

10 Gender policy

A case of instrumental Europeanization?

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This chapter inquires into the gender policy effects of Turkey's integration with the EU. Although all policies can be argued to be gendered in one or another way, gender policy is here understood narrowly with reference to policies explicitly addressing the respective status of and relationship between men and women. While this includes gender (in)equality policies, policies aimed at restricting or protecting (wo)men's rights and policies aimed at preserving or transforming existing gender relations, it unfortunately excludes policies related to sexual orientation and LGBT rights. In what follows, we begin with an outline of the EU gender regime, and then provide a snapshot of gender policy in Turkey as of 1999 before assessing it in relation to the EU gender policy standard at the time. The fourth section maps post-1999 gender policy developments in Turkey, which constitutes the background for the subsequent assessment of the ways in which the EU accession process has influenced them. We conclude with a discussion on the extent to which it makes sense to talk about the Europeanization of gender policy in Turkey.

The EU gender regime

As with the *acquis communautaire* in general, the gender *acquis* has developed incrementally over time, and currently consists of multiple treaty provisions and directives, case law in the form of European Court of Justice (ECJ) rulings and various "soft" measures (Locher, 2012). It all began with Article 119 of the Rome Treaty of 1957, which stated that member states shall ensure and maintain "the principle that men and women should receive equal pay for equal work." While intended primarily to equalize economic competition, this article came to serve as "the anchor for the subsequent development of nearly all gender equality policies in the European Union" (Galligan and Clavero, 2012: 105). The ECJ turned it into an "actionable right" (Locher, 2012: 73), and its various gender equality rulings contributed to expand the protection of women's rights and fed into the creation of secondary gender law. While the first gender equality directive of 1975 reinforced the Rome Treaty's ban on sex-based pay discrimination, subsequent directives prohibited unequal treatment for men and women in access to employment, vocational training and promotion and working conditions; public and private

social security schemes; equal treatment between self-employed men and women, including in agriculture; and access to and supply of goods and services. Reflecting a certain shift in focus from equal treatment to work-family reconciliation, more recent directives have addressed the protection of self-employed women during pregnancy and motherhood; the safety and health of pregnant workers and workers who have recently given birth or are breastfeeding; parental leave; and the “burden of proof” in cases of sex-based discrimination.

With the Amsterdam Treaty of 1999, the principle of “equal pay for equal work” was expanded to “work of equal value”, a legal base was established to advance gender equality in matters of employment and occupation, and an allowance was made for positive action to ensure full gender equality in practice in working life. Furthermore, the treaty constituted promotion of gender equality as a central task of the Community, made it an objective to eliminate inequalities and promote equality across all activities, and gave the Council qualified competence to take appropriate action to combat sex-based discrimination in general. The Lisbon Treaty of 2009 included gender equality among the core values of the Union, gave a legal basis for the Charter of Fundamental Rights of the European Union, which states that “equality between women and men must be ensured in all areas,” and allows for “the maintenance or adoption of measures providing for specific advantages in favour of the under-represented sex” (Article 23). In addition, this treaty established a legal basis for the adoption of measures to combat trafficking and sexual exploitation of women and, in support of the aim of eliminating inequalities and promoting equality across all activities, included a declaration stating that “the Union will aim in its different policies to combat all kinds of domestic violence” and that “Member States should take all necessary measures to prevent and punish these criminal acts and to support and protect the victims” (Declaration 19). More recently, this was followed up with a directive on minimum standards on the rights, support and protection of victims of crime (gender-based violence included).

Beyond so-called hard law, the EU has pursued the aim of combating gender inequalities and protecting women’s rights through non-legislative policies or so-called “soft” measures such as recommendations, resolutions, formal opinions, framework strategies and action programmes (Beveridge, 2011). The EU has increasingly relied on such measures since the mid-1990s – combined, at times, with the Open Method of Coordination as a policy instrument – and then especially with regard to gender policy fields in which it claims limited competence. One case in point concerns women’s employment, where the European Employment Strategy (EES) of 1997 included the promotion of gender equality in employment and pay as a priority for action under the fourth pillar of “equal opportunities” (Aybars, 2008: 56–60). This has included a concern with work-family reconciliation (Morgan, 2008), and the EU has operated with targets for female labour force participation and child care facilities since 2000 and 2002 respectively. Another case in point concerns violence against women, where both the European Parliament and the European Women’s Lobby were instrumental in this issue being incorporated in EU policies on public health, human rights and

gender equality (Kantola, 2005: 161–168). Overall, the most important EU policy tool to combat such violence has been the three Daphne programmes, the first of which was initiated in 1997 (Montoya, 2009).

Gender policy in Turkey anno 1999

Overall, the national legislation operative at the time when Turkey was recognized as a candidate for EU membership provided for equality between men and women in the public sphere. The general principle of equality between men and women before the law was explicitly stated in Article 10 of the Constitution. With regard to participation in politics, women in Turkey gained the right to vote and stand for election in the early-1930s, and the relevant legislation as of 1999 included no distinction between men and women. Furthermore, the right of women to participate in economic life as waged labour or self-employed has been recognized since the Republic was established, and though certain types of work remained exclusive to one sex – with the Labour Law banning women from employment in “underground and underwater jobs”, industrial night work, as well as “heavy or hazardous” industrial jobs, the Law on Nursing banning men from that profession, and the regulation on prostitution limiting lawful sex work to women – the Labour Law included a provision on equal pay for men and women performing the same job with the same productivity. Finally, boys and girls in Turkey have been subjected to the same compulsory basic education since the enactment of the Law on the Unification of Education in 1926, and equal rights to education was enshrined in the Constitution.

While the legal situation in Turkey as of 1999 seemingly included women as equal parties to the social contract, the more specific marriage contract guaranteed male domination within what Article 41 of the Constitution defines as the “foundation of the Turkish society” – namely, the family. In the Turkish Civil Code (TCC), it was explicitly stated that the husband is the breadwinning “head of the [marriage] union” (Article 152), giving him the authority both to represent the family externally and to make all important decisions within and concerning the family. While the TCC in question secularized marriage, prohibited polygamy and made the terms of marriage, divorce and child custody more or less equal for men and women, it nonetheless reproduced the pre-Republican patriarchal order by effectively subordinating women to men within the family and, by implication, in society more generally. This view of women as subordinate and somehow belonging to men was reflected also in the social security system and the Turkish Penal Code (TPC), with the latter recognizing neither forced marriage nor marital rape as crimes, providing reduced punishment of rapists marrying their victims, and allowing lenient punishment of so-called honour killings.

With regard to gender policy as such, governments in Turkey did for a long time seemingly assume that legal equality between men and women had been fully established in the early years of the Republic and that substantive gender equality would follow as the process of modernization continued to run its course. A move beyond this gender equality myth occurred only in the second half of

the 1980s, when issues related to women and gender (in)equality became more prominent on the agenda of public authorities. Institutionally, this was reflected in the establishment of an Advisory Committee on Policies for Women under the General Directorate of Social Planning within the State Planning Organization in 1987; a temporary Gender Equality Research Commission in the parliament in 1988; separate women's units within some ministries and public agencies (beginning with the Ministry of Labour in 1989); a General Directorate on the Status and Problems of Women (KSSGM) within the Ministry of Work and Social Security in 1990; a position of State Minister for Women and Family Affairs in 1991; and a Department for Social Structure and Women's Statistics within the State Statistical Office in 1993.

In terms of actual policies, the growing salience of issues related to women and gender (in)equality was reflected in the greater attention given to women in the Five-Year Development Plans (beginning with the sixth one for 1990–94); the launching together with the UNDP of a National Programme for the Enhancement of Women's Integration in Development Project (1993–2000); the introduction of various projects to promote women's entrepreneurship (beginning with a micro-credit program in 1993); the launching together with the World Bank of the Women's Employment Promotion Project (1994–2000); the initiation of a Project for the Improvement of Girls and Women's Education (1997–2000); and efforts on the part of KSSGM to change laws discriminating against women. KSSGM also prepared a National Action Plan that proposed courses of action related to women's education and training, the situation of "girl-children", women's health, violence against women, women in economic life, women's participation in decision-making processes, institutional mechanisms for the enhancement of women, and women in a media context (KSSGM, 1998). Finally, the parliament passed the Law on Protection of the Family in 1998, which was the first legislation addressing domestic violence in Turkey.

Overall, although governmental authorities did not have a comprehensive and particularly active gender policy as of 1999, Turkey was clearly inside of a process whereby women's rights and gender equality were taken more seriously. Two factors in particular had played into this. First, the UN had led efforts aimed at improving the status of women since the 1970s. The outcomes of the four world conferences on women organized between 1975 and 1985, as well as the UN General Assembly's acceptance of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in 1979, had important gender policy effects in countries around the world, and Turkey was no exception to this (Kardam, 2005). Second was the emergence in Turkey of an autonomous women's movement in the 1980s. Informed by second-wave feminism, this movement took specific aim at inequalities within the private sphere, violence against women across the public and private spheres and other attempts to control women and their bodies. While the movement engaged primarily in consciousness raising, street demonstrations, public petition campaigns and legal activism until the early 1990s, a strategic relationship then developed between some members and KSSGM (Kardam, 2006: 12–3).

Turkey and the EU gender policy standard

With regard to the general principle of gender equality, there was only limited misfit between gender policy in Turkey as of 1999 and the EU gender policy standard – this, at least, with regard to legislation concerning the public sphere. As outlined above, equality before the law was sanctioned by the Constitution, and although certain pieces of legislation contained discriminatory provisions, there was no fundamental legal discrimination of women with respect to participation in economic, political and social life. In contrast, there was a significant misfit between legislation in Turkey and the EU gender policy standard regarding the respective position of men and women within the private sphere. As noted earlier, by effectively subordinating women to men, the TCC constituted the family as a fully patriarchal institution. Despite the Constitutional Court having annulled certain inequality provisions in the TCC before 1999, several remaining articles were in fundamental conflict with the EU gender policy standard.

Concerning equality at work, one cannot talk about a simple (mis)fit between conditions in Turkey and the EU gender policy standard. However, the categorical ban of one sex from certain occupations was a clear case of legal discrimination breaking with EU rules on non-discrimination. Furthermore, while Turkey's Labour Law was more or less aligned with the EU's equal pay rules, gender equality in employment more generally was not legally protected. Moreover, while the principle of equal treatment applied in state and occupational social security laws, the retirement age was different for men and women, female children were given preferential treatment with regard to survivor's benefits, the social security law for self-employed in agriculture applied only to "heads of households", and occupational social security laws included no maternity protection. Compared with the EU rule of a minimum of 14 weeks maternity leave (4 of which compulsory), Turkey's Labour Law and Civil Servant Law respectively prescribed compulsory paid maternity leave of 12 and 9 weeks and allowed for additional unpaid leave of 6 and 12 months. While women employed as civil servants were fully protected against dismissal due to pregnancy and maternity, such protection was not up to the EU standard in the Labour Law. Finally, the relevant legislation in Turkey included no parental leave and did not comply with EU rules concerning "burden of proof" in connection with sex-based discrimination.

With respect to substantive gender equality, it is difficult to say something clear about the extent of fit between gender policy in Turkey and the EU gender equality standard. While the latter implied a commitment to the equal participation of men and women in economic, political and social life, the EU's limited capacity implied that there was no clarity as to how equal such participation should be. However, taking into consideration both the enormous gender gaps in economic, political and social life that existed in Turkey at the time, and the rather limited policy efforts made to close them, it can be argued that there was a significant misfit between gender policy in Turkey and the EU gender policy standard. Beyond gender equality legislation in the field of employment, the EU did at the time not prescribe particular policy approaches or instruments for the sake of

achieving greater substantive gender equality. However, against the background of positive action being allowed and gender mainstreaming being recommended, it can be noted that no positive action had been taken by a government in Turkey, and that there was only a weak rhetorical commitment to gender mainstreaming.

Regarding women's rights in general, it is again difficult to say something clear about the extent of fit between policies in Turkey and the EU gender equality standard. While there was only limited misfit with respect to legislation on equal rights and freedoms, multiple factors worked to prevent women from enjoying such rights and freedoms in practice – including, not least, the incomplete implementation and enforcement of legislation, the lack of knowledge about rights and freedoms on the part of women and the strong influence of patriarchal social norms. With respect to violence against women, one can more easily talk about a significant misfit due to the extent of such violence in Turkey at the time, as well as the limited efforts made to prevent it, protect the victims and punish the perpetrators. This assessment holds irrespective of the enactment of the Law on Protection of the Family in 1998.

With regard to the formal-institutional capacity in Turkey to manage the accession process and formal interaction with the EU in connection with gender policy, a so-called national women's machinery (NWM) already existed in 1999 in the form of KSSGM. Against this background, and with reference also to its extensive interaction with at least parts of the women's movement, it was argued at the time that Turkey was well prepared to deal with EU-related gender matters. However, KSSGM suffered from two important and related weaknesses (Kardam, 2006): first, it had a problematic status within the government bureaucracy – this partly because various attempts to provide it with a proper legal basis failed, and partly because it was frequently moved around from one government agency to another. Second, KSSGM had very limited human and financial resources at its disposal, and the lack of a proper budget and a corresponding dependency on external project funding implied a lack of continuity and high turnover of staff.

In informal-institutional or normative-ideational terms, while there is no doubt that gender equality as a general norm gained ground in Turkey from the mid-1980s until the turn of the millennium, it is equally clear that it remained a very contentious political issue throughout the same period. Simplifying somewhat, one can talk about two competing gender norms in Turkey at the time, with one conceiving of women first and foremost as individual citizens and favouring equality between men and women in both law and practice as well as across the private and public spheres, and another conceiving of women first and foremost as family members (wives, mothers and daughters) and favouring a traditional division of labour between men and women based on the notion that they complement each other. While the latter position did not necessarily oppose equal opportunities as an abstract principle, the idea of more substantive gender equality was perceived as an existential threat to the institution of the family. As of 1999, it is fair to argue that the majority of people in Turkey did not accept or had not internalized gender equality as a positive norm.

Post-1999 gender policy developments in Turkey

In the years 2001–04, the parliament in Turkey passed several significant pieces of “gender equality legislation”. First, two amendments were made to the Constitution. With regard to the family, Article 41 was amended in 2001 to read: “[f]amily is the foundation of the Turkish society and based on the equality between the spouses.” With regard to gender equality more generally, the following text was included as a separate paragraph in Article 10 of the Constitution in 2004: “Men and women have equal rights. The state has the obligation to ensure that this equality exists in practice.” Second, the TCC was amended in 2001. In place of the patriarchal provisions found in the old code, the new one stressed that spouses are jointly responsible for the marriage union and its financial maintenance, that they have equal authority to represent this union externally, and that they have shared authority to make decisions within and concerning the family. In cases of disagreement regarding issues such as child custody, a resolution would be based on a court decision rather than the will of the husband. The amended TCC also increased and equalized the minimum age of marriage, and introduced a regime whereby property obtained in the course of a marriage would be equally shared in the case of divorce.

Third, the Labour Law was amended in 2003 to include prohibition of discrimination based on sex in employment relations, prevention of lawful dismissal of women on the ground of pregnancy, explicit reference to “sexual harassment” as a valid reason to terminate a labour contract and claim compensation and extension of compulsory paid maternity leave from 12 to 16 weeks. Furthermore, female workers with a child below the age of 1 year was granted 1.5 hours paid nursing leave per day. According to a related by-law of 2004, workplaces employing 100–150 female workers had to establish nursing rooms, while those employing more than 150 female employees had to establish day nurseries made up of a nursing room and crèche. Finally, the prohibition on women working night shifts in the industrial sector was abolished, and an amendment to the regulation on arduous and hazardous work allowed women to occupy such jobs under certain conditions. In addition, a circular prepared by the Prime Ministry in 2004 aimed at ensuring gender equality in the process of recruiting civil servants.

Fourth, the parliament introduced two pieces of legislation relevant to violence against women in 2004. First, it significantly amended the TPC, with the result that sexual crimes were classified as “crimes against individuals” rather than “crimes committed against rules of good manner and the order of the family”; the crime of rape was extended to include marital rape; increased punishment for the crime of sexual harassment within power and authority relations was extended to include such relations in workplaces; the punishment of rapists marrying their victims could no longer be reduced or suspended; and “customs killings” were included among crimes subjected to aggravated punishment. In addition to this, the new TPC made it a crime to request or conduct a virginity test without a court order or prosecutor decision. Second, an amendment to the Municipality Law obliged all municipalities with a population above 50,000 to open shelters for women and children in cases of domestic violence.

In addition to the above pieces of gender equality legislation, the NMW was renamed the General Directorate on the Status of Women (KSGM) and given a legal status under the Prime Ministry in 2004. This expanded KSGM's objectives and duties and provided it with additional staff and regular funding through the government budget (Kardam, 2006). Furthermore, an advisory board consisting of KSGM officials, representatives of other government units and NGO representatives was established in 2005. As to non-legislative policies aimed at increasing women's status in society, the greatest efforts made in the early 2000s concerned education, with the government not only introducing a Conditional Cash Transfer Programme in 2003, but also engaging in campaigns aimed specifically at getting girls enrolled in primary school – including, not least, the campaign “Hey Girls, Let's Go to School” initiated by the Ministry of Education and UNICEF in 2003. With regard to efforts aimed at enhancing women's participation in work life, one cannot talk about anything like a comprehensive or integrated strategy at the time, and policies were largely limited to the promotion of flexible work arrangements, entrepreneurship, and employability through training as part of active labour market policy (Toksöz, 2007).

From 2005 onwards, the most immediate and greatest gender policy changes occurred in the field of violence against women. In 2005, an ad hoc Parliamentary Committee on Customs and Honour Killings and Violence Against Women and Children was established, and its report of 2006 included a series of recommendations on how to combat such violence. With reference to this report, the Prime Minister's Office prepared a circular on measures to prevent honour killings and violence against women and children in 2006. In 2007, the 1998 Law on Protection of the Family was amended, with both the definition of violence extended to include unmarried couples, couples living separately and other family members, and a specification of rehabilitation measures for perpetrators. Two other initiatives were also taken in 2007. First, the establishment of a Committee for Monitoring Violence Against Women under the coordination of KSGM. Second, the initiation of a KSGM-administered project on Combating Violence Against Women. This was part of a more comprehensive project on Promoting Gender Equality (2007–08) and consisted of nationwide research; preparation of a national action plan (KSGM, 2007); formulation of a database model; development of models for service delivery; and preparation of modules for awareness raising and training. With technical assistance from UNFPA, the Ministry of Interior implemented a Women's Shelters project (2008–10). In 2012, the 1998 law on domestic violence was replaced with the Law on Protection of the Family and Prevention of Violence Against Women, which extended the scope of violence covered and introduced additional preventive and protective measures. Finally, a new national action plan (KSGM, 2012) was adopted in 2012 by the Ministry for Family and Social Policies – a new ministry of 2011 that replaced the former State Ministry of Women and Family Affairs, and into which KSGM was incorporated.

In conjunction with or integral to policy developments related to violence against women, several other and more general gender policy developments also occurred after 2005. First, as part of the above-mentioned project on Promoting

Gender Equality (2007–08), KSGM’s capacity, documentation centre and website were further developed, and a draft model of a gender equality board, a national action plan on gender equality (KSGM, 2008), a communication strategy and a gender equality training programme were prepared. Second, a consultative parliamentary Committee on Equal Opportunities for Women and Men was established by law in 2009, the purpose of which is to give opinions on the alignment of laws and draft laws with the Constitution and international agreements; monitor developments concerning gender equality issues domestically and internationally; and examine claims regarding sex-based discrimination and gender equality violations submitted to the parliament. Third, a constitutional amendment of 2010 opened up for the use of positive action by adding the following sentence to Article 10: “Measures taken for this purpose [i.e. ensuring that men and women have equal rights in practice] shall not be interpreted as contrary to the principle of equality.”

With regard to gender equality at work, some legislative changes have also occurred since 2005. First, the gender requirement in the Law on Nursing was removed in 2007. Second, a provisional article added to the Unemployment Insurance Law in 2008 introduced an incentive scheme whereby the government would make a five-year contribution to cover employers’ social insurance premiums for youth and women employed within a year. This scheme was extended and expanded to include also some men for a new five-year period with the passing of an Omnibus Law in 2011. Third, the last-mentioned law included also a series of changes to the leave articles in the Civil Servants Law, with the unpaid maternity leave extended from one to two years, the paid paternity leave extended from three to ten days, a two-year unpaid paternity leave introduced for men, and the daily nursing period extended from one and a half to three hours for the initial six months after the maternity leave. Finally, the Social Insurances and General Health Insurance Law introduced in 2008 implied that the minimum retirement age will increase gradually to 65 for both men and women by 2048.

Concerning non-legislative policies aimed at enhancing women’s participation in economic life, a general commitment to increasing female employment has been repeatedly made, and the government has maintained its promotion of flexible work arrangements, female entrepreneurship and women’s employability through education and training. In 2010, the Prime Ministry issued a circular on increasing women’s employment and ensuring equal opportunities, which envisaged the introduction of gender mainstreaming in employment policy. The issue of women’s employment has been dealt with also in connection with efforts to develop a National Employment Strategy (NES), with the most recent draft declaring “equality of opportunity” as a general principle and including 35% female labour force participation as a target for 2023 (MLSS, 2012: 27). A notable change in both the NES and the Tenth Development Plan (MoD, 2013) is the attention given to “work-family harmonization”. In the development plan, which established 34.9% female labour force participation as a target for 2018, it is stated that such harmonization should be facilitated through not only flexible work arrangements, but also parental leave and expanded care services. Although the first annual programme based on this plan included nothing concrete in this

respect, the government announced a forthcoming “female employment package” in September 2013, which would include a significant extension in maternity leave, as well as allowance for mothers to work part-time with full salary for a period after maternity leave.

With regard to education, it can finally be mentioned that the earlier efforts to increase the enrolment of girls in education have been maintained. This concerns not only various campaigns and projects to encourage female education, but an extra 20% incentive for the school enrolment of girls was also incorporated in the Conditional Cash Transfer Programme in 2005. As to secondary education, an amendment to the Education Law in 2012 extended compulsory education from 8 to 12 years.

Gender policy changes and Turkey’s accession to the EU

Although Turkey was already inside of a process whereby women’s rights and gender equality were taken more seriously, the accelerated pace of gender policy change after the turn of the millennium was undoubtedly influenced by Turkey being accepted as an EU candidate country, gender equality and women’s rights being explicitly emphasized in connection with the Copenhagen criteria at the outset and the fairly broad-based political consensus in Turkey on the desirability of complying with the Copenhagen criteria. With regard to the second element, the first progress report on Turkey included a paragraph on “women’s status” under the heading “civil and political rights” (CEC, 1998: 17), and the first Accession Partnership of 2001 stated that Turkey should, in the medium term, “[g]uarantee full enjoyment by all individuals without any discrimination and irrespective of their . . . sex . . . of all human rights and fundamental freedoms”; “[r]emove remaining forms of discrimination against women and all forms of discrimination on the grounds of sex”; and “[t]ranspose EU legislation in the fields of . . . equality of treatment between women and men” (EC, 2001: 19–20). In accordance with this, the first National Programme for the Adoption of the Acquis (NPAA) of 2001 specified several legislative gender equality measures, many of which were realized with the constitutional amendment of 2001, the new TCC of 2001, and the new Labour Law of 2003. As was the case also with the new TPC of 2004, they were all to some extent justified with reference to the EU accession process.

While this gives an indication of the desire on the part of the political elite to comply with EU requirements, the latter has not constituted the sole reference point for post-1999 gender-related legislative changes, and it can be argued that there has rather been a mutually reinforcing relationship between EU requirements and other international obligations on the part of Turkey. This concerns especially Turkey’s obligations vis-à-vis CEDAW (ratified with some restrictions in 1986), which not only informed earlier efforts to change discriminatory laws in Turkey (Acar, 2000), but which the Commission also invoked when stressing the need for legislative changes. In this connection, it can be noted that gender policy developments within the EU have themselves been significantly influenced by broader international developments in general, and CEDAW and the 1995 Beijing

Platform for Action in particular. With regard to Turkey, although we have found no evidence to support the claim that the government signed and ratified CEDAW in 1986 primarily because of the government's ambition to join the European Community (Berik, 1990: 83), the EU integration process was central to Turkey removing its restrictions in 2000, and signing and ratifying the Optional Protocol in 2002.

Considering domestic politics, a general impact of the early EU integration process was a strengthening of domestic forces pushing for greater gender equality and better protection of women's rights. With regard to the NWM, the need to improve the administrative capacity to deal with gender-related issues led to an early commitment to give KSSGM a legal basis (NPAA, 2001: 26). This happened in 2004 and resulted in greater resources being allocated through the government budget. A few years later, KSGM also benefited from the Twinning project "Promoting Gender Equality" (2007–08), which aimed to strengthen its institutional capacity. With regard to civil society, the EU integration process created opportunities for women's NGOs to push for policy changes domestically with reference to EU requirements, put indirect pressure on the government through EU institutions, and draw on links with women's NGOs elsewhere in Europe. Furthermore, women's NGOs benefited from the EU's promotion of more participatory policymaking, as well as from funding within the context of EU support for civil society development (Ergun, 2010). However, this strengthening of certain domestic forces did not imply "game over" for socio-political forces less enthusiastic about or hostile to the idea of gender equality, and this becomes clear when we look closer at some of the gender policy changes discussed earlier in terms of adaptational pressure and domestic politics.

With regard to the general principle of gender equality, we previously indicated that there was only limited legislative misfit in 1999 and, in consequence, limited adaptational pressure in connection with the EU integration process. Despite this, "to reinforce in the Constitution the principle that men and women have equal rights" was included as a short-term measure in the first NPAA (2001: 26), and there has been a recurring domestic dispute regarding how this should be done. Informed by a concern with substantive gender equality, the women's movement and some opposition parties have been pushing for the explicit inclusion of a positive action allowance in Article 10 of the Constitution. Against this, AKP has sought to limit the scope of this Constitutional provision to equality before law. When the dispute was the most heated in 2004, AKP nonetheless accepted the inclusion of a statement on the state having an obligation to ensure equality before law in practice. More surprisingly, the AKP government included an allowance for positive action when proposing an amendment to Article 10 in 2010. Against the background of this being done without any immediate pressure, Göksel (2011: 216) has argued that the amendment in question was a "strategic political move [used] as a cover up for more contested amendments" included in the package of such submitted to a referendum. Importantly, however, the positive action in question is not framed with reference to substantive equality, but rather appears in the context of equality before law.

In connection with equality within the family, we previously indicated that there was significant misfit between the situation in Turkey and the EU gender equality standard due to the patriarchal nature of the TCC. In consequence, the Commission applied pressure on public authorities in Turkey already in its first progress report by stating that “[t]he Civil Code has yet to be brought in line with CEDAW and still retains discriminatory provisions concerning marital rights and obligations” (CEC, 1998: 17). A revised code was in progress at the time, and to “enact the Draft [TCC] embodying improvements in gender equality” was included as a short-term measure in the first NPAA (2001: 26). With reference to CEDAW, this is something that women’s NGOs and KSSGM had promoted for a long time, and the former maintained strong pressure on public authorities throughout the process (WWHR, 2005). Although the draft TCC passed through the parliament more or less unaltered, it did not happen without opposition, with the two most contentious issues being the abolishment of the term “head of household” and the introduction of a property regime whereby assets acquired during a marriage would be divided equally in the case of divorce. In general, “[c]onservatives believed that . . . establishing gender equality within the family would lead to the collapse of this social institution,” and “Islam and Islamic law . . . alongside national values, culture and traditions” were invoked in defence of the status quo (Erdem-Akçay, 2013: 82, 87). Although the applicability of the property regime was restricted to marriages established after the new TCC became operative, even some parties opposing parts of the new code supported it being enacted. While the EU was clearly not the “primary driving force” behind this reform (WWHR, 2005: 7), the parliamentary majority agreed on it “because the amendment had become a condition for accession talks with the [EU]” (Arat, 2010a: 250).

With regard to equality at work, we previously noted that it was impossible to talk about a simple (mis)fit between the situation in Turkey and the EU gender policy standard as of 1999 – this due to the national legislation being partly aligned and partly nonaligned with the relevant part of the *acquis*. Irrespective of this, given that the EU standard related to equality at work consists of a series of directives touching upon fundamental rights, the pressure on Turkey to transpose all gender equality directives was strong at the outset (EC, 2001: 20). Towards this end, the first NPAA (2001: 330–331) set out a plan for the transposition of the relevant EU directives, the revised Labour Law of 2003 and related changes in the Civil Servants Law went some way in transposing the directives, and the second NPAA (2003: 489, 497–499) outlined a plan for completing the transposition process. However, despite not only this plan, but also the revised plan outlined in the third NPAA (2008: 211–212), all progress reports calling for the full transposition of all gender equality directives (see also EC, 2006: 48, 2008: 16; CEC, 2006: 13), and a certain degree of mobilization on the part of women’s NGOs, several of the directives in question remain only partially transposed. While this is a clear case of foot-dragging, the extent to which it reflects also institutional incapacity should become clear in the wake of a recently completed Twinning project, which identified shortcomings in the work-related legislation with an eye to its further alignment with the gender equality *acquis*.

Regarding the transposition of gender equality directives that have occurred, there has for the main part been little political debate and few disagreements. The main exception to this concerned the directive on social security which, as noted by Göksel (2011: 217), was interestingly a case of “low misfit and low adaptational pressure” in that “the only incompatibility concerned the different retirement ages for women and men.” What happened, however, was that the gradual increase in and equalization of the retirement age by 2048 was incorporated in a radical change of the social security system as demanded not only by the EU, but also by the IMF and the World Bank. While the Law on Social Insurance and Universal Health Insurance adopted in 2008 was opposed by many social groups – including women’s NGOs arguing that gender-neutral retirement conditions reflected “a formal understanding of equality, which underestimated the *de facto* inequalities caused by socially embedded gender norms in the society such as women’s family and care responsibilities” (Göksel, 2011: 217) – the AKP government pushed through the new law without any concern for the opposition.

Among the directives that have yet to be fully transposed, the one on parental leave has caused the most controversy in Turkey. As noted by Göksel (2011: 213), this is a case where “the level of misfit and degree of adaptational pressure have always been high, due to the non-existence of any legal provision in the Turkish legislation compared to the EU *acquis*.” Accordingly, the second NPAA (2003: 498) scheduled the complete transposition of this directive by the end of 2004. This did not happen, however, and a draft law prepared by KSGM and submitted to the parliament in 2005 moved nowhere. One reason for this was that employer associations expressed “reservations against the immediate introduction of the parental leave right into Turkish legislation” (Göksel, 2011: 214). Based on a conception of parental leave as an important means to reconcile work-family lives and transform existing gender relations, women’s NGOs responded by calling for the immediate transposition of the directive.¹ However, despite also Commission reports having repeatedly called for alignment concerning parental leave since 2003, it took until 2011 for an equivalent arrangement to be introduced for civil servants. In addition to the opposition from employer associations, AKP’s foot-dragging on parental leave is plausibly due also to “a lack of political will or inertia . . . owing to its conservative stance against women” (Göksel, 2011: 214).

With regard to substantive gender equality, we previously concluded that there was a significant misfit related to the minimal efforts to close the enormous gender gaps in Turkey on the one hand, and the EU’s commitment to substantive gender equality on the other. Accordingly, the EU has applied pressure on authorities in Turkey to intensify its efforts to increase women’s participation in economic, political and social life in all progress reports since 2003 (see also CEC, 2006: 14; EC, 2006: 38, 2008: 9). With regard to women’s participation in politics, it is clear that the EU’s call for action has not been heeded. Despite an acknowledgement of women’s participation in politics being “inadequate” (SPO, 2006: 53), the government in Turkey has done nothing to increase it. While the women’s

movement and some opposition parties have campaigned extensively for measures to increase women's representation in politics – including, not least, through the introduction of a legislative quota in the Constitution – the AKP government has dismissed all such calls (Bilgili, 2011).

In contrast, the government has made quite some efforts to increase the enrolment of girls in school. While the early efforts related to primary school enrolment were independent of the EU accession process, more or less all progress reports have stressed the need for greater efforts to increase the enrolment rate for girls at all levels of education (see also EC, 2006: 38, 2008: 9), and Turkey has shown a certain commitment to align its policies with those of the EU by participating in its educational work programmes. Although the EU's education policy includes nothing specific on gender equality, it incorporates efforts to decrease the early-leave rate and increase the overall rates of students completing secondary school and enrolling in higher education. Turkey is completely off the EU standard in these respects, and the EU has provided incentives for improved performance by funding projects aimed at increasing the school enrolment of girls in particular (MLSS, 2007: 181ff.). Although there has been no organized opposition to efforts aimed at increasing female school enrolment, education has always been a contentious issue in Turkey, and reappeared as such when the government proposed amendments to the Education Law in 2012. While gender was not at the centre of contention, the proposed option of home/distance schooling after the first four-year stage was criticized for paving the way for an increase in the number of “child brides”. In the end, this option was postponed till the third four-year stage of compulsory education, but it was maintained that pupils could attend religious *Imam-Hatip* schools from the fifth year of education. While AKP argued that this would contribute to keep more girls from conservative families in school, the overall gender-equality effect is very uncertain due to the schools in question being known as hotbeds for the (re)production of conservative gender norms (Acar and Ayata, 2002: 94–99).

With regard to the participation of women in economic life, the government in Turkey has clearly gone some way to introduce policy measures aimed at promoting women's employment. On the part of the EU, pressure on Turkey to do much more in this respect has not been limited to this issue being raised in all progress reports and revised accession agreements, but also followed from Turkey's need to align its employment policies with the EES. Furthermore, the EU has provided incentives by funding projects aimed at increasing female labour force participation (MLSS, 2007: 159ff.). Overall, the EU accession process has clearly contributed to put women's participation in economic life higher on the political agenda, and specific policies aimed at increasing women's employment have been influenced by the process of aligning Turkey's employment policy with the EES – this especially with regard to the emphasis placed on flexible work arrangements and employability-oriented labour market policies. Leaving aside the rather unambitious target of 35% female labour force participation by 2023 – this, at least, when compared with the EU target of 75% by 2020 – the government's policies to increase women's employment have been severely criticized

by the women's movement in Turkey for having both "tended to increase the association of women's employment with flexible and low-quality work without job security, and the reinforcement of the separation between women's jobs and men's jobs", and failed to integrate "a perspective that targets a transformation in the existing traditional gender division of labour" (KEİG, 2013: 5, 12).

A call for policy measures aimed at enabling women *and* men to reconcile their work and family lives has been made by the women's movement in Turkey for a long time and is integral to the EU's employment strategy. In this connection, the EU has emphasized not only flexible work arrangements, but also parental leave, expansion of childcare services and promotion of a more balanced division of labour in the private sphere. In 2002, the EU established the targets of childcare being provided to 33% of children under 3 years of age and 90% of children between 3 years and the mandatory school age by 2010. In Turkey, while the issue of work-family reconciliation was emphasized in KSSGM's National Action Plan of 1998, it is something that the AKP government has paid little attention to until very recently – this despite the Commission having explicitly emphasized the need for action in this respect. However, instead of making a clear commitment to increase the provision of care services and promote a more equal distribution of domestic responsibilities, the proposed policy measures reinforce a traditional division of labour and (over)protect women-as-mothers to the point of making them unemployable. What the AKP government refers to as "work-family harmonization" is treated as something that concerns women only, and the family component is clearly prioritized for women. This is all the more significant when considered in relation to the government's pronatalist discourse, idealization of the "three-generational family", and introduction of social policy schemes encouraging home care of the elderly, the disabled and children by family members (Yazıcı, 2012).

If we consider Turkey's overall efforts to increase women's participation in economic, political and social life, then they have been quite mixed in terms of both extent and impact. While quite a lot has been done and achieved in the realm of education (especially at the primary level), the gender gaps remain enormous with regard to participation in economic and political life. With regard to policy instruments, where the EU toolbox consists of gender equality legislation, positive action and gender mainstreaming (Woodward, 2012), public authorities in Turkey have for the main part focused on equal opportunity legislation. While this has been supplemented with some targeted campaigns and policy measures in the realms of education and employment, the use of positive action has been minimal, and the Commission has made a point of this by stating that "[t]he constitutional amendment providing for positive discrimination in favour of women has yet to produce results" (CEC, 2011: 31). In the light of persistent gender gaps in economic, political and social life, AKP's unwillingness to support such action serves as an indication of its lack of commitment to substantive gender equality. Finally, the government has failed to implement gender mainstreaming even in the required field of employment, and seems instead intent on pursuing what amounts to "family mainstreaming" in all economic and social policies (MoD, 2013: 44).

With regard to women's rights in general, we previously indicated that there was only limited misfit with respect to legislation on equal rights and freedoms but that multiple factors prevented women from actually enjoying their rights and freedoms. In this connection, the EU has used the monitoring process to exert strong pressure on the government in Turkey to make sure that girls and women enjoy full and equal rights in practice – this, not least, by continuously stressing the need to “turn the legal framework into reality” and engage in “awareness-raising on women's rights and gender equality, for both men and women” (CEC, 2009: 24). However, despite EU-funded and project-based training of civil servants as well as some awareness-raising campaigns, it is clear that the legislation in question has yet to be effectively implemented and enforced, and that girls and women remain far away from enjoying full and equal rights in practice.

Regarding violence against women, we previously argued that there was a significant misfit due not only to the extent of such violence in Turkey, but also the limited efforts made to prevent it, protect the victims and punish the perpetrators. As to adaptational pressure, the Commission emphasized this issue already in its first progress report (CEC, 1998: 17), and has continued to do so ever since. However, in connection with gender issues and the TPC reform, which was on the accession agenda primarily for other reasons (NPAA, 2001), the EU initially had a narrow focus on the allowance for reduced sentences for “honour crimes” (CEC, 2002: 45), and it was left to the women's movement in Turkey to push for a comprehensive reform “from a gender perspective” (WWHR, 2005). Their challenge to the “patriarchal construction of . . . women's bodies and sexuality [as] property of men, family, or society” (İlkkaracan, 2010: 198) was met with fierce resistance from AKP, which “based [its] defence of legally regulating women's sexuality on the notions of women's honor and virginity as elements of Turkish identity” (İlkkaracan, 2007: 273). Despite this, and due partly to its skilful engagement of both the UN and the EU in late-2003, the women's movement managed to get most of its proposals included in revisions made by the relevant parliamentary commission. Although the TPC reform almost collapsed after AKP controversially proposed to criminalize non-marital sexual relations shortly before the voting in the parliament, the latter passed the draft code without this proposal after the Commission indicated that it would advise EU leaders not to initiate accession talks unless the code was adopted. While the driving force behind “reforms promoting gender equality and sexual rights” (ibid: 259) was clearly the women's movement in Turkey, it is uncertain whether a new TPC with such content would have emerged without the EU accession process.

Following the TPC reform, women's NGOs and the EU maintained their pressure on the government to do more to both prevent violence against women and protect the survivors of such violence. In the case of the EU, much of the focus in the progress reports has been on the need to implement and improve existing legislation. While it is also the case that the Commission has shown a particular concern with certain types of violence (domestic violence, honour killings and early/forced marriages), the EU has more generally emphasized the need for Turkey to “pursue measures against all forms of violence against women” (EC, 2006:

38). Undoubtedly, the combined pressure exerted by the EU and women's NGOs had an impact, and the government somehow embraced the struggle to combat violence against women as its own in 2005–06. However, it should be noted that the government's engagement is framed somewhat differently than what is the case with both women's NGOs and the EU. For the latter, violence against women is both a human rights and gender equality issue, with combating such violence considered central to achieving *de facto* gender equality. While this understanding informed also pre-1999 efforts to combat violence against women in Turkey, the current government's approach is primarily oriented towards protecting the integrity of the family. The issue has largely been disconnected from a gender equality context, there is only limited use of a rights discourse and the focus is almost solely on domestic violence.

Finally, with regard to gender equality as a general norm in Turkey, we argued earlier that there was a significant misfit in 1999, and are of the opinion that the EU accession process has done little to change this. In connection with the gender equality legislation introduced since 2000, there has not only been significant opposition to basic changes, but the changes have fallen short of what a sincere commitment to gender equality would dictate. Furthermore, serious problems remain with regard to this legislation's implementation and enforcement, and State Minister Çubukçu's argument that "a law adopted in 15 minutes can take 15 years before it is implemented and sometimes 150 years before it becomes part of the cultural reality" is a bad excuse in light of the limited political will to turn gender equality into *de facto* reality.² Although Çubukçu added that "the greatest need is for social and cultural change," such change at the hands of AKP has increasingly involved the promotion of patriarchal social values and practices that run counter to any meaningful conception of gender equality. In 2010, PM Erdoğan put nothing in between when stating that "I do not believe in equality between women and men. That is why I prefer to say equal opportunities. Women and men are different; they are complementary to each other" (quoted in Göksel, 2011: 214). AKP and socio-religious groups linked to it are committed to a gender norm informed by a creationist conception of complementary difference, and seem determined to shape society accordingly (Arat, 2010b). This is evident not least in its disrespect for women's sexual and reproductive rights and freedoms (Acar and Altunok, 2013), which is a field where the EU is very hesitant to take a clear position. When the Commission nonetheless did so in connection with AKP's attempt to criminalize non-marital sexual relations in 2004, State Minister Akşit argued that "we cannot give up our own values just because we want to join the EU" (quoted in İlkkaracan, 2007: 248). If this is indicative of AKP's general stance on gender issues, then it implies an acceptance of neither the EU being a community of values, nor gender equality being one of its core values.

Conclusion: Europeanization of gender policy in Turkey?

Significant gender policy changes have occurred in Turkey since the turn of the millennium, and there is no doubt that the EU integration process has played

an important role in this connection. However, given that Turkey as of 1999 was already inside of a process whereby gender equality and women's rights were taken more seriously, any talk about these policy developments in terms of Europeanization must be qualified. With the exception of the still-incomplete transposition of gender equality directives into national legislation, it can rather make sense to talk about Euro-globalization, in that the EU integration process has contributed positively to a better alignment of gender policy in Turkey with globalizing gender norms enshrined in international conventions. With regard to formal-institutional developments in Turkey, it is interesting to note that the only gender-related institution explicitly prescribed by the EU (i.e. gender equality board) has yet to be established and that some institutions actually established are of a more general kind and do not correspond to anything specifically "European". With regard to non-legislative gender policies, Göksel (2011) has argued that one can talk about an EU-related learning effect with regard to how such policies are framed. However, this concerns primarily the use of a neoliberal discourse, which again is connected to broader international developments.

Whether one talks about Europeanization or Euro-globalization, it is not uncommon to argue that gender policy changes in Turkey since the turn of the millennium have emerged "from below" as a result of activism on the part of the women's movement (e.g. Uçan Çubukçu, 2012). While this movement certainly has played a central role in connection with some of the policy changes in question, its strength should not be exaggerated. In this connection, not only has the EU integration process contributed negatively to transform many women's NGOs into more socially disembedded project machines (Ergun, 2010), but the strategic partnership that once existed between the women's movement and KSSGM/KSGM has come to an end with the latter's incorporation into a ministry that treats women as a category of people in need of protection, and for which the integrity of the family is the overriding concern. If it was not for the EU integration process, then gender policy in the age of majority AKP rule would likely have been very different from what it has been. In this connection, it is important to stress that post-1999 gender policy changes have not reflected a broad normative commitment to gender equality in Turkey. Such a commitment was never a necessary condition for "compliance" with relevant EU requirements, and given the strength of patriarchal and sexist sentiments within AKP, it is difficult to avoid concluding that most gender policy changes since the early-2000s have involved a strong instrumental logic – this irrespective of their having been considered necessary to achieve EU membership, or the EU integration process itself having been considered necessary to achieve other domestic political objectives. Hence, our notion of 'instrumental Europeanization'.

Notes

- 1 Joint Press Release of Women's Organizations, March 2006.
- 2 "Women's rights in Turkey: Attitudes must change", European Parliament press release, 30 April 2009.

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