive in some aspects but negative in others. The success of the customs union implicates that Turkey's entry into the Single Market is likely to increase the positive effects of economic integration.

Turkey's potential to strengthen the EU's soft power especially in the Middle East and her strong contribution to the operational ESDP also speak in favor of Turkish membership. The EU has clearly profited from Turkey's big and experienced military and would even more do so with Turkey's membership.

But the relations between Turkey and the EU have also had setbacks creating potential obstacles for membership. Regarding the conflict between Turkey and Greece, Turkey felt unequally treated compared to Greece and Cyprus and took a harder stance again. But the EU makes accession conditional on the settlement of the disputes. Resolution may be more likely with Turkey's membership if this leads to an 'Europeanization' of Turkish foreign policy (Ulusoy/Verney 2009, 111) with a "more compromising foreign policy style, a more multi-dimensional foreign policy-making process (...)" (Ulusoy/Verney 2009, 112). But if the EU's position does not change on this issue, both the settlement of the conflicts and Turkey's accession are unlikely.

The EU has also stressed the importance of human rights reforms in Turkey for membership. But Turkey faces a dilemma with the EU's inconsistent approach. While the European Parliament demands the improvement of the human rights situation in Turkey, the Commission does not give a significant amount of financial aid to human rights reforms in Turkey.

This ambiguity is strengthened by Turkey's Negotiation Framework which emphasizes the open-ended nature of the negotiation talks, the EU absorption capacity, and the possibility of permanent restrictions in policy areas such as free movement of persons, and structural and agriculture funds (Lavenex/Schimmelfennig 2008, 149).

Until today, negotiations have been opened on twelve chapters of which the chapter on science and research is provisionally closed. Eight chapters are completely blocked because Turkey does not open the border to Greek Cyprus (Council 2009, Hürriyet 2009b). But a convincing and consistent EU commitment to Turkey's EU membership is missing. Whether Turkey becomes an EU member in the future has not been decided yet. Whether this is probable to happen will be discussed in the following.

### 3. Analytical Design

In the following, how the analysis is to be executed within the applied theoretical framework will be presented. The research question – *Is Turkey's accession to the European Union probable to happen?* – will be answered from a theoretical perspective conducting a qualitative analysis of primary and secondary literature sources. Thus the probability of Turkey's EU membership is assessed in terms of one theory which seems to be most appropriate to apply to the case of Turkey.

European integration has been explained by a number of theories. The theory of neofunctionalism by Ernst Haas describes European integration as a “deterministic process” driven by spillover effects. But because neofunctionalism could not explain the crisis of European integration in the 1960s, its academic importance declined and is thus not applied here either (Hix 2005, 15). The theory of intergovernmentalism emerged – including Andrew Moravcsik's version of liberal intergovernmentalism – which considers European integration to be driven by the national interests of the member states (ibid., 15-16; Moravcsik 1998). As an alternative, the theory of institutionalism focuses on the influence of supranational institutions on the integration process. Institutions can influence decisions on integration under specific conditions (Hix 2005, 17). Other theories also exist such as of ‘supranational governance’ (Hix 2005, 16) and constructivist approaches (Eilstrupp-Sangiovani 2006, 397ff.).

It is assumed that the application of these different theories leads to different outcomes and predictions of the probability of Turkish accession. To assess the likelihood it is the most convenient to select only one theory because the application of more than one framework is unnecessary since not all theories are likely to be appropriate. Therefore the theory which can bring the most reliable results is applied. The theory to be applied in order to assess the probability of Turkey's membership in the EU is chosen for reasons represented in the following.

Looking back to previous enlargements helps to assess how applicable different theories might be to explain EU enlargement. The reasons for Eastern enlargement as the biggest accession round have been discussed extensively. Schimmelfennig has claimed that Eastern enlargement cannot be explained by liberal intergovernmentalism (Schimmelfennig 2001). He argues that liberal intergovernmentalism could not predict that all member states favored Eastern enlargement. Instead the poorest and most traditional countries such as Greece and Spain should have had national preferences against accession. Further, France should have also been against enlargement due to her fear of the increasing geopolitical influence of Germany (ibid., 51-53). Thus liberal intergovernmentalism is unlikely to be the most applicable theory for Turkey's accession because it even fails to explain the Council's decision to give candidate status to Turkey and to open negotiations (Narbone/Tocci 2009, 23). Instead the theory of historical institutionalism seems to be more applicable to predict whether Turkey will join the EU.

The theory of historical institutionalism defines institutions as a system of norms, values, informal and formal rules (Rosmanond 2000, 115). Institutions can influence actors and their preferences but only under certain *conditions* (Hix 2005, 17; accentuation added). The theory of historical institutionalism is very applicable because the circumstances of Turkish membership are special: The relations between the EU and Turkey have a long history and are shaped by economic links and cultural interactions largely due to immigration from Turkey to EU countries.

Here it is assumed that cross-national exchange is the condition under which institutions can influence actors and policy outcomes: If cross-border exchange exists, EU institutions will respond to the needs of those involved in international transactions by

creating new policies (Sandholtz/Stone Sweet 1998, 5). Thus under the condition of cross-border exchange, institutions can influence political outcomes. The theory of historical institutionalism assumes that actors do not know the full implications of their decisions. Their decisions create ‘path-dependency’ and eventually lead to further integration (Rosamond 2000, 117). The institution with potential influence is the Commission in this case. The theory predicts that only if transnational exchange between actors in Turkey and the EU member states takes place, Turkey’s accession to the EU is probable to happen. This is the hypothesis to be tested:

*Because transnational exchange between Turkey and EU member states takes place, Turkey’s accession to the EU is probable to happen.*

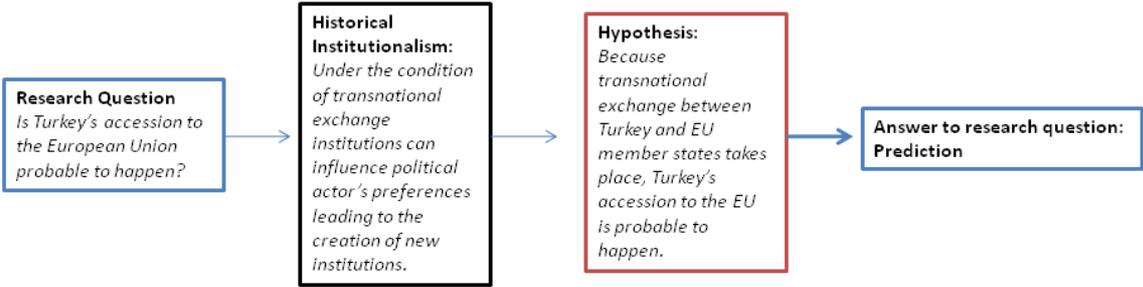
Therefore, the assessment in terms of historical institutionalism has to test whether the condition of transnational exchange is fulfilled. Since cross-border interaction can include economic relations such as trade as well as cultural and personal exchange (Schimmelfennig/Scholtz 2008, 192), interactions in these different areas are looked at.

Because this exchange is assumed to lead to the democratization of a country (Schimmelfennig/Scholtz 2008, 192), the democratization process in Turkey is also evaluated by analyzing the correspondence of EU values and Turkey’s values. This is done by comparing ‘The Charter of the Fundamental Rights of the European Union’ and ‘The Constitution of the Republic of Turkey’.

Lastly, the position of the Commission and its influence on the accession decision are assessed, bearing in mind that the Commission should favor enlargement in case there is transnational interaction. Having done this, a prediction of the probability of Turkey’s entry into the EU based on the application of historical institutionalism can be formulated.

After conducting the theoretical analysis the outcome of the assessment is summarized and evaluated to conclude whether the hypothesis could be proven or has to be rejected, going on to answer the research question. Figure 1 illustrates the analytical design described.

**Figure 1: Analytical Design.**



**4. Assessment of the Probability of Turkey’s Accession to the European Union in Terms of Historical Institutionalism**

To test the hypothesis a prediction has to be formulated based on the application of historical institutionalism which is done in the following. First, the theory of historical institutionalism and the hypotheses derived from it are presented. Then, the assessment of the probability of Turkey’s accession to the EU is conducted in terms of historical institutionalism.

## 4.1. The Theory of Historical Institutionalism and Hypothesis

In contrast to liberal intergovernmentalism which is a rational choice theory, historical institutionalism is closer to the theory of constructivism because it does not assume preferences to be exogenous and fixed (Eilstrupp-Sangiovanni 2005, 396). Institutions are constituted by values, norms, formal and informal rules. Institutions *can potentially* influence actors' identities and preferences: "Hence, institutions have not merely a regulative but a *constitutive* role in politics" (ibid., 395; accentuation in original). But in contrast to constructivism and sociological institutionalism, *historical* institutionalism specifies the conditions under which institutions can influence actors' preferences and policy outcomes (Hix 2005, 17). Historical institutionalism assumes that decisions for integration were taken under specific historical conditions (Rosamond 2000, 117). The definition of specific conditions makes the outcome of the application of historical institutionalism more significant and credible. According to historical institutionalism, actors do not have perfect knowledge about the consequences of their decisions which creates 'unintended consequences'. Actors rather focus on short-term benefits while they are unaware of long-term consequences of their decisions (Rosamond 2000, 116-17). Once an institution is set up under a specific condition, the institution can gain life of its own and a capacity to act autonomously. Institutions create 'path-dependencies' resulting in further integration (ibid., 117).

Under which conditions do institutions influence actors' preferences and policy outcomes? It is argued here, according to Sandholtz/Stone Sweet, that if cross-national exchange exists, EU institutions will respond to the needs of those involved in transactions by creating new policies (Sandholtz/Stone Sweet 1998, 5). In response to transnational exchange, the EU will set a strong positive conditionality by promising EU membership (Schimmelfennig/Scholtz 2008, 194, 205-206). In addition, "the level of democracy in a country increases with the intensity of the transnational linkages that it entertains with democratic countries in its international environment" (ibid., 193; 202). This means that the democratization of a country is an indicator for the existence of transnational exchange.

Member states opt for modes of supranational governance when cross-national exchange exists. The existence of international exchange pushes governments to create institution in order to facilitate exchange (Sandholtz/Stone Sweet 1998, 4-5).

Thus under the condition of cross-border exchange, institutions can influence actors' preferences and political outcomes. Institutions define rules and norms that constrain the possible actions of the member states. They also structure the political process and play the role of a gatekeeper prioritizing some interest groups over others. This may lead to the creation of new institutions (Rosamond 2000, 116-17).

Applied to the probability of Turkey's EU membership, this means that the European Commission as the 'most supranational' EU institution favors membership under the condition of transnational exchange and will further influence the member states to decide in favor of Turkish accession.

The following hypothesis can be derived from historical institutionalism:

*Because transnational exchange between Turkey and EU member states takes place, Turkey's accession to the EU is probable to happen.*

It has to be tested whether cross-border exchange between Turkey and the EU countries exists in order to formulate a prediction. Such transnational exchange can include trade and investment, personal interactions such as tourism, communication, academic exchanges and cultural influences. Second, it is evaluated whether democratization also takes place because transnational exchange leads to democratization (Schimmelfennig/Scholtz 2008, 193, 202). To do so it is analyzed whether Turkey's values converge with EU norms. Then it can be said whether and how the Commission can influence the member states in their

preferences on Turkey's EU membership. Last, it can be concluded whether the assessment in terms of historical institutionalism predicts that Turkish EU accession is probable.

## **4.2. Prediction of the Probability of Turkey's Accession to the EU in Terms of Historical Institutionalism**

In this section, the hypothesis formulated with the help of historical institutionalism is tested to conclude whether Turkey's EU accession is probable to happen.

First, it is tested whether the condition of transnational exchange is fulfilled to state whether the Commission favors enlargement and will also be able to influence the member states' decisions on enlargement. It is differentiated between economic, personal and cultural interactions.

In addition, the Turkish democratization process is evaluated. The existence of a strong democratization process is an indicator for strong transnational interactions. It also strengthens transnational exchange since it bases it on common values.

If there is transnational exchange, the Commission will respond to the need of the actors involved by favoring Turkey's EU membership. Under this condition, the Commission can influence the member states' decision on Turkey's membership. This would make Turkey's EU accession likely.

### **4.2.1. Transnational Exchange between Turkey and the European Union**

The theory of historical institutionalism assumes that under the condition of international exchange institutions can influence countries to favor the set-up of supranational policies, which in this case is enlargement. Cross-border interactions include "economic exchanges such as trade and investment; personal interactions through various means of communication, tourism and academic exchanges; and cultural and informational influences via the media, churches or cultural performances" (Schimmelfennig/Scholtz 2008, 192). First, the existence of international interaction in the economic area is analyzed.

#### **4.2.1.1. Transnational Exchange in the Economic Area**

Transnational exchange between Turkey and the EU exists in different economic areas. The most important form of transnational exchange – involving huge sums of money – exists in the area of natural resources and energy policy. Turkey's geographical location makes it a transit country for natural energy resources between the Caucasus region and the EU (Demiralp 2003, 5). This is why EU energy companies have a strong interest in Turkey as an energy corridor that can secure Europe's energy supply.

A system of pipelines is supposed to create an East-West corridor for the transportation of Caspian gas and oil to Europe. The aim is to set up pipelines from Turkmenistan and Kazakhstan across and around the Caspian Sea towards Novorossiysk and Baku, from there through Georgia into Turkey towards Ceyhan (Müftüler-Baç 2000, 498). The pipelines between Turkey and the EU are major deals for the energy lobby in the EU.

The Baku-Tbilisi-Ceyhan oil pipeline connecting Turkey with Georgia, Azerbaijan and the Caspian Sea already exists (Müftüler-Baç 2000, 498). The 2009 agreement on the Nabucco Pipeline between Turkey, Romania, Bulgaria, Hungary and Austria is of utmost importance in the field of energy policy between Turkey and the EU. The Nabucco Pipeline

will become Europe’s main connection to the Eurasian gas resources (Roberts 2004, 8) and will make Europe less dependent on Russian oil (Charter 2009b). The pipeline will cost about eight billion Euros (Charter 2009c) and will generate enormous benefits for its six shareholders which are the OMV in Austria, the Hungarian MOL, Romania's Transgaz, Bulgargaz of Bulgaria, the Turkish Botas and the German RWE (Charter 2009b). Johann Gallistl, manager for international affairs at the OMV in Austria, argues that Nabucco will become “a serious prospect for delivering Middle Eastern and Caspian gas to major European markets” (Roberts 2004, 9). He also regards the Nabucco Pipeline to be the most competitive when compared to other projects. The International Energy Agency in fact called for the creation of a consortium by major European gas companies to share the costs and risks of the pipeline. Although Greece is excluded from the Nabucco Pipeline, it has agreed on a common pipeline with Turkey – the Turkey-Greece-Italy Interconnector in which the Greek company DEPA and the Turkish Botas are involved (ibid., 10).

Thus there is an intense transnational exchange between Turkey and the EU in the energy sector promising high profit margins. The EU and the Turkish energy sector have a common interest in Turkey’s accession. Thus cross-border interaction in the energy sector creates the need for a common policy. Turkey’s EU membership would facilitate to achieve energy security in Europe (Tekin/Williams 2008, 420). The European Commission has recognized this. The Commissioner for External Policies, Bettina Ferrero-Waldner, said that the Russian-Ukrainian gas dispute in 2006 was an “eye-opener”. Energy Commissioner Andris Piebalgs stated that the Nabucco deal was essential for Europe’s energy supply. Emma Bonino, the Italian Minister of International Trade and European Affairs, even suggested that the Cyprus issue could not block the EU membership of a country that is such an “important energy corridor” (Tekin/Williams 2008, 419).

In addition to the powerful energy sector, companies in the EU and Turkey are strongly involved in trade. Trade between Turkey and the EU has increased although the EU is a much more important trading partner for Turkey than Turkey is for the EU (Flam 2004, 179). Since the introduction of the customs union, EU exports to Turkey have tripled to 58 billion US\$ a year and Turkey’s exports to the EU have doubled to 48 US\$ a year (Barysch/Hermann 2007, 1-2). In 2008, 37.3 per cent of Turkish imports came from the EU countries while 48.2 of Turkish exports went to EU countries as shown in table 1 (European Commission 2009b). Thus economic cross-border exchange between Turkey and the EU is immense although it is more important for Turkey than for the EU.

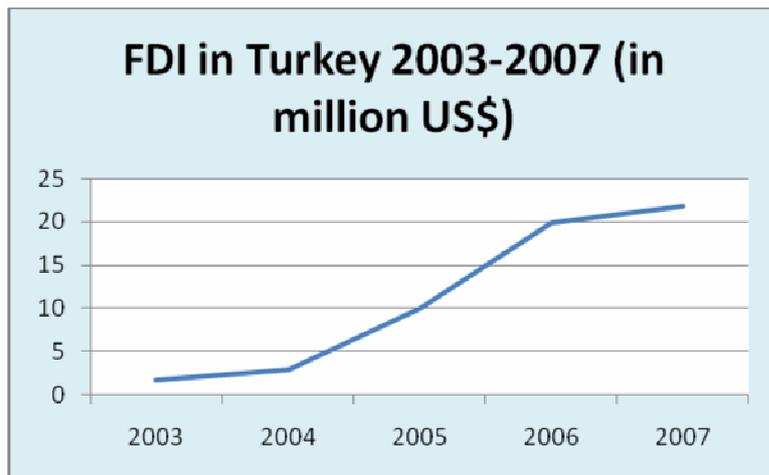
**Table 1: Trade between Turkey and the EU; source: European Commission 2009b.**

	Imports (millions of €)	EU Share of Total Imports (%)	Exports (millions of €)	EU Share of Total Exports (%)
<b>Turkey's Trade with the European Union 2008</b>				
	50 558	37.3	42 905	48.2
<b>EU's Trade with Turkey 2008</b>				
	45 887	3.0	54 261	4.1

EU businesses are especially interested in the access to low-cost labor in Turkey (Barysch/Hermann 2007, 2) and increasingly move some of their production to Turkey such as automobile production (Strittmatter 2008). 12 199 foreign capital companies from the EU invested in Turkey in 2009 – including wholesale, retail, real estate and business operations (Hürriyet 2009b). In the banking sector foreign investment increased from about zero to 40 per cent. A similar development occurred in the insurance sector where EU companies hold

50 per cent of the Turkish market today (Barysch/Hermann 2007, 2). Foreign direct investment from the EU in Turkey has strongly increased (ibid., 1). Since the beginning of 2005 the level of FDI has steadily increased in Turkey: from 10.029 billion in 2005 to 19.918 billion in 2006, up to 21.837 billion US\$ in 2007 as shown in figure 2 (Türkische Botschaft Wien). 60 per cent of the FDI in Turkey comes from EU countries with a majority of companies from Germany investing in Turkey. Further firms from the Netherlands, the UK, France, and Italy substantially invest in Turkey (Barysch/Hermann 2007, 1).

**Figure 2: FDI in Turkey 2003-2007; source: Botschaft der Republik Türkei in Wien.**



Turkish accession to the EU will further open up markets generating an expected positive macroeconomic impact for Turkey with a GDP increase of 0.8 per cent and an increase in consumption of 1.4 per cent (Lejour et al. 2004, 40). It will create new jobs in Turkey (Barysch/Hermann 2007, 3). The Head of the Turkish Exporters' Assembly (TIM) Oğuz Satıcı spoke out in favor of Turkish EU membership stressing that his organization was part of the pro-Turkey lobby. He claimed that Turkey conducted 55 to 60 percent of her trade with the EU and they had 40 000 exporters working with the EU (Varlik 2006).

But transnational exchange does not only take place in form of real economic interaction but also on the civil society level such as in the organization of business groups. In Turkey businesses express their interest in Turkey's accession through the İKV (Economic Development Foundation), TÜSİAD (Turkish Industrialists' and Businessmen's Association) and TESEV (Turkish Economic and Social Studies Foundation), which all promote Turkey's EU membership (Altınay 2005).

Some EU investors have joined TÜSİAD (Barysch/Hermann 2007, 3). TÜSİAD is a member of UNICE<sup>8</sup> which was a driving force for the opening of accession talks. After the opening of negotiations was decided, TÜSİAD and the Confederation of British Industry welcomed the decision in a joint letter published by the Financial Times (Barysch/Hermann 2007, 4). In 2006 when the EU refused to open new negotiation chapters, the head of UNICE Ernest Antoine Seilliere and the CEOs of Mercedes-Benz, Siemens and Metro called on the Commission to take a softer stance towards Turkey (Varlik 2006).

Antony Burgmans, chairman of Unilever and head of the enlargement working group of the European Roundtable of Industrialists, also recommended the opening of accession talks (Barysch/Hermann 2007, 4). In 2006, he expressed that Turkey's EU membership was extremely important because of Turkey's strong and dynamic economy, calling on the leaders

<sup>8</sup> UNICE is the EU umbrella business federation which is now called 'BusinessEurope'.

of the member states not to block it. He stated that the industrialists were greatly disappointed by the suspension of the negotiations (Varlik 2006).

An example of the strong inter-linkages between Turkish and EU business groups is also the election of Rifat Hisarcıklıoğlu, President of the Union of Chambers and Commodity Exchanges of Turkey (TOBB), to the Presidency Council of the European Chambers of Commerce and Industry (Eurochambers) becoming Deputy President of the European association (Eurochambers 2010).

This way, the Turkish and the EU business societies are merging to become one pursuing their common interest in Turkey's accession to the EU. Thus, economic cross-border exchange between Turkey and the EU exists including both actual trade and social relations between business societies. In addition to trade activities the remittances of Turkish migration families to their families in Turkey continue to play a role for Turkey as a source for national income and represent another form of cross-border exchange (Lejour et al. 2004, 20-21).

These transnational interactions in the economic sector create the need for the Commission to act in favor of Turkish accession and influence member states in such a way that they agree to it. But transnational exchange is not limited to the area of economy but also exists in the personal and cultural area between Turkey and the EU. This kind of interaction will be analyzed in the next part of the chapter.

#### **4.2.1.2. Interpersonal and Cultural Transnational Exchange**

Transnational interaction between Turkey and the EU in the personal and cultural area supports the emergence of a common civil society and thus also increases the need for Turkish EU accession and strengthens the Commission's influence on the member states' preferences.

On the personal level, the most obvious form of transnational exchange is the migration of Turkish people to EU countries and (re)migration<sup>9</sup> of Germans with a Turkish origin to Turkey. Germany has been the main destination for migrants from Turkey. Today, about 2.5 to 2.7 million Turks or Germans with Turkish origin live in Germany (Haug/Müssig/Stichs 2009, 11-12). Others migrated to the Netherlands, France and Belgium (Lejour et al. 2004, 19-20). The people originating from Turkey have transferred a part of their culture to EU countries and cities such as their food and their Muslim religion. On the other hand, some people with a Turkish migration background move to Turkey. For instance, 38 per cent out of 173 German-born academics with a Turkish background currently living in Germany responded in the T ASD Survey that they intend to move to Turkey in the future (T ASD 2008). These people bring parts of the cultures of their home EU countries to Turkey. Migration between the EU and Turkey represents a strong form of transnational interaction on the personal as well as on the cultural level. EU tourists in Turkey and the Turks visiting EU countries because of their families are also a form of cross-border exchange. The intense tourism between the EU and Turkey puts pressure on the EU to create institutions to facilitate travelling such as by lifting visa requirements.

In addition, the interaction on the academic level has increased in the past years as apparent in the rising numbers of academic stays of EU citizens in Turkey. Since 2004, Turkey takes part in the academic Erasmus program of the European Union. Istanbul has become a popular destination for Erasmus students from the EU. Two years ago about 895 students came to Istanbul to study (Kimmerle 2009). During the academic year of 2006 and 2007, 1321 students from the EU lived in Turkey while 4438 Turkish students stayed in the

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<sup>9</sup> The migration of Germans with a Turkish origin to Turkey is often referred to as "remigration". This term should be used with caution though since most of these Germans might have never lived in Turkey before.

EU (European Commission 'Erasmus'). These exchanges would not be possible without Turkish private universities that teach in English (Lerch 2009) or even in German and French as the Yeditepe University in Istanbul (Yeditepe University). The creation of the first Turkish-German University in Izmir, which is supposed to be opened in 2010, further contributes to an intercultural and personal exchange between citizens in the EU and Turkey (Lerch 2009).

Another example is the EU 'Civil Society Dialogue' Program which also supports personal and cultural exchange between Turkey and the EU. In 2007 and 2008, the EU provided 21.5 million Euros for programs in Turkey – including the 'Youth Initiatives for Dialogue', the 'Towns and Municipalities Grant Scheme', the 'Professional Organisations Grant Scheme', the 'University Grand Scheme', and the 'Cultural Bridges Programme'. The Civil Society Dialogue aims at making "Turkey better known within the EU, and allows Turkish citizens to understand more about the EU, its values and policies" (European Commission 'EU-Turkey Civil Society Dialogue'). The EU 'Culture' program provides 400 million Euros to support transnational cultural cooperation between the EU and third countries, including Turkey, for projects such as exhibitions, festivals, and master classes (European Commission 2007b, 13).

The interaction of civil society between Turkey and the EU has also further increased. A strong civil society has developed in Turkey influencing Turkey-EU relations. These civil society organizations are increasingly cooperating with organizations in the EU as it is apparent in the role of organizations in the accession process such as the İKV and TÜSIAD as described before (Altınay 2005, 107-109).

Cultural and informational interaction also happens through the media since Turkish citizens are increasingly exposed to modern media and communication channels such as TV and internet. Turkish media are important because it is the media that discusses crucial issues such as human rights violations (Barchard 2005, 103).

The existence of personal and cultural exchange favors the merging of civil societies. It creates the need for Turkey's entry into the EU in order to facilitate personal and cultural exchange. Concluding, in addition to economic cross-border interactions, there is also an intense transnational exchange on a personal, a cultural and a civil society level between Turkey and the EU. Thus the condition of international interaction is fulfilled which enables the Commission to exert influence on the preferences of the national governments.

#### **4.2.1.3. Turkey's Democratization or Convergence of Values with EU Norms**

Transnational exchange between Turkey and EU countries exists to a large extent. The empirical test conducted by Frank Schimmelfennig and Hanno Scholtz proved that interaction between the CEECs and the EU led to the democratization of the CEECs (Schimmelfennig/Scholtz 2008, 202). This is why it is assumed here that democratization in Turkey or the convergence of Turkish values with EU values is another indicator for transnational exchange.<sup>10</sup> In the following, the set of norms as described by the EU Charter of Fundamental Rights and Turkey's Constitution are compared and its implementation in Turkey is evaluated.<sup>11</sup>

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<sup>10</sup> Since the concept of 'democracy' is too complex, here it is assumed that 'democratization' equals the application of EU values in Turkey. This is why the existence of 'democratization' is evaluated by comparing the EU and Turkey's value systems.

<sup>11</sup> The Turkish Constitution of 1982 as amended in 2004 is used as a reference for convergence because it is the most fundamental Turkish legal text that can guarantee these rights. In the past years the Constitution has been substantially amended several times (Narbone/Tocci 2005, 73-74).

To identify the EU's system of norms and values the Charter of Fundamental Rights of the European Union is used because it is the only law document on human rights confined to the EU. The Charter was approved by the

The debate on Turkey's membership in the European Union has often been dominated by questioning Turkey's 'Europeanness' because of her Islamic background (Yilmaz 2009, 79-86). But neither the EU nor Turkey base their systems of norms on religious belief. The Charter of Fundamental Rights of the EU does not make any reference to Christianity (EU 2007 Charter). Turkey is also defined as a 'secular' state: "(...) [A]s required by the principles of secularism, there shall be no interference whatsoever by sacred religious feelings in state affairs and politics (...)" (Constitution Preamble). Article 2 defines the 'Characteristics of the Republic':

The Republic of Turkey is a democratic, secular and social state governed by the rule of law; bearing in mind the concepts of public peace, national solidarity and justice; respecting human rights; loyal to the nationalism of Atatürk, and based on the fundamental tenets set forth in the Preamble (ibid., art. 2).

Turkey's Constitution ensures all human rights and is in compliance with EU standards. The right of human dignity (Charter, art. 1) and right to life (ibid., art. 2) are clearly reflected by Turkey's Constitution in Article 17 that also includes that "no one shall be subjected to torture or ill-treatment". The definite abolishment of the death penalty is confirmed by the 'Principles Relating to Offences and Penalties' which was amended in 2004 (art. 38). The application of human and civil rights has been significantly improved in Turkey (Amiriaux 2007, 191). There has been major progress in the prevention of torture and ill-treatment (Barchard 2005, 96). However both continue to exist as cases of torture have been reported mostly outside of official places but also inside police stations and prisons (Amnesty International 2009).

The freedoms as declared in the EU Charter are also all reflected in the Turkish Constitution (Özbudun 2005, 30). The right to liberty and security (Charter, art. 6) is guaranteed by Article 19 of the Constitution. The freedom of thought, conscience and religion (Charter, art. 10) of the EU is also included (Constitution, art. 24). Freedom of religion has been substantially increased since the freedom of worship is respected in Turkey (European Commission 2008, 18). The AKP introduced legislation to strengthen property rights of non-Muslim places of worship (Barchard 2006, 99).

Turkey's Constitution also guarantees freedom of expression and information (Charter, art. 11) by its articles on 'Freedom of Thought and Opinion' (art. 25), 'Freedom of Expression and Dissemination of Thought' (art. 26), and 'Freedom of the Press' (art. 28). The prohibition of publication in any other language than Turkey was abolished (Gönenç 2004, 103; Özbudun 2005, 27). Turkish public opinion can be characterized as generally "wide-ranging, robust, and free" (Barchard 2005, 95) because a clause on 'propaganda against the indivisible unity of the state' as a terrorist offence of the crucial Article 301 of the Criminal Code was dropped (ibid., 94). But Article 301 is still problematic because it punishes the degrading of the Turkish nation or state and security or military organizations of the state (Amnesty International 2009).<sup>12</sup>

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member states at the Nice Council in December 2004 (Craig/de Búrca 2008, 412). Although the Charter only entered into force with the ratification of the Treaty of Lisbon in December 2009 (Europa "Treaty of Lisbon") it had a "legal effect" before (Craig/de Búrca 2008, 417). The Commission always considered the compatibility of its legislative proposals with the Charter. The European Ombudsman also referred to the Charter in his speeches as well as in its annual reports. But more important, in 2006 the ECJ referred to the Charter in stating that the Charter re-affirmed the general principles of law common to the member states (Craig/de Búrca 2008, 417-18).

<sup>12</sup> Under this article the author Temel Demirer was prosecuted for statements he made claiming state responsibility in the murder of the journalist and human rights defender Hrant Dink in 2007. The author Orhan Pamuk faced a trial for attacking the Turkish state (Öniş 2009, 43) because he stated that Turkey killed 30 000 Kurds and a million Armenians. Charges were dropped later (sueddeutsche.de 2006).

Further, the freedom of assembly and association (Charter, art. 12) is ensured by the 'Freedom of Association' (art. 33), the 'Right to Hold Meetings and Demonstration Marches' (art. 34), and 'Forming Parties, Membership and Withdrawal from Membership in a Party' (art. 68). Some incidents occurred in 2008, during a 1 May demonstration in Istanbul and during the Kurdish Nevroz celebrations in March where the Turkish police intervened forcefully (Amnesty International 2009). Some political parties faced problems such as the pro-Kurdish People's Democracy Party (HADEP) which was accused of supporting the PKK and was banned by the Constitutional Court (Avcı 2006, 74). The Court also closed the DTP in December 2009 (Hürriyet 2009a). The attempt to close the governing party, the AKP, caused concerns (European Commission 2008, 6) but that it failed was a success for Turkey's democracy in the end.

Gender equality has also been improved (Özbudun 2005, 28) (art. 66, art. 10) (Avcı 2006, 73). The new Civil Code ensures the equality of wife and husband (Pope 2005, 120). Although cases of 'honor killings' still exist, organizations such as Ka-Mer fight against them. Article 362 of the Penal Code which reduced sentences for honor crimes was removed (ibid., 122). In this regard, Turkey's public opinion is increasingly 'Europeanized' as it was impressively demonstrated in June 2009 when the Turkish public showed an overwhelmingly positive reaction to the decision of the ECHR against the Turkish state that was accused of not protecting a woman and her child from her husband (Strittmatter 2009).

Despite the permission of homosexual relationships in Turkey, lesbians, gays, bisexuals and transgender people are still discriminated against by the Courts on the base of the provisions of the Criminal Code on 'public exhibitionism' and 'offences against public morality' (European Commission 2009b, 72; Amnesty International 2009). Although these incidents need to be criticized, it also needs to be considered that they also exist to a large extent in the new CEE member states (see AI 2009).

The status of minorities in Turkey is a problem though. With the treaty of Lausanne of 1912 between Greece and Turkey (Pope/Pope 1998, 24), Turkey granted minority rights only to *non-Muslim* minorities in Turkey (European Commission 2008, 24-25). Thus Kurds are not recognized as a 'minority' but considered to be Turkish citizens (Öniş 2000, 480). Kurdish parties are not represented in the parliament due to the high threshold of ten per cent and their prohibition by the Court. On the other hand, the representatives elected from the Kurdish regions are at the same time all Kurds and members of the governing party, the AKP. This speaks in favor of Kurdish integration. Further, broadcasting of Kurdish TV and radio stations has been liberalized by the government. Teaching of Kurdish at private language institutions was allowed but the Kurdish community demands bilingual education (Yavuz/Özcan 2006, 113-14).

The 'Right to Good Administration' (Charter art. 41) – including transparency and accountability (European Parliament) – is also ensured in Turkey.<sup>13</sup> The Turkish Constitution guarantees the 'Recourse to Judicial Review' "against all actions and acts of administration" (art. 125) and the review of the constitutionality of laws, law-amending ordinances, and the standing orders by the Constitutional Court (art. 148) (Özbudun 2005, 44). The independence of the judiciary (art. 9, 138) and the 'Right to an effective remedy and to a fair trial' (Charter, art. 47) are guaranteed (art. 10, 36, 37, 38, 40, 48). Turkey is a modern parliamentary democracy that gives the legislative power and "classical parliamentary privileges" to the Turkish Grand National Assembly (TGNA) (Özbudun 2005, 34). The cabinet, or the Council of Ministers, is politically responsible to the parliament (ibid., 36). The Prime Minister is the head of the executive (ibid., 40).

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<sup>13</sup> The right to good administration is also often referred to as 'good governance' (European Parliament).

In general, all fundamental rights and freedoms as part of the EU Charter are also guaranteed by the Turkish Constitution. In most cases these rights are applied too.<sup>14</sup> Like the EU Charter, the Constitution gives international agreements priority over constitutional law when it comes to fundamental rights and freedoms (art. 90). Nevertheless, article 301 is problematic. But Erdoğan has suggested a new constitutional reform package to eliminate articles in contrast to universal rights (Hürriyet 2010).

Concluding, a strong democratization process is taking place in Turkey. This strengthens the existence of cross-national exchange because interaction is a trigger for democratization. The results speak in favor of the existence of strong transnational interaction between actors in Turkey and EU countries that is even based on a common set of values. It further pushes the Commission to favor Turkish accession to the EU.

#### **4.2.1.4. Interim Conclusion of the Analysis of Transnational Exchange between Turkey and the European Union**

The analysis has shown that the circumstances of the decision on Turkey's accession enable the Commission to influence the policy outcome. The condition of transnational exchange between Turkey and the EU is fulfilled. Cross-border interaction exists in various areas. Most important and influential are the pipeline projects between Turkey and EU countries that involve powerful energy companies. New energy deals will become reality with Turkish accession to the EU.

Second, trade between Turkey and the EU members has been constantly increasing in the past years. Business in the EU is especially interested in Turkish low-cost labor whereas Turkey is extremely interested in the access to EU markets. To pursue their common interest in Turkey's EU membership both groups have organized themselves and cooperate under the umbrella organization UNICE.

Third, transnational interaction also takes place on the personal and cultural level such because of migration, tourism, academic exchange or through media.

It was further shown that Turkey is undergoing a democratization process which strengthens the existence of cross-border interaction between Turkey and the EU.

These various kinds of transnational interaction between actors in Turkey and EU countries create the need for Turkey's entry into the EU in order to facilitate further cross-border exchange such as energy deals, trade, foreign investment, and cultural exchange. Because the condition of cross-border exchange is fulfilled, the Commission is able to influence the member states' decision on Turkey's entry into the EU. In the following, it is analyzed whether the Commission has supported Turkish membership in the past. The Commission's influence on the preferences of the member states is also assessed to conclude whether Turkish EU accession is likely.

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<sup>14</sup> The rights can only be limited according to the specific reasons mentioned in the articles (Gönenç 2004, 99) "without infringing upon their essence" (art. 13; Gönenç 2004, 100). But it is critical that the Turkish Constitution puts its emphasis on the protection of the integrity of the state instead on the protection of the rights in a broader sense by putting the former first (Gönenç 2004, 102).

#### **4.2.2. The Commission 's Influence on the Preferences of the Member States and their Decision on Turkey's Accession to the EU**

The existing cross-border interaction between Turkey and the EU creates the need for Turkey's accession to the EU in order to facilitate exchanges in the economic, personal and cultural areas. As the Commission is able to structure the political process and to play the role of a gatekeeper, it prioritizes the interests of the business groups over the interest of workers (see Rosamond 2000, 116-17). It is predicted that the Commission reacts to the demands of this group by establishing a new institution – Turkey's membership in the European Union (see Sandholtz/Stone Sweet 1998, 5). The Commission has always been the EU institution that pushed for Turkey's entry into the EU. As Gates notes: "(...) [A]lthough the Commission has documented Turkey's human rights failings in its regular reports, it was, nevertheless, also the case that Commission representatives promoted Turkey's initial advancement to candidacy" (Gates 2009, 405). In April 2009, José Manuel Barroso, European Commission President, stressed: "We have started a process of negotiations with Turkey for membership of the European Union and that was a unanimous decision of the European Union, all 27 member states" (Charter 2009a).

The reports of the Commission have continuously stressed the progress made by Turkey even in times of slow-down of reforms. Instead of extensively criticizing Turkey, the Commission rather aimed at encouraging Turkey in making further progress (Gates 2009, 405). In June 2009, the EU Commissioner for Enlargement, Olli Rehn stated: "The Commission remains fully committed to the EU agenda for Turkey's accession, unanimously agreed by Member States in 2005" (Rehn 2009, 3). The commissioner also referred to the Nabucco project as the common strategic interest of Turkey and the EU (ibid., 2). The Nabucco pipeline can thus be considered to be the most important form of cross-border exchange between Turkey and the EU.

The Commission clearly favors Turkey's accession to the EU. In addition, Turkish-EU transnational interaction is very strong. Under these conditions, the Commission is able to define rules and norms which constrain member states' actions (see Rosamond 2000, 116-17). This way the Commission can influence both the preferences of the member states and the outcome of the accession process. National authorities will opt for enlargement as they recognize the limits of national regulation. The historical institutionalist analysis of the probability of Turkey's accession to the European Union results in the conclusion that Turkey's accession to the EU is likely since cross-border interaction exists, the Commission can influence the member states in such a way that they agree to Turkish accession.

**Figure 3: Results of the assessment of the probability of Turkey’s accession to the European Union in terms of historical institutionalism.**

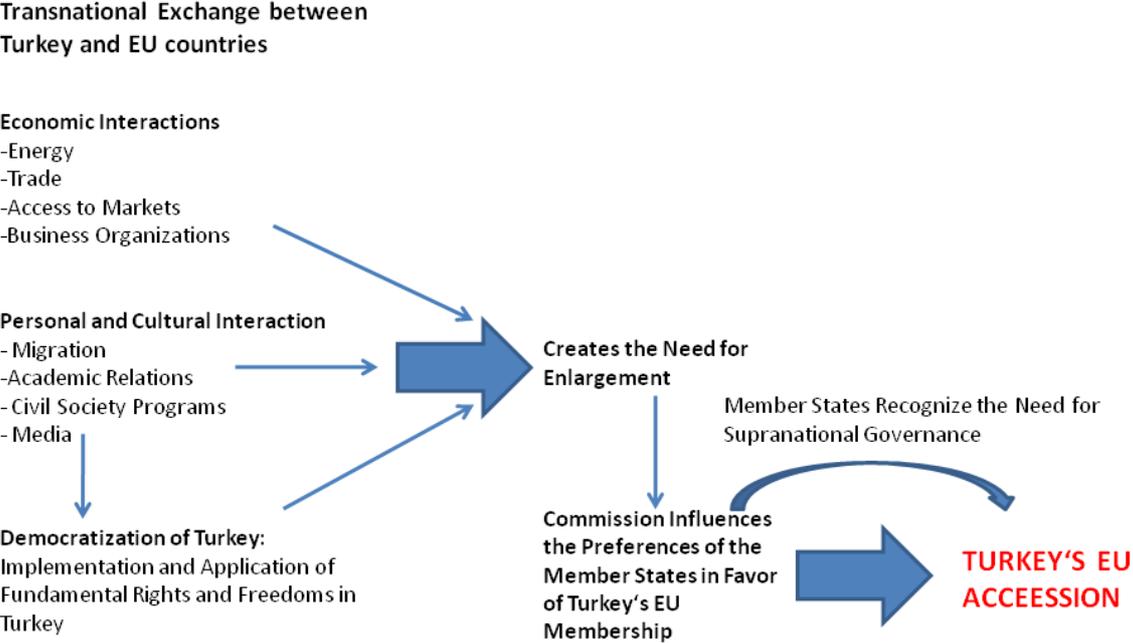


Figure 3 shows the results of the assessment. The analysis revealed that strong interaction between actors in Turkey and the EU exists in the economic, personal and cultural sector. Supporting the hypothesis of Schimmelfennig and Scholtz (2008), the cross-border interaction between Turkey and the EU leads to the democratization of Turkey. That democratization takes place was shown by the analysis of the convergence of values. It supports the conclusion that strong transnational exchange between Turkey and EU countries exists. As a consequence, the Commission has to react to the needs of the actors involved in international exchanges by integrating Turkey into the EU which leads to enlargement.

Due to the existence of cross-border interaction the Commission is able to influence the member states’ preferences and the policy outcome. Concluding, the member states will follow the position of the Commission and will agree to Turkey’s EU accession although this may not be in their long-term interest. Therefore the following can be concluded:

Historical institutionalism predicts that *Turkey’s accession to the European Union is probable to happen because transnational exchange between Turkey and EU member states is strong.*

**5. Conclusion**

The probability of Turkey’s accession to the European Union was assessed here. The member states France and Germany currently oppose Turkish membership openly. Turkey’s conflict with Greece over Cyprus and the Aegean Sea as well as human rights violations in Turkey have often been brought up as obstacles to Turkey’s EU accession. Turkey’s future in the EU is far from certain. On the other hand, the customs union between Turkey and the EU has been very successful and beneficial for both sides. The EU also depends on Turkey’s role as a mediator between Europe and the Muslim world as well as for her military contribution to the ESDP.

Since the relations between Turkey and the EU are characterized by progress and setbacks, this paper addressed the following research question: *Is Turkey's accession to the European Union probable to happen?* In this context the hypothesis to be tested was formulated as follows: *Because transnational exchange between Turkey and EU member states takes place, Turkey's accession to the EU is probable to happen.*

To test this hypothesis, the probability of Turkey's EU membership was assessed in terms of historical institutionalism. The assessment of the probability of Turkey's accession to the EU in terms of historical institutionalism resulted in the conclusion that Turkey is probable to become an EU member. The theory of historical institutionalism assumes that if transnational exchange exists, institutions can influence policy outcomes. Applied to the case of Turkey this means: Only if there is transnational exchange between actors in Turkey and actors in the EU countries, the Commission can influence the member states in such a way that they agree to Turkey's accession. Therefore, only under the condition of cross-border exchange Turkish membership is probable to happen.

To conduct the assessment in terms of historical institutionalism it was first evaluated whether such transnational interaction between Turkey and EU countries exists. It was differentiated between interactions in the economic, personal and cultural areas. It was proven that exchange is strong in all areas. In the economic area, the interaction of the energy companies is very extensive due to the common interest in natural resources in the Caucasus. Concerning energy policy, the Nabucco Pipeline is of utmost significance. Further, both trade between the EU and Turkey and EU investments in Turkey have been increasing over the past years. The Turkish and the EU business communities express a strong interest in strengthening these economic relations and lobby for Turkey's EU membership. The common organization of business interests shows another form of transnational interaction. In addition to the economic interactions, there is increasing mutual interaction in the personal and cultural areas – including migration, academic exchanges, cultural programs, media and civil society.

The empirical evidence of Turkey's democratization also strengthens the observation that strong transnational interaction between Turkey and the EU countries exists because it is assumed that exchange leads to democratization. It further demonstrates that the cross-border exchanges are based on common values. These results also confirm that human rights problems may be used as a cover-up of other reasons for opposing Turkish membership.

It was argued that cross-border exchange creates demands for a supranational form of governance to which the Commission reacts by pushing for Turkey's EU membership. The Commission indeed acts in favor of Turkish accession. Because of the Commission's influence on the national preferences, the member states will opt for enlargement recognizing the need for supranational institutions in order to facilitate transnational interactions. Therefore, the assessment of the probability of Turkey's EU accession in terms of historical institutionalism predicts that Turkey's entry into the EU is probable to happen.

The hypothesis could be proven: *Because transnational exchange between Turkey and EU member states takes place, Turkey's accession to the EU is probable to happen.*

But it remains to be uncertain whether the strongest opponents of Turkey's EU membership Germany and France will change their preference in favor of Turkey. Referring to Turkey's military contribution which is especially in the interest of these countries – Germany and France – and in reaction to the opposition declared by the German and the French government, Barack Obama stated: "If Turkey can be a member of Nato and send its troops to help protect and support its allies and its young men are put in their way, I don't see why you should not also be allowed to sell apricots to Europe or have more freedom to travel" (Naughton 2009). Whether this convinces the governments of France and Germany is to be seen.

As the assessment revealed, it is most important to know what drives governments to opt for the adoption of new member states to predict whether Turkey will become a member of the EU. Economic interests, geopolitical preferences, norms, domestic groups, ideology, public opposition, and religious background are among the possible independent variables. Here it was argued that cross-border exchange in all kinds of areas creates the need for enlargement and thus leads to Turkey's accession to the EU. But which kind of transnational exchange is most influential in the decision on Turkish EU membership? Which role do institutions and norms play?

Turkey's Muslim background is also often seen as an obstacle to enlargement. This is even more the case because Turkey would be the second-most populated EU member state and would soon have a larger population than Germany which is the largest one today. How could the EU develop a multi-religious and multi-ethnic identity to face such objections?

Although this article has given a positive outlook for Turkey's accession to the European Union, future research should answer these questions and thus further define the decisive determinants of the decision on Turkey's accession to the European Union.

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