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Robert Schuman Centre for Advanced Studies
Integrating Diversity in the European Union (InDivEU)

External Differentiated Integration: The Modalities of
Turkey's Opting into the European Union

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European University Institute

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Integrating Diversity in the European Union (InDivEU) is a Horizon 2020 funded research project aimed at contributing concretely to the current debate on the 'Future of Europe' by assessing, developing and testing a range of models and scenarios for different levels of integration among EU member states. InDivEU begins from the assumption that managing heterogeneity and deep diversity is a continuous and growing challenge in the evolution of the EU and the dynamic of European integration.

The objective of InDivEU is to maximize the knowledge of Differentiated Integration (DI) on the basis of a theoretically robust conceptual foundations accompanied by an innovative and integrated analytical framework, and to provide Europe's policy makers with a knowledge hub on DI. InDivEU combines rigorous academic research with the capacity to translate research findings into policy design and advice.

InDivEU comprises a consortium of 14 partner institutions coordinated by the Robert Schuman Centre at the European University Institute, where the project is hosted by the European Governance and Politics Programme (EGPP). The scientific coordinators of InDivEU are Brigid Laffan (Robert Schuman Centre) and Frank Schimmelfennig (ETH Zürich).

For more information: <http://indiveu.eui.eu/>



**Integrating
Diversity in the
European Union**

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Abstract

Turkey's futures with the European Union has never looked so uncertain. Turkey's relations with the European Union are at a stalemate, with accession negotiations effectively frozen. Yet, Turkey and the EU have a high degree of functional cooperation, where Turkey complies with the EU acquis. Turkey's opting into the EU acquis in multiple policy areas, where its voluntary compliance-prior to or an alternative to accession, could be conceptualized as external differentiated integration. Turkey adjusts itself to the EU rules on foreign policy, customs union, Schengen regime, development policy to name a few. This paper looks at the varying degrees of Turkish compliance into the EU acquis, and proposes that Turkey will remain an integral part of the European integration.

Keywords

EU, Turkey, foreign policy, external differentiated integration.

Introduction

European integration is passing through turbulent times with uncertainty looming over the United Kingdom's exit strategy, Western Balkans' shaky accession process, the European Neighborhood Policy with mixed results for countries in the Eastern Partnership and the South Mediterranean. It is not surprising that Turkey represents another case as a third party, associated non-member for the European Union, where different shades of integration exist. While concepts such as 'variable geometry', 'multi-speed Europe', 'unity in diversity', or 'flexible integration' are utilized to label internal differentiation among the EU members (Stubb, 1996; Warleigh, 2002; Holzinger and Schimmelfennig, 2012; Leuffen and et., al.2013; Dyson and Sepos, 2010; Lord, 2015; Schimmelfennig and Winzen, 2020; Ganzle and et al, 2020), external differentiated integration is an emerging area of scientific inquiry for the European non-members (Lavenex, 2011; 2015; Schimmelfennig and Lavenex, 2009; Muftuler-Bac, 2017; Jokela, 2014; Eriksen, 2018; Fossum, 2019). The EU member states' opting out of European policies and non-members' opting in these policies along spatial, temporal and sectoral dimensions form the basis for assessing different aspects of differentiated integration.

Officially a candidate since 1999, negotiating for accession since 2005, Turkey's relations with the European Union have never been so uncertain. This uncertainty is reflected by the European Council on 26 June 2018 with its declaration that "Turkey has been moving further away from the European Union and that accession negotiations have therefore effectively come to a standstill."¹ This was more or less the first formal declaration by the EU that the accession negotiations underway since 2005 is effectively frozen, even though not formally suspended. Despite this *de facto* freeze in negotiations, Turkey still has a respectable degree of integration with the EU, and given the ambivalence of the EU's own futures, there is a need to reassess the modalities of cooperation for this complicated relationship. This is also why, the European Council's statement of 28 June 2018 that "Turkey remains a candidate country and a key partner in many areas", could be seen as a signal for the future of Turkey-EU relations that goes beyond a formal accession perspective.

The European Commission already attested to differentiated integration as a *modus operandi* for the EU's immediate future in its March 2017 White Paper on the Future of Europe where it raised the possibility that there are alternatives to membership for European countries, specifically, if "one or several coalitions of the willing (countries) emerge to work together in specific policy areas".² Given the Turkish adoption of EU rules under its Customs Union Agreement as well as its alignment to multiple EU legislation ranging from research, education, the environment to energy, the Turkish affiliation with the EU is extensive. While some of the Turkish alignment to EU policies is driven by its accession process, this alignment goes beyond the accession process as Turkey has developed a close relationship with the EU that has become formalized and institutionalized overtime, even in the absence of an immediate accession. As a result, this paper proposes that Turkey's relations with the EU have evolved towards a more functional cooperation, attesting different shades of external differentiation, and demonstrates the multiple ways within which this functional cooperation could be empirically observed as a form of external differentiated integration, going beyond accession.

Since 2016, internal and external challenges to Turkey's relations with the EU are highly visible. Domestically, Turkey is going through an unprecedented political transformation, with an attempted military take-over attempt in July 2016, a Constitutional referendum in April 2017 and the shift to a presidential system from a parliamentary system in June 2018 (Muftuler-Bac, 2019a). Externally, the European Union is confronting its own challenges with Brexit, rising populism, democratic backsliding,

¹ <https://www.consilium.europa.eu/media/35863/st10555-en18.pdf>

² European Commission, *White Paper on the Future of Europe: Reflections and Scenarios for the EU27 by 2025*, COM 2017(2025) final, Brussels, 1 March 2017.

migration crisis, and Euroscepticism in multiple EU member states as well as the unexpected consequences of a global health crisis in 2020. As a result of the interplay of these internal and external factors, there are new question marks over Turkey's future in the EU. However, parallel to these challenges, Turkey's relations with the EU in some areas, such as cooperation towards migration, energy sectors, transport routes, and economic relations have remained robust and ever expanding (Muftuler-Bac, 2017; Ozer, 2019; Saatcioglu, 2019). The dilemma seems to be related to a restructuring of the Turkish-EU relations into a functional, more transactional format, which is unfortunately coupled with the loss of the political anchor in the process.

It was not always like this. When the accession negotiations were opened for Turkey in 2005, the political landscape in Turkey and the EU looked promising pending both sides stayed on course. Turkey's accession, while difficult, seemed likely (Müftüler-Baç, 2005; 2008). Turkey has been associated with the EU for a long time, since the Ankara Treaty of 1963, and remains, at least on paper, part and parcel of the EU enlargement process. Given the sheer size of its economy as the sixth largest economy in Europe, the EU's 5th largest trade partner, and its geographic location, Turkey remains a significant partner for the EU irrespective of its accession (Karakas, 2013). Now, in contrast, the effective freeze in Turkey's accession process—wherein no new chapters have been opened since 2015—indicates that despite the Turkish willingness on paper to accede to the EU, its future as an EU member is not promising (Muftuler-Bac, 2017). This brings forth the following questions: If Turkey's accession to the EU in the near future is unlikely, does this signify the end of Turkey's integration into the EU? Or, alternatively, is it possible to conceptualize Turkey's relations with the EU from a different theoretical framework where formal accession might no longer be the only game in town?

The future of the EU as one of differentiated integration for both its member states but also for the non-EU European states in the European orbit (Fossum, 2019; Eriksen, 2018; Lavenex, 2011; Schimmelfennig, 2014) shapes the modalities of Turkey-EU cooperation as well. In order to understand Turkey's futures in the EU, the EU's own tools for deepening functional cooperation with Turkey need to be assessed. The key puzzle is whether Turkey's compliance to the EU *acquis* irrespective of its accession prospects could be labelled as external differentiated integration. While there are multiple works on Turkey's relations with the EU, there is relatively little on what kind of modalities would emerge in remolding Turkey's relations with the EU along differentiated integration lines (Muftuler-Bac, 2017; Karatas, 2013; Ozer, 2019; Saatcioglu, 2019; Cihangir-Tetik and Muftuler-Bac, 2018). In response, this paper proposes that the reformulation of Turkey's relations with the EU seems to fit into a general pattern of loose, transactional relations with the EU's periphery, but also as a model case of external differentiation, marking the end of the accession logic to some extent.

The paper first encompasses a snap shot of the theoretical lenses for external differentiated integration, and then provides an analysis of how this pattern would enable us to assess Turkey's relations with the EU. The paper relies on a quantitative analysis of trade statistics, and the EU-LEX documents, with an emphasis on the Treaties concluded with Turkey. This empirical analysis indicates that a robust pattern of integration exists between Turkey and the EU, with the Turkish government opting into the EU policies at a high degree of compliance, even with the accession process on hold. However, a major consideration is to assess the degree to which functional cooperation could flourish in the absence of political concerns, which this paper does not the space to focus on. The paper contributes to the InDivEU project's key goals with its application of the differentiated integration model to the Turkish case.

External Differentiated Integration

While the British referendum in June 2016 to withdraw from the EU has been a shock for many, the European Union has already been going through bouts of change with member states opting out of some EU policies (Stubb, 1996; Warleigh, 2002; Dyson and Sepos, 2010), and non-member states opting in for others for the last 30 years (Schimmelfennig and Lavenex, 2009). The EU represents a unique

experiment of differentiation (Schimmelfennig and Winzen, 2020), yet whether this differentiation is of a permanent nature, or involves member states all going towards the same direction in integration, albeit with different speeds still remains to be seen (Kolliker, 2001; Lord, 2015; Ganzle and et.al., 2020; Leruth and et.al., 2019). Similarly, one might conceptualize the different trajectories for non-member states opting into the EU policies as a permanent status of associating oneself with the EU (Gstohl, 2015) and/or as a preparatory trajectory for eventual accession sometime in the future (Holzinger and Tosun, 2019). External differentiated integration for non-EU members involves temporal alignment to EU policies and territorial inclusions—such as security cooperation, participation in the Single Market, free trade agreements, Customs Union or participation in the Schengen zone for third parties and policy opt-ins such as the adoption of EU regulations in electricity, telecommunications, and education.

European integration varies across policies, members and non-member states, and according to the level of authority between EU institutions and national governments. The EU's centralization and territorial shape vary across policies and "integration has been accompanied by differentiation" (Leuffen, et al. 2013, 1). While some existing studies on the EU's external differentiated integration tend to approach this issue from an external governance point of view (Lavenex, 2011; 2015), others focus on the EU's ability to diffuse its norms to the European periphery via such instruments as the European Neighborhood policy (Borzell and Van Hullen, 2014; Muftuler-Bac, 2019b). The non-EU European countries adopt the EU norms and rules when there is a significant financial incentive for them to do so, especially when there is an asymmetry in economic and political power as in the Western Balkans, and the Eastern Partnership countries. In other words, the non-member European countries are tempted to adopt such rules if and when there is a financial compensation or expected monetary gains from increased trade, as in the Ukrainian and Moldova cases. The non-EU European countries' adoption of EU policies is conceptualized as the EU's ability to 'induce-in' third parties as part and parcel of expanding the European economic pie (Hvidsten and Hovi, 2015). Similarly, Holzinger and Tolun (2019) demonstrate how the EU is able to 'induce in' these third parties/non-members into EU policies via tangible incentives, i.e., financial compensation in return for the adoption of the EU policies.

While external differentiated integration explains non-EU member states' alignment to the EU rules, law and institutions in specific policy areas, it, nonetheless, has various shapes and forms. European Economic Area (EEA), bilateral agreements with Switzerland, Customs Union Agreement (CUA) with Turkey, Stabilization and Association Agreements (SAAs) with the Balkans, the European Neighbourhood Policy (ENP) extend EU rules and policies beyond its borders (Leuffen et. al. 2013, 26-27). External and internal differentiation could be seen as interrelated aspects to each other or even as two different sides of the same coin as Eriksen argues (2018: 993) "the EU's internal differentiation is also reflected in its relations with non-members, ranging from the European Neighborhood Policy to Turkey's Customs Union, Switzerland's bilateral approach and the multilateral EEA Agreement for Norway, Iceland and Lichtenstein".

According to Lavenex (2015: 837), "A third country's inclusion in a specific regulatory body is not a goal in itself but is an instrument in a foreign policy that is based on the extension of the EU's *acquis communautaire*". In this regard, "if outsiders adopt the EU rules, we observe an externalization of the *acquis communautaire* (external differentiation)" (Leuffen et. al. 2013, 17). Consequently, "the EU dominates the associated non-members-it makes them 'rule takers' because of the agreements' built-in asymmetries" (Eriksen, 2018: 1000). In addition to vertical integration and differentiation, "horizontal (territorial) integration and differentiation" applies to fully capture the territorial integration of the EU, and "is usually associated with the uniform extension of the EU's jurisdiction to new member states" (Leuffen et. al. 2013, 12). It is important to note that horizontal integration not only applies to EU members, but also to non-EU member states, who might adopt EU rules formally or informally. At the same time, "institutional, country-specific and policy related factors define the conditions of well-functioning external differentiated integration" (Frommelt 2017). External differentiation could be seen in sectoral, territorial and temporal manners, where functional, spatial and time-based dimensions emerge as the key factors in determining the degree to which a non-member aligns itself with the EU

rules and policies. Specifically, the temporal alignment to the EU policies for non-members could be a step towards full accession to the EU, yet it is possible that this alignment could actually be a permanent state of affairs. In other words, what is perceived as temporality might not be temporal at all.

While differentiated integration is essentially used to assess the nature and pace of integration among EU members (Holzinger and Schimmelfennig, 2012), it is possible to evaluate the EU's external relations with its neighbors (Borzel and van Hullen, 2014), and/or associated states through a similar lens (Jokela, 2014; Gstöhl, 2015), most specifically a future consisting of different modalities for non-members. The British exit provides an additional impetus to understand the future of European integration from this conceptual framework. This is also how EU integration influences a territorial space that is much broader than the sheer territory of the EU member states (Kolliker, 2011; Lord, 2015). European foreign policy tools such as enlargement and the ENP enable the extension of this jurisdiction beyond the EU's territorial space. However, the precise nature of integrating these non-members into the EU varies based on their individual conditions, their objectives to accede to the EU as full members, as well as the receptiveness of the EU towards these non-members either as full members or as non-members opting in certain EU policies. This is also how, Turkey represents a clear case of external differentiated integration for the EU, similar to the experience of the European Economic Area countries such as Norway and Iceland, Switzerland or the emerging *modus operandi* for United Kingdom. The technical modalities of this cooperation, however, differ from the EEA or other similar patterns. These multiple modes of integration (internal and external) allow non-members to opt in to the EU rules. The next section addresses these modes of integration for Turkey's opting into the EU rules and law.

Turkey's Opting into the EU *acquis* and its Functional Cooperation with the EU

In 2018, the European Commission launched a new strategy for "A credible enlargement perspective", confirming the European future of South East Europe as a geostrategic investment in a stable, strong and united Europe based on common values. Based on the Commission's recommendation in June 2018, the General Affairs Council of the European Union adopted multiple conclusions on the EU's enlargement policy which also included Turkey.³ However, Turkey's accession process to the EU is on a rocky road since 2016. Despite the current stall in its accession negotiations, Turkey already has a high degree of functional cooperation with the EU, which takes multiple forms in terms of economic, political, judicial and internal affairs, energy, and environmental cooperation (Müftüleri-Baç, 2017; Karakaş, 2013). These forms of functional cooperation evolved because of Turkey's association with the EU since its 1963 Association Agreement signed with then European Economic Community, 1995 Customs Union Agreement for industrial products, its candidacy since 1999, and the accession negotiations which were opened on 2005—enabling Turkey to adopt EU rules and policies without a formal accession. Turkey's adoption of EU rules and its integration in multiple technical areas indicate the scope of integration that transcends the EU's own borders (Jokela, 2014). To understand how the Turkish case could be assessed as an illustration of external differentiated integration, this section looks into Turkey's compliance in multiple areas of EU *acquis* and its alignment to the EU's regulations and policies.

The Turkish ability in adhering to the EU rules in different policy areas shapes the extent to which its current relations could be remolded as one of functional cooperation. For example, in policy areas such as the EU development policy, Turkey is found to be adhering and opting into the EU development policy—despite its non-member status (Cihangir-Tetik and Muftuler-Bac 2018). Yet, even functional cooperation is not devoid of politics, and it would be misleading to conceptualize the Turkish involvement in the EU policies without contextualizing its political implications. These political implications are tied to the Turkish political processes but also to the EU member states and institutions' positions towards Turkey in general. The political landscape in Turkey drastically changed on 15 July

³ <https://www.consilium.europa.eu/media/35863/st10555-en18.pdf>.

2016 with the shock of an attempted military takeover. A direct casualty of this attempt was Turkey's relations with the European Union. Even though Turkey's relations with the EU had suffered from political setbacks in the past, in the post-July 2016 period they have reached a nadir. The European Parliament responded this new state of political affairs with multiple different resolutions on Turkey adopted respectively in November 2016, July 2017, November 2018 and March 2019. The July 2017 resolution called "to formally suspend the accession negotiations with Turkey without delay if the constitutional reform package is implemented unchanged."⁴ On March 13, 2019, the European Parliament explicitly stated that while it "recommends that the Commission and the Council of the European Union, in accordance with the Negotiating Framework, formally suspend the accession negotiations with Turkey; it remains, however, committed to democratic and political dialogue with Turkey."⁵

The former President of the European Commission, Jean Claude Juncker, has already summarized the EU's official position in September 2017 as: "Rule of law, justice, and fundamental values have top priority [in the accession process] and that rules out EU membership for Turkey in the foreseeable future."⁶ The Committee on Foreign Affairs of the European Parliament also stressed that the update of the Custom Union should also have a precondition on human rights and rule of law.⁷ It is not only the EU institutions which have made their reservations clear, but also among the EU member states, there is a similar level of discontent with the current state of politics in Turkey. Yet, the Turkish government is also disillusioned with the EU. President Recep Tayyip Erdoğan reflected on this disillusionment with his claim that Turkey "bent over backward to fulfill requirements on democratic reforms, but had been met with undelivered promises and accusations, this is not an acceptable situation."⁸ As a result, it is evident that in the current political climate, Turkey's relations with the EU remain functional, but whether this state of affairs of functional cooperation and Turkey's technical alignment to EU rules without political convergence could be seen as external differentiated integration is another matter. It is the financial incentives and material benefits of associating further with the EU as Holzinger and Tosun (2019) expect to see for third countries that shapes the Turkish alignment to EU rules, as a solid illustration of the EU's ability to induce in non-members.

Turkey's 1963 Association Agreement, its Customs Union Agreement signed in 1995 and its candidacy since 1999 form the basis of the Turkish alignment to the EU rules. Similarly, Turkish inclusion into European Agencies is an important component of its differentiated integration. For Lavenex (2015), such participation is an essential component of external differentiated integration. When the Copenhagen European Council in 1993 foresaw the candidate countries' participation in the EU Agencies, it prepared the ground for the Commission's Agenda 2000 adopted in 1997 which recommended to inclusion of candidate countries in these Agencies as a stepping stone towards their eventual accession, echoing the temporal dimension of differentiated integration, i.e., alignment to EU rules on the road to accession. The 1998 European Pre-Strategy for Turkey- prior to its candidacy- determined also the modalities on how Turkey might be invited to participate in the EU Agencies. As a result, Turkey signed a comprehensive agreement (2001/OJL213/112-119) with the European

⁴ "Turkey: MEPs raise the alarm on EU accession talks," European Parliament, <http://www.europarl.europa.eu/news/en/press-room/20170629IPR78637/turkey-meps-raise-the-alarm-on-eu-accession-talks>, 6 July 2017

⁵ European Parliament Resolution of 13 March 2019 on the 2018 Commission report on Turkey, https://www.europarl.europa.eu/doceo/document/TA-8-2019-0200_EN.html?redirect

⁶ "Juncker: Turkey's EU membership out of question for now," *EU Observer*, <https://euobserver.com/tickers/138999>, 13 September 2017.

⁷ European Parliament, Committee on Foreign Affairs, Kati Piri (rapporteur), *Draft Opinion for INTA on Towards a New Trade Framework between the European Union and Turkey and the Modernisation of the Customs Union*, 2016/2031(INI), Brussels, 23 January 2017, par. 6.

⁸ Laura Pitel, "Erdoğan dares Brussels to kill Accession Talks," *Financial Times*, 6 September 2017, <https://www.ft.com/content/1285e646-930a-11e7-a9e6-11d2f0ebb7f0>

Environment Agency on October 9, 2000 to fully participate in the EEA. Similarly, on August 26, 2006, Turkey signed an agreement (2007/OJL323/24-33) with the European Centre for Drugs and Drug Addiction and has also become a member of that Agency. Turkish participation in these two regulatory agencies- EEA since 2001 and the European Centre for Drugs and Drug Addiction since 2007 is an important aspect of the EU's ability to induce in non-members to EU external agencies. Both of these agreements are binding international commitments for Turkey. While Turkey is a full member in the European Environment Agency, it does not possess voting rights in the Management Board of the Agency. Turkey also has signed multiple other agreements with the EU's programs. For example, the Turkish Accreditation Agency joined the European accreditation agency in 2004, and Turkey signed an agreement for the EU's research program-Horizon 2020 on June 4, 2014, granting Turkey full access to the program. Turkey is also a full participant in the EU's Customs 2020 program and Fiscalis 2020-both of these agreements were signed on July 16, 2014. One should note that the Turkish participation in the EU's Customs Programs dates back to 1996 to the operationalization of the Customs Union. In addition, Turkey fully participates in the Erasmus+, Creative Europe, Programme for the Competitiveness of Enterprises and SMEs (COSME). To further integrate itself into the EU rules, Turkey signed the agreement for the EU Programme for Employment and Social Innovation, Progress and Social Entrepreneurship (EaSI) with the European Commission in February 2015. Again in 2015, Turkey joined in the EU's Civil Protection Mechanism and the European Solidarity Corps. In addition, Turkey has become an observer in the EU energy community, and the European Network of Transmission System Operators for Electricity (ENTSO-E) as the 2006 European Energy Community Treaty for the creating an internal energy market for its participants is open to the candidates as well as the ENP countries.

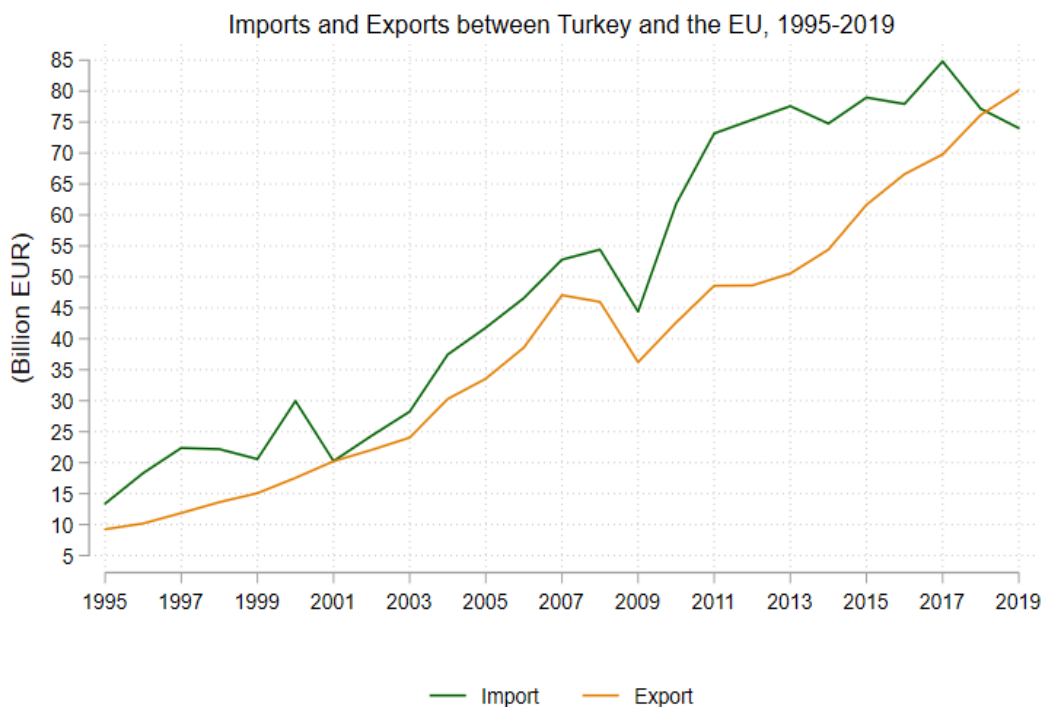
Another illustration for Turkey's alignment is its involvement in the Common Aviation Area with a comprehensive Agreement which encompasses non-EU members' inclusion to the common aviation area, along with their adoption of EU legislation with regards to aviation, and liberalization of civic aviation. In June 2016, the European Council authorized the European Commission to negotiate this agreement with Turkey. Turkey has already a Horizontal Air Transport Agreement with the EU signed in March 2010 which allows any EU airline with whom Turkey has a bilateral agreement to fly to Turkish destinations. However, further progress is impeded by ongoing political disputes. For example, a main impediment for further alignment to EU legislation and Turkish integration to the EU common aviation area is that Turkey needs to open up flights to all EU member states. However, given Turkish non-implementation of the customs union to Cyprus and its non-recognition of the Greek Cypriot government as the representative of the island as a whole (Muftuler-Bac, 2008), flights between South Cyprus and Turkey are not possible. This is a significant political obstacle to technical alignment to the adoption of the Common Aviation Area's rules- demonstrating the brakes to external differentiated integration posed by political factors. Nonetheless, Turkey began to participate in the European Aviation Safety Agency in 2013. While the negotiation for Turkey's inclusion into the Common Aviation Area began in 2016 for a Comprehensive air travel agreement, they were suspended in July 2019 with a sanction package adopted by the Commission, in response to the ongoing disputes between Turkey and Cyprus in the Eastern Mediterranean involving drilling activities in the Mediterranean Sea for natural gas. This sanction constitutes another illustration for the political obstacles impeding the expansion of EU *acquis* onto third parties.

In another related area for opting into the EU rules, negotiations are underway for an agreement on the exchange of information and personal data between Turkey and the Europol. These negotiations began in November 2018-based on the 2017 Regulation which allows the Europol to conclude cooperation agreements with third parties. The negotiations are tied to an international agreement signed between Turkey and the Europol in 2004-The Agreement on Strategic Cooperation. As part of the EU-Turkey Joint Action plan of 2015 for refugee crisis, Turkey agreed to have a liaison officer in Europol, and the realization of this cooperation rests on the Liaison Agreement signed on March 21, 2016 between Turkey and Europol for this purpose. In short, these negotiations, Turkish membership in the EU agencies, its voluntary alignment to EU rules constitute significant aspects of opting into the EU policies.

Turkish involvement in the EU Agencies as a third party illustrates the expansion of the EU's governance tools to non-members, and is an important revelation for EU's external differentiated integration through the Turkish case.

However, one of the most important instruments for the expansion of EU rules onto a third party's territory such as Turkey conceptualized in the above sections is the Customs Union Agreement for industrial products signed between Turkey and the EU in 1995. While the Customs Union Agreement was already part and parcel of the Turkish Association Agreement signed in 1963 with then European Economic Community, it was also designed as an important stepping stone for a possible membership in the future, a clear indication of temporal based differentiated integration. When it became operational in 1996, the CUA allowed Turkey to expand its volume of trade with the EU members, but also necessitated a significant layer of alignment with the EU's technical regulations, the Common External Tariff and manufacturing rules. The Turkish-EU bilateral trade arrangements are multi-faceted, the 1995 Customs Union agreement (CU) for industrial products is accompanied with an agreement on Coal and Steel (CSA) which entered into force in 1996, and a preferential trade regime on agriculture and fisheries (AFTR) which became operational in 1998. As a result, a significant degree of economic integration has been possible with close to 50% of Turkish exports are destined to reach the EU consumer market, the Turkish share for the EU's overall external trade is about 5%, and the EU's share of foreign domestic investment in Turkey is close to 70%. These are robust indicators of a high degree of economic integration between Turkey and the EU. According to Ulgen and Zahariadis (2004), the Customs Union has transformed Turkey into almost a member in the Single Market with respect to trade in goods. Figure 1 below demonstrates the expansion of Turkey's trade with the EU from 1995 to 2019, with the impact of the Custom Union Agreement clearly seen in the rise of the volume of this trade.

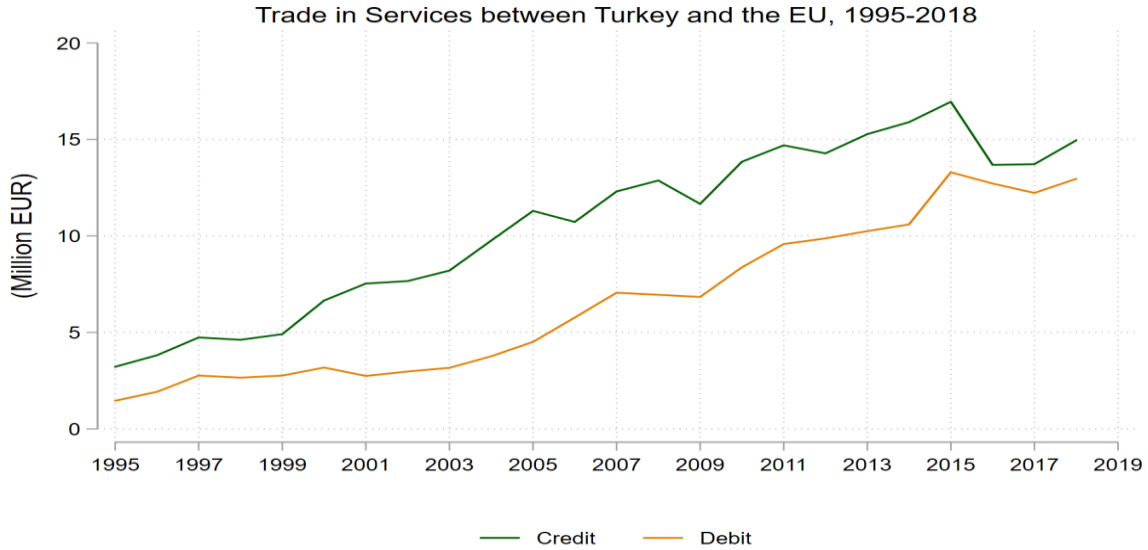
Figure 1: Turkish Trade with the EU: 1995-2019



The expansion of Turkey's trade with the EU was also parallel to an overall growth in Turkish trade at the global level. One factor accounting for this growth is Turkey's adoption of the EU's regulatory framework along with developing integrated production patterns which transformed Turkish economy

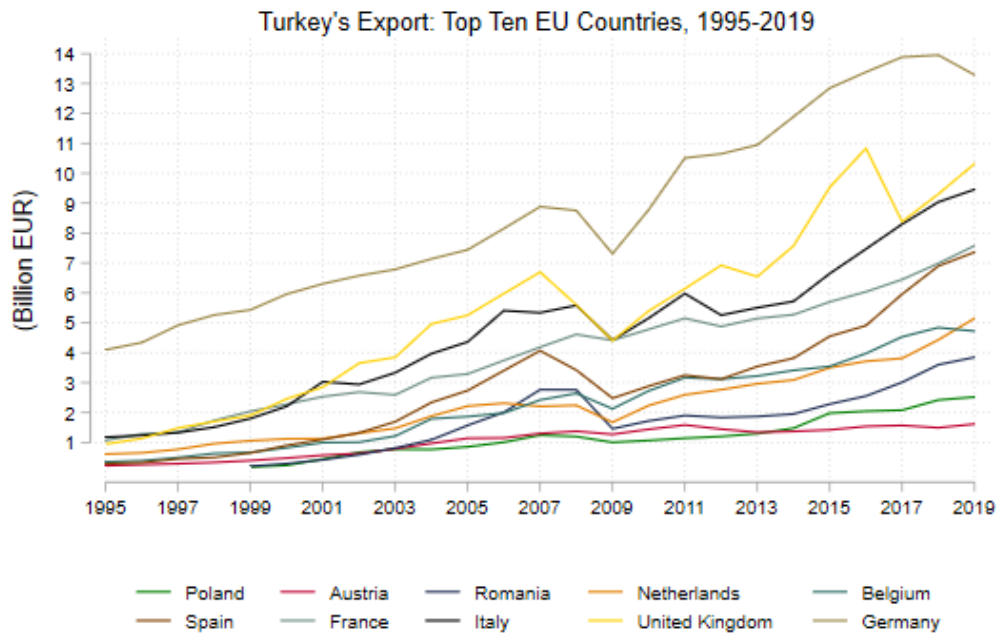
at the global level. Similar to trade expansion after the Customs Union Agreement became operational, the Turkish integration to the EU market with regards to services is also an clear indication of its opting in as shown in Figure 2.

Figure 2: Trade in Services:



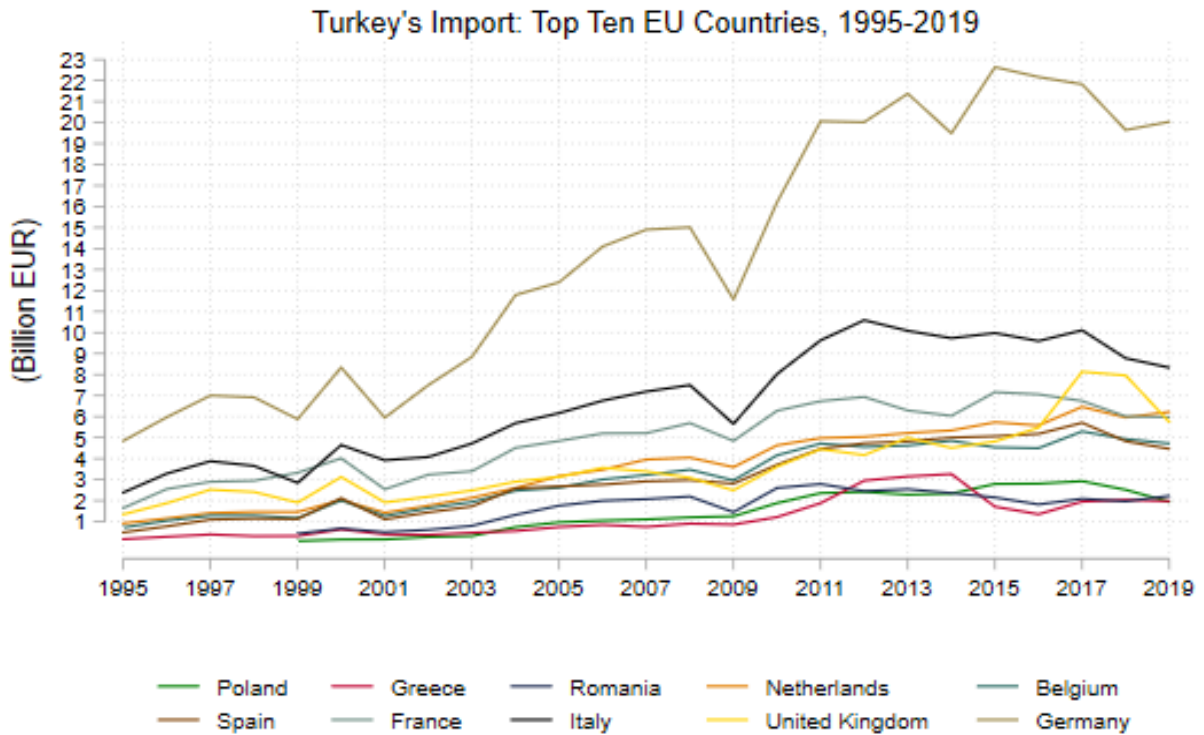
As trade intensified with the Customs Union Agreement, not all EU member states benefitted from this expansion of trade with Turkey. However, among the EU member states, Turkey’s trade expanded with a number of countries significantly, in particular with Germany. Figure 3 illustrates the top ten destinations within the EU for Turkish exports-Germany at the very top of the list.

Figure 3: Turkish Exports to EU member states

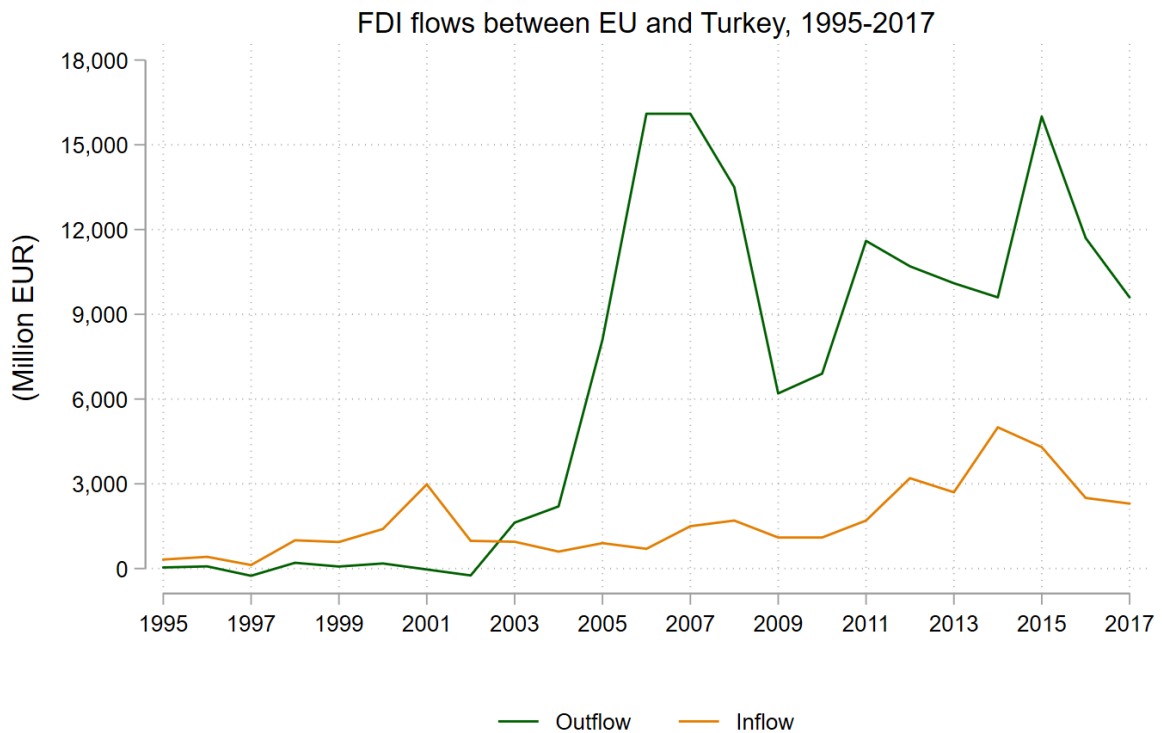


Germany's domination in trade with Turkey is also apparent in the Turkish imports to EU destinations as shown in Figure 4.

Figure 4: Turkish imports as Country of Origin from the EU



While economic integration under the Customs Union Agreement shaped the modalities of Turkish integration to the EU policies, multiple areas of technical alignment flourished over time as a result of Customs Union Agreement. For example, there is also an expansion of foreign direct investment from European Union member states to Turkey which resulted in close to 70% of all FDI from European companies. Figure 5 illustrates this increase in European Union's FDI to Turkey in the last 20 years.

Figure 5: FDI Flow to Turkey

Figures above demonstrate the scope of economic integration between the EU and Turkey, and the benefits have been visible for all the parties involved. With regards to economic integration, the revamping of the 1995 customs union sits at the centre of the current debates. On March 28, 2014, a World Bank study evaluated the economic benefits of the Customs Union, and its published report recommended its update as a strong imperative to reap further material gains for both parties. A Senior Official Working Group, composed of European and Turkish officials, was already set up on February 28, 2014 to work on the modalities of this update. The Steering Official Working Group published a detailed report on April 27, 2015 which emphasized the need for extending the Customs Union to agriculture, services and public procurement, along with institutional amendments for dispute settlement, and an update that protects Turkish industrial products from asymmetrical application of Free Trade Agreements the EU signs with third parties. On 2 May 2015, EU Trade Commissioner Cecilia Malmström and then Turkish Economy Minister Nihat Zeybekçi agreed to update the Customs Union to modernise the current agreement by extending it to cover services, right of establishment, public procurement and agriculture, similar to some extent to the Ukraine's Deep and Comprehensive Free Trade Agreement. In December 2016, the European Commission proposed to modernise the Customs Union and to further extend bilateral trade relations between Turkey and the EU to areas such as services, public procurement and sustainable development. The European Commission report in 2017 indicated various areas where the Turkish-EU bilateral trade relations could be improved (European Commission, 2017). In May 2018, the Customs Union Joint Committee between Turkey and the EU met for easing the implementation of the Customs Union with an eye towards its expansion. The needs for the modernization of the agreement are tied to the absence of dispute settlement mechanisms, the asymmetry caused by the EU's free trade agreements as well as the diverging rights that other non-EU members without an EU accession perspective such as Ukraine or Moldova have negotiated with the Deep and Comprehensive Free Trade Agreements that allow greater trade concessions compared to the Turkish customs union. For example, one of the key aspects of the CU is the absence of agricultural products. Trade between Turkey and the EU on agricultural products and fisheries is covered by multiple

decisions, first by the Decision of the EU-Turkey Association Council No 1/98, which is amended by Council Decision No 2/2006, and second by the EU-Turkey Association Council Decision No 1/2007 which brought new tools for processed agricultural products which were included into the CU's Decision No 1/95, and Decision No 1/97 on these arrangements. This Council decision No 1/2007 repealed Decision No 1/97 for further trade related alignment on agricultural products and fisheries. However, more liberalization on these aspects are needed. However, in 2018, the European Council adopted a freeze on talks for upgrading the customs union due to political reasons, and the General Affairs Council concluded in June 2018 that no work could be conducted for the modernization of the customs union, similar to the halt on the accession process in 2017. That is because upgrading the Customs Union is not only an economic process but is highly political. The political ramifications are clearly indicated by the European Parliament in its March 2019 statement as follows:

“Customs Union would further strengthen the already strong ties between Turkey and the EU and would keep Turkey economically anchored to the EU; believes, therefore, that a door should be left open for the modernisation and upgrade of the 1995 Customs Union between the EU and Turkey, to include relevant areas such as agriculture, services and public procurement, which currently are not covered; recalls that Turkey is the EU's fifth largest trading partner, while the EU is Turkey's largest, that two thirds of Foreign Direct Investment (FDI) in Turkey comes from EU Member States and that Turkey is an important growth market for the EU; believes that the upgrade would provide a valuable opportunity for democratic conditionality, positive leverage and the possibility of a roadmap where the upgrade of the Customs Union would go hand in hand with concrete improvements by Turkey on democratic reforms in the fields of democracy, human rights fundamental freedoms as well as the rule of law and towards a true, open space for civil society and pluralism; believes further that the upgrade of the Customs Union would provide an important opportunity for policy dialogue on socially and environmentally sustainable economic development and climate change, as well as on labour rights in Turkey; calls on the Commission to start preparatory work for the upgrade of the Customs Union as soon as the Turkish Government attests to its readiness for serious reforms; calls on the Commission to include a clause on human rights and fundamental freedoms in the upgraded Customs Union making human rights and fundamental freedoms a key conditionality”.⁹

Given the need for the European Parliament's final approval for any change in the Customs Union, the political reservations of the MEPs along with the above quoted EP view, indicates that this is not going to be an easy feat. At the same time, this freeze on Customs Union upgrade negotiations is a good illustration of the political aspects in shaping the limits of expanding the EU's rules and regulations beyond the EU's territorial space. Nonetheless, there is a pressing need for its modernization, and the degree of economic integration between Turkey and the EU is a clear empirical validation of their functional cooperation. Yet, as the uncertainty persists, other problems began to emerge in the implementation of the already agreed upon decisions of the Customs Union. For example, according to the 2019 Commission report on Turkey, Turkey's level of alignment with the Common Commercial Tariff has backslided in 2019 when Turkey applied additional customs duties, and further diverged from the EU's generalized scheme of preferences (European Commission, 2019; 98). While Turkey aligns itself with the EU's Free trade Agreements- for example- has done so when the EU signed the FTAs with South Korea and Canada, there is a significant problem with regards to the asymmetrical opening of the Turkish market to these 3rd parties without a reciprocal opening of these markets to Turkish products. This is indeed a key problem as indicated by Eriksen similar to the Norwegian lack of influence on EU policies and where third countries like Turkey and Norway become rule takers. It is also for this reason that the EU is critical on Turkey which has a Free Trade Agreement with Malaysia which is fully implemented, despite the absence of a FTA between the EU and Malaysia. In other words, Turkey is affected from these free trade agreements concluded with third parties as they erode its own trade preferences, and create trade asymmetries both for Turkey's own trade with the EU, as well as those with third parties.

⁹ https://www.europarl.europa.eu/doceo/document/TA-8-2019-0200_EN.html?redirect

That is because, Decision 1/95 requires Turkey to comply and align with the EU's free trade agreements with third parties as well as the preferential trade arrangements and the EU's Generalized System of Preferences. There is no space in this arrangement for Turkey to have a say in these decisions, it is not a decision maker or in any context a decision shaper, but a 'rule-taker'. However, Decision 1/95 requires the European Commission to allow Turkish experts' participation in technical committees as well as agree that the "Parties shall, at the request of either of them, consult each other again within the Customs Union Joint Committee",¹⁰ before a decision is taken. Thus, one possible way forward to institutionalize Turkey's economic integration to the EU would be to grant Turkey an observer status in the "Trade Policy" Committee-allowing Turkey to at least observe the EU's trade negotiations and policy making.

The updated and deepened Customs Union also needs to encompass a strengthened mechanism for the settlement of disputes. Even though Customs Union Joint Committee is expected to resolve the EU-Turkey disputes promptly without political blockage through courts and mandatory arbitration, one of the main obstacles in furthering Turkey's economic integration is dispute settlement for trade related matters. The importance of dispute settlement in shaping the future of Turkey's relations with the EU and customs union has become explicitly clear with multiple cases. On June 2017, the European Commission launched an investigation for anti-dumping of low carbon ferro chrome products originating in Turkey. Similarly, another case in 2017 involved the trade of uncoated wood free paper when Turkey adopted a licensing requirement for its importation- both cases rested on the argument that such measures are violations of the Customs Union Agreement. Most recently, the EU has launched a case against Turkey over measures affecting pharmaceutical producers on April 2, 2019.¹¹ The case is based on the Ministry of Health regulations requiring local pharmaceuticals to be reimbursed with the State insurance plans. According to European Commissioner Cecilia Malmstrom, "Turkey is discriminating against EU pharmaceuticals producers by forcing them to move production there. This is a clear violation of WTO rules and puts many EU jobs at risk. We hope that we will be able to resolve both cases during the upcoming WTO consultations."¹² The case is interesting in its context of asking for governmental regulations changes to Turkish health policy, as the reimbursement rules are seen as non-monetary barriers to free trade. However, this issue could be seen as one of the problems of the Customs Union Agreement as the Agreement did not incorporate a Dispute settlement mechanism, and such disputes are, therefore, presented to the WTO and its judicial panels.

The need for judicial mechanisms is further illustrated with another recent case on transportation. One of the most important concerns for Turkey is with regards to transportation quotas, transit visas and motor vehicle taxes on Turkish transport which act as a major obstacle to the free movement of goods from Turkey to EU destinations. For example, the Turkish trucks on their way to European markets pass through Bulgaria and Greece via the land route pass through multiple inspections, thereby losing significant time and money. This is a key concern as over 40% of Turkey's trade with the EU depends on land, specifically trucks, transportation. Road transport quotas operate as significant barriers to trade and is among the top concerns for Turkish policy makers in any revision talks. Since these matters are the responsibility of the member states, and Turkey does not have freedom of mobility of people, Turkish concerns are relevant for any update of the Customs Union. Yet, there are no judicial mechanisms for Turkey to bring its problems to the attention of the EU. The two main mechanisms of the Turkish-EU economic integration are the Association Council (which meets only twice a year) and the Customs Union Joint Committee, however, none of these mechanisms are sufficient for allowing Turkey to participate in decision making or bring its concerns for adjudication.

¹⁰ EU-Turkey Association Council, "Decision 1/95 of 22 December 1995 on Implementing the Final Phase of the Customs Union (96/142/EC)", *Official Journal of the European Union*, L 035, 13 February 1996.

¹¹ http://trade.ec.europa.eu/doclib/docs/2019/april/tradoc_157821.pdf

¹² http://europa.eu/rapid/press-release_IP-19-1952_en.htm

The importance of having judicial mechanisms for economic integration related issues was demonstrated with the Turkish-Hungarian dispute over transport related concerns. A major ruling was adopted on 6 April 2017 by the Court of Justice of the EU on *Istanbul Logistik Limited vs. Hungarian Administrative Authorities* case.¹³ This was a final verdict on the Turkish concerns of being subjected to unfair taxes and monetary barriers on transport of goods. The Turkish company, Istanbul Logistik brought a case against the Hungarian tax authority for imposing “the tax in question constitutes a charge having equivalent effect to a customs duty, the imposition of which, in respect of trade in goods between the EU and Turkey, is prohibited by Decision No 1/95 of the EC-Turkey Association Council on the implementation of the provisions of the EEC-Turkey Association Agreement on the final phase of the Customs Union”, and the Hungarian Court asked the Court of Justice’s judgement. In response to this request, the Advocate General ruled with regards to the motor vehicle taxes, transit permits arguing “since the exercise of free movement of goods is linked to the carriage of these goods”,¹⁴ these restrictions of the Hungarian government ‘constitute charges that could be seen as equivalent of a customs duty’ and ‘is incompatible with that decision, i.e. Decision no 1/95’. Yet, since these restrictions are imposed by member states and not the European Commission, the extent to which the adoption of a Court of Justice ruling on this measure will be implemented still remains to be seen.

While there is a high degree of Turkish compliance with EU directives in multiple different domains, this compliance transcends the Customs Union. For example, Turkey’s adoption of Law on Protection of Personal Data in 2016 is based on the EU Directive 95/46/EC on protection of individuals, and the flow of such information. The following figures illustrate the areas of technical cooperation between Turkey and the EU, based on the documents listed in the EU treaties. Figure 6 shows the frequency with which Turkey related documents are included into the EU treaties from 1999 to 2009, with peaks with regards to agriculture and Common Foreign and Security Policy in different years.

¹³ Court of Justice of the European Union, Press Release no: 107/17- Luxembourg, 19 October 2017. <https://curia.europa.eu/jcms/upload/docs/application/pdf/2017-10/cp170107en.pdf>

¹⁴ Case C-65/16, *op.cit.*, par. 40 and par.73.

Figure 6: EU LEX Documents Turkey Treaties by Subdomain (1999-2020)

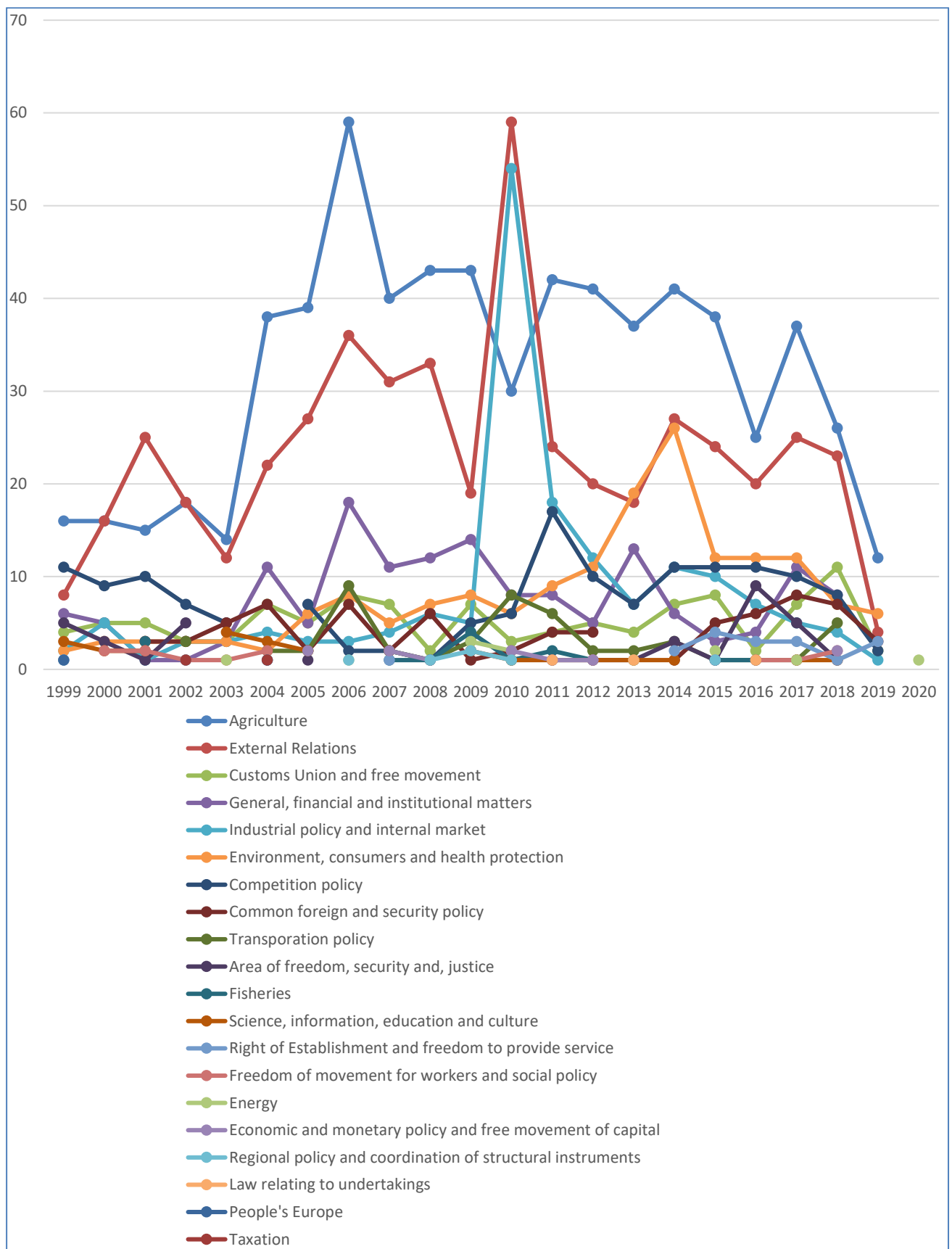
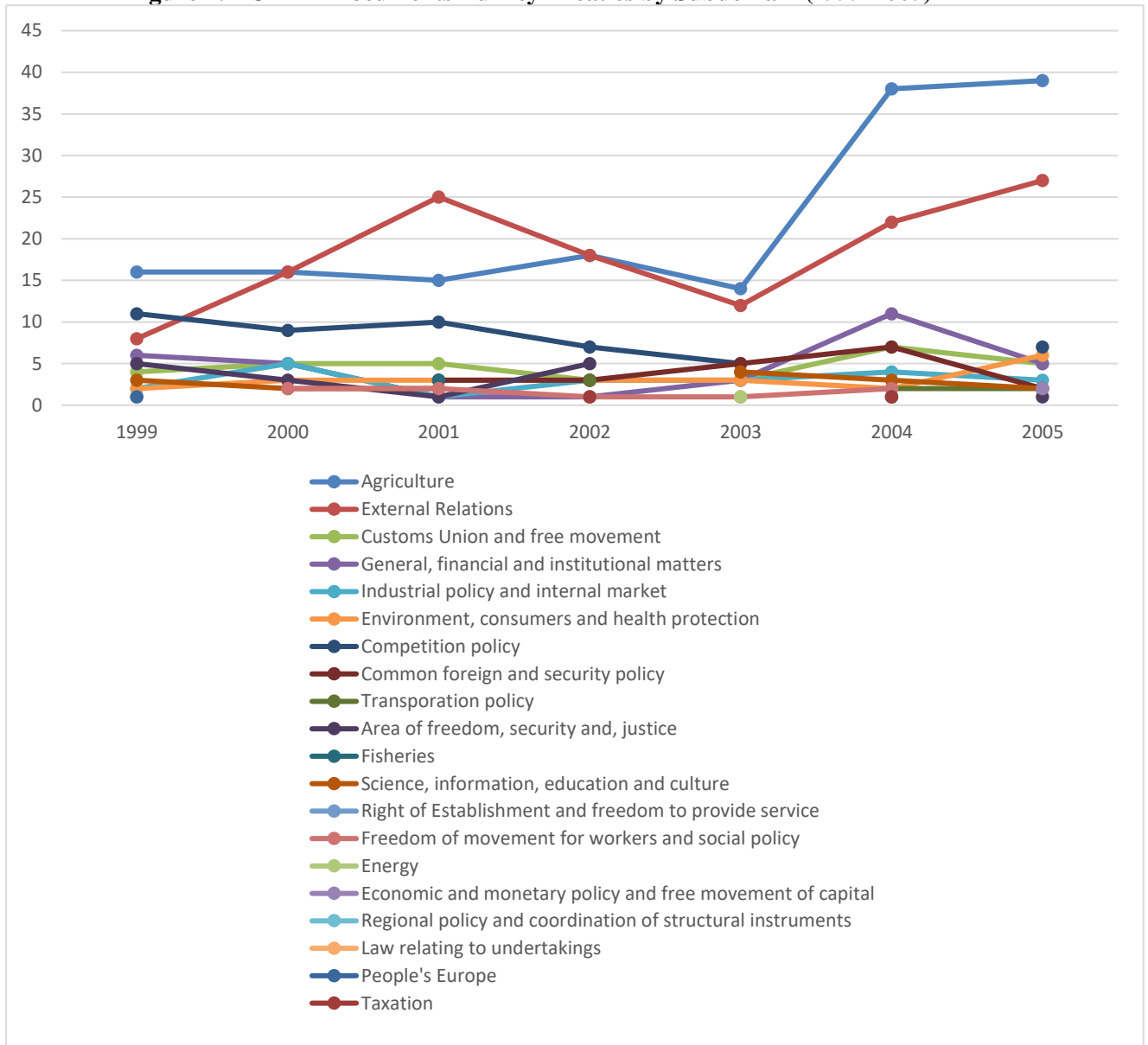


Figure 6 demonstrates Turkish adaptation of EU rules in the most important policy areas in this 20 years of time period from the Turkish candidacy to present. When we divide these results to two different periods, 1999-2005 and 2006 to 2020, some key differences could be seen further. Figure 7 looks at the EU Lex documents from the candidacy in 1999 to the actual start of the negotiations in 2005 while Figure 8 presents an analysis from 2006 to 2020.

Figure 7: EU LEX Documents Turkey Treaties by Subdomain (1999-2005)



These graphs indicate that in different time periods, 1999-2005 and 2006-2020, there is a difference in the policies that are included into the EU treaties in terms of Turkey related issues. For example, in 2006-2020, there seems to be more policy related inclusion such as industrial policy, the internal market, environment and consumers protection. This also is in line and parallel to the Turkish adoption of EU rules as part and parcel of the negotiations process.

Figure 8: EU LEX Documents Turkey Treaties by Subdomain (2006-2020)

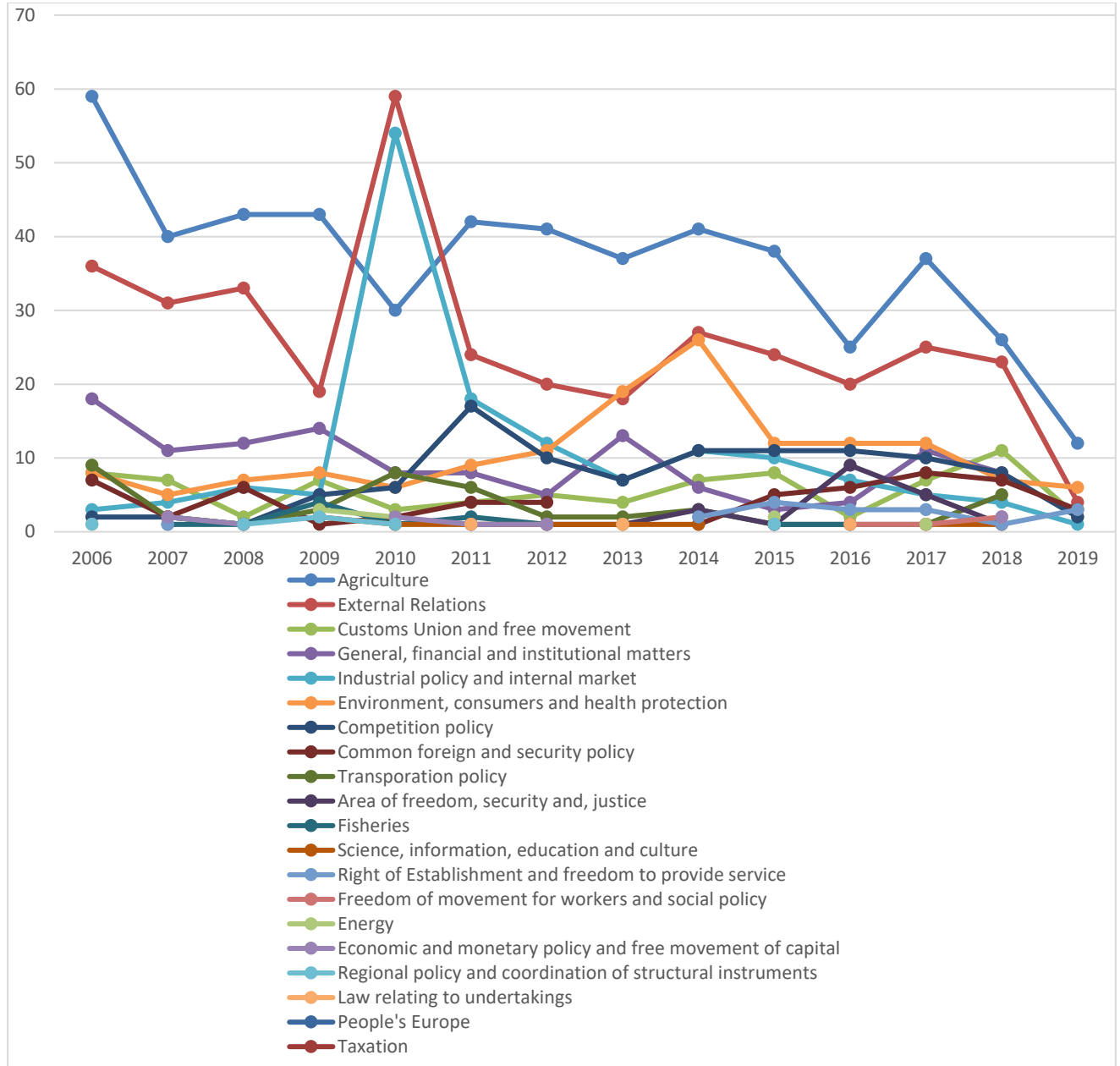
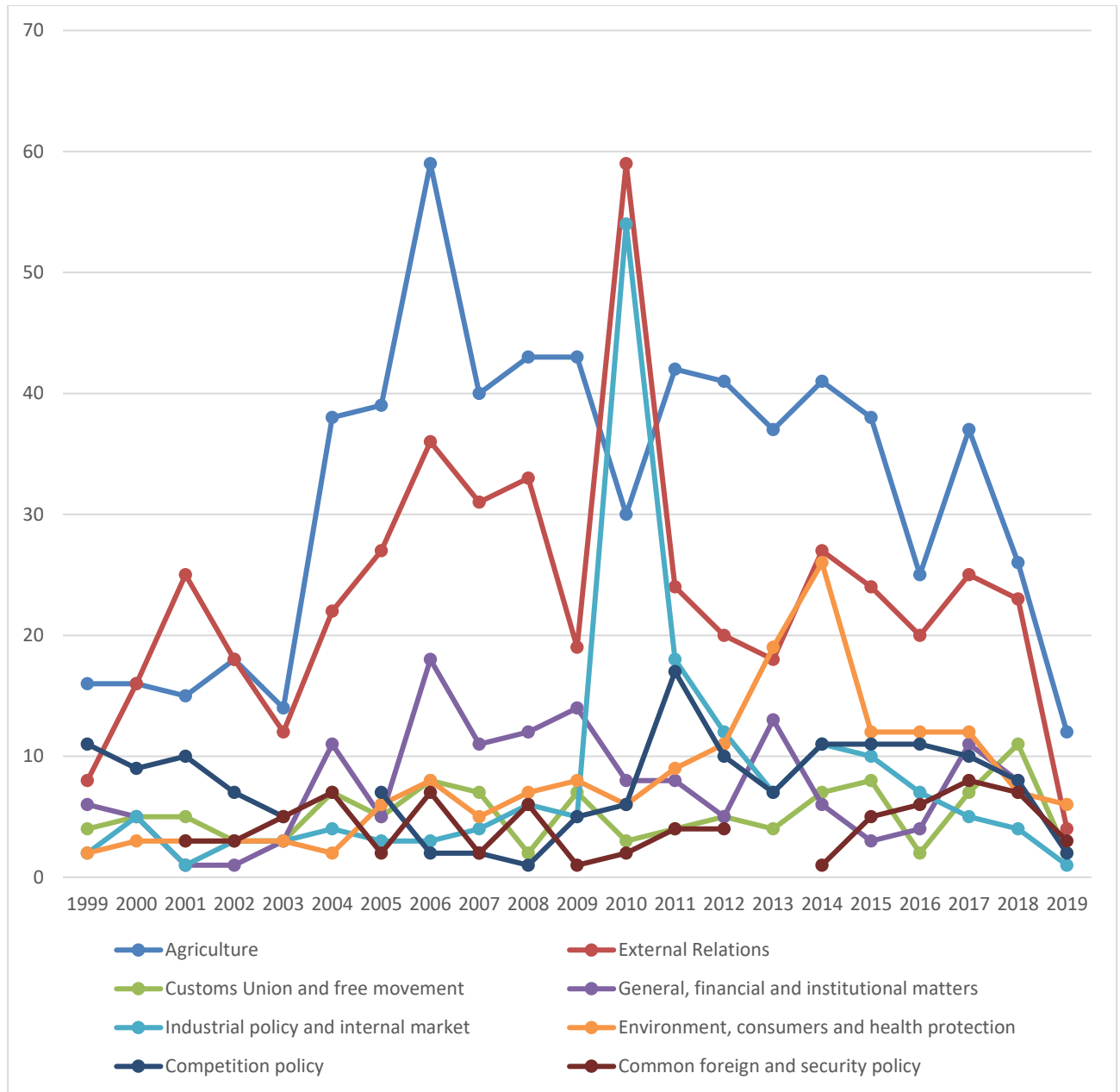


Figure 9 looks at the Treaties to assess policy areas which are mentioned at the highest level of frequency with regards to the Turkish compliance to the EU rules.

Figure 9: EU LEX Documents Treaties Turkey Subdomain Issues with Highest Frequency



These figures illustrate the extent to which Turkey has complied with the EU rules since 1999, along with the degree of its economic integration, and which areas of functional cooperation/technical alignment will be more likely act as the engine of further integration between Turkey and the EU. The high frequency of Agriculture and External relations indicate the areas where it might be harder to see the Turkish compliance, but further investigation is needed into the nature of these documents. It needs to be noted that as the interactions increase between the parties, new institutional tools emerge as the instruments shaping their relations, addressed in the next section.

The Role of Institutional Settings for Turkey's Integration to the EU

It has become increasingly clear that there is already a different conceptualization of Turkey's future with the EU in line with the alterations in the enlargement priorities. These changes in the Turkish-EU relations became visible- with the convening of bilateral summits between Turkey and the EU, where the Heads of State and Governments participated since 2015, and to be utilized as tools to assess the modalities of cooperation between Turkey and the EU. It is noteworthy to see that Turkey's functional differentiated integration to the EU continued along the establishment of new institutional, mostly novel mechanisms- the High Level Dialogues and the Bilateral Summits. The Bilateral summits constituted institutional novelties for the enlargement process for an acceding country such as Turkey where the EU and Turkey utilize a new institutional framework to adopt intergovernmental decisions.

On 29 November 2015, the first of these summits was held in Brussels where "The EU and Turkey agreed to re-energize Turkey's accession process to the European Union. High-level dialogue between both parties will be reinforced through more frequent and structured meetings including the organisation of summits twice a year."¹⁵ As if signaling the increasingly transactional character of the relationship, Donald Tusk, the European Council President, declared at this Summit meeting, "We do not expect anyone to guard our borders for us. (...) But we expect a major step towards changing the rules of the game when it comes to stemming the migration flow that is coming to the EU via Turkey."¹⁶ The declaration was a clear signal in terms of where the future of Turkish-EU cooperation lies, in particular for stemming the refugee flow. This increasingly functional aspect of Turkey-EU cooperation on the refugee issue is already a subject of major scientific inquiries. (Saatcioglu, 2019)

The second bilateral summit was held on 7 March 2016 to strengthen the EU-Turkish cooperation on migration and refugee crisis in parallel with the visa liberalization for Turkish citizens. On the Bilateral summit for March 17-18, 2016, a joint Turkey-EU statement was adopted. Despite the slowing down of the meetings for the Turkish accession negotiations, with the last meeting of the Accession conference held on 30 June 2016 which ended up with the opening of one more Chapter, Chapter 33 on financial and budgetary provisions, leaders' meetings in the form of bilateral summits continued. On 25 May 2017, another bilateral summit was held. However, the most critical meeting turned out to be the Varna summit between Turkey and the EU which was held on 26 March 2018. The bilateral summit indicated that the future of this complicated relationship has become more or less functional when Donald Tusk declared: "Our meeting today demonstrated that while our relationship is going through difficult times, in areas where we do cooperate, we cooperate well. We reconfirm our readiness to keep up the dialogue and consultations and to work together to overcome current difficulties with a view to unleashing the potential of our partnership."¹⁷ In the same summit, the European Commission President, Jean Claude Juncker indicated that "We should be talking about the areas of interest and ambitions that unite us, not the ones that divide us. Turkey and Europe have to move together as only by joining forces we can tackle common challenges."¹⁸ The emphasis was clearly on partnership, rather than accession. This is also how, one could see the importance of the Council declaration that "The Council reiterates that continued implementation of the EU-Turkey Statement and continued support for partners along the Western Balkans route is required. Further actions are needed to ensure sufficient administrative and enforcement capacity to tackle migration challenges, including combating the smuggling of migrants. The EU will continue its financial support and technical assistance to strengthen cooperation in this field, including through the EU Facility for Refugees in Turkey."¹⁹ While Turkey's relations with the

¹⁵ <https://www.consilium.europa.eu/en/meetings/international-summit/2015/11/29/>

¹⁶ <https://www.consilium.europa.eu/en/meetings/international-summit/2015/11/29/>

¹⁷ <https://www.consilium.europa.eu/en/meetings/international-summit/2018/03/26/>

¹⁸ https://eeas.europa.eu/topics/counter-terrorism/42139/turkey-summit-relaunches-open-and-constructive-dialogue_en

¹⁹ <https://www.consilium.europa.eu/media/35863/st10555-en18.pdf>, p.11

EU were descending into a different platform, enlargement priorities of the EU were also being debated at various EU levels.

As for High Level Dialogues, a series of these set-ups were established to manage the Turkish-EU relations (Muftuler-Bac, 2017), where economic, political, energy and counter terrorism related decisions would be taken. These High Level Dialogues incorporate ministerial meetings where Turkish Ministers of Economics, Trade, Energy, Judicial affairs and Interior affairs meet with their counterparts from the European Commission, Commissioners responsible for these portfolios. The main rationale for these Dialogues is to expand cooperation modalities as well as discuss opening benchmarks for the relevant Chapters. Table 1 summarizes these High Level meetings that have already took place since 2015 below.

Table 1: High Level Meetings-Turkey and the EU; 2015-2020

Date	High Level Dialogue
16 March 2015	High Level Energy Dialogue Meeting
25 January 2016	High Level Political Dialogue Meeting
28 January 2016	High Level Energy Dialogue Meeting
25-26 April 2016	High Level Economic Dialogue Meeting
8 June 2016	High Level Counterterrorism Dialogue
9 September 2016	High Level Political Dialogue Meeting
25 July 2017	High Level Political Dialogue Meeting
27 November 2017	High Level Transport Dialogue Meeting
28 November 2017	High Level Counterterrorism Dialogue Meeting
7-8 December 2017	High Level Economic Dialogue Meeting
22 November 2018	High Level Political Dialogue Meeting
15 January 2019	High Level Transport Dialogue Meeting
28 February 2019	High Level Economic Dialogue Meeting

However, all the on-going negotiations and High Level Dialogues were suspended in July 2019, when the European Council adopted a set of sanctions for Turkey's drilling activities in the Eastern Mediterranean. Accordingly, the European Council stated "the Council decides to suspend negotiations on the Comprehensive Air Transport Agreement and agrees not to hold the Association Council and further meetings of the EU-Turkey high-level dialogues for the time being. The Council endorses the Commission's proposal to reduce the pre-accession assistance to Turkey for 2020 and invites the European Investment Bank to review its lending activities in Turkey, notably with regard to sovereign-backed lending"²⁰. This was a surprising turn of events as only a few months ago, on March 15, 2019, the 54th meeting of the Association Council was held between Turkey and the EU where the modalities of this partnership were further discussed. However, the modalities of this partnership is not fully clear. Similar to the suspension of talks on upgrading of the Customs Union, negotiations for a Comprehensive Air Agreement, the suspension of the High Level meetings demonstrate the role of political factors for

²⁰ Council of the European Union, July 15, 2019. <https://www.consilium.europa.eu/en/press/press-releases/2019/07/15/turkish-drilling-activities-in-the-eastern-mediterranean-council-adopts-conclusions/>

technical alignment on the one hand, and the linkages between this technical alignment to the EU rules and political conditions. Unlike non-EU members such as Norway, Iceland or Switzerland, the Turkish case highlights the role of political factors as drivers for EU's external differentiated integration or lack thereof. This also brings forth the role of judicial institutions in shaping Turkey's technical, functional and political alignment.

The judicial problems in the Turkish-EU functional cooperation are not only critical as already demonstrated for economic integration and customs union, but also for the Turkish-EU cooperation in migration issues. For example, one of the main cases that involved legal contestation of the functional cooperation between the EU and Turkey is with regards the 18 March 2016 Turkey-EU statement. The 18 March 2016 deal between the EU and Turkey for the return of illegal migrants who used the Turkish route to reach Greece was contested legally at the Court of Justice of the European Union.²¹ This deal basically involved the agreement that for every Syrian refugee returned to Turkey, the EU would process and accept a Syrian from the refugee camps in Turkey. The Afghan and Pakistani refugees, however, argued that they were affected from the deal, the Court, however, rejected the plea based on the argument that the deal was made between the EU member states and Turkey, therefore, beyond the jurisdiction of the Court of Justice. However, according to legal scholars, the deal concerns the area of freedom, security and justice (Art. 4(2)(j) TFEU), an area of shared competence between the EU and its Member States. The legal argument rests on the logic that Member States had no competence to act in this field as "the EU had already exercised its competence by concluding a Readmission Agreement with Turkey" (Idriz, 2017).

As these recent cases illustrate one of the institutional needs is to find judicial mechanisms to resolve cases involving Turkish compliance with EU laws, and addressing Turkey's concerns in terms of the implementation of the EU rules. Both the Council shaped bilateral summits and the increased need for judicial tools of redress for Turkey- EU relations indicate that Turkey's relations with the EU need new institutional designs, but are also indicative of the Turkish integration to the EU. If such new institutional mechanisms emerge, it would strengthen the external differentiated integration patterns between Turkey and the EU.

The 2005 Negotiations Framework for Turkey stated that in the case that negotiation talks fail, then "Turkey would be tied to the EU with the strongest bonds."²² Of course, whether these "strongest bonds" constitute a form of external differentiated integration needs further elaboration, and whether these bonds include new institutional mechanisms remains to be seen.

Conclusion

This paper argued that the Turkish case constitutes one of the main examples where the EU's external differentiated integration could easily be seen. In an increasing fashion since the 1995 Customs Union Agreement, Turkey has aligned itself to the EU rules- in particular with regards to trade. While the Turkish economic integration to the European Union's single market is not comparable to the EEA experiences in its magnitude, there is still a great degree of similarity in terms of the EU's ability to induce in third parties to the EU *acquis*. While initially designed for eventual accession to the EU, both the EEA and Turkey's customs union have become permanent, indicating the temporality dimension of external differentiated integration to acquire a permanent status quo. This is particularly important as the Turkish negotiations have come to a standstill.

²¹<http://curia.europa.eu/juris/document/document.jsf?text=&docid=205744&pageIndex=0&doclang=EN&mode=req&dir=&occ=first&part=1&cid=406469>

²² *Negotiations Framework: Principles governing the Negotiations with Turkey*, Luxembourg, 5 October 20005, http://trade.ec.europa.eu/doclib/docs/2007/september/tradedoc_135916.pdf

The current political climate between Turkey and the EU does not bode well for the Turkish accession talks to continue. Political will on both sides towards Turkey's accession has reached an all-time low, with no chapters open for the past 3 years, and the EU's priorities are no longer towards enlargement. This does not, however, mean that the accession process has come to a full stop or that Turkey is out of the EU's integration project. Instead, the EU is evolving into a multi-level, multi-layered polity with different degrees of integration not only within its member states but also with non-member European countries. The British exit negotiations with the EU indicate that different models of integration are being considered for the countries either unwilling or unfit for EU membership. Whether Turkey's relations with the EU fit into that mode or not remains to be seen. What is almost certain is that Turkey is still tied to the EU in multiple manners, and the future of its relations with the EU is still being molded. Yet, whether to deepen functional cooperation with Turkey—and if so, how—is perceived as a politically adventurous question with potential to harm the EU's credibility. This seems to be the main dilemma for the EU: The question is how to reformulate Turkish-EU relations, on the one hand, and how to engage with alternative forms of integration without harming the EU's credibility on the other hand.

This is precisely what brings us to formulate modes of external differentiated integration for cases such as Turkey. Turkish opting into the EU *acquis* is extensive in certain policy areas, and most importantly, in policies such as common development and aid, Turkey fulfils the EU criteria even higher than most of the EU member states, which indicates that there are policy areas where further cooperation could be realized. To assess the Turkish place in the larger European framework and to tap into undeveloped areas of further cooperation would provide us with a clear indication of the current degree of external differentiated integration. However, technical alignment to the EU *acquis* is not devoid of politics. As this paper demonstrated, Turkey's technical alignment and adoption of EU rules—including the update of the Customs Union Agreement— is subject to its adoption of the EU's political criteria as well. While for other non-EU European countries such as Norway, a political alignment does not seem to be a precondition for its technical adoption, for Turkey, there is a high degree of overlap. This, in turn, ultimately means that external differentiated integration for Turkey could not necessarily be an alternative to its accession.

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