The Limits of Conditionality: Turkey – EU Taxation Negotiations

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Abstract

Conditionality is mostly defined as the EU policy engendered for candidate countries. However, the mere use of conditionality by the EU does not essentially explain transferring of policies and EU rules towards the candidate countries. EU conditionality may be considered as a comprising approach but in certain policy areas or countries it might not be as successful as it was on other ones. The EU conditionality basically defined as a bargaining policy of affecting through reward, under which the EU provides inducements to candidate or neighbor countries to aligning with the conditions of the EU. In this study the explanatory power of conditionality would be questioned; so the main question will be “to what extent does the EU have influence on policy convergence in a candidate country that does not have a clear membership perspective? Taxation chapter in accession negotiations between Turkey and the EU has been chosen as the case of this research as providing to have an answer on this question. The main objective of this paper is ‘analyzing the extent of EU conditionality on Turkish taxation policy.’ Furthermore, it is argued in this study that “without a concrete incentive, European Union’s impact on a candidate country would be limited.”

Key Words: European Union, EU – Turkey Relations, Conditionality, Europeanization, Taxation.

JEL classification: F 15, F 53, H 20

Introduction

The process of Turkey’s accession to the EU has been pursued since the initial application for association in 1959. The integration process and the relationship between Turkey and the EU have usually been remittent all along. Most of the 70s and 80s were the times of inertia in Turkey-EU relations. However, since late 1980s Turkey has demonstrated a political enthusiasm for integration with the EU and, acted more willingly to fulfill the requirements of this objective. In 1990s relations gained acceleration with the completion of Customs Union. Although after not being announced as a candidate country in Luxembourg Summit of 1997, to some extent, the relations got frozen. In the Helsinki Summit of 1999, Turkey has been announced as an applicant country and EU and Turkey got closer and
their relations became more institutionalized. Since the Brussels Summit of 2004, where the EU granted Turkey the date for accession negotiations, the relationship between Turkey and the EU has taken the current shape.

Turkey, since Helsinki Summit but especially after Brussels Summit of 2004, is dealing with the issue of integration with the EU acquis, which could be found in 33 topics of accession negotiations. It is seemed that in most fields; Turkey’s legal structure, methods of application and determination to apply those legal rules and Turkey’s institutional structure are not quite compatible with that of the EU’s. In some fields this incompatibility seems to be easily overcome, however in most areas the incompatibility seems very hard to be carried out.

Conditionality is mostly defined as the EU policy engendered for candidate countries. However, the mere use of conditionality by the EU does not essentially explain transferring of policies and EU rules towards the candidate countries. EU conditionality may be considered as a comprising approach but in certain policy areas or countries it might not be as successful as it was on other ones. Moreover, the existence of EU conditionality is not a rule that automatically creates effective policy convergence in particular fields. Thus, the presence of conditionality as a policy strategy does not always influence domestic politics. The EU conditionality basically defined as a bargaining policy of affecting through reward, under which the EU provides inducements to candidate or neighbor countries to aligning with the conditions of the EU (Schimmelfennig & Sedelmeier, Candidate Countries and Conditionality, 2006).

The field of taxation is the one in which the issue of convergence seemed quite tougher than most of the other fields. Turkey’s integration with the EU taxation policy appears as a difficult issue to be accomplished since; firstly, taxation typically identified as a strictly national domain by the states as it is about resource allocation and any intervention to this area perceived as an interference of nation states’ sovereignty. Secondly, it is a highly technical area of which each attempt of convergence requires very detailed detection of legislation. Finally, taxation may have numerous implications on various fields of the economics, politics and society, thus all those possible consequences have to be taken into account then any attempts of alteration have to be offered. Furthermore, there is a strong need of enthusiasm in Turkey for proper implementation of changes made in legal and institutional structures.

**European Impact on Policy Convergence: Theoretical Insights**

Influence of the EU on candidate countries is, both theoretically and empirically, a difficult issue to be analyzed. Theoretically, the literature of Europeanization elaborated generally on subjects like enlargement, policy convergence, EU governance, or institutional change, supranational policy formulation (Schimmelfennig & Sedelmeier, The Europeanization of Central and Eastern Europe, 2005). Empirically, the domestic structures of the candidate country, EU perception of those countries and the rewards offered by the EU to them usually have been overlooked by the researchers. Moreover, the literature on Europeanization usually concentrated on measuring the EU influence upon Member States not candidate states (Schimmelfennig & Sedelmeier, Introduction: Conceptualizing the Europeanization of Central and Eastern Europe, 2005). However, the most stimulating cases for Europeanization, like Turkey, remain understudied and under theorized in the Europeanization studies, as literature started to analyze the precise measures of EU influence (Knill & Lehmkühl, 2003), (Borzell & Risse, 2003). Thus, the outcomes of the researches are substantially affected by the selection of inquiry cases. Still, the dependent variable is a problematic issue, answer to the question of what is precisely measured when the EU influence is measured, remained quite vague. Compliance of the candidate states with the EU rules has been analyzed by most of the researchers in areas such as transferring of the EU law into national law, convergence of policy areas, institutional change and alignment with the political and economic principles extensively formulized in Copenhagen Criteria and Maastricht Criteria.

The measures mentioned above are not enough to fully explain the compound ways of reactions of the candidate state to actions taken by the EU. The reason why the Europeanization scholarship have a tendency to overstate successful cases and underestimate unsuccessful Europeanization attempts, supposing that, in time, the states that reacted negatively would come along with the EU rules and ideas and leave their undemocratic or old fashioned ways of politics and policy making by persistent and constant pressure from the EU, through mechanisms of coercion, socialization, or persuasion (Schimmelfennig, 2000), (Kelley, 2004). However, against various explanatory tools conceptualized by Europeanization literature, it is observed that in general Europeanization concept and in particular some explanatory tools of Europeanization are quite limited in explaining Turkey – EU relations.

There is a tendency in Europeanization studies on Turkey to apply a top-down approach which is seen a mere and direct law or policy transfer from supranational level to national level (Ugur, 2008). Thus, policy formulation

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procedures and processes at the supranational level and interaction between Turkey and the EU are neglected. Accordingly, a conceptual separation between EU-ization, which is basically approval of EU acquis, and Europeanization, which have wider and deeper implications at societal level, has to be considered (Kaliber, 2008). Moreover, the notions of adopting a policy and implementing a policy are not clearly distinguished in most of the Europeanization studies (Müftüler Baş, 2005). Therefore, Turkey’s inactivity in implementation of the policies which had already been adopted is usually neglected. Furthermore, as most of the other polities in the world, external relations of the EU are affected by internal events such as deepening, enlargement or economic crisis etc. However, most of the scholars fail to see the internal dynamics of the EU in Turkey – EU relations (Kahraman, 2000). Especially, the notion of “absorbing capacity of the EU” is quite prevalent among EU scholars who are uneasy about Turkey’s full membership to the EU.

Additionally, an agreement on the meaning of the Europeanization has not been reached, especially in Turkey – EU relations. First group scholars tend to explain Europeanization as a tool for responding instant domestic economic interests of Turkey. Accordingly, Turkey’s Europeanization is based on cost-benefit calculations. Thus, if the benefits, essentially economic ones, are more than the costs then the domestic actors allow for some alteration (Noutcheva, 2009). Although, this assumption explains some cases occurred among Turkey and the EU such as closing rapidly the Science and Research chapter of the negotiations, it sometimes fails to formulate some occasions such as Turkey’s Customs Union membership. Even, before being declared as an official candidate country, Turkey has been the single country that joined Customs Union of the EU. Openly, Turkey have had no immediate economic or strategic gain from Customs Union, contrary the consequences of being a part of the Customs Union without full membership have been heavily criticized by numerous scholar and politician (Yazıcı, 2012). Arguably, Turkey’s joining to the Customs Union was political attempt to approach the EU membership; thus instead of short-term economic interests, long term interests are at the stage. So, defining EU – Turkey relations only by short term economics and strategic interests do not always assist to explain the exact point of the case.

Furthermore, in Turkey, the concept of Europeanization is sometimes perceived as equivalent to notion of Modernization. In this sense modernization refers to industrialization, technological and scientific advance. However, the literature tend to explain Europeanization as modernization typically neglect that the EU is not only a technology and industry provider but also a provider of some institutions, values, norms and principles, such as human rights, working relations, gender relations (Kubicek P. , 2005). Hence, this literature ignores any socialization effect. Europeanization is also seen as a process of identity building which would convert Turkey from being an Eastern country to Western or European country. Therefore, western standards about minority and human rights, liberalism, secularism, democratic principles have been set as the objectives to be achieved by Turkey.

**Conceptual Framework**

In order to analyze the explanatory power of conditionality approach in explaining convergence between the EU and Candidate State the main question designed in this paper is: ‘To what extent does the EU have influence on policy convergence in a candidate country that does not have a clear membership perspective? ’Taxation chapter in accession negotiations between Turkey and the EU has been chosen as the case of this research as providing to have an answer on this question. In order to carry out the research more systemically, five secondary questions have been formulated as: What are the theories that explain policy convergence? Can Conditionality explain EU- Candidate State Relations? What is European Taxation Policy? What are the issues concerning taxation in Turkey-EU accession negotiations? What are the changes occurred in Turkish taxation system? Does the integration theory of conditionality fit with this case? Thus, the main objective of this paper is ‘analyzing the extent of EU conditionality on Turkish taxation policy.’ Furthermore, it is argued in this study that “without a concrete incentive, European Union’s impact on a candidate country would be limited”.

The main focus of the empirical study would be upon the policy convergence on taxation that took place since the starting of accession negotiations between Turkey and the EU. Therefore, the patterns of policy change at national level are the dependent variable to be observed. The European Union’s conditionality is the independent variable that is expected to alter the national patterns.
Conceptualizing the Impact of the EU

At the previous section, some limitations of convergence theories, misuse of some terms and deviation in some theoretical concepts concerning EU – Turkey relations have been discussed. In this part, it is attempted to draw an explanatory theoretical framework for policy convergence in EU – candidate country relations based on EU conditionality. There are several theories, especially institutionalist theories such as historical institutionalism, constructivist institutionalism or rational institutionalism. Nevertheless, only rational institutionalism explicitly concentrates on conditionality which the EU conducts to affect candidate countries which is the independent variable of this study.

The precise demand from the EU improves the possibility of effective compliance of candidate countries to the EU rules. By precise demand it is meant that clearly stated EU conditions; and full information and understanding of the candidate country about EU rules concerning the issue or area (Schimmelfennig & Sedelmeier, Introduction: Conceptualizing the Europeanization of Central and Eastern Europe, 2005, p. 8). However, in some cases uncertainty might occur due to lack of a single EU model in various policy areas, intra-EU conflict or evolving rules in the EU, especially in the area of Justice and Home Affairs. The uncertainty negatively affects the credibility of the EU conditionality which is a very significant factor. Credibility has two dimensions. Firstly, the candidates have to be sure that they will receive the reward offered to them after meeting the demands of the EU. Secondly, the candidates should understand that the rewards are only available if the requirements stated by the EU fully met (Kubicke P. J., 2003, p. 18). In other words, conditionality works only if it is based on credibility. For example, the debate in EU countries about Turkey’s possible accession to the EU causes doubt in Turkey whether in a foreseeable future she will join the EU or not and this harms power of the EU entailed from conditionality. Political preferentialism, hidden intentions or side payments to other candidates who have not met all the criteria also harms EU credibility as in the cases of Bulgaria and Romania’s accession (Sedelmeier, 2006, p. 12).

In the accession negotiations the EU has a higher bargaining position based on asymmetrical interdependence (Moravcsik & Vachudov, 2003). This advantageous bargaining position provides EU the ability to hold back rewards if the conditions have not been met. Moreover, the size of reward also affects the bargaining power of the EU (Grabbe, 2003, p. 318). The full membership is the ultimate reward, however, sometimes, as in the case of Turkey’s accession, being a member might be a distant objective. In such situations, intermediate rewards become critical. Enhancing links and creating institutionalized relations about trade, economics, politics and information issues (Dimitrova & Steunenberg, 2007). For instance including the candidate to some community programs, letting them use some extra funds etc.

The state capacity, adaptation costs and differential empowerment are also effective in EU’s influence. Rationalist Institutionalism argues that if the EU wants to have more influence on a candidate country it has to have domestic allies and adaptation costs in the candidate country have to be at reasonable levels (Jacoby, 2010). If the EU demands and the interests of domestic actors’ overlaps, then the adaptation cost is expected to be low, as in the case of EU’s demand about civilian control over the military matched with choices of the AKP government (Sedelmeier, 2006). Besides, candidate countries’ policy convergence may not depend only on adjustment costs, but may depend on their administrative capacities (Toshkov, 2008). Beyond the administrative capacity, some literature suggest that successful implementation of EU rules in candidate countries need “strong states and strong civil societies” (Borzel & Buzogány, 2010).

The utmost impact of the EU is in policy dimension. The impact of the EU, according to most studies, is due to the conditionality of the EU and reward of credible membership (Schimmelfennig & Sedelmeier, Candidate Countries and Conditionality, 2006). Empirical studies in the policy convergence has seen most prominently in the fields of regional policy, social policy, environmental, Justice and Home Affairs, and the EU’s internal market regulations. In these researches policy convergence between the EU and candidate countries is intensive. Although, each of the studies used different explanatory factors, the credible perspective of a membership is an integral dynamic of policy convergence. In some policy areas there might be some occasional and loose convergence even before the EU announced its conditionality; however, convergence increased significantly after EU states its accession conditions and monitors the compliance of the candidate country. The EU’s impact on the Central and Eastern European Countries and their compliance with EU rules has significantly increased just after the opening of accession negotiations which is a strong evidence of the effect of credible membership perspective.
Although, the empirical studies have found strong influence of the EU in the policy dimension, as mentioned above domestic adaptation costs and veto players are also important. The prominent effect of domestic politics can be found especially in the fields where the credibility of EU requirements is minor or lacking. For instance, the responds from candidate countries to EU’s demand of regionalization (not regional policy) have been quite limited, since the EU acquis does not suggest decentralization and the delegating powers to regional powers, but simply prescribes founding statistical units for allocation of structural funds (Bache, 2010). In addition, if the domestic actors use the EU conditionality as a starting point to achieve their own policies, again domestic politics would play an important role (Brusis, 2010). Thus, it can be observed that domestic politics, although through different ways and extents, influence the policy convergence between the EU and candidate countries. Moreover it can be argued that if the membership perspective of the candidate country is credible and strong even oppositions have become inefficient.

As stated previously, main aspect that determined the effectiveness of conditionality is a credible membership perspective. Accession to the EU is the most important reward and motivation that the EU can offer, but it requires being credible (Sedelmeier, 2006). This conclusion derives the question of whether it can influence the current candidate states as effectively as the previous ones. Even though, these countries, which are Turkey and Western Balkan countries, have a membership perspective in principle, however, the opposition debates in the EU either on enlargement in general or accession of a particular country, namely Turkey, reduced the credibility of membership perspective. The issue of credibility is essentially prominent in Turkey. The nature of EU’s conditionality also makes it easier for opposition politicians to challenge the legitimacy of EU conditions through spelling nationalistic discourse and exaggerating the adaptation costs. Bearing these negative conditions in mind the influence of the EU would be expected limited in those countries.

Taking all the mentioned insights into consideration it is argued in this study that “the impact of the EU on Turkey in general and on Tax Policy in particular is limited especially compared to other countries that joined the EU in previous enlargements.” In the following section the tax policy of the EU would be overviewed in order to find out the policy area that Turkey is expected to comply.

**Taxation Policy of the European Union**

In the internal market role of the tax policy is integral. However, contrary to other policies concerning directly internal market, EU’s competence on tax policy is relatively limited. Direct taxation is regulated overwhelmingly by bilateral agreements among the member states. Indirect taxation and harmonization of indirect taxation is only mentioned in few articles of EC treaties. Although the single market and economic and monetary union are introduced, a separate area for tax policy of the EU has not been established. The main objective of the EU on tax issues is to ensure consistency in EU’s job creation target and preventing unfair advantage in competition among each member’s businesses entailed from different tax rules. Maintaining principles of single market and free movement of capital is the primary priority of the EU in tax policy. Taxes are raised by member states in order to finance their expenditures. Each national government has their own priorities concerning spending and the EU does not interfere those governments in their spending unless they are reasonable and do not jeopardize other member states’ economic growth. National governments have competence on determining tax rates on company earnings, personal income and capital profits. The role of the EU as a whole is to monitor whether these decisions are fair for all members. The EU pays special attention on four fields of taxation, namely: company taxation, individual taxation, value – added taxation and excise taxation.

Company taxation is important for the EU, since any unfair policy of a member state in this field could create obstacles for free movement of goods, services, and capital within the single market. In order to prevent such policies which may be detrimental to tax competition and bound the member states, the EU adopted a code of conduct on business on December 1997, a directive on the taxation of cross border income savings on June 2003 and a directive on interest and royalty payments on June 2003 (European Commission, Directorate-General on Taxation and Customs Union, 2014).

On the other hand, if an individual’s cross border rights are not infringed, the national governments have the competence of setting taxation rules and rates on personal taxation. The EU generally concerned with the issues related to transferring and taxation of pensions and pension rights to other member states for ensuring no deterrence. Cross – border tax evasion constitutes also an integral part of the EU’s role in tax policy. The EU citizens have the right to place their savings anywhere they think they get best return, however they cannot do this to avoid paying tax.
If the citizens of member states do not declare their interest income on savings placed abroad, then the national government would lose its legitimate revenue (European Commission, Directorate-General on Taxation and Customs Union, 2014). Thus, the EU member states and some other European states reach an agreement on exchanging information on savings of non-residents.

Establishment of common rates in the EU for value-added taxes has become crucial after the adoption of the single currency. As the value added taxes have direct effect on the functioning of single market and fair competition within the EU, there is a need for a certain degree of EU involvement in setting a truly common rate of value-added taxes. Hence the EU set higher and lower limits on the value-added tax rates of which rate of a value-added tax cannot be less than 15% with some exemptions (European Commission, Directorate-General on Taxation and Customs Union, 2014). The exemptions allowed in cases for instance on goods and services those are not in competition with other member states, requirements for daily life such as medicine and food (European Commission, Directorate-General on Taxation and Customs Union, 2014). Moreover any decision that would be taken at the EU level needs unanimity which guards the national sovereignty in tax matters.

Excise taxation is also quite important for the EU since different excises applied on petrol, cigarettes or drinks can simply distort competition within the EU. So, they are subject to some common rules. Yet, there are sufficient place for cultural and economic differences among the member states (European Commission, Directorate-General on Taxation and Customs Union, 2014). The cultural differences are the reason why the prices of wine or other alcoholic drinks differ from country to country in the EU. Moreover, if a country’s public finance is healthy enough to tolerate low excise duties then it cannot be forced to raise its duties just for the sake of taxation.

As a result it can be observed that the EU does not interfere deeply to taxation policy contrary to other policy areas having direct effect on the functioning of the single market. However, this does not mean that the EU is not influential in the field of taxation. It involves in various areas of taxation especially if there is possibility of infringement of fare competition or distortion of the functioning of single market. Besides, the national governments’ sovereignty is preserved by not interfering of the EU on their rights to determine tax rates and tax spending; moreover, national independence also guarded by applying unanimity on tax related decisions taken at the EU level.

**EU – Turkey Taxation Talks**

Since the Ankara Agreement Turkey has made an effort to comply with the EU acquis on taxation. The Article 16 of the Agreement states that “the Contracting Parties recognize that the principles lay down in the provisions on competition, taxation and the approximation of laws must be made applicable in their relations within the Association”. The Additional Protocol furthered Ankara Agreement by laying down provisions on the prohibition of discriminatory taxation and excessive tax refund (EU and Foreign Affairs Directorate of Turkish Ministry of Finance). The area of taxation was also on the table when Turkey officially declared as a candidate to the EU. Turkey’s National Programmes for the Adoption of the Acquis (NPAA) of 2001 and 2003, and Accession Partnership Documents of 2001 and 2003 have been the official declarations and documents of accession negotiations which were dealt within the framework of Turkey’s official candidacy status. The formal accession negotiations between Turkey and the EU have been started in 3 October 2005. Taxation has been determined as the 16th chapter of accession negotiations. Since the start of the negotiations Turkey declared a NPAA in 2008 which was Turkey’s official commitments and the EU prepared two accession partnership documents in 2006 and 2008 of which constituted official expectations of the EU within the process of accession negotiations. Moreover, the progress reports published annually since 1998 by the EU could be considered as the review documents of the EU whether Turkey fulfilled her promises to comply with acquis. Furthermore, Turkey has published two Progress reports in 2013 and 2014 to exhibit her advancement in all chapters of accession negotiations. Specifically for the area of taxation Turkey also declared an Action Plan in 2009. All those documents mentioned above constituted the official frame of accession negotiations including taxation issues between Turkey and the EU. So, in this section the parts concerning taxation of these documents would be briefly presented and discussed in order to reach a conclusion to comprehend the process and current situation of taxation negotiations between Turkey and the EU.

The taxation issue officially firstly pronounced in the Progress Report of 1998 in which Turkey’s taxation policy was summarized and the incompliance between Turkey’s and EU’s policies were indicated (European Commission, 1998). In 1999 (European Commission, 1999) and 2000 (European Commission, 2000) Progress Reports the Commission continued to state that Turkey had not made any progress in the field of taxation by stressing the lack of a strategic
Apart from the framework of short term and medium term priorities in the taxation field it is expected that individual differences will be eliminated by demanding derogation in the association negotiations. However, in the event that there remain certain differences in addition to those already mentioned, the arrangements for their elimination will take place during the process leading to full membership.” (Council of Ministers (Turkey), 2001) By this statement, Turkey declared her expectation of having a clear membership perspective in order to fully comply with the EU Acquis in the field of taxation. However, she did not present a robust stance but displayed an enthusiasm in alignment of short and medium term objectives especially on indirect taxation. For example, Turkey declared that harmonization with Sixth Council Directive of 77/388/EEC on the VAT exemption would be completed within the short and medium term objectives (Council of Ministers (Turkey), 2001).

In 2002 Progress Report, Turkey’s adoption of a new law on VAT and amendments made on excise duty law was welcomed by the Commission which can be found in the statement of: “Since the last Regular Report, Turkey has made substantial progress with aligning its tax legislation with the acquis in the area of indirect taxation.” (European Commission, 2002). However, the report indicated that there has been no progress in other areas concerning taxation (European Commission, 2002).

In 19 May 2003 the EU published another Accession Partnership Document (Council of the European Union, 2003). The EU’s expectations from Turkey in the area of taxation are as follows:

“Continue alignment of excise duties and VAT, in particular in respect of applied rates, scope of exempt transactions, and tax structure and eliminate tax measures which may result in discriminatory treatments; ensure that future legislation complies with the principles of the Code of Conduct for business taxation.

Modernise and strengthen the tax administration with a view to increasing taxpayers’ compliance and to improving the collection of tax revenues.” (Council of the European Union, 2003)

The EU has not been seemed satisfied with the progress made in taxation field and asked for more and specified advance especially in indirect taxation. Moreover, administrative capacity of Turkey in persuading taxpayers to pay their taxes and the rate of tax collected has also been questioned by the EU. In response, Turkey announced her NPAA in 24 July 2003. The steps taken for alignment with the concerning EU legislation on VAT and excise duties are explained in 2003 NPAA by presenting all amendments made in laws and adoption of excise duty law (Council of Ministers (Turkey), 2003). By this, Turkey argued that she accomplished the short term objectives laid down in 2001 NPAA. Moreover, Turkey set three priority areas and several task concerning those priorities. The first priority area has been Harmonisation with EU Legislation in the field of Indirect Taxation, the second one has been Harmonisation with the EU Legislation in the field of Direct Taxation and the third has been Mutual Assistance (Council of Ministers (Turkey), 2003). In this document Turkey displayed numerous amendments on various laws for alignment with the concerning EU legislation in accordance with those priorities, however, except for few ones, the dates for adoption and implementation remained vague. These dates mainly bounded either to accession negotiations or to the date of full membership (Council of Ministers (Turkey), 2003). Turkey clearly implies that she knew what to do for
alignment and will comply with the EU legislation; however she will complete the task when she gets a clear perspective of accession to the EU.

According to 2003 Progress Report “Concerning indirect taxation, developments are very limited. …In the field of direct taxation no progress can be recorded. …Limited progress has taken place in the field of administrative capacity and mutual assistance (European Commission, 2003)” Only some minor arrangements made in excise duty and the use of national identification number was appraised by the Commission and the developments in the rest of taxation area considered as insufficient. Further efforts of Turkey have been expected by the Commission, especially in the fields of VAT, excise duty, exemptions and code of conduct on Business Taxation. In 2004 Progress Report the Commission continued to stress that the progress in taxation area is very limited and Turkish Fiscal system is only partially in accordance with the EU Acquis where further alignment is strongly required (European Commission, 2004). In 2005 Progress report, although the general advancement considered insufficient in taxation area, some developments in various fields, such as reduction of VAT on some products, elimination of all discriminatory features on imported cigarettes, amendment on legislation about free zones, were welcomed by the Commission (European Commission, 2005). After Turkey issued her NPAA in 2003, according to Progress Reports quite limited advancement has been achieved until the year of 2006. This year the Council announced a new Accession Partnership Document for Turkey. Concerning the area of taxation, statements were as follows:

“Continue alignment of excise duties and VAT, in particular in respect of applied rates, scope of exempt transactions, and tax structure and eliminate tax measures which may result in discriminatory treatments.

Continue alignment with the acquis in the field of direct taxation, including provisions on exchange of information with EU Member States to facilitate enforcement of anti-avoidance and anti-evasion measures.

Commit to the principles of the Code of Conduct for Business Taxation and ensure that future legislation complies with the principles of the Code of Conduct for Business Taxation.

Intensify efforts to modernise and strengthen the tax administration with a view to increasing taxpayers’ compliance and to improving the collection of direct taxes, as well as VAT and customs revenues, and other indirect taxes. Establish effective instruments to combat fraud.

Begin preparations for the development of the necessary IT systems so as to allow for the exchange of electronic data with the EU and its Member States’” (Council of the European Union, 2006).

It was quite similar to the previous one but two new dimensions have been added on it. These were direct taxation and development of IT systems of which both of them have an emphasis on exchange of information with the EU and its members. Thus, for the EU, no considerable advancement has been achieved by Turkey in the field of taxation, even, according to developments within the EU; some more areas of compliance have been appeared for Turkey to accomplish. Turkey did not response this document immediately as it was for the 2001 and 2003 documents but waited until 2008. Meanwhile, the Commission announced two Progress Reports in 2006 and 2007. In 2006 Progress Report, the Commission reported that the compliance of taxation area is still very limited. Moreover, some developments indicate that Turkish taxation policy has been even furthered away from the EU Acquis by reduction in VAT on textile products and introducing ad valorem rates and minimum excise duties on tobacco products (European Commission, 2006). 2007 Progress report noted no advancement in indirect taxation. However, some minor changes in the field of direct taxation, an amendment in corporate tax law, were reported. Only computerization of all provincial tax offices was welcomed and praised by the Commission in 2007 Progress Report, but a lack of time bound and result oriented tax strategy for reducing unregistered economy was criticized (European Commission, 2007). So, except for computerization of provincial tax offices, the EU could not observed any considerable change in Turkish taxation policy for alignment with the EU Acquis in two years period.

In 2008 the Council issued its last Accession Partnership Document for Turkey up to this date. The taxation is found place in this document as such:

“Take practical steps leading to a substantial reduction in discriminatory taxation of alcoholic products, imported tobacco and imported cigarettes, and present a plan with clear milestones, and agreed with the Commission, for the rapid elimination of any residual discriminatory taxation.

pursue alignment of VAT and excise duties, in particular on structure and applied rates,
continue strengthening and modernising the tax administration, including the IT sector, in order to increase compliance and improve collection of tax revenues and to reduce the informal economy” (Council of the European Union, 2008).

The emphasis in this document shifted from expectation of initiating alignment to pursuing alignments and presenting a clear schedule for some specific issues. This implies, although Turkey has been criticized continuously by the Progress Reports, advancement in compliance of the taxation area with the EU Acquis.

After two Accession Partnership Documents issued by the EU in 2006 and 2008, Turkey, in response to those documents, announced her NPAA in 2008. In this document Turkey assured the EU to achieve all subjects indicated in the Accession Partnership Documents. All legislative acts have been listed one by one in 2008 NPAA in order to be aligned with the EU legislative framework. However, except for three amendments in the field of excise duty, clear time schedules for remaining promises were vague similar to previous NPAA. Publication dates of legal changes generally indicated as “after 2011” or “To be enacted within the framework of full membership perspective” (Council of Ministers (Turkey), 2008). Thus, still a lack of confidence could be observed in the relationship between the parties.

Meanwhile, in 2007, after a number of bilateral meetings, the EU set a benchmark for Turkey in taxation area in order to open the taxation chapter in the accession negotiations. The benchmark is stated as: “Turkey takes concrete steps leading to a substantial reduction in discriminatory taxation of alcoholic beverages, imported tobacco and imported cigarettes and presents a plan with clear milestones and agreed with the Commission for rapid elimination of any residual discriminatory taxation” (EU and Foreign Affairs Directorate of Turkish Ministry of Finance). So, in 2009 the lingering process of tax policy alignment of Turkey to the EU acquis has reached a new phase as Turkey prepared an action plan to overcome the benchmark. Turkey, unlike the previous NPAAs, set clear time schedules for all proposed amendments covering the issues stated in the benchmark (Gökçe & Jonida, 2009) and took rapid action according to that schedule by issuing two Cabinet Decrees in 14.4.2009 (2009a), (2009b). In June 15, 2009 the action plan had been approved by the EU and in 30 June 2009, at an Accession Conference, the opening of accession negotiations on Taxation was announced. The EU justified the opening of accession negotiation on taxation by the following statements:

“Turkey has to fulfill its obligation of full non-discriminatory implementation of the Additional Protocol to the Association Agreement. This provision is not specifically related with the Taxation Chapter and valid for all chapters.

Turkey makes significant progress towards alignment in the fields of VAT and Excise Duties, and presents a detailed timetable to reach full compliance with the EU acquis in the remaining areas; Turkey fully eliminates the discriminatory taxation of alcoholic beverages, imported tobacco and important cigarettes, in line with its obligations, by implementing the Action Plan of the Republic of Turkey, of 18 May 2009, including the additional information annexed to this Action Plan in accordance with the commitments taken and the timetable set, or by fully eliminating this discriminatory taxation earlier than by the dates indicated in this plan.

Turkey demonstrates that it has adequate administrative capacity to implement and enforce its tax legislation and to effectively collect tax dues and control its taxpayers with the required infrastructure in its central and local tax offices.

Turkey presents to the Commission a comprehensive and coherent strategy towards IT interconnectivity, and reaches sufficient progress in developing all related IT interconnectivity systems” (EU and Foreign Affairs Directorate of Turkish Ministry of Finance).

Following these developments Turkey took further actions by eliminating the Tobacco Fund levied on processed tobacco by the Cabinet Decree no: 2009/15685 (2009c) and decreasing the Tobacco Fund levied on unmanufactured tobacco by 25% with the Cabinet Decree no: 2010/1234 (2010), (EU and Foreign Affairs Directorate of Turkish Ministry of Finance). Those actions taken by Turkey evidently demonstrates that if she is given a clear perspective even for opening of an accession negotiation, let alone the membership, she abandons her reluctance and displays eagerness to move on to comply with the Acquis. Thus, conditionality may work in EU and candidate state relations but a concrete reward has to be offered.

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In order to measure the reactions displayed by the EU to Turkey’s alignment with the EU acquis on taxation the progress reports up to this date have to be reviewed. In 2009 progress report, although not very enthusiastic, the EU welcomed the action plan and amendments made in the field of indirect taxation, however reservation of the Commission could still be observed by the statement of “several discrepancies need to be addressed before achieving full alignment” (European Commission, 2009). Although some limited advancement in administrative cooperation and mutual assistance and operational capacity and computerisation was specified, the Progress Report of 2010 had not the same spirit of the previous one.

The taxation section of the report had been concluded as “The realignment of the Turkish tax legislation with the commitments taken by Turkey in the context of the opening of Chapter taxation needs to be ensured without delay. Abolition of discriminatory practices in taxation is a key element for making further progress in the accession negotiations on this chapter. Hardly any progress can be reported on direct and indirect taxation. Overall preparedness in this chapter is moderately advanced” (European Commission, 2010). In 2011 Report, some developments, especially the decrease on excise duties on tobacco fund on non-processed imported tobacco, had been welcomed by the EU; however Turkey was profoundly criticized by increasing the excise duty on alcoholic beverages on the ground of taking contradictory action to the action plan approved in 2009. This report ended with a warning stated by the Commission to Turkey about furthering progress in accession negotiations: “In line with the commitments made by Turkey in the context of the opening of the taxation chapter of the accession negotiations, Turkey is urged to take immediate action for the gradual elimination of related discriminatory practices accordingly. Abolition of discriminatory practices in taxation is key to making further progress in the accession negotiations on this chapter” (European Commission, 2011).

The Progress Reports for Turkey in the following years up to this date (Progress Reports of 2012, 2013 and 2014) have been more or less similar to previous one. Lack of action in direct taxation, limited progress in indirect taxation, contradiction of excise duty on alcoholic beverage with 2009 action plan and some progress in administrative capacity have been the main statements of those reports. Moreover, all of them have stressed that without the elimination of discrepancies with Turkish tax legislation and EU Aquis, there would be no furthering in accession negotiations (European Commission, 2012), (European Commission, 2013), (European Commission, 2014). The European Commission praised the actions taken by Turkey immediately after the adoption of action plan and opening of accession negotiations for taxation in its 2009 and 2010 reports; however Turkey has been criticized by the subsequent reports for not being in line with the commitments of the 2009 Action Plan.

On the other hand, Turkey initiated to issue Progress Reports by her own for demonstrating the advancements in her alignment with the acquis in 2012 and 2013. In these reports, contrary to EU’s, Turkey argued that she is loyal to the commitments she made in the 2009 Action Plan and especially in the field of indirect taxation the discrepancy between Turkish legislation and the acquis gradually decreases by the realized amendments (Ministry of EU Affairs, 2012), (Ministry of EU Affairs, 2013). Thus, Turkey does not accept of being reluctant, but claims that she is in line with her commitments and displays one by one her advancements in legislation in her progress reports.

Turkey’s gradual approach to convergence instead of an immediate one may have its roots in lack of confidence based on the very long period of the EU keeping Turkey at the doors and not letting her in as a member of the Community or letting her go in another direction. Still, although formally the accession negotiations are begun, eight chapters are blockaded by the EU and bounded to an issue which is considered a very vital one for Turkey, namely the Cyprus issue. Even, while opening the accession negotiations on Taxation, the Council referred the Cyprus issue as its first priority for the success of the negotiations. Furthermore, in the Presidency Conclusions of 16/17 December Brussels Summit while announcing the opening of Accession Negotiations with Turkey, the EU put a reservation on accession negotiations which had never been witnessed in previous enlargement periods, as: “The shared objective of the negotiations is accession. These negotiations are an open-ended process, the outcome of which cannot be guaranteed beforehand. While taking account of all Copenhagen criteria, if the Candidate State is not in a position to assume in full all the obligations of membership it must be ensured that the Candidate State concerned is fully anchored in the European structures through the strongest possible bond” (European Council, 16/17 December 2004). This statement is a clear discrimination against Turkey which blurred Turkey’s membership perspective more in addition to her previous negative experiences.
Conditionality is mostly defined as the EU policy engendered for candidate countries. However, the mere use of conditionality by the EU does not essentially explain transferring of policies and EU rules towards the candidate countries. EU conditionality may be considered as a comprising approach but in certain policy areas or countries it might not be as successful as it was on other ones. Moreover, the existence of EU conditionality is not a rule that automatically creates effective policy convergence in particular fields. Thus, the presence of conditionality as a policy strategy does not always influence domestic politics. The EU conditionality basically defined as a bargaining policy of affecting through reward, under which the EU provides inducements to candidate or neighbor countries to aligning with the conditions of the EU (Schimmelfennig & Sedelmeier, Candidate Countries and Conditionality, 2006). Main aspect that determined the effectiveness of conditionality, especially for a candidate country, is a credible membership perspective. Accession to the EU is the most important reward and motivation that the EU can offer, but it requires being credible. It has been argued in previous sections of this study that “the impact of the EU on Turkey in general and on Taxation Policy in particular is limited especially compared to other countries that joined the EU in previous enlargements.” The reason of that claim has been that “The EU has not given a clear membership perspective to Turkey”. The case of Taxation talks, both before and after accession negotiations, has been affirmed the hypothesis of this study as after seventeen years (between 1998 and 2015) of alignment talks, convergence in the area of taxation between Turkey and the EU is still quite limited with numerous problems to be solved as demonstrated thoroughly in this section.

Conclusion

In order to analyze the explanatory power of conditionality approach in explaining convergence between the EU and a Candidate State, the main question has been formulated in this paper as: ‘To what extent does the EU have influence on policy convergence in a candidate country that does not have a clear membership perspective? ’ ‘Taxation chapter in accession negotiations between Turkey and the EU has been chosen as the case of this research as providing to have an answer on this question. Thus, the main objective of this paper was ‘analyzing the extent of EU conditionality on Turkish taxation policy.’ Furthermore, it was argued in this study that “without a concrete incentive, European Union’s impact on a candidate country would be limited”. The main focus of the empirical study had been upon the policy convergence on taxation that took place since the starting of accession negotiations between Turkey and the EU. Therefore, the patterns of policy change at national level were the dependent variable to be observed. The European Union’s conditionality was the independent variable that was expected to alter the national patterns. In order to accomplish the objective, the research has been designed in four chapters, respectively, as European Impact on Policy Convergence: Theoretical Insights, Conceptualizing the Impact of the EU, Taxation Policy of the European Union, EU – Turkey Taxation Talks.

In the first chapter, the approach of Europeanization as the dominant tool that is claimed to explain European effect on domestic structures has been elaborated. The shortcomings and underestimations of Europeanization have been discussed. In general, Europeanization had been criticized as usually focusing on EU-member state relations while displaying limited interest to non-member countries and choosing successful cases that EU impact can clearly been identified and neglecting ineffective ones. It has argued that this form of Europeanization is inadequate to explain EU – Turkey relations. Moreover, some limitations of convergence theories, misuse of some terms and deviation in some theoretical concepts concerning EU – Turkey relations have been discussed.

In the second chapter, an explanatory theoretical framework for policy convergence in EU – candidate country relations based on EU conditionality was discussed. Several theories, especially institutionalist theories such as historical institutionalism, constructive institutionalism or rational institutionalism were reviewed. Nevertheless, only Rational Institutionalism explicitly focuses on the EU’s use of conditionality to affect candidate countries which is the independent variable of this study. It has been argued in this chapter that main aspect that determined the effectiveness of conditionality is a credible membership perspective. The issue of credibility is essentially prominent in Turkey. In this chapter it has been argued that “the impact of the EU on Turkey in general and on Tax Policy in particular is limited especially compared to other countries that joined the EU in previous enlargements.”

In the third chapter, the tax policy of the EU had been overviewed in order to find out the policy area that Turkey was expected to comply. It was claimed that the EU does not interfere deeply to taxation policy contrary to other policy areas having direct effect on the functioning of the single market. However, on the grounds of infringement of fare competition or distortion of the functioning of single market the EU had quite a powerful influence on taxation issues.
Besides, the national governments’ sovereignty has been preserved by not interfering of the EU on their rights to determine tax rates and tax spending; moreover, it has state in third chapter that national independence also guarded by applying unanimity on tax related decisions taken at the EU level.

The fourth chapter was section of empirical research. Almost all documents of EU – Turkey relations concerning taxation had been evaluated in order to picture the whole process of almost 18 years. The chapter, even started with the provisions of Ankara Agreement dated back at 1963. Turkey’s National Programmes for the Adoption of the Acquis (NPAA) of 2001, 2003 and 2008, and Accession Partnership Documents of 2001, 2003, 2006 and 2008 have been reviewed as official communications between parties. Progress Reports published by the Commission since 1998 were assessed one by one in order to demonstrate the spirit of the relations and demands of the EU taxation issue. Moreover, Turkish Action Plan on Taxation of 2009 and Progress Reports issued by Turkey in 2012 and 2013 was analyzed. It has been found out, after assessing all official and political documents, it has been concluded that Turkey is not reluctant but cautious. She completed her tasks gradually and relatively slow, however, she had not given up or resisted openly to any alignment requirements. The EU had set clear conditions to be accomplished and expected immediate response to them, but taking the history of the EU – Turkey relations, Turkey’s hesitance and caution have been understandable. In terms of conditionality, the first part of the approach, which is setting conditions, was realized but the second part, which is presenting a concrete incentive fell short. Thus, a lack of confidence dominated the EU-Turkey relations, including taxation talks. As a result, the convergence between Turkey and the EU in the area of taxation remained quite limited.

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