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**EUROPEANIZATION OF CHILD RIGHTS DURING THE ACCESSION
PROCESSES:
THE CASES OF ROMANIA (1989-2007) AND TURKEY (1995-2016)**

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KATILIM SÜREÇLERİNDE ÇOCUK HAKLARININ
AVRUPALILAŞMASI:

ROMANYA (1989-2007) VE TÜRKİYE (1995-2016) ÖRNEKLERİ

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ABSTRACT

EUROPEANIZATION OF CHILD RIGHTS DURING THE ACCESSION PROCESSES: THE CASES OF ROMANIA (1989-2007) AND TURKEY (1995-2016)

Child rights are a relatively new topic for Europeanization researches and have only rarely been the focus of debates on accession. There is a growing quantity of programs, policies, strategies and legislation at the European and domestic levels that elaborate on this conceptual framework from different angles. Particularly from the 2000s onwards, the EU began to require a relatively better performance from member and candidate states on issues pertaining to child rights. However, this did not necessarily result in total and immediate policy change because of existing domestic political, social, economic and cultural circumstances that may enable or prohibit change at national levels. This comparative thesis thus aims to examine the Europeanisation patterns in child rights policies of two countries –Turkey and Romania– during their pre-accession stages, with a particular emphasis on intervening domestic actors and dynamics. The main argument of the thesis is that Romania, as part of its candidacy to the European Union (EU), underwent a comprehensive transformation in terms of child rights, which has the potential to be a template for successive enlargement waves where the situation of children needs to be improved. The thesis therefore inquires how Europeanization happened in the child protection regime of a candidate country, and discovers causal relations between European and domestic policy changes in the Romanian and the Turkish cases to create a template for subsequent enlargement waves. The child rights area requires a closer look at the interaction between the EU and domestic agency, and this conceptualization is based on a mixture of the strategic-rational and sociological approaches under neo-institutionalism theory. The term Europeanization is applied to explain the domestic impact of the EU on Turkish and Romanian child rights policies, while neo-institutionalism is referred to when explaining domestic reactions to this EU impact. The thesis employs semi-structured in-depth interviews, a literature review and a process-tracing method in analyzing the collected data, and it adopts a comparative approach between the Europeanization processes of the two countries around a specific

policy area. The thesis concludes that the EU played a key leverage role for Romania in diffusing EU child rights norms and standards, and that this role may be used as a reference for Turkey's accession process, both to improve child well-being in a candidate country and to demonstrate that the EU still has the ability to generate domestic change in a soft law area.

Keywords: Child Rights, Europeanization, European Union, Romania, Turkey

ÖZET

KATILIM SÜREÇLERİNDE ÇOCUK HAKLARININ AVRUPALILAŞMASI: ROMANYA (1989-2007) VE TÜRKİYE (1995-2016) ÖRNEKLERİ

Çocuk hakları, AB'ye katılım tartışmalarının nadiren odak noktası olmasına rağmen, Avrupalılaşma araştırmaları için nispeten yeni bir konudur. Avrupa ve ulusal düzeylerde bu kavramsal çerçeveyi farklı açılardan detaylandıran ve giderek artan sayıda program, politika, strateji ve mevzuat bulunmaktadır. Özellikle 2000'li yıllardan itibaren AB, çocuk haklarına ilişkin konularda üye ve aday ülkelerden nispeten daha iyi performans talep etmeye başlamıştır. Ancak, bu, ulusal düzeylerde değişimi mümkün kılacak veya engelleyebilecek nitelikteki mevcut iç siyasi, sosyal, ekonomik ve kültürel koşullar nedeniyle, mutlak ve hızlı bir politika değişikliği ile sonuçlanmış değil. Dolayısıyla bu karşılaştırmalı tez, iki ülkenin –Türkiye ve Romanya– çocuk hakları politikalarının Avrupalılaşma modellerini katılım öncesi aşamalarında, özellikle ilgili yerel aktörler ve dinamikler üzerinde durarak incelemeyi amaçlamaktadır. Tezin ana argümanı, Avrupa Birliği'ne (AB) adaylığının bir parçası olarak Romanya'nın çocuk hakları açısından kapsamlı bir dönüşüm geçirdiği ve bunun, çocuk haklarının iyileştirilmesi gereğinin gündemde olduğu sonraki genişleme dalgaları için bir şablon oluşturabileceğidir. Bu nedenle tez, bir aday ülkenin çocuk koruma rejiminde Avrupalılaşmanın nasıl gerçekleştiğini sorgular ve sonraki genişleme dalgaları için bir model belirlemek üzere Romanya ve Türkiye örnekleri üzerinden Avrupa ve ulusal politika düzeyindeki değişiklikler arasındaki nedensel ilişkileri keşfeder. Çocuk hakları alanı, AB ile ulusal düzeyler arasındaki etkileşime daha yakından bakmayı gerektirmektedir ve bu kavramsallaştırma, neo-kurumsalcılık teorisi altında stratejik-rasyonel ve sosyolojik yaklaşımların karışımına dayanmaktadır. Avrupalılaşma terimi, AB'nin Türk ve Rumen çocuk hakları politikaları üzerindeki ulusal etkisini açıklamak için kullanılırken, AB etkisine yönelik ulusal tepkileri açıklarken neo-kurumsalcılığa başvuruldu. Tez, toplanan verilerin analizi için yarı yapılandırılmış derinlemesine görüşmeler, literatür taraması ve süreç izleme yöntemini kullanmakta ve belirli bir politika alanı çerçevesinde iki ülkenin Avrupalılaşma süreçleri arasında karşılaştırmalı bir yaklaşım benimsemektedir. Tez, AB'nin Romanya için çocuk hakları normlarını ve

standartlarını yaymada kilit bir kaldıraç rolü oynadığı ve bu rolün Türkiye'nin katılım süreci için hem aday bir ülkede çocukların refahını iyileştirmek hem de AB'nin halen yumuşak hukuk alanında yerel değişiklik yaratma yeteneğine sahip olduğunu kanıtlamak için bir referans olarak kullanılabilceğı sonucuna varmaktadır.

Anahtar kelimeler: Çocuk hakları, Avrupalılařma, Avrupa Birlięi, Romanya, Türkiye

DEDICATION

This thesis is dedicated to all children of the world, especially to Defne...

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LIST OF ABBREVIATIONS

| | |
|---------------|--|
| AÇEV | Mother Child Education Foundation (Anne Çocuk Eğitim Vakfı, <i>Turkish</i>) |
| ANAP | Motherland Party |
| CEPEJ | Council of Europe's European Commission for the Efficiency of Justice |
| CHP | Republican Peoples' Party |
| CJEU | Court of Justice of the European Union |
| CoE | Council of Europe |
| CSF | Civil Society Facility |
| ÇAGOs | Child-friendly judicial interview rooms |
| DC | Romania's Democratic Convention |
| DSP | Democratic Left Party |
| DG | Directorate General |
| EC | European Community |
| ECHR | European Convention on Human Rights |
| ECSR | European Committee of Social Rights |
| ECtHR | European Court of Human Rights |
| EEAS | European Union External Action |
| EEC | European Economic Community |
| EJJO | European Juvenile Justice Observatory |
| EIDHR | European Instrument of Democracy and Human Rights |
| eNACSO | European NGO Alliance for Child Safety Online |
| ENOC | European Network of Ombudspersons on Children |
| EP | European Parliament |
| ESC | European Social Charter |
| EU | European Union |
| FRA | European Union Agency for Fundamental Rights |
| FRIT | EU Facility for Refugees in Turkey |
| ICA | Inter-country child adoption |
| ILO | International Labour Organization |
| IPA | Instrument for Pre-Accession Assistance |
| MHP | Nationalist Movement Party |

| | |
|---------------|--|
| MoFLSS | Ministry of Family and Social Services, Ministry of Labour and Social Security |
| MOJ | Ministry of Justice |
| MoNE | Ministry of National Education |
| NGO | Non-Governmental Organization |
| NSF | National Salvation Front |
| NSC | National Security Council |
| NPAA | National Program for the Adoption of the Acquis |
| OECD | Organization for Economic Cooperation and Development |
| OHCHR | United Nations Office of the High Commissioner for Human Rights |
| OMC | Open method of coordination |
| OSCE | Organization for Security and Co-operation in Europe |
| PHARE | Poland and Hungary Assistance for Restructuring of Economy |
| RAC | Romanian Adoption Committee |
| SHÇEK | Agency for Social Services and Child Protection |
| SPSCP | Specialized Public Services for Child Protection |
| TAIEX | Technical Assistance and Information Exchange |
| TEDP | Support for Basic Education Program |
| TESEV | Turkish Economic and Social Studies Foundation |
| TEU | Treaty on European Union |
| TGNA | Grand National Assembly of Turkey |
| TOBB | Turkish Union of Chambers and Bourses |
| TUSIAD | Turkish Industry and Business Association |
| UDHR | Universal Declaration of Human Rights |
| UK | United Kingdom |
| UN | United Nations |
| UNCRC | United Nations Convention on the Rights of the Child |
| UNDP | United Nations Development Program |
| UNESCO | United Nations Educational, Scientific and Cultural Organization |
| UNICEF | United Nations International Children’s Fund |
| UPR | Universal Periodic Review |
| USAID | United States Agency for International Development |

INTRODUCTION

Childhood, a broad term that indicates a critical phase of human development between adulthood and infancy, is also a period when people acquire their physical characteristics, mental capabilities and moral preferences. However, due to rising poverty, conflicts, climate change and lack of access to food, not all children have the privilege of growing up in a safe, healthy and caring environment. Although the European Union (EU) has no wide-ranging competence in the field of child rights, starting in the early 2000s, it took action to protect and promote this policy area on the basis of revised legislation, project funding, soft law, monitoring and social dialogue, not only among its member states, but also as part of its external relations with candidate countries. By the mid-2000s, the EU began mainstreaming child rights to its candidate countries.

In the meantime, Europeanization—despite its drawbacks—still has the explanatory power to better analyze the politics of European integration and the dynamics behind EU-driven domestic change. Innovatively-designed researches may help Europeanization to move away from the realm of ‘fashion’ and turn it into a convenient analytical tool to unveil the sources of institutional and policy changes. The classic literature on Europeanization focuses on explaining EU-induced domestic changes in member and candidate countries by using ‘hard law’, comprising self-executing treaties, international agreements, customary laws and regulations. Hard law instruments are characterized by their obligatory clauses and legal sanctions that are binding on all parties involved. Hard law, therefore, refers to obligations that may be legally enforced before a court. However, in social policy areas such as child rights, soft law instruments have gradually taken center stage over the years because the top-down perspective of hard law ignores the impact of non-binding instruments that shape domestic actors’ discourses and identities. Therefore, the term ‘soft law’ denotes declarations, conventions, agreements, international norms, procedures and principles that are not legally mandatory and cannot be directly implemented. However, these soft law instruments exist in the international sphere in various forms such as United Nations (UN) General Assembly resolutions or Council of Europe (CoE) conventions,

and they can generate certain legal effects for the parties involved, to the extent that they can enable or disable the Europeanization process. Considering that weak principles and norms may result in serious violations of human rights, including child rights, “soft law functions as a gap-filler, giving guidance to States and other stakeholders in the absence of binding legal norms” (OHCHR, n.d.).

Turkey, which sent its formal application to the EU in 1987, has always been a difficult case for EU enlargement, with so many fundamental questions pending before full accession, especially in terms of human rights. Apart from identity-related issues and political disagreements, child rights is also an area that should be taken into consideration when preparing Turkey for full harmonization, especially following previous enlargement waves, when the situation of children became focal point of discussions between the candidate country and Brussels. Child rights have been part of Turkey’s harmonization efforts since the early 2000s with EU-induced reform packages.

From the statistical perspective, children constitute more than 26% of Turkey’s population, numbering over 22.7 million according to the latest statistics released by the Turkish Statistical Institute (TUIK) in April 2022 (TUIK, 2022). Although the figures are disputed by researchers, 720,000 children between the ages of five and seventeen are employed in Turkey (TUIK, 2019). On the other hand, there has been a surge in schooling in Turkey, with the rate of children graduating from primary school having reached 98.6% (TUIK, 2021). In terms of early marriage, legal marriages of girls aged 16 and 17 decreased to 2.3% of total legal marriages in 2020 (TUIK, 2021). About 13,524 children were under institutional care in Turkey at the end of 2020, with more than 17,896 adopted children and 7,864 children under foster care (YADER, 2021).

On the other hand, Romania that applied for membership to the EU in 1995 began in February 2000 its accession negotiations. The country followed a long and rocky path to becoming part of the Union on January 1, 2007. Child-related problems were at the core of the Romanian negotiation process because they were its ‘Achilles heel’. Child poverty, child abuse, child trafficking, lack of access to health and education, as well as child labor and street children posed significant problems for

Romania during its accession process. In 1999, the ILO estimated that less than 1 percent of children between the ages of 10 and 14 in Romania were working, with the majority of them (93 percent) working in agriculture (World Development Indicator, 2000). On the other hand, according to the data of National Authority for Child Protection and Adoption of Romania (NACPA), there were approximately 2,000 street children in Romania in 1998-1999 (ILO-IPEC, 2002, p.15).

For acceding states, the EU primarily used its conditionality tool to generate domestic change in the child rights area at institutional and legislative levels. The overarching aim of this thesis is therefore the EU's application of child rights conditionality to Turkey following the earlier success story of Romania. Romania and Turkey are elaborated on an equal footing in the thesis to compare their accession processes and the effectiveness of EU leverage applied on them in the specified timeframe. Although both countries faced different problems related to 'children in crisis'—the plight of institutionalized children and corruption in inter-country child adoption for Romania, and child labor and juvenile justice for Turkey—the core problem for both candidate countries was the need to regulate the area of child rights and to tackle child-related problems mainly deriving from poverty. This thesis employs the conceptual framework of Europeanization and the neo-institutionalism theory to analyze whether the impact of the EU as a normative power has had repercussions for Turkey's child rights record, and why the EU's transformative power on Romanian child rights regime during its candidacy process could not be fully emulated in the Turkish context.

Importance of Studying Child Rights

There are about 68 million children living in the EU, accounting for 15% of the total population (Eurostat, 2020). Children are still the most vulnerable category affected by decisions made at both EU and domestic levels. Children have their own rights, as determined by the 1989 United Nations Convention on the Rights of the Child (UNCRC). This is the world's most widely-ratified international human rights treaty, and all EU member countries are party to it.

The UNCRC is considered the very basis of all efforts of international organizations that work on child rights. State parties to the UNCRC bear the responsibility to undertake “all appropriate legislative, administrative, and other measures for the implementation of the rights in the Convention” (UNICEF, 1989, art.4). However, international norms and principles do not always translate fully into the domestic sphere. According to the latest statistics, 244 million children aged 6-18 worldwide missed out on schooling in 2021 (UNESCO, Indicators of Education for the World, 2022). The most recent statistics of the World Health Organization (WHO) show that around 45 percent of all deaths among children under five are attributed to undernutrition in low and middle-income countries, which also puts children at risk of dying from infectious diseases and renders them vulnerable to stunting as well as deficiencies in vitamins and minerals (World Health Organization, 2021). Globally, 149 million children under five are estimated to be stunted, 45 million are too thin for their height, and 38.9 million are overweight (World Health Organization, 2021). Combating undernutrition among children has become one of the greatest global health challenges in recent decades. On the other hand, the number of child laborers is estimated to be around 3.3 million, while more than half of these children are also used for commercial sexual exploitation (ILO, 2022). It is also estimated that, globally, up to 1 billion children between 2–17 years faced not only physical, but also sexual or emotional violence and neglect during 2019 (World Health Organization, 2020). In the meantime, child marriage is still a problem area because one in five girls under eighteen is married, while up to 10 million more girls are believed to be at risk of becoming ‘child brides’ in the coming period (UNICEF, 2022).

Implementation of the UNCRC is of utmost importance for all states involved, including EU countries and its candidate countries. In parallel with its economic and political improvements, the EU has also experienced many social changes, with unprecedented demographic shifts arising out of the increase in life expectancy and falling birth rates, and waves of immigration from war-torn countries, mostly in the Middle Eastern and North African countries. The EU enlargement processes also brought new challenges in terms of managing the problems that many children suffer from in the new member states or candidate countries. Especially after EU enlargement

to include Bulgaria and Romania, regulating the situation of children in the acceding countries gained importance in order not to ‘import’ a vast number of problems deriving from the decades-long negligence of child rights in some countries.

Although primary responsibility for governing the status of child rights lies on the shoulders of member and candidate countries, the EU also needed to develop a coherent policy at the supranational level to bring about standardized rules and norms that could offer some templates to the countries that aspire to ‘join the club’. In other words, the high levels of poverty, domestic violence, child trafficking, child abuse, discrimination, social exclusion and exploitation in several countries required creating EU-wide responses in terms of child rights. At the legal level, the necessary condition for EU accession by prospective members is the fulfillment of EU requirements. These requirements are basically the political, economic and *acquis* criteria as set out by the European Council in Copenhagen in June 1993, and refer to the applicant country’s capability to undertake the obligations of membership—the legal and institutional framework known as the *acquis*. The Copenhagen political criteria, with a set of strict requirements, endorsed EU institutions in exerting pressure on the applicant countries to transform and democratize their politics and reshape their political settings in line with this new framework, with the ultimate motive of minimizing the risks and costs of the enlargement to include those whose political and human rights’ record are weaker than those of the EU. These criteria enable European institutions to push for domestic change in the applicant countries by reshaping political structures and normative constructions. Therefore, in order to join the EU, the candidate states have to ensure “stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities” (European Council, 1993). This democratic conditionality is also accompanied with ‘*acquis* conditionality’ that covers the whole body of EU core legislation with which candidate states should comply in their domestic policy frameworks (Schimmelfennig, 2004, p.663).

In terms of child rights, the EU’s commitment to the protection of these is enshrined in Article 3 of the Lisbon Treaty. Following the Romanian enlargement and Turkey’s candidacy, the EU shifted its strategy and emphasized the need to project its

own political and human rights system outside the EU sphere in order to efficiently manage the enlargement costs before it was too late. Although the European Union has been encouraging Turkey to improve its child rights protection policy under the Copenhagen political criteria for full EU membership, the EU itself does not have a fully-fledged common child rights policy. Brussels, however, uses internationally accepted child rights legislation and mechanisms of the UN and the Council of Europe as leverage on candidate countries, sometimes strongly and sometimes weakly or less extensively. Therefore, this thesis is important in the sense that: (i) it traces the developments that happened in the European, Romanian and Turkish spheres in terms of child rights in a specified timeframe; (ii) it compares the domestic changes that happened in Romania and Turkey following EU conditionality; and (iii) it draws conclusions about why a model based on conditionality transformed a whole child rights system in one candidate country and not in another.

Purposes of the Thesis

Recognition of Turkey's candidacy for EU membership at the Helsinki European Council Summit in December 1999 marked a significant shift in Turkey-EU relations, and pushed Turkey to undergo a transformation process prior to the EU decision in October 2004 to launch accession negotiations. Between these two key dates, consecutive governments in Turkey adopted a series of new legislation in order to comply with the political requirements of the Copenhagen criteria and the EU *acquis*. Child rights were an undeniable part of this harmonization process.

Therefore, this thesis scrutinizes the EU's impact on policy-making and institution-setting processes in Turkey between 1995 and 2016, and in Romania from the early 1990s to 2007, by focusing on a specific policy area; child rights. In other words, it compares the EU-induced changes and/or resistance to changes in the Romanian and Turkish pre-accession phases. It aims at revealing the extent to which the EU became a catalyst for child rights' reform in these candidate countries, and to what extent the latter were 'receptive' to such pressure for domestic change. In this respect, the Romanian candidacy is an inspiring case as it triggered a key turning point for the incorporation of a child rights' element into the enlargement process and pushed the EU

itself to prioritize this particular agenda in subsequent accession waves. Therefore, a comparison with the Turkish case offers new insights into making the candidacy process more ‘child-focused’.

Research Questions and Argument of the Thesis

In this context, the main research question of this thesis is whether the EU played a normative transformation role in Turkey’s child rights’ policy between 1995 and 2016, and if it did so, why then—and unlike the Romanian case—did Turkey’s reforms on child rights remain patchy and fail to perform as a driver for the overall accession process.

This main research question also pushed the writer to formulate other related research questions throughout her research for the thesis:

- How, and to what extent, did Europeanization affect the interests, ideas, actors and institutions in Turkey and in Romania as part of the pre-EU accession period?
- Which logic did Turkey and Romania follow in deciding to harmonize its legislation on child rights with the EU? Did the rewards exceed the membership costs?
- In cases where change is evident in Romania and Turkey, can it be precisely linked to EU outcomes, or are there any other dynamics that might have influenced this outcome?
- In cases where there is domestic change, can this change be identified in the discursive and cognitive aspects of policy-making in Romania and Turkey?

Therefore, the main argument of the thesis is as follows: Europeanization of a candidate country requires both domestic accommodation and outside pressure to generate sustainable effects. Romania, which had consistent, strong and reliable guidance from the EU during its path to the accession, felt obliged to transform its whole system of child rights, starting with de-institutionalizing its childcare. Bucharest was aware that it could not be a full member of the EU if it did not improve its child

rights' record, as required by Brussels. However, despite some reform packages that included improvements in child rights, Turkey did not have the chance to follow a similar pattern because the EU's conditionality lost its credibility during this accession process and Turkey's membership prospects were not consistent. This discouraged the latter from effectively implementing the required reforms and from sustaining outcomes in EU-funded projects and programs in the field of child rights, since in some issues, such as education in regional languages and juvenile justice, the costs outweighed the benefits.

Turkey partly Europeanized its child rights regime, especially between the early 2000s and 2012, but then faced a de-Europeanization trend in this field, with the EU no longer a strong referential in its child-related reform steps. 'De-Europeanization' here refers to the lack of sustainability in adopting the necessary EU requirements by the target country and unwillingness to act in line with the EU's adaptational pressure. In other words, after 2012, Brussels began gradually losing its power as a reference point for Turkey's improvements in child rights. Although between 1999 and 2005, Turkish domestic actors acted in line with EU directives to gain the green light for accession negotiations, this willingness began to wane over the years, and it was just after the establishment of an Ombudsperson institution that the child rights issue began losing its place in harmonization efforts.

Methodology of the Thesis

In terms of data collection method, the thesis is based on primary and secondary sources, using interpretation, descriptive narration, qualitative analysis and induction as the main tools. Primary sources comprise transcripts of in-depth expert interviews and examination of statistical data that gave me raw information, first-hand evidence and direct access to the subject of the research, while secondary sources provided for a literature review of commentaries and inputs from other researchers' academic articles, books, surveys, statistical data and legislative documents. Relevant survey results helped in tracking the changes in perceptions among Turkish citizens on EU membership. As other secondary sources, annual progress reports on Turkey,

European Parliament resolutions, parliamentary records and minutes of the EU-Turkey Reform Action Group meetings also helped me to explain the argument.

A comparative method was used in the thesis to describe and explain the similarities and differences between Turkey and Romania in terms of the changes each experienced during its accession process. The comparative method was accompanied with a strong literature review and an extensive theoretical background by taking two countries as units of analysis to test hypotheses about similarities and/or differences. The case selection was based on the candidacy status of both countries between 1999-2007 where the effects of political conditionality were observable. Although there was no common scale to apply to both cases, EU conditionality during their candidacy was used as the main tool. This was a case-oriented comparative analysis whose primary goals were a detailed description and a better understanding of a specific historical period by means of comparison. Such a study with a cross-cultural and cross-historical scope revealed that some candidate countries with similar characteristics in a specific policy area might provide insights into the connections and interactions between the two being compared here. Comparisons between Turkey and Romania were drawn between regular progress reports, legislative changes, institutional set-ups and reactions to EU conditionality to test and revise the theory in both countries. As part of the comparative method, the thesis was able to use descriptive comparison to explain the domestic changes and to elucidate the variations between cases with respect to child rights because the cases being compared here are two candidate countries. Statistically, comparing two countries can be difficult because the statistics do not overlap on some issues, and instead require interpretation and deduction. The Romanian and Turkish cases were selected because of the similarities and divergences in their political, sociological and historical paths, while the target population is children.

In examining the development of the EU child rights narrative, the thesis referred to a longitudinal historical analysis in order to identify the emergence of European child rights norms and institutional mechanisms. This background analysis served as a valuable starting point for discussion of the policy processes under EU enlargement, because it reveals the extent to which the EU has legal competences in the

field of child rights and to what extent this policy area can be incorporated into the EU's external action goals. The conceptual framework of the thesis is Europeanization, while its theoretical framework is neo-institutionalism. The timeframe of the thesis ranges from 1995, when Turkey ratified the UNCRC, to 2016, when Turkey experienced a failed coup attempt, after which Turkey's EU accession bid largely stalled and several child non-governmental organizations (NGOs) were shut down by decree. In the Romanian case, a timeframe beginning in the communist period (1989) until its accession date (2007) was covered. Any shortcomings on child rights in Romania after the accession date do not fall under the scope of this thesis, but were carefully followed by the researcher to gain a comprehensive view.

Interviews were held between 2014 and 2022 at various locations, from the headquarters of the EU in Brussels, Belgium, to the offices of NGOs and public authorities in Ankara. Interviewees held key positions, either as parliamentarians or civil society representatives in Ankara, and they guided me towards specific documents that were not publicly accessible. Some phone and e-mail interviews were also held during the COVID-19 pandemic. The interviews lasted from thirty minutes to an hour, and were recorded and transcribed in full. Interviewees were informed beforehand about the aim of the thesis. The interviews were semi-structured, with open-ended questions that left room for the interviewees to go deeper into the subject and share their experiences. The names of the interviewees were used only with their agreement.

Key official data on EU-related documents were accessed from the EU legislation website (Eur-Lex), which provides online access to EU official journals, treaties, legislation under preparation and in force, as well as case-law; while the examination of EU child rights policy in Romania during its accession process was assisted by a documentary analysis of EU legal texts and documents. For the sake of methodological clarity, this thesis made use of the top-down approach of Europeanization because EU-level actors and institutions directly shaped domestic actors, legislation and institutions, both in Turkey and Romania.

Novelty and Importance of the Thesis

The importance of studying child rights in the Turkish context as an EU candidate country lies in the fact that Turkey's full alignment with the EU *acquis* and political conditionality would have profound effects on both Turkey itself and the EU. Expanding fundamental rights to children would also remove one of the most serious obstacles to Turkey's EU membership because it would indicate willingness to improve its human rights record. Membership of a democratic Turkey, with an improved system in which children enjoy their rights fully and in line with the Western standards, would be a litmus test for its commitment to the democratic values that full EU membership requires. As one third of Turkey's population is made up of children, the adoption and implementation of EU rules, standards and norms on children would confirm Turkey's sincerity on EU membership. Therefore, studying the debate on Turkey's Europeanization of child rights during its pre-accession period and the subsequent reform steps initiated will contribute to a better understanding of the challenges and the opportunities ahead, and provide valuable insights for a candidate country's credentials in establishing a substantive human rights system. Turkey's success in this field would also weaken arguments that the country has lost its willingness to pursue full EU membership.

This thesis was motivated by a personal and academic interest in the evolution of child rights in Turkey during the country's EU accession process, and seeks to explore the dynamics behind the rule adoption and inertia processes. This thesis aims to contribute to the literature on the success and sustainability of EU conditionality on child rights promotion within the enlargement process. It is the first time that Europeanization and child rights have been merged under such a comparative analysis method. It is also the first time that Turkey's accession process has been elaborated on from such a perspective. Therefore, in its examination of Europeanization taking place in a non-member country, namely Turkey, and in its undertaking this examination in an under-researched area, i.e. child rights, the author believes that this thesis makes a modest yet important contribution to scholarly knowledge.

Limitations of the Thesis

Conducting a policy-oriented research is essentially a difficult process because it involves various dynamics of politics and policy-making stages that restrict the availability and quality of the data gathered for the design of the research. The thesis therefore remains descriptive in some instances because there was a need to describe the interactions among different policy levels, institutions and actors in a chronological order to explain the evolution of the Europeanization process.

On the other hand, to the best of the author's knowledge, there exists no impact study or survey on how the EU's child rights projects influenced perceptions and norm internalizations among Turkish public authorities. As a deliberate choice, the thesis does not go deeper into the monitoring of implementation of EU-funded projects in Romania and Turkey, although during the in-depth interviews the author was informed by experts of the problems of effectiveness 'on the ground'. This problem area, albeit very critical, should be tackled by further research in other theses or academic articles supported by field studies that employ a 'process tracking' approach.

This thesis relied mainly on documentary and expert sources, with in-depth interviews, parliamentary reports, European Commission's progress reports, EU directives, European Council conclusions, political party programs, legislation, accession partnership documents, parliamentary minutes, constitutions, and newspapers. However, the in-depth interviews with experts posed both an advantage and a disadvantage since, in some cases, the experts had to speak retrospectively on the topic when they were interviewed years after a project was concluded, and therefore reconstruct the facts through interpretation. However, the accuracy of their commentaries about given facts was checked continuously. The data I gathered from expert interviews helped me in supporting the validity of some historical patterns Turkey experienced.

Turkey and Romania are compared and contrasted in this thesis, but given that the living conditions and the problems of children are unique for each country and cannot be compared fully, the *sui generis* conditions of each in terms of child poverty or

child abandonment are not taken into consideration. The focus is rather on Brussels-Bucharest relations on the one hand, and Brussels-Ankara relations on the other. Therefore, to a certain extent it would appear that some findings on Romania may not be compared with those of Turkey simply because the two have different historical, sociological and economic realities. Nevertheless, the general idea remains the same: The two countries underwent some major changes under the Europeanization process through the use of EU accession conditionality, and child poverty remained at the core of problems children faced in both countries.

As another restriction, Turkey's EU accession bid and the legislative changes in the child rights area were still a subject of heated debate at the time writing of this thesis began, but momentum has been lost over the years. Some experts who were interviewed also moved to new institutions in the meantime. It is worth noting that the thesis looks into a 21-year period in Turkey—from ratification of the UNCRC in 1995 to 2016. Developments taking place in the aftermath of June 2016 are excluded. Also, some interviews were carried out in person, and some by phone and e-mail exchanges because in-person interviews and field study work in Romania were not possible during the COVID-19 pandemic.

On the other hand, Europeanization of child rights in Turkey was still a moving target after 2016, with several ongoing projects that are being funded by the EU and the regular progress reports being prepared by European Commission to assess the developments in Turkey concerning child rights. However, as it was necessary to limit the timeframe of the thesis, it covered the developments until 2016, although the writer has closely followed the period post-2016 from a Europeanization perspective.

Organization of the Thesis

The chapters are organized as follows:

Chapter 1 introduces the conceptual and theoretical borders of Europeanization. It defines and theorizes on Europeanization before elaborating on the main models, outcomes and mechanisms. Therefore, this chapter unpacks the concept of

Europeanization by using a simple taxonomy since different authors assign different meanings to Europeanization. It defines Europeanization as a process of domestic adaptation to the norms, standards and policies in the field of child rights. It elaborates on the domestic impact of Europeanization on member states and on applicant countries, as there is evidence of Europeanization beyond the EU domain. It finally examines the ‘conditionality factor’ that helps in explaining Europeanization dynamics in EU candidate countries.

In the **second chapter**, the thesis focuses on the child rights regime at the international and EU levels. It describes the key historical shifts for child rights literature around the world throughout history before going into detail on the UN’s system as well as the Council of Europe’s standards for child rights. The chapter continues by shedding light on the EU legislative framework before and after ratification of the Lisbon Treaty. The chapter concludes by specifying the obligations for candidate countries in promoting child rights.

In the **third chapter**, the thesis takes the Europeanization process of Romanian child rights’ policy as an example of Europeanization of a candidate country in such a soft law area. It sheds light on the underlying reasons for the sea change in Romanian politics during its pre-accession and accession processes. It first takes an historical perspective to understand from which point the Romanian child rights regime evolved until its accession date, and then adopts an analytical perspective to identify which factors helped the candidate country in transforming its child rights regime in line with the EU requirements.

In the **fourth chapter**, the thesis applies the concept of Europeanization to Turkey’s child rights area as from 2005 when accession negotiations started, and using the literature of Europeanization as a conceptual framework, analyzes the extent to which Turkey’s EU candidacy influenced child rights’ policy in the period 2005-2016. The chapter concludes with another analysis of the Turkish case to answer a critical question for the development of the argument in this thesis: Is there strong or weak Europeanization in Turkey’s child rights regime? This fourth part discusses whether improvements and regressions in Turkey’s child rights’ protection field may be linked

to the presence and absence of EU conditionality combined with endogenous and exogenous dynamics that influence its operability. The Turkish and Romanian cases are, thus, taken as mirror examples of Europeanization processes in EU candidate countries. By comparing the Europeanization processes of child rights policies of Romania and Turkey in the selected time period, the paper aims to reveal the underlying dynamics in the Europeanization process and to trigger a reflection process on the ways to improve Turkey's child rights status in the candidacy process, while making suggestions to policy-makers in Brussels on ways to motivate EU candidate countries in their aligning with EU norms, rules and ways of doing things. After all, the accession process renders EU power much more visible in candidate countries. In this way, the EU can become a normative power not only within its borders, but also in the greater international community and especially among its would-be members.

The **fifth chapter** compares the Turkish and Romanian cases from a neo-institutionalist perspective by clarifying the similarities and divergences of Europeanization in both candidate countries. This chapter also tests the hypotheses of the thesis. **The last chapter** presents the conclusions, and offers a final discussion on why and how the EU's domestic impact differed across candidate countries in the child rights area, and in doing so, underlines some points in the thesis which may open up a space for future researches.

CHAPTER I

CONCEPTUAL AND THEORETICAL FRAMEWORK OF EUROPEANIZATION

“Humanity owes the child the best it has to give.”
Eglantyne Jebb, founder of Save the Children

The conceptual framework of the thesis is drawn by the literature on Europeanization. Political scientists began undertaking research into the Europeanization processes in the 1970s, but the notion gained more popularity in the 1990s with the establishment of the single European market and the intensification of the integration processes within the EU. Initially, studies adopted a top-down perspective to understand the adaptation by domestic systems of the EU legislative framework and standards. Ladrech provided one of the first recognized definitions of Europeanization in 1994, followed by, among others, Radaelli, Börzel and Risse. Since then, there has been a growing literature in political science for conceptualizing Europeanization as a framework to explain EU-induced domestic change. The studies began applying both top-down and bottom-up impacts of Europeanization to make the research more encompassing. After many years of multi- and interdisciplinary studies, Olsen asked in 2002 whether the concept of Europeanization was scientifically of value. Nowadays, the term Europeanization, though having lost its initial popularity, remains a useful explanatory framework for the impacts of the EU on member and candidate countries.

The first section of this chapter focuses on the various definitions of Europeanization as a conceptual framework. Then the chapter reviews the main theories of Europeanization, focusing on sociological and rationalist approaches under neo-institutionalism. This section is followed by an analysis of the models of Europeanization and of the outcomes of Europeanization, with a special emphasis of the de-Europeanization trend. In the closing section of the chapter, the mechanisms of

Europeanization are explained before going into detail about the stages and dynamics of Europeanization of candidate countries.

1.1. Conceptualizing Europeanization

Europeanization, as a fashionable and contested concept in much academic research (Kassim, 2000, p.235; Olsen, 2002, p.921), has developed into a burgeoning theoretical and conceptual literature, discussing aspects from the Europeanization of women's rights to the Europeanization of foreign and security policies. Nevertheless, there is still no consensus on a generalized definition of the term. The last two decades have seen a growing academic interest in Europeanization studies, mainly as an attempt to identify the underlying drivers of domestic changes and to describe the interactions between the EU and its member states in terms of downloading and uploading directives, regulations, shared beliefs, identities, formal and informal rules as well as institutional structures at the EU level. Broadly speaking, Europeanization describes the differential impacts of the EU at the national level with the intervention of several mediating factors and depending on the degree of fit between the EU and national contexts (Börzel and Risse, 2003).

1.1.1. Defining Europeanization

Europeanization is a process beyond domestic change incurred by the EU through rule transfer. It is a multidimensional process encompassing the diffusion of EU rules, values and norms into domestic sphere through various instruments and mechanisms. By defining Europeanization as "*an incremental process reorienting the direction and shape of politics to the degree that EC political and economic dynamics become part of the organizational logic of national politics and policy-making*" (Ladrech, 1994, p.69), Ladrech emphasized the "*adaptive processes of organizations to a changed or changing environment*" (Ladrech, 1994, p. 71). He therefore emphasized the importance of policy change, learning and adaptation of organizations. This definition was criticized for placing too much emphasis on organizations and ignoring the role of policy entrepreneurs and individuals' identity formation. For Ladrech, "*pre-existing domestic structures and internal developments*

are likely to have an important mediating effect on “external” pressures” (Bache, p.2). This definition presupposes a bottom-up approach to explaining the effects of Europeanization by emphasizing the country-specific adaptation processes to external inputs. On the other hand, Schimmelfennig and Sedelmeier defined Europeanization as a *“process in which states adopt EU rules”* (Schimmelfennig and Sedelmeier, 2005, p.7). Another suggestion for defining Europeanization may be the shortest, but is also one of the most encompassing: *“Europeanization is European integration plus institution-building”* (Stone Sweet and Sandholtz, 1998). Europeanization came to the fore following the insufficiency of classic European integration theories in analyzing and explaining the impact of the EU on its member states. Therefore, Europeanization is different from European integration, as the former considers the two-way interaction between the EU and the domestic level, while the latter is concerned with the adjustment of member states to the obligations deriving from the EU.

Europeanization encompasses not only the EU impact on national politics and polities, but also the way the domestic level shapes European politics, which is termed ‘bottom-up Europeanization’. In this approach, Europeanization is considered an uploading process in which member states export or project their own preferences to the EU level. Being able to influence and shape decision-making processes at the EU level makes the member state an active player in the process of Europeanization. Consequently, the domestic preferences of the member states are heard at the EU level, and then reflected at the policy and/or polity levels. At that point, policy refers to standards and instruments for problem solving in a country, while polity includes state traditions, societal relations, political institutions, judiciary and intergovernmental relations (Börzel and Risse, 2003, pp.60-61). Europeanization studies have mostly endeavored to explain the way European policies, norms and rules are influencing domestic political systems (Vink and Graziano, 2007, p.12). Likewise, Featherstone and Kazamias consider that domestic spheres cannot be the passive recipients of EU impacts, as the domestic and EU levels of policy-making are linked to each other in a dynamic process. Accordingly, institutional settings at domestic and EU levels are seen as intertwined, as actors find themselves engaged not only in institutional frameworks, but also in some horizontal and vertical networks (Featherstone and Kazamias, 2001,

p.2). Europeanization is therefore assumed to be a two-way interactive process. In terms of the impact of the EU on non-member countries, Grabbe focuses on the Europeanization effect in central and eastern European countries where the EU uses conditionality and accession negotiations as the main tools for generating domestic change (2003, p.304).

On the other hand, Lawton (1999) claims that Europeanization is the *de jure* transfer of sovereignty to the EU level. However, he also distinguishes Europeanization from ‘Europeification’, that is, the power-sharing between national governments and Brussels. Featherstone explains Europeanization through its maximalist and minimalist meanings and claims that it can only help in understanding the present fluctuations in European politics if it acquires an accurate meaning (Featherstone, 2003, p.3). From a maximalist perspective, Featherstone considers Europeanization as a process of structural change that influences numerous actors and institutions as well as interests, norms and ideas. From a minimalist perspective, Featherstone sees Europeanization as directly linked to the EU-level policy-making processes and their impacts on the domestic context. Therefore, Europeanization is not only restricted to EU member states, but also covers accession countries.

Although concerns and criticisms were raised regarding the ‘conceptual stretching’ (Radaelli, 2000) and its usefulness as an explanatory concept (Olsen, 2002), different conceptions of Europeanization are still useful for developing explanatory models and posing the right questions. Europeanization, the meaning of which may vary according to the theoretical perspective adopted or the subject area selected, is still a multifaceted concept. Rather, a variety of conceptual approaches and different research strategies, each focusing on a particular aspect of the phenomenon, have resulted in different conceptual choices. In some studies, Europeanization is understood as a process of domestic adaptation to legal systems through compliance with the EU *acquis*; while in other studies a variety of pressures deriving indirectly from the EU membership process are taken into consideration. For some researchers (Hix and Goetz 2001, Börzel and Risse 2000, Radaelli 2004), Europeanization is a unidirectional process creating a linear change between the European institutional center and domestic

settings of governance. Such definitions, therefore, take Europeanization as a process of downloading EU directives, regulations and institutional settings to the domestic level. The top-down effects, which use the concept of ‘downloading’, take into account the extent to which EU pressures for change generate an impact on domestic policy structures because its member states or third countries download EU policies and implement them in their domestic sphere.

The conceptual framework of this thesis is based on the Europeanization literature. The concept was first coined by Ladrech in 1994 as “*process reorienting the direction and shape of politics to the degree that EC political and economic dynamics become part of the organizational logic of national politics and policy-making*” (Ladrech, 1994, p.69). Ladrech’s definition of Europeanization as a process of top-down European procedures to influence domestic settings was harshly criticized for having ignored the multifaceted exchanges among different levels. The concept has been since at the center of various debates on European integration theory. However, it is worth noting that Europeanization is not an approach or a theory, but rather a conceptual framework, which, according to Radaelli, “*should be seen as a problem, not a solution*” (2004, p.2). Radaelli conceives Europeanization as a “*way of orchestrating existing concepts and to contribute to cumulative research in political science*” (Radaelli, 2004, p.2). Therefore, Europeanization, in the way Radaelli views it, is a “*problem in search of an explanation, and not the explanation itself*” (Radaelli, 2004, p.2).

Europeanization may be generally outlined as the processes of downloading the EU regulations and institutional structures to the domestic level, and it is sometimes coupled with a bottom-up process that consists of uploading domestic policies and preferences to the EU level (Howell, 2004). According to Tanja Börzel and Thomas Risse, there are broadly two conditions for generating domestic changes with the Europeanization process: i) there must be some degree of ‘misfit’ or incongruity between the EU and domestic levels. If there is a perfect match between the national and European level, there is no need for domestic change. ii) Institutions and/or actors should be willing to respond to adaptational pressure. The degree of misfit determines

the extent of adaptational pressure, which is one of the necessary conditions for domestic change to occur. In some cases, the member states also try to ‘upload’ their national preferences to the European level (Börzel and Risse, 2003, pp.58-66), in order to reduce their implementation costs or resolve their inherent problems at a higher scale (Börzel, 2002). Therefore, the understanding of Europeanization has essentially considered the misfit —the inconsistency between European and domestic policies, political processes and institutions— as the basis of analyses (Börzel, 1999; Börzel and Risse, 2000 and 2003). Börzel, for instance, who explains what happens once power is delegated to the EU, interprets Europeanization as “*a process by which domestic policy areas become increasingly subject to European policy-making*” (Börzel, 1999, p. 574). Cowles, Caporaso and Risse define Europeanization as “*the emergence and the development at the European level of distinct structures of governance*” (Cowles et al, 2001, p.3). They mainly refer to different institutional settings -not only at political but also at social and legal layers- that formalize interactions between the actors, and also to policy networks that help developing EU-wide rules.

This thesis embraces Radaelli’s conceptualization, which encapsulates Europeanization as follows:

Processes of (a) construction (b) diffusion and (c) institutionalization of formal and informal rules, procedures, policy paradigms, styles, ‘ways of doing things’ and shared beliefs and norms which are first defined and consolidated in the making of EU public policy and politics and then incorporated in the logic of domestic discourse, identities, political structures and public policies (Radaelli 2003, p.30).

This definition emphasizes the role of a broad change and the processes of institutionalization in the logic of political behavior. According to this conception of Europeanization, the pressure for institutional and policy reform at the domestic level derives from the degree of ‘fit’ or ‘misfit’ between domestic policies and institutions and those of the EU. In other words, the greater the ‘misfit’ between these two levels of governance, the more pressure will be generated for domestic reform to reach an adequate level of ‘fitness’. Therefore, Europeanization becomes a tool for compelling states to enact domestic reforms to comply with the EU policies and institutions. Such an understanding not only covers EU members, but also countries beyond the EU, for example EU membership candidates and other neighboring countries.

Amid a flurry of definitions, Thomas Diez, Apostolos Agnantopoulos and Alper Kaliber (Kaliber et al., 2005), distinguish among four types of Europeanization: policy Europeanization, political Europeanization, societal Europeanization and discursive Europeanization. Policy Europeanization, with its impact on policymaking processes, is framed as the most common understanding of Europeanization. When analyzing such a form of Europeanization, the existence of incompatibility between European and domestic policies as well as some mediating factors such as the agents of change or veto players are taken into consideration. Policy Europeanization occurs among both EU members and candidate countries when the EU imposes its particular policies through financial and technical assistance, twinning projects or formal benchmarking attempts in an asymmetrical way. On the other hand, political Europeanization helps to identify the impact of European integration on national institutional structures (e.g., civil society actors, NGOs, national institutions) and political actors (e.g., parliaments, interest groups, political parties). At this level, political Europeanization empowers other domestic actors over national governments, as it offers some options for veto points or exit opportunities (Kaliber et al., 2005, p.5). For its part, societal Europeanization is considered a process of change that constructs collective understandings by using the EU and Europe as references. This domestic change in collective identity is mostly reflected in the Eurobarometer public opinion surveys that try to reveal to what extent people feel European. Finally, discursive Europeanization is identified in the changes at the public discourse level that make reference to EU and European actors. However, it is also worth noting that these different forms of Europeanization are related to each other and frequently interact.

To conclude, Europeanization signifies the continuous territorial expansion of the EU and the subsequent establishment of institutions to allow for binding decisions and to facilitate the domestic adaptation to EU-derived requirements. Europeanization is therefore a political process that works to make a more united, stronger European polity that binds its member and candidate countries together based on certain standards, norms and ways of doing things, but takes into account national diversity.

1.1.2. Strategies and Mechanisms of Europeanization

When clarifying the interests, preferences and capacities of member states in trying to outline European policy outcomes, researchers mainly explain three different strategies of Europeanization (Börzel, 2002, pp.193-214). According to Börzel, member states may opt for “pace-setting” (Börzel, 2002, pp.197-203) by actively shaping European policies in line with their national preferences, thus minimizing implementation costs. For instance, the pacesetter or the ‘forerunner’ exports its domestic policies to the European level, which are then incorporated by other members. A perfect example of this circumstance is the exportation of the high environmental standards of Sweden and Finland to the EU level after they joined the Union in 1995. They managed to influence EU legislation regarding environmental policy as they were environmental forerunners both in their national policies and in their international engagements at the UN because they had acquired substantial scientific expertise and knowledge on consumer behavior regarding energy-saving, limiting of greenhouse emissions, organic food labeling, etc. Hence, these highly-regulating states, which are equipped with sophisticated regulations, had the chance to coordinate trans-boundary efforts in fighting environmental pollution and encourage others to align with their high standards. Offering specific expertise and knowledge to the European Commission during the drafting process of policy proposals might therefore become an efficient instrument in transferring the national preferences of an incoming member country to the European policy processes. German and Dutch experts applied this method in the past to promote their environmental agenda at the EU level—for instance in terms of EU-level negotiations on the drinking water directive—by leveraging their presence on the environmental committees and in meetings of several European institutions. Generally, economically-developed and environmentally-conscious countries have tended to act as pacesetters because they already had high standards and were ready to upload these to the EU level during policy-making processes.

As a second option, member states may prefer to engage in “foot-dragging” (Börzel, 2001, pp.203-2016) in a bid to stop or contain other member states in their attempts to upload costly domestic policies to the European level, the aim being either

to prevent them altogether or to achieve some reward(s) in return for implementation costs. The end result often takes the form of achieving some compensation for the implementation costs, like package deals, temporary derogations or side-payments. These countries are generally called ‘laggards’, and were exemplified by Börzel in countries such as Portugal, Greece, Italy, Spain and Ireland, all latecomers whose regulatory standards lagged behind the EU level because of their particular economic conditions. For instance, in its membership process, Spain emphasized its increasing energy needs for development to justify its use of coal-fired power stations. Therefore, it asked for structural funds and financial compensation to bear the costs of the higher standards of environmental protection, especially regarding urban wastewater treatment facilities. In the end, a package deal was prepared to finance the implementation costs of EU environmental policies in Spain, as a latecomer. In other words, while Spain tried to catch up with the industrialization level of other EU states, it had to download European policies and establish its regulatory structures by compensating for its low capacity with EU assistance funds. Under-developed countries are more inclined to ‘foot-drag’, as they do not have the capacity to upload their policies and preferences to the EU level. They therefore assume the role of an obstructor to European policy initiatives.

A third option is ‘fence-sitting’, meaning that the country in question neither initiates a policy adaptation nor prevents the others from promoting specific policies at the EU level. Instead, it establishes tactical coalitions with foot-draggers and pacesetters or remains indifferent and neutral, depending on the situation in question (Börzel, 2002, pp.206-208). For instance, some countries may sit on the fence between first-comers and latecomers on a specific European common policy because their standards remain in-between. Therefore, they do not assume many downloading costs for European policies, while they do not have domestic veto players in this process because they do not anticipate any significant competitive advantage or loss. In brief, they do not have any incentive to shape European policies in line with their national preferences, so they neither push for policy changes nor oppose those of others.

Although the strategies applied by member states vis-à-vis European policy choices are linked to their levels of development, they can also vary across policy sectors and policy issues depending on the preferences and coalition formations as part of the regulatory contests. In some policy areas, a developed country may act as a foot-dragger or fence-sitter to protect its domestic interests and to cope with high costs, while in other policy areas it may become a leader and upload its standards to the European policy initiatives. On this issue, Börzel suggests that the EU should provide necessary flexibility and unpack financial instruments to support the implementation of EU legislation by the member states to overcome points of resistance.

In order to reach a wide-ranging understanding of the mechanisms that generate the domestic impact of European policy-making, three ideal types of mechanisms may be distinguished, namely positive integration, negative integration and ‘framing’ integration (Knill and Lehmkuhl, 1999). These mechanisms help in understanding how European requirements result in domestic institutional change. First of all, there is a broad consensus that the adaptation process is related to the recognition of a misfit between EU requirements and the domestic context. The EU prescribes a specific institutional model and/or policy template for its member and candidate countries to follow. In other words, in the positive integration, the EU policy suggests an *institutional model* taken as a reference for domestic arrangements to be adjusted accordingly. Under this model, member states have barely limited institutional choice when deciding on the arrangements to meet European requirements (Knill and Lehmkuhl, 1999, p.2). There is a need for an active, supranational policy (e.g., Common Agricultural Policy, regional policy) for initiating the positive integration, which in turn leads to institutional compliance. For instance, for the environmental policy or for the Economic and Monetary Union (EMU), this mechanism applies perfectly because in these policy areas, the pressure for adaptation at the domestic level results from the degree of fit or misfit between the EU and domestic policies, institutions and processes. When there is a policy misfit, there is incongruence between European rules and domestic policies. When there is an institutional misfit, there is a lack of correspondence between domestic rules and procedures on the one hand and EU requirements on the other. The degree of fit determines the adaptational pressure on

domestic actors, processes and policies. If the misfit is greater, the downward adaptational pressure on the member or candidate country increases. If a state wants to join the EMU, it has to adopt several institutional changes and revise its legislation, one example being rendering its Central Bank independent from the governmental interference. The relevant policy template is ‘downloaded’ to the domestic level in a hierarchical and coercive way. If the Central Bank of the candidate country is already independent from the government, there is no misfit and there is no need to undergo institutional changes at this point. Therefore, the domestic impact is seen through the prism of institutional compatibility between European and domestic measures (Knill and Lehmkuhl, 1999, p.14). This mechanism of integration is mostly institution-centered.

Negative integration functions through market-making measures and covers the EU rules that do not suggest specific templates for the member and candidate countries. Negative integration changes domestic opportunity structures because power and resources are redistributed between domestic actors following the national adaptation process. In other words, there is no general model or EU template for negative integration. This mechanism is about policy areas similar to the Single Market, where mutual recognition of national legislation is important. For this mechanism to function, there is a need for regulatory competition between national regulatory regimes, but there is no need for national legislation to enact the relevant policy area. For instance, companies prefer to be located in EU countries that do not have complex regulatory frameworks – a factor that pushes the member states to compete with each other in order to provide the best domestic regulatory environment. Negative integration is, for Radaelli, inflicted in a hierarchical way on member states, while the outcome is contingent on the inclination and competence of national governments to continue regulatory competition (Radaelli, 2004, p.12). This mechanism opts for an actor-centered perspective in considering the extent to which European policies change domestic opportunity structures of domestic actors.

As a third mechanism, framing integration, or ‘facilitated coordination’, refers to policy areas where EU member and candidate countries remain the key players in a

policy environment in which there is not much EU legislation. Here the mechanism is based on soft law, which is not legally enforceable and requires the application of open method of coordination (OMC). Europeanization takes place through learning processes and diffusion of good practices that change the beliefs and expectations of domestic actors. In this case, European decision-making permits the adoption of vague and symbolic policies that will stimulate “*the overall support for broader European reform objectives*” (Knill and Lehmkuhl, 1999, p.4). In other words, European policies may provide additional legitimacy and justification for domestic players to enact nation-wide reform steps, which may facilitate their efforts in overcoming institutional and legal veto points. Instead, domestic change may vary with two factors:

(1) the extent to which European policy beliefs and ideas have mobilized the support of domestic actors for European reforms; and

(2) the extent to which European support suffices to enable domestic reformers to put through national reforms in light of given institutional opportunities and constraints (Knill and Lehmkuhl, 1999, p.5)

This mechanism opts for an actor-centered perspective in understanding the extent to which European policies change the beliefs and expectations of domestic actors.

1.2. Theorizing Europeanization

In light of the cliché that ‘institutions matter’, this thesis will theorize Europeanization from the neo-institutionalist perspective, which arrived on the scene of international political science debates in the 1980s, and which claimed that the choices of individual actors may be understood when placed under particular institutional configurations (Harmsen, 2000). Neo-institutionalism represents a reaction to the behaviorist approach that tries to explain political behavior in terms of exogenous factors, especially based on psychological and/or sociological models. The ‘new’ understanding of institutionalism denotes that institutions may also cover informal rules, conventions, norms and principles. On the other hand, the neo-institutionalist approach, while accepting the influence of broader social forces on politics, also

emphasizes the interactions between domestic and international spheres as well as the mediating effects of national institutions within the EU architecture. Therefore, the influence may exist in two ways: The national context may shape the social environment in which it is situated, while it can also be shaped by these social settings. The new institutionalism marks a difference with the 'old' institutionalism in that it covers not only the main political institutions (such as legislature, political parties, executive), but also other institutions such as business groups, labor organizations, civil society groups and epistemic networks, considering them key structures within their own socio-cultural and political contexts. For the neo-institutionalists, 'institutions matter' and they affect outcomes.

Neo-institutionalism has evolved into three variants (Hall and Taylor, 1996), namely rational-choice, sociological and historical, each equipped with a unique set of assumptions about EU impact. Rational choice institutionalism accords a secondary role to institutions as it considers individual political actors utility-maximizers, and it emphasizes the domestic change that happens when expectations of actors change resulting from the reallocation of resources domestically. However, this theoretical approach views institutions as an element, which influences actor strategies that consciously calculate their self-interest. The second variant of neo-institutionalism is 'sociological institutionalism' that emphasizes the cognitive transactions between institutions and those that are influenced by them through socialization and collective learning processes. Finally, the third variant is 'historical institutionalism' which emphasizes the historical path that institution-building passed through. The thesis will use the sociological and rational-choice variants as they provide a more appropriate explanatory framework for the differential patterns of domestic behaviour vis-à-vis EU pressures. As noted by Börzel and Risse, the logics of change of the rationalist and sociological institutionalist perspectives are not mutually exclusive, and they "*often occur simultaneously or characterize different phases in a process of adaptational change*" (Börzel and Risse, 2000, p.2).

1.2.1. Sociological Institutionalism

The sociological understanding of institutions emphasizes the identity-forming roles and insists on the role of inter-subjective structures like norms, identity, knowledge and culture. It therefore implies the existence of cognitive and normative mechanisms, and hence emphasizes the capacity of institutions to socialize actors and thereby influence their preferences, identities and interests. In other words, according to the sociological institutionalist reading of Europeanization, institutions construct the identities, interests, preferences and behavior of actors through socialization and a collective learning process that results in internalizing norms and developing new identities. Therefore, norms are internalized with the development of new identities. This reasoning emphasizes the idea of institutional cultures, rules, norms and internalization structures, which are considered culturally constructed. It also includes cognitive, normative and ideational factors to explain the EU institutions, and considers the EU a model that promotes norm diffusion and socialization.

Sociological institutionalism defines institutions very broadly, to include informal and formal rules as well as conventions. In this respect, sociological institutionalists believe that Europeanization generates a ‘logic of appropriateness’, which is defined by Börzel as “*collectively shared understandings of what constitutes proper*” (2003, p.10). According to the logic of appropriateness, or the ‘cultural approach’ as coined by Hall and Taylor (1996), actors are directed by a collective understanding of what constitutes a socially recognized behavior and rational action under a certain structure. In other word, this model emphasizes the socialization and collective learning process of Europeanization that generates domestic change through internalization of norms and development of new identities. In other words, through socialization and learning mechanisms, the EU affects ideas, norms, preferences in the target country, and makes them internalized in domestic politics. This normative logic argues that actors are guided by collectively shared understandings of socially accepted behavior, and they perceive them as strategically appropriate behaviors. This is a process of domestic change where member states try to familiarize their own processes, policies and institutions with the new practices, norms, rules, and procedures that derive

from their interactions with the emerging European system of governance. As Johnston puts it (2001, p.488), “*actors who enter into a social interaction rarely emerge the same*”.

Since Brussels cannot always create necessary pressure for change, member states should also take steps by themselves to transform their domestic norms and legislation towards convergence with the EU. Therefore, actors try to meet social expectations and ‘act appropriately’ rather than maximizing their individual aspirations. Börzel and Risse argue that these collective understandings inspire actors in defining their goals and what they consider as rational actions. In other words, actors are not obsessed with maximizing their cause, but rather place emphasis on meeting social expectations (Börzel and Risse, 2000). In other words, sociological institutionalism suggests that elite socialization and a collective learning process ensure domestic change. With elite socialization, member or would-be member states, having recognized the importance of acting together, move the conduct of domestic policy away from the old paradigms towards a collective undertaking. This structuralist and agency-focused explanation for domestic change also emphasizes institutional isomorphism. Accordingly, institutions, which often interact, become exposed to each other and over time they began developing similarities in terms of organizational structures or allocating resources (Börzel and Risse, 2000 and 2003). In other words, ‘institutional isomorphism’ implies that “institutions that interact with one another or share a similar environment have the tendency to develop homogeneity in terms of their normative and cognitive structures” (Börzel and Risse, 2000, p.8). But, elite socialization is also criticized by some scholars like Jeffrey T. Checkel who think that it does not generate sustainable outcome. According to Checkel, when practiced separately, participatory approaches and socialization processes which are soft in their nature do not work to promote compliance in hard cases. “*Put differently, advocates of both the "bring-them-into-the-club-where-we-can-socialize-them" and the "keep-them-outside-the-club-until-they-are-already-compliant" policies are wrong*” (Checkel, 2000).

Another reading of social institutionalism concentrates on agency and the socialization processes of actors while internalizing new norms and rules through

persuasion and learning processes. They redefine their identities and interests in this process (Börzel and Risse, 2003). In this respect, domestic change is defined as an outcome of the socialization and learning process. Therefore, the actors choose the behavior that is appropriate to their social role and the social norms under specific circumstances. However, when domestic actors engage in EU-induced reform processes as norm entrepreneurs—e.g., as advocacy networks or epistemic communities—they socialize national actors into new rules and norms by persuasion and learning through which they redefine their identities and interests. Norm entrepreneurs—a group of people or advocacy groups united by shared values—actively lobby for EU-induced norms and thus help to lead a social learning process at the domestic level. When norm entrepreneurs and their contacts in Brussels are active, they are successful in generating domestic change in line with the EU requirements. In addition to this, if the country has a cooperative decision-making culture, the impact of the veto points will be minimized, while making the adaptation process much easier. With candidate countries whose regulatory standards lag behind the EU level, the resistance of veto players against the high costs of compliance with the Copenhagen criteria and the *acquis communautaire* may be overcome by ‘reinforcement by reward’. As Risse pointed out, “*the existence of multiple veto points in a given policy-making structure has been identified as a major factor impeding structural adaptation*” (2001, p.9). Accordingly, as long as the power is disseminated across the political spectrum giving more actors to have a say in political decision-making, it becomes more and more difficult to promote consensus at the domestic level or build a winning coalition in order to pioneer institutional changes as a result of the Europeanization pressures (*ibid.*). On the other hand, reformist dynamics are also important: The existence of a pro-European civil society and the prevalence of a public opinion that favors the accession process provide the strong social support from below essential to maintaining domestic adaptation.

The sociological reading suggests that domestic change occurs either when institutions develop similarities in their principles, practices and structures after having interacted for a long time, or when actors internalize new norms and rules through socialization processes. According to sociological institutionalism, high adaptational pressure encounters strong institutional inertia and prevents domestic change in the

absence of strong external coercion or a domestic crisis. Actors are only open to be persuaded and change in the long run if new norms are compatible with the collectively shared understandings. The theory of sociological institutionalism therefore advocates that institutional change happens following three mechanisms (Di Maggio and Powell, 1991). Institutions may change through (1) formal or informal pressures, (2) imitating other successful applications for gaining more legitimacy, or (3) the diffusion of norms and standards through interactions with other institutions. Actors' cultural values, beliefs, perceptions and identities determine how the exogenous inputs are processed within the domestic setting.

Sociological institutionalism accepts that actors perform by pursuing a 'logic of appropriateness', in which they socially construct rationality by conforming to the social norms. According to sociological institutionalists, norm entrepreneurs try to convince relevant actors to comply with the EU norms and act as Europeanization facilitators in domestic change. Actors therefore care about what other members in their own community think of them and shape their interests through norm socialization (Risse and Ropp 2013). At this point, international organizations intervene through persuasion, capacity-building, knowledge-sharing, financial and technical support as well as deliberation in a positive way, or use tactics such as regular reporting and public statements when there are confrontational aspects. The end goal is the same: convincing governments to accept or to internalize given norms and behaviors. The logic of appropriateness is used as "*the variant that focuses on the cognitive dimension of institutions that provide particular interpretations of the world that convey ideas and belief systems*" (Héritier, 2001, p.4).

This theory therefore implies that the impact of Europeanization is not unidirectional, but is mediated between central and local actors, while the outcome also depends on the pre-existing balance of power in the domestic setting. In other words, the preferences of the political actors, their cultural values, as well as the domestically established administrative traditions in each country frame the way that country reacts to EU pressure for domestic change. Sociological institutionalism concentrates on the culturally framed actions, ideas and identities that derive from cultural-specific rules

and norms, and tries to understand how actors are guided by collective understandings of proper and socially accepted behavior. In other words, they are not focused on maximizing their subjective desires, but rather on meeting social expectations following a learning process. Accordingly, *“European policies, norms and the collective understandings attached to them exert adaptational pressures on domestic-level processes because they do not resonate well with domestic norms and collective understandings”* (Gwiadza, 2002, p.9). Sociological institutionalism is mainly connected with ‘cognitive’ Europeanization, that covers changes that occur in the mental contexts of domestic political actors through the formation and dissemination of EU-wide ideas, and the socialization opportunities provided by EU institutions and policies. Although direct domestic change to the political settings may be less visible compared with the other cases, this form of analysis appears much more effective for an understanding of the changes that occur in policy domains where the EU has limited competences.

Sociological institutionalism is based on the social learning model, according to which the EU influence depends on mediating factors such as ‘the legitimacy of EU demands’ and ‘the legitimacy of the process’ at the international level (Schimmelfennig and Sedelmeier, 2005, pp.18-19; Sedelmeier, 2011, pp.15-16), and ‘positive normative resonance with domestic rules’, ‘identification with the EU’, and ‘transnational networks’ at the domestic level (Schimmelfennig and Sedelmeier, 2005; Sedelmeier, 2011, pp.12-14). Accordingly, national executives assume a determinant position in a member state’s response to EU-led domestic pressure during the decision-making and implementation processes. Additionally, domestic actors also encourage domestic executives to follow EU-induced policies that fit into their own interests (Börzel, 2002) and they also blame their national governments for the costs incurred by the European policies (Börzel, 2003a). This approach emphasizes that the incentives, choices and strategic estimates of political actors are mainly framed by institutional contexts. In other words, interest formation and decision-making among actors are both determined by the existing institutional context of the actors. Therefore, this interpretation is opposed to the institutional understanding of rational choice that explains change on the basis of the rational preferences of actors.

1.2.2. Rational Choice (Rationalist) Institutionalism

This theoretical variant tries to explain how actors use institutions to pursue their interests when institutions may act to constrain their abilities to fulfill their preferences. Rational choice institutionalism considers Europeanization through the lens of opportunity structures that empower or weaken some actors within the (rationalist) ‘logic of consequentialism’. In other words, domestic actors act by following a utility-maximizing approach, while their identities, interests and norms are externally given (Hix and Goetz, 2000, p.19). Rational choice institutionalism claims that the EU facilitates domestic change by modifying opportunity structures for domestic actors, and that policy change emerges in a top-down order. The misfit between the EU and domestic sphere is translated into domestic change when member states download EU policies and institutions by shaping the cost and benefit calculations of rational actors. Rational actors conduct strategic interactions to maximize their interests. Therefore, institutions either enable or restrict the actions of self-interested actors and intervene in the actors’ preferences and behaviors. In other words, institutions make some options costlier than others. Actors are driven by their rational interests and their strategic calculations, while such rational thinking, as well as the actions they take based thereon, inspire the outcome of the Europeanization process (Börzel, 2002). Accepting individuals as rational actors wishing to increase their profits and reduce their losses, is mostly agent-based, yet it supposes that rationality and rational pursuit of interests are not restricted to individuals, but are also a collective pattern. In this context, domestic change is defined as a process of redistributing resources. Rational choice institutionalism therefore defines institutions as “*formal legalistic entities and sets of decision rules that impose obligations upon self-interested political actors*” (Rosamond, p.115). Rosamond provides the example of the voting procedures in the Council of Europe, where the qualified majority voting system obliges like-minded national governments to establish strategic coalitions to pursue their interests by blocking an unfavorable proposal.

Accordingly, actors purposefully make use of the formal institutional framework (procedures, regulations, policies, etc.) in accordance with their rational

interests. They themselves therefore affect institutions, and institutional changes by their behavior. In this respect, national institutional reforms under the Europeanization process generate new possibilities for the rational actors who try or try not to actively participate in these processes because any actual cooperation between supranational and national institutions is based on their interest assertion, and therefore any adaptation process to EU requirements depends on the relevant actors' rational choices (Radaelli, 2003). In this regard, domestic change becomes much easier if EU incentives deter domestic actors from becoming *veto players* by refusing to adapt to EU requirements, or quite the contrary, if they enable reform coalitions at the national level with additional resources (*formal supporting institutions*) to benefit from the opportunities deriving from the Europeanization (Börzel and Soyaltin, 2012, p.8).

If there are multiple veto points in a country's institutional settings, domestic adaptation may face some challenges. On the other hand, existing formal institutions may give actors the resources necessary to promote domestic adaptation. In this regard, taken from a rationalist institutionalist standpoint, when there is a misfit between European and domestic pressures, policies and institutions, domestic actors are provided with new opportunities and limitations in the fulfillment of their interests (Gwiazda, 2002, p.9). Therefore, rationalist institutionalism may be understood through the prism of the external incentives model, where conditionality appears as the key instrument in the EU setting accession conditions. On this point, the EU generates impact with international and domestic facilitating factors, but this impact is measured by the reliability of conditionality mechanism, the precision of EU demands, the scope of rewards, the temporal contiguity of prizes, power asymmetry, and also monitoring capacity (Sedelmeier, 2011, pp. 12-14). In terms of domestic mediating factors, the rationalist approach emphasizes the existence of veto players, formal institutions, adoption costs, administrative capacities and societal mobilization. Therefore, researchers who use this framework (rational choice institutionalism) examine the veto points in the institutional architecture and the formal institutions to explain how the rational actors deal with constraints and opportunities that lie ahead.

Therefore, rational choice institutionalism accepts that actors act in a rational and interest-maximizing way and follow the logic of consequences. Therefore, domestic changes occur mostly when domestic political actors ‘rationally’ make use of available European resources in order to sustain their preferences. Consequently, the Europeanization process changes the domestic opportunity structure for domestic actors and leads to differential empowerment of relevant actors who initiate domestic change if they can exploit the new resources made available to them. Rational choice institutionalism is best used for identifying the interests and motivations behind rational actors’ behavior patterns within particular institutional settings, while sociological institutionalism is the most suitable approach for explaining the shared understandings and norms that frame action and shape identities of the actors while at the same time influencing their interests.

It is also necessary here to point out the goodness of fit argument that was advanced by Risse, Cowles and Caporaso (2000, pp.1-20), which suggests that the degree of compatibility between the EU’s and member / candidate country’s arrangements is a key factor determining changes in domestic polity, policies and politics. In other words, Europeanization occurs as a result of pressure that is exercised by some EU policies or institutional settings on the member or candidate countries. This adaptational pressure determines the direction of change in a given country and the occurrence of Europeanization depends on the reaction of the actors and institutions. This model meshes with the rational choice institutionalism and presumes that ease of harmonization to EU rules and policies depends on the extent to which they fit domestic policies and institutions. Accordingly, “*the lower the compatibility (fit) between European institutions and national institutions, the higher the adaptational pressures*” (Risse et al., 2001, p.7).

There are two main types of misfit: policy and institutional. However, strong adaptational pressure does not necessarily generate domestic change because there exist some facilitating and obstructing factors as well. It all depends on how much change is needed and how strong the mediating factors are. Risse, Cowles, and Caporaso suggest that, the presence of mediating factors determine the outcome of EU-derived domestic

change in cases of high adaptational pressures (Risse et al., 2001, p.9), and they identify five mediating factors to translate adaptational pressure into domestic change, namely multiple veto points; mediating formal institutions; political and organizational cultures; differential empowerment of actors; and the learning process. The EU's transformative power is therefore shaped by the degrees of misfit. *"If low and non-credible conditionality combines with high policy or institutional misfit, EU-induced domestic change is unlikely to occur because costs are high and the EU offers little to offset them"* (Börzel and Soyaltin, 2012, p.7). Yet, Börzel and Soyaltin underlined that despite the existence of high misfit, occurrence of substantial costs and few incentives, the EU can still generate influence on both institutional and policy change (ibid.). In the same vein, Börzel notes that *"the more a European policy fits the domestic context, the lower the adaptation costs in the implementation process"* (2002, p.196).

However, the goodness of fit model has been widely disputed by many scholars, such as Schmidt and Radaelli (2004), who argue that the fits and misfits are politically constructed, and that there might not exist any absolute match or mismatch. What's more, the misfit explanation cannot be applied to all policy areas because some soft policy areas do not possess any policy template, and require other mechanisms of Europeanization such as sharing of best practices or social learning (see Knill and Lehmkuhl, 1999, p.11). According to Radaelli, there are three types of learning in a soft policy area: learning by socialization, learning by monitoring, and learning by arguing and persuasion. Radaelli claim that socialization processes can encourage policy-makers to assume more commitments towards EU accession by recognizing their interdependence, while with the monitoring the EU institutions can follow up progress in the target country and make comparisons with the member states. *"Finally, arguing and persuasion contribute to the refinement of guidelines, timetables, and goals"* (2008, p.240).

In a similar fashion, Bulmer and Radaelli (2004) argue that the goodness of fit explanation describes domestic change only in terms of positive integration cases because it *"assumes a clear, vertical, chain-of-command, in which EU policy descends from Brussels into the member states. Yet they have used European policy to justify and*

legitimize change” (Bulmer and Radaelli, 2004, p.9). Therefore, the goodness of fit explanation is mainly criticized for giving priority to hierarchy over coordination in explaining domestic change as an outcome of Europeanization. In other words, this model conceives Europeanization as the direct outcome of the implementation of some EU rules and policies where there is sufficient *acquis communautaire*. Therefore, it is a one-way model that privileges top-down processes and therefore works especially in the case of candidate countries that do not have so much opportunity to upload their policies to the EU level and that change their behavior following conditionality mechanisms applied in a top-down fashion by the EU based on its power of asymmetry.

Briefly, according to the distinction made by Börzel and Risse (2003), the logic of appropriateness is based on the presence of norm entrepreneurs and the nature of political culture at the domestic sphere, while the logic of consequentialism depends on the existence of multiple veto points and the distribution of institutional resources between actors.

Table 1
Comparison of Misfit from the Logics of Rational Choice and Sociological Institutionalism

| Misfit | |
|---|--|
| Logic of consequences | Logic of appropriateness |
| Clarity of EU requirements (conditionality) | Interactions in the EU-driven networks |
| Size and credibility of the EU’s incentives | Legitimacy of EU norms |
| Domestic adoption costs in line with domestic preferences | Normative resonance |
| Veto players | Domestic political elites |

1.2.3. Historical Institutionalism

Historical institutionalism, as a new institutionalist approach, highlights how timing, sequences and path dependency touch on institutions, and shape relevant social, political, economic behaviors (Bulmer and Burch 1998; Bulmer 2009). It values the role of time in the integration process. Historical institutionalism therefore focuses on the historical origins and development path of the institutions themselves. It refers to the historical approach following the logic of path-dependency and implies that institutions are mostly closed to change. According to the historical institutionalist reading of

Europeanization, domestic and/or EU institutions intervene into actors' preferences and interests in the short term and over time they generate a stronger impact on policies and institutions (Featherstone, Kazamias, 2000, p.9). In principle, such an historical approach emphasizes the deepening of the European integration process over time. Accordingly, institutions are seen not an inevitable product of neutral bargaining or a linear historical trend. Institutions harbor intrinsic ideas, which then affect the relevant agents (Aspinwall and Schneider, 2001, p.11). In other words, once a country initiates a path, the costs of setback become very high. For instance, once member states agree on using a common currency following years-long negotiations, it would be very costly to reverse the agreed policies. Therefore, the role of history is a determinant in explaining institutional reform or policy choices because history matters when tracing back the evolution of today's choices based on yesterday's efforts.

Path dependency therefore accentuates a continuous historical path when explaining domestic change. For Sewell, path dependency suggests that "*what happened at an earlier point in time will affect the possible outcomes of a sequence of events occurring at a later point in time*" (Sewell, 1996, pp.62–263), while Berman (1998, p.380) claims that in a path-dependent process, choices made at time X shape or inspire consecutive choices made at time X + 1. Accordingly, once established, it becomes much more difficult to change some institutions. Therefore, small choices made at an earlier time can generate longer-term impacts (Sorensen, 2014, p.7). It therefore studies how institutions intervene in actors' interests and thereafter establishes distinct paths of incremental change. For Pierson (2004, p.21) the paths, once built, are fixed and do not left quick shifts across paths. However, such an inflexible conceptualization of path dependence has been long criticized for ignoring steady changes (Gorges, 2001) as well as the possibility that institutions can deviate from their original path once these initial paths do not generate the intended outcome.

Therefore, historical institutionalism defines the origins and development of institutional structures and processes over time and reveals the sequences and phases of political change as well as the timing of some critical events within a historical timeframe. In this approach, interests are formed on a contextual basis. Sewell defines

path dependency, as “*a relationship whereby what happened at an earlier point in time will affect the possible outcomes of a sequence of events occurring at a later point in time*” (Sewell, 1996, pp.262–263). In other words, according to historical institutionalism, the collectively shared understandings are path dependent because former institutional frameworks already determine what is available and achievable for the relevant actors.

This thesis concentrates its theoretical framework on rationalist and sociological accounts of Europeanization to explain domestic change by focusing on the preferences of actors and on their socialization and collective learning process that manifest themselves as new institutional arrangements and belief systems. The thesis therefore does not claim that these collectively shared understandings of domestic change are path dependent, but that the newly established normative and rational structures of domestic actors result in new institutional settings, while the change can be socially constructed over time with the redistribution of resources.

1.3. Models of Europeanization

Swiss experts Schimmelfennig and Sedelmeier (2005) offer three main explanatory models of Europeanization for rule adoption: the external incentives model, the social learning model and the lesson-drawing model. These models are mainly used in non-member states and they help in examining the impact of the EU on domestic change in candidate countries. Each model accounts for the variation in Europeanization across policy areas and countries.

1.3.1. External Incentives Model

This model of Europeanization assumes that the Europeanization is mainly driven by sanctions and rewards that change the cost–benefit calculations of governments in candidate countries. This model also identifies the conditions under which such calculations may inspire these governments to adopt the rules demanded by the EU. These conditions can be summarized as such: “*the size of the EU’s rewards, the determinacy of the conditions, the credibility of conditionality, and the size of the adjustment costs of compliance for target governments*” (Schimmelfennig, Sedelmeier,

2019, p.2). The determinacy of conditions means the clarity of a rule that will be imposed on the candidate country. According to Schimmelfennig and Sedelmeier, adjustment costs and veto player explain the variation in the speed of rule adoption across different issue areas and countries (2007, p.93).

Also, the size of the reward, full membership for instance, should be meaningful, and should ensure that the adaptational costs will be outweighed by the benefits. The rewards should be also credible, for instance by opening accession negotiations or not freezing the opening and the closing of some chapters. In other words, the EU rules will be adopted if Brussels set them as conditions for getting rewards, and when the rule has a 'legalized' status with clear adoption methods, the determinacy of conditions is higher. When the costs of adaptation to EU norms stand lower than the rewards, then conditionality might be effective. The target country is therefore aware what it should do to obtain the rewards. The determinacy of the conditions also binds the EU in terms of providing the reward in return for the rule adoption. When the target government feels committed to Europe and when it identifies itself from the perspective of EU membership, the conditionality becomes efficient. The society should also be receptive to the EU norms and standards rather than considering them a threat or a burden. When people in the target government are aware of the material results from the accession, they lend their support to this bid and becomes norm entrepreneurs rather than acting as veto agents. The EU's performance on some policy areas is also identified as one of the key factors in making the EU's conditionality much more credible and in pushing forward the rule adoption in that specific area (Schimmelfennig and Sedelmeier, 2007, p.93). As a rationalist bargaining model, the external incentives model is based on the conditionality whereby the EU obliges the acceding countries to fulfill specific norms and rules in order to get a reward in return. These conditions can be both political (such as rule of law, democratization, human rights, transparency) and regulatory, related to the EU's *acquis*. Rewards may be the prospect of membership or technical and financial assistance. National executives in the acceding countries may approve these conditions provided that the perceived benefits of the rewards are higher than the compliance costs. The 'external incentive model' generally accounts for a selective and medium/moderate degree of

Europeanization for the candidate countries because the credibility of accession conditionality diminishes over time.

However, “*the promise of enlargement should be more powerful than the promise of association or assistance, and the impact of the EU on candidates for membership should be stronger than on outside states not considered potential EU members*” (Schimmelfennig and Sedelmeier, 2004, p.673). Furthermore, if the temporal distance to the payment of rewards is long, the incentive to comply quickly with the EU-required norms becomes distant. In other words, rule transfer is more effective when the size and speed of rewards are more immediate and credible. Therefore, the cost-benefit calculations are a determinant for the preferences of the national governments for Europeanization, while the domestic sphere, with all the players and institutions involved, constrains the governments.

If the national players are stronger than the EU pressures in preventing the governments from adopting the EU-induced changes, the EU withholds the reward. If, however, the acceding country meets the conditions, the EU gives the reward, or the ‘carrot’. In other words, according to the rationalist bargaining model, the relevant actors follow their strategic interests to maximize their power and welfare. For this purpose, they engage in a bargaining process by exchanging promises, information and threats. EU bargaining power is usually higher on the candidate countries because they benefit much more from the accession than EU existing member countries. Accordingly, the EU sets its preconditions under the form of rules with which to align. The candidate countries are obliged to meet these preconditions—e.g., compliance with the basic norms of human rights—in order to be eligible for the EU rewards—e.g., trade agreements, full membership. The EU mainly tries to reinforce this compliance process with rewards and excludes from these rewards those who fail to comply with the conditions. The target country may opt for non-compliance if the relevant EU norms bear the risk of undermining the domestic status quo and/or incurring costs on the distribution of domestic preferences and bargaining power of the actors. Actors are only encouraged towards change if the benefits coming from the EU are sufficiently credible and high, exceeding the domestic costs of compliance. They also feel obliged to change

their behavior if there is a highly asymmetrical interdependence between the EU and the target government.

As explained above, rational choice institutionalism offers an explanation of the domestic change through external incentives model that is based on the logic of consequences, or the ‘calculus approach’ (Hall and Taylor, 1996). This logic assumes that Europeanization results in a domestic change by altering the expectations of actors following the redistribution of resources at the domestic level. In this model, the credibility of the EU in promising some rewards and the calculations of costs and benefits by actors mainly explains Europeanization in candidate countries (Nas and Ozer, 2012, p.184). For Schimmelfennig and Sedelmeier, the conditionality works if the rewards sound and look tangible and substantial, if the target countries are provided with necessary, clear and regular guidance and feedback about what they have to do in order to meet Brussels’ expectations. The conditionality should also be consistent in terms of timing because the acceding country has to make sure that it gets the reward once the EU conditions are met. Therefore, EU member states should also reach a strong consensus about admitting the candidate country to the club and they have to speak with one voice in rewarding compliance across target governments.

Therefore, according to this model, the EU uses a strategy of reinforcement by reward through which compliance with EU rules are accepted as prerequisites for accession countries to obtain rewards (in the forms of financial assistance and/or institutional contacts) from the EU (Schimmelfennig and Sedelmeier, 2005, p.10). Application of EU conditionality challenges domestic status quo by offering incentives for rule adoption, and alters the domestic opportunity structures (Schimmelfennig and Sedelmeier, 2005, p.11). Briefly, “*a government adopts EU rules if the benefits of EU rewards exceed the domestic adoption costs*” (Schimmelfennig and Sedelmeier, 2005, p.12), and the external incentives model works in the presence of four conditions that determine the cost-benefit calculations: “*determinacy of conditions, size and speed of rewards, credibility of conditionality, and veto players and adoption costs*” (Schimmelfennig and Sedelmeier, 2005, p.12).

1.3.2. Social Learning Model

The social learning model postulates that the normative power of the EU and the validity of its policies may convince domestic actors to be Europeanized. Accordingly, it assumes that the national governments adopt EU norms if they are persuaded of their appropriateness. However, this model mostly functions in the absence of accession conditionality (Schimmelfennig and Sedelmeier 2005, pp.210-211). Sociological institutionalism uses this model to elaborate on the normative dimension of EU demands, with the ‘logic of appropriateness’ (March and Olsen, 1989), or the ‘cultural resonance’ approach (Hall and Taylor, 1996) that recognize the EU demands and rules as legitimate and appropriate for candidate countries.

Social learning processes influence the strategies of domestic players and they have longer-term effects on these actors in defining their interests and identities. The EU institutions mostly play the role of ‘sites for socialization’ because they provide platforms for initiating exchanges with the elites of third countries. The role of political elites in EU accession processes is especially important to show the ongoing interactions between European and domestic settings and how these interactions shape the choices of political elites in the relevant country. Any participation in the institutional settings may help relevant actors to shape their identity and their interests, which in return also change the action. In this case, ‘agents of change’ or ‘norm entrepreneurs’ enter into contact with other domestic elites to persuade them to change their interests from within. In other words, norm entrepreneurs use persuasion and argument as tools to induce change.

Therefore, social learning is a dynamic process based on interaction, and the level of interaction between the EU and the third countries determines the success of socialization and ensuing domestic change. On the other hand, the extent to which the efficiency of solutions offered by the EU resonates with domestic actors’ priorities and whether or not they sound legitimate and rational to them also affect the end result. For instance, during adoption of the European single currency, central bankers and national technocrats formed a willing coalition as ‘norm entrepreneurs’ to advocate a monetarist

approach and generate domestic change in member states that had to adapt to the new process because they had to transform domestic institutions.

The SLM considers the EU on the basis of its collective identity as well as its commonly agreed norms and values. Following the logic of appropriateness, rule adoption by candidate countries is contingent on their perception of EU demands and rules as fitting in with the collective identity, norms and values (Schimmelfennig and Sedelmeier 2005, p.18). Therefore, the social learning model asserts that, a government only adopts EU rules when it is convinced of the suitability of EU rules (Schimmelfennig and Sedelmeier, 2005, p.18). The three preconditions for the operationalization of this model are laid down by Schimmelfennig and Sedelmeier as follows (2005, pp.18-20): legitimacy, identity and resonance.

1.3.3. Lesson-drawing Model

The lesson-drawing model presupposes that discontent among policy-makers with the existing status quo encourages them to voluntarily learn new policies from abroad in order to transfer them into the domestic sphere (Schimmelfennig and Sedelmeier 2005, p.21; Rose 1991, p.11). In other words, candidate countries are much more inclined to adopt rule increases as long as they perceive that national rules are not working adequately, while the costs of maintaining the status quo become higher (Schimmelfennig and Sedelmeier, 2005). Therefore, vis-à-vis a policy failure, policy-makers can opt for alternative policy models in order not to lose public support. For instance, when there is an uncontrolled increase in youth unemployment, policy-makers in a candidate country may refer to EU practices as a solution. Therefore, dissatisfaction with the current circumstances is the main driver of policy-makers taking action in a policy area. According to this model, the EU is not the main factor behind the policy changes that occur following this policy transfer because it is a voluntary process that is led by the domestic policy actors. Candidate countries choose to adopt EU rules, policies and institutional templates without the motivation of any external incentive. Therefore, the condition for a government to adopts EU rules is related to the power of these rules in effectively solving domestic challenges (Schimmelfennig and Sedelmeier, 2005, p.22).

1.4. Outcomes of Europeanization

How much a member or candidate country's domestic politics is changed as a result of Europeanization is another topic of debate. Are we speaking of a total change in a particular policy area, or partial absorption of some elements? This is therefore a matter of measurement. The degree of domestic change in response to Europeanization pressures varies based on degree of misfit and pressure for adaptation. Identification of the misfit is necessary to confirm that the domestic change was actually a result of Europeanization. Börzel and Risse (2003, p.14) distinguish three degrees of domestic change, namely absorption, accommodation and transformation. When there is **absorption**, member states are expected to include European policies, norms and/or ideas in their domestic settings, but without essentially changing prevailing processes, institutions and policies. As a result, the degree of domestic change remains low. When there is **accommodation**, member states adapt existing processes, institutions and policies without modifying their basic features or the main collective understandings ascribed to them. The degree of domestic change is measured at a modest level (Héritier, et al, 2001). Finally, **transformation** means that member states completely replace their existing policies, institutions and processes with new and radically different ones, to the extent that their essential characteristics and/or the main collective understandings ascribed to them fundamentally change (Risse, Cowles, and Caporaso 2001). In this case, the degree of domestic change is high. From a rationalist perspective, if domestic actors are allocated with new resources and opportunities that empower them, they may mobilize for domestic policy change by overcoming veto points. If such domestic actors are missing, the support of formal institutions also helps the occurrence of transformation. However, the presence of multiple veto points generally prevents the transformation outcome as a result of Europeanization pressures (Börzel and Risse, 2003, p.14). In contrast, sociological institutionalism claims that high adaptational pressure cannot result in domestic change because it always meets with strong institutional inertia. According to this logic, comprehensive domestic changes only occur under crisis conditions or when there is external coercion (Olsen, 1996). If new ideas and norms are aligned with collectively shared understandings, domestic actors are more inclined to social learning and persuasion.

According to the arguments of some scholars, Europeanization can also generate some possible outcomes, as elaborated on by Börzel (1999), Cowles et al. (2001), Héri-tier (2001) and Héri-tier and Knill (2001). These are (1) inertia, (2) absorption, (3) transformation, (4) adaptation, and (5) retrenchment. Radaelli develops a four-layer typology for analyzing outcomes of Europeanization. According to this typology, **inertia** means a situation of lack of change and may take different forms, such as delays in the alignment of EU directives or strong resistance to EU-induced change. It occurs when there is a substantial misfit, or in other words where the existing national system, with all its models, policies, choices and political settings, is incompatible with those endorsed by the EU. However, it is an outcome that is impossible to sustain in the long run, not only politically but also economically. Long periods of inertia result in crisis and prevent domestic change (Radaelli, 2003, p.37). The second layer of outcome is **absorption**, in which case certain changes on policy requirements happen with the core remaining intact. In other words, there is a domestic change in the sense that certain changes are absorbed into the domestic context without leading to any major change in the fundamental logic of political behavior. Absorption can be therefore considered as a form of less intensive Europeanization where belief systems, values and preferences are modified to a certain degree, but with no real modification to their essence. Here, the degree of domestic change is low. As another form of change, **transformation** indicates a major/paradigmatic change in which the main logic behind a political behavior is significantly transformed. Here, the degree of domestic change is high and the domestic structures and domestic political behaviors are changed and even replaced by the EU structures and behaviors. Radaelli's fourth layer of domestic change is **retrenchment**, which means that a domestic policy becomes less European compared to the past, and a downloaded EU policy, in turn, feeds further opposition to the EU itself. In this context, retrenchment may be seen as an example of 'negative' Europeanization.

For their part, Börzel and Risse (2003, p.71) suggest alternative terminology for the outcomes of Europeanization. They distinguish five scenarios, namely **inertia** (member states resist EU-induced change), **retrenchment** (member states go in the opposite direction to Europeanization by increasing the points of misfit between

domestic and European levels), **absorption** (member states are influenced by EU-driven changes but do not make any substantial modification to their domestic institutions or legislation, the result being a low degree of domestic change with minor modifications to existing policies or institutional styles), **accommodation** (member states adopt European initiatives and significantly change their existing systems, with a medium degree of change, but without changing the principal characteristics), and **transformation** (member states accept a radical change in their institutions and legislation with core understandings attached) (Börzel, 2003a, pp.15-16). Accommodation mostly occurs as a bargaining process for candidate countries, especially when the EU lacks comprehensive common standards in a policy area. Accommodation may lead to the empowerment of certain domestic actors or advocacy groups; for instance the establishment of a reform monitoring group because of the need for better monitoring the country's harmonization efforts. The acceding country mostly adapts to the EU requirements, adopts the necessary legislation—or parts of it—establishes institutions dealing with that policy areas, but the degree of change remains at medium range because the essential understandings remain mostly under the influence of domestic priorities. Both inertia and retrenchment indicate resistance to change at different levels, but there is indeed an adaptational pressure, with the absence of mediating factors that allow domestic change. It is worth noting, however, that there is not a precise difference between accommodation and absorption in terms of degree, and the intensity is open to interpretation. In the meantime, other researchers, like Bache (2007), categorize domestic outcome at three levels: low response (absorption), modest response (accommodation) and high response (transformation).

1.5. Europeanization of Candidate Countries

Although Europeanization was a concept initially applied to EU member states, recent research shows that it may also be applied to EU candidate states. Ever since the fall of the communist bloc, there have been several studies about the relationship between EU enlargement and the transition processes in Central and Eastern European Countries (CEECs), with most of them elaborating the mechanisms of EU conditionality and the fundamentals for its success. These studies showed that these

countries committed themselves to the EU accession bid and met the benchmarks of the EU by assuming even costly reform steps in return of political gains, or rewards (Bronk, 2002, p. 3) because gaining membership to the EU was the utmost foreign policy in these candidate countries that were focused on obtaining political and economic benefits of the membership.

Heather Grabbe's work has contributed much in applying the term to candidate countries by taking the candidacy processes of central and eastern European countries as a reference, since these countries assumed all obligations of EU membership with the transfer of EU policies and institutions. In other words, these countries faced the same adaptational pressures to EU policies as member states. It is also worth noting that in cases in which the EU does not have a coherent corpus of *acquis* in some fields, such as, for example, child protection and the environment, the mechanism of influence and adaptational pressure becomes more indirect, or ideational. Grabbe (2003) suggests five Europeanization mechanisms for candidate countries, namely (1) putting in place legislative and institutional templates, (2) providing financial and technical assistance, (3) setting benchmarks and conducting regular monitoring, (4) offering expert advice and twinning projects; and (5) gate-keeping by establishing the main stages for preparing the candidate country towards full membership. First of all, the EU offers some legislative and institutional models to download from the EU level. At this point, the candidate country is required to conduct a legal transposition of the *acquis* and harmonization with EU laws, with legislative and institutional misfits identified during the screening process of the negotiation chapters. Secondly, the EU provides pre-accession technical assistance and monetary aid for harmonization in particular policy areas. It then brings in benchmarks and monitors the harmonization process through regular reports and accession partnerships. At the fourth stage, the EU provides technical advice and conducts twinning projects between the candidate country in question and some EU member states, both for transferring best practices and cultivating a sense of belonging and familiarity with EU policy-making processes. Finally, the EU acts as gate-keeper and allows entry of a candidate country only when it fulfills the accession criteria, meaning this is the strongest conditionality tool of the EU during the accession process.

The enlargement process is mostly determined by an asymmetry of power between the EU and candidate countries, especially due to the conditionality mechanism. In the case of candidate countries, adaptational pressure of a coercive nature is much more powerful. The process of enlargement is a key EU dynamic in the export of its *acquis communautaire* and the transfer of democratic norms and market rules to the legislative and institutional spheres of new member states. The extent to which domestic public policy is influenced by this Europeanization trend and whether or not it generates costs or benefits are both linked to numerous endogenous and exogenous dynamics. So far, several researches have shown that the EU has had significant influence on the polity, politics, and policies of the candidate states by using the instruments and procedures of the Europeanization process (Vachudova, 2005; Schimmelfennig and Sedelmeier, 2005; Schimmelfennig, 2007). The applicants are expected to assume all the obligations of EU membership, so the impact of policy transfer on them resembles to the impact made by the EU on the domestic settings of current member-states, even though in the second case the political relationship and the pressures for adaptation are less hierarchical compared to the first one. However, Grabbe outlines two major differences as the first being the extent of the EU's policy agenda in the candidate countries, which may go far beyond the membership requirements previously extended to the existing member states (Grabbe, 2003, p.303). The second is, for Grabbe, the asymmetry of power between the candidate country and the Union based on the political conditionality because the candidate country assumes additional conditions that the member countries do not (*ibid.*).

Therefore, the *acquis communautaire* should be entirely adopted by the candidate countries, while they also have to go through formal accession negotiations in which their progress in implementing the *acquis* is regularly assessed. In this process, unlike as with member states, the applicants are not able to fully negotiate concessions on the obligations of membership or ask for derogations. In the case of candidate countries, adaptational pressures are much more of a determinant, with the EU accession conditionality that makes EU membership and technical pre-accession assistance conditional on the compliance of the candidate country with EU requirements. “*EU policy-makers not only set compliance with the principles of human*

rights and democracy as membership conditions for candidate countries, but articulated and institutionalized them as characteristics of the EU's collective identity" (Sedelmeier, 2006, p.118). Therefore, the obligations for meeting the accession criteria, that are mainly pre-date of accession, oblige national governments to take initiatives, and coercive pressures—if they proceed as expected—are expected to lead to policy convergence. In other words, domestic contexts are very important for the Europeanization of candidate countries, as each alignment is tailor-made. The efforts to fulfill the membership criteria bring about the adaptational pressure of EU leverage through which the pro-reform actors are empowered by acting as the vector for change. Those who prefer preserving the status quo or resisting any kind of domestic change find themselves in a disadvantaged position. Policy areas falling under EU soft law can also deliver domestic policy change and policy convergence in member and candidate countries' policies. The priority areas for membership preparations are laid down in the accession partnership documents, while the European Commission in its annual progress reports regularly assesses each candidate country's compliance with the *acquis*. The worst-case scenario in the event of lack of compliance with EU requirements is, of course, denial of EU membership. The EU mainly applies models, provides technical and financial assistance as well as advice, conducts twinning projects and sets benchmarks to Europeanize the policies and polities of candidate countries. Twinning projects, as a key EU instrument to promote institutional cooperation, include exchange of knowledge, know-how and expertise between countries, funded by the European Union. Accordingly, representatives from public authorities of an EU country works for a pre-determined period in the beneficiary country with the aim of progressively obtaining concrete results in upgrading the administrative capacity of the public authorities in the target country. Sometimes the mechanism of EU influence on the domestic arena may be more indirect, or ideational, as is the case with child rights.

While EU accession conditionality makes EU membership and technical pre-accession assistance dependent on the applicant country's ability to comply with EU requirements, obligations of meeting the accession criteria restrict the maneuvering ability of domestic actors and results in coercive pressures on policy convergence. Therefore, Europeanization of candidate countries creates different degrees of

adaptational pressures depending on credibility of the accession bid and readiness in the country in question, which will adopt necessary legislation prior to the date of membership. This process comprises technical and administrative adaptation steps as well as a comprehensive social learning stage to help domestic actors in internalizing and implementing EU-induced norms and values. Although most Europeanization studies have dealt with EU member states for a significant period of time, some scholars (Linden 2002, Kelley 2004, Hughes, et al. 2004, Vachudova 2005, Schimmelfennig and Sedelmeier 2005, and Grabbe 2006) have become increasingly conscious that the EU also has the capability to shape the internal affairs of future member-states. Over the years, some researchers like Schimmelfennig (2012) have also begun to assess Europeanization literature through the prism of EU candidate countries. “Although there was some skepticism about this research agenda at the outset, there is now a consensus emerging that it is relevant to apply the Europeanization literature to non-members. This is because these countries are already subject to the same pressures to adapt to EU policies, as with existing member states” Cini, 2007, p.416). There is a wide-ranging literature that examines how central and eastern European countries have been Europeanized during the accession process (Grabbe, 2006; Vachudova, 2005; Schimmelfennig and Sedelmeier, 2005) as well as how the topic of human rights topic assumed a key role in the last enlargement waves (Sedelmeier, 2006; Sasse, 2008).

In candidate countries, the mechanisms of Europeanization generally apply on two dimensions: the *hard mechanism* that covers *acquis* implementation, and the *soft mechanism* concerning pressures to internalize the EU’s norms and ‘appropriate’ policy behaviors depending on the content of the *acquis*, the country concerned and the political dynamics. In cases where the EU has a coherent amount of directives and regulations, the EU influence is direct, while in cases where there is not much regulation or where the norms are under development, the influence is much more indirect. Child rights are an example of the latter. EU consistency during the accession preparations also determines the success of the candidate country. This effort to understand ‘Europeanization beyond Europe’ aimed at revealing whether the European integration produces domestic effects beyond Europe, especially in the areas of democracy, social policies, human rights and foreign policy. These studies have focused

on the domestic impact of EU polity, policies and decisions on candidate countries that take part in the EU's strictly regulated internal market, and thereby have to align with the *acquis communautaire* to receive the prize of EU membership one day. In this respect, transposition of the EU legislative framework to these would-be members, with varying adoption periods, has been at the center of Europeanization studies. Schimmelfennig and Sedelmeier (2005) put forward two arguments on Europeanization mechanisms. Firstly, they tried to understand how Brussels put pressure on candidate countries in assuming the formal *acquis communautaire* (rule adoption) and implementing their own legal and administrative systems (*hard mechanism*). Secondly, they attempted to reveal how the EU convinced candidate countries to internalize these EU policies and change state structures and policies (*soft mechanism*). The use of conditionality on candidate countries is mainly restricted by the uncertainty of some EU policies in which the standards and benchmarks are not as clear as other EU policy areas with a robust legislative corpus.

Rule adoption by candidate countries is mainly linked to the credibility of the EU commitment to accept the candidate in the foreseeable future. In this sense, credibility of the 'carrot-and-stick' policy offered by accession conditionality is very influential in pushing the candidate country towards domestic change or inertia. Secondly, the degree of compliance with EU rules also depends on the emphasis that the EU itself places on that specific policy area. If the EU itself does not prioritize a particular policy area, one cannot expect much pressure on the candidate country.

1.5.1. Stages of the Accession Process

The first stage for prospective entrants' EU accession is fulfillment of the EU requirements. These conditions are the political, economic and *acquis* criteria as determined by the Copenhagen European Council in June 1993 (European Council, Presidency Conclusion, 1993), which clearly introduced the political conditionality for accession as follows:

- (1) membership requires that the candidate country has achieved stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities including a stable democracy;
- (2) membership requires the

existence of a functioning market economy as well as the capacity to cope with competitive pressure and market forces within the Union; and (3) membership presupposes the candidate's ability to take on the obligations of membership including adherence to the aims of political, economic and monetary union, competitive market economy, and a capacity to implement EU laws and policies.

Among these criteria, the *acquis* criteria refer to candidate country's ability to assume the obligations of membership—that is, the legal and institutional framework known as the *acquis*. It is identified as 'acquis conditionality' by Schimmelfennig and Sedelmeier (2004, p.663) and covers the entire body of the EU's core legislation with which candidate states should comply in their domestic policy frameworks. In the meantime, the legal obligation to harmonize its existing and future legislation to that of the EU originates from the Europe Agreements.

Countries asking to join the EU experience a process of EU-driven domestic change that may be termed 'Europeanization,' during which they have to align their domestic institutions and policies with EU membership requirements. The accession process is mostly a process whereby the EU imposes some criteria on the candidate country, which in turn decides to adopt or not adopt a series of conditions. The negotiations—taking place between ministers and ambassadors of EU governments and the candidate country under intergovernmental conferences—cover full adoption and implementation of the EU *acquis*, which consists of nearly 130,000 pages of legal documents under thirty-five main chapters that set out the accession conditions to be met by the candidate. As part of the negotiations, the Commission firstly examine the domestic legislation of the given candidate country in the context of each chapter to understand the extent to which the country is prepared to be a full member of the EU. These findings are elaborated on in a screening report and are presented to the Commission. Thereafter, the Commission may recommend either opening negotiations or waiting until certain opening benchmarks are met first. Prior to negotiations, the candidate country must submit its negotiating position, and the EU should also adopt a common position. The EU determines opening and closing benchmarks for each chapter to be met by the candidate country in order to close the negotiations in the relevant policy field. The candidate country's progress in meeting membership requirements is

monitored by the European Commission each year through progress reports. The speed of the negotiations is related to the pace of reforms and willingness to align with EU laws. The political will of the candidate country to remain on the EU membership path accelerates the reform process. Therefore, the open-ended negotiations endure for as long as it takes for the candidate country to meet EU requirements. Each chapter is closed when every single EU member state and the Commission are satisfied with the candidate's achievements in that field.

The enlargement process may generate pressure on the candidate country when it comes to implementation costs because during this process the government of the applicant country and the EU's Council of Ministers, in consultation with the European Commission and European Parliament, closely examine and negotiate the terms of the accession. To become an EU member, the candidate country has to first present a formal application to the Council of Ministers, which then needs an opinion from the European Commission on readiness of the applicant for membership. If the Commission gives a positive opinion and if this is then adopted by the Council, the formal accession negotiations begin to test the ability and capability of the applicant country to undertake its membership obligations. The candidate is given permission to start formal membership negotiations once all EU governments agree in a unanimous decision by the EU Council on the mandate for launching the negotiations with the candidate country. For instance, Turkey was declared eligible to join the EU at the 1999 Helsinki Summit. The December 17, 2004 Brussels Summit was another turning point in Turkey-EU relations, when the Council stated that Turkey satisfactorily fulfilled the political criteria, and made the decision to begin accession negotiations for full membership with Turkey on October 3, 2005.

At the following stage, when agreement is reached on all chapters of the *acquis*, the accession treaty is prepared to lay down the detailed terms and conditions as well as transitional arrangements, financial arrangements, deadlines and safeguard clauses of the membership. The accession treaty must be endorsed by the EU Council, the Commission and the European Parliament, and signed and ratified by the candidate

country and all existing EU members, either by parliamentary vote or national referendum.

1.5.2. Adaptational Pressure on the Candidate Country

In the case of candidate countries, adaptational pressure is applied mainly through coercion. EU accession conditionality requires the applicant country to comply with EU membership requirements by using pre-accession assistance instruments. These obligations therefore restrict national governments and apply coercive pressure on them during the policy convergence stage. Such adaptational pressure occurs to varying degrees depending on the length and difficulties of the pre-accession preparation period. It is also worth noting that in the case of candidate countries, the Europeanization process brings about new adaptational pressures of coercive character in almost all policy areas. The EU accession conditionality obliges an applicant country to comply with the requirements prescribed by the EU that constrain nation states from the top down. In this sense, Europeanization in candidate countries creates different degrees of adaptational pressures depending on the accession deadline because the relevant *acquis* has to be implemented in the domestic legislation before the date of accession. As defined by Smith, “*Conditionality entails the linking, by a state or international organization, of benefits desired by another state to the fulfillment of certain conditions*” (Smith, 2005, p.108).

In this process, the efforts for fulfilling the Copenhagen criteria for membership result in adaptational pressure for change and the political leverage that the EU uses throughout this process empowers agents of change and undermine the authority of those groups who favor status quo or resist EU-induced change. This adaptational process involves both technical and administrative aspects as well as socialization process to internalize and then implement necessary standards, values and norms. On the other hand, while the Accession Partnership Documents designate the ‘priority areas’ for membership preparations, each candidate country's fulfillment of the *acquis* is regularly assessed by the Commission in its yearly reports. Therefore, the adaptational pressures stemming from EU accession conditionality for candidate

countries are of coercive nature because lack of compliance would directly or gradually lead to denial of EU membership.

However, it is clear that Europeanization occurs differently in candidate countries compared to EU member states because candidate countries are always positioned in an asymmetrical relationship vis-à-vis Brussels that gives the latter more room for coercion. In other words, they are ‘policy-takers’ who download EU policies that are already developed before they join the club. Meanwhile, the candidate countries can neither upload their own preferences to the EU level nor object if any EU policy template actually does not fit well with their domestic settings. The creation of formal accession conditions under the accession process gives the EU broad leverage to push the applicant countries towards complying with its demands and reduce their capability to discuss concessions like derogations or transitional periods. In a similar vein, accession partnership documents and regular progress reports give guidance to the domestic policy-making in the candidate country with the policy priorities and criticisms these documents provide for generating an impact on domestic policies. The more the country complies with these priorities, the more it gains international recognition, which legitimizes its domestic policy choices.

1.5.3. EU Conditionality Mechanism

Conditionality, as a core strategy of the EU in ‘shaping’ candidate countries’ behavior and, relatively speaking, the most effective of the EU’s foreign policy tools in managing its relations with third countries, is “*itself a norm, a standard of behavior*” (Smith, 1997). Conditionality, which comprises the use of perceived benefits such as aid, cooperation agreements or trade concessions to establish a link with a state for the fulfillment of certain conditions, may be positive when the state in question is provided with benefits in return for fulfillment of the requirements, while negative conditionality implies the use of sanctions such as suspending the accession talks if the state does not meet the necessary criteria. The conditionality may be defined as a “*bargaining strategy of reinforcement by reward, under which the EU provides external incentives for a target government to comply with its conditions*” (Schimmelfennig and Sedelmeier, 2004, p.662).

In Europeanisation and enlargement debates, EU conditionality still remains the most explored area because of its being the main EU policy tool in dealing with the candidate countries (Grabbe, 2001, p.1014). This mechanism creates an asymmetrical relationship between the EU and states that desire to join the Union. It basically functions through ‘reinforcement by reward’. According to Schmitter (2001, pp.28-29), conditionality means that candidate country is required to install or consolidate democracy before enjoying from a promised advantage. In other terms, Schmitter considers conditionality as a form of international influence. This understanding presumes that the candidate country will be sanctioned or deprived of the reward if it does not meet the requirements (Ethier, 2003, p.100). According to Ethier, in the case of conditionality, the reward is unclear but the sanction is very credible, but in the case of incentives, the reward is evident but the sanction is very dubious. Then, Ethier claims that democracy promotion can only be successful if it is based on conditionality rather than incentives (Ethier, 2003, p.116). EU conditionality includes several elements including aid, political relations and trade, while it aims at transforming the system in the candidate country by asking numerous conditions to make the applicant compatible with the existing structures of the Union. In this way, the EU tries to make new entrants politically less unstable and economically less burdensome to the EU. According to Hughes, Sasse and Gordon (2004, p.525), the EU conditionality has a strong leverage if the *acquis* in a specific policy issue is ‘thick’ enough. Therefore, “the thinner the *acquis*, the larger is the ambiguity surrounding the policy recommendations” (Arvanitopoulos *et.al.*, 2009, p.10).

The conditionality mechanism associates the perceived benefits such as aid, trade concessions and cooperation agreements with the fulfillment of pre-determined conditions related to some principles such as regulations. If the given country meets certain conditions, then positive conditionality promises some benefits as ‘carrots’, while negative conditionality, where the country does not meet the criteria, involves bringing some sanctions to bear, such as decreasing, interrupting, or stopping the access to new benefits – the ‘sticks’. In other words, the EU expects that once the candidate country has fulfilled all criteria for membership, it can enter the EU. The Commission is therefore responsible for closely monitoring progress in candidate countries and

supporting their efforts in the pre-accession period. It transfers money under the Instrument for Pre-Accession Assistance, encourages them to participate in Community programs, and initiates know-how transfer by setting up new institutions. EU-financed programs, such as the PHARE democracy program, intend to promote democracy and human rights as part of EU enlargement governance. Democracy and human rights are therefore a central component of the EU's political conditionality. Assistance for candidate countries aims at supporting a wide range of institution-building measures and strengthening their democratic credentials. The pre-accession assistance is provided on the basis of a comprehensive multi-annual strategy to reflect the priorities of the EU in the pre-accession process.

As Börzel noted, it is illogical for a country to mobilize efforts to fulfill EU candidacy requirements “*if the EU is neither willing to reward those who comply, nor capable of punishing those who do not*” (Börzel, 2010, p.24). On the other hand, Checkel considers conditionality as “*the use of incentives to alter a state's behavior or policies through which international institutions promote compliance by national governments*” (Checkel, 2000, p.1). Checkel notes that over recent years there has been an increased use of political conditionality for supporting socio-political reforms in the candidate countries. In the meantime, several scholars have produced various explanations to the EU conditionality. Börzel and Risse considered it as ‘voluntary adaptation’ and describe it as a means to ‘manipulate cost-benefit calculations’ of the relevant countries (Börzel and Risse, 2004, p.26). They also claim that socialization is a much more promising instrument because the EU cannot oblige “more than 120 countries with which it has signed cooperation and association agreements into compliance with democracy and human rights norms” (*ibid*, p.29). For their part, Ulrich Sedelmeier and Frank Schimmelfennig take conditionality as part of the external incentives model, according to which the main actors “threaten the others with non-cooperation and thereby force them to make concessions” (Schimmelfennig and Sedelmeier, 2005, p.10). Of course, the absence of veto agents or their weakness helps in the use of an effective conditionality.

On the basis of Article 49 of the Treaty on European Union, any European state that respects the principles specified in Article 6(1) may apply for a membership to the Union. These principles are outlined as ‘liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law’. The EU conditionality mechanisms include, among others, respect for human rights and the capacity to meet the demands of a functioning market economy. It also requires candidates to adapt to the existing EU laws and norms, and to develop the institutional capacity to operate effectively once having become a member of the Union. This system makes the candidate countries ‘downloaders’ of EU legislation, policies and practices with limited occasions to upload their preferences to the EU level. In this sense, conditionality becomes a relationship between ‘donors’ and ‘recipients’. Generally, membership conditionality takes inspiration from the Article 49 of the Treaty on the EU that emphasizes the feeling of Europeanness and the adherence to the main values of the EU because according to the article, any European state which respects the EU values and is devoted to promote them may apply to the membership of the Union (Eur-Lex, 2016, p.43). However, it is worth mentioning that political conditionality is considered as Brussels’ key strategy in pushing candidate countries to meet with EU’s democratic principles. These political criteria, as an external tool imposing change from above, are embodied in the accession partnership documents, progress reports and the European Commission’s own policy reports. Criticisms made in the European Commission’s progress reports aim at generating a domestic impact and triggering domestic debates about specific policy areas, while legitimizing EU demands for change towards particular destinations. “*Conditionality is not an aim in itself but an instrument by which other objectives are pursued*” (Stokke, 1995, p.3).

As elaborated on by Tocci, EU political conditionality provides a “*linear relationship between externally demanded conditions that are accepted domestically by adopting (constitutional, legal and administrative) reforms*” (Tocci, 2005, p.75). In other words, in order to generate a meaningful domestic change, there is a need for formal compliance and effective implementation of these rules that are transferred from the EU sphere before being internalized by the society in general. The political conditionality encompasses the *accession criteria* as conditions, the *membership*

prospects as rewards and the *rule transfer* as the proof of compliance. Therefore, political conditionality, as one of the main policy instruments used by the EU during the enlargement processes, endorses wide-ranging reforms in the candidate countries in accordance with the EU norms and policies and obliges the candidate countries to meet the Union's requirements for becoming an EU member. Conditionality can be considered both as an instrument for external influence over the candidate country as well as an Europeanisation mechanism. The political conditionality becomes successful if the candidate country, especially its political elites and civil society, complies with the EU requirements as domestic mediators rather than resisting the change. In order to facilitate the conditionality mechanism's operability, the candidate country's government should be committed to the EU membership bid; the costs of compliance should be low; veto players should be less strong than norm entrepreneurs; the society should lend its support, and elites should be positive rather than skeptical towards the EU membership bid. Meanwhile, the EU should be committed to letting the candidate country in and should give a clear and consistent membership perspective, and EU member states should be sincere and follow their commitments vis-à-vis the candidate country by treating it on an equal footing with other candidates. Last, but not the least, the EU should devise coherent strategies for the candidate country.

In the case of Turkey, the new government in Germany elected in 1998 pursued a positive and inclusionary approach towards Turkish accession, while Turkey and Greece established bilateral working groups at that time on issues covering a positive agenda (e.g., trade, technology, science) along with exploratory talks between foreign ministries. Until early 2005, Turkey's EU membership was therefore supported by Germany, Greece and France – a significant exogenous factor that encouraged Turkey's domestic transformation at all levels as a reaction to the adaptational pressures of EU conditionality. The reforms that were enacted upon EU pressure were also supported at the elite level, as “many prominent business, academic, and human rights organizations launched many projects with EU partners, lobbied for Turkish accession in Brussels, and put pressure on the Turkish government to adopt various reforms” (Kubicek, 2005, p.368).

EU accession conditionality suggests that EU membership and technical pre-accession assistance depend on the extent to which a candidate country complies with the requirements set by the EU. Grabbe (1999) defines EU accession conditionality as a developing set of membership conditions that progressively covered several policy outputs to encourage the EU in using these conditions during its policy-making processes in CEE (Central and Eastern Europe) beyond its actual responsibility areas in the existing member states (Grabbe, 1999, p.1). Moreover, Grabbe argues that the EU engages with candidate countries by using different actor categories, which makes enlargement and conditionality much more multifaceted (Grabbe 2001, Grabbe 2003). EU accession conditionality is composed by three key elements: sanctions, incentives and rules. The candidate country has to meet the binding rules related to the political, economic, or *acquis* criteria for acceding countries. Incentives, such as pre-accession assistance or a credible perspective of EU membership, provide the country with motivational support to trigger action towards harmonization. Sanctions, such as a delay in enlargement or non-enlargement, or reduction or suspension of the pre-accession aid, are an instrument for penalizing a candidate country that does not comply with the rules by using the threat of reducing, halting or terminating the benefits. Such sanctions are generally used as a last resort. Incentives are mostly pre-accession benefits such as assisting the country in rural development.

On the other hand, it is worth mentioning that ‘negotiations’ take part of the toolbox of the pre-accession process to transpose the *acquis* into domestic context. But, negotiations do not imply any negotiation between the EU and the candidate country because of the asymmetrical relations between candidates and Brussels. Rather, it is the outcome of the political conditionality on the country to decide on how and when the EU rules and regulations will be implemented following a process of screening. The only thing that candidate countries can negotiate during this process is for obtaining transitional periods.

Meanwhile, there are a significant number of criticisms (Vachudova, 2005, p.225; Hugges, 2003, p.3) regarding the EU’s conditionality mechanism regarding the top-down nature of dictating rules from above without being debated at the local level.

For some (Hughes, 2003, p.3), the enlargement and conditionality rhetoric is tied with the post-colonial *mission civilisatrice* of Europe, where EU rules, norms and models are promoted as normatively ‘superior’ and can be directly transferred to the “inferior” candidate countries.

1.5.4. De-Europeanization

In terms of the effectiveness of the conditionality tool, debates around de-Europeanization have been gaining more and more ground for some time. This conceptualization means that the political and social transformation path of the member or candidate country turns away from European path, becomes less willing to engage in policy processes at the EU level and instead prioritizes national actions. Therefore, de-Europeanization means a retreat to nation-wide processes as a result of a strategic decision. The references to European norms, values and rules in the speeches of the political elite begin to gradually disappear, while EU conditionality is weakened. This is a process in which the EU’s normative, legislative and political relevance for a member or candidate country weakens due to the intervention of several factors. De-Europeanization can be defined “*as a process in which previous impetus to converge with EU norms and the willingness to get involved in EU policies slows down and can even take an opposite direction*” (Soler i Lecha, 2008, pp: 2-3). Accordingly, the country may decide to stop meeting the requirements of the EU *acquis* and initiating reforms towards that direction. One main reason for de-Europeanization is having higher costs than gains. It denotes becoming less European and less engaged in the EU accession bid. National preferences are then accorded precedence over European interests.

The de-Europeanization process, or Europeanization in reverse, has been mostly examined in the context of the Turkish case, as a study of a candidate country, which was adopting European policies without having been offered the carrot of membership. Disappointed at not having a credible accession prospect ahead, the de-Europeanized country then began the search for alternatives to the EU. According to Sipahioglu, “after 2011, the de-Europeanization process showed itself with slow Europeanization, which the Justice and Development Party (AKP) defended as the

reason for weakened EU conditionality” (Sipahioglu, 2017, p.51). However, Sipahioglu argues that de-Europeanization is linked to both EU and domestic factors. In other words, de-Europeanization occurs when the government and the public opinion of the candidate country lose their appetite for EU membership, along with a weakened EU conditionality. *“The AKP government used extending the membership process as a policy tool in order to stay in power, putting forward EU’s vetoes and blocked accession process”* (ibid, p.51) she noted. Therefore, Turkey’s path from Europeanization to de-Europeanization derives from its prolonged candidacy period. Due to external and internal factors, Europeanization in Turkey began declining after 2005, with EU conditionality gradually losing its ability to motivate domestic change. During the period from 1999 to 2005, the declaration of the candidacy process and the subsequent reform packages showed a very motivated Europeanization process, when the EU conditionality was an effective tool along with influential pro-EU norm entrepreneurs at the scene, while the reform process continued from 2005 to 2011 in a quite slow pace and selectively in areas that matched better with preferences of the government. After 2011, a de-Europeanization trend emerged, with a decrease in motivation for the EU membership bid among both Turkish public opinion and European decision-makers, who blocked negotiation chapters that weakened the credibility of the EU membership bid. During this period, the conditionality of the EU was not strict anymore and the EU standards were implemented to varying degrees. Relations between Ankara and Brussels reached a new low when the European Parliament voted to temporarily suspend the accession negotiations with Turkey on November 24, 2016. In a similar vein, the decision of the UK to leave the EU can be called de-Europeanization because its regulatory governance on the trade relationship with the EU was de-Europeanized after Brexit and required the negotiation of a new trade agreement.

CHAPTER II

CHILD RIGHTS' REGIMES AT THE INTERNATIONAL AND EU LEVELS

“The child must know that he is a miracle, that since the beginning of the world there hasn't been, and until the end of the world there will not be, another child like him.”

Pablo Casals

Children's rights are based on the principle that every child holds some rights by virtue of being a child. These rights are mainly codified as legal norms as part of international law, of which the 1989 United Nations Convention on the Rights of the Child (UNCRC) is the chief reference document. The UN is the central institution in the child rights regime, but it would be wrong to assume that child rights are restricted to only the legal sphere. Child rights also cover social norms, standards, acceptable behaviors as well as ethical values that develop and change over time. Therefore, child rights are basically human rights that cover social, economic, cultural and civil rights protected against all kinds of violations. The UNCRC covers general rights such as the right to play, the right to education, freedom of expression, the right to participation, rights of migrant children or of children with disabilities, etc. Children are also defined in the UNCRC as persons under the age of eighteen—a standard legal age of majority in most parts of the world since the 1970s. Therefore, considering that children do not have full agency, all relevant actors are made responsible for protecting the best interests of the child (UNICEF, 1989, art. 3.1.).

For its part, the EU has a long history of diffusing human rights in its external relations as it is considered a “normative power” (Manners, 2002). The adoption of child rights also fit with this mandate and historical governance. Being originally a political and economic partnership model between the member countries to promote peace, prosperity and freedom for the citizens, the EU's approach regarding child rights has passed through a gradual improvement throughout the years in parallel with EU enlargement waves, demographic changes and international developments. Until the 1990s, the topic of child rights didn't occupy a significant place on the EU agenda, as

Brussels was not provided with a meaningful competence in this field, although the EU was founded on the principles of respect for human rights and fundamental freedoms. Since the 1990s, child rights have been progressively subject to increased interest. In other words, child rights were not a EU norm codified in the Community law until the 1990s, but became a central part of political conditionality after their inclusion in accession criteria. It must be noted here that each action of the EU is obliged to respect the principles of subsidiarity and proportionality, which means while that Brussels can offer guidance to member and candidate countries on guaranteeing the best interests of children, it must avoid encroaching on the jurisdiction of the individual states. While the EU's Court of Justice advanced fundamental rights under EU jurisdiction—especially in terms of non-discrimination against children—the EU also mainstreamed child rights in 2005 in its external policy. A significant part of the European children's rights legislation to date has been developed by the EU and the CoE, which took inspiration from the UN standards. *“Although these international frameworks have operated separately from one another, links are increasingly being drawn between them. Inter-institutional cooperation is particularly strong between the CoE and the EU”* (FRA, 2015b, p.19).

The European legal framework with respect to the rights of the child was further consolidated after the ratification of the Lisbon Treaty in 2009, which was a major step forward with Article 24 of the Charter of Fundamental Rights of the European Union becoming EU law and the introduction of various EU programs and policies on child rights.

Article 24 of the Charter (Eur-Lex, 2007b) includes the following:

1. Children shall have the right to such protection and care as is necessary for their well-being. They may express their views freely. Such views shall be taken into consideration on matters which concern them in accordance with their age and maturity.
2. In all actions relating to children, whether taken by public authorities or private institutions, the child's best interests must be a primary consideration.

3. Every child shall have the right to maintain on a regular basis a personal relationship and direct contact with both his or her parents, unless that is contrary to his or her interests.

The Lisbon Treaty included child rights in the Treaty on the European Union (TEU) and reinforced the legal foundation for child rights mainstreaming within EU policymaking. EU actions regarding child rights have now a direct impact on the legislation and policies that influence children in the member states. Consequently, EU Member States are compelled to protect children from all kinds of violence, and for this to happen they have to adopt the proper legislative, administrative, educational and social measures in line with international and European human rights legal documents, including especially the UNCRC and the Charter of Fundamental Rights of the European Union. These legal documents contributed to the expansion of the EU's scope towards a more social Europe targeting the best interests of children. Child-friendly justice is also another area where the EU acquired competence to legislate and take measures to ensure the respect and promotion of child rights in judicial proceedings.

On the other hand, it is also worth mentioning that the European Court of Human Rights (ECtHR) and other bodies of the CoE vigorously uphold legal standards on child rights across its 47 member states. The EU and the international community established a set of instruments of their own in order to protect and develop child rights. Furthermore, EU refers to other international and European legal arrangements, such as the UNCRC and specific conventions of CoE when developing and implementing its own regime because the EU child rights mechanism is part of a wider international protection system. This section of the thesis elaborates on child rights in the international sphere with all relevant actors and their policy templates. The section, which covers the historical framing of childhood as well, will then provide an historical analysis on how the child rights' regime has been considered at the EU level.

2.1. Child Rights at the International Level

Child rights gradually rose on the international agenda in the 1970s with the conventions of the International Labor Organization (ILO), and progressed with the

development of various international instruments ranging from the UNCRC, UN Optional Protocols and ILO Conventions on child labor, which integrated standards on child rights into the corpus of international norms of fundamental rights. At the international level, child rights are mainly regulated under the international conventions that are part of hard law, i.e., they are binding. However, countries often impose some derogation to the enforcement of these international obligations when transposing them into their domestic legislation. Therefore, the existence of international conventions and relevant institutional bodies are of key importance only when there is a domestic effort and willingness to implement them. In this part, we will first shed light on the historical background to see the trajectory the concept of childhood has moved on until today. Then, we will elaborate on the international instruments that aim to generate more respect for children and improve their living conditions. In this respect, it is necessary to note that international organizations complement each other in the field of human rights, as explained by Emerson and Noutcheva (2004), and the area of child rights is no different. Emerson and Noutcheva note that the membership to the Council of Europe, being a key “norm-setter and law-codifier”, includes observance of the rulings of the European Convention on Human Rights (2004, p.5). As the European Union committed to acceded to the ECHR in its new Constitution, Emerson and Noutcheva underlines that this move established a “*formal identity between the human right codes of the two organizations*” and an “*institutional overlap between the European Union and the Council of Europe*” which contributed to the democratization and human rights reforms in the periphery of Europe (*ibid.*). Accordingly, Coe and the ECtHR provide some degree of legitimacy to the proceedings and rulings about the member states, while the OSCE and UN also complement them with their mandate in setting norms and providing security (*ibid.*).

2.1.1. Framing childhood to understand ‘Child Rights’

“Because children grow up, we think a child’s purpose is to grow up.
But a child’s purpose is to be a child.” (Stoppard, 2002, p.100)

What is childhood and who is a child? This question has been posed throughout the ages by diverse civilizations and finally reached the contemporary

understanding that children are essentially holders of indivisible and universal rights as human beings. Until the end of the Middle Ages, people treated children simply as ‘little adults’; they were accepted as a part of the adult world, proven by their employment from very early ages. A child was considered a young person at the age of eight or nine during the Middle Ages. The Catholic Church insisted that the standardized age for getting married was at least twelve years old for the bride and fourteen years old for groom. Children were considered a means by which to expand a family’s financial sources and prestige, an instrument of transaction.

However, over the centuries and with the evolution of understanding, children have gradually come to be considered full and active individuals with specific needs and capabilities. In other words, according to the dominant contemporary paradigm, childhood is now understood as something socially and culturally structured and restructured over the course of time (for deeper analysis, see: James, Jenks and Prout, 1998). In other words, children are more and more positioned as social agents who at the same time need protection, a notion that required a re-contextualization of innovative and new methodologies for studying contemporary childhood.

The UNCRC, which came into force in 1990, also brought a more robust and rights-based approach to the child and childhood by underlying legally the fact that children have the right to live an individual life with respect to core principles such as peace, tolerance, freedom and equality, and have the right to be heard. On the other hand, in more recent years, childhood is increasingly conceptualized as a moral problem. “Childhood arises as a moral project for all. Marketers, ministers, pedagogues, pundits, parents, politicians, and scholars alike crowd together under the penumbra of self-assurance that their efforts are in line with promoting good or correct childhoods” (Cook, 2017, p.3). However, such a conceptualization of childhood seeks to constitute ‘good’ or ‘bad’ childhoods or suggests ‘correct’ and ‘incorrect’ practices in a subjective way. “In consequence, the “child” itself—alone, isolated, circumscribed—would diminish in its capacity as a moral rhetoric for action and thought, allowing attention to turn to the epistemological, political, and ideological battles waging underfoot” (Cook, 2017, p.5).

Therefore, defining childhood acquired different orientations over time and nowadays the time has come for researchers to “approach children as the experts of their lives” and “argue for practices that recognize that children have the autonomy to define, explain and shape their worlds” (Castro et al, 2013, p.3). Stalford also points out that EU law, depending on the circumstances, contains varied interpretations of what constitutes a “child” (2012, pp.21-25). Child as an ‘age-based construct’ identifies the child according to age parameters, while child as ‘biological construct’ refer to the blood ties between child and adult. Finally, child as a ‘dependency-based construct’ takes the child from the perspective of her/his economic or social relationship with a parent or legal guardian.

Childhood has had different meanings across societies, time periods and geographies. For instance, it is not possible to identify a similar childhood understanding between Scandinavian countries and West Africa or Latin America. While in some African countries, children become soldiers by the age of five and in some Latin American countries they are expected to be employed in the worst forms of labor at the same age, European children experience relatively more decent childhood conditions. “*Children are not accessories to their parents or passive recipients of parental influence. They are individuals in their own right with their own needs and rights*” (Swedish Ministry of Health and Social Affairs, 2004). Therefore, there is a growing understanding about considering childhood not solely as preparation for adulthood, but also as an inherent part of life with the values of its own.

The piecemeal evolution of our understanding of childhood over the centuries basically represents a change in the relationship between adult and child, and is also linked to the transformation of upbringing and education. The conceptual autonomy of children and childhood is a relatively new phenomenon, with studies taking children “as the basic units and categories of study” (Corsaro, 2005, p.xi). It took thousands of years for European culture to realize that the child is not an object and requires treatment as a human being. Childhood, as a social construction rather than simply a biologically given fact, has different meanings according to the perspective taken. Basically, it is created and defined by society, while the position children have in any society is not

fixed at all, with variations across times, places and cultures. Childhood has also become the object of massive interventions by the adult world across ages and societies. As noted by Stephen Wagg, there is no single universal childhood that is experienced by everybody in the same way (Wagg, 1992). While childhood appears as a temporary stage for the children themselves, the society considers the childhood as “*a permanent structural form or category that never disappears even though its members change continuously and its nature and conception vary historically*” (Corsaro, 2005, p.3). On the other hand, the interaction of childhood with other social categories, like age groups and social class, is also important in framing the nature of childhood (Qvortrup, 1994) because for instance the ‘working mother’ concept in modern societies is interconnected with childcare institutions and early childhood education. In other words, childhood, as an active and dynamic structural form, is influenced by society itself, while it also inspires social order in return. In the same vein, philosopher Jean-Jacques Rousseau, in his famous book *Emile, or On Education* (1762), urged parents to look after their children, saying that children are dependent on the pity, care and affection of their families. Rousseau’s insistence on family care coincided with a time when children were systematically entrusted to shelters and orphanages. In previous centuries, it was the norm to abandon unwanted children to shelters across Europe that hosted millions of children over time. During the Industrial revolution, some shelters became a source of cheap labor for new factories.

The 20th century brought a new perspective on treatment of children, especially by 1924 when the League of Nations—the precursor of the United Nations—adopted its Declaration of the Rights of the Child, which for the first time emphasized child rights in a comprehensive way. Over time, studies flourished on understanding the state of children, with a new framing of childhood by remodeling ‘child welfare’ systems into ‘child well-being’. Child well-being is a state that is understood in relation to objective parameters such as educational achievement, health status, housing, safety, social exclusion, household income, and to subjective indicators such as life satisfaction, social connectedness, and happiness. The gradual emphasis placed on child well-being considers a reconceptualization of childhood, privileging the child’s active place in society and deconstructing the adult-centered perspective of welfare approaches in

which children were considered an asset for the future and carriers of the societal ideals of their communities. Child well-being extends the childhood conceptualization to include children's physical, emotional, intellectual, social and behavioral development needs. Adopted in 1989, UNCRC offers a multifaceted understanding of child rights, emphasizing that every child has the right to health, education, participation and protection. The Convention outlined the normative framework for child well-being with international standards that understand childhood in a holistic way, embracing economic, civil, political, cultural and social rights. This gradually-developed and enlightened Western understanding about childhood tries now to measure children's well-being not within the parent's agency, but as an integrated and multidimensional construct covering psychological, social, physical aspects as well as material deprivation. In other words, the wording 'child welfare' has given way to 'child well-being' which can be briefly defined as the realization of child rights and the fulfillment of his or her own capabilities, potential and skills through effective protection within family, society and state settings.

2.1.1.1. Historical Perspective

Due to the deep-rooted adult-centered perspective on childhood, considering children as part of a family and as passive actors with no specific rights or special needs had long been a norm for childhood studies. In other words, in the pre-industrial Middle Ages, children were treated as 'little adults', something which is obvious in medieval paintings, in which the child shares similar clothes or games with adults, even by the age of seven when the medieval child acquired skills of speech. In other words, children were assuming adult responsibilities by the ages of seven or eight, helping in household activities and even in trade. These ages were even considered the age of criminal responsibility, and children were punished and tried for crimes they committed.

In *Centuries of Childhood: A Social History of Family Life*, French historian Philippe Aries—a prominent researcher on medieval childhood—made some controversial arguments that were later disputed by other researchers such as Ilana Krausman Ben-Amos and Paul Griffiths. Aries underlined that with infant mortality rates so high in the medieval period, parents were discouraged from developing any

emotional attachment to their children, and up until the 15th century, the prevalent culture denied developing a distinct understanding of childhood as a separate stage of human life (Aries, 1962). In other words, Aries underlined that childhood, as a separate concept, was unknown in that period, and as an anecdote he noted that in medieval art, artists were unable to portray childhood because they did not know how to paint a child (Aries, 1962). Aries also noted that during the Middle Ages, parents often encouraged their children to work as domestic servants in other people's houses or pushed them into farming animals at a time when there was no widespread tendency towards schooling. Once a child became able to live without the care of his/her parents, he/she was considered as belonging to adult society.

It was, therefore, a completely different approach to the modern consciousness about childhood that distinguishes the child's physical, social and emotional needs from those of the adult. In a nutshell, childhood in the pre-industrial Western society was not a structure distinct from the adult world, and children, seen as 'little adults', were mainly considered economic assets for a society rather than something that required emotional investment. Likewise, in the early industrial period, children were mainly employed in factories and mines, and acquired even greater economic value. In brief, from antiquity to medieval times, childhood was not the best-enjoyed period of one's existence.

Between the 17th and 19th centuries, children progressively gained importance, with the emergence of lower child mortality and lower fertility rates in societies making children more valuable than in the past. Childhood, as a unique status, evolved and became socially constructed over time, especially in the rising consciousness regarding basic education needs and the construction of separate childcare units. Children's formal education—starting with basic literacy—was seen as a way to provide them with adult capabilities, a new approach mainly influenced by the Reformation in the 16th century, Calvinists and the Enlightenment period. To a certain extent, the training of children basically meant developing their technical and moral knowledge in sciences, humanities and theology to become 'ready for life' to join the world of 'grownups'. At the end of the 17th century, British philosopher John Locke described an infant's mind

at birth as a ‘*tabula rasa*’—a blank slate—that makes the infant receptive to any kind of learning during his/her development through life experiences and education. Enlightenment thinkers such as Jean-Jacques Rousseau, with his arguments for a developmentally-adequate education for middle-class children, also influenced this change in mentality. Rousseau underlined that the child, free from the restrictions of the adult world, is born with an intuitive knowledge of what is right and wrong, but society and social arrangements bring their own rules, regulations and constraints on the individual, and thereby corrupt people. Subsequent efforts to restrict child labor showed a new understanding on children, who then came to be seen as an economic liability and financially dependent on their families rather than an economic asset.

It was in the latter half of the 19th century that the Western world began progressively considering childhood as a special social entity that needed protection with laws. The shift from agricultural to industrial production as the basis of economy was one of the main drivers of this mentality change because the industry needed an educated and healthy workforce that had experienced formal compulsory schooling to acquire the necessary skills and education. The higher living standards and welfare offered by this industrialization resulted in lowering infant mortality rates and changed the status of children in general social understanding. The first organized societal efforts for safeguarding children appeared in France and resulted in its inclusion, in 1881, in laws on the educational right of children. In this respect, the introduction of compulsory schooling in 1880 had a significant effect, especially for children coming from disadvantaged family backgrounds. This emphasis spread to other fields of protection, especially in the medical, social and judicial sectors by the beginning of the 20th century, first in France and then in other developed countries on the European continent. In this respect, the establishment of a Committee for Child Protection under the League of Nations was a turning point for the international community.

The institutionalization of child protection came first, with important achievements being realized in the 19th century, with an increase of voluntary childcare organizations such as Dr. Barnardo’s in the United Kingdom, and the National Children’s Home or the Catholic Children’s Society. The Ottoman Empire also

followed this trend and established institutions such as the orphanage known as Darul Hayr-i Ali that operated between 1903 and 1909, the Daruleytam in 1914 and the Darulaceze in 1896, to address child poverty and improve child health and welfare. During the First World War, a group of Turkish doctors founded the Ottoman Children's Protection Society (CPS) and cooperated with the Red Crescent Society and other organizations to help orphans and refugee children displaced during the war.

2.1.1.2. Breakthroughs in the 20th Century

The turn of the millennium marked a more profound turning point for the emergence and recognition of fundamental rights, including those enjoyed by children. The 20th century, the 'century of children' for many, offered breakthrough developments in terms of child rights. On September 16, 1924, the Geneva Declaration of the Rights of the Child, the first-ever international treaty on child rights, was adopted by the League of Nations. Stating that humanity "*owes to the Child the best that it has to give*" (UN Documents, 1924), the Declaration discussed child well-being, provided children with special rights, including the right to development, relief, protection and assistance, and gave adults some responsibilities vis-à-vis children. To dress the wounds of World War II, the international community placed emphasis on institutional settings specifically for children, as the youngest victims of the war, first by creating the UN Fund for Urgency for Children in 1947—the precursor of today's UNICEF—to take care of European children as a first stage. Over the years, its mandate expanded to the international sphere and work began in developing countries as well through specifically designed programs for children in the fields of health, education, nutrition and sanitation.

Recognition by the Universal Declaration of Human Rights in 1948 of motherhood and childhood as a distinct area for special care and assistance was also a turning point in triggering legal awareness on childhood in the international sphere, which was then crowned by the adoption of the Declaration of the Rights of the Child in 1959. The Declaration covered child rights with ten principles, but it was not signed by all member countries, and the principles were not binding. The Declaration of the Rights of the Child formed the basis of the UNCRC. In 1973, with the Convention on

the minimum age for admission to employment, the ILO determined the minimum age for work as eighteen years in a bid to protect occupational health and safety. The declaration of 1979 as International Year of the Child by the UN indicated a change of mentality regarding childhood. The adoption of the UNCRC on November 20, 1989 with its 54 articles covering children's social, civil, cultural and economic rights, further boosted this positive path towards a renewed understanding of childhood. With all the breakthroughs in this century, child rights are now internationally considered as encompassing positive and negative rights, implying the responsibility of authorities to protect children's rights from violation and to provide children with better conditions of well-being. For instance, the UNCRC covers, among many others, clauses about the right to the 'highest possible standard of health'.

2.1.2. United Nations' System for Child Rights

Under international law, the UNCRC is considered as a key agreement among countries that pledged in 1989 to protect child rights. The Convention, the most widely ratified human rights treaty in history, explains (1) who children are, (2) what their rights are, and (3) what responsibilities should the governments assume. It also establishes in Article 1 that "a child means every human being below the age of eighteen years" (UNICEF, 1989). This legal parameter is currently used in Europe to define a child. The UNCRC is the touchstone for the development of European child rights legislation. Both the CoE and the EU take their inspiration and influence from this Convention. The existence of the UN Committee on the Rights of the Child also provides additional strength for monitoring the implementation of the convention and its optional protocols. The UN Committee on the Rights of the Child within the United Nations Office of the High Commissioner for Human Rights (OHCHR) and UNICEF are the main bodies specialized and tasked with monitoring and promoting state compliance with the UNCRC.

There are three optional protocols to the UNCRC that complement the main treaty, and these are also monitored by the Committee on the Rights of the Child. The first is the Optional Protocol on the Involvement of Children in armed conflict; the second is the Optional Protocol on the Sale of Children, Child Prostitution and Child

Pornography; while the third is about Communications Procedure, allowing children to submit their complaints. These Protocols are termed as ‘optional’ because the derived obligations may seem tougher than those in the original UNCRC, therefore signatory States have the option to freely choose whether or not to be compelled by their implementation (UNICEF, Convention Optional Protocols). Therefore, Optional Protocols should be considered as treaties in their own right that are open to signature, ratification or accession by the willing countries. But once they are signed and ratified, State Parties are obliged to implement them in full.

Although the EU cannot become party to the UNCRC, as it does not provide accession for entities other than states, all EU member countries have already ratified the UNCRC and the EU takes the Convention as the source of its law. Member states should abide by international human rights commitments. In addition to this, Article 24 of the European Union Charter of Fundamental Rights is directly inspired by UNCRC provisions – notably in terms of the principles of best interests of the child (Article 3 of the UNCRC) and child participation (Article 12 of the UNCRC). This chapter will elaborate on how the norms and rules have been constructed at the international level and how these inspired the design of child reforms at the EU level.

2.1.2.1. UN Convention on Child Rights

Children have their own human rights treaty with the UNCRC. This is considered to be the cornerstone instrument on child protection at the international level, and covers a wide range of economic, social, political and civil standards for the protection of child-specific rights. It defines a child as ‘every human being below the age of eighteen years’ in those countries that have recognized it. This now the legal parameter in use throughout Europe to define childhood although EU law sets out different ages for children depending on the regulatory context. The four key principles of the Convention may be summarized as follows: non-discrimination, ensuring the best interests of the child, survival and development, and respect for the views of the child. The Convention was rapidly adopted by the signatory parties and became an international treaty after coming into force on September 2, 1980.

The UNCRC, which provides additional guarantees for children to be able to access their human rights, requires integrating the best interests of children into all legislative actions that may affect them. It therefore covers several aspects related to the promotion and protection of children such as:

- non-discrimination (Article 2)
- consideration of the best interests of the child in policy-making (Article 3)
- right to life (Article 6)
- right to grow up in a family context (Articles 5, 9 and 18)
- right to be heard (Article 12)
- protection from abuse and neglect (Article 19)
- right to alternative care for out-of-home children and adoption (Articles 20 and 21)
- protection from torture and exploitation (Articles 36 and 37)
- right to a fair trial in the judicial context (Article 40)
- freedom of expression, thought, conscience and religion (Articles 13 and 14) right to the enjoyment of the highest attainable standard of health (Article 24) right to education (Articles 28 and 29) (UNICEF, 1989)

For instance, in terms of the right to be heard, which may be translated as the right to participation, states have to provide children with opportunities to express their views either in school life or in different institutional settings. Finland, for example, established an online parliament for children (Lastenparlamentti.fi) to provide them a place to interact weekly online in chat rooms to discuss issues that concern them and to hold plenary sessions.

However, as mentioned above, the EU is not a party to the Convention because the UNCRC is only open for signature and accession to States, although the European Commission announced in 2011 that the “standards and principles of the UNCRC must continue to guide EU policies and actions that have an impact on the rights of the child” (European Commission, 2011, p.3). Accordingly, the EU is bound by all principles set out in the Convention in matters that fall under the scope of EU competence. The EU uses the UNCRC as a common reference point in all its official child-related legislative texts through the endorsement of key wordings such as ‘best interests of children’. In

other words, the EU decided to embed the UNCRC in its legislative steps in a symbolic way to generate domestic changes in member countries' child rights systems.

On the other hand, cases like *C-540/03, European Parliament v Council of the European Union [2006] ECR 5769*, the Luxembourg-based Court of Justice of the EU (CJEU) also prioritizes respect of child rights and obliges EU law to consider the UNCRC. According to the Article 44, states are accountable to the UN Committee on the Rights of the Child for the implementation of the convention. This UN Committee consists of eighteen independent experts who are tasked with the monitoring of the implementation of the Convention as well as of its two Optional Protocols. The state parties should therefore provide the UNCRC Committee with regular five-yearly national reports on the measures they have adopted. In these, they should precisely refer to all challenges they face in trying to fulfill their obligations under the Convention. The reports should also provide the committee with sufficient information on the implementation level of the Convention. The Committee may also ask state parties for detailed information about the implementation of some clauses. These reports should be made available to the public in the respective countries (art. 44/6). However, it is worth noting that formal reporting is a duty of the authorities, while “implementation and monitoring are the responsibility of everyone. There is therefore good reason to believe that a broad base within society for the monitoring exercise may constitute a major contribution to practical implementation of children’s rights” (Verhellen, 1996, p.9). The Convention also obliges the state parties to integrate the public at large in implementation and monitoring stages. The Committee on the Rights of the Child advises states to draw up national reports in cooperation with national NGOs who are required to provide information on possible violations of the Convention’s clauses. However, as pointed out by Verhellen, there is always a risk of being “judge and jury” at the same time (Verhellen, 1996, p.8) because these reports are mainly written by governmental bodies, partially taking into consideration the criticisms of their civil society. Therefore, the UNCRC can be considered as a great step towards formalizing governmental obligations vis-à-vis children and making them accountable for establishing necessary standards.

2.1.2.2. Other UN Instruments to Boost Child Rights

“Your children are not your children. They are the sons and daughters of Life's longing for itself... You may house their bodies but not their souls, for their souls dwell in the house of tomorrow, which you cannot visit, not even in your dreams.”

Kahlil Gibran

While the UNCRC indisputably constitutes the state-of-the-art in terms of child rights, there are some other UN Conventions that also contain provisions about the protection of child rights. One such is the Convention on the Rights of Persons with Disabilities, which in Article 7 covers children with disabilities and requires States to consider the best interests of children with disabilities and adopt specific measures to provide them with all fundamental freedoms and human rights on an equal basis. The UN Convention on the Elimination of All Forms of Discrimination Against Women also emphasizes child rights especially in terms of family rights, the responsibilities of parents and childcare.

In the meantime, the Universal Declaration of Human Rights (UDHR) and the two International Covenants cover specific rights about children, especially regarding special care and assistance, as well as protection of children against economic and social exploitation, and fighting all kind of discrimination related to race, color, sex, language, religion, national or social origin. On the other hand, the UN Palermo Protocol about preventing, suppressing and punishing child trafficking also covers acts such as recruitment, transportation, transfer, harboring and/or receipt of a child victim for exploitation. The EU itself and all EU member states are parties to this Protocol.

In the context of the UN system, the conventions adopted by the ILO aim to abolish child labor and set a widely-accepted minimum age for employment. All EU member states are also ILO members and are obliged to respect and implement all principles endorsed by the ILO, which, in 1919, was the first international organization to legislate on some key international legal provisions for the protection of working children, with specific conventions about the hours of work in industry, principles on night work, minimum age in industry and agriculture, etc. In 1973 and in 1999, the ILO

adopted two conventions, one on minimum age (Minimum Age Convention, No. 138) and one on the worst forms of child labor (Worst Forms of Child Labor Convention, No. 182), to disallow the employment of children below a certain minimum age and to prevent the worst forms of labor for all under the age of eighteen years. Conventions No. 138 and No. 182 are considered ‘core’ ILO Conventions. In 1988, the ILO adopted a declaration on Fundamental Principles and Rights at Work to commit governments to the abolition of child labor. At UN level, the ILO therefore has played a key role in raising awareness about child labor and campaigning against it by establishing globally-accepted standards in a world where about 160 million children are working as child laborers, accounting for nearly one in ten of all children worldwide according to the 2020 Global Estimates of Child Labor (ILO and UNICEF, 2020). In 1992, the ILO also established the International Program on the Elimination of Child Labor (IPEC) as a specific program to progressively eliminate child labor by strengthening national capacities and promoting worldwide awareness. IPEC currently conducts operations in eighty-eight countries, making it the largest program of its kind around the world and the ILO’s largest operational program. IPEC has a wide network of partners, including among others employers’ and workers’ organizations, private companies, government agencies, NGOs, media, judiciary, religious groups, universities, children and their families.

Other UN bodies also play a key role in promoting child rights in the global sphere. Created in 1946 to provide assistance to children in countries devastated by World War II, UNICEF is tasked with protecting and promoting child rights through political lobbying in the countries in which it is based. UNICEF is devoted to help national efforts in the fields of nutrition, education and health services. The Fund also involves itself educating local communities and families; conducts researches and gathers data on the situation of children at the national level; supports immunization programs for childhood diseases; manages basic health services for communities in need in line with the principles of the UNCRC and its optional protocols.

Therefore, legal initiatives to protect children under specific circumstances gained momentum in the international sphere following the adoption of the UNCRC,

with steps taken especially towards regulating child labor (the adoption of the Worst Forms of Child Labor Convention in 1999), the situation of children in armed conflicts (with the optional protocol to the International Charter of the Child Rights regarding the participation of children in armed conflicts), and sexual exploitation (with the Optional protocol concerning the sale of children, prostitution and child pornography in 2000).

2.1.3. Council of Europe's Standards for Child Rights

Initiatives regarding child rights are not limited to the UN though. The CoE is currently composed of forty-seven member states, including all EU members, and it brings together the European states to uphold democracy, human right and rule of law on the European continent. It has therefore, since the very beginning, taken on clear responsibility to protect and promote human rights, including child rights. The CoE and its members have therefore adopted several legal instruments, recommendations, jurisprudence and programs by developing a child-sensitive approach to address some problems that European children face.

The **European Convention on Human Rights (ECHR)**, signed in 1950 by the CoE, came into force in 1953. It gave binding effect to the rights and freedoms set out in the UDHR. The ECHR sets out a legal framework in terms of protecting and promoting key fundamental rights applicable to children, although it does not make explicit reference to child rights. Key right areas, such as right to life (Article 2), prohibition of torture (Article 3), prohibition of slavery and forced labor (Article 4), right to liberty and security (Article 5), right to a fair trial (Article 6) and respect for private and family life (Article 8) are covered by this Convention. Member countries are obliged to ensure that they comply with the ECHR in their national legislation. Both the ECHR and its additional protocols contain specific references to children, while all general provisions of the Convention are applicable to children.

The European Court of Human Rights (ECtHR) analyses each individual application lodged in conformity with articles 34 and 35 of the ECHR, and develops a large body of case law regarding child rights. In 1987, Turkey acknowledged the right to individual application to the ECtHR for a review based on the European Convention

on Human Rights. Individuals can directly access the ECtHR in all matters concerning interpretation and application of the ECHR, while individual children in states adhering to the jurisdiction of the ECtHR are allowed to submit complaints regarding their civil rights. It is worth noting that the ECtHR has a vast corpus of jurisprudence with a clear focus on child rights, such as the right to protection from degrading and inhuman treatment (Article 3 of the ECHR), right to respect for private and family life (Article 8 of the ECHR), right to a fair trial (Article 6 of the ECHR), among others. The court also refers to the UNCRC when elaborating on claims pursued by or on behalf of children¹.

The **Council of Europe's European Social Charter (ESC)** is another major European treaty to secure child rights by guaranteeing the rights of children from birth to adulthood in a wide range of specific areas from economic protection to health protection. The Charter was revised in 1996 and has specific clauses regarding child rights. Article 17 of the 1961 ESC obliges states to take all measures to ensure the effective exercise of child rights. Article 17 of the 1996 Revised ESC required states to adopt all necessary measures to protect children against violence. The Charter underlines that; children have the right to special protection against any kind of physical and moral dangers to which they are exposed, as well as being able to reach appropriate social, legal and economic protection. However, in its monitoring of states' compliance with the Charter, the European Committee of Social Rights (ECSR) has frequently established that states do not conform to the Charter and do not forbid corporal punishment. In July 2020, the ECSR published 154 recommendations and observations on corporal punishment to 42 states. As Turkey is a founding member of CoE, the Committee also investigated the child rights situation there (See Turkey section: Global Initiative to end all corporal punishment of children, 2020).

The ESC Charter, which establishes a supervisory mechanism through collective complaints and state reports for guaranteeing respect from state parties,

¹ To see some examples of the ECtHR rulings, please visit: Chbihi Loudoui and Others v. Belgium (December 16, 2014), Zaiet v. Romania (March 24, 2015), Mennesson and Others v. France and Labasse v. France (June 26, 2014), R.B. v. Estonia, no. 22597/16 (June 22, 2021), Vavrička and Others v. Czech Republic

8 April 2021 (Grand Chamber), Osman v. Denmark (June 14, 2011), Mikulić v. Croatia (February 7, 2002). For more details, please visit ECtHR Factsheet on Children's rights: https://www.echr.coe.int/documents/fs_childrens_eng.pdf

covers child rights up to the age of eighteen years in various fields, ranging from the legal status of the child to rights of the family, protection before birth, children's health, special protection from violence, right to education, prohibition of child labor, rights of migrant children, among others (Council of Europe, Information Document).

The European Convention on the Exercise of Children's Rights (2000) is another major instrument for protecting the best interests of children and promoting their rights, especially of those experiencing family proceedings before judicial authorities. Among the categories of family proceedings that especially concern children are; those about custody, exclusion or restriction of parental responsibilities, residence, inquiries of parentage or guardianship, inter-country or intra-country adoption, protection from cruel or degrading treatment, among others (Council of Europe, 1996a). The judicial authority is also required to facilitate the exercise of rights by children. This legal instrument of the CoE is also expected to ease implementation by state parties to the UNCRC.

There are many other legal instruments initiated by the CoE, especially the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (2007), the first-ever international legal treaty that criminalized sexual abuse of children, as well as the European Convention on the Adoption of Children, which was revised in 2008. The CoE adopted several other conventions that addressed a range of issue-specific child rights issues, such as Lanzarote Convention; Convention on the Legal Status of Children Born out of Wedlock; Convention on the Adoption of Children; Convention on Contact concerning children; Convention on preventing and combating violence against women and domestic violence (Istanbul Convention). In 2008, the CoE launched an ambitious and multi-annual strategic program, named 'Building a Europe For and With Children'² that firstly targeted violence against children, and included preparation of a three-year action plan to address the problem of sexual exploitation of children.

² <https://www.coe.int/t/dg3/children/>

2.2. Legislative Framework in the European Union: Before and after the Lisbon Treaty

Historically, children's rights did not rank among top topics on the EU agenda, which, since its very beginning, has been mainly concerned with establishing political and economic alliances among its members. "Changes in the EU's constitutional, legal and institutional landscape over the years, however, have generated new opportunities and, indeed, a necessity to engage with a range of broader social and rights-related issues, including those affecting children" (Stalford, 2012, p.5). Stalford also notes that the free movement of people has been one of the first avenues where children's needs at EU legal and judicial levels were taken into account, because with this abrupt change, the potential impacts of migration across member states became apparent and required taking protective measures against the threat of cross-border trafficking of children and child abduction (2012, pp.16-17). The EU's legal system covers three types of competencies: those completely within the competence of the Union, those earmarked to the member states where the EU has no legislative power, and those in which the member states cooperate with the EU. Policy fields related to child rights are therefore beyond the scope of the EU's exclusive competence; but lie in the field of shared and coordinated competencies where the EU supports and coordinates the actions of the member states.

Children make up 18.3 percent of the EU population, and it is estimated that 22.2 percent of children in the EU are at risk of poverty or social exclusion. One in four children in the EU thinks that their rights are respected by their society (European Commission, 2021a). As of the mid-2000s, the EU, as a normative power, has focused on upholding child rights inside and outside of its borders. The introduction of the Charter of Fundamental Rights of the European Union in 2000, the entry into force of the Treaty of Lisbon in 2009 and the adoption of the EU Strategy on the Rights of the Child 2021-2024 have given a new momentum to child rights across the EU (European Commission, 2021a). The adoption and promotion of specific child-related measures and guidelines by the European Commission especially under the initiative of the Directorate General (DG) of Justice, aimed at influencing member states' policies,

politics and polity on child rights at the domestic level. The Treaty of Lisbon provided the Charter of Fundamental Rights with the same legal status as the EU treaties. It is also worth noting that the Lisbon Treaty enhanced the EU's power to advance child rights by taking it as a general objective of the EU. The Treaty on European Union had only a generic obligation for the EU: Fundamental rights, defined under the European Convention for the Protection of Human Rights and Fundamental Freedoms, as well as the constitutional rules of the Member States take part of the EU legislation (Eur-Lex, 2008a, Article 6/3). Two explicit references to children are found in Articles 3/3 and 3/5 of the Treaty on European Union. Accordingly, "*the Union shall combat social exclusion and discrimination, and shall promote social justice and protection, equality between women and men, solidarity between generations and protection of the rights of the child*" (Eur-Lex, 2008b). In Article 3/5, the Union is obliged to endorse its values and interests in its relations with the outside world. "*It shall contribute to (...) the protection of human rights, in particular the rights of the child, as well as to the strict observance and the development of international law*" (Eur-Lex, 2008b, Article 3/5).

Therefore, Europeanization matters, but so too do child rights. Child rights form an integral part of the human rights that the EU is obliged to respect under international and European treaties, in particular the UNCRC and its Optional Protocols, the Millennium Development Goals, and the ECHR. In this respect, the EU's Lisbon Treaty presents one of the most important achievements for the development of child rights across the Union. The EU explicitly recognized children's rights in Article 24 of the European Charter of Fundamental Rights that was made legally binding by the Lisbon Treaty.

2.2.1. Before the Lisbon Treaty

Until the Lisbon Treaty, children were narrowly considered as 'victims' or 'dependents' in need of protection from violence, rather than—as prescribed by the UNCRC—possessors of civil, cultural, political, social and economic rights who are able to actively participate in shaping their own futures. On the other hand, since early 1970s, the then-European Court of Justice began developing a body of jurisprudence that would become the general principles of Community law. The EU started adopting

its secondary legislation, i.e., directives, regulations, and decisions, on child rights from the early 1990s. The wave of secondary legislation began with Directive 91/671/EEC on compulsory use of safety belts and child-restraint systems in vehicles, and continued with Directive 94/33/EC on protection of young people at work and Directive 92/85/EC on maternity leave. Over time, the secondary legislation has covered a wide range of issues, like the right to family reunification, safety of toys, hotline for children, combating violence and sexual abuse against children, implementing school fruit and milk schemes, as well as protecting children in audio-visual media services³. Though not legally binding, the EU has also adopted some soft-law instruments –policy actions, guidance documents, best practices, in order to address child poverty and to promote child well-being. The Maastricht Treaty (1992) introduced in Article F.2 the duty of the EU to respect fundamental rights in all its policies and action, an obligation that indirectly covered child rights.

In the meantime, engagement of NGOs working in child rights into the activities at the EU level also increased after the adoption of the European Commission (2001) document, *European Governance—A White Paper* (2001), in which the Commission actively promoted the participation of civil society actors in the EU's policy-making processes. According to Ruxton, the improvement of EU child rights policy into a coherent and broad system would bring many advantages (2005, p.19). It would, among others, encourage EU members in implementing the principles of the UNCRC, inspire the EU to systematically assess and monitor the domestic impact of EU policy on children in member countries, urge EU member states towards exchange of best practices on child rights, drive EU authorities to allocate greater resources for investing in children, strengthen the role of NGOs working on child rights to develop dialogue at EU level and, finally, render child-specific problems much more visible within member states and at EU level (Ruxton, 2005, p.19).

By the 2000s, child rights was part of the EU's social agenda, especially with publication of the Commission Communication, 'Towards an EU Strategy on the Rights

³ For an exhaustive list, please visit European Commission, Annex to the EU Strategy on the Rights of the Child, EU Acquis and Policy Documents on the Rights of the Child, https://ec.europa.eu/info/sites/default/files/childrights_annex2_2021_4_digital_0.pdf

of the Child' (COM (2006) 367) in 2006 and the launch of the EU Agenda for Children's Rights by DG Justice (COM/2011/0060 final) in 2011. With adoption of the 2006 Communication, the European Commission developed its first action plan on the promotion of child rights to extend its standards to children both inside and outside the EU. The Communication aimed to bring together all European Commission policies dealing with children into an integrated and rights-based framework. The Communication stated that, "*the EU's obligation to respect fundamental rights, including children's rights, implies not only a general duty to abstain from acts violating these rights*" (European Commission, 2006). Accordingly, the EU is also obliged to consider child rights as part of its own policies and should take into account Member States' own capabilities in taking specific positive action for upholding and promoting child rights. The Communication also referred to the obligation to respect child rights under international treaties and to Article 24 of the European Charter of Fundamental Rights, and pledged that "*the Union [would] act as a beacon to the rest of the world*" regarding child rights (European Commission, 2005c, p.9).

On the occasion of adoption of this key Communication in 2006, the then-European Justice Commissioner Franco Frattini said that children's rights were still far from being generally esteemed, and children's basic needs were sometimes ignored, but he also added: "*The European Union can and should bring essential and fundamental added value in the field of children's rights*" (EU Observer, 2006). The Communication was a sign of the Commission's interest in endorsing and incorporating UNCRC provisions into its child-related policies and actions, while it also served as a policy guideline for the EU to promote and protect child rights both in its internal and external actions, as well as backing its member states' efforts in meeting problems related to child rights. With this Communication, promoting the rights of the child in external relations was made one of the specific objectives of the EU's strategy on child rights. This awareness-raising process also coincided with increased engagement of international child rights organizations such as UNICEF, Save the Children and EUROCHILD, by opening headquarters in Brussels to be in closer contact with the EU institutions and for feeding the Commission with their sector-specific expertise.

However, although the Communication envisaged a more coherent and comprehensive approach vis-à-vis child rights, no further progress was achieved, particularly because the EU was short of competence to formulate directly applicable measures in the field of child rights. During this period the EU elaborated on child-related issues mainly through intergovernmental cooperation because EU actions in child protection fell primarily under the so-called third pillar of the EU legal governance system. This pillar relates to police and judicial cooperation in criminal matters, and reduced EU competence because European institutions have no real decision-making authority in this pillar. Intergovernmental cooperation on child rights under this pillar did not place any strong legally binding force on member states compared with EU regulations that were adopted under the first pillar, the Community pillar, which could be legislated only by EU institutions in a supra-national manner. Therefore, before the Lisbon Treaty came into force, child rights were only elaborated on as part of the general Treaty obligations to respect fundamental rights. Until ratification of Lisbon Treaty, child rights were part of the EU's external action, and the fields of human trafficking and rights of children during armed conflicts were one of the focal points of the EU's relations with non-EU countries and in terms of pre-accession assistance.

2.2.2. After Ratification of the Lisbon Treaty

The Lisbon Treaty represented a milestone for the future of child rights and the European Union's engagement in regulating this area for the best interests of children. With the entry into force of the Lisbon Treaty on December 1, 2009, ratified by all twenty-seven member states, the protection of child rights was made an integral part of EU objectives because all EU institutions were now obliged to consider the best interest of children when designing and adopting any legislative act that directly or indirectly affected them. For the first time, the protection of child rights was made part of the general stated objectives of the European Union with the Article 3 of Lisbon Treaty. In combination, the Articles 3.3. and 3.5. of the Lisbon Treaty, and Articles 7 (the right to family life), 14 (the right to education), 24 (child rights) 32 (prohibition of child labor and protection of young people at work) and 33 (family and professional life) of the

Charter of Fundamental Rights of the EU became the primary EU laws on the rights of the child.

Table 2
Lisbon Treaty's Innovation in Child Rights

| EU | Issues covered | CoE |
|--|--|--|
| Charter of Fundamental Rights (Articles 24 and 32) Treaty on European Union (Article 3(3)) | The child as a holder of rights | Convention on Action against Trafficking in Human Beings, Article 4 (d) Convention on the Protection of Childrer against Sexual Exploitation and Sexua Abuse (Lanzarote Convention), Article 3 (a) |
| Charter of Fundamental Rights (Article 24(2)) CJEU, C-244/06, Dynamic Medien Vertriebs GmbH v. Avides Media AG, 2008 CJEU, C-112/20, M. A. v. État belge, 2021 | Best interests of the child | Lanzarote Convention, Article 30 (1) ECSR, International Commission of Jurists (ICJ) and European Council for Refugees and Exiles (ECRE) v. Greece, Complaint No. 173/2018, 2021 |
| Charter of Fundamental Rights, Article 24 (1) | Children's rights to participation and to be heard | Lanzarote Convention, Article 9 Convention for the Protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine: Convention on Human Rights and Biomedicine (Oviedo Convention), Article 6 |
| Directive on combating the sexual abuse and sexual exploitation of children and child pornography (2011/93/EU) | Protection from violence and/or sexual violence | ECHR, Articles 2 (right to life), 3 (torture, inhuman or degrading treatment) and 8 (physical integrity) Lanzarote Convention |
| Charter of Fundamental Rights, Article 14 (2) (right to education) | Right to receive free compulsory education | ESC (revised), Article 17 (2) (right to appropriate social, legal and economic protection) Protocol 1 to the ECHR, Article 2 |
| Charter of Fundamental Rights, Article 21 (non-discrimination) | Prohibition of discrimination on grounds of age | ECHR, Article 14 (prohibition of discrimination) Protocol 12 to the ECHR, Article 1 |
| Charter of Fundamental Rights, Article 7 (respect for private and family life) and Article 24 (3) (contact with parents) | Right to respect for private and family life | ECHR, Article 8 (right to respect for private and family life) Convention on the Legal Status of Children Born out of Wedlock Convention on the Adoption of Children (revised) Convention on Contact concerning Children Convention on the Exercise of Children's Rights ECtHR, Maslov v. Austria [GC], No. 1638/03, 2008 (deportation of the applicant, convicted of criminal offences as a child) |

Source: Handbook on European law relating to the rights of the child, FRA, ECtHR and Council of Europe, 2022 edition

Now, all EU member states are bound to respect European and international law when implementing policies that have a connection to children. The Lisbon Treaty places ‘the protection of the rights of the child’ (Article 3/3) among the aims of the Union and makes the European Charter of Fundamental Rights (the Charter) binding, and integrated into the EU legal framework. Therefore, all EU institutions are now bound to comply with the Treaty and the Charter when implementing EU law. Article 24 of the Charter stipulates that children have the right to such protection and care which is necessary for their well-being, and emphasizes that the best interests of children should be taken into consideration for all actions relating to children, both by public authorities and private entities. Judges in EU member states are also expected to ensure that their national authorities respect the Charter when they are implementing EU law. The Charter also emphasizes in its Article 14 the right to education and in its Article 32 the prohibition of child labor. The Charter applies to member states only when they are implementing EU law. Each year, the European Commission reports on implementation of the Charter and identifies the main concerns and problematic areas. These annual reports aim to monitor on-going progress in those areas where the EU is given competence to act.

The Lisbon Treaty also has an external relations dimension. In Article 3(5), it emphasizes that the protection of child rights constitutes a significant dimension of the EU’s external relations policy, and states that the Union “*shall contribute to the protection of human rights, in particular the rights of the child, as well as to the strict observance and the development of international law, including respect for the principles of the United Nations Charter*” (Eur-Lex, 2007a). This clause helps the EU in projecting its child rights norms and standards beyond its borders.

Regarding child rights, the most crucial outcome of the Lisbon Treaty would seem to be the integration of all policy areas that previously had been framed on an intergovernmental basis into a single system that would be governed mainly by the Treaty itself. The Treaty dismantled the three-pillar structure of the EU in previous treaties, which had been based on thematic priorities and sharing of responsibilities for decision-making between EU institutions and member states. With the new system, a

significant part of EU activities in the field of child rights is now conducted under Title V, ‘Area of Freedom Security and Justice’ to approximate procedures and facilitate cross-country exchange of information between national authorities when it comes to identifying perpetrators and victims of child trafficking and sexual exploitation. “This constitutional restructuring simplifies and streamlines the legislative process, reducing the former menu of legal instruments available to a choice of just three —directives, regulations or decisions— the implementation of which are subject to scrutiny by the Court of Justice” (Stalford, p.170). By making institutional and constitutional changes to the EU, the Lisbon Treaty boosted the EU’s potential to improve child rights on various fronts and paved the way for the adoption of specific directives such as those on child trafficking and child pornography. The Lisbon Treaty presents therefore new avenues for integrating child rights into different stages of the decision-making and implementation processes, and “*for grounding such measures in the more children’s rights-sensitive framework of fundamental rights as opposed to the economic and security preoccupations of the internal market*” (Stalford and Schuurman, 2011, p.402).

Therefore, the adoption of the Lisbon Treaty rendered the protection of child rights a key objective of the EU both internally and externally, especially when developing relations with its candidate countries. In this respect, Article 21 of Lisbon Treaty made human rights and fundamental rights a guiding principle of EU action on the international platform. On the other hand, Article 6 of Lisbon Treaty required the EU to accede to the ECHR, while Article 79 of the Treaty required the European Parliament and the Council to adopt measures countering child trafficking. Article 216 of the Lisbon Treaty enabled the EU to sign international human rights instruments and/or take part of the existing child rights conventions. Briefly, this Treaty boosted the legal, institutional and administrative capacity of the EU in protecting child rights.

Following this major step forward, the 2011 Commission Communication ‘An EU Agenda for the Rights of the Child’ (European Commission, 2011) included eleven concrete actions to increase efforts for the protection and promotion of child rights, including the design of a child-friendly justice, addressing the problems of children at risk of poverty or children seeking asylum. The main objective of this Agenda was to

translate the commitments to child rights into practice. The EU Agenda reminded that the UNCRC standards and principles must continue to be a reference to all policies and actions of the EU regarding child rights (European Commission, 2020a, p.31). In the meantime, “while implementing this EU agenda, EU legislation has evolved both to reflect the UN Convention’s and the Charter’s provisions and language on the rights of the child and as a primary consideration, the principle of the child’s best interests” (FRA, 2015a).

At the same time, initiatives such as the creation of an Alliance for Children aimed to operationalize the written targets and to promote the mainstreaming of child rights in all legislative instruments used by the European Parliament. In 2011, law enforcement agencies of twenty-six EU member states also took part in the Union-wide ‘Operation Icarus’, to eradicate online child sex abuse networks active across twenty-two European countries. The launch of the European Commission’s Rights, Equality and Citizenship Program (2014-2020) contributed to the further development of child rights, as protected under the Lisbon Treaty, the Charter and the international human rights convention. For its part, the Europe 2020 Strategy that was suggested in March 2010 laid down concrete targets for children especially in education, such as the eradication of child poverty social exclusion, but especially in the field of education, aiming to reduce early school dropout and promote early childhood education and childcare by 2020⁴. According to Stalford and Schuurman, “*experience proves that legislation is rarely the most effective EU response to children’s rights issues*” (p.402), while there is a need for bigger campaigns to incorporate several initiatives at the same time including “*policy, budgetary, research, educative and knowledge exchange*” (ibid.), in a bid to bring satisfactory responses to the diverse needs of children. In this regard, the Lisbon Treaty gives us with stronger instruments to develop such satisfactory responses (Stalford and Schuurman, p.402).

⁴ In a bid to render the EU a smart, sustainable and inclusive economy, its ten-year growth strategy, EUROPE 2020, aimed at helping the EU and the Member States to redesign their employment and social cohesion strategies, with targets for inclusive growth that included better schooling rates, in particular by reducing early school leavers’ rates below 10 percent, and decreasing child poverty through income support and generic provisions.

As of the early 2010s, the EU intensified its efforts to end child poverty and social exclusion, with the European Commission's Recommendation on 'Investing in Children: Breaking the cycle of disadvantage' (C (2013) 778 final) (European Commission, 2013b), endorsed by the European Council in 2013, being one of these significant endeavors. The Recommendation calls on EU member states to invest in child-focused policies and services, especially in a time when the financial crisis was having a serious bearing on children. It stated that the most effective strategies in tackling with child poverty were those reinforced by well-being policies for all children, whilst carefully focusing on children living under vulnerable situations (European Commission, 2013b). The Recommendation also emphasized (1) access to adequate resources, along with support for parents' participation in the labor market as well as for family incomes through mechanisms like fiscal incentives, child benefits, and housing benefits; (2) being entitled to affordable quality services, with further investments on early childhood education and childcare, and (3) boosting children's right to participate, by supporting child participation in cultural, sportive, recreation activities. This recommendation, among many others, was part of the evolution of the EU's understanding on child rights towards a 'child well-being' approach that prioritizes the social, economic, civil and emotional dynamics behind the living conditions of children. On the other hand, the 'EU Strategy towards the Eradication of Trafficking in Human Beings' (2012–2016) focused on the need for EU guidance in developing an integrated child protection system throughout the Union. Therefore, it urged Member States to put into practice wide-ranging child-sensitive protection systems to enable coordination across disciplines and agencies for meeting the diverse needs of children in Europe.

Although neither the Charter nor the Lisbon Treaty provided Brussels with a specific competence to legislate on child-related issues, the new legal arrangements obliged the EU to adopt child-sensitive measures in line with international norms and standards. On the other hand, all EU member states pledged under the European Convention of Human Rights to protect child rights, regardless of their obligations under EU law. Consequently, *“as a last resort, and after exhausting all remedies available at national level, individuals may bring an action at the ECtHR in Strasbourg*

for violation by a Member State of a fundamental right guaranteed by the ECHR” (European Commission, 2020a, p.31).

The ratification of the Lisbon Treaty and the subsequent efforts at the EU level to promote child rights in all spheres of governance and legislation revealed that child protection does not cover only the protection of minors against violence and criminality, but also means to ensure their rights to a healthy environment, to an inclusive education and all actions relating to children that could improve their well-being. However, there are still several criticisms of the legal strength of the EU on child rights, criticisms that consider the steps taken by the Union as just broad commitments rather than legal obligations. On the other hand, the EU is still not a State Party to the Convention because the United Nations does not allow regional organizations to be party to the Convention. *“EU accession to the UNCRC would be an effective means to fill the gap between EU and international legal standards for the protection of children”* (European Parliament, 2012, p.27). In other terms, this accession was expected to reinforce the EU commitment to promote child rights within and outside the Union. Ultimately, the EU Strategy on the Rights of the Child, launched by the European Commission on March 24, 2021, stated in its first paragraph the current vision of the EU regarding child rights: *“Children’s rights are human rights. Every child in Europe and across the world should enjoy the same rights and be able to live free of discrimination, recrimination or intimidation of any kind”* (European Commission, 2021g).

2.2.3. Institutional Configurations on Child Rights

There are several institutional bodies that monitor the implementation of norms, practices and policies on child rights. The Lisbon Treaty significantly boosted the institutional settings that deal with child rights. The Charter, after its legal elevation by the Treaty of Lisbon, became a “proofing tool to enable the institutions to scrutinize all legislative proposals and internal procedures to ensure their compatibility with fundamental rights” (Stalford, 2012, p.41). In this chapter, this institutional architecture will be revealed in detail to see at which administrative stages the EU addresses child rights and through which legal instruments.

2.2.3.1. The European Commission

Under the EU's institutional system, the main body that works on child rights is the European Commission, the standalone executive body of the EU after the Lisbon Treaty. The European Commission is responsible for preparing legislative proposals, allocating EU funding, enforcing the EU legislation and implementing the decisions of the European Union and the Council of the EU. Its executive authority directly comes from founding treaties. The key achievement of the European Commission in the field of child rights was the adoption of the Communication called Towards an EU Strategy on the Rights of the Child in 2006. Since 2007, the Commission has convened the European Forum on the Rights of the Child⁵ each year. Here, a wide range of stakeholders from EU countries' and EU institutions' representatives to national ombudspersons for children, and the CoE as well as other international organizations, are brought together. It is a key arena for exchanging good practices and it contributes significantly to the preparation and monitoring of EU actions on child rights by advising EU institutions. Since the beginning, the discussions at the Forum have focused on social exclusion and poverty, child participation, juvenile justice, child pornography, child abuse and exploitation of children. The Commission also has also developed strategies on children's health, such as the adoption of the EU Environment and Health Strategy, called the SCALE initiative, aimed at promoting the principles of the UNCRC in promoting children's right to "best achievable health" (European Commission, 2003).

Since 2013, an informal expert group also meets three or four times per year in Brussels to bring together national authorities responsible for child rights. On the other hand, the representatives of the European Commission and the European External Action Service have also been meeting since 2016 to exchange views and information about their work on child rights as well as to coordinate their activities in this field. The Commissioner for Justice, Fundamental Rights and Citizenship is tasked with handling policies on children, while other institutions may also take some specific actions under their area of competence. Since 2017, the European Commission coordinator for the rights of the child has been responsible for coordinating work among all the

⁵ https://ec.europa.eu/info/events/european-forum-rights-child_en

departments of the Commission to guarantee that the rights of the child are properly respected in all relevant policies and actions. Meanwhile, the country-based delegations of the European Commission also have significant authority in dealing with problems on child rights in the candidate countries by providing pre-accession assistance and monitoring the implementation of EU-funded projects.

Also, in a bid to monitor progress in the areas where the EU gained authority to act, the European Commission has been publishing reports since 2010 on the application of the Charter of Fundamental Rights in the EU. These reports are especially helpful when proposing new legislation on fundamental rights, including those affecting children. In 2021, the European Commission's annual report on the application of the Charter focused on a distinct thematic area of strategic relevance that is covered under EU law. For instance, the first report of 2021 concentrated on best practices among EU member states and the challenges they face in protecting fundamental rights in the digital age, especially when addressing the digital divide or using artificial intelligence. The report also touched on child rights in terms of protection of children against harmful digital content, child sexual abuse on social media platforms, and exposure of children to inappropriate and violent content as well as online predators when using online platforms (European Commission, 2021f).

2.2.3.2. European Parliament

The European Parliament, as the EU's law-making body and a representative of the European people, is also an active player in promoting child rights as co-legislator. In 2008, it issued a Declaration on combating trafficking in children, in which it called on member states to recognize the fight against child trafficking as a priority in their national child protection policies by according the necessary resources and actively cooperating with the relevant EU authorities and NGOs in taking precautions (EP Declaration, 2008). The increasing number of children being annually trafficked for forced labor and sexual exploitation motivated the preparation of this Declaration, which was followed by a series of resolutions promoting child protection

in various fields ranging from child soldiers to child labor, child trafficking, exploitation of children in developing countries, and education of the children of migrants⁶.

The EP fulfills some important responsibilities on human rights, including child rights: providing a discussion platform, monitoring the policy implementation through reports, protection of human rights in the agreements with third countries. The European Parliament also complemented the efforts of the European Commission by adopting the ‘Towards an EU Strategy on the rights of the child’ resolution in order to identify some priorities for an EU-wide strategy on child rights, particularly aimed at child labor, children of immigrants, rights of the child to education, children in armed conflicts, poverty and social discrimination, among others (EP Resolution, 2008). Apart from such legislative steps, in 1987 the European Parliament created a mediator for international parental child abduction as an alternative dispute resolution mechanism for children of cross-border marriages in the EU who were abducted by one of their parents. The mediator helped the couples to find suitable arrangements on the child in question by avoiding the ordeal of a tribunal and by putting the child’s interests first. This mediator position on parental child abduction was then renamed as European Parliament Coordinator on Children’s Rights, and a permanent office was established under the Parliament as a sign of its long-term commitment to the protection and promotion of child rights. Since 2007, the Parliament also organizes hearings on child rights to discuss and update the parameters of a strategy on the rights of children. It has also established programmes to further protect children in different fields, such as promoting public health, combating violence against children and ensuring the rights of victims of violence. The European Parliament adopted several important resolutions and published analysis papers to show its continuous commitment towards child rights protection at the EU level⁷.

⁶ In chronological order: European Parliament resolution of July 3, 2003 on child trafficking and child soldiers; European Parliament resolution of July 5, 2005 on the exploitation of children in developing countries, with a special focus on child labour; European Parliament resolution of January 17, 2006 on strategies to prevent the trafficking of women and children who are vulnerable to sexual exploitation; European Parliament resolution of April 2, 2009 on educating the children of migrants.

⁷ For example: European Parliament, *Child maintenance systems in EU Member States from a gender perspective*, In-depth analysis, Directorate General for Internal Policies, 2014; European Parliament resolution on the *fight against child sexual abuse on the internet*, 2015; European Parliament resolution

2.2.3.3. The Court of Justice of the European Union

The Court of Justice of the European Union (CJEU) prioritizes the importance of child protection through its landmark rulings. The judgments of the CJEU are not only rooted in the Charter of Fundamental Rights, the UNCRC, and the International Covenant on Civil and Political Rights, but also take into consideration EU member states' right to take appropriate measures for the protection of children in accordance with some Community legal instruments such as directives and regulations⁸. Most of its judgments concentrate on children's rights to free movement and EU citizenship, and extending social and educational rights to children of EU nationality.

With the adoption of more sophisticated and explicit legislation on child rights at the EU level, child rights began featuring more systematically in the CJEU's judgments. Since the adoption and entry into force of the EU Charter of Fundamental Rights, the CJEU mainly refers to the Charter's articles on child rights that often overlap with the provisions of the UNCRC. It was after 2006 that the Court took the UNCRC as a main reference point in evaluating the compatibility of EU law with the fundamental rights of children.

2.2.3.4. European Ombudsperson for Child Rights

The word 'ombudsperson' derives from the Scandinavian word 'ombud', meaning representative or commissioner. In its contemporary usage, it denotes the person who investigates complaints coming from a specific group, who speaks on behalf of the interests and rights of this group, and who tries to improve living conditions of the people in this group. Although Norway is not an EU member state, the idea of a special Ombudsperson for children is a Norwegian idea that was proposed in the late 1960s by Director Juris Anders Bratholm—'father of the concept of

of October 9, 2008 on *promoting social inclusion and combating poverty, including child poverty, in the EU*.

⁸ See some key jurisprudence of the Court in the field of child rights: C-491/10 PPU, Aguirre Zarraga v Pelz December 22, 2010; C-413/99, Baumbast and R v. Secretary of State for the Home Department, September 17, 2002; C-491/10 PPU, Joseba Andoni Aguirre Zarraga v. Simone Pelz, December 22, 2010; C-497/10 PPU, Mercredi v Chaffe, 2010; C-400/10 PPU, J.McB v L.E, October 5, 2010; Case C-34/09, Gerardo Ruiz Zambrano v Office national de l'emploi, 8 March 2011; Dynamic Medien Vertriebs GmbH v Avides Media AG, C-244/06, 14 February 2008, paragraph 41.

Commissioner for Children’—as an independent watchdog on children’s rights. So far, dozens of countries have had Ombudspersons at various levels to handle violations of child rights by public institutions. The European Ombudsperson for child rights is considered a significant symbol in showing the sense of accountability in child rights’ implementation, as the Ombudsperson office is charged with investigating allegations of maladministration by public authorities that relate to children’s rights.

The European Network of Ombudspersons on Children (ENOC official website) was established in 1997 in Norway with a group of 10 institutions, under the leadership of UNICEF, which agreed to provide its secretariat for the first 10-year-period. The ENOC then established a permanent and independent secretariat in Strasbourg, France in 2008, with the operational costs being partially secured by EU funding. As of 2022, it provides a platform for 44 institutions in 34 countries within the Council of Europe, 22 of which are EU countries. The ENOC is registered as an association in France. Membership is limited to institutions based in the 46 member states of the Council of Europe. Turkey has observer status at the ENOC. The aim of then network is to ensure full implementation of the UNCRC whilst actively proposing legislative changes to promote greater priority for children. Its mission also covers promoting effective use of resources allocated to children, collecting and publishing data on the situation of children, conducting investigations of child-related problems, ensuring children’s access to advocacy and complaint systems at institutions, schools and courts, responding to individual complaints from children or their representatives and, where appropriate, initiating legal action on their behalf.

Each year, the ENOC organizes its activities around a specific theme that is affecting children and creates particular awareness to this at the European level, where members work together and share their knowledge via working seminars, annual conferences or position papers. In 2015, the theme selected by the ENOC was ‘violence against children’, while in the previous year, it was ‘children and austerity’.

2.2.3.5. European Union Agency for Fundamental Rights

The EU still faces several challenges in advancing child rights. According to the Fundamental Rights Report that was prepared by EU Agency for Fundamental Rights (FRA), “not all children benefit equally from efforts to guarantee child rights, and some groups face particular difficulties” (FRA, 2019). Among these difficulties, child poverty still remains a concern, while reception conditions for migrant children in some member states is challenged by problems of accommodation, access to education and the use of detention centers. Several member states are also criticized for not transposing EU legislation on safeguards for children in criminal proceedings, and failing to establish a child-friendly justice system.

The FRA, as one of the Union’s decentralized agencies, has an important task to accomplish in promoting and monitoring child rights when it provides EU institutions and member states with expert advice on fundamental rights. Founded in 2007, the FRA’s first move was towards developing specific indicators to measure respect for and the promotion of child rights within the EU. These were then published in November 2010 in a report entitled “*Developing indicators for the protection, respect and promotion of the rights of the child in the European Union*” (FRA, 2010). Being the first comprehensive attempt in its kind, these indicators helped in measuring the extent to which child rights are implemented, protected and promoted across the EU. They also provided the FRA with an opportunity to collect data and publish reports on two specific themes: child trafficking and asylum-seeking children separated from their families (FRA, 2011). For the protection of child victims of trafficking, the FRA prepared a handbook aimed at policy makers and practitioners on strengthening guardianship systems for children deprived of parental care detailing such issues as qualifications of guardians, monitoring measures, responsible authorities.; and the report was. The second project on asylum-seeking children was about clarifying the situation of separated asylum-seeking children and revealing the need for better asylum conditions, as well as improving the legal procedures and support structures in the countries hosting them. The FRA is currently working on several projects on the rights of the child touching on several issues from educating practitioners who work on the

legal protection of these rights to mapping out national child protection systems across the EU, as well as on violence and discrimination faced by children with disabilities across the EU.

2.2.4. The External Dimension of EU's Child Rights' Framework

Being a member of the G-20 and a UN observer, the EU also accords priority to developing its external actions on specific child rights by, for example, preparing global reports on the worst forms of child labor and trade, or drawing attention to the rights of children who are affected by armed conflicts, climate change or child sex tourism. However, it is also worth noting that the Charter of Fundamental Rights, as a key legal instrument for the protection of child rights, is still not used to its full potential, especially in the domestic sphere, with low levels of awareness of its existence revealed by a Eurobarometer survey published on June 5, 2019 (Special Eurobarometer, March 2019). Fewer than half of respondents (42 percent) were aware of, or felt informed about it, while 57 percent had not heard of it.

It must also be noted that there is no common European child protection policy itself. Rather, the EU offers a general framework and shows best practices, as well as providing advice on national policies and practices. Best practices help agents of change to distinguish the benchmarks, while the pressure for change, which is indirect by nature, leads to more social participation and a longer-term socialization between the relevant parties that operate by imitating their ways of doing things within a specific policy framework. Nevertheless, through different means and legal tools, there is no doubt that the EU is very involved in advancing child protection policies in member and candidate states at various levels. In this respect, the European Union in general and its member states in particular are obliged to respect child rights as an integral part of human rights. As stated above, the UNCRC has been ratified by all EU member states; and all EU candidate countries are obliged to have done so too. Together with the standards adopted by the CoE on the rights of the child, these commitments provide a solid basis for the EU to protect, promote and monitor child rights and their implementation. The standards of the CoE form a basis and offer thresholds for child protection policy in Europe. Since the 1980s, the European Parliament has been very

active in promoting its children's rights agenda by appointing in 1987 a mediator for international parental child abduction proceedings and by adopting various resolutions, analyses and research papers⁹.

On the other hand, the Copenhagen Criteria have also been an important and binding set of prerequisites for membership to the EU in terms of holding candidate countries to account on child rights' issues. These criteria consist of: "i) political (stable institutions that guarantee democracy, rule of law, human rights and respect for and protection of minorities); ii) economic (a functioning market economy, as well as the ability to cope with the pressure of competition and the market forces at work inside the Union); and iii) legal (the ability to assume the obligations of membership (including adoption of the *acquis communautaire*) conditions" (Eur-Lex, Glossary). These requirements provide the EU with tools to scrutinize the state-of-play in child rights in candidate states under the political pillar, including their ratification and adherence to international child rights standards and their associated reporting commitments. What's more, the *acquis communautaire* is also seen as the main instrument of the EU in pre-accession conditionality. As Grabbe specifies, "*the acquis is a dynamic concept because the body of legislation grows all the time [...] the edges of the acquis remain fuzzy in legal terms because parts of it are open to interpretation*" (Grabbe, 1999, pp.6-7). In other words, the Copenhagen Criteria help the EU in calling applicant states to account. Throughout the enlargement process, the EU also raises the issue of child rights with candidate and potential candidate countries during regular meetings and at the negotiation table for the *acquis* chapters. It is also worth noting that since 1997 building institutions and adopting administrative structures to implement the *acquis* have become an obligatory step on the way to accession (Dimitrova, 2002, pp.171-190). As noted by Pridham, "*the EU has moved beyond conditions of formal democracy to those pertaining to substantive democracy or qualitative conditions such as (...) human and minority rights*" (Pridham, 2002, p.203).

⁹ For example: European Parliament, *Child maintenance systems in EU Member States from a gender perspective*, In-depth analysis, Directorate General for Internal Policies, 2014; European Parliament resolution on the *fight against child sexual abuse on the internet*, 2015; European Parliament resolution of October 9, 2008 on *promoting social inclusion and combating poverty, including child poverty, in the EU*.

The EU funds various projects that aim to promote and protect child rights, especially under the European Instrument for Democracy and Human Rights (EIDHR). Since 2002, the EIDHR has mainly funded associations working on human and child rights in Turkey to emphasize the role that civil society actors should actively play in policy-making processes. Such support also contributed to the internalization of EU policies and norms through key NGOs that used the EU accession context as a legitimization device to push for democratic reforms. Although the improvement of human rights in candidate countries was always a priority with respect to all EU funding, the EIDHR became the main instrument in boosting civic activities and advancing democracy in third countries. EIDHR is tasked with “*enhancing respect for human rights and fundamental freedoms in countries where they are most at risk*” (EuroAccess, EIDHR Call). It also aims at boosting civil society in promoting human rights and democratic reform steps through political participation. Another mission of EIDHR is “*supporting actions on human rights and democracy issues in areas covered by EU Guidelines, including on human rights dialogues, on human rights defenders, on the death penalty, on torture, on children and armed conflict, on the rights of the child*” (Ibid.).

As another funding opportunity for child protection, the EU’s ‘Rights, Equality and Citizenship Programme 2014-2020’, with a budget of EUR 439.5 million over the implementation period, also aims at promoting child rights and preventing violence against children. For instance, The A-Z to Safety was a 6-member partnership project involving the UK, Germany, Austria, Bulgaria and Turkey (as associate) with the aim at crafting safe environments for women and girls; while preventing injustice by protecting these girls and women from violence linked to harmful practices (VHP) and upholding the EU Charter of Fundamental Rights.

It is also worth mentioning that the EU has been engaged in a multi-dimensional struggle in key areas related to child rights in a gradual and piecemeal fashion. For instance, to raise awareness of and address the issue of children in armed conflict, it adopted in 2003 the EU Guidelines on children and armed conflict (Council of the European Union, 2003b). At the time these guidelines were being prepared it was

estimated that about 300,000 child soldiers were participating in conflicts, and some twenty million displaced or taking refuge in a host country. The aim of the Guidelines was to encourage third countries and non-state actors to implement necessary norms and standards and take effective measures to protect children from armed conflict (Council of the European Union, 2003b, p.2). For this reason, the EU committed not only to fund projects related to children and armed conflict, but also to urge relevant third countries through public statements to ensure child protection from the armed conflicts and to end the use of children in armies, as well as promoting political dialogue between the EU and third countries about all aspects of child rights during pre-conflict, conflict and post-conflict situations. The guidelines were revised in 2008 and 2010 to ensure a better implementation.

In the meantime, the EU invested highly in non-legislative initiatives that focus on research and advocacy campaigning on issues such as online child abuse and domestic violence. For instance, the Daphne Program, launched in 1997 and conducted with a significant annual budget over €17 million, aims at combatting all types of violence against children, supported by extensive research, data collection, training, networking and dissemination of good practices at the grassroots level to inspire change at the policy level, thus improving consciousness across the EU regarding the protection of children from violence. In a similar vein, the Safer Internet Program, active since 1999, intends to prevent online child abuse and online bullying, and to increase children's safety in the online sphere. These and other similar programs worked on issues that are normally outside the scope of the legislative competence of the EU, but provided member states with opportunities to gather knowledge and long-term financial support to address some persistent challenges and weaknesses related to child rights.

EU action on child rights is mainly determined by reference to the principles of subsidiarity and proportionality, as the EU can only act on child rights if it is more effective in acting and coordinating at the supranational level rather than acting alone at the domestic level. While the EU cannot go beyond what is necessary to achieve its targets embodied in its own legal framework, it has the authority to regulate and act at points that are in relation to the principles prescribed in the treaties. For instance,

tackling child poverty is directly related to the EU's aim to combat social exclusion that already has a legal basis in the Lisbon Treaty's Article 153. If a clause does not fall under the responsibility of EU law, it is up to national authorities to regulate and enforce child rights, which are then guaranteed at the national level in line with the national rules. However, as all EU Member States are party to the ECHR, after having exhausted all remedies at the national level, individuals may apply to the ECtHR in Strasbourg if they feel that any EU member state violated a child right guaranteed by the ECHR.

The commitment of the EU to promote child rights in all relevant policies is under constant evolution. For instance, in 2003, the Council adopted a framework decision on combating sexual exploitation of children and child pornography (2004/68/JHA) in a bid to harmonize member states' approaches on sexual exploitation of children by introducing common criteria about sanctions, jurisdiction and prosecution, protection of and assistance to victims. With the constitutional changes brought about by the Lisbon Treaty, this decision was transposed into a directive (Directive 2011/92/EU), with updates on the impact of new technologies and the internet on child sexual exploitation, which was later developed in May 2012 with the adoption by the European Commission a European Strategy for a better internet for Children that aims at creating a secure environment for children online and fighting child sexual abuse. In November 2012, a new European Financial Coalition against Commercial Sexual Exploitation of Children Online was launched with the co-financing and support of the European Commission. The Coalition aims to fight the sexual exploitation of children online by developing effective measures concerning online payments. In the same vein, the European Parliament adopted in the same month a report entitled *Protecting children in the digital world*, stressing further checks on children using mobile phones and better educating parents and teachers on the possible risks of digital communication.

In parallel with this, in April 2011, the European Parliament and the CoE adopted a specific directive, (2011/36/EU), on preventing and combating trafficking in human beings and protecting its victims. The aim was to achieve a level of

harmonization among EU member states on their responses to perpetrators of child trafficking and to set out a regulatory framework on this criminal issue which was becoming ever more critical with each enlargement wave. In its preamble, the Directive states, “*Children are more vulnerable than adults and therefore at greater risk of becoming victims of trafficking in human beings. In the application of this Directive, the child’s best interests must be a primary consideration*” (Eur-Lex, 2011). The Directive was further boosted with a strategy adopted by the European Commission for the period 2012-2016 about child trafficking, by suggesting guidelines on child protection systems. The EU also monitors, investigates and prosecutes child trafficking attempts across its borders, through EUROJUST, and encourages cooperation among its member states to prevent and combat organized crime involving children through the European Law Enforcement Agency (EUROPOL) and the Schengen Information System, which provides data-gathering on suspects or specific people.

In March 2011, the European Parliament Alliance for Children was constituted with the aim of protecting children in Europe and beyond, or in other words, defend child rights in both internal and external EU policies. The Alliance is based on a partnership of the European Parliament, UNICEF and a network of international NGOs, and it is also in contact with the European Commission to enable regular communication between the two institutions concerning recommendations on child rights.

In a bid to render the EU a smart, sustainable and inclusive economy, its ten-year growth strategy, EUROPE 2020, also aims at helping the EU and the Member States to redesign their employment strategies and social cohesion through five ambitious objectives on employment, innovation, education, social inclusion and climate/energy to be reached by 2020 (European Commission, 2010b). Member States adopted their own national targets in each area. The EU targets for inclusive growth include better schooling rates, in particular by reducing early school leavers’ rates below 10 percent, and decreasing the number of poor and socially excluded people – including child poverty- by at least 20 million through income support and generic provisions.

Almost every facet of the EU *acquis* somehow bears a direct or indirect consequence for children, placing significant responsibility on the shoulders of not only on EU institutions but also on member states and candidates for bringing about proper mechanisms to ensure child well-being and monitoring their implementation. It is also widely accepted that, because they are subject to sanctions and judicial scrutiny, international instruments are much more easily enforced when compared to EU measures. Nevertheless, the EU acts as an intermediary to impose international obligations on its member states in relation to obligations coming from international treaties on child rights they have previously signed.

2.3. Child Rights as Part of EU Enlargement

The EU enlargement process also covers child rights and during the candidacy process its monitoring mechanisms examine the extent to which child rights are pronounced in the accession negotiations and whether the EU accession bid positively affects children's well-being in the candidate country. Promotion and protection of child rights is therefore an essential element of the fundamental rights area and the accession process in the candidate country. Hence, the enlargement process provides a precious opportunity for the candidate country to assess and improve its situation concerning children's rights by benchmarking with the EU's legal, economic, social and political standards. It is the interaction between the candidate country's efforts to align its domestic standards and institutional configurations with EU norms, standards, policies and rules on the one hand, and the efficiency and consistency of EU leverage during the pre-accession period on the other that ultimately determines the outcome of Europeanization.

Europe matters in the development of an adequate standard for child rights in a candidate country. The adoption of the Lisbon Treaty by the European Union in December 2009 --which accorded a particular importance to child rights for the first time by giving the Charter of Fundamental Rights of the EU a binding status-- and the Progress Reports --where a growing emphasis is placed on child rights' monitoring mechanisms-- revealed clearly that by the time of accession, each candidate country has to bring in place a sufficient infrastructure for child rights monitoring with the

establishment of Ombudsperson institution and independent complaints procedures for children; UNCRC observatory mechanisms; engagement of civil society; and an active parliamentary system that monitors child rights' improvement requirements. Therefore, three mechanisms of domestic influence can be identified in a candidate country's adoption of child rights norms, policies and standards throughout the accession process: EU conditionality, financial incentives and elite socialization to frame the role of the EU. Europeanization of child rights in a candidate country is not a unidirectional process, but rather one of social learning through the interaction of civil society and EU institutions as well as governments because the EU has no strong competence with respect to child rights and the *acquis* on child protection is very thin compared to other more elaborate policy areas of the EU, that obliges policy responses to this field to remain restricted to soft law and social interaction. As the Romanian case clearly revealed, consistent and clear legislative targets of the EU should be accompanied with a strong support of the country's ruling elite to the EU accession bid. Therefore, the EU's engagement with the candidate country over a policy area such as child rights should cultivate and motivate a pro-EU domestic coalition that will be responsible for maintaining the momentum of rule adoption both on paper and in practice. In other words, in order to make external pressure work effectively in candidate countries, there is a need for domestic accommodation that is largely responsive to the suggestions from international organizations, including the EU.

Europeanization in candidate countries is mainly determined by the conditionality mechanism since benefits and obligations for joining the EU produce some incentives for compliance and prompt different mechanisms of domestic change. The contribution of EU action in terms of child rights mainly comes from the potential of EU membership and accession process to improve the child rights in the given country in ways that cannot be ensured at the domestic level without EU leverage. Any effort to improve child rights in a candidate country may touch upon different policy areas, such as the free movement of people, child trafficking, immigration and employment, which require coordinated and standardized policy-making and monitoring. The enlargement process is an important context for revealing the political,

economic and legal standards to be accomplished by a candidate country to obtain EU membership as a reward.

The candidate country's fulfillment of its obligations on child rights is mainly monitored through accession documents, annual progress reports and project monitoring mechanisms under the Instrument for Pre-Accession Assistance of the European Commission (IPA). In this respect, the EU enlargement process offers the candidate country a lens through which it can examine the extent to which its domestic child rights' regime meets EU standards, see whether its receptiveness to these standards is sufficient and how this EU-induced regime may be implemented on the ground. In return, the accession process also encourages the EU to re-evaluate its relationship with the acceding country in terms of projecting its fundamental values next door. On the other hand, it should also be noted that EU member states are obliged to adhere to the UNCRC, which guarantees compliance of all EU legislation with minimum child rights' principles as set out in the UNCRC. Therefore, in their preparations for being an EU member, the candidate countries should also comply at the domestic level with the principles of the UNCRC.

This section begins by elaborating on membership conditionality for promoting child rights during the candidacy process, critically evaluating the extent to which it provides a template for the candidate countries to prioritize the status of children's rights. It then moves on to discuss the instruments of the EU to finance the capacity-building process in the candidate countries to see how the EU funding mechanism can act as a catalyst for rule adoption and implementation in child rights at the candidate level.

2.3.1. Membership Conditionality for Promoting Child Rights

Accession to the EU is a multifaceted and long-lasting process involving several stages for preparing the candidate country and the EU itself for full membership. Since 1993, negotiations between Brussels and the acceding countries have been held within the framework of specific conditions known as the 'Copenhagen Criteria' along with an assessment of the EU's new member absorption capacity. In terms of political

conditions, the candidate country should ensure institutional stability that guarantees democracy, rule of law, human rights and respect for and protection of minorities. The economic criteria oblige the country to have a functioning market economy and the capacity to deal with competitive pressure and market forces in the EU. Ultimately, states should assume the membership obligations and adhere to the objectives of political, economic and monetary unions that are formulated under the EU *acquis*. For candidate countries, “*Europeanization can be framed as a research agenda for understanding the gradual compliance with EU accession criteria, in return for which admittance to the EU Club is granted as a reward*” (Acikmese, 2010, p.135). The concept of conditionality lies therefore at the heart of this understanding and was used for explaining the transformative power of the EU on applicant states. However, as argued by Stalford, these conditions are extremely blurred and broad and “they have licensed the EU to scrutinize the human rights’ infrastructure of candidate states, including, inter alia, their ratification of international human rights law, adherence to associate reporting obligations, and the accessibility and fairness of justice and political, including electoral, processes” (Stalford, 2012, p.200)

The European Council meeting held on December 15-16, 1995 in Madrid emphasized the importance of adopting administrative and judicial settings to guarantee effective application of the transposed EU law and policy. Two years later, in 1997, in Luxembourg, the European Council marked another important moment for the enlargement process when it decided that, in the form of an accession partnership, the candidate country should clearly define which criteria it needed to prioritize and identify policy areas where pre-accession assistance should be concentrated. Then, in 1998, the EU decided to annually report on the candidate state’s progress towards meeting the Copenhagen criteria. These annual progress reports as well as accession partnership documents allocate a special place to monitoring and assessing child rights in the candidate country in question. “Collectively, these documents reveal the extent to which children’s rights operate as a pre-condition for accession, and catalogue the advancements made by states to develop and promote children’s rights regimes” (Stalford, 2012, p.199). On the other hand, in its Guidelines for the Promotion and Protection of the Rights of the Child, the EU re-iterated its commitment to “monitor

progress in advancing the rights of the child and support the reform of child protection in the candidate and potential candidate countries throughout its enlargement process” (EU Guidelines, 2017, p.2). Negotiation chapters, particularly those on statistics; information society and media; social policy and employment; judiciary and fundamental rights; free movement of workers; justice, freedom and security; education and culture; consumer and health protection; external relations; and foreign, security and defense policy mainly cover issues of relevance to child rights.

Therefore, although there is not a well-ordered child rights legislation and policy to offer to the candidate countries, the candidate states are held to account on child rights issues with these instruments. Child rights are increasingly being accorded greater significance in the progress reports of candidate and potential candidate countries. For instance, Turkey was urged to increase school enrolment rates and protect child victims of abuse and violence through institutional and legal amendments. Child rights is covered generally under the ‘political section’ of the progress reports, while the political criteria “have provided a clearer, more constructive articulation of children’s rights, succeeding in transposing the vague obligation to respect human rights and uphold democracy, into concrete structural and policy recommendations, obligations, priorities and benchmarks” (Stalford, 2012, p.220). In other words, the political criteria necessary for advancement through the accession negotiations may mean a significant departure from the status quo in the candidate country. As Tocci explained about the Turkish case, the political conditionality of the EU forms a “*linear relationship between externally demanded conditions that are accepted domestically by adopting (constitutional, legal and administrative) reforms*” (Tocci, 2005, p.75).

Since the Romanian and Bulgarian accession processes, the EU has made extensive references to child rights in its progress reports, with special emphasis on the social exclusion of Roma children and the need for reducing the number of children in residential care systems, among others. Therefore, the challenges faced during Romanian EU accession opened a new page for the subsequent enlargement waves, with the EU initiating comprehensive reviews of the candidate countries’ child protection regimes and allocating a prominent place to child rights in the progress

reports. Although a candidate country's readiness for EU membership is not absolutely linked to its progress in improving child rights, "*however, it is clear that pre-accession political conditions have prompted nation states to reflect on how they respond to the most endemic children's rights abuses and to instigate reform accordingly*" (Stalford, 2012, p.201). However, according to Stalford, the political criteria under the human rights framework do not have necessary coherence, "*primarily because of the relatively fragile nature of the EU's reputation in this regard; and secondly, the human rights conditionality is highly selective, prioritizing certain (largely political and economic) rights over others*" (*Ibid.*, p.202). Consequently, the EU remains vigilant about taking steps concerning children, even on issues that fall under its own legislative competence. Stalford thinks that such a hesitance is mainly related to the fragility of the legal basis to directly enact justiciable measures (*Ibid.*, p.205).

The EU still debates the necessity of mainstreaming the child rights policy in its external relations. In the latest European Parliament annual report on human rights and democracy in the world and the European Union's policy on the matter (2021), that was adopted by the Parliament in February 2022, the Parliament recalled the need for promoting and defending child rights in all EU external policies, "*including in the context of human rights dialogues, international and trade agreements, the Instrument for Pre-Accession Assistance*" (European Parliament, 2021, p.20). On the other hand, the EU adopted a new Strategy on the Rights of the Child that was launched by the European Commission on March 24, 2021, that aims to include the emphasis on the best interests of children in all EU policy areas to boost the impact of the Charter of Fundamental Rights of the EU that already guarantees its protection in the implementation of the EU law (European Commission, 2021d). The EU Strategy on the Rights of the Child also emphasizes the EU external actions in enlargement countries and ensures that the EU will continue to include child rights in its political dialogue with enlargement countries, to support civil society organizations working on child rights and to support the monitoring of the situation of children as well as to report on this in its annual regular country reports (European Commission, 2021e). The Commission underlined the lack of update in the national strategies and action plans on child rights and prevention of violence against children; while child poverty, child

labor, early and forced marriages, the situation of children with disabilities also remain a source of concern for the EU. The juvenile justice including the arrests and pre-trial detention as well as the quality of legal aid and the rehabilitation services for children in prison, the protection of children from abuse and violence as well as the quality problems in the education are also reported as shortcomings in the implementation of child rights.

2.3.2. Complementing Accession Conditionality: Funding the Change

The accession process does not cover only the adoption and transposition of EU standards and policies. Their effective implementation requires a consistent funding mechanism for strengthening administrative and local capacity. It is also an efficient instrument to strengthen dialogue with civil society in the candidate country. The civil society sector in Turkey is endorsed by the EU funding mechanisms not only for providing them with financial benefits, but also for changing beliefs, attitudes, preferences and understandings attached to them. Apart from material incentives, financial assistance is generally accepted as an effective instrument to challenge existing institutional arrangements, political configurations and interactions between actors and to trigger change in candidate countries in line with the logic of appropriateness. The beneficiaries of assistance include the state as well as local authorities, civil society, agencies, universities and public bodies.

The pre-accession financial instruments, including twinning projects, provide golden opportunities to spark attitudinal changes regarding policy areas that affect children by challenging some biases and deeply-rooted traditions that contradict the contemporary understanding of childhood, especially in the fields of early marriages, child labor, de-institutionalization of child care and social discrimination against disabled children. EU-funded projects therefore offer the candidate country a chance to initiate domestic dialogue and stimulate intellectual debates about the shortcomings in its child protection regime, which makes the state in question more open to top-down norm diffusion by the EU. For instance, EU-funded projects for de-institutionalization of childcare trigger an intensive reflection on the cultural and economic dynamics behind this social behavior and encourage public authorities to take measures on the

root causes of child abandonment, which is poverty. Therefore, imposing benchmarks on a specific policy does not in itself suffice to generate domestic change. It needs to be accompanied by issue-specific projects that target the underlying causes behind problems that prevent children from fully enjoying their rights because each candidate country passes through different historical, social, cultural and political paths. In the absence of EU-funded projects, direct contact between EU officials and key stakeholders in the relevant candidate country may often be rare, and usually end up with the two sides engaging in broad talks, without dealing directly with the day-to-day functioning of institutions. Therefore, EU financial engagement during the pre-accession period helps candidate countries to initiate social shifts in areas that touch upon child rights in a bid to change social perceptions regarding the fundamental rights of children. It also reduces the differences between the EU and the candidate country in terms of child rights standards. Financial assistance can take the form of grants from the EU budget or loans from the European Investment Bank.

In this context, EU action provides a significant resource to domestic stakeholders and is intended for harmonization with those EU standards and policy areas that are of common concern. Therefore, as Stalford noted, the EU provides an exclusive platform and an opportunity of funding that gathers several actors at different levels, from international to European and domestic, to share their experiences, knowledge and best practices on child-related issues and to inspire awareness-raising as well as policy exchanges (Stalford, 2012, p.7). The funding concentrates on issues in which the candidate country displays systemic, structural and acute deficiencies that could prevent it from effectively implementing the *acquis* at the domestic level. Further, effective implementation of child-related *acquis* requires identifying the shortcomings at the domestic level in order to ask for EU cooperation in capacity-building in the specific areas. As noted by Stalford, closer examination about the implementation of the EU law and policies would help revealing the structural and systemic shortages that obstruct operationalization of the *acquis* at the domestic level and consequently guiding the EU investment toward the right direction (Stalford, 2012, p.210).

Technically, the EU uses its pre-accession assistance programs to finance projects that target already identified shortcomings in the candidate country, be it in juvenile justice, education, child labor or child care, or other areas. During implementation of the projects, the EU is generally assisted by UNICEF as a local partner with a wide network to facilitate reaching out to the right communities. If used properly and monitored afterwards, these EU funds help the transformation process in the candidate country's domestic child right systems and stimulate adjustment with EU demands in child-relevant areas in ways that are otherwise difficult to carry out purely with domestic resources. These EU programs may be considered as 'carrot-shaped sticks' in that they provide concrete support to the candidate countries in enabling them to achieve child-related standards with EU membership as the end target. By offering financial and technical assistance to pre-accession countries, Brussels aims to boost their domestic capacity in developing child-related policies aligned with EU priorities. To achieve this, the EU provides expertise and technical support through these programs and twinning projects. But, again, the EU strategy of conditionality may be considered a 'reactive reinforcement', by which Brussels "*merely reacts to the fulfillment or non-fulfillment of its conditions by granting or withholding grants, but does not proactively punish or support non-compliant states*" (Schimmelfennig et al, 2002, p.1). A close look at the pre-accession financial assistance reveals that this funding mechanism results in institutional, administrative, structural and legislative changes by triggering transformation, accommodation or absorption in the target country with the programs and projects being funded. Such assistance supports the country's efforts on *acquis* alignment, while it also enable communication avenues for domestic actors to interact with their European counterparts, which in turn may Europeanize their working styles and understandings about specific policy areas. Therefore, the pre-accession financial assistance has multiple effects. The financial assistances of the EU that cover civil society also helps these actors to engage with the public authorities for resolving problematic areas by working together and finding solutions that are appropriate for both civil society and public authorities.

CHAPTER III

EUROPEANIZATION OF CHILD RIGHTS IN THE ACCEEDING STATES: ROMANIAN CASE

The European Union has strengthened its focus on comprehensively protecting and promoting the rights of the child inside and outside European borders since the early 2000s with the adoption of specific legislation and innovative programs under the leadership of the European Commission. Romania's accession process was initially and mainly marked by a lack of regulation and ignorance of fundamental rights in terms of institutionalized childcare and child adoption practices, which pushed the EU to make special arrangements for decision-making and fence-sitting on Romania's accession. This regime of extra procedures obliged Romania to reform the necessary policy areas to meet EU requirements. Child rights topped the list because 'children in crisis' in Romania were the 'Achilles heel' of the country and its weak record on its child protection regime was such that it made Romanian EU membership uncertain and the path to EU accession unstable until the very last moment. Therefore, Romania, a 'reform laggard', presents itself as an ideal case study for scrutinizing the effects that the EU candidacy process can produce on children's wellbeing. Between 1980 and until Romania's entry to the European Union in 2007, "*the adoption of Romanian children has constituted an important stake for the country's position in Europe, and in its relationships with Western States*" (Denéchère and Scutaru, 2010, p.136).

Romania's child protection regime therefore experienced radical change between 1999 and 2005 –both in practice and mentality- whereby the country's old-style childcare institutions were gradually replaced with alternative systems, while families were supported through socio-economic models to prevent them from abandoning their children. Finally, a moratorium and then a ban were brought over international adoptions in order to place at risk the benefits of the EU accession. A pro-EU coalition government and supportive formal and informal institutions led by the civil sector and local authorities were the main drivers of this change as they seized the window of opportunity provided by the prospect of Romanian EU membership, and

they cooperated to introduce child rights as the cornerstone of the country's accession strategy.

An analysis of the Romanian accession process is thought-provoking, as it provides an outline of child protection reform for future accession waves. The choice made by selecting this country as a referential for this thesis derives from its being a former communist country with a very weak record in child rights, a situation in some aspects similar to that in Turkey, and the EU's application of a *sui generis* model to generate domestic impact— both on paper and in practice— ahead of its accession date because its membership to the EU was conditional *inter alia* on improving the situation of children. Interestingly, on its way to EU accession, Romania used the child rights' issue as a legitimizing device for making discursive use of Europe to promote the expected policy changes in the country. On the other hand, the EU's successful intervention in the state of play of child rights in Romania should constitute a model for the next enlargement waves because the European Commission and the European Parliament also acquired substantial experience and new expertise in this area for their dealings with candidate countries which have acute problems in improving the well-being of their children. Therefore, the EU's experience in applying conditionality on child protection in Romania during its accession process has the potential to produce some feedback effects for both candidate countries and the EU itself to make the accession process much more child-sensitive. The extent to which the EU is equipped to sustain the implementation of child rights standards after the accession date, and the endogenous and exogenous dynamics behind the anti-ICA (inter-country child adoption) policy applied by the EU in Romania are not covered in this thesis, but this dimension is worth elaborating on in further research, again preferably with a comparative case study.

This third chapter will now analyze the influence of the EU via a comprehensive historical perspective and a literature review covering the changes that child protection policy in Romania. It therefore aims to elucidate how Romania succeeded in this process by transforming its child protection area to become a full member of the EU.

3.1. Historical Perspective: From the Communism Period to Europeanization

In Romania, as one of the first countries to ratify the UNCRC in 1990, the alignment of child rights' standards to EU norms can be traced through four different timeframes. In the first section, it is necessary to delve into the pre-reform period, before the fall of communism in the country. The second section covers the critical 1989-1995 period. This period starts with the widespread international exposure of child poverty after the fall of communist regime and continues with the first baby steps taken by the government to address acute problems. Romania signed its Europe Agreement in 1993 and after two years submitted its official application for EU membership. Therefore, the third section starts with the beginning of the membership preparations in 1995 and continues to 2004 analyzing several steps taken for harmonization process and with a focus on the de-institutionalization of the childcare system in the country.

At this point, it is worth noting that international adoption became a major political debate around 2000. Unlike the United States, which favored international adoption in cases there was no domestic alternative for children, the EU was completely against all forms of international adoption, supporting in-country foster family options and institutional placements rather than obliging children to leave their home country. Therefore, 2004 was a key date for Romanian child protection regime with the adoption of a comprehensive child protection system. At that period, the Romanian government imposed a moratorium and a ban on foreign adoptions of the orphans following the EU pressure to stop abuses of the childcare system by child traffickers. This period saw the development of alternatives to institutionalization care system. The fourth section therefore analyzes this period between 2004 until the accession of the country to the EU in 2007. The timeframe of this thesis covers only the pre-accession period of Romania until its membership date and thus does not deal with the post-accession developments.

3.1.1. Pre-reform Period before 1989

The pre-reform period in Romania may be described as a period with a highly centralized and paternalistic state apparatus and an old-style child protection

configuration. In this period, the parental functions of raising a child at home were transferred to state-run institutions if the families did not have adequate resources, a system which encouraged these families' dependence on the state, with the latter becoming the ultimate provider of child protection. In the 1980s, international adoptions in Romania gained momentum and children in large residential institutions became a means of financial gain for the state. The adoptions were made mainly by European and Israeli couples, while there was a serious black market for babies and their movement across international borders. During Romania's communist period, the country considered Western models of child protection too dissimilar to its own practices and showed resistance to any calls for change from the Western community. However, in the long run, with the termination of the communist period and the opening up of the country to the Western world through media exposure, this resistance to change became too difficult to sustain economically or politically.

The end of the Cold War provided former communist countries with an opportunity to re-engage with Europe. The iron-fisted rule of Romanian communist dictator Nicolae Ceausescu was overthrown in December 1989. Until that time, responsibility for the childcare system had been assumed by the state and there existed a large network of institutions into which families in difficult socio-economic conditions and unable to care for their children were encouraged to voluntarily place them. As noted by Anghela et al., Romania had no foreign debt by the end of 1980s, but its infrastructure was very poor due to having recently left behind an oppressive regime, "*which strained the country economically and psychologically*" (Anghela et al, 2013, p.240). Romania was thus promoting institutionalization rather than offering people alternatives that would help them keep their children. It is also worth noting that Romania had one of the highest rates of institutionalized children throughout Eastern Europe. By 1989, there were more than 100,000 children living in institutions, at a time when Romania's population was approximately 23 million (NAPCR, 2006, Zouev 1999, Morrison 2004). "*Prior to 1989, the Romanian child protection system was unsuitable for optimal child development. Other than institutionalization, there were no other options to care for children and families in need of assistance*" (Rus et al, 2011, p.58).

The crisis of the post-Communist system was the result of the years-long implementation of Ceausescu's plans for Romania that focused on population growth in the expectation that it would quickly trigger economic development. As noted by Greenwell, the country's selfish pro-natalist moves triggered an upsurge in the number of abandoned children (Greenwell, 2003, p.3). Secondly, the state supported institutionalization as a solution for needy families who could not raise their children in the difficult social and economic environment they lived in. Believing that a bigger population would help Romania's economy to prosper, measures such as an abortion interdiction for women under the age of 40 with fewer than four children, celebration of women who gave birth to ten or more as 'heroine mothers', imposition of an additional monthly tax on all childless citizens, and a ban on condoms and birth control pills created a system where fertility, motherhood and pregnancy were under state control despite the country's acute and long-lasting poverty problem. The prohibition of abortion and contraceptives as well as high rates of maternal mortality resulted in uncontrolled birth rates and high numbers of unaccompanied orphans, especially in this country where a high cost of living was the norm, thus obliging parents to place their offspring in mismanaged and isolated residential institutions that were notorious for the plight of children therein, and were generally defined as 'child gulags'. Thousands of unwanted children, many with disabilities, were being abandoned to state care, under which they were reportedly beaten with broomsticks, punched in the face, dosed with adult tranquilizers during outbursts, received transfusions of blood with Hepatitis B and HIV, and otherwise completely neglected (The Atlantic, 2020). This preference for institutionalizing childcare essentially derived from the Soviet ideology that does not favor reliance on parents but prefers state-run social care as an appropriate way to raise children in line with the state doctrine. *"Soon after the fall of the communist regime, the attention of the international community began to focus on Romania's institutionalized children"* (Rus et.al, 2011, p.60).

The system, as it stood, was not equipped with an adequate infrastructure and appeared open to abuse because adoption practices were not properly monitored. Moreover, the emotional and material deprivation these children underwent in the institutions resulted in serious developmental delays, attested to by science. Several

studies being conducted by Macovei among children at rural, urban and state-care levels at the age of three revealed serious delays in the institutionalized children in terms of physical characteristics -like smaller height or vulnerability to illness- and intellectual and psychological functioning as well as social skills (Wehrmann, 2003, p.4). Such investigations also revealed negative consequences on social relations, as well as cognitive and language development. Some other studies (Cermak and Groze, 1998) showed that when a child is institutionalized at an early age, he/she is likely to face more sensory difficulties, such as becoming extremely sensitive to sounds, being indifferent to sensory stimulation or showing delays in academic achievements.

In the meantime, the child protection regime and the situation of children's rights in Romania went through a long and hard experience from the early 1990s onwards because *"there was a great discrepancy between EU requirements and the situation in the subsector"* (Jerre, 2005, p.5). Overcrowding in the childcare institutions and the lack of specifically trained staff, because of the abolishment of social work as a profession under the Ceausescu regime, were seen as the main source of the problem. Therefore, the overall child protection regime in Romania, having inherited the old regime's wrongdoings, could not meet the necessities of optimal development and this had negative repercussions on the children's well-being. As noted by Kligman, abandonment and institutionalization were not so recent in Romanian context, but the establishment of child institutions was intertwined with the exercise of the state's paternalistic behaviors. *"If and when families did not fulfill their parental roles, then the state took on the "fostering" of these children"* (Kligman, 1998, p.225). Considering the lack of any community-based social services or civil society involvement in the child protection system, and with the State being the only provider of these services, the system could not meet the needs of the children, and anyway possessed no reliable data on child wellbeing.

3.1.2. 1989-1995: Cosmetic Reforms under a Period of Absorption

In late 1989, there were more than 700 institutions across the country where about 170,000 children were living (Rosapepe, 2001), although the official numbers were never announced. After the fall of communism, growing economic challenges

made some households in Romania much more vulnerable, including the above-mentioned 'heroine' mothers, single mothers and Roma families. According to a 1991 survey conducted by UNICEF and Romanian government authorities, Roma children accounted for 45.8 percent of the children aged 0-3 years in childcare institutions (Zouev 1999, p.166). The assessments of UNICEF for the period between January 1990 and July 1991 revealed that 10,000 Romanian children left Romania for another country in just this 18-month period (Selman, 2008). Therefore, worsening economic situation in late 1980s and early 1990s also led to the decrease in living standards, and it had a direct impact on child welfare as children were among those most affected by the rising poverty (Greenwell, 2003, p.57). The first reform period after the fall of the communist regime dates to 1990-1991 when rapid regulations that tried to 'repair' acute problems were enacted. The second reform period, from 1992 to 1995, began with an intensive effort to re-organize the legislative sphere in line with European requirements. However, these non-fundamental 'face-saving' changes were not sufficient to hide the fact that the domestic structure and policy frameworks inherited from the communist period were still in existence. Indeed, in this first phase from 1989 to 1995, despite reforms no sustainable alternative to institutionalizing children was adopted mainly, because of this communist legacy. The legacy of socio-economic difficulties, the widespread social chaos following the end of communist rule and the economic constraints in the post-socialist country once again emphasized the dependence of families on state-run childcare institutions, as they could not assume their traditional role of educating and upbringing their children.

During this period, child institutionalization remained relatively unchanged, while Child Welfare Law No. 1970 was in effect until 1997. In the first phase, child well-being reforms in Romania aimed at ensuring for every child equal opportunities and a decent standard of well-being, as these related to being raised in a family environment. According to Greenwell, this translates into two measurable strategies to decrease the dependence on child institutions:

- 1) to decrease the incidence of children being placed in institutions; and 2) to increase the rate of children being de-institutionalized, that is, reintegrating more children who

live in institutions with their natural family or with an adoptive or foster family (Greenwell, 2003, p.9).

Romanian children living in low-income family environments faced violence, labor exploitation, abuse, while many of them ultimately found themselves in childcare institutions as their parents were too poor to take care of them.

What changed in early 1990s? When horrific images of the Romanian child protection system were first exposed to global audience via foreign news programs, the whole world was shocked, but then quickly mobilized to help these vulnerable children being left by their families in state-run overcrowded orphanages where at least 100,000 children were believed to be living (Post, 2007). The lobbying activities of international NGOs also drew thousands of American and European families to Romania to adopting children. Western media therefore triggered public awareness about the inhumane living conditions in Romanian state-run childcare institutions and inspired international organizations such as World Vision and Bethany, to mobilize their financial and human resources as well as technical expertise to generate domestic change in terms of childcare. Until 1997-98, such efforts about improving childcare were mostly driven by humanitarian aid or specific interventions on a case basis, with the most significant accomplishment being the creation of numerous NGOs having expertise in developing and implementing child-focused services (UNICEF, 2004a, p.24). However, these efforts remained mostly patchy and uncoordinated, without radically addressing the social and economic root causes of institutionalization and child abandonment, i.e. child poverty. They were mainly focused on improving the living conditions of children in the institutions and enabling international adoptions, rather than pushing the government to undertake child well-being reforms because they lacked any political conditionality on the decision-makers.

The 1990-1991 period in Romania is widely considered as one of hasty remedial efforts for institutionalized children. These cosmetic reforms, however, had to be sustained in the following years because at the core still lay the legacy of political and economic powerbrokers resistant to abrupt change. International NGOs first engagement was with significant amounts of financial assistance for these children

living under severe economic conditions in Romania, a country in which, compared to the previous year, GDP had fallen by 18.6 per cent in 1990 (Cornia and Sipos, 1991). Secondly, adoption was offered as a solution for these institutionalized children. In 1990, the government legalized and decentralized international adoptions with the adoption of Law No. 11/1990, the Law on Approval for Adoptions. County courts were now entitled to decide on the adoptions, although in the previous system the president's approval had been necessary. Between 1990 and 1991, about 10,000 children were taken out of Romania for adoption, with many adopted via suspicious proceedings. During this time, Romania accounted for about one third of worldwide child adoptions (Rus et al., 2011, p.60). On the other hand, in 1991, the Romanian Ministry of Foreign Affairs informed that apart from 2,283 children being adopted within Romania, 7,324 children had been adopted abroad, with one third to the U.S., 15 percent to Italy and 10 percent to France. "*These numbers of foreign adoptions greatly exceeded those from any other country*" (Greenwell, 2003, p.67). Although Romania was the main provider of children for international adoptions worldwide (Selman, 2010), this practice violated international norms on child rights due to weak regulation, legal irregularities and lack of monitoring of international instruments regulating the adoption practice.

In the meantime, due to high national debt, the necessary state resources could not be allocated for improvements in the basic infrastructure needs in state orphanages, in which power cuts, and a lack of necessary food and staff had become acute problems. Under-development of the hygiene and health conditions in the centers resulted in many children being infected with HIV, while the lack of necessary training for the caregivers meant they were ignorant of, or ignored, the physical and emotional needs of these vulnerable children. The development of a comprehensive child protection regime was not seen as a priority by the ruling government, which was already trying to cope with the economic downturn. Hence, in addressing criticisms raised by international actors of the situation of Romanian children, international adoption was seen as the only remaining alternative. During this period, Romania rapidly became a critical source for inter-country adoption. "*In this period, 2,594 babies were adopted into US homes alone, comprising almost one third of all international adoptions made by American parents*" (Jacoby et al, 2009, p.116).

Meanwhile, Romania signed the UNCRC on September 28, 1990 and following ratification by parliament, made it part of its domestic law. Articles 20 and 21 of the UNCRC directly concerned Romania, as they oblige the state party to provide special protection and assistance for children detached from their family environment and to implement adequate adoption procedures that care about child's best interests. Therefore the new Law, No. 11/1990 on the Approval of Adoptions, adopted in 1990 largely complied with the UNCRC, as it allowed international adoption of children. In September 1990, Romania itself established a special committee, the Committee for Support of Children's Protection, to bring together prominent national leaders to develop child-centered projects. The Committee pursued three goals: overhauling institutions to transform them into more comfortable living places for children; giving clothes and a proper education for children placed in institutions; and providing these children with cultural activities (Greenwell, 2003, pp. 9-10).

Due to the legacy of communism, the first laws enacted after ratification of the UNCRC still gave priority to placing children in state-run institutions. However, in this period there were several allegations of child trafficking, which pushed Romanian governments one after another to bring further regulations on child adoptions. "*But the mishmash of rules left ample room for abuse*" (Jacoby et al, 2009, p.116). For example, in its 1990 law, Romania did not clarify the criteria for 'abandonment', and it immediately opened the door to several international adoption requests and triggered a black market of baby intermediaries (Jacoby et al, 2009, p.116). The shortcomings in the childcare system became much more apparent during this period and pushed the decision-makers to gradually close down the old type institutions and reduce the role of the state in childcare. The institutional framework was therefore replaced increasingly by family-type homes where a smaller number of children were offered protection with better living conditions similar to family-type environments. In the meantime, as adoption and abortion became legalized, the rate of child institutionalization decreased (Greenwell, 2003), but at 130 per 10,000 children for 0-17 year-olds, was still well above the European level (Burke, 1995) because rising unemployment in early 1990s led families to abandon their children to the old-style residential care. However, as international organizations did not have a broad space of maneuver at this stage,

external actors found little opportunity for generating domestic change in Romanian politics “*at a time when domestic actors either saw IO membership achieved relatively easily (e.g., the CoE) or placed little priority on joining IOs for which membership would be costly (e.g., the EU)*” (Jacoby et al, 2009, p.117). However, there still existed a legal loophole centered on the definition of ‘child abandonment’ that encouraged baby brokers to continue carrying out black market adoptions. “*By 1991, most adoptees were not being taken from institutions but were being ‘bought’ directly from their biological families, usually in exchange for consumer goods or money*” (Zouev, 1999, p.119).

The unrestrained flow of international adoptions out of the country and the potential warnings that might derive from Romania’s non-compliance with the UNCRC required the Romanian government to revise the relevant legislation, Law No. 11/1990, on July 17, 1991. The amended Law, No. 48/1991, brought a moratorium on international adoptions with the aim of halting the baby trade (Kapstein, 2003) and establishing a mechanism to ensure the best interests of children. The revised legislation established various criteria for foreign families wishing to adopt a Romanian child and the Romanian Adoption Committee (RAC) was transformed into a governmental agency entitled, as a central coordinating body, to cooperate with international bodies in international adoption cases. This new RAC would act as a central monitoring and coordinating body for adoptions and was intended to comply with the requirements of the UNCRC. The RAC was made responsible for monitoring and coordinating all adoption cases in line with the requirements of the UNCRC. Nevertheless, the new institution failed to monitor the adoption process properly and the corruption in international adoptions continued to increase for another ten years in the form of black market adoptions, (Bainham, 2003; Dickens J., 2002) where children had ‘price tags’ with sums reaching 30,000 US dollars based on their health, age or physical characteristics. This baby trade and the illicit adoptions were very difficult to stop. “*Therefore, despite laws designed, in part, to limit the most corrupt forms of international adoptions, international adoptions continued to rise for several more years until 2001*” (Jacoby et al, 2009, p.117).

In March 1993, the Romanian government set up a new National Committee for Child Protection with the aim of increasing effectiveness of child protection efforts. During this period, the rate of institutionalization dropped and alternative forms of care took center stage. In the meantime, two key pieces of legislation—Laws 47/1993 and 84/1994—supported child-focused adoptions in a period when international adoptions replaced national adoptions. Law 47/1993 brought a stricter definition to the term ‘abandoned child’ and defined it as a child whose parents show no interest in his/her wellbeing for more than six months. In other words, children in residential care could be legally declared ‘abandoned’ if their parents did not want to reclaim them after a period of six months. Second only to adoption, institutionalized care was still seen as the best option for child protection, and wide-ranging reform for the child protection system was not a priority for the government as it had not yet come under serious international pressure from the EU or the CoE. International NGOs, as important carriers of reform desires in the later stages, were also providing significant amounts of aid for institutionalized children, efforts which were largely *ad hoc* and patchy, and so failed to produce behavioral change at the institutional and policy level. Given the dire economic conditions of the country, adoption was still considered a way to rescue these children from old-style institutions (Dickens and Groza, 2004). According to UNICEF data, each year one third of internationally-adopted children were supplied by Romania during this period (UNICEF, 1997).

In December 1994, Romania ratified the Hague Convention on Protection of Children and Cooperation in respect of International Adoption. The Hague Convention was a multinational treaty to boost cooperation between relevant countries to ensure quick and effective placement of internationally adopted children and to protect their rights by preventing child trafficking and similar abuses. In Romania, the RAC, whose members were nominated by the state, monitored implementation of the rules. The advanced network of NGOs in the country drew the government’s attention to the shortcomings in the public sector, especially in terms of the country’s child protection directorates. In 1994, Romania re-opened the social work department to allow for the education of thousands of committed social workers willing to contribute to nationwide child protection efforts. This was a timely effort to promote human resources to meet

the requirements of the new childcare services. In 1994, the UN Committee for the Rights of the Child in Geneva also sent Romania a critical report containing its conclusions about the state-of-play of children in the country and its suggestions on the level of compliance with UN standards on children. The report warned the Romanian authorities of the absence of coordination across their institutions and policy areas related to child protection. Among the criticisms, legal hindrances on the rights of the child and on the compliance with the best interests of the child; the need to support families in terms of family planning; the need to create a structure of professional staff in child protection institutions took center stage. (UNICEF, 2004a, p.26).

3.1.3. 1995-2004: Application for EU Membership and the Beginning of Domestic Transformation

Romania signed its Europe Agreement in 1993 and submitted its official EU membership application on June 22, 1995. These dates may be considered the beginning of domestic transformation and paradigmatic change for the Romanian child protection system, with a timely interaction between domestic and EU factors. In this context, the new pro-EU Romanian coalition government formed in 1996 facilitated the process as a norm entrepreneur and turned a new page for Romanian children and families in a move against the previous veto players –i.e. the adoption lobby and the former government with its communist legacy, both of which still retained significant power within the system. In 1997, Romania passed new legislation on international and national adoption – four years before it would establish a moratorium to block international adoption upon the recommendation of the European Parliament Rapporteur for Romania. In contrast to previous EU enlargement waves, when Romania applied for EU membership, the situation of children’s rights featured prominently in its progress reports. In fact, this was the first time that child rights became an integral part of the bilateral agenda between a candidate country and Brussels. Emphasizing the need to reduce the number of children in residential care as well as to combat child trafficking, EU authorities trained a spotlight on Romania’s child care regime, with the ultimate outcome of the Romanian candidacy process being a gradual overhaul of the country’s child protection system. The replacement of child-care institutions with alternative systems, the

moratorium on international adoptions and the beginning of socio-economic support for needy families were the first steps taken during that time.

In 1995, Romania passed a new legislative package to further regulate international adoptions and to adapt itself better to the new EU-imposed accession requirements. The changes were inspired by the principles of the ECHR and the UNCRC recognizing the primacy of the family in upbringing children, making institutional care a last resort, and promoting family-based or family-like alternative care. However, the legislative and institutional configurations were still far from ideal. Children were still mainly spending time in state-run institutions before fulfilling criteria for adoption by a family. In the meantime, civil society actors in Romania found opportunity to expand in numbers. “*By 1996, there were over 400 Romanian NGOs active in child protection services*” (Jacoby et al., 2009, p.118). Although some of them were the branches of the international relief organizations like Save the Children or Médecins sans frontières, the majority of them were newly established Romanian NGOs, though supported by UNICEF, United States Agency for International Development (USAID), and the EU in logical and economic terms. This proliferation of the NGOs working on child protection was an instrumental step towards changing public perceptions and attitudes.

The 1996 presidential elections and change in government opened up a new page for Romania in Europeanizing its child protection regime and pushed the Romanian government further into the orbit of the West. The coming to power of President Emil Constantinescu and the four-party Democratic Convention (DC) in late 1996 completely changed the dynamics of the country and breathed new life into the long-ignored EU membership bid. A diverse alliance at governmental level was united in the aim of speeding up domestic transformation and integration into the Western platforms, especially the spheres of the EU and NATO. In 1996, President Constantinescu sent a letter to the NGOs working on child protection issues to say that more should be done for Romania’s needy children and pledged that he would support all civil society efforts to meet EU demands. A significant reform period had thus begun by 1997, with much more coordinated efforts to implement the UNCRC principles, to

decentralize child protection and promote durable alternatives to institutionalization, with Emergency Ordinance (EO) No. 26/1997 (Law No. 108/1998) on the protection of children in difficulty and EO No. 25/1997 (Law No. 87/1998) on the conditions for adoption. EO 26/1997 emphasized that the best option for children under state-run institutions would be family-type childcare alternatives. Such a new legislative impetus intended to meet the UNCRC thresholds and showed that the new government considered institutionalization a temporary measure only for children in difficult living conditions.

The reform wave started by 1997 was accepted as a government strategy of the new coalition in the field of child rights in Romania, the first period of which covered 1997-2000, with a special focus on aligning national legislation with the EU, decentralizing child protection activities, developing family-type alternatives for child protection and preventing child abandonment. It was therefore a break from the quick-fix solutions of the previous decade. In 1997, just prior to the reform process, a census reported 98,872 children living in 653 residential facilities around the country (Child Pact, 2014). This number represented about 1.7 percent of the total child population in Romania at that time. The new Romanian government then began taking steps towards institutional alignment with the UNCRC by establishing the Department for Child Protection (DPC) in January 1997 as the sole governmental body tasked with monitoring the alignment of domestic legislation. At the county-level, child protection departments were set up, and were of key importance as they were directly subordinated to the county councils and were made responsible for the delivery of child protection services at the local level. The county level is accepted as the first layer of decentralized governance.

In the meantime, Law No. 3/1970 was abolished and replaced by EO 26 (later adopted as Law No. 108/1998) on the protection of children in difficulty. Accordingly, institutionalization became a temporary solution, with family-type protection being prioritized for raising children. This Law also decentralized child protection to the local level, with County Councils being given responsibility for child protection with specialized commissions to be set up. The forty-one county directorates for child

protection (CDCPs) were tasked with preventing institutionalization, supporting needy families and finding alternatives to large residential institutions. The local commission that would be established under the county councils would appoint local authorities, social workers and child rights' experts onto their boards and they would be responsible for determining the most appropriate care system (institution or foster home, for instance) for children in difficulty. The streamlining of the child protection system in Romania was complemented by an administrative decentralization with the implementation of Law 24/1996 on Local Public Administration and Law 189/1998 on Local Public Finance. Again in 1998, the Romanian government adopted Law 87/1998 (initially EO 25, June 1997) to elaborate on adoption conditions in line with the child's best interest. For instance, the adoptive family was now required to have the necessary financial and moral resources for guaranteeing development of the child they adopted. The Law also stated that if a child was requested by both a Romanian and foreign family, the Romanian family would be given priority. These decisions were intended to support local initiatives in organizing, managing and delivering child welfare and child protection services by shifting authority from national to local levels.

Local councils and NGOs were also given more managerial and financial responsibilities in managing child protection and developing alternative care services such as kinship care, small group homes and foster care at county level. The intention was to transform childcare institutions into alternative residential and non-residential services, while at the same time develop ways of collaborations between governmental and non-governmental actors in encouraging the logic of appropriateness in civil society. Responsibility for childcare institutions was transferred from the Ministries of Health and Education to the newly-established Specialized Public Services for Child Protection (SPSCP), which was given administrative responsibility and began the process of transforming childcare institutions into family-type homes or temporary placement centers while initiating a process of reunifying children with their families. This legislative reform, criticized by some as moving too far too quickly without adequate resources, guidance and vision (Dickens and Serghi, 2000, p.259), replaced the 1970 communist law and decentralized the system by providing local authorities with decision-making powers.

In 1998, the European Commission began preparing progress reports for candidate countries, taking account of the progress made by each during its accession process. Child protection had been an area in which EU requirements for compliance were quite high, involving the creation of new institutions and proceeding with legislative reforms. The annual progress reports reviewed the candidate country's efforts towards compliance with EU criteria, including those on child rights. Romania received its first progress report from the European Commission in 1998 (European Commission, 1998). In its early progress reports relating to Romania, the EU made extensive reference to its child protection regime and emphasized several needs; to decrease the number of children in residential care, to replace these institutions with alternative care models, to endorse the social inclusion of Roma children and to combat child trafficking and street begging. In the 1998 progress report for Romania, the European Commission underlined that, "*there has been a positive change in government policy on child protection and a new determination to care for this vulnerable section of society*" (European Commission, 1998, p.10).

Noting the legislative amendments on the protection of children and the transfers of responsibility for child protection to local level, the 1998 progress report supported governmental efforts for the re-integration of abandoned children into their families, but drew attention to the need for improving policy implementation about the promotion of the reintegration of children into their families. As the reform strategy at the time that was financially buttressed by the EU's PHARE program began to bear fruit, the European Commission welcomed the increased number of children being re-integrated into their biological families or, as the second option, being adopted by foster families (European Commission, 1998, p.10). In other words, the PHARE support helped the Romanian government to improve the protection of about 100,000 abandoned children in state orphanages. Overall, the 1998 report underlined the positive changes in the Romanian government's policy on child protection with decentralization of institutions and encouragement of child protection alternatives.

The European Commission prepared and adopted its first accession partnership for Romania in 1998, then updated it the following year. In the meantime, as Romania

proceeded on the path towards EU accession, the main political criteria in its accession partnership document were to assume full reform of the child welfare system (section 4.1) and develop living conditions for institutionalized children (section 4.2) in the short-term (European Council, 1999). In this document (Romania, 1999), Romania was urged to guarantee appropriate budgetary allocations for child protection and to undertake an exhaustive reform of its childcare system, including pursuing treatment of children with chronic diseases and disabilities. As a medium-term political criterion, Romania was advised to consolidate reform on child protection and improve the living conditions of children under institutional care. Continuing the fight against trafficking in children also ranked among medium-term priorities. For this purpose, Romania received systematic and consistent funding and technical assistance from the EU to implement this ambitious plan, while the monitoring and reporting of the implementation were carried out via the regular annual reports.

At this point, it is necessary to note that the Accession Partnership Documents altered the conditionality instrument about the PHARE program. “*Before 1998, priorities had been “demand-driven” and conditionality depended on meeting very general economic and political objectives*” (Grabbe, 2006, p.15). But, with the introduction of the Accession Partnerships, the Commission began to openly guide the PHARE support, with funds focusing on the need for meeting the priorities laid down in the Accession Partnerships (Grabbe, 2006, p.15). Therefore, the pre-accession EU assistance became connected with the conditions for accession, rather than blunt development goals. “As a result, EU aid policy for CEE moved towards privileging the third Copenhagen condition (the obligations of membership) over the first two (political and economic),” (*ibid.*) In other words, whereas the PHARE program was initially oriented towards economic reform and democratization, under the current Accession Partnerships it principally focused on taking on the obligations that derived from the EU legislation and policies.

In the subsequent progress report in 1999, a more critical tone was adopted by the European Commission, welcoming the child rights reforms, but criticizing them in that they only partially addressed the problem without going deeper into the root causes

“because it concerned institutions placed under the responsibility of only one of the state agencies in charge of “institutionalized” children (the Department for Child Protection), and could not be sustained” (European Commission, 1999, p.15). The European Commission underlined that this system placed a high and unaffordable financial burden on local authorities, especially in a period of economic crisis. In the report, the European Commission also underlined the serious deterioration of living conditions in Romanian childcare institutions due to the financial and administrative factors, with inspectors who visited these institutions having reported several humanitarian needs and unacceptable basic infrastructure conditions in terms of nutrition, medical care and hygiene.

The European Commission also drew attention to the unclear division of responsibilities between Romanian authorities involved in child protection, which was making the emergency response slow and patchy. The report noted, *“child protection, including implementation of policy reform, can no longer be made structurally dependent on international assistance”* (European Commission, 1999, p.16). The Commission urged the creation of a single authority to establish childcare policies and to set standards for all childcare institutions, along with responsibilities for supervising and controlling the adequate performance of all childcare institutions. The political conditionality of the European Commission gradually became stronger with the Progress Report 1999, with harsh criticism regarding the deteriorating conditions of living of over 100,000 children in institutionalized care in Romania. The European Commission, in its 1999 Progress Report for Romania, underlined that *“the rights of these children to decent living conditions and basic health care is a human rights issue”* (European Commission, 1999, p.16). The European Commission also criticized the Romanian government in the same progress report for not acting in time to provide adequate funding for childcare and not according political priority to this urgent issue.

Therefore, the Commission recommended that the accession negotiations with Romania should be opened if the Romanian authorities channel necessary budgetary resources to child-focused reform steps and decides to initiate necessary changes in childcare institutions before the end of 1999 (European Commission, 2013a, p.2).

Following this warning, Romania quickly put the NACPA under the supervision of the Prime Minister's Office, exactly as the European Commission had demanded. It also allocated about 40 million dollars to assist in the child rights reform process. The Commission therefore conditioned annual financial allocation of €650 million between 2000 and 2006 on preparation and execution of a nation-wide Strategy for the Mid-Term Development of Romania, where the reforms on child protection were rendered a legislative priority (Jacoby et al., 2009, p.122). The NACPA then developed Romania's first such national strategy for the period 2000-2003 and included in it the fundamental UNCRC principles on the best interest of the child and the EU emphasis on decentralization.

In 1999, in order to support Romanian efforts in child welfare, the European Commission allocated about €25 million for developing locally-based alternative services, assisting poor families in keeping their children, developing local networks for social workers specialized in childcare, etc (Delegation of the European Commission in Romania, 2005, pp: 2-3). During this period, EU financial assistance acted as a strong 'carrot' for the Romanian government to delegitimize pro-adoption lobbies and instead legitimize the country's legislative and institutional reforms. Following intense efforts made after 1997 to reform the child protection system in Romania, the number of children placed under state-care care as well as in private care centers continued to decrease "*in the period 2008-2013—though more slowly than in previous years—from 25,114 in December 2007 to 22,124 in September 2013*" (UNICEF, Romania, The National Strategy on the Protection and Promotion of Children's Rights).

The 1998 PHARE program, based on the accession partnership document's short and medium-term priorities for Romania, essentially supported child protection in the country. Accordingly, the European Commission's progress reports of 1997 and 1998 "*showed positive appreciation of the decentralization of institutional management and the increased interest in placing children in alternative forms of care*" (Lataianu, 2003, p.109). In 1997 and 1998 the EU spent about 70 million ECU (mainly under the PHARE programs) for improving the situation of children in Romania. Although Romania benefited from the PHARE support to adopt some legislative, administrative

and financial measures for its fragile child protection reform steps between the years 1999-2000, the European Commission still found these steps insufficient in its 2000 progress report, and pointed out unimproved living conditions of over 100,000 children. The European Commission noted that more efforts were needed to sustain this reform wave in child protection, while the issue of street children also required to take steps (European Commission, 2000a, p.16). In 2000, all institutions for abandoned children were renamed as ‘placement centers’ and admitted children according to their ages (i.e., nursery, pre-school age and school-aged children). In another landmark decision, the EU opened accession negotiations with Romania in 2000, and during the same year, Romania’s ability to meet the Copenhagen political criteria was made dependent on its determination to resolve its acute childcare crisis (European Commission, 2000a, p.19). The Government of Romania also became a member of ILO-IPEC in 2000 and quickly launched a National Action Program to Eliminate Child Labor as the country faced problems of child work in agriculture as well as the street children phenomenon and children engaging in prostitution.

The European Commission then implemented a multi-annual PHARE program (*Program of Community aid to the countries of Central and Eastern Europe*), ‘Children First’, from 2000 to 2006 with a total value of €59.5 million. This investment and the systematic pressure that it applied on Romania resulted in a significant reduction of the number of children under institutional care (by almost half) and an increase in children placed under family-type care. In 2001, the European Commission underlined the need to keep up with these efforts in order to effectively improve “*the living conditions of the children and families concerned, as well as to prevent abuses and to address the problem of street children*” (European Commission, 2001, p.23) while it also underlined the alarming trend of child trafficking in Romania. On May 30, 2001, the European Parliament’s Rapporteur for Romania, Emma Nicholson, made a key speech, saying that the Parliament might recommend that the Commission suspend accession negotiations with Bucharest based on the country’s lack of progress on European integration, including old practices that encouraged child abandonment by the state and a corrupt network that prioritized lucrative business over international adoptions. Nicholson argued that several international adoption agencies were earning money by

selling Romanian children on the black market and were not considering the best interest of the child. In 2000, over 3,000 Romanian children were adopted in the inter-country adoption market, more than double the number of national adoptions (1,219). The warnings did go unnoticed by the Romanian government, especially by Adrian Năstase, Romania's then Prime Minister, who, the following month, presented to the EU rapporteur an action plan that included the adoption of a law banning international adoptions of Romanian orphans, which were then placed under a moratorium by the government on June 21, 2001. In this period, Romania was also supported by other European countries in terms of best practice sharing. One of the cooperation topics was triggered by the increasing number of unaccompanied Romanian children in Europe, particularly in Italy, where the authorities decided to assist the Romanian government in overcoming this challenge. This offer of assistance resulted in a collaboration agreement in August 2001 between the NACPA and Salvati Copiii (Save the Children Romania) for an assistance program for unaccompanied Romanian children and teenagers on Italian soil. Consequently, starting in July 2001, Salvati Copiii received several assistance requests from the Italian Branch of the International Social Service for Romanian children aged between 4 and 17.

Another key step taken in 2001 was the adoption of a Romanian government strategy on the protection of children in difficulty 2001-2004 (Government of Romania, 2001). This was part of the bid to switch from a centralized system to a de-institutionalized one, and aimed at providing children with a suitable family environment for their well-being. The strategy paved the way for the closure of large institutions during 2001-2004 and the diversification of childcare services. Thousands of children consequently left childcare institutions and were re-integrated into their natural family. The strategy provided an opportunity to establish some monitoring mechanisms for children under difficult circumstances, to apply some programs to fight against child labor and provide specific training for professionals working with children in difficulty. In the meantime, Romania aligned its standards on preventing children's separation from their families with the European norms. A National Steering Committee (NSC) was founded to coordinate the national program activities, along with Child Labor Units under the Ministry of Labor and Social Protection's Labor Inspectorate.

Therefore, the period 2001-2004 is known as the ‘de-institutionalization period’ for Romania, and it was supported by intensive public awareness campaigns to sustain the reform process and to change public perceptions and understandings attached to them. One of the best-known campaigns in Romania was ‘Casa de Copii nu e Acasa’ (The Home for Children is not ‘at a Home’), which was conducted from 2001 to 2003 with a total budget of €3.6 million (Delegation of the European Commission in Romania, 2005, p.3). The campaign emphasized the need for preventing child-family separation and for bringing up children in a family setting while promoting alternative support services for needy families.

In May 2001, Romanian police officers began their professional training to fight against the worst forms of child labor in line with the ILO principles, and dozens of labor inspectors were trained to monitor child labor activities on the ground. The active campaigning by the European Parliament rapporteur Baroness Emma Nicholson to end inter-country adoptions and the corruption practices of adoption lobbies might be termed the ‘Emma shockwave’ as it was the first ‘urgent call’ for Romania in terms of definitely Europeanizing child protection standards to get the membership prize. *“Romania was also warned by the EU that its chances of joining the bloc in 2007 were in jeopardy if it didn't improve its record on children's rights”* (Deutsche Welle, 2004). With the consistent engagement of Nicholson, who made membership strictly conditional on improvement of the childcare regime in the country, Romania was obliged to ban inter-country adoption as it was considered a violation of children’s rights according to EU, UN and CoE norms, and it initiated this challenging ban despite objections from several European countries—especially France, Spain and Italy—which initially tried to put pressure on Romania to relax its 2001 moratorium on international adoptions. Starting in 2002, the Romanian government showed genuine commitment to a thorough reform of its child protection regime based on administrative and legal measures.

Subsequently, the EU’s critical tone on deficiencies in Romania’s childcare system began softening in 2002, and Brussels praised some steps taken by the Romanian government in order to align its legislation and administrative system with

the EU. *“The legislative, administrative and financial measures taken by the Romanian authorities are beginning to bear fruit. The number of children in residential care has decreased, and their living conditions have improved”* (European Commission, 2002a, p.15). Following a demand from Bucharest, the Directorate-General for Enlargement had formed an independent panel composed of EU experts on family law in December 2002. The aim of this panel was to align Romanian legislation on children’s rights with the UNCRC and the ECHR, while also considering best practices among some EU member states. It also aimed at providing the Romanian government with expertise on preparing its new child rights legislation. Deciding on the basis of Article 21(b) of the UNCRC, the technical opinion of the Panel emphasized that inter-country adoption cannot be taken as a measure in favor of child protection and that it should be considered as a last resort if and only if there was no other means of child protection in the country of origin and if it is noticeably in favor of the best interests of the child (Independent Panel of Family Law Experts of EU Member States, 2004, p.2). During all these legal changes, all the partners within the child protection regime and specialists were consulted regularly, with the appointment of a group of experts to offer technical assistance to Romanian authorities in perfecting the legal amendments was an obvious example of this inclusive approach.

Meanwhile, several awareness-raising campaigns were also organized. Under the slogan ‘an orphanage is a house, not a home’, the aim of a landmark campaign in 2002 was to teach the greater public that the best interest of the child required being raised in a family environment. Under the campaign, a national contest was organized for children from the newly-established childcare centers and family-type houses. Those who won received EU-funded scholarships to visit key EU institutions in September 2002 and establish contacts. In this period, child protection began to provide a focal point for the legislative reforms towards Romanian EU accession. Beginning in 2004, the European Commission underlined that that the rule adoption process in Romania was fast-tracked by the prospect of enlargement. The European Commission noted in its 2004 progress report (European Commission, 2004b, p.29) that, *“in 2003, 503 exceptions were made to the moratorium on inter-country adoptions, including children who were already in adequate care in Romania”*. With the new legislation on

Children’s Rights and Adoption being approved in June 2004, the inter-country adoption were made limited to extreme exceptions and in line with the requirements of the UNCRC as well as the practices of EU member states. The priority was then placed on the development of necessary administrative capacity to implement the new rules. In the meantime, the UN was also following the Romanian child rights regime through the country’s regular reports to the UNCRC and criticized it for lack of coordination between domestic institutions (UNICEF, 2004a). These criticisms encouraged the Romanian government in preparing a National Action Plan on child protection (GIASAI, 2002).

Table 3
National and International Adoptions in Romania, 1994-2006

| | 1994 | 1995 | 1996 | 1997 | 1998 | 1999 | 2000 | 2001 | 2002 | 2003 | 2004 | 2005 | 2006 |
|------------------------|------|------|------|---------|------|------|------|------|------|------|------|------|------|
| National Adoption | 2792 | 2389 | 1005 | No data | 840 | 1710 | 1219 | 1274 | 1346 | 1383 | 1422 | 1136 | 1421 |
| International Adoption | 2038 | 1789 | 1315 | 851 | 2017 | 2575 | 3035 | 1521 | 407 | 279 | 251 | 2 | 0 |

Source: ANDPC Statistics (www.copii.ro), cited in Jacoby et al., 2009, p.118

3.1.4. 2004-2007: Comprehensive Child Rights Reforms Targeting the EU Accession

2004 was a key date for the Romanian child protection regime, with the adoption of a comprehensive child protection system, and first of all Romania passing a law banning foreign adoptions of its orphans following EU pressure to stop abuses of the childcare system by child traffickers. In 2004, Romania was criticized by Brussels for acting in breach of its own moratorium in that, upon the objection of some EU countries which were benefitting from the unregulated child adoption market in Romania, it had approved some 105 dossiers for international adoptions—especially as a result of pressure from Italy. At that time, EU adoption countries accounted for 40 per cent of all international adoption cases from Romania (Selman, 2010). However, according to the UNCRC provisions, international child adoptions should be considered as a last resort measure (article 21), and should be interpreted in conjunction with the best interests of the child through in-country solutions. Similarly, the ECHR also

considers ICAs an extreme measure because the state has to promote and facilitate reunification of children with the parents, and the state also should support families in order to prevent child abandonment.

Consequently, the EU warned Romania that it could cut off its pre-accession aid until the ban was made permanent, and it succeeded in its threat despite the pressures from pro-adoption lobbies in EU member states. According to Richard Trigano, an expert sent to Romania by the European Commission during those times, portrays the contradictory drives of European pressure as such:

On one hand, the European Parliament and the Commission have asked Romania to respect a Moratorium prohibiting international adoption. On the other hand, the Member States of the EU put egoist and hypocritical pressure on Romania to obtain adoptions. Children are no merchandise, but the Romanian State is asked to treat them as merchandise (Denéchère and Scutaru, 2010, p.147).

The inter-country adoption ban became permanent in 2005, while the number of international adoptions fell to zero in 2006. In the meantime, the ECtHR, with its rules about institutionalized childcare and adoptions, backed the EU position regarding the Romanian government (Jacoby et al., 2009, p.127). The ECtHR mostly referred to Article 8 of the ECHR, which elaborates on the right of family and home life, in order to enforce the ban on inter-country adoptions. Under the ECHR framework, inter-country adoption is considered as an extreme measure, firstly because it is the state's responsibility to promote and facilitate contact between children and parents and work for their reunification and, secondly, the state should identify sufficient child protection measures regarding child abandonment and family support (Bainham, 2003).

At the time of the ban, about 50,000 children were still living in Romania's infamous orphanages. In this period, the situation of children in Romania gained significant national and international importance, particularly in relation to the country's preparations for EU membership. In order to enter the EU, Romania was obliged to fulfill the Copenhagen Criteria that required reforming fully its child protection regime and improving living conditions for all children under institutionalized care. The move came just after Baroness Emma Nicholson, the European Parliament's

special envoy for Romania, criticized Bucharest for continuously abandoning, abusing, neglecting and trafficking children in contrary to the European norms and standards. She also prepared a report at that time about the readiness of Romania for EU membership, where she criticized attempts to tackle the country's extreme poverty by selling its own children. In 2004, the Romanian government adopted several legislative pieces based on the principles of the ECHR and the UNCRC, which included: Law No. 272/2004 on the protection and promotion of child rights; Law No. 273/2004 on the legal status of adoption; Law No. 274/2004 on the establishment, organization, and function of the Romanian Office for Adoptions; and Law No. 275/2004 for modifying the Emergency Ordinance No. 12/2001 on the establishment of the National Authority for Child Protection and Adoption. Romanian Office for Adoptions was tasked with dealing with in-country and inter-country adoptions, while in-country adoptions were required to have absolute priority over the latter. In other words, inter-country adoptions became last resort.

A wide range of legislative steps reflected a change of mentality from a system that is only concentrated on the protection of children in difficulty to a system that protects and respects children rights while recognizing the role of families in childcare. On the other hand, according to this latest legislative reform, a foreign couple could adopt a Romanian child only if they were permanent residents in Romania (Law no. 273/2004). The new legislation on children's rights and child adoption was welcomed by the European Commission (European Commission, 2005b), was even recommended as a model for some Western European countries. The latest conventions of the Council of Europe –such as the Convention on Contact Concerning Children- as well as the positions of UNICEF and UNCRC Committee regarding international adoption cases were taken into consideration while designing the new legislation (Ingi, 2013).

In the 2004 legislative package, Romania tried to address the main shortcomings of the decentralization reform it had initiated in 1997, especially by bringing various quality standards to residential and foster care. Such a decentralization process also helped the Romanian government in establishing services for children and families as close as possible to their residence. This de-institutionalization process was

strongly supported by the EU and the Romanian government through public awareness campaigns. The new Child Protection Law (Law 272/2004) entered into force in 2005. After that reform, admission to residential care was made more difficult, and forbidden for children under two. The family was made the first option for childcare, and when this was not available, alternative care service such as day care or small-scale residential care and family type services were replacing institutions. “*Law 272/2004 stresses the primary role of parents and family in the child’s bringing up and education and in subsidiary the intervention of the state’s authorities when the family cannot respond to children’s needs appropriately*” (Ion, 2013, p.60). Therefore, Romania fully transposed into its national legislation all principles of the UNCRC with Law No. 272/2004 that accorded great importance to the family-type care. Article 8 of the ECHR also helped the country in terms of the right to family and home life by supporting the Romanian government’s legal position in enforcing the international adoptions ban. It is also worth noting that Law 272/2004 placed the National Authority for Child Protection under the Ministry of Labour and Social Policy while uniting County Child Protection Directorates with the general Social Assistance system as part of the General Directorates for Social Assistance and Child Protection (GDSACP). Therefore, the main responsibility for preventative services of childcare was transferred to local authorities. However, they did not receive any financial support in return, which inevitably damaged their effective functioning.

On the other hand, the NAPCA reorganized itself in January 2005 as the National Authority for the Protection of Children's rights (NAPCR) with an extended domain of activities. In this context, the service provision for children were expected to be decentralized, while child protection would be put under the responsibility of local authorities, leading to a fragmented system (Guth, p.4). The NAPCR quickly announced the National Strategy on the Protection and Promotion of Children’s Rights for the period 2014-2020 with the aim of implementing the priorities of child policies that were developed under the government program. The strategy—developed during 2004-2005 but approved by the government in 2008-- suggested the closure of all old-fashioned residential institutions for children by 2020. The development of this national strategy also coincided with the redesign of all relevant public policies “*to set the stage for the*

new programming period of the European Structural and Investment Funds and to prioritize the objectives integrated into the Government Program 2013-2016 and the targets set and committed to under the Europe 2020 Strategy” (UNICEF, Child Rights Strategy 2014-2020).

The Romanian reform package was inspired by the Europe 2020 Strategy that urged ending poverty and social exclusion. Romania therefore tried to match these targets with its own domestic challenges and pledged to reduce the number of people affected by poverty by 580,000 between 2008 and 2020, including 250,000 children. During the development process of this strategy, the Romanian Ministry of Labor, Family, Social Protection and the Elderly acted with the technical and financial support of UNICEF Romania; and a working group, with the participation of the civil society actors, was established for implementation of the strategy while ensuring institutional and legal coordination. Broad consultations were held at the national level to get inputs from authorities in the public, private and civil spheres. As emphasized by the 2005 Progress Report for Romania, *“the progress achieved in the field of child protection has been widely acknowledged by the Independent Panel of Experts on Family Law of EU Member States in May 2005 and is regarded as satisfactory in relation to Member States’ best practices”* (European Commission, 2005b, pp. 17-18). The European Commission signaled in this progress report that adequate financial resources would flow in order to uphold a suitable level of child protection. At the end, Nicholson congratulated Romanian authorities for prioritizing children at risk, and she proposed that Romania should be a referential for other former communist countries such as Bulgaria in implementing provisions of the UNCRC.

It is also worth noting that these legislative packages were supported by consistent and credible EU leverage. In this period, a vast EU-funded campaign was carried out for the implementation of Law no. 272 regarding the protection of children and promotion of child care through training courses (Petrica, 2013, p.62). This project, the Campaign of Education regarding Children’s Rights, was implemented by the NAPCR and financed through the 2003 PHARE Program. This project was developed in all Romania’s counties not only to help the Romanian authorities in developing a

lasting system of social support, but also to conduct training activities for the professionals dealing with children and to provide families with further information about child rights (Ibid.). It is equally significant that the Church was given a key role in this project to convince the community about the prevention of children's separation from their natural parents. *“Moreover, a shift of the legislator's conception is operated, from the idea that parents have rights over children, to the idea that parents are liable for children's evolution and development”* (Petrica, 2013, p.62). According to Petrica, parents and the greater society, should appraise once more and redefine their roles vis-à-vis children and identify their immediate needs (*ibid.*). Therefore, a fundamental change of mentality in social policies marked the period after 2004, “creating the cooperation premises between the various systems that provided services for children in difficulty, aiming at coordinating efforts and limiting wastage of allocated resources” (Buhusi and Bilcan, p.1).

In the meantime, in June 2005 the European Commission and the Romanian government signed the Joint Memorandum on Social Inclusion, with the aim of preparing the country for participating in the European Social Inclusion Strategy. *“The Memorandum analyses the key political challenges in the social field and makes recommendations for the next steps in the struggle against poverty and social exclusion”* (European Commission, 2005a). Among the most urgent priorities listed by the Memorandum were child rights, in terms of coping with the poverty and increasing educational level, while the Memorandum also attached importance to eradicating social discrimination against the Roma, including Roma children. Therefore, the Joint Inclusion Memorandum outlined some major issues ahead: the need for further measures to eliminate non-attendance in compulsory education and overcoming Roma children's social inclusion problems. In the run-up to accession, the Memorandum obliged Romania to put its utmost efforts into fighting social exclusion, while the European Commission committed to helping the country with its pre-accession aid mechanisms in these efforts. Strengthening the administrative capacity of Romanian authorities and improving cooperation and dialogue between the public sector and civil society were also underlined as a ‘must’ for Romania's strategy for social inclusion.

In the meantime, the EU's comprehensive monitoring report on the state of preparedness for Romania's EU membership noted, "*Romania, as in previous years, continues to fulfill the political criteria for membership. Overall, it has reached a satisfactory level of compliance with EU requirements*" (European Commission, 2005d, p.15). The report also underlined Romania's success in taking steps to fulfill the political criteria, including an improvement in child protection. In December 2004, negotiations with Romania were formally closed and Romania formally joined the EU in January 2007. It is worth noting that Romania closed all infant homes by 2007 and homes for disabled children by 2010, mostly due to EU political pressure and financial support ahead of its official accession date. "*By June 2006 statistics indicated a 75 percent reduction in the number of children left in institutionalized care compared to a decade previously*" (Stalford, 2012, p.212). At the date of accession, most of the old-style childcare institutions had been closed; EU-aligned alternative services and family-type homes had been introduced; and many abandoned children in Romanian hospitals had been returned to their parents. In 2010, out of 3.9 million children in Romania, 1.6% were children who were separated from their families. In three-year-time, over 40,000 children began living in family-type care, which means foster care as a primary solution, family placement as a secondary option, and adoption as the last resort. On the other hand, in 2013, about 23,000 children began living in public and private residential care. It was "*a reversed prevalence through deinstitutionalization and the development of alternative services*" (Anghela et al., 2013, p.245). The Romanian experience was a precedent for future EU accession waves, not only concerning candidate countries' performances on child rights, but also it revealed the extent to which an EU membership bid could improve the living conditions of the 'children in crisis' (Stalford, p.206). The EU accession process was a huge driver for domestic change in Romania in the 2000s. Therefore, the European policies were adopted into the Romanian domestic legislative system in the middle of the 2000s, and the *acquis communautaire* was embraced as required (European Commission, 2005, p.1).

Finally, in 2006, the European Commission published its monitoring report on the state of preparedness for EU membership in Bulgaria and Romania, in which it noted that the domestic legislation of Romania on child rights and adoption had brought

the country into line with the UNCRC and on an equal footing with EU member states (European Commission, 2005d), with adequate living standards in the remaining childcare institutions.

Table 4
Evolution of Childcare Reform in Romania

| Evolution of childcare reform through de-institutionalization and foster care system | Foster care | Residential care (private and public) |
|---|--------------------|--|
| <i>1990</i> | --- | 100.000 |
| <i>1997</i> | 11.899 | 39.569 |
| <i>1998</i> | 17.044 | 38.397 |
| <i>1999</i> | 23.731 | 33.597 |
| <i>2000</i> | 30.572 | 57.181 |
| <i>2001</i> | 37.553 | 49.965 |
| <i>2002</i> | 43.234 | 43.234 |
| <i>2003</i> | 46.568 | 37.660 |
| <i>2004</i> | 50.239 | 32.679 |
| <i>2005</i> | 47.723 | 28.786 |
| <i>2006</i> | 47.871 | 26.105 |
| <i>2007</i> | 46.160 | 25.114 |

Source: Romanian Ministry of Labour, Family, Social Protection and the Elderly (http://www.copii.ro/alte_categorii.html)

3.2. Analysis of the Romanian Case: Strong or Weak Europeanization?

International opinion was deeply marked and shocked by the early images to appear of the Romanian childcare systems, with overcrowded and sub-optimal orphanages, and this was followed by astonishing public interest in Romanian children. In the Romanian case, the EU pre-accession process turned into a major incentive for domestic changes, and with child protection a key issue on the negotiation agenda, the EU accession process led to positive change for children. Political and societal determination met with strong EU pressure that conditioned the accession ‘carrot’ to targeted child protection reforms. The use of adequate funding mechanisms also supported the transformation of the whole system in line with international and European standards. The closure of large state-run childcare institutions and promotion of alternative care services were at the heart of EU-induced reforms. The paradigmatic change of the Romanian child protection regime during the pre-accession process

provided valuable experience and a template for subsequent EU enlargement processes, meaning that the wheel would not need to be reinvented each time.

It is possible to interpret the evolution of the Romanian child protection system under the EU accession process from two different angles in neo-institutionalism: from the strategic and rational choices of the actors who followed a logic of consequentialism, and from the socialization of actors to promote a logic of appropriateness about the new values and understandings attached to them. This section will elaborate on these two perspectives on the basis of concrete examples Romania provided during its pre-accession period.

3.2.1. Analysis from a Rationalist Institutional Perspective

High rates of child institutionalization coupled with a strong legacy from Romania's communist regime lay at the core of problems in the child protection regime in Romania, with the country having one of the highest rates of child institutionalization among post-communist countries in the region. Widespread poverty, economic constraints and weak child well-being policies meant child institutionalization trends in the country were skyrocketing, but a comprehensive set of child well-being reforms did not happen easily or quickly in the transition period. Uncoordinated international assistance to children in institutions also distracted the government at the early stages, and Romania initially tried to provide immediate relief to children rather than addressing the main socio-economic challenges that pushed families to abandon their children. Therefore, a rational-institutionalist argument explains the relatively quick transformation among Romanian elites as arising out of the material incentives that the prospect of EU membership would bring.

The rationalist-institutionalist approach would say that Romania, having inherited a flawed child protection system from its communist past, had to resolve several problems in this field on the road to EU accession, the preferred outcome of those policy actors who promoted changes within the domestic policy-making context. Although it ratified the UNCRC at the relatively early date of 1990, Romania's legal framework related to protection of child rights as well as its institutional capacity for

children in need were far from meeting the UNCRC's criteria, with high rates of institutionalized children in large residential care institutions without any alternative child protection services and with responsibilities for child protection fragmented among several ministries, which made intervention and coordination very challenging. Hence, the serious EU-Romania mismatch or misfit in particular determined the reform capacity of the domestic actors. The degree of adaptational pressure deriving from Europeanization was also dependent on the degree of this misfit.

From the very beginning, the main issues elaborated on by the European Commission in its progress reports for Romania focused on the need to decrease the number of children placed under residential care, to regulate the child adoption system, to promote family-based alternative care, to support services for needy families, to combat child trafficking and to suggest solutions for the social inclusion of Roma children. Hence, Brussels augmented its political pressure by a significant financial support flow under the PHARE program. This political conditionality clearly indicated that Romania would be an EU member when, and only when, it accomplished the necessary child welfare reforms. Signing of the Europe agreement in 1993 between Brussels and Bucharest was a turning point for EU impact on Romania in its path towards accession. The agreement had a non-execution clause that provided for appropriate measures to be taken if Romania failed to fulfill its obligations.

From the perspective of rational choice institutionalism, following signing this agreement, Romanian authorities began justifying their interests and collective choices in the matter of a potential membership bid by establishing institutional configurations such as the new National Committee for Child Protection in 1993 and ratification of the Hague Convention on Protection of Children and Cooperation with respect to international adoption. The Romanian government also gave the green light to sharing power with international NGOs, which became engaged in the Romanian child protection system in the early 1990s. In 1996, over 400 NGOs were reportedly active in child protection services. However, these scattered steps were insufficient to generate change, and the Romanian government's lack of strong willingness for the EU membership and for reform of its child protection services is explained by the rationalist

perspective as arising out of the dire economic conditions of the country that required a flow of money from international adoption lobbies. In the initial phase, having just left behind its communist misrule, Romania could not possibly have met the necessary conditions for Europeanization, with almost no single enabling factor such as the presence of pro-reform domestic coalition (Vachudova 2005; Jacoby 2004), strong EU support or consistent legislative commitment from the EU side in existence.

The fate of Romanian children changed after 1996, with the presidential elections and the formation of a new coalition government. At this point, the harmony between the newly-elected president, Emil Constantinescu, and the new pro-EU coalition cabinet headed by premier Victor Ciorbea resulted in relative stability. The domestic popularity of the new government, that included three different political alliances - the Democratic Convention of Romania, the Social Democratic Union and the Hungarian Democratic Federation of Romania, on the one hand, and EU financial and political support on the other, helped the domestic actors to put the country on a genuine democratization reform track that had been delayed for years due to the communist legacy. The letter that was sent by the new president as a gesture of cooperation empowered the civil society within the rationalist logic of consequentialism for utility-maximizing purposes. In other words, rational actors conducted strategic interactions for maximizing their political and existential interests, and they found in the EU a legitimization device and a referential for the domestic changes. The flow of EU pre-accession assistance also facilitated domestic change during this period by modifying opportunity structures for domestic actors who could benefit from the funding only if they cooperated with each other. The establishment of a Department of Child Protection under the government in 1997 and then the adoption of a new legislation on national and international child adoption, followed by the establishment of forty-one county directorates for child protection were the immediate results of this wind of change at the political, institutional and legislative levels that recognized the importance of the EU requirements of decentralization of child care and promotion of family-type alternatives. Therefore, the policy change emerged in a top-down order.

During this period, the Romanian authorities pursued their utility-maximizing approach and were funded not only by the EU's PHARE program, but also by international NGOs, the World Bank, the CoE Bank and USAID, as long as they pursued child welfare reform. The beginning of the European Commission's progress reports in 1998 and the opening of accession negotiations in 2000 also provided Romanian authorities with an opportunity to be monitored and to establish a formal and institutional relation with the EU. However, a multiple veto players in child protection (i.e. adoption lobbies, outdated institutions and the communist legacy) were still able to bring their weight to bear on the system. Because of the dire economic conditions in the country, people still chose to place their children in orphanages, or engage with international child adoption networks—quite often corrupt—as the price tag on a child could vary from 3,000 and 50,000 USD. The Communist legacy and the adoption lobby were among the main veto points against domestic change. The real turning point for Europeanization of child rights in Romania came, however, with the harshly-worded report of EP Rapporteur Emma Nicholson, who was supported by the then-Commissioner for Enlargement, Günter Verheugen, which made the underlying misfit between European and domestic settings crystal-clear and underlined the strong conditionality of Romania's EU membership. The joint pressure of European Parliament and European Commission increased the credibility of the sanctions on Romania and reinforced the rewards. The resonance of these warnings at the governmental level led to the preparation of an action plan that was submitted to the European Parliament exactly a month after the Nicholson report had revealed the conditionality over Romania. Thus, membership conditionality was a key mechanism in Romania aligning its child rights legislation with the EU *acquis*, and becoming receptive to EU-induced reform requirements. Hence, this was top-down Europeanization, with the EU using its 'carrot and stick' policy to generate domestic change in Romania, where the veto agents and norm entrepreneurs calculated the costs and benefits of the alignment process and finally opted for domestic change to be a full member of the EU.

It is also worth noting that it was not only the European Commission which used its leverage on Romania during this process in a joint and collaborative way, so too

did the European Parliament. The latter's intervention asking for the dismantling of existing practices in child rights was supportive of the role of the European Commission's demands for new norms and rules on child rights, while the ECtHR also, with its rules on institutionalized childcare and adoptions, backed the EU position regarding the Romanian government (Jacoby et al., 2009, p.127). In its rulings that concerned Romania, the ECtHR mostly referred to Article 8 of the ECHR, which elaborates the right of family and home life, in order to enforce the ban on inter-country adoptions (Bainham, 2003). Therefore, the formal institutions of the EU provided Romania's domestic actors with material and cognitive resources to exploit new opportunities and lead change, and thus played a significant role in encouraging the Romanian government to pursue strategic goals and, for the first time, developed a consistent institutional template aimed at a candidate country. The EU's external incentives on Romania were based the strategy of conditionality that imposed the 'reinforcement by rewards' in order to offer the country accession assistance and the ultimate prize of membership. Therefore, Romania focused on its alignment performance following the strategic calculations of the actors affected by the determinacy of the membership conditions, size and speed of rewards and the material costs of adoption. As the rewards exceeded the costs, the end result was Europeanization of child rights in Romania and full EU membership. In this sense, the credibility of conditional rewards for Romania increased with the opening accession negotiations.

Under EU pressure, in 2001 Romania imposed a moratorium on foreign adoptions as a result of EU criticisms regarding corruption allegations during adoption processes. This moratorium drew harsh criticisms from Ireland, Spain, Italy and France as veto players, but did not stop the government from pursuing its strategic goal with the logic of consequences because the size of rewards outweighed the size of any veto players. In 2004, the government adopted a law banning all adoptions by foreigners except by relatives of the abandoned child. The closure of all large institutions between 2001 and 2004 and the promotion of foster families as well as the re-integration of abandoned children into their natural families or private placement centers also coincided with the reinforcement of EU political conditionality on Romania. In the

meantime, all infant homes were closed by 2007, i.e. the date of accession. From a rationalist perspective, it may be argued that between 2001 and 2007, the EU became an agenda-setter in Romanian politics, with child rights featuring at the top of the agenda. In line with the external incentives model, Romanian decision-makers were strategic utility-maximisers who followed the logic of consequences based on the rationalist bargaining model. The domestic status quo was measured through ‘goodness of fit’ to reflect the misfit between domestic and European processes, institutions and policies. The EU employed a strategy of reinforcement by rewards because EU rules on child protection—outsourced from international norms, standards and conventions—were set as pre-conditions for Romania to receive rewards, i.e. pre-accession assistance and institutional ties, from the EU (Schimmelfennig and Sedelmeier, 2005, p.10). Therefore, the use of such conditionality upset the domestic status quo determined by the corrupt adoption lobbies and outdated childcare institutions in Romania, and changed the domestic opportunity structures.

Thus, Romania’s new government and its pro-reform political culture, which were open to cooperation with the president and civil society, were supported by the flow of international money and EU funds accompanied by the clear and consistent target of EU membership. The government adopted EU rules because the benefits of EU rewards exceeded the domestic adoption costs (Schimmelfennig and Sedelmeier, 2005, p.12). In this context, the conditionality was credible because it was made conditional on fulfillment of the accession criteria. The rewards were substantial and were quickly enacted following the establishment of institutional ties between Romania and the EU. Therefore, there was a healthy and credible cost-benefit balance.

International NGOs, especially Save the Children, facilitated this process by opening branches in Romania and establishing partnerships with local and public authorities for implementation of EU-funded projects (Lataianu, 2001). Most of the civil society actors active in the child rights’ field in Romania who initiated key programs on family-type alternatives for institutionalized children were new Romanian NGOs heavily financed by UNICEF, USAID and the EU (Lataianu 2001; Dickens and Groza, 2004). The church, as a socially-rooted establishment, also helped as a mediator

in convincing local people against child abandonment. As argued by Ekiert and Zielonka, “*enlargement is not just a trivial bureaucratic exercise; it is a powerful generator of profound historical change in the region*” (2003, p.10).

3.2.2. Analysis from a Sociological Institutional Perspective

Europeanization is not simply about formal rule adoption, but also about a less tangible dimension that touches upon beliefs and values. However, these two logics of change—rational choice and sociological institutionalism—are not mutually exclusive, and occurred simultaneously in the Romanian case. In Romania, high EU adaptational pressure at all levels to improve the country’s child protection regime initially encountered strong institutional inertia, with adoption lobbies and state-run institutions resisting change. Nevertheless, the strong conditionality applied afterwards by the European Commission and the European Parliament prepared the conditions of crisis and resulted in profound and abrupt change in the child protection sector, with a ban on international adoptions and closure of old-style large institutions.

The EU-induced domestic changes in Romania may be read partially from a sociological institutionalist perspective because the country also met some EU requirements with elite socialization and norm appropriation according to the logic of appropriateness. Rule adoption by Romania depended on its decision-makers’ perception of EU demands and rules, and was appropriate in terms of collective norms and values (Schimmelfennig and Sedelmeier, 2005, p.18). The Romanian government therefore adopted EU rules because it was persuaded of their appropriateness for Romanian society. With the change of Romanian government, the new coalition government had pro-EU leanings and the identity of ‘feeling European’ generated the cognitive dimension of the Europeanization processes. In light of the fast-track reforms enacted between 2004 and 2007, government levels of identification with the EU led to a high degree of policy change in child rights, resulting in transformation.

In this respect, the lesson-drawing model was prevalent as it was based on the idea that domestic policy-makers’ dissatisfaction with the status quo stimulates them to learn policies from abroad. For instance, the establishment of an independent panel

under Directorate General of Enlargement with the participation of EU experts on family law was one of the most important steps that the Romanian government took as a result of their lesson-drawing from the EU. The panel—as an example of epistemic community—convened upon the request of Romanian Prime Minister because there were several disagreements among adoptive parents, adoption agencies and EU standards about the rules on inter-country adoptions. The fact that the Romanian government asked for the Commission’s help meant that the candidate country was in need of drafting new legislation in line with EU standards, but by following agreements and consensus on the issues could trigger reactions from the veto agents. The final text, based on the panel’s technical and non-political opinion, presented in May 2004 was in compliance with the UNCRC, the ECHR and with EU member states’ national practices. It should be noted that the policy change inspired by the independent panel, was domestic-driven and purely voluntary, while it also aimed at cost-sharing with the EU because the Romanian government expected that the rules to be adopted in light of the panel’s proposals would solve domestic policy problems efficiently and would resonate well with domestic shortcomings (Schimmelfennig and Sedelmeier, 2005, p.22). This form of elite socialization helped Romania to adopt highly advanced legislation on child rights because the panel’s independent experts had taken into consideration the latest contemporary standards and conventions on child rights and drawn inspiration from the CoE’s most updated framework, including, for instance, references from the Convention on Contact concerning children when the parents are divorced or separated. This EU-induced normative change resulted in the adoption of new legislation in 2005 that maintained the ban on the inter-country child adoption cases.

The local activities of NGOs, acting as ‘norm entrepreneurs’ or ‘agents of change’ in persuading the relevant parties to redefine their identities and interests, also contributed to an incremental ‘social learning’ and the construction of a Europeanized culture wherein actors collectively constructed the necessary norms and identities for transforming the child rights area. Social learning mechanisms launched by the NGOs therefore helped feeding “*an agency-centered mechanism to induce such transformations*” (Cowles et al., 2001, p.12). Those NGOs, which were part of the

corrupt adoption activities in the 1990s, were then replaced by NGOs acting in line with EU standards and closely scrutinized by EU bodies during project implementations. Therefore, the Europeanization of child rights in Romania also had an indirect effect on Europeanization of the country's civil society. It should also be noted that, in their roles as norm entrepreneurs for the reform of child protection in Romania, Emma Nicholson and Günter Verheugen consistently spoke with one voice.

On the other hand, the EU used its power as a model and a set of structures that altered not only the legislation, but also the beliefs, interests and courses of actions of domestic actors—both veto agents and norm entrepreneurs—because the accession conditionality was not limited to the formal legislative process of adopting the EU *acquis*, but also covered the Romanian state's capacity to implement the required reforms effectively at the social level. The 'orphanage is a house, not a home' campaign and the EU-funded scholarship for those who won the related contest were significant examples of this change at the social level, the aim of which was to inform the public about European and international understandings of the best interest of the child. Therefore, the EU-funded projects supported a transformation at the cognitive level and triggered a collective learning mechanism about EU terminology and EU/international standards such as the 'best interest of child' and 'de-institutionalization of childcare'. Romania also built new structures—such as networks between social workers and new agencies—as part of the EU-induced reforms in order to promote new understandings of child protection and to improve institutional configurations. The signature of the Joint Memorandum on Social Inclusion between the European Commission and the Romanian government in June 2005 was also an important step in triggering the diffusion of norms and standards through interactions between institutions. The priorities listed in this memorandum or the accession partnership document helped the Romanian government to follow a template and a pre-determined schedule of priorities in the run-up to accession. These supportive documents and projects contributed to a political culture for consensus-building and cost-sharing through socialization and a collective learning process, which in turn resulted in norm internalization and the development of new identities at the domestic level.

Table 5
Romania's Reform Steps in its EU Accession Process

| Reform steps of Romania in its EU accession process | |
|--|---|
| 1996 | Establishment of the Child Protection Department as the unique government body for coordination of reform steps on child protection issues |
| 1997 | Enactment of a new legal framework with the Emergency Ordinance 26 that decentralized child protection services under county councils |
| 1998 | Adoption of the Child Welfare Reform Strategy by the government with the support of the NGOs and bilateral donors such as the World Bank, the CoE Bank and USAID |
| 1999 | Economic crisis |
| 1999 | Establishment of the Authority for Child Rights Protection and Adoptions as the single government body for dealing with children issues in Romania |
| 1999 | Important EU financial and technical support |
| 2000-2004 | Increased EU pressure to make child rights' improvement a political conditionality for accession; Closure of several childcare institutions; Development of alternative care services, especially foster family systems |
| 2004 | Ban on all international adoptions |
| 2005 | New Child Protection Law (No. 272/2004) |
| 2007 | Romania joins the EU |

3.3. Conclusion: Europeanization or de-Europeanization in Child Rights?

"I don't think we looked inside the Union, at our own human rights and implicitly children's rights record before. Each Member State has multiple human rights deficits and, in a sense, that hasn't been examined before. We have a multiplicity of defects in the human rights provision within the EU. Perhaps that's the new thing: we have started to look more seriously at our own failings as more and more imbalances of human rights came to light due to enlargement, as the EU got bigger."

Emma Nicholson

Following the collapse of the Ceausescu regime in Romania in 1989, the situation of children abandoned to institutional care and the corrupted adoption networks were the subject to widespread political and international attention. The communist legacy, founded on boosting population increase, had not been accompanied by an adequate child protection system and the result was many children left abandoned in outdated state-run orphanages. On the other hand, *"imposing Western benchmarks of*

rights protection can be particularly problematic in relation to post-Communist states”, said Stalford (p.204) because of the lack of a culture and discourse of human rights, including child rights, has in these countries where institutional mechanisms were also limited to help a systematic enforcement and monitoring (Stalford, p.204). The political winds of change began with governmental change in Romania and its application for EU membership. The new government was a coalition of political actors and proved much more inclusive in the democratic sense. *“The democratic quality of a regime influences the willingness of state actors to promote domestic change in response to EU influence”* (Schimmelfennig and Sedelmeier, 2005). EU political and financial support for Romania mainly focused on reforming the latter’s child protection system, with institutional and legislative changes aimed at ending abuses and mismanagement. According to Jacoby et.al, *“the EU experienced a very slow start with Romania but it cultivated an opposition that responded to EU initiatives when the opposition took power”* (Jacoby et al, 2009, p.111). Accordingly, *“the EU found three ‘workarounds’ to the obstacles: it asserted legislative targets it did not possess itself, invented new policy tools, and drew protection for its most controversial policy from another international organization, the ECHR”* (ibid.). Romania’s state-of-play in child rights therefore served as a catalyst for the introduction of child rights as a primary EU policy area, while making all issues pertaining to children a formal accession condition to the EU (Iusmen, 2014).

This chapter of the thesis argued that Europeanization of the Romanian child rights system resulted in transformation at the end of 2007, as the country replaced its existing policies, institutions and processes with radically new ones, and changed the fundamental collective understandings attached to them. Therefore, the degree of domestic change was high because of the high adaptational pressure and there was a high misfit between European-level and domestic processes. It is therefore necessary to underline that the accession conditionality applied to Romania in relation to its child protection system amounted to an interventionist, highly intrusive—and ultimately—successful policy, which made use of creative instruments that justified the institutional and legislative checklists, such as increased engagement of a European Parliament special rapporteur on child rights issues, the establishment of an independent panel of

experts and the promotion of alternative childcare systems such as ‘group home’ or ‘foster care’. For instance, task manager on children’s rights under the European Commission delegations was a post created for the first time for the Romanian case to evaluate child rights provision in the candidate countries. *“Here, rather than the standard story about the European Commission demanding new practices, the story is also about the European Parliament demanding the dismantling of existing ones”* (Jacoby et al., 2009, p.114). In the same vein, for the first time the EU requested a ban on international adoption and conditioned it with EU membership, and indirectly with pre-accession assistance. *“Child protection reform has been linked to the democratic criteria of the accession and EU pressure has at times been exerted through semi-veiled threats to delay the negotiations”* (Jerre, 2005, p.5). Consequently, Romania received between 1990 and 2000 more than €100 million of humanitarian aid from the EU to its childcare system (Jacoby et al., 2009, p.120). But, after the moratorium on international adoptions, the financial aid of the EU was directed towards systemic reform steps (Post, 2007) rather than encompassing merely humanitarian aid (Iusmen, 2013).

Therefore, the Romanian case reveals that Europeanization of a candidate country in a specific policy area required both internal accommodation and external pressure to have sustainable effects. In other terms, outsiders and insiders in Romania—after 1996 when a new set of domestic actors took power—built strategic links to promote a long-term outcome. With political changes among the Romanian governing elite, the EU gained strong leverage and built a domestic ally for itself to pursue its reforms. With the reforms enacted after 2000, the Romanian government took significant steps to prevent child abandonment, created networks of professional social workers and made significant progress in the de-institutionalization of children by developing alternative child care systems. By 2005, most of the large and old-style childcare institutions had been closed, while only 0.65 percent of Romania’s five million children aged 0-18 years were institutionalized (European Commission, 2005b).

There are several factors behind Europeanization in a candidate country:

The presence of a pro-reform domestic coalition, the clarity and consistency of the EU’s own legislative targets, a state’s own prior involvement in the setting of European

standards, a strong consensus among EU member states backing the European position, and strong non-European support for EU initiatives (Jacoby, 2009, p.111).

The child welfare system in Romania has experienced wide-ranging transformation over the past three decades, with radical improvements in caring for abandoned children and orphans, as well as removing children from institutional care. Since Romania embarked on the path to EU accession, child protection reform quickly became a *sine qua non* political criterion for this accession because it was impossible to admit a country whose poor record on child protection was such that it often made headlines in the media. Indeed, the European Commission made it clear that childcare was a matter of human rights under the obligations of the non-negotiable Copenhagen criteria, and accession negotiations could not be opened if this problem was not resolved properly. In this process, the European Commission, international organizations like UNICEF and the Western media therefore acted as coordinated pressure groups for change in the child protection system of Romania.

Although the EU has no specific *acquis* in the area of child protection—traditionally delegated to member states to decide on their own—Romanian accession process proved that Brussels can creatively and consistently promote domestic change in an EU candidate country not only by ‘borrowing’ or ‘outsourcing’ UN legislation, but also by implementing its own ‘carrot and stick’ policy tools. In this sense, the conditionality on child rights that the EU applied to Romania before its accession date had also some impact on the EU’s general understanding about children’s rights with the development of institutional structures and policy mechanisms at the Commission level that aimed to promote child rights at EU policy levels (Ingi, 2012, p.1). Reform of Romania’s child protection system not only helped the country in aligning its child rights regime with international and European requirements, but it also provided the EU with a new experience of inventing new policy instruments and claiming new legislative targets to align candidate countries with European and international norms and best practices. With Romania’s EU accession process, the Commission—especially the Directorate General of Justice, Freedom and Security and the Directorate General of employment, Social Affairs and Equal Opportunities—and the European Parliament acquired institutional capacity and political expertise in involvement with children’s

rights matters as a matter of accession conditionality. In other words, the Commission also passed through a ‘learning by doing’ experience when initiating instructional reforms and policy changes in a candidate country and for the first time in a sector where it had no *acquis* of its own.

EU pressure on this country met with an internal adaptation in order to generate sustainable impact. At the first stage, the number one priority of the EU was to manage the Romanian child adoption system, which had become a lucrative business and a black market for some national and international networks. The power of the adoption lobby, as a veto agent, also made it difficult for the Romanian government to radically reform its child protection policies. Accordingly, the EU used its conditionality tool “in the form of creative thresholds that specified functional demands for the creation of new actors and agencies rather than giving specific institutional checklists” (Jacoby et al, 2009, p.114). In other words, the EU used the stick of conditionality at a certain point to accelerate the alignment process of a candidate country by linking its accession bid and the flow of pre-accession funds to the accomplishment of necessary reforms in the child protection area.

In a short time, therefore, the EU formalized its borrowed *acquis* (putting the UNCRC under the Justice and Home Affairs monitoring chapter), developed a rudimentary monitoring system (the *avis* and annual reports), and produced both new carrots (aid and the hope of membership) and new sticks (the credible threat of exclusion from membership) (Jacoby et al, 2009, pp.120-121).

In the 1990s, prior to any reforms, or will to reform, the situation of children in Romania provided the world with one of the worst-case scenarios for children anywhere, but the presidential elections in 1996 and the breakthrough governmental change to a pro-reform coalition helped Romania in Europeanizing its child protection regime as the state became engaged in following European standards. The clarity and consistency of the EU’s legislative targets as well as strong popular support for the EU harmonization process also encouraged this challenging process. The Romanian way of handling its acute children rights crisis is best defined by Jacoby *et. al.* as “*success in slow motion*” (Jacoby et al, 2009). In a nutshell, despite lacking any hard law power in

the child rights area, the experience and expertise that was acquired by the EU during the Romanian accession process—by borrowing from its *acquis* and developing a rudimentary monitoring system through regular reporting—provided feedback on the EU's next enlargement steps. In fact, following the European Commission's Enlargement Strategy and Main Challenges 2010-2011, children's rights are now scrutinized in all candidate states (European Commission, 2010a).

The presence initially of strong resistance to EU conditionality, the outside pressures from the other EU member countries, US opposition to the ban on international adoptions as well as the EU's lack of *acquis* in the field all acted as barriers at the first stage in the Europeanization of this policy area. The fierce criticism by Emma Nicholson however motivated the process to place on the children. The political change in Romania after the 1996 elections, the growing sensitivity around the plight of institutionalized children and the use of a carrot-stick policy by the EU in order to ban international adoptions also helped the process. The ban, partial in 2001 and complete in 2005, was achieved by threatening Romania with the suspension of the membership process. In other words, normative pressure inspired by the UN and the CoE met the membership conditionality whereby the EU, in the form of its Parliament and Commission, used EU membership as an active leverage and politicized the protection of child rights, especially regarding the plight of children in state-run care institutions and the issue of inter-country adoption. Ultimately, EU representatives, and especially Emma Nicholson, congratulated the Romanian authorities and considered them as a pioneer and a model for other former communist countries such as Bulgaria and Moldova in implementing the UNCRC and following EU guidelines in improving the lives of at-risk children, and for achieving reforms that could only have been put in place over many years without EU engagement (Iusmen, 2013). For the UK-based *Sunday Times*, the path that Romania trod was defined as a "*quiet revolution*" (Sunday Times, 2006).

The EU therefore mainstreamed its enlargement policies in relation to children following its Romanian enlargement. The UNCRC is now an integral part of the EU children's rights instruments. At the same time, the greater expertise and practical

knowledge of the Commission after the Romanian enlargement helped to increase the institutionalization of child protection regimes in other candidate countries (Ingi, 2012, p.218). Human rights-related issues, including children's rights, were formalized under Chapter 23 of the EU *acquis* on *Judiciary and Fundamental Rights*, and also under the political criteria. Chapter 23 is currently being monitored under the political criteria in the progress reports prepared for candidate countries; and progress in reforms in this area, or lack of such, has the potential to threaten the pace of a country's accession negotiations with the EU. Such institutionalization helps not only a structured and consistent transfer of EU legislation into domestic law, but also a better rearrangement of domestic institutions, ideas and belief systems in line with international and European rules.

CHAPTER IV

EUROPEANIZATION OF CHILD RIGHTS IN EU CANDIDATE STATES: THE TURKISH CASE

General overview of Turkey-EU relations

Historically, relations between the EU and Turkey date back to the 1950s when the latter first applied for associate membership of what was then the European Economic Community (EEC)—now the EU—in 1959. This makes Turkey one of the earliest applicants for membership of the Community. With the aim of developing trade and economic relations and progressively establishing a customs union, the Ankara Association Agreement created an association relationship between the two in 1963. An additional protocol came into force in 1973 and removed customs duties between the two. In 1987, Turkey applied to join the EEC. In 1995, the final phase of the Ankara Agreement was completed with the establishment of a Customs Union (March 6, 1995 Customs Union Decision No. 1/95) between what was then called the European Community (EC) and Turkey. This Customs Union not only covered abolition of customs duties and all other measures having equivalent effect, but also required the abolition of all distortive and unfair mechanisms in trade. Turkey was also required to approximate its legislation to the EU *acquis* in specific areas, i.e., intellectual property and common trade policy, free movement of goods and competition.

The December 1997 Luxembourg Summit of the European Council generated disappointment among Turkish public opinion and the political elite as it excluded the country from the list of candidates for full membership. However, the 1999 Helsinki Summit provided a critical turning point for Turkey-EU relations as it finally offered Turkey candidacy status. On March 8, 2001, the European Council accepted the EU-Turkey Accession Partnership that set out a list of short and medium-term priorities that Turkey was expected to address in order to meet the Copenhagen criteria. In reaction to this, the Turkish government adopted the National Program for the Adoption of the *Acquis* (NPAA) in March 2001 (Directorate of EU Affairs, 2001a) and then revised it in July 2003 (Directorate of EU Affairs, 2003). This program was by way of setting out

the Turkish government's reform packages and proposed constitutional amendments. During the Copenhagen Summit in September 2001, the European Council also agreed to increase its financial support for Turkey as part of the pre-accession instrument. The accession partnership document was revised in March 2003 based on the assessments of the 2001 and 2002 progress reports (Council of the European Union, 2003a).

In December 2004, the European Council agreed to start accession negotiations with Turkey, and these formally began in 2005. Therefore, another milestone for EU-Turkey relations was October 2005, with the beginning of membership negotiations and the screening process of 35 titles of the *acquis communautaire*. Turkish legislation was analytically examined in terms of compliance with the relevant EU rules. The accession partnership document was then revised and the European Council accepted the new document in December 2005. These rapid changes in EU-Turkey relations and the enthusiasm of both parties to get to know each other and align their norms and rules made this period a kind of 'Golden Age' in their bilateral relations and rendered the EU a powerful referential and a strong incentive for the Europeanization process in Turkey. In the country itself, there was willingness and a new perspective on fulfilling the political conditions for full membership. In the period 2001-2004, Turkey adopted several political reform packages to comply with the Copenhagen criteria. These continuous efforts to implement EU-induced reforms intended to bring the country in line with European norms, rules and values.

The launch of accession negotiations with Turkey in 2005 strengthened the EU conditionality further. But, it was also a controversial path that was described with ups and downs, with accelerations and slow downs in various fields, including child rights. From an incentive-based perspective, the credibility of the EU rewards decreased after 2005 due to the member states' suggestions of privileged partnership with Turkey rather than membership, leading to stagnation in the harmonization efforts. Moreover, child-related reforms in Turkey entered in a period of stagnation but were not completely halted at that period. After 2005, Turkish government aligned its legislation in line with the EU and adopted new institutional settings like Ombudsperson institution, but the frequency of the meetings of the Reform Monitoring Group decreased, while the

references to the EU in the legislative reforms almost disappeared during a period with weak EU conditionality.

In a contradictory sense, after 2005, due to several endogenous and exogenous factors the presence of the EU became progressively weaker in the country, relations lost momentum and ultimately reached a deadlock. The positive rapprochement between the two was replaced with mutual skepticism, distrust, Euro-fatigue/ reform fatigue and deep disappointment, leading to persistent disagreement between the two. Accordingly, in December 2006, the European Council decided that eight negotiating chapters could not be opened and no chapter could be provisionally closed until Turkey met its commitment to full implementation of the additional protocol to the Association Agreement to Cyprus. This deadlock was mainly because of objections from the Greek Cypriot administration regarding the divided island of Cyprus—objections supported by some key EU member states such as Germany and France. The EU-induced reforms continued in the post-2005 period, but in a piecemeal, patchy and selective fashion. In other words, limited Europeanization-led reforms were implemented when they were seen as useful for domestic consumption or when domestic costs were seen as less than the benefits of adaptation. *“The formal adoption of the *acquis communautaire* is selective and often decoupled from behavioral practices”* (Börzel and Soyaltin, 2012, p.13).

Table 6
Current situation in Turkey’s Accession Negotiations

| Open | Provisionally closed |
|--|-----------------------------|
| Free Movement of Capital | |
| Company Law | |
| Intellectual Property Law | |
| Information Society and Media | |
| Food Safety, Veterinary & Phytosanitary Policy | |
| Taxation | |
| Statistics | |
| Enterprise & Industrial Policy | |
| Trans-European Networks | |
| Environment | |
| Consumer & Health Protection | |
| Financial Control | |
| Science and Research | |
| Financial and budgetary provisions | |
| Economic and Monetary Policy | |
| Regional policy & coordination of structural instruments | |

In the 2010s, a de-Europeanization process began in Turkey and EU-Turkey relations hit new lows. In the meantime, the ongoing refugee crisis also had negative repercussions for Turkey-EU relations, turning the ties into a pragmatic framework. With the third election victory of the ruling Justice and Development Party (AKP), political leaders began giving less references to the EU in their daily speeches or these references were used with a negative connotation through an inflammatory rhetoric. As Lippert said, the European Commission recorded an uneven picture in Turkey in terms of fundamental rights between 2005 and 2012; and the Commission frequently asked additional reform efforts from Turkey in several areas, including children's rights. *“Since 2017, the Commission has abstained from commenting on whether or not Turkey ‘sufficiently’ fulfills the political criteria, which was the basis on which it gave the green light to the opening of negotiations”* (Lippert, 2021).

In 2013, the EU and Turkey signed a Readmission Agreement for the refugees reaching Europe through Turkish territories. The EU-Turkey readmission agreement entered into force the year after, in October 2014, while in May 2015, the European Commission and Turkey decided to modernize the Customs Union Agreement and to improve EU-Turkey trade ties. During the same year, both sides also committed to activate a Joint Action Plan in a bid to end the irregular migration from Turkey to the EU, in compliance with EU and global standards. And in return to that, the EU also committed to initiate visa liberalization dialogue with Turkey.

On the other hand, Turkey is experiencing a serious influx of Syrian and Afghan refugees, among others, because of its geographic location neighboring countries in civil conflict. The country is currently hosting more than 4 million refugees, making it the country hosting the highest number of refugees worldwide. In January 2016, the EU-Turkey engaged in a high-level political dialogue, and in March both sides agreed on a joint Statement on the basis of the Joint Action Plan of November 2015. Following a joint statement of 18 March 2016 (European Council, Press release, 18 March 2016) between Turkey and the EU, both sides pledged to stop irregular migration from Turkish territories to the EU in return for an efficient EU assistance to refugees in Turkey including an additional funding of €6 billion to support

refugees in country with projects running until 2025 latest in the fields of education, health, socio-economic support, municipal infrastructure and procurement of basic needs. In April, Brussels and Turkey engaged in a high-level economic dialogue, while they also published their first report on the implementation of the EU-Turkey Statement of 18 March 2016. In May 2016, the third Report on progress by Ankara in meeting the requirements of its visa liberalization roadmap was published. And in December, Brussels adopted a recommendation for opening negotiations with Turkey about the modernization of the Customs Union. Although in June 2018 the General Affairs Council declared that accession negotiations with Turkey were effectively frozen, some steps have been taken since then, with the launch of a positive agenda in 2016. Ankara is now trying to fulfill the requirements of its visa liberalization roadmap with some critical benchmarks to be met for visa-free travel of its citizens.

Thus, post-2013, the focus of EU-Turkey relations shifted from a strong emphasis on democratization to cooperation on regional issues, especially with respect to the hosting and the integration of Syrian refugees in Turkey. A large part of EU funds began concentrating on this particular issue. The project on Promoting Integration of Syrian Kids into Turkish Education System (PIKTES) began in 2016 to ensure the needed support for integrating refugee children into the Turkish education system by providing teacher salaries, transportation costs, education equipment and supplies, Turkish language training, teacher training, counseling programs, early childhood education, and so on. Similarly, the Conditional Cash Transfer for Education (CCTE) project also started in 2016 under the Facility for Refugees in Turkey in a bid to encourage a permanent enrolment of some 695,000 refugee children through cash transfers. Therefore, the Facility for Refugees, which was a key component of the 2016 EU-Turkey Statement, formed a significant part of EU support to refugees in Turkey.

General overview of child rights in Turkey

A priority area in the EU accession process is child rights, and the issue is linked to two negotiation chapters, namely Chapters 19 (Social Policy and Employment) and 23 (Judiciary and Fundamental Rights). Many important legal developments took place in Turkey with respect to child rights in the period 1995-2016,

especially through harmonization packages and EU-funded projects. As this thesis focuses on the situation of child rights in Turkey during its EU candidacy process, the timeframe covers 1995-2016. In other words, Turkey's ratification of the UNCRC will be taken as the starting point and the thesis will end with developments in 2016, when the focus of EU-Turkey relations moved towards funding for Syrian refugees when a great number of Syrian children had to be given access to education, health and appropriate protection. After the 2016 failed military coup, several NGOs working in child rights were shut down by presidential decree, but the domestic impact of the EU on Turkey still continues in a patchy and uncoordinated way.

Based on a discussion of rational-choice and sociological institutionalism, this chapter sheds light on the Europeanization of child rights in Turkey. In this context, the chapter aims to explain key successes and limitations as far as child rights is concerned. It also emphasizes the significant divergences that emerged in the field of child rights due to the slowdown of Turkey's EU accession talks. Since child rights were one of the fields where a sharp misfit existed between EU standards and Turkish practices, this area emerged as one of the policy areas requiring the use of new instruments in order to unleash the transformative power of Europeanization in Turkey. In light of the Turkish case, benchmarking, providing best practices and monitoring through regular progress reports became conditionality tools that were effective in influencing domestic policies and elaborating on the domestic agenda by soft means.

This chapter therefore evolves around two main axes. On the one hand, it examines the credibility of EU conditionality on candidate country Turkey in terms of convincing rational actors toward harmonization in child rights. On the other hand, it clarifies the socialization and the internationalization dimensions of the harmonization process with EU funded projects. While Europeanization is one tool for understanding changes to Turkey's child rights' framework, for a holistic view, domestic and international dynamics -especially those of the UN, the CoE, the ILO and the UNICEF- should also be taken into account to have a holistic view. The chapter argues that Turkey's passing through a process of vague commitments is directly related to the stalemate in accession negotiations, while the gradually increasing indifference among

the country's political leadership regarding the accession process pushed them to select aspects of Europeanization that best suited their political agenda, making progress in other key areas of child rights increasingly harder. Yet, Turkey's backsliding in harmonizing with EU requirements historically corresponds with a diminishing EU commitment to the improvement of child rights in the country, which resulted in a 'weak' Europeanization outcome. In other words, in emerging talks about 'de-Europeanization' (Yilmaz 2015a; Aydin-Duzgit and Kaliber 2016) there were immediate repercussions for Turkey's track record with respect to child rights, although EU-Turkey relations have rarely been studied from this perspective.

The main problems that children in Turkey face are; inadequate levels of school enrolment, infant mortality, child poverty, access to justice and child labor. Expenditure on social protection for children is inadequate according to the Turkish Statistical Institute (TUIK) data. Of its GDP, Turkey's spending on social protection for children and families was 0.32% (2008), 0.37% (2009), 0.35% (2010), 0.38% (2011) and 0.41% (2012) (TUIK, 2013), figures well below the OECD average. Although there is no absolute poverty among children in Turkey, relative poverty is still prevalent for many who live in households that have a monthly income below the poverty and famine threshold, which directly influences the child's well-being. Early marriages still pose a significant problem in Turkey, with instances generally occurring in the rural parts of the country. In March 2021, UN Women-Turkey released a report entitled 'Perception of Men and Boys on Child, Early and Forced Marriages in Turkey' based on interviews with 2,733 men and the views of 49 women and 29 experts (UN Women, 2021). The report underlined that early and forced marriages of children are still a worrying trend across Turkey, especially in rural areas, despite widespread schooling campaigns and direct financial assistance to households. According to the report, the percentage of girls unable to go to school due to marriage was 19%, while it was 10.5% for boys. Of the male respondents, 10% considered girls who had started to menstruate are 'ready for getting married', the report revealed. Another report conducted by Prof. Oguz Polat from Acibadem University and attorney Zeynep Reva was published in April 2021 (Milliyet, 2021) and showed that in 2020, a total of 13,014 girls were married before the age of 18 years, mostly from the southeastern and eastern provinces, putting Turkey at

the top of the European scale for early marriages. Child abuse is another area where NGOs actively work in Turkey, with several shelters being granted financial and legal support in providing children with psychological counseling and health services. There is also a hotline for children who are at risk of abuse and domestic violence. As for child labor, although it is prohibited by national law, Turkey has been carrying out several projects for decades with the assistance of the ILO. Under a protocol that was signed between ILO and TUIK, Turkey conducted three child labor surveys in 1994 (under ILO/IPEC), 1999 (under SIMPOC) and 2006 (under ILO/IPEC). With child rights becoming part of the school curriculum and public officials receiving training on child rights, it is crystal-clear that promoting this policy area has become a priority although all children are not lucky enough to benefit equally from all the rights to which they are entitled.

On the basis of my in-depth interview with the Labor General Directorate – at the Department of Employment Policies under the Ministry of Labor and Social Security- in February 2015, thanks to the ILO / International Programme on the Elimination of Child Labour (IPEC) protocol in 1992, an emphasis was placed on establishing a Working Children Unit (*Çalışan Çocuklar Bölümü*) under the general directorate in a bid to ensure coordination and cooperation among public authorities, employer-employee organizations and NGOs working on child labor. This unit took part in more than 100 projects until 2009 in the field of eradication of child labor. In 2009, a broader department, the Disadvantageous Groups Department, was established and also covers child workers. According to the answers being received from the Labor General Directorate, the authorities take as their reference in EU legislation European Council Directive 94/33/EC of June 22, 1994 on the protection of young people at work. On April 23, 2015, with a regulation adopted by the Ministry of Labor and Social Security, Turkey's domestic legislation was brought partly in line with the relevant EU directive, with the exception of the situation of children working in artistic and cultural activities. This regulation was expected to be fully aligned in 2009-2010 according to the revised National Program, but no legislation has been enacted so far. The Department of Employment Policies works in close partnership with the ILO and UNICEF. In the answers being submitted during the interview, the authorities said,

“when we are preparing our yearly programs, we consider our respective planning and activities. We prepare a report each two years and submit it to the ILO regarding the two ILO Conventions on child labor, namely Convention No.138 on Minimum Age and Convention No. 182 on the Worst Forms of Child Labor. We also cooperate with the EU authorities as part of EU-financed projects and planned activities” (Interview, Labor General Directorate – Employment Policies Department).

Under the European Social Charter (ESC), whose first version and revised versions were ratified by Ankara in 1989 and 2007 respectively, Turkey prepares reports each four years for submission to the European Social Rights Committee of independent experts. According to TUIK’s latest statistics, labor force participation rates in the 15-17 years age range was 16.2% in 2020 (23.4% for boys and 8.6% for girls). The latest official figures from TUIK (TUIK, 2019) also revealed that over 720,000 children in Turkey are forced to work to contribute to their household economy. Of the children in the workforce, 34% are in the agriculture sector, while others are in the industry and service sectors. The Health and Safety Labor Watch (ISIG) announced that in 2020, 22 child workers under the age of 14, and 46 in the 15-17 year age group died in work accidents.

More than 15 years after the beginning of Turkey’s formal negotiations with the EU, it is the right time to ask: What has been the impact on child rights of Turkey’s EU membership bid? Are there structural barriers to the Europeanization of Turkey in this field, and if so, how can we identify and overcome them? The chapter will also provide some statistical data on the improvement in child well-being indicators, which will help us to compare the situation of Turkey and Romania during their pre-accession periods because although they converge on the deteriorating conditions of children during the candidacy process, their progress and inertia generated different outcomes because of the inefficiency of EU leverage in the Turkish case and the unwillingness of Turkish domestic actors to transform their child protection regime.

4.1. The Historical Perspective: From Accommodation to selective Europeanization

Over the past decades, child rights advocates, social workers, Turkey-based branches of international organizations as well as the EU have secured considerable gains in the realm of children rights in Turkey especially in terms of improving indicators of child well-being (UNICEF, 2014). These gains comprised several commitments from the state authorities regarding child rights along with their signing of international agreements and implementation of some European-wide and international projects aimed at improving the living standards of children in Turkey. Institutions which have played a key role in the Europeanization of child rights in Turkey included UNICEF, the EU, the ILO and the CoE. Especially with the EU-funded ‘Children First’ project, UNICEF began acting as an EU strategic partner with a common agenda, and enjoyed close ties with the Turkish Parliament and key decision-makers. It has served as somewhat of a technical branch of this EU-funded project. In this pre-accession period, UNICEF supported capacity-building in the Parliamentary Child Rights Monitoring Committee, and also contributed to local EU expertise in Turkey during preparation of the annual progress reports. With its broad local network established over the years, it acted as a kind of bridge between Brussels and Ankara. This chapter will analyze the historical developments of Turkey’s child rights record between the years 1999 and 2016, with a brief summary for the pre-reform period before 1995.

4.1.1. Before 1995: A Snapshot of the Pre-reform Period

Being the first and only country to dedicate a national holiday to its children, Turkey formally recognized children’s rights in 1928 with its signing of the Geneva Declaration on the Rights of the Child, just four years after this document –the first widely-adopted international rights statement on children- was prepared. This symbolic step revealed the importance that was accorded by the Turkish state to the rights of the child in the newly-founded republic. Turkey adopted its first legislation on child employment in 1930 with the Public Health Law (*Umumi Hıfzısıhha Kanunu*) that set the working conditions of children in Turkey for the first time. Since 1992, Turkey has

been in close contact with International Labor Organization (ILO) in the field of child labor.

The first and most significant international achievement in the field of child rights was the UN Universal Convention on the Rights of the Child drafted in 1989. This opened a new page in global awareness of child rights as part of the broader area of human rights. The Convention was signed by Turkey in 1990 just after the World Summit on Children, and with intensive lobbying by national child rights' advocates, was ratified by the Turkish parliament in 1995. Turkey was the forty-third country to do so, and appointed the Agency for Social Services and Children Protection (SHCEK) as the coordinating organization. Ratification of an international convention at the domestic level indicates the willingness of the state to be bound by this legal instrument, and in the case of the UNCRC this move meant that Turkish state and civil society actors committed themselves to taking greater steps towards addressing key problems in child rights in Turkey in line with the international requirements and submitting regular reports to the UN Committee.

However, the Turkish parliament had reservations about three out of the convention's fifty-four articles: Articles 17, 29 and 30 about the rights of the children from different ethnic, religious or linguistic minorities, were subject to a unilateral statement by Turkey to exclude or to modify their legal effect in domestic application. According to Article 17 of the UNCRC, state parties are required to ensure the access of all children to information and material from different national and international sources in order to help their "*social, spiritual and moral well-being and physical and mental health*" (UNICEF, 1989). This article therefore obliged the mass media of the state parties to provide children with content in their mother tongue. Article 29 covers the right to education in a way that develops their personality and helps them live peacefully by protecting the environment and respecting other people. Finally Article 30 charges governments with the task of providing children with the right to practice their own language, culture and religion, while giving minority and indigenous groups special protection (Convention on the Rights of the Child, UNICEF). These three articles drew reservations from the Turkish state over its concerns that they might

encourage demands for in-school education for children of Kurdish descent. Such hesitations in adhering to international norms stirred debate on the extent to which child rights in Turkey are politically and contextually dependent and how the notion of childhood could be framed beyond perceived threats to national sovereignty. Turkish government's standpoint on key articles of the UNCRC "*highlights tensions over the boundaries of state sovereignty, the limits of children's rights and even who is defined as a child by the Turkish state*" (Kathryn, 2001, p.42).

In the meantime, in 1992, the Turkish government began working with the ILO to reform its child labor practices—a year after the ILO had recognized the importance of monitoring child labor internationally and instigated the 'International Program on the Elimination of Child Labor' (IPEC) with the aim of completely eliminating child labor and alleviating the working conditions while protecting working children. Turkey was one of six countries in which the program was initiated in 1992. The 1994 Child Labor Survey was the first-ever comprehensive nationwide survey on child labor in Turkey, followed by a second such survey in October 1999. According to the official statistics of the latter (State Institute of Statistics, 1999), 1,635,000 children between the ages of six and seventeen years were child workers, most employed in agriculture as well as in the manufacturing and services sectors.

Ratification of the UNCRC and the European Convention on the Exercise of Children's Rights in the 1990s, increased Turkey-ILO cooperation to fight against child labor and Turkey's admission to EU candidacy in the 1990s paved the way for preliminary conditions to improve the living circumstances of Turkish children. Under such an international pressure for change, child rights drew increased attention, with some immediate problems such as beggar children on the streets, early marriages, infant mortality, child labor, school enrolment and juvenile justice gaining visibility in public awareness as well as at the political level. Civil society's initiatives, with the backing of international organizations and sometimes of the government, also touched on the immediate problems that children in Turkey had been facing for decades and they tried to help in strengthening a child-sensitive social protection understanding in the country.

4.1.2. 1995-1998: Cosmetic Reforms in a Period of Inertia

Turkey ratified the UNCRC in 1995, which required the enactment of several legal and administrative improvements, all to be monitored regularly through regular country reports. *“The principle of “high benefit of the child” has been taken into consideration through the said legislative changes, pursuant to the Convention on the Rights of the Child”* (Screening Report, Chapter 23, p.4). However, the deep-rooted political and socio-cultural understandings on minorities and the use of mother tongues had a direct impact on Turkey’s implementation of international standards. On the basis of the 1923 Treaty of Lausanne and the Turkish Constitution, the country claimed exemption from recognizing children’s rights deriving from belonging to a particular ethnic, cultural or religious identity. This treaty had given Turkish authorities the ability to exclude Muslim ethnic groups, notably children of Kurdish descent, from acquiring any specific minority status in Turkey and availing of such services as access to a Kurdish-language TV or Kurdish-only education in state-run schools, while non-Muslim minorities like Jews, Greeks and Armenians had obtained the right to establish schools, speak their own language and exercise their religion in their own schools. The question here was whether increasing the exercise of child rights would intensify perceived threats regarding sovereignty issues and whether adopting these international norms would harm social understandings of what constituted the Turkish nation-state.

All these discussions coincided with Turkey’s EU accession process. The European Commission released its first progress report in 1998 on the progress of Turkey in harmonizing with the EU *acquis*. In the report, the Commission drew attention to the wide use of child labor in the informal economy (European Commission, 1998, p.18). Apart from a weak reference to the economic rights of children in terms of child labor, the European Commission underlined Turkey’s non-ratification of key European documents on juvenile justice, especially the European Convention on Recognition and Enforcement of Decisions concerning Custody of Children and on Restoration of Custody of Children as well as the Convention of October 25, 1980 on Civil Aspects of International Child Abduction (Directorate of EU

Affairs, 1998, pp.44-45). The 1998 progress report did not contain any further reference to child rights in Turkey.

Therefore, it is difficult to argue that there were any meaningful/sustained outcomes to Europeanization in Turkey before 1999, the date of its official recognition as a candidate country to the EU. As noted by Libal, “*in the 1990s and early 2000s, a Turkish children’s rights agenda has become more visible at the national and international level*” (Libal, 2001, p.42). Libal also noted that gradually Turkey’s child rights problems became regionalized in specific national regions -the southeast and migrant neighborhoods on the outskirts of urban centers- where “the most severe forms of poverty” were discernible. “*Children’s rights issues have been confronted in dialogue and through concrete social policies, though a question remains as to how comprehensive the reach of new policies and programs will be*” (Ibid.).

4.1.3. 1999-2005: The ‘Golden Age’ of Europeanization with Accommodation of the EU Child Rights Regime

The declaration of Turkey’s candidacy in 1999 during the Helsinki Summit was a critical moment to trigger sea change in Turkey’s Europeanization efforts at all fronts, including child rights. On the other hand, the date 1999 reminded Ankara its obligations to prepare its first-ever periodic report to the United Nations over the implementation of the UNCRC. As a state party to the UNCRC, the Turkish government was obliged to submit a periodic report to the UN Committee on the Rights of the Child on its implementation of these rights. The first such report dates back to 1999 (UN Treaty Body Database, Turkey reports) and made reference to the European Social Charter, ILO and ECHR, but no significant reference to the EU’s impact on Turkey in terms of child rights. Among these references to the ESC, there was mention of its Article 7 (2) that required increasing the minimum employment age in hazardous and unhealthy jobs to 15+ years. Although Turkey had not ratified the ESC at that date, the minimum age limit for heavy and dangerous work was set at 16+ years with an amendment in Article 78 (1) of Turkey’s Labor Law which brought it into line with the ESC (UN Treaty Body Database, Turkey reports, 1999, State Party report, p.24). In the

meantime, Turkey also stated in the report that it had approved seven ILO Conventions (UN Treaty Body Database, Turkey reports, 1999, State Party report, p.88).

In the period 1999-2002, not all the member parties of Turkey's coalition government, especially the Nationalist Movement Party (MHP), had pro-EU tendencies, but this was not an obstacle in their lending support to the accession negotiations. The MHP was against EU membership, but did not use its veto power to block the reform process. With recognition of Turkey as a candidate country in December 1999 in Helsinki, the European Council brought a strict EU conditionality regime to bear on the country's domestic political sphere. Steps taken until then had been largely ad hoc and not in any framework of a structured program. In the Helsinki European Council in 1999, Brussels made explicit references to the fulfillment of democracy and human rights criteria for accession, and designated them pre-requisites for starting negotiations. Therefore, the date 1999 represented a significant turning point in correlating Turkey's political reforms and its path towards the bid for integration into Europe. This declaration of candidacy, as the main impetus behind the beginning of Europeanization in Turkey, sparked a series of radical reforms at the domestic sphere that showed the potential of gradually putting Turkey's democratization efforts back on track in light of the misfits between Turkish and European standards.

During this same period, the combination of a tangible prospect of EU membership, the declaration of candidate status by the EU, adoption of the accession partnership in December 2000, and the pre-accession strategy in March 2001 all facilitated the creation of a pro-EU environment in Turkey with domestic actors gaining empowerment by having European support and commitment. Meanwhile, there was also increasing economic interdependency between Ankara and Brussels since the implementation of a Customs Union in 1996. The then European Commissioner for enlargement, Günther Verheugen, also praised Turkey's positive steps towards EU alignment, steps such as postponing—until the ECtHR released its ruling—the execution of outlawed PKK (Kurdistan Workers' Party) leader Abdullah Ocalan, who had been apprehended in February 1999 in Kenya. Therefore, the EU's political conditionality had some 'resonance' in the early periods, and some reforms were carried

out in 2001; the use of Kurdish language in radio and TV broadcasts was allowed, the number of civilians on the National Security Council increased, further limitations were brought on use of the death penalty—although it was not completely abolished then in line with Protocol 6 of the ECHR. However, the coalition government partners harbored some reluctance regarding Turkey’s signing of the Council of Europe Framework Convention for the Protection of National Minorities, as this would require the use of Kurdish language for education in schools and universities, and for the partners the costs of such a ‘radical’ step outweighed the rewards.

Therefore, the years 1999 to 2005 are mainly considered as the golden years of Europeanization when Turkey enacted several important political reforms, including on child rights. Regular reports by the European Commission provided a strong and consistent instrument of feedback, while integration of child rights into the monitoring criteria played a role in further legitimizing the issue and triggering policy responses. In September 1999, in response to European Commission criticisms in its 1998 progress report, the Turkish government signed the European Convention on the Exercise of Children’s Rights thereby pledging to respect child rights during family proceedings before courts. This action was commended in the 1999 progress report (European Commission, 1998, p.10). Turkey was then officially recognized as a candidate for full membership at the Helsinki EU Summit on December 12, 1999, while negotiations for full membership began on October 3, 2005. This candidate status decision immediately increased EU leverage on Turkey and facilitated reform initiatives for improving human rights, including the status of children, with the main aim of meeting the Copenhagen political criteria, which had made respect for child rights a precise condition for EU membership.

In the meantime, Turkey’s EU candidacy nomination served as a tool for turning Turkey’s opportunity structures into domestic political change, by increasing the credibility of the EU’s demands and pushing Turkish decision-makers to adopt domestic laws accommodate existing ones with EU practices as part of the negotiation process. This was a turning point not only for institutionalization of Turkey-EU relations but also for the country’s democratization process at all levels because it

created a positive atmosphere and pushed the coalition government, as a rational actor, to initiate significant constitutional amendments in 2001, followed in 2002 by three separate and wide-ranging harmonization packages with the endorsement of the coalition parties—the Democratic Left Party (DSP), the Motherland Party (ANAP) and the Nationalist Movement Party (MHP). Seven harmonization packages between 2001-2003 amending several laws including the Penal Code and Anti-Terror Law paved the way for more space for freedom of expression, education, as well as human, political and cultural rights affecting several areas pertaining to child rights.

Although measuring the outcome of Europeanization for qualitative studies is problematic, insights from the literature review and in-depth interviews showed me that there was a medium degree of change in this timeframe in terms of child rights, leading us to conclude that the outcome was *accommodation* with EU policy requirements. This accommodation process in Turkey, which occurred in the midst of a financial crisis and divisions between the coalition parties, aimed at addressing the country's shortcomings in fulfilling the Copenhagen criteria without changing the institutional core too much. However, rather than a response to reform pressures, the coalition government's priority was creating emergency responses to the financial crisis and overcoming inter-party political difficulties in the coalition. However, the period 1999-2001 witnessed a serious bargaining process for implementation of the Copenhagen criteria, the results of which were seen in the subsequent period. In field research with the relevant person in what was then the EU Ministry in Turkey, he informed that "in the preparation process of action plans and strategy documents, the criticisms and the facts in the Progress Reports and other reference international documents were always taken into consideration from 1998 onwards" (Interview, Directorate for EU Affairs).

In the meantime, in line with Article 42 of the UNCRC, Turkey's Agency for Social Services and Child Protection launched its 'Promoting the Rights of the Child' campaign in November 1999, and initiated a National Child Congress, held in April 2000 with the participation of eighty child delegates from eighty provinces in order to hear their problems and develop solutions to be presented to the Office of the President. Between 2000 and 2005, Turkish authorities organized six Children's Forums with the

participation of child delegates from all over the country to provide them with training on child rights and, through the creation of provincial committees for child rights, enable them to educate other children in their home provinces. In April 2001, the 'Say Yes for Children' campaign was jointly launched by the relevant sectors and NGOs, and ended in May 2002.

In 2001, the European Commission introduced a financial framework to regulate pre-accession assistance to Turkey, while the aid amount was increased at the December 2002 Copenhagen European Council meeting. This financial process further supported Turkey's willingness to pursue EU-induced reforms in light of the value of the benefits of the accession with increasing money flows to the EU-driven projects. As noted by Aydin and Acikmese, "*since October 2001, Turkey has embarked upon a process of wide-ranging political reforms through harmonization packages to redress its shortcomings vis-à-vis the Copenhagen criteria*" (Aydin and Acikmese, 2007, p.263). The Accession Partnership with Turkey, which set out a list of short and medium-term priorities that Ankara should address in order to meet the Copenhagen criteria, was prepared in November 2000 and the European Council adopted the document on March 8, 2001. The accession partnership document was revised three times (2003, 2006 and 2008) in line with Turkey's progress in preparations for EU accession. In order to meet the objectives that were laid down, Turkey adopted a National Program for transposing the Community *acquis* (NPAA) in March 2001 and in this program, it identified procedures and an action plan in the priority areas, distinguishing between short-term (to be achieved within one to two years) and medium-term (to be achieved within three to four years) priorities. This National Program justified the enactment of the reform packages and constitutional amendments in the country. At this point, the EU conditionality, the 'externally demanded conditions', has been accepted domestically with several legal, administrative and constitutional reforms. Therefore, the more institutional ties were built, the more actors used the logic of appropriateness for the EU-induced reforms in various fields, including child rights.

In terms of the 2001 accession partnership document, “*further strengthening efforts to tackle the problem of child labor*” (Council of the European Union, 2001, p.18) ranked among the short-term priorities in the field of employment and social affairs. In the revised document in 2003, “*the continuation of efforts to address the problem of child labor*” again ranked among short-term priorities, this time under the ‘social policy and employment’ title (Council of the European Union, 2003a, p.47). As mentioned earlier, in response to the Accession Partnership Document, Turkey adopted a National Program in 2001 (Directorate of EU Affairs, 2001a). The elimination of child labor was an integral part of this first national program, which prioritized amendments in Labor Law 1475 in order to ban the employment of children under fifteen years. Conducting preliminary studies on defining light work in which children aged 15-18 years could be employed was also put among the priorities. The continuation of the ILO/IPEC project (International Program on the Elimination of Child Labor) introduced in 2000 was also a priority (Directorate of EU Affairs, 2001a). The 2003 National Program also focused on child labor.

Therefore, in the two years after Brussels recognized Turkish EU candidacy, Turkey initiated a wide-ranging process of political reforms, with several harmonization packages and constitutional changes adopted in the national parliament out of concern that the non-compliance with the key Copenhagen criteria could delay membership and lead to a suspension of accession talks. With the prospect of EU accession, the aim was to overcome the political and economic weaknesses in its domestic legislation by taking the Copenhagen criteria as a referential. Doing so sometimes even touched upon traditionally sensitive issues, such as the rights of children to speak their mother tongue, since the country had refrained from providing a particular minority or ethnic group with specific rights. During the period 2002-2005 then, a comprehensive Europeanization process has been manifested itself in various areas that touched people’s lives, from democratization to the economy and technical standards (Onis 2010; Onis & Yilmaz 2009a).

This accommodation process inevitably comprised the situation of children, especially with regard to child labor, child poverty, education in the mother tongue and

early marriages—critical areas that were lagging behind international and European norms. For instance, learning of minority languages was facilitated and authorities gave the green light to the opening of private courses for teaching minority languages (European Commission, 2004c, p.38). The EU harmonization process increased social awareness of child rights and empowered several NGOs working on improving the well-being of children in Turkey. Promoting children’s rights, therefore, become a priority for Turkey’s legislators and the society at large, although for a limited time period only due, to a certain extent, to bureaucratic obstacles and ideational frameworks, as legal reforms often did not directly translate into genuine administrative practices. “*Concerning children’s rights and child labor, although laws and regulations are in conformity with the Convention on the Rights of the Child (CRC), their enforcement leaves much to be desired*” (Delegation of the European Union to Turkey, 2000, p.19). For instance, no significant move was made to incorporate minority languages into the curriculum of public schools, and this demand was not included in the democratization packages. In this context, granting cultural rights mentioned above to ethnic minorities appeared to be a sensitive area in which veto agents—especially from within the MHP coalition partner—increased their objections and campaigned against the EU on the basis that implementation of such an EU-induced reform could trigger an ‘awakening of the national consciousness’, especially among Kurdish children. However, removal of all legal barriers to the use of their mother tongue by all Turkish citizens in broadcasting was included as a short-term priority (to be addressed within a year) by the European Commission in Turkey’s first Accession Partnership document of November 2000 as a short term priority that should be addressed in a year (European Commission, 2000b, p.7). In the meantime, Turkey was also cooperating closely with international organizations, especially UNICEF, the UNHCR, the ILO, the European Commission and the CoE, to invest together in several child-focused projects ranging from child labor to refugee children and school dropouts, showing intent on Ankara’s part to improve the living conditions of the country’s children.

However, in the first progress reports of the European Commission to track the situation of child rights in Turkey, vague wording was used regarding EU demands on regulating child labor, school enrolment and juvenile justice. By 2001, the European

Commission began adopting a more detailed discourse on the situation of child rights in Turkey and used the progress reports as effective tools to track the country's ongoing efforts and reveal the way ahead (Directorate for EU Affairs, 2001b). In this respect, the ratification by the Turkish Government of ILO Convention N°182 on the Elimination of Worst Forms of Child Labor on January 26, 2001, and of the European Convention on the Exercise of Children's Rights on January 18, 2001 showed that there was ongoing political commitment from the Turkish side to Europeanization of its child rights record in line with EU requirements.

In the meantime, the opening of a Child Bureau under the auspices of the Directorate General for Public Security with a law adopted on April 13, 2001 was also praised as another step to improving juvenile justice. This new body was tasked with implementation of the recently-ratified European Convention on the Exercise of Children's Rights. However, the progress report also underlined inconsistencies between Turkish legislation and Articles 7 (the right of children and young persons to protection, with special clauses about employment of children and risks they encounter in the workplace) and 17 (the right of children and young persons to social, legal and economic protection) of the ESC previously ratified by Ankara in 1989. Child labor was addressed as a matter of priority in these progress reports. All civil society actors who were interviewed for this thesis noted that they were consulted in the preparation of progress reports. Consultation processes between the European Commission representatives and Turkish authorities (i.e., public and civil society actors) therefore created opportunities for elite socialization and social learning.

In July 2002, TESEV, an Istanbul based think-tank, produced the results of a major national survey it conducted in May and June 2002, a time when there were intense debates on the EU conditionality on the protection of minority rights in Turkey. The survey was based on interviews with 3,060 citizens to measure their attitudes toward the EU and the EU conditionality for the first time since EU approval of candidacy status for Turkey (TESEV, 2002). Accordingly, 73% of respondents were in favor of improvements in basic rights and freedoms, but when asked whether this

domestic change would happen under EU conditionality for membership, only 41% approved of abolishing restrictions on broadcasting in native languages.

Looking at the domestic front, after the elections of November 3, 2002 when the AKP won a landslide victory, the new government opted for the continuation of this reform trend and adopted a total of five additional harmonization packages in 2003 and 2004. The election manifesto of the AKP strongly emphasized implementing the Copenhagen criteria:

Our party considers full accession to the European Union as a natural result of our modernization process. The implementation of the European economic and political criteria is a great step forward towards our modernization as a state and a society. These criteria must be certainly implemented irrespective of EU membership. We can only (...) continue our existence in the international arena by being contemporary and self-conscious (AKP Election Manifesto, 2002, p.4).

On April 23, 2003, then Prime Minister Recep Tayyip Erdogan stated that his Party was grounded on the principles of improving standards related to democracy, human rights and justice in Turkey, with an apparent willingness for full membership of the EU and application of the Copenhagen criteria:

Most importantly, we underline that EU membership must be achieved. We, as the government, are eager to follow this path and accomplish these goals. Turkey will make efforts for being a member of the EU. For this, Turkey will complete the Copenhagen Criteria both in legal regulations and applications (AKP Library, 2003, p.125).

The new government found in the EU a legitimization device to consolidate its authority not only in domestic sphere but also on international platforms. According to Tocci, “*the AKP government’s commitment to political reforms and EU accession has both important interest and ideology-related explanations*” (Tocci, 2005, p.80). Tocci thinks that the AKP’s commitment to reforms and EU accession bid aimed at raising its legitimacy with not only the international community but also with the secular establishment of the country who approached the party with skepticism. “*Furthermore, democratic reform and EU accession is considered to be the best guarantee for the AKP’s political survival*” (Tocci, 2005, p.80). Therefore, through the prism of the

external incentives model, the reward of EU membership exerted strong pressure for change in Turkey by changing the domestic cost-benefit calculations of relevant actors. In this sense, the credibility of the prospect of EU membership, the clarity of the prescribed EU model that is prescribed and the channeling of EU funds facilitated the adoption of EU norms, legislation and policies. The constitutional amendments and reform packages that were adopted, especially between 2001 and 2004, should be seen through this prism, as they were hailed by the EU and facilitated the opening of accession negotiations. As part of the reforms to harmonize with the EU, a law assuring the right to private learning of ‘regional languages’ was passed in August 2003, and was immediately followed by the launch of seven private Kurdish language courses in Istanbul, as well as in southeast provinces. However, due to political and legal obstacles, these courses were unable to survive and were closed down in August 2005 (Akin, 2003).

Europeanization also influenced Turkish civil society actors through a social learning process whereby they internalized EU norms and tried to disseminate them to the wider society with EU-funded conferences, network meetings, booklets, and so on. In 2005, the EU Commission adopted a Communication establishing objectives and priorities for development of a civil society dialogue between the EU and the candidate countries for improving mutual understanding and initiating a widespread debate about the social and political agenda through bilateral exchanges and increased engagement of civil society in adoption of EU norms, rules and ways of doing things. During this period, several civil society actors such as Gudem Cocuk, OZGE-DER (Association for Solidarity with Youth Deprived of Liberty), bar associations and the Human Rights Association (IHD) served to boost the credibility of Turkey’s EU accession process by pushing for democratic change with the EU-funded projects they implemented during this reform process. The EU therefore acted as an external ally and referential to bring change and empower civil society actors in Turkey For instance, in an EU-funded project on the Turkish juvenile justice system, OZGE-DER worked in juvenile prisons across fifteen cities to monitor the social and legal conditions of imprisoned children, inform them of their rights, and invited prominent experts like Dogan Cuceloglu to Istanbul’s Bayrampasa prison for the purpose of knowledge transfer. Some meetings

were open to the media, and child convicts explained problems they faced in the local police departments. In total, 1,440 children were interviewed across different prisons in Ankara, Bursa, Konya, Kayseri, Mus, Elazig, Diyarbakir, Antalya, Istanbul, Izmir, Manisa, Aydin, Adana, Mersin and Gaziantep (Interview, OZGE-DER, October 2014). However, OZGE-DER was invited to the meetings pertaining to child rights in Turkey only when the European Commission extended it an invitation. Hence, there was still a problem of continuity in its relations with public authorities. During the in-depth interviews, NGOs, which were very much involved in rule adoption under the EU accession process, indicated their desire to be invited into the legislative design and reporting processes, but stated that they were not allowed even to be present in meetings that were not organized by the EU or UN organizations.

On the other hand, several civil society organizations that were financially weak had problems with the contracting authority and couldn't fully translate the benefits of these EU funds into concrete outcomes. They used EU projects mostly to remain in existence financially and could not concentrate much on conducting networking meetings in Brussels to expand their outreach. The lack of multi-lingual EU experts also negatively influenced their power in forming 'epistemic communities' for making the EU part of the domestic agenda of civil society. This lack was emphasized during the interview with *Gundem Cocuk* representatives, at which the lack of linguistic capacities among Turkish NGOs was noted as an obstacle to sufficient engagement with European networks. Therefore, the need for capacity-building at the societal level appears to have been the Achilles' heel of the Europeanization of child protection. The NGOs were also dissatisfied with the outcome of EU-funded meetings at which they met national state officials, and claimed that their views were not taken into account in the policy output. The level of interactions among several civil society actors was also low. Based on the outcomes of the interviews, it would appear that a more institutionalized and issue-specific mechanism was needed in child rights.

In the meantime, the new Civil Code adopted in 2001, and published in the Official Gazette in 2002 (Council of Europe, 2001), incorporated several changes regarding the protection and rights of the child—an amendment welcomed by the

European Commission in its 2002 progress report. The new Article 182 of the Civil Code introduced the concept of the interests of the child in cases of divorce or separation and this was praised in the 2002 progress report, which again urged the candidate country to comply with Articles 7 and 17 of the ESC (European Commission, 2002b, p.40). The new Civil Code underlined that needs of the child involved should be respected in matters of guardianship and adoption, while some provisions easing adoption of children were added. Turkey also ratified the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography in June 2002, ratified the 1969 UN Convention on the Elimination of All Forms of Racial Discrimination in September 2002, and the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict in October 2003, after years-long EU calls.

However, in light of 2002 figures, which showed an estimated 893,000 children working in Turkey, child labor in small enterprises and in the agricultural sector still had priority ranking for the European Commission. Just a year later, in 2003, the European Commission signaled that it was still monitoring the progress in this number of child labor, saying in its progress report that “*the number of working children in the 12-17 age bracket declined significantly, from about 1 million in mid-2002 to 770,000 in mid-2003*” (Delegation of the European Union to Turkey, 2003, p.49). In the same progress report, the Commission also praised Turkey for having increased the age limit of child labor from 12 to 15 years by changing the definition of child labor. In the meantime, the European Convention on the Exercise of Children’s rights came into force in Turkey in October 2002. During the same period and as part the ILO/IPEC project, the report noted “*children and youth centres were set up to rehabilitate street children in three provinces*” (Delegation of the European Union to Turkey, 2003, p.87). In 2003, Turkey adopted a new Labor Code that brought the minimum working age to 15+years, and granted those in the 16-18 years age bracket twenty days of paid leave per year. Employers are also obliged to get health certificates for their staff under 18 years. It is worth noting that in 2003 the government set up human rights boards in several towns and cities and tasked them with handling complaints on human rights. This was in parallel with the establishment of the Reform

Monitoring Group to oversee compliance with the legal reforms of the European Union accession process.

The European Commission systematically tracked the number of working children in Turkey on the basis of ILO figures, and noted the figure in its subsequent progress reports. In June 2003, the ‘Let Girls Go To School’ campaign was initiated and initially targeted the ten provinces where girl enrolment rates were the lowest. Forty-five other provinces have been added to the campaign over the years. The European Commission’s 2004 Turkey progress report shows that the number of working children aged 6-15 years had diminished, mainly due to the increase in the age of compulsory schooling to 15. The report also praised the positive contribution of successful implementation of the ILO-IPEC program in the fight against child labor, but also criticized the fact that that despite several legislative alignments according to the ILO Conventions on the minimum age for child labor (No. 138) and worst forms of child labor (No. 182), the domestic Labor Law of May 2003 did not apply to specific sectors such as sea and air transport or agricultural enterprises with fewer than fifty employees. Therefore, in these sectors the employment of children under the age of 15 was still possible despite international practices and norms. As working children are also denied their right to education, the European Commission, in its progress reports, has urged Ankara to respect Article 7 of the ESC on the right of children and young persons to protection (Delegation of the European Union to Turkey, 2003, p.36).

The 2002 progress report also underlined the lack of implementation of a national program and an action plan against child labor. Meanwhile, giving a child a Kurdish name was still subject to prosecution at that time, and was criticized in the 2002 and 2003 progress reports. Although the Civil Registry Law was revised to allow parents to name their children as they wish and removed the restrictive provisions regarding ‘politically offensive names’, a circular was issued in September 2003 that banned use of the letters q, w and x in names, a common element in Kurdish names. In the meantime, as parents belonging to different religious minorities were still facing difficulties in sending their children to religious minority schools, the European Commission underlined, in its 2003 progress report, that children could only attend

religious minority schools if their father was registered as belonging to that specific religious minority. The cases before the ECtHR brought by parents of Alevi children who were obliged to take compulsory religious education classes were also underlined in the progress reports as a violation of child rights. Another recurring theme in the progress reports since 2003 has been the exposure of children to physical, sexual and drug abuse as well as to police brutality in Turkey's southeast provinces, while the progress reports after 2002 underlined the prevalence of thousands of street children in the region. On the other hand, the 2003 progress report praised the latest developments that were brought to the system of judicial records in Turkey that harmonized them with Article 1 of the UNCRC. Accordingly, the criminal record of children under 18 years would be made available under strict conditions to public prosecutors only, while Article 6 of the Law on the Establishment, Duties and Trial Procedures of Juvenile Courts was also adjusted to raise the age at which young people must be tried in juvenile courts from 15 years to 18 years.

In the early 2000s, child rights were further strengthened in Turkey with ratification of several international conventions and amendments in the legislative sphere, with impetus provided by EU-funded projects. Between 1995 and 2003, the EU committed €1,098 million to programs in Turkey, while the 2004 funding program consisting of an allocation of €235.6 million to Turkey's national program focused on several priorities, but with special emphasis on child rights. Improving the fight against child labor as well as ensuring protection and justice for children in the judicial system were the main components of these programs.

In 2004, the Turkish Penal Code was revised with provisions about the definition of the child under criminal law as well as the child's criminal responsibilities and protection of children from violence and abuse. During the same year, the Law on Criminal Procedure was also amended, with provisions about the rights of the child in criminal trials. In 2004, the Law on Enforcement of Punishment and Security Policies was changed with improvements on centres for holding convicted or detained children as well as on their rights during detention. In the meantime, judges received training on international child abduction in 2004 under an EU-financed program. Local elections on

March 24, 2004, in which the ruling AKP had great success, also provided leverage for the on-going reform process. In light of Turkey's relatively successful record in compliance with EU's democratic norms and values, the Commission declared in 2004 that Turkey had 'sufficiently' fulfilled the political criteria and recommended the Council to open accession negotiations with Turkey. On December 17, 2004, the European Council decided that accession negotiations with Turkey could begin on October 3, 2005. Subsequently, another reform package was adopted by the Turkish parliament in April 2006. Among these democratic changes, the beginning of broadcasting in and learning of the different languages and dialects such as Kurdish was of utmost importance for the educational field.

In 2005, all previous efforts to align child rights with the international practices and norms culminated in success, with the adoption in July of a new Law on the Protection of Children. This enacted for the first time a legal framework for upholding the rights and well-being of children, focusing on juvenile justice. The Law was prepared with due attention to the provisions of the UNCRC. Although the EU praised the adoption of the new law, it also criticized its standards on juvenile offenders (aged 12-18 years) as not child-specific, but falling under the conventional penal framework. The issue of juvenile justice has been repeatedly followed up by the European Commission in its progress reports as it called for the establishment of juvenile courts in every province of the country. Turkey's inertia regarding submission of its periodic report on the implementation of the UNCRC, due in May 2002, was also systematically monitored by the EU in its progress reports, and continuously underlined in each until it was finally filed.

During this period, it is manifestly clear that the EU was engaged in triggering domestic change in Turkey as a candidate country and appeared deeply committed to the country's full accession, with no suggestion being made of any alternatives to the membership scheme. Therefore, there was no societal and/or governmental perception of the existence of double standards in the implementation of accession criteria. Turkey felt as if it were being treated on an equal footing with European countries, which encouraged it to meet the EU demands for more democratic reforms. For instance,

paragraph 12 of the Helsinki presidency conclusions stated, “*Turkey, like other candidate States, will benefit from a pre-accession strategy to stimulate and support its reforms*” (Helsinki European Council, Press Release, 1999). The EU Council also provided Turkey with the opportunity to take part of the Community programs and agencies and to attend meetings between candidate States and the Union as part of the accession process. In addition to this, first the coalition government and later the post-2002 government tried to implement the much-needed reforms in order to obtain the EU’s membership reward. In that period, Turkey was also enjoying the support of several key EU member states such as The UK, Germany and Greece, who engaged with Ankara and its full membership bid in a constructive and inclusionary manner.

In 1999-2005 period, several Instrument for Pre-Accession Assistance (IPA) projects such as ‘Towards good governance, protection and justice for children in Turkey’ (2004/EU) and the ‘Support for basic education program’ (TEDP), (EU, 2002) were finalized. The former ran from August 2005 for twenty-seven months and had a budget of €6.41 million, wholly financed by the EU. Within the scope of the project, specific material was prepared for in-house training of judicial officers and attorneys working in the juvenile justice system as well as police and gendarmerie officers, forensic specialists, prison staff and social workers. The project aimed at providing children with better legislative protection and better education opportunities to prevent them from abandoning schooling. Child-friendly judicial interview rooms (ÇAGOs) were also developed under the Justice for Children Project funded by the EU and implemented by UNICEF in a bid to prevent secondary victimization of children in judiciary processes. “*To this end, national and international consultants organized discussions, shared the international best practices and developed standards for the interview rooms to be established in Turkey*” (EEAS, 2021). ÇAGOs were designed in line with these standards and best practices to serve all children under the judiciary system, ranging from child victims to children in need of protection and child witnesses. “*Introductory training sessions were conducted with more than 100 juvenile justice system professionals (judges, public prosecutors and social work officers) working in the selected pilot provinces*” (EEAS, 2021).

On the other hand, there was a rising pro-reformist trend in the country, especially with the synergy between a pro-EU government and domestic demands for change from norm entrepreneurs like NGOs and business communities, to the point that then-PM Recep Tayyip Erdogan said, *“Turkey will adopt the Copenhagen political criteria and considers them as Ankara criteria. We will continue on our own path even if the EU fails to open accession talks with Turkey”* (CNN Turk, 2005). A Reform Monitoring Group (RMG) was set up in 2003. This comprised the Minister of EU Affairs and Chief Negotiator, the Minister of Foreign Affairs, the Minister of Justice and the Minister of Interior, and has been an active instrument and an important mechanism in overseeing the political reform process since that time. The Ministry of EU Affairs has been the coordinating body of the RMG. Between 2003 and 2014, thirty RMG meetings were held in different cities to expand the reform agenda across Turkey and to encourage the relevant actors towards adopting the logic of appropriateness regarding the necessary EU reforms to be adopted (for further information, see in the bibliography: Turkey’s Reform Action Group meetings).

In terms of the RAG’s contribution to Turkey’s further engagement with the international child rights regime, on its agenda was the Law on the Ratification of UN Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure. The RAG aimed to speed up adoption of the Law in the Turkish Parliament. This Law was also one of the objectives of Phase 1 of the National Action Plan for EU Accession. Phases 1 and 2 of this plan included various regulations related to child rights both under the scope of Chapter 19 Social Policy and Employment and Chapter 23 Judiciary and Fundamental Rights. In the meantime, the Ministry of Foreign Affairs was tasked with coordinating the activities in fighting human trafficking in Turkey as according to the Turkish constitution, trafficking in human beings for purposes of sexual and labor exploitation is punishable by 8 to 12 years’ imprisonment and to a judicial fine.

Such a positive and optimistic atmosphere impelled the AKP forward in domestic transformation and the democratization process as a response to the adaptational pressures generated by the political conditionality. In this way, the new

government also tried to gain international visibility and legitimacy and to guarantee its sustainability in the political sphere. In 2001 and 2003, as a response to the accession partnership documents, the government prepared two national programs for adoption of the EU *acquis*. The notorious death penalty was completely abolished in the third harmonization package in July 2003. Moreover, then prime minister, and leader of the ruling party, Recep Tayyip Erdogan, stressed in several speeches that Ankara was prioritizing EU membership. For instance, in a speech at Oxford University in 2004, Erdogan said that his government perceived the EU as a political union with universal norms and values that Turkey was ready to embrace (Speech, 2004).

Among the projects launched for children with the cooperation of the EU, ‘The Project for Eradicating the Worst Forms of Child Labor’ in 2004 had a budget of €15 million, with an EU financial contribution is €14.25 million. As part of the project ‘Strengthening Civil Society prior to Accession’, a project on the elimination of child labor was launched in 2005 with a budget of €1 million, wholly financed by the EU. Under this project, civil initiatives on child rights were extensively supported. The European Commission stated that the end target of the project was to further boost the development of NGOs and their networking capacity during Turkey’s EU accession process by building institutional capacity and developing possible grant schemes (European Commission, 2004a, p. 1).

On the other hand, a specific project, ‘Child Friendly School’ was launched in 2002 and implemented in pilot schools in 2005 with the aim of improving the quality of education at the primary school level. In the meantime, Turkey’s Ministry of Education carried out another project, ‘Child Friendly Schools’ to improve physical environment of schools between 2006 and 2010. In 2004, Turkey also decided—simultaneously with Romania and Bulgaria—to participate in the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) during the accession process. This decision aimed at harmonizing Turkey’s fight against drugs in schools with EU requirements. Turkey began participating in the EMCDDA’s meetings as an observer, and found opportunities to exchange information on drugs and get involved in joint training on the prevention of drug abuse and addiction. In total, hundreds of thousands of primary school and high

school teachers as well as university staff, university students, high school students, parents, NGO representatives and public officers attended the training activities across the country. Another EU-funded project was carried out by the Child Labor Unit, the General Directorate of Labor, Ministry of Labor and Social Security, and the ILO Ankara Office in a bid to prevent children in seven cities (Cankiri, Kastamonu, Sinop, Ordu, Erzurum, Van and Elazig) from working in dangerous jobs and to promote their school enrolment. The project was launched in November 2005 and lasted until November 2007. In that period, child rights committees and centers were set up under bar associations across the country in a bid to provide child victims with legal counseling and proceedings, while monitoring the implementation of legislation on child protection.

In 2002-2005 period, the Diyarbakir Bar Association's *Justice for All* project (Diyarbakir Bar Association, 2006), supported financially by the EU, monitored violations of child rights (among other human rights violation cases) at the judicial level. On the basis of the interview with the Diyarbakir Bar Association, it is clear that the European conventions to which Turkey is a party, gave important leverage to the country in ensuring justice for children when domestic remedies were being exhausted. However, the Diyarbakir Bar Association was not invited to the EU-level meetings in the field of child rights, and channels of elite socialization have remained closed so far. The Diyarbakir Bar Association confirmed that they referenced rulings of the ECtHR rulings when they were preparing legal documents on child rights, and also stated, "*The Justice for All Project raised awareness of the juvenile justice reform in Turkey. However, sometimes the EU funds are used in an extravagant way. Rather than organizing meetings in luxury hotels, more budget share should be allocated to education and for other purposes related to children*" (Interview, Diyarbakir Bar Association, April 2021). The Association reported that they were never invited to any meetings under the EU-funded projects conducted by Turkish authorities or to the preparation of EU progress reports. Beginning by 2005, Turkey also opted to return children placed in state-run orphanages to their families, and provided for this a financial support. In 2005, 1,839 children were returned to their families, while 5,990 children were supported before they were placed in an institution. Other alternatives

such as adoption and foster family services were also increased in that period to encourage child protection in family settings.

With regard to the credibility and size of external incentives for Turkey (i.e. prospect of membership and channeling of pre-accession funds), the political conditionality and policy transfer may be deemed high between 1999 and 2005, until the beginning of the accession negotiations in 2005. In a theoretical sense, the ‘conditionality’ aspect of EU enlargement for Turkey referred to the EU’s capability to bring forward broader conditions for membership by channeling EU funds to ease Turkey’s process of adaptation to the EU standards that would restructure domestic institutions and policies. A failure to meet the basic EU standards can trigger sanctions like diminished financial assistance or refusal to grant full membership. As it was the case with other enlargements, conditionality for Turkey provided great opportunities for triggering cooperation between civil society and the public sector to initiate domestic reform and shoulder the responsibility together, while going after the ‘carrot’ of EU accession. Turkey was promised that the monitoring process of the compliance to its *acquis* with the EU rules would be opened quickly and that membership negotiations would be launched soon once the country met the Copenhagen criteria, including sensitive topics such as the abolition of death penalty and torture, reform in the judicial system, and the civilian control of the army among others. Some of these demands were perceived among the hardliner Kemalist state elite as threats because further democratization reforms carried the risk of eroding their powers and undermining domestic security. In a nutshell, the declaration of candidacy status served as the main stimulus for re-activating the political reforms in Turkey where elites, civil society and the public positively identified themselves with the EU and found EU requirements to be legitimate and fair. In this way, the channels of persuasion and socialization were wide-open, with the government much more likely to consider the rule adoption from a positive perspective. Thus, the legislative reforms enacted between 2002 and 2005, as well as the projects that have been conducted in this timeframe have brought Turkey’s child protection system closer to UNCRC standards and the relevant political criteria of the EU *acquis*.

In 2005 Turkey adopted Child Protection Law 5395, with the aim of regulating procedures and principles to protect children in need of protection or being forced into crime. With this law, the Agency for Social Services and Child Protection (SHÇEK) was designated coordinating institution, and tasked with monitoring implementation of the UNCRC and preparation and submission of the regular country reports to be submitted to the UN Committee. The ECHR, the case-law of the ECtHR, and the EU *acquis* constituted the main international instruments Turkey considered in the realm of child rights when designing this law. With another 2004 amendment to Article 90 of Turkish Constitution, the international conventions on fundamental rights and freedoms were recognized as part of domestic law. Turkey, as the 13th member state of the CoE since April 13, 1950, is also obliged to respect the clauses of the ECHR. It should be noted that in 1987, the country accepted the retrospective right to individual application to the ECtHR for an ECHR-based review.

Thus, facilitating factors were present as the Turkish government engaged in the harmonization packages that increased the legitimacy of the process. What's more, there was a 'cultural match' or 'resonance' between the EU requirements and domestic settings and political discourses. EU twinning programs, whereby domestic actors in EU member countries helped their Turkish counterparts in adopting EU legislation in various areas of expertise, also facilitated this process. *"Although the primary impetus for those substantial political reforms was the operation of the conditionality mechanism, it was not the conditions-compliance dichotomy per se that culminated in the golden age of Europeanization"* (Akgul-Acikmese, 2010, p.141). According to Akgul-Acikmese, exogenous and endogenous factors also drove the Europeanization of Turkey. *"At the European level, the EU seemed to be committed to Turkish accession, member states were not designing alternatives to EU membership and Turkey did not relatively perceive double standards in the application of accession criteria and strategies"* (ibid). And in addition to these favorable exogenous factors, the domestic appropriateness for the reform process also prevailed during the adoption of child-related reforms. From 2001 Autumn to 2004 spring, Turkish respondents considering Turkey's EU membership as a good thing increased from 59 to 71 according to the Eurobarometer surveys (Senyuva, 2009, p.99). This percentage began to decrease after

Autumn 2004, gradually to 62, then to 59 in Spring 2005, and reached to 40 percent in Spring 2008 in the Eurobarometer 69 survey.

However, the EU decision to start accession talks with Turkey in 2005 was accompanied by the internal contradictions among EU member states regarding Turkey's membership to the Union, with Germany, France and Austria questioning whether accession negotiations with Turkey should be launched or a 'privileged partnership' proposed instead. Considering the size, population and culture of Turkey, the debates concentrated on the EU's absorption capacity. The prospect of key EU member states trying to keep the accession talks with Turkey open-ended by suggesting alternative outcomes to full membership had a significant impact not only on Turkey's membership appetite, but also on Europeanization of the country in several policy areas, including child rights. The 2005 Negotiation Framework of the European Commission declared the accession negotiations with Turkey open-ended (Negotiating Framework, 2005, p.1), and included in clear terms the possibility of permanent derogations and special arrangements for Turkey (Ibid, p.5). The result was weakened EU credibility, its gradual ineptitude to generate wide-scale domestic change in Turkey, and patchy reforms only.

4.1.4. 2006-2008: Absorption Years for the Europeanization in Child Rights

Turkey's democratization process between 2002-2005 is a period that was labeled as the "*golden age of Europeanization*" by Onis (2008, p.38). However, the period beginning after 2005 is often defined as a gradual shift from Europeanization to de-Europeanization with the weakening of the 'Golden Age' years and strengthening of the Euro-skepticism movement. In the post-2005 period, when the ruling AKP got significant support in the ballot boxes and when the EU membership perspective lost some of its credibility, the EU also began losing relevance for continuing domestic institutional reform steps. In addition to this, "*the fading support for EU membership in the Turkish public has further undermined the potential for using EU accession as a legitimization device*" (Börzel and Soyaltin, 2012, p.14). It is however important to note that between 2005-2008, the government still held its pro-reformist stance to a certain degree by trying to solve several problematic issues of the country, including relations

with Armenia and Kurdish problem, despite the weakening EU anchor, mainly because of the dissatisfaction of the government with the status quo. Unfortunately, this period of Europeanization in Turkey failed to deliver on its great promises and ended with a sudden and shocking downturn trend. It was around 2005 that the positive wave of Europeanization became diminished in Turkey, especially when the European Council decided in December 2006 to hold off on negotiations for eight of the thirty-five accession chapters as Ankara declined to implement the Additional Protocol that extended application of the Turkey-EU Customs Union to Cyprus, an EU member since 2004, including the opening of its ports and vessels to Cypriot-flagged ships and aircraft. Furthermore, Cyprus unilaterally suspended another six chapters, while Brussels decided that no chapter would be provisionally closed until the Commission confirmed that Turkey had met all its commitments related to the Additional Protocol. In addition to this, France withheld four additional chapters unilaterally because former president Nicolas Sarkozy aimed to block Turkey's accession. This negative downturn dimmed the hopes for a stronger Europeanization wave in Turkey and influenced the progress and the commitments in all chapters.

In the meantime, some political actors in Turkey were not acting as norm entrepreneurs for the reform process. On the contrary, the 2004 manifesto of the main opposition Republican Peoples' Party (CHP) stated in its preamble that, "*the structural reforms should not be instigated by external pressure but should be in the ways that are required by domestic conditions and with domestic dynamics*" (CHP, 2004). In other words, the CHP took an anti-EU position and decried the fact that external EU pressure was initiating domestic change in Turkey. However, pressure from influential civil society groups such as TUSIAD (Turkish Industry and Business Association) and TOBB (Turkish Union of Chambers and Bourses) was a key factor in support for the Europeanization process. By late 2005, Turkey's Europeanization process had begun losing vigor because of the above-mentioned factors, and especially in relation to the EU's stance on Turkish membership, which undermined the EU's credibility and weakened the legitimacy of democracy promotion in the candidate country. EU actions began to be perceived as double standards, with an increased discrepancy between its internal and external practices—one example being its obliging candidate countries to

sign some conventions for minority protection, when these had not yet been ratified by some EU members. Such a dichotomy between the EU's own values and its rational interests in its external relations (King, 1999, pp.315-322) sometimes led to an ignoring of the much-sought after human rights issues when the EU's vital interests were at stake. This downward trend fueled public sentiment on the 'double standards' of EU implementation of its political conditionality, especially as the Cyprus issue suddenly became an 'unwritten' political condition for the pace of democratic reforms in Turkey. The result of this incoherent process was obvious: loss of EU credibility in the eyes of Turkey's governing elites and the majority of its citizens. The successful implementation of political conditionality between 2002 and 2005 lost momentum because the exogenous and endogenous factors also lost weight in the domestic and international spheres, giving way to a skeptical stance at the governmental and societal levels. The coalition behind the country's European calling began to crumble and several veto players working against Turkey's EU membership prospect emerged.

However, in terms of child rights, some key steps were taken in this period. In other words, while there was indeed a slowdown in some key reform fields of EU-Turkey relations, improvement in some child rights areas continued to some extent. The Optional Protocol to the UNCRC on the Involvement of Children in Armed Conflict came into force in Turkey on June 4, 2004. The Act on the Protection of Children was adopted by Parliament on July 3, 2005 and published in the Official Gazette of July 15, 2005. As a follow-up initiative for the harmonization packages, Circular No. 2006/17 was published in the Official Gazette of July 4, 2006 and it underlined that violence against women and children and honor killings posed a serious social problem. Institutions to be in charge of coordinating and implementing rules on child rights were designated for better and efficient management of efforts concerning violence against children. In this respect, as mentioned above, the SHÇEK was made coordinator body for enacting thirty-seven measures to end violence against children (Secretariat General for EU Affairs, 2007, p.26).

In the meantime, with Turkey's new Child Protection Law adopted in 2005, the Turkish government began utilizing EU funding to set up a specialized juvenile justice

system in line with international standards. For this to happen, key EU funding resulted in the development of a specific €3.15-million project, *Justice for Children*, in a bid to protect minors under the justice system, and to train professionals in the relevant security and social welfare fields. It included the construction of special interrogation areas for children in 160 courthouses across the country. Other IPA projects finalized in this period were; *Children First: Modeling Child Protection Mechanisms at Provincial Level* (2006/EU); *Development of Work with Juveniles and Victims by the Turkish Probation Service* (2007/EU); *Strengthening Pre-school Education*, (EU, 2008, IPA-I). Following implementation of the EU-funded project *Children First: Modeling Child Protection Mechanisms at Provincial Level* conducted by Turkish Union of Bar Associations with UNICEF's technical support, the services provided in juvenile detention centers and the appropriate assessment of children in the justice process were identified as areas where all institutions involved in child protection in Turkey needed strengthening. Then came the EU project *Justice for Children* to guarantee the rights of children who came into contact with the law and who needed a fair trial. In this process, professionals working in the juvenile justice system were provided with a better understanding about child rights through training programs at central and provincial levels. Some of the participants paid a field visit to an EU country to observe firsthand best practices in dealing with minors.

The right to education, child labor, domestic violence against children and juvenile justice composed the core of EU funding in this period, while the European Commission also followed the trend in child poverty in all its progress reports under this period. In 2006, a regulation implementing the Law on Child Protection came into force to ensure that child victims who have been psychologically disturbed by the offence committed would only have to bear witness once during the investigation and in front of an expert, while juveniles taken into custody would be arrested by juvenile units of law enforcement agencies and without being handcuffed. The European Commission repeatedly underlined the need for better equipping of child courts and an increase in their numbers across the country. “*Significant improvement is needed in physical conditions in detention centers and in the quality of care and protection provided to children by their staff*” (Delegation of the European Union to Turkey, 2007,

p.19). On the other hand, Turkey also lifted some reservations on the ESC's provisions, specifically the right of children to protection.

In 2006, Turkey adopted its third Accession Partnership Document (Council of the European Union, 2006) and children's rights were elaborated on under short-term priorities, with two objectives: "*Promote protection of children's rights in line with EU and international standards. Continue efforts to tackle the problem of street children*" (Council of the European Union, 2006), while "*continuing efforts to tackle the problem of child labor*" (Council of the European Union, 2006) also ranked among short-term priorities related to the employment sector. In 2008, the document was revised again, the last revision, as of the time of writing this thesis. Children's rights again ranked among short term priorities, with two objectives ahead: firstly, to guarantee the complete implementation of the Child Protection Law in Turkey by promoting child rights protection in line with EU and international standards, and secondly to continue efforts to address the child labor problem and child poverty while improving the living conditions of street children (Council of the European Union, 2006, p.9).

In 2007, Turkey's EU accession process also resulted in a significant legislative improvement with the Law 5651, on Regulation of Broadcasts via Internet and Prevention of Crimes Committed through Such Broadcasts. Turkey's combined fourth and fifth periodic reports submitted under article 44 of the Convention noted, "all activities conducted within the scope of these legal arrangements have been carried out in line with the European Commission's European Strategy for a Better Internet for Children (COM (2012) 196) for reaching better internet conditions for children (UNCRC, 2019, p.12). In this respect, Turkey's official report to the UN Committee on the Rights of the Child noted that the EU model was taken as an example in designing this key document on child rights. "*As in the EU countries, Turkey is combating pornographic content which children can easily access and sexual abuse of children in particular, and almost entire denial of access is practiced against contents of this sort*" (UNCRC, 2019, p.12).

In 2008, UNICEF Turkey pioneered an important step in Turkey in terms of its child protection regime. Following several meetings between UNICEF officials and

Turkish authorities, a parliamentary committee, the *Child Rights Committee*, was founded in order to monitor child rights in Turkey. The committee was established with equal representation of all parties represented in the parliament. Its aim was to provide a link between the parliamentarians and other parliamentary commissions, as well as a bridge between children, NGOs and the parliament. UNICEF also provided technical and financial support to this committee. The committee members paid field visits to Adana and Diyarbakir provinces to monitor the situation of children, while EU experts also visited the committee on December 17-21, 2010 as part of their field visits to institutions working on human rights issues. A specific website was also set up by the committee via which children were able to reach out online to a parliamentarian in order to notify them about the rights abuse they faced¹⁰. The establishment of the sub-commission was justified on the basis of EU progress reports that drew attention to the need for improvement in child rights monitoring systems (Turkish Parliament, 2020).

In the meantime, the National Action Plan covering the period between 2005 and 2015 had been prepared in a bid to identify Turkish government priorities in improving child rights. The Inter-sectoral Child Committee emphasized the need to harmonize the National Action Plan with the Millennium Development Goals (Screening Chapter, Rights of the Child Separately, Turkey began receiving financial assistance under the IPA for the period 2007-2013, of approximately over 3 billion Euros (including 2007). Then came victory for the ruling AK Party in the 2007 general election. The government, which had broadened its public support, could have re-energized its political reform endeavors and democratization process, but chose not to do so. In the absence of EU support for such a transformation, reform inertia became a norm, triggering broad criticism from the EU. There followed a systematic slowdown of the reform process, eventually reaching a level of paralysis. The gap widened between Ankara and Brussels, creating a mutual lack of trust and credibility in taking the first step for coherent and continuous reform efforts. With an increasingly EU-skeptical government in power, the domestic political costs of compliance with the EU

¹⁰ The committee was transformed into a sub-Commission in 2020 linked to the Parliamentary Commission for Health. In the founding text of the sub-Commission, several references to the EU progress reports and UNCRC were made. The members of the sub-Commission regularly pay visits to European countries on field studies on child protection with the aim of transferring best practices.

conditionality were too high, as democratic transformation in the country would have required abandoning the key tenets on which the political power was based. In the meantime, the EU didn't use its 'threat of exclusion' effectively to energize societal resonance and/or trigger the emergence of 'reform-oriented' actors on the democratic political scene. The mutual lack of commitment was coupled with EU enlargement fatigue and its own internal struggles diverting its attention away from Turkish accession. What's more, several center-right parties in EU countries, especially in Germany, Austria and France, began proposing alternative accession models, such as the infamous 'privileged partnership', for Turkey and referred to the 'absorption capacity of the Union', both triggering bitterness on the Turkish side. *"Thus, "whatever we do, they will not let us in" sentiments gained momentum across Turkey, thereby decreasing the leverage of the EU anchor in the advancement of domestic reforms"* (Akgul-Acikmese, 2010, p.145). In other words, the abrupt changes in EU-Turkey relations after 2005 generated a perception that the EU is unwilling to welcome Turkey on board.

On the other hand, the compliance costs of some democratization reforms in the country also became higher, considering the government's evident reluctance to abolish Article 301 of the Penal Code as a way of strengthening freedom of expression, and the AKP deciding to maintain its reservations on implementation of broadcasting in the mother tongue. *"It became evident that AKP's own agenda of religious reforms did not always coincide with European demands; and therefore, the government did not have much reason to resort to EU for implementing its own agenda"* (Akgul Acikmese, 2010, p.146). Therefore, the EU accession bid lost its supporters, with multiple veto players speaking out against the necessity for EU-induced reforms. The Cyprus issue, a key topic that had become attached to EU conditionality, also turned into a populist instrument used by the political actors to consolidate their constituencies on a nationalistic base. The costs of compliance suddenly became so high that the Cyprus issue and the government's determination on this informal conditionality began determining its voter base. Thus, with such political tensions existing, there was little space for a positive atmosphere for the EU and/or Turkey to trigger domestic change and transform several policy areas in Turkey in line with European norms and

standards. Although respect for children's rights was stated as one of the short-term priorities in the 2008 EU-Turkey Accession Partnership Document, the momentum was lost for the continuation of reform process, and inertia continued until 2008.

4.1.5. 2008-2016: Selective Europeanization of Child Rights

Child rights is regulated under Article 41 of Turkish Constitution, as *Protection of the Family and the Children's Rights* and are defined as follows:

Every child has the right to protection and care and the right to have and maintain a personal and direct relation with his/her mother and father unless it is contrary to his/her high interests. The State shall take measures for the protection of the children against all kinds of abuse and violence. (Turkish Constitution, p.41)

This definition of the child rights was added to the Constitution in a 2010 amendment to reinforce and enlarge the constitutional basis for protection of children. The need for such an amendment was previously referred to in the 2008 Accession Partnership Document and the 2009 Progress Report.

Although the 2010 constitutional changes were directly connected with the deep-rooted domestic problems of the country, the amendment proposal did not refer to Europe or EU, while some amendments to the specific articles were justified with such references. For instance, the introduction of the Ombudsperson institution was justified by referring to Turkey's National Program for the adoption of *acquis* with explanations about several European countries having already established this institution. Similarly, the constitutional changes that ensured the selection of the members of the Constitutional Court was also justified on the ground that a number of European countries already select the members of the top court through similar methods. The changes about constitutional complaint mechanisms were also grounded on the references to the European Convention on Human Rights and the rulings of the ECtHR. The proposal also included several references to Europe, especially the case-law of the ECtHR, the opinion on Venice Commission on the matter, the national practices in Europe, as well as the progress reports of the European Commission. Therefore, European Union and other European institutions were used as a legitimization device

for Turkey in justifying sensitive amendments to the legislative sphere in order to get the backing of the EU for such initiatives that could draw the ire of several veto agents.

As part of the constitutional amendments, Article 41 was made in line with the Convention of United Nations on Protection of Children's Rights and the Convention of Council of Europe on Protection of Children against Sexual Exploitation. In 2008, Turkey revised its National Program for the Adoption of the EU *acquis* and for the first time placed 'children's rights' as a separate part under the document's political section. The National Program made Turkey's commitment on issues pertaining to child rights much more visible:

Work on the protection of children's rights will continue in line with the international standards. Turkey will continue to become party to the international instruments of the UN and the Council of Europe concerning the children's rights. Efforts to solve the problem of children living and/or working on the streets will continue. Efforts on fight against child labor will continue. The Draft Law on Assistance to Children Victim of Violence will be submitted to the Parliament. The trainings aiming to inform police on fight against violence are conducted. (Directorate of EU Affairs, 2008).

The closure case against AK Party in 2008 unexpectedly pushed the government to resort to EU support, as a push for democratization was its only option in guaranteeing its survival as a political party and boosting its international image. "*Prime Minister Erdogan saw the EU again as a savior*" (Ulusoy, 2008, p.55). Therefore, keeping EU accession talks on track became a sudden priority for the government (Milliyet, 2008; Cumhuriyet, 2008) and a decision was made to allow broadcasting in the Kurdish language and the opening of the Kurdish language university departments. As part of this wave of reformist strategy, children also gained priority as the government introduced several changes for the protection of child rights at this time.

Between 2008 and 2016, the EU provided financial support to civil society development under the Civil Society Facility in a bid to strengthen the capacity of NGOs working in several fields, including child protection. Juvenile justice, education and child labor always topped the EU's agenda on Turkey's child protection system

when funding NGOs in Turkey. During this period, some child-focused NGOs worked on early childhood projects and were supported by the EU. For instance, in March 2010, the Strengthening Pre-school Education Project began with the participation of the Turkish Ministry of Education, in partnership with the Mother Child Education Foundation (AÇEV) and with the technical support of UNICEF. The aim was to provide pre-school educational services and daily childcare to disadvantaged families (AÇEV, 2010). Below is the list of some key IPA projects for improving child rights that were carried out during this timeframe. It is worth mentioning that after 2010, the EU began providing funding to sectorial projects such as pre-school education, justice, and Syrian refugees, among others.

After 2011, a result-oriented monitoring approach prevailed in EU-funded projects. Although it falls outside the timescale of this thesis, it is worth mentioning that the EU started an IPA-funded project, *Supporting Children's Rights in Turkey*, in 2017 under the priority area of Rule of Law and Fundamental Rights Sector/Fundamental Rights sub-field. The project was implemented in partnership with Ministry of Family, Labor and Social Services for 36 months and with a EU contribution of €3,400,000. The objective of this project was to develop the standards of social services for children and to fight child labor by supporting the Ministries of Family, Labor and Social Services.

Table 7
Projects Funded under IPA for Improving Child Rights in Turkey

Source: European Commission, Standard Summary Project Fiche

| IPA Component | Project title | Project Budget and duration | Project Purpose |
|---------------|---|---|--|
| 1 IPA 2008 | 1 – Strengthening Pre-School Education | TOTAL: €16,270,000 - 24 months – Completed Service: €8,000,000 - started in 12/03/2010 Supply: €3,000,000 - contracted and equipment distributed in 2011 Grant: €5,270,000 - grant projects started in December 2010 | To upgrade and establish quality child day care and pre-school education services for disadvantaged children and their families through the capacity building of Ministry of Education institutions, public institutions, municipalities, NGOs, and development of community based models and partnership. |
| 2 IPA 2008 | 1 – Strengthening Special Education in Turkey | TOTAL: €7,000,000 - 30 months Service: €6,000,000 - January 2011 - | To increase opportunities and improve the learning environments for disabled individuals with a view to increasing their access to education and inclusion |

| | | | | | |
|---|-------------|-----|---|---|---|
| | | | | Completed. Supply: €1,000,000 - contracted - Completed | in society through campaigns, in-service training, psychological assessment and diagnostic tests, equipment and educational material support with the active participation and support of NGOs, local public institutions, municipalities and private sector organizations. |
| 3 | IPA 2009 | 1 - | Democratic Citizenship and Human Rights Education | TOTAL: €9,100,000 - 36 months Service: €6,100,000 - 01 June 2011 and to be completed on 01 June 2015 Grant: €3,000,000 - completed by end of 2014 | The purpose of the project is to increase the institutional capacity of MoNE on EDC/HRE through developing and revising regulations and curricula on EDC/HRE; producing educational materials and increasing the capacity and awareness on EDC/HRE of pre-school, primary and secondary school communities (teachers, pupils, students, non-teaching staff, parents and community leaders) and fostering a democratic school culture from pre-school to the end of the secondary education. |
| 4 | IPA 2010 | 1 - | Promoting Gender Equality In Education (PROGEE) | TOTAL: €3,600,000 - 30 months Started by September 2014 Service: €3,600,000 | The purpose of this project is to promote gender equality for girls and boys in schools and equality and gender sensitive approach throughout the education system |
| 5 | IPA 2010 | 1 - | Increasing Primary School Attendance Rate of Children | TOTAL: €3,200,000 - 30 months Started in November 2013 Service: €3,200,000 | The purpose of this project is to decrease school drop-outs and non-attendance in primary schools through; identifying measures to be taken and developing policy recommendations, revising regulations, developing an intervention system regarding e-school database, improving basic skills of children experiencing difficulties in the Turkish language, increasing capacity of MoNE personnel and raising awareness of all related groups. |
| 6 | IPA 1- 2010 | | Fight Against Violence Towards Children | TOTAL: €3,000,000 - Service: €3,000,000 € - ongoing | The project purpose is to reduce and prevent violence towards children through; increasing capacities of follow up and prevent services by developing policies for taking legal measures and promotion of Counseling Services, developing a Safer School Model which is free from physical, emotional, verbal and psychological violence, increasing the awareness among parents, NGO members, non-teaching staff, teaching staff and students. |
| 7 | IPA 2011 | 1 - | Students Learning About | TOTAL: €3,660,000 Service: €3,000,000 | The knowledge of students at age between 7-19 years of the EU's values, |

| | | |
|---|--------------------------------|---|
| the Common Values, Fundamental Rights Policies | EU- Supply: €660,000 And | fundamental rights and policies is raised through effective educational measures. |
|---|--------------------------------|---|

In parallel with the EU, UN monitoring of Turkey also continued in this period, with the UN emphasizing that Turkey should work more closely with the European institutions to support this reform trend. While in the first report submitted to the UN Committee on the Rights of the Child under Article 44 of the Convention, no reference was made to the domestic impact of the European Union membership process on child well-being in Turkey, the second report, submitted in 2009 (United Nations Committee on the Rights of the Child, 2009), referred to the EU, UNICEF and the ILO (*Ibid*, p.6) among many other international organizations with which Turkey had cooperative initiatives on matters related to child welfare. In terms of ensuring a child-friendly justice system, the second periodic report noted several achievements made for improving living conditions of children in prisons (UN Treaty Body Database, Turkey reports). In this respect, the report first laid down the reform steps taken by the Ministry of Justice and then by the Ministry of the Interior (police and gendarmerie).

In this respect, the report first laid down the reform steps taken by the Ministry of Justice and then by the Ministry of the Interior (police and gendarmerie). Regarding the Ministry of Justice, the training that was given to 330 judicial officers and prosecuting attorneys, along with 177 social workers since 2001 have been noted as an important step to improve administrative capacity and human resources dealing with juvenile delinquency and juvenile justice by informing them about child rights in the judicial system. These trainings were also underlined as an important effort from Turkish side for “*restructuring of the juvenile justice system in the process of adaptation to the European Union*” (UN Treaty Body Database, Turkey reports). The report noted that as part of the EU-funded project *Towards Good Governance, Protection and Justice for Children in Turkey*, specific material was prepared for the in-house training of judicial members dealing with the juvenile justice system, as well as “lawyers, police and gendarmerie officers, forensic specialists, prison staff, social

workers, on the basis of analysis into the requirements of each professional group” (UN Treaty Body Database, Turkey reports).

The report also elaborated the efforts made by the Ministry of the Interior in compliance with the international and European requirements. *“Moreover, 55 training programs have been run for law enforcement officers and local authorities with the participation of European Union experts and the Turkish Drug Addiction Monitoring Centre, or TUBIM”* (UN Treaty Body Database, Turkey reports).

In terms of family environment and alternative care; the second periodic report noted that, *“the Ministry of Labor and Social Security offers vocational training to disadvantaged families with children under the minimum working age, through projects partly funded by the European Union and international organizations”* (UN Treaty Body Database, Turkey reports). In response to the second periodic report, the UN Committee on the Rights of the Child recommended that Turkey should *“cooperate with the Council of Europe with regard to the implementation of the Convention both in the State party and in other European Union member States”* (UN Treaty Body Database, Turkey reports). In terms of child labor, the ILO acted as a technical facilitator for the EU with its projects that began in 2012 on introducing an integrated model for the elimination of the worst forms of child labor in seasonal agriculture in hazelnut harvesting in Turkey.

In 2012, Turkey established its Ombudsperson Institution in compliance with UN Principles relating to the Status of National Institutions (The Paris Principles). The Ombudsperson institution was established to play a key role in upholding children’s rights in Turkey being a unique public legal entity, with a special budget, and mandated to receive complaints directly from children.

The European Commission closely followed the institution, as it was one of the key areas where it had direct domestic impact on Turkey’s child protection regime. In its progress report dated 2012, the European Commission clarified the mission of the Ombudsman as follows:

Upon complaints concerning the functioning of the administration, the Institution is responsible for examining and investigating all kinds of acts and transactions, attitudes and actions of the administration, regarding their compliance with the rule of law and fairness, within the context of an understanding of justice based on human rights, and for making recommendations to the administration (European Commission, 2012, p.13).

The European Commission also praised the establishment of the Ombudsman system as “one of the most important steps taken for accountability, fairness and transparency of the public administration” (*Ibid.*), and underlined that this new institutional configuration will help improving the quality, the speed, the fairness and effectiveness of services that would be provided for citizens.

A special ombudsperson was tasked to deal with complaints from children and women, although the EU’s priority was to assign a specific ombudsperson to deal only with child-related issues. The institutional framework was established considering the best practices in the European Network of Ombudspersons and several European officials, including the then Ombudsperson Nikiforos Diamandouros, were consulted during this process (Ombudsperson Institution, 2013, p. 44). In its resolution of April 18, 2013 on the 2012 Progress Report on Turkey, the European Parliament welcomed the establishment of an Ombudsperson institution for children’s rights and the adoption of Turkey’s first strategy on the rights of the child (European Commission, 2012). Turkey’s Ombudsperson Institution kept records of all its contacts with its European counterparts and made them public in yearly reports under the titles of ‘involvement in international networks’, ‘international cooperation’, ‘working visits’, ‘international relations’, showing the strong commitment of elite socialization and social learning to improve the process of functioning. The institution also held regular meetings with EU ambassadors, starting in March 29, 2013, to introduce the functioning of this brand-new system in Turkey and consult with them. In the annual reports of the Ombudsperson Institution strong emphasis was placed on the close ties with European Union officials and countries, while the data from the annual progress reports of the EU were included in these reports.

In 2013, the EU financed a special project to introduce the process whereby an individual could bring a case in the field of human rights (*İnsan Hakları Alanında Bireysel Başvuru Sisteminin Tanıtılması Projesi*). The main beneficiaries of the project were Turkey's Ombudsperson Institution, Constitutional Court and Human Rights Institution. The project was implemented between October 2013 and October 2014 and as part of it the Ombudsperson Institution prepared a booklet on individual application procedures and organized field studies in the relevant institutions in France and Germany to gain a comparative view. In terms of its relations with the outside world, the Ombudsperson institution began in 2013 to release yearly reports in an accountable way, in which it elaborate on all contacts with European officials and its involvement in the EU-funded projects.

In 2014, the 'KDK Child' website (www.kdkcocuk.gov.tr) was prepared by the Ombudsperson Institution of Turkey and UNICEF-Turkey to assist children in protecting their rights and taking action against administrations' acts violating these rights. The child Internet page aimed to raise awareness about the institution's activities in child rights and to quickly assess children's complaints to the institution. The website began taking direct complaints from children in April 22, 2014. In the meantime, the Ombudsperson responsible for women and child rights visited several primary schools across the country to inform of this project and the procedures for filing complaints. The website was updated and re-opened to service in 2016. Accordingly, children were informed that they could directly apply to the Ombudsperson Institution through the website when their rights in education, health, transportation, sheltering and related fields were violated by the administrations. This development coincided with another positive step taken by Turkey on April 14, 2014, when the Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure came into force and allowed children and their representatives to submit complaints to Turkey's parliamentary Committee on the Rights of the Child about specific violations of their rights laid down under the UNCRC. During this process, Turkey's Ombudsperson institution became a member of the European Network of Ombudspersons and an associate member to the European Network of Ombudspersons for Children (ENOC),

and it also participates in the yearly meetings of the Networks as a tool for elite socialization.

The European Network of Ombudspersons defines Turkey's Ombudsperson institution as such: "*The National Ombudsman of Turkey provides an independent and efficient complaint mechanism regarding the delivery of public services and investigates*" (Ombudsman, European Union, n.d.). Independent experts from European Commission paid visits to the Ombudsperson institution in order to examine the functioning of the institution and were informed of its decisions on individual applications in fields related to human rights. These developments were regularly included in the yearly reports. The Ombudsperson Institution also referred to Article 41 (Right to good administration) of the EU Charter of Fundamental Rights, which includes "*(a) the right of every person to be heard; (b) the right of every person to have access to his or her file, while respecting the legitimate interests of confidentiality; and (c) the obligation of the administration to give reasons for its decisions*" (Eur-Lex, 2007c).

In its annual report dated 2014, Turkey's Ombudsperson Institution made reference to the EU *acquis*, and emphasized that it took these principles into account when making decisions about the acts and decisions of public officials (Ombudsperson Institution, 2014, Annual Report, p.145). It is also worth noting that Turkey's Ombudsperson institution conducted a twinning project—'Project for Supporting the Establishment of Ombudsman Institution'—(*Kamu Denetçiliği Kurumunun Kurulmasının Desteklenmesi Projesi*) and benefited from technical assistance under the EU accession process. With pre-accession EU funding, the project aimed at conducting necessary work for adopting best practices in EU member states, boosting its capacity and increasing the public awareness of the institution through introductory activities. The project was carried out through twinning (2014-March 2016) and technical assistance (February 2014-December 2017). Under the former, experience acquired by Spanish and French Ombudsperson institutions was transferred in eighteen training sessions and eight workshops.

Turkish officials working in the Ombudsperson institution also paid working visits to France, Spain and Portugal to examine the working procedures of their counterparts, while two internship programs were organized in these countries as well. Under the technical assistance component, introductory documents were prepared, surveys were conducted and regional as well as international conferences were held in order to inform the greater public about the application procedures to the Ombudsperson Institution and its on-going activities. This technical assistance helped the institution to organize a meeting that brought together ambassadors of all EU member countries, to prepare an introductory booklet about the Ombudsperson institution, to publish and disseminate leaflets about the institution, while it also held regional conferences, the Fourth International Ombudsman Symposium and the Istanbul International Ombudsman Conference. The objective of these initiatives was not only to establish the institutional setting, but also to motivate cultural changes in mentality and in the views of the population because the most important tool in influencing the public at large is disseminating information in written form and via conferences.

Under the protocols signed between 2013 and 2015, Turkey’s Ombudsperson institution was made a key partner during implementation of the EU-funded *Justice for Children* project. The website of the institution was improved under this project in a bid to address the child complaints more quickly and efficiently. Several meeting and training sessions were held in order to raise awareness of the activities of the institution. The European Commission also monitored the work of the special Ombudsperson designated for children’s and women’s rights and made considerable efforts to improve the conditions of child rights. Thanks to the introduction of child-specific procedures to the institution over the years, the special Ombudsperson received more complaints directly from children. The Ombudsperson also conducts on-site investigations when issues concern the rights of women and children.

Table 8
Turkish Ombudsperson Institution’s Functioning between 2012-2016

| Year | Number of complaints received by the Ombudsperson tasked with children’s | Percentage of the total number of complaints | Main issues of complaint |
|-------------|---|---|---------------------------------|
| | | | |

| and women's rights | | | |
|---------------------------|-----|---------------------------------|---|
| 2012-2013 | 32 | 0.4% (Total complaints: 7638) | - Social services and assistance for children - Child abuse and neglect |
| 2013-2014 | 40 | 0.71% (Total complaints: 5639) | - Child abuse and neglect - Children in need for protection |
| 2014-2015 | 103 | 1.70% (Total complaints: 19332) | - Social services and assistance for children - Child abuse and neglect |
| 2015-2016 | 137 | 2% (Total complaints: 5519) | - Social services and assistance for children - Child abuse and neglect - Hate speech against children - Children in need for protection |

After a detailed screening of the recommendations of the Ombudsperson regarding child rights, the institution made in-site examinations until 2018 and began giving its recommendations after that date. The recommendations that covered 2012-2016 examinations concentrated mainly on discrimination against disabled children in school (Turkish Ombudsperson Institution, 2019) and the situation of overcrowded juvenile prisons, which carry the risk of rights violations (Turkish Ombudsperson Institution, 2018). Until 2016, the Ombudsperson elaborated on the issues regarding children under the rubric 'women and children'.

However, with a legislative amendment in its own regulation, the complaints about child rights would henceforth be elaborated on under a specific title regarding children. In the meantime, in 2016, Turkey's Ombudsperson institution signed a \$50,000 protocol with UNICEF in order to increase communication with public authorities, NGOs and local administration and to develop systematic dialogue with children by taking international best practices as a reference. Under the protocol, the institution published Turkish and Arabic banners in a bid to reach out to Turkey's Syrian refugees. Direct complaints from children to the Ombudsperson reached the highest number in 2016, following years-long efforts and capacity-building supports, chiefly from the EU and UNICEF. The Ombudsperson also attended meetings organized by EU Ombudsperson institutions. For instance, during the attendance of Chief Ombudsperson Zekeriya Aslan at a meeting organized by the Greek Ombudsperson on April 12, 2016 in Athens, hate speech and discrimination against

children were part of the discussions. During the in-depth interview with the Turkish Ombudsperson tasked with women and child rights, she underlined that the institution took into account all international agreements that were ratified in line with Article 90 of the Turkish Constitution as well as domestic, European and international legislation, along with rulings of the ECHR on child rights. In 2013, Turkey showed a renewed commitment to improve its child rights system and adopted the 2013-17 National Child Rights Strategy in December 2013. This identified steps to be taken for promoting services for children in various areas such as justice, health, education, protection services and media. The year after, in March 2014, Turkey adopted several democratization packages that amended numerous laws including the permission for private education in the child's mother tongue. Since 2013, the Ombudsperson dealing with child rights has handed down rulings in which international and European standards on child rights are always mentioned (Ombudsperson, Rulings).

In the meantime, the civil society actors working in child rights continued to proceed with the EU-driven reforms as part of the pre-accession funding mechanism. In 2008, several child NGOs already funded by the EU formed a significant network, the *Justice for Children Initiative*, which acted as a pressure group on legislative designs in juvenile justice and played a role in a comprehensive revision of the Turkish Penal Code in line with the UNCRC. In the meantime, *Gundem Cocuk* NGO prepared a report on police violence against children in Turkey and submitted it to the UN under the Optional Protocol to the Convention against Torture. According to the interview being made with the then-president of *Gundem Cocuk*, Emrah Kirimsoy, the NGO's report was examined in detail by Turkey's ombudsperson tasked with child rights and her subsequent ruling on this issue was sent out to all provincial authorities and police forces. In 2009 and in 2015, Turkey's Ministry of Justice published two separate Judicial Reform Strategy documents with specific reference to the EU. The latter one noted that "The Ministry of Justice is directly accountable for the Chapter 23 titled "Judiciary and Fundamental Rights" within the scope of negotiation process," (Directorate General for Strategy Development, 2015, p.5). The two documents made explicit references to the child's best interest in guaranteeing fundamental rights and developing strategies.

In 2013, Turkey's Ministry of Family and Social Policies announced its first-ever National Child Rights Strategy Document and Action Plan (Family and Social Policies Ministry, 2013). The document was prepared following two years of negotiations with all relevant parties. In the preamble, it was emphasized that the Strategy Document and Action Plan were based on acts and conventions of United Nations, European Union and Council of Europe that pertain to the rights of children:

The basic principles, values and approach of this Strategy Document and Action Plan are based on the UN Convention on the Rights of the Child that came into force in our country in 1995, the European Convention on the Use of the Rights of the Child that came into force in 2001, and the Council of Europe Child Rights Strategy covering the period between 2009-2011, European Union Child Rights Program published in 2011 as well as the UN Universal Declaration of Human Rights and the European Convention on Human Rights (Family and Social Policies Ministry, 2013, p.6).

The report also provided examples from European Union member state practices regarding child well-being and childcare, and included targets to revise the legislation regarding the employment of children in artistic, cultural and advertisement sectors as well as regarding the rules that would ease the employment of men and women while sharing childcare responsibilities. In justifying these harmonization targets, the report underlined that the rules and practices in EU member countries would be taken as examples.

On the other hand, in the early 2010s, the Brussels representation office of Turkey's main opposition party, the CHP, set up a voluntary expert network to monitor Turkey's EU accession process and began preparing thematic reports. The team was coordinated by Kader Sevinc, the CHP's Brussels representative. In its report dated 2013, the CHP negotiations monitoring team underlined the shortage of any national policy to decrease the rate of child labor, despite the shortcomings emphasized in the EU progress reports for Turkey. The report also noted that the steps taken towards improving children's lives were not adequate to eradicate the root causes behind the problems they face. On the other hand, Riza Turmen, a CHP parliamentarian during 24th term of the Turkish parliament and a former judge in the ECtHR, closely followed the situation of child rights in Turkey in reference to the EU accession process. He regularly published evaluation reports on child rights and on progress reports of the

European Commission. In the latest report, published in 2014, he called on the EU to use more critical language regarding child poverty rather than being ambiguous or diplomatic. Turmen also underlined that there were shortcomings in implementing international norms regarding child rights.

The European Commission also criticized the amendments to the 2006 Anti-Terror Law, in particular regarding Articles 220 and 314 of the Criminal Code, because according to these clauses, children between fifteen and eighteen years of age can be tried as adults, and the number of cases lodged against children in this age group increased significantly, while several imprisoned children were put in pre-trial detention in adult prisons (Delegation of the European Union to Turkey, 2009, p.25). “More effective use of the probation system should reduce the number of children in prison,” the report underlined in 2009 (*Ibid.*), while the following year the Commission noted, “the number of juvenile reformatories is insufficient. Children are not fully separated from adults in all prisons. This is especially the case with girls, who are usually imprisoned with women” (Directorate of EU Affairs, 2010, p.19). Following the EU’s criticisms, Ankara made some amendments to the relevant clauses and the European Commission welcomed the subsequent amendments to the Anti-Terror Law and other laws in July 2010 whereby children being charged with terror crimes would be tried by juvenile courts even when they committed these offences with adults. Accordingly, the number of prison sentences imposed on children attending meetings or demonstrations would be reduced, while the juvenile courts would be allowed to decide on postponing of the announcement of a judgment and to bring about alternative sanctions rather than prison term. Children would be tried only in juvenile courts. On the other hand, 'aggravating circumstances' under the Anti-Terror Law would not apply to children.

Although the European Commission saw the implementation of this law as incomplete because the insufficiency of juvenile criminal courts across the country obliged children to go to trial in courts designed for adults, the EU monitored the implementation phase closely in the progress reports after 2011. “*In most provinces, there are not yet adequate facilities for children's pre-trial detention or to make sure that children are detained separately from adults and receive proper psychological*

support” it noted (Delegation of the European Union to Turkey, 2011, p.34). In line with international and European standards and norms on child well-being, the European Union insisted that the imprisonment of children should be a last resort and then only for the shortest period of time possible and under appropriate conditions, while in each of its progress reports, the Commission drew attention to conditions in the juvenile prisons referring to “*complaints of overcrowding, inadequate hygiene, ill-treatment, staff shortages and violence and/or abuse by inmates*” (Directorate for EU Affairs, 2014, p.57).

Another European Union co-funded project supporting the development of an effective and preventive probation system for juveniles in Turkey protecting their fundamental rights was also launched on June 8, 2016 in Ankara to comply with the standards of the UN Convention of the Rights of the Child and the Council of Europe Guidelines on child-friendly justice. This two-year-long project, *Development of an Effective Risk Evaluation System for Children in Turkish Probation Services*, was implemented with the aim of developing necessary policies facilitating the effective socialization and integration of children being involved in delinquency. The project used several needs and risk assessment systems across twenty-one provinces of the country. Probation officers and other juvenile justice professionals enjoyed practical, case-based training programs in a comprehensive way. The EU-funded project was implemented by UNICEF in close cooperation with the Directorate General for Prisons and Detention Houses as well as the Department for Probation of the Ministry of Justice of Turkey, a total budget of €2 million, 81% of which was funded by the EU, 9% by the Republic of Turkey and 10% by UNICEF. In the meantime, in 2016, the Diyarbakir Bar Association began a three-year EU-funded project, *Children’s Rights in and after the State of Conflict*. The project was a judicial service project for children of Diyarbakir who have faced conflicts. The cases of children who lost their lives during conflicts were monitored, while the Bar Association filed and followed up on lawsuits of children who were unable to enjoy their fundamental rights and reported human rights violations to the authorities. Another key project was the *Development of an Effective Risk Evaluation System for Children in Turkish Probation Services Project* - referred to as DENGİ, A Juvenile Probation Program- that was implemented by the Ministry of

Justice (MoJ), the General Directorate of Prisons and Detention Houses/Probation Department with the technical support of UNICEF. It was co-financed by the European Union, UNICEF and the Republic of Turkey and implemented in twenty-one pilot provinces with a budget of €2 million. This program aimed at improving the probation services for children and young people, and make sure that deprivation of liberty becomes a last resort only.

Another project on juvenile justice was *Support to the Improvement of Legal aid practices for access to justice for all in Turkey*, conducted between September 2015 and September 2018, in which the Ministry of Justice, Turkey's Union of Bar Associations and United Nations Development Program's Turkey office were involved to build capacity among lawyers who work with disadvantaged groups, including children. The project was based on the EU's warnings about the bottlenecks in legal aid services to children because the issue remained a hot topic in the EU progress reports, in the advisory visit reports as well as in the reports on Turkey from the Council of Europe's European Commission for the Efficiency of Justice (CEPEJ). These EU-funded projects helped the authorities in Turkey to recognize the criticisms made by the EU authorities at various levels and to discover opportunities for improving the living conditions of children accordingly. It was therefore a significant contribution to the cognitive dimension of Europeanization that was intended to increase the legitimacy of EU demands through capacity-building and to cultivate positive normative resonance with domestic rules.

With the approval of the Council of Ministers in 2014, the 'Reform Monitoring Group' was renamed as the 'Reform Action Group' (RAG) to better represent the active role assumed by this body. The RAG did not just monitor the political reforms, but also took on an active role in the whole cycle of reform agenda contributing to the preparation, adoption and implementation phases. During the expert interview at what was then the EU Ministry of Turkey (Interview, EU Ministry, June 2015), it was emphasized that child rights was part of the reform agenda of the action group, particularly after their 2010 Konya meeting. In 2010-2014 period especially, the RMG meetings elaborated on issues pertaining to child rights. During the Konya meeting (the

20th such meeting) on April 9, 2010, the RMG decided that the reform package submitted to the Turkish Parliament on November 10, 2009 would be closely monitored as it contained reforms regarding child rights (Reform Monitoring Group Meeting, Konya, 2010). Similarly, at the next RMG meeting in Ankara (the 21th Reform Monitoring Group Meeting) on July 26, 2010, the group decided to prepare and distribute to the greater public an explanatory note on the EU-induced legislative amendments made on juvenile justice because this meeting coincided with wide-ranging reforms concerning children who participated in and committed crimes at meetings and demonstrations for the first time. Accordingly, they would not face a prison term if they did not use firearms.

These relatively courageous reforms had to be explained to all relevant parties in the society and the Reform Monitoring Group acted as an intermediary, or in other words as a norm entrepreneur, for the EU-induced child rights reforms. (Reform Monitoring Group Meeting, Ankara, 26 July 2010). During the 23rd Reform Monitoring Group meeting, the harmonization packages regarding the rights of children were discussed generally (Reform Monitoring Group Meeting, Ankara, December 2010), while during the next meeting on March 16, 2012, the Law on Protection of Family and Prevention of Violence Against Women was put on the agenda as it was enacted eight days before the RMG meeting and included several reforms regarding children exposed to violence (Reform Monitoring Group meeting, Istanbul, March 2012). The last meeting at which child rights were discussed was the 29th Reform Monitoring Group meeting in Ankara on May 9, 2014. During that meeting, the recent increase in the sexual assault cases and exploitation of children were elaborated on as an item on the agenda, while the meeting also urged that a draft law should be submitted to the Turkish parliament to bring in more deterrent penalties for offenses regarding sexual inviolability against women and children (Reform Monitoring Group meeting, Ankara, May 2014).

Meanwhile, Turkey adopted an exhaustive National Action Plan for EU accession (Ministry for EU Affairs, 2016). Turkey also committed to adopt a by-law on child adoption in order to comply with the relevant EU legislation, namely EUROPE

2020 – a strategy for smart, sustainable and inclusive growth and Communication from the Commission against Poverty and Social Exclusion: A European framework for social and territorial cohesion, for reducing the risk of social exclusion of children in Turkey. The Ministry of Family and Social Policies was held responsible for taking action in this field and preparing the legislative amendments by the first half of 2016. Turkey also committed to adopt another by-law on children's homes that covered the modernization of institutional childcare services and aimed at complying with EUROPE 2020 objectives and Communication against Poverty and Social Exclusion. That second legislative step was due for the second half of 2016 under the coordination of the Ministry of Family and Social Policies.

Another thorny issue was the amendment of the by-law on procedures and principles of employment of children and young workers working in art, culture and advertisement activities. Turkey committed to comply with the relevant Council Directive 94/33/EC of 22 June 1994 on the protection of young people at work and to design working areas, including artistic activities, for children and young workers. That legislative change was also due for the second half of 2016 under the supervision of the Ministry of Labor and Social Security. But no harmonization effort was shown for adapting to EU requirements in this field, largely due to the active lobbying of business groups whose interests would be affected by the new provisions on child labor. Turkey also committed to adopting the Law on the ratification of UN Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure to comply with the EU's political criteria and the European Convention on Human Rights. This UN Protocol, which gave consent to the UN Committee on the Rights of the Child to examine individual applications, was due for the first half of 2016 under the coordination of the Ministry of Foreign Affairs and it was finally ratified on December 26, 2017.

Regarding international human rights instruments, Turkish parliament passed legislation to ratify the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse in November 2010, while in September 2012 it signed the Optional Protocol to the Convention on the Rights of the Child that

gives consent to the UN Committee on the Rights of the Child to examine individual applications from Turkey¹¹. In 2016, the European Commission committed €8 million to help UNICEF in its humanitarian assistance for vulnerable child refugees in Turkey to ensure their wellbeing and protection. Similarly, Turkey committed to ratify the Hague Convention on jurisdiction, applicable law, recognition, enforcement and cooperation in respect of parental responsibility and measures for the protection of children in a bid to comply with the European Convention on Human Rights and EU's political criteria. This ratification happened on May 22, 2016 under the coordination of the Ministry of Foreign Affairs. In relation to this, Turkey also pledged to ratify the Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance by the first half of 2016 in order to comply with the European Convention on Human Rights and EU's political criteria. This ratification also entered into force on September 1, 2017, but with a reservation on the basis of Article 30, which reserves the right not to recognize and enforce maintenance arrangements. In the meantime, Bill No. 280 on the Responsibility of Custody and Child Protection was a legislative step that was required by the EU in order to enable visa liberalization agreement. Thus, from the perspective of fundamental rights and freedoms, child protection was among 72 requirements (benchmarks / criteria) listed in the EU-Turkey roadmap for the visa-free regime.

The European Commission also monitored the trend of school dropouts in this period especially among Roma children and children of seasonal workers. It attached much importance to the need for improving enrolment rates, especially for girls, in compulsory education, while addressing the issues of absenteeism and dropout, both of which appeared mostly due to regional disparities. In its progress reports, Brussels urged the Turkish government to take early warning measures against children at risk of dropping out (Delegation of the European Union to Turkey, 2011, p.33). In relation to this, child poverty also appeared as a key point in EU criticisms of Turkey: *“The poverty rate among children is disproportionately high. For those under the age of six, the rate stood at around 24% of all cases of poverty and at around 49% of all cases of*

¹¹ The ratification of this optional protocol by Turkey would wait for another five years. Turkey ratified the Optional Protocol to the Convention on the Rights of the Child on a communications procedure on 26 December 2017.

rural poverty” (Delegation of the European Union to Turkey, 2011, p.33). The Commission attached great importance to evaluating the impact of measures against child labor and emphasized the need for an updated survey as well as for quantitative and qualitative data about the situation of child labor in Turkey. Beginning from 2013, the progress reports began emphasizing the problems that Syrian children were facing in Turkey, especially in accessing to the social assistance, healthcare and school services. *“Some of the children received social assistance and healthcare and were able to attend school, but others faced difficulties due to poverty, language competence or issues relating to identity documents and compulsory places of residence”* (Delegation of the European Union to Turkey, 2013, p.16).

Similarly to Romanian case and its alignment with EU demands on child rights, Turkey also undertook a de-institutionalization in childcare and the European Commission through progress reports regularly monitored the process. According to the 2011 progress report, *“there are initiatives regarding children placed in institutions to support de-institutionalization towards a community-based approach; however, community-based care services still remain limited and needs to be enhanced in terms of coverage and content”* (Delegation of the European Union to Turkey, 2011, p.33). The Commission systematically called on the Turkish government to improve conditions in child-care institutions, to have their staff trained and to promote alternative care models. This process was closely followed by the European Commission which noted in its 2012 report that, *“the tendency towards de-institutionalization of care services for children continued, with the introduction of a support scheme for family-based care”* (European Commission, 2012, p.27). The report also noted *“awareness-raising efforts on the de-institutionalization of care services for children were limited. The conditions and administrative capacity of childcare institutions need to be improved”* (European Commission, 2012, p.28).

However, the Commission also attached importance to the overall commitments in the strategy paper not remaining on paper, with the 2015 progress report stating, *“The 2013 national children’s rights strategy and action plan were not implemented and the Children’s Rights Monitoring and Evaluation Board did not meet”*

(Directorate for EU Affairs, 2015, p.66). During this timeframe, child labor and related child poverty persisted as a focal point of criticism of the European Commission which emphasized the need to address this issue as a matter of priority. The 2014 national employment strategy pledged to prevent child labor, but its weak implementation did not bear fruit as child workers becoming again victims of occupational accidents (Directorate for EU Affairs, 2015, p.66). At this point, is worth noting that the ILO acted as a technical facilitator for the EU with its projects that began in 2012 on introducing an integrated model for elimination of the worst forms of child labor in seasonal agriculture in hazelnut harvesting in Turkey. This project, begun in 2012 to last until the end of 2023, was being implemented jointly by the Ministry of Family, Labor and Social Services of Turkey and the ILO, with development partners being Association of Chocolate, Biscuit and Confectionery Industries of Europe (CAOBISCO) and the Kingdom of the Netherlands, in line with the Turkish Government's strategy (National Employment Strategy (2014-2023) and the National Program for the Elimination of Child Labour (2017-2023)). The end target of the project, being implemented in Ordu, Giresun, Samsun, Sakarya, Duzce and Sanliurfa provinces, is to boost national and local capacity to remove children from seasonal hazelnut harvesting in Turkey and enhance awareness in this field. Since most of the world's hazelnuts come from Turkey, the world's chocolate companies did not desire to have their products associated with child labor because their corporate standards restricted employment of children under eighteen years for seasonal migratory agricultural work. According to Turkey's action plan, the target year to end the worst forms of child labor was 2015, but this was postponed to 2023 (Interviews with Ertan Karabiyik).

On the other hand, the reforms introduced under the 4th Judicial Reform package relaxed the conditions for granting legal aid for children but the EU, in its 2014 Progress Report, also emphasized that the legal aid should be improved in terms of scope and quality, along with an effective monitoring. Lack of public awareness on legal aid in rural areas and among disadvantaged groups was one of the main criticisms of the EU. It is equally important that the Ministry of Justice continued its projects on juvenile justice and fighting violence against children through separate conferences by gathering civil society actors such as Gundem Cocuk Association and the Sabanci

Foundation as well as lawyers working in child rights. In the meantime, the 6th Judicial Reform Package (Law Amending the Turkish Criminal Code and Some Laws) was adopted by the Turkish parliament on June 18, 2014. Accordingly, the arrangement on increase of the penalty in case of impairment of the physical or mental health of the victim was abolished, and the penalty to be imposed in respect of the basic form of an offence increased. Thereby, victims, especially minors, are prevented from being traumatized many times. Moreover, in the event that the offence of sexual harassment was committed against a child, the penalty to be imposed was increased and the lower limit for the penalty was augmented from 3 to 6 months. A By-law on Child Support Centers was published on the Official Gazette on March 29, 2015. This by-law was put among the objectives listed in the National Action Plan for EU Accession Phase-1 and aimed to provide improved services for children from a broader perspective. On a positive note, Zarok TV, the country's first Kurdish child TV, was opened in 2015 as part of EU reforms, but it was closed for a while in 2016 following the failed coup attempt. Finally, under the coordination of Ministry of Family and Social Policy, the National Action Plan on Combating Violence against Children 2015-2019 was adopted in 2016. With this plan, it was intended to define practices in all fields and responsibilities of each institution and conduct collaborative activities with countrywide public institutions and NGOs for the purpose of ensuring children's protection from all sorts of violence. The Draft Action Plan was prepared with contributions from related institutions and child representatives.

Sub-committees working on all negotiation chapters and political monitoring meetings take place once or twice a year depending on developments carried out within the scope of Turkey's EU Accession. As child rights are related with two negotiation chapters 19 on Social Policy and Employment and 23 on Judiciary and Fundamental Rights, improvements in the field of child rights have been always discussed during these meetings. In the meantime, the European Commission serves as a monitoring mechanism for Turkey's lack of fulfillment of its commitments under the UNCRC. It warned in its 2014 progress report that the Monitoring and Assessment Board for the rights of the child that was responsible for coordinating the implementation and monitoring of the UNCRC did not meet during the reporting period (Directorate for EU

Affairs, 2014, p.56), drawing attention to the lack of coordination between ministries, departments and state institutions dealing with child rights at national, regional and local levels. It was not until the 2015 progress report that Turkey held its Universal Periodic Review (UPR) in January 2015 and adopted its outcome on June 26, 2015.

Finalized IPA projects in this timeframe were as follows:

- Development of An Effective Risk Evaluation System for Children in Turkish Probation Services, 2012/EU
- Support for Basic Education Program (TEDP), EU, 2002
- Democratic Citizenship and Human Rights Education, EU, 2009, IPA-I
- School Attendance Rate of Children, EU, 2010, IPA-I
- Fight Against Violence Towards Children, EU, 2010, IPA-I

These IPA projects were based on the priorities laid down in Turkey's 2008 Accession Partnership document urging the candidate country to ensure full implementation of the 2005 Law on Child Protection and promote protection of child rights in line with EU and international standards. For instance, concerning the IPA project on the fight against violence towards children, the target of child protection was translated into action through the establishment of counseling services, the development of a 'Safer School Model' free from physical, verbal and psychological violence, and the promotion of training programs for raising awareness among parents, teachers, NGO representatives, and children themselves, and the development of a national survey on violence towards children. Therefore, the accession partnership document had a direct impact on the projects and the subsequent legislative reforms.

The monitoring process of the developments in the field of child rights in Turkey was carried out through the Reform Action Group, National Action Plan on EU Accession, Action Plan on Prevention of European Convention on Human Rights violations and other relevant action plans and strategy documents prepared by related ministries. Ministry for EU Affairs was the main coordinator body in the process of accession negotiations; while at the implementation phase relevant Ministries were always in contact with their European counterparts (Interview, EU Ministry, 2015). Moreover, through the Technical Assistance and Information Exchange (TAIEX), the

European Commission helped Turkey, and other candidate countries, with respect to the approximation, application and enforcement of the EU legislation. For instance, on April 13-14, 2010 in partnership with the European Commission, a seminar on the juvenile justice system and protection mechanisms for minors was held. On the other hand, in terms of Europeanization's elite socialization effect, many EU-funded projects were implemented jointly with the UN or CoE. For instance, the *Justice for Children* Project was financed by the EU with technical support provided by UNICEF; while the *Democratic Citizenship and Human Rights Education* Project was an EU-CoE joint program. The project was co-financed by the EU and the Republic of Turkey and implemented by the CoE. In addition to this, Turkey is a member of the Council of Europe Network of Children's Rights Coordinators.

The European Commission continues to monitor the situation of child protection in Turkey (European Commission (2021e), and to fund projects on improving child rights in Turkey as part of EU financial assistance, with programs in education, child protection, children with disabilities, problems of children staying with their mothers in prison, access to education—including early childhood education services—and the situation of migrant children, as well as combating child labor and domestic violence. All these projects continue to improve capacity-building in Turkey in several fields and to contribute to better implementation of international standards and EU Guidelines for the promotion and protection of child rights.

4.2. Analysis of the Turkish Case: Strong or Weak Europeanization?

The impact of EU political conditionality on Turkey during its pre-accession period fluctuated in all spheres, including child rights, but ultimately the outcome has been a weak and patchy Europeanization. There was a significant incompatibility between EU-level and domestic-level politics, polities and policies, and this was made crystal-clear in EU progress reports, accession partnership documents and projects. There were also different degrees of misfit in policy areas, with some misfits in primary school attendance, and the establishment of the Ombudsperson institution led to domestic change in a relatively short timeframe through the impact of EU-funded projects, but some misfits had to travel a long path, especially in juvenile justice, child

labor and child abuse. These changes may be evaluated from the top-down perspective, as during the accession negotiations process Turkey did not trigger any bottom-up changes at the EU-level in terms of child rights. Moreover, the ILO and UNICEF, which acted as technical partners for the EU-funded projects on child labor and school attendance, brought their technical expertise into play as ‘norm entrepreneurs’.

Domestic actors can opt for either a rational institutionalist approach and thus act in rational, goal-oriented and purposeful way (‘a logic of consequentiality’) by considering opportunities for strategic interaction and accepting the EU as a political opportunity structure, or they can follow social constructivism by using social learning processes and taking EU policy choices and norms as specific templates to influence domestic change (‘a logic of appropriateness’). When we apply this model to the Europeanization of child rights in Turkey, we notice that; national expectations determined the capacity of EU agency in this field, especially on sensitive topics such as mother tongue education or broadcasting children’s TV programs in regional languages. It is therefore possible to interpret the evolution of Turkey’s child protection system under the EU accession process from two different angles of neo-institutionalism: from the strategic and rational choices of the actors who followed a logic of consequentialism, and from the socialization of actors to promote a logic of appropriateness about the new values and understandings attached to them. This section will elaborate these two perspectives -which are not mutually exclusive- on the basis of concrete examples that Turkey provided during its pre-accession period. It is worth noting here that Turkey has never relied exclusively on political conditionality or on elite socialization in the Europeanization of child rights, with the two perspectives complementing each other during the whole process because the conditionality is applied within a specific social context and understandings attached to it.

4.2.1. Analysis from a Rationalist Institutional Perspective

Turkey’s response to the EU conditionality in child rights was not the same across time and policy area. However, it was dictated mainly by the rational choice of actors, be they, organizations, institutions, policy makers or civil society actors, who have a set of predefined preferences through which they justify their decisions within

institutional settings. Similarly, “*at the domestic level, rationalist institutionalism focuses on the differential empowerment of domestic actors*” (Sedelmeier, 2012, p.12). Ankara’s response to democratic conditionality has been directly influenced by the credibility of EU’s membership offer, as well as by domestic calculations of the costs of compliance with the reforms. On the other hand, Europeanization is also a matter of measurement. From the 2000s to 2012, a process of accommodation was prevalent in the Europeanization processes of Turkey’s child rights regime, while after that date, the outcome of Europeanization became patchy and selective. Therefore, the costs of transactions were taken into account when decision-makers embarked on a supranational cooperation with the EU, and with its EU member states as part of twinning projects. The use of pre-accession assistance mechanisms was a key motivation for utility-maximizing domestic actors to calculate the costs and benefits of the assumed reforms. In other words, the Helsinki Summit offered the accession perspective to Turkey, seconded by the opening of accession negotiations.

The Helsinki summit made it clear that Turkey could only be a member of the EU if it fulfilled the political aspects of the Copenhagen criteria. Between 1999 and 2005, the EU played the role of an external actor that stimulated domestic change and Europeanization in Turkey while forging institutional ties between Brussels and Ankara, but its power and its referential value changed across time and priority area especially due to the existence of veto players on both sides and political turmoil. However, in the period leading up to 2005, the veto forces did not have strong bargaining power or weight in political mechanisms in Turkey as pro-European groups raised their voices and created pressures for change. During this timeframe, and starting on October 2001, Turkey adopted various democratization packages in the hope that the EU would open accession talks in the foreseeable future. Therefore, the EU’s use of conditionality—a strategy widely emphasized in rationalist institutionalism—was efficient during this process. About one third of the Turkish constitution was amended during this period when the anchor of the EU was in place.

Table 9
Turkey’s EU Harmonization Packages, 2001-2004

| Date | Name | Changes for the child rights |
|------|------|------------------------------|
|------|------|------------------------------|

| | | |
|------------------------------|-------------------------------|---|
| 3 October 2001 | First harmonization package | --- |
| February / March 2002 | Second harmonization package | --- |
| 2 August 2002 | Third harmonization package | Permission for broadcasting in languages other than Turkish |
| 3 December 2002 | Fourth harmonization package | Amendment to the Article 5 of the Law on Criminal Records in order to ensure that information in the criminal records on minors under 18 becomes necessary only under certain exceptional cases in line with the UNCRC. Amendment to Article 8 of the Law on Criminal Record in order to remove records about certain offenses by children and to introduce provisions on minors that reinforce child rights in line with the UNCRC (Secretariat General for EU Affairs, 2007, p.13) |
| 4 December 2002 | Fifth harmonization package | --- |
| May 2003 | Sixth harmonization package | Amendment to Article 453 of the Penal Code to bring heavier sanctions about the "honor killings of children". Amendment to Article 16 of the Law on Census to remove the condition that children cannot be given names that are deemed as inappropriate to the "national culture" and "customs and traditions" |
| July 2003 | Seventh harmonization package | Amendment to Article 6 of the Law on the Establishment, Duties and Trial Procedures of Juvenile Courts to improved the rights of children in line with the UNCRC. Accordingly, the term child in this Article refers to anyone below the age of 18 years while the previous expression referred to those "below the age of 15 years". The amendment also deleted exceptions to the jurisdiction of Juvenile Courts. |
| 7 May 2004 | Eight harmonization package | --- |
| 24 June 2004 | Ninth harmonization package | --- |

The above-detailed harmonization steps were the immediate results of Turkey's domestic actors that pursuing rational choices in aligning with EU legislation and showing this commitment through concrete legislative initiatives in order to secure the opening of accession negotiations in 2005 and to find a legitimization device in the EU in order to gather domestic and international recognition for the new government. In this way, the external incentives of candidacy status and accession talks underpinned EU conditionality, and the material costs being experienced by domestic veto players on various fronts, including child rights, led to variations in the degree of Europeanization. Therefore, the period until 2005 might be considered as a period where Turkish

domestic actors pursued their rational interests because EU demands were clear, political conditionality was credible and there was consensus among EU member states on rewarding Turkey's compliance with EU-induced reforms, including child rights. For instance, there was intensive contact between the Turkish government, its Ministry of Justice and the EU between 1999 and 2016 in the field of child rights, and several projects were conducted to improve juvenile justice and develop victims' rights (Interview, Ministry of Justice, March 2016). In the course of the in-depth interviews, the Ministry representative stated that the warnings and evaluations of the EU in its progress reports on Turkey had been taken into consideration in the Ministry's strategic plans and institutional targets. The same answer was given during the interview with the Ministry of Family and Social Policies (Interview, Ministry of Family and Social Policies, 2015 January).

If the costs of compliance with EU norms are lower than the rewards of membership, then political conditionality becomes successful. In the field of child rights in Turkey, the compliance costs were low in several reforms, for instance in establishing the child Ombudsperson. By December 2013, applications to the Ombudsperson totaled 7,474 people. The temporal proximity of the EU rewards linked to the opening of accession negotiations was also a motivating factor, while the European Commission's monitoring through progress reports and accession partnership documents also persuaded decision-makers and civil society actors of the sincerity of the EU in offering an accession path to Turkey on its accomplishment of the necessary reform steps. Therefore, the facilitating international factors helped Turkish decision-makers to proceed with the reforms through the logic of consequentialism because the consequence of these efforts might be EU membership. The EU backed its political conditionality with the pre-accession funding mechanisms in Turkey, but it did not strictly connect full harmonization with the EU requirements with the membership reward, as it did in Romania.

In terms of domestic facilitating factors, the party system was especially favorable after 2002, as a one party government was easier than dealing with the coalition partners whose rational interests could diverge across different reform steps

touching on sensitive issues to do with culture and education. The first years of the AKP were also marked by a liberal and democratic manner of government where improvements in fundamental rights and freedoms prevailed. In this sense, the government pioneered the reform process and acted as a domestic EU ally in generating changes and assuming the adjustment costs. In the case of child rights, protection of children against honor killings and improvement of juvenile justice fit well with the preferences of the Turkish government as the domestic adjustment costs of these reforms in the polity dimension were not prohibitively high, and a significant amount of EU money was flowing into adjusting the misfits in these areas. In the policy dimension, there were a significant number of NGOs working in these areas and a low number of veto players, which facilitated domestic change. In other words, the number of actors opposed to improving child rights in the courts or protecting children's lives against honor killings was low because these policy areas did not have any strong institutional and administrative legacy.

The main veto points were linked with EU requirements in sensitive areas that touched on cultural rights and juvenile justice, while the business sectors that use child labor—especially the film industry, manufacturing, service and agriculture sectors—acted as veto points when the relevant EU directive (i.e. Council Directive 94/33/EC of June 22, 1994 on the protection of young people at work) had to be transposed into domestic law. The result was a partial harmonization, leaving aside child labor in artistic and cultural activities. The implementation of the IPA funds was also a significant mediating factor for the Europeanization of child rights in the country because between 2014-2020, about €80 million was allocated to Turkey under IPA II specifically for child rights. Twinning projects, although they have an additional socializing dimension, also convinced Turkey's decision-makers and civil society of the credibility of the EU perspective in generating domestic change on child rights. In line with sociological institutionalist perspective, Europeanization through elite socialization under the EU funding changed perceptions of civil society actors regarding child rights and made them a change agent.

On the other hand, the fact that child rights area was included in the EU's conditionality on candidate countries immediately following the Romanian accession process reduced the uncertainty that might have stemmed from the absence of a single EU model regarding child rights and might have pushed Turkey and the European Commission to uncertainty about the application of conditionality. This was not the case, however. Domestic and European actors considered the adoption of particular rules and standards on child rights an element of EU accession conditionality because the Turkish government and the civil society believed in the connection between EU rewards (i.e. the flow of pre-accession financial assistance, opening of accession talks and ultimately membership) and rule adoption. Therefore, the EU membership bid played a pivotal role in generating domestic change by reducing uncertainty and providing credibility when promising rewards for Turkey on condition that it met EU demands on child rights. However, the power of conditionality over Turkey began decreasing once the accession talks were opened in 2005 because the candidate country "*no longer had to fear exclusion from accession*" (Sedelmeier, 2011, p.12). It is possible, however, to distinguish some important steps Turkey took after 2005 in areas where the costs of meeting the EU's demands were not prohibitively high because the EU used intermediate rewards –i.e. increased financial assistance on projects pertaining to child rights- in support of the harmonization process.

4.2.2. Analysis from a Sociological Institutional Perspective

It is necessary to analyze the Europeanization of child rights in Turkey from a constructivist/sociological institutionalist perspective because pure rationalist approaches ignore processes of socialization and persuasion as instruments for EU domestic impact on the candidate country. However, it is equally important to convince the elites in the candidate countries of the legitimacy of the EU's rules and their intrinsic value (Sedelmeier, 2011, p.15). Taken from a sociological institutionalist perspective, the establishment of an Ombudsperson institution and the appointment of a specific ombudsperson dealing with child rights was a mirror example about how the actors introduced the notion of logic of appropriateness by using culture, values, identity, norms and all relevant cognitive filters that might affect the interests of actors

through socialization in the networks of European ombudspersons and the provision of opportunities for transferring best practices. In this respect, the legitimacy of EU demands in raising public awareness on child rights and in dealing with complaints from children about maladministration and injustice by public authorities in areas pertaining to child rights were further boosted with the presence of the Ombudsperson. Identification of the Ombudsperson with European child protection standards and the positive normative resonance in the Ombudsperson's decisions with the UN, the CoE and the EU rules were also significant domestic facilitating factors from a sociological institutionalist perspective. The active participation of the Ombudsperson in the meetings of ENOC (European Network of Ombudspersons on Children) and membership of the European Network of Ombudsmen also facilitated the Europeanization of child rights in Turkey through transnational (epistemic) networks (Sedelmeier, 2011, p.13). In other words, taking part of these networks and engaging in social learning processes helped domestic norm entrepreneurs and decision-makers in developing normative resonance between domestic cultural understandings and EU rules. In this context, the use of persuasion and socialization strategies contributed to the spread of norms among domestic actors. On the other hand, the establishment of the Ombudsperson institution can be given as an example of accommodation because there has been a medium degree of change. However, time is needed to show whether it can be considered a transformation, if the institution begins engaging more with the civil society and addresses concerns about child rights on more sensitive issues regarding juvenile justice or allegations of torture against children in prisons.

On the other hand, the outcome of the legal and institutional changes in the juvenile justice area may qualify too as an example of accommodation because some reforms to the open penitentiary institutions for children were tailor-made without following the advice of the NGOs who took part of the EU-funded projects (Interviews, Akco, 2021 and 2022). Therefore, in juvenile justice, national authorities were guided by collective understandings of what constitutes 'appropriate behavior' in the domestic context, their implementation of projects also considered the need to address social expectations and national sensitivities about the justice system, and despite workshops, training programs, technical assistance projects and field visits, these were the guide to

the limits of conditionality Therefore, the EU's suggestions were not transferred to the domestic context in due form, but through accommodation with cultural sensitivities (Interviews, Akco, 2021 and 2022). The twinning projects between Turkey, the United Kingdom and Lithuania, with the aim of developing harmonization work with juveniles and victims by the Turkish Probation Service, and increasing the organizational capacity of the women and child sections of the gendarmerie general command, might be also understood as part of the cognitive Europeanization with the elite socialization effect of these projects. Similarly, another twinning project with Spain, approved in 2016 and planned to continue until June 2019, was instructive for sharing of best practices between the Spanish and Turkish governments, with Turkish authorities having paid a visit to Spain and initiated pilot projects in several cities of Turkey from Adana to Izmir, Istanbul and Eskisehir in order to implement the Spanish model.

A screening of the parliamentary minutes during the timeframe of the thesis also revealed that parliamentarians did not show enough interest in taking the EU as a referential for the reform steps about child protection in the country in their speeches, meaning that the political culture was not fully ripe for a full Europeanization of child rights. However, the establishment of supportive formal institutions such as the Reform Monitoring Group established in 2003 and the improvement of administrative capacities also helped the Europeanization process in the country in several fields, including child rights. As the Reform Monitoring Group gathered different ministries around the table to show a clear commitment to the country's reform willingness, it was a significant step in developing a pro-EU political culture. On the other hand, monitoring on such a scale helped domestic institutions to keep track of progress in EU harmonization reforms and to remind public authorities about the goals, timetables and potential rewards of these reform moves. The existence of formal institutions such as the Reform Monitoring Group, that make consensus-based joint decisions, provided political and bureaucratic actors with material, institutional and ideational resources for better exploiting European opportunities and promoting domestic change. These formal institutions also helped sharing compliance costs, so the burden did not rest on a single social or political segment.

The change agents/norm entrepreneurs of the Europeanization of child rights in Turkey were mainly the NGOs, experts and advocates for child rights, academics working on child rights and the ombudsperson networks in which Turkish authorities took part. With the reports they prepared and with the EU-funded projects of which they were a part, this proliferation of policy experts, NGOs and academics working on child rights was instrumental in triggering change process and putting pressure on decision-makers. The presence of these change agents was also instrumental in decreasing Euro-skepticism in the country vis-à-vis thorny reform initiatives on child rights, for instance in mother tongue education or broadcasting in regional languages. The Ministries of Justice, the Interior, the Education, Employment and Ministry of Foreign Affairs acted as the key public institutions engaged in protection of the rights of children. The Turkish government also cooperated with international organizations, mainly UNICEF, the ILO and the EU in the field of child rights, with an established institutional structure coordinating the implementation of the projects.

The EU financial assistance to strengthen the protection of child rights in Turkey –e.g. the IPA National Program, Civil Society Facility (CSF) that was approved in December 2018 to strengthen civil society organizations in carrying out right-based actions in human rights in Turkey, EIDHR and EU Facility for Refugees in Turkey (FRIT)- was an important facilitating factor. In the same vein, the EU pre-accession assistance empowered several civil society actors in Turkey dealing with child rights because the EU considers the NGOs as a fundamental constituent of a functioning democracy, in which people can freely engage in activities for communicating their demands and affecting governmental policies. Therefore, the empowerment of the civil society through legal, financial and technical ways to develop their capacity helped the EU to guarantee that its norms, standards, rules and principles are effectively integrated into domestic policy structures.

As such, civil society organizations in Turkey dealing with activities in child rights contributed to the country's accession process by acting as intermediaries between Brussels, decision-makers and ordinary citizens to shape the direction of the EU impact and cultivate the necessary conditions for local appropriateness. Their

presence and actions also increased the legitimacy of the EU demands, for instance in a project where the local citizens were instructed by local civil society actors on not using child labor in agricultural operations because it was against the international and European norms. This process therefore led to a redistribution of powers in a way that boosted the NGOs' position in the decision-making processes, widened their geographical reach and offered a more conducive environment for Europeanization.

Therefore, in 1999-2016, the European Commission financed several programs in education, juvenile justice system, child protection, protection of the rights of children with disabilities, protection and access to education for children in vulnerable situations (including children in migrant communities), and combating child labor in order to cultivate a normative resonance and include all relevant actors in epistemic communities that would increase identification with the EU. It also provided support for the establishment of the Ombudsperson system in Turkey by financing four separate projects, including twinning with EU countries.

4.2.3. Conclusion: Europeanization or de-Europeanization in Child Rights?

Turkey's harmonization process during its candidacy was mainly determined by the membership conditionality and the field of child rights in the pre-accession stage is no exception to this. Accession negotiations between Ankara and Brussels have, since 2005, been conducted on the basis of a set of political, economic and legal conditions, known as the Copenhagen Criteria or 'membership conditionality', along with an assessment of whether the EU can absorb the would-be member. The political conditions, which oblige the candidate to achieve the necessary requirements on democracy, the rule of law, human rights and respect for and protection of minorities also covers child rights. Therefore, child rights function as a pre-condition for accession, while the mechanisms that the EU used to assess the compliance with the pre-conditions for accession aimed at revealing the advancements in the candidate country in developing its child rights' regime. In the Turkish case, although progress in child rights' area was not a decisive factor in determining its readiness for EU accession – as happened with Romania- the EU political conditionality pushed Ankara to reflect on how to better react to the most essential problems that children in Turkey face and to

take some reform steps especially regarding the alignment of the Turkish juvenile justice system with EU standards, the fight against widespread child labor and development of projects to encourage compulsory education.

On the basis of the field research with the Delegation of the European Union to Turkey, between 1999 and 2016, Turkey received both financial and technical assistance to align with the EU legal framework and fundamental rights, which included the protection and promotion of the rights of the child under the accession framework. Respect for children's rights was also an important aspect of Turkey's EU accession process, and is stated as a short-term priority in the latest EU-Turkey Accession Partnership Document (Council of the European Union, 2008, p.9). Issues such as child participation, violence towards children, child labor, child poverty, right to education, early/forced marriages were all raised in the European Commission's annual Progress Reports under several sections (political criteria, social policy and employment, fundamental rights, education and culture). These issues were also discussed at the regular political dialogue meetings and the sub-committee meetings organized between EU and Turkey as part of accession negotiations.

The portfolio for financial assistance to strengthen protection of the rights of the child in Turkey included both national programs with different ministries being end-beneficiaries, as well as grant projects implemented by the NGOs. The EU-supported initiatives included projects on ensuring children's right to fair trial, capacity building for the protection of children, especially those in contact with the law or at risk of coming into contact with the law as well as reintegration of juveniles under probation in Turkey. EU funds that were channeled through IPA were very instrumental in the harmonization process and the generation of domestic change. During the IPA II period (2014-2020) alone, the EU invested (excluding FRIT) about €80 million—excluding FRIT— in strengthening child rights in Turkey (Interviews with EU Delegation, 2022). However, such huge funding does not appear to have translated into cognitive Europeanization among Turkey's political decision-makers. A screening of Turkish parliamentary minutes from between 1999 and 2016 revealed that parliamentarians did not evoke the EU even one single time when discussing child rights (Turkish

Parliament, General Assembly, n.d.). The lack of complete diffusion of European throughout the Turkish state apparatus is another sign of the lack of transformation in the field of child rights because it signified that the Turkish political elite, in avoiding references to European norms on child rights, was failing to identify itself with the European community. The more the political, bureaucratic and civil actors in a country make references to particular European norms, policies, rules or institutions or discuss some policies in European frames of reference, the more Europeanization can be expected to diffuse into domestic policies, discourses and political settings. During the interviews with the public authorities, the main references on child rights were the UN, and to a lesser degree to the CoE. The EU was the least mentioned during these interviews, apart from those who referred to EU-funded projects.

On its part, the Turkish government, with the impetus given by the international organizations and the European Union itself, invested significant efforts in developing and improving child protection policies in the country. In this context, the existence of an established single-party government in the country that was committed to the EU reform process immediately after coming to power in 2002, was an important asset for the sustainability of the reform moves. Several sensitive legislative changes were made in this period because the government distanced itself from the nationalist arguments about the unitary state, and instead expanded the cultural rights of the citizens, including children. The government was also successful in legitimizing these reforms for the benefit of a wider society by emphasizing the utility of EU norms for peace and prosperity.

The Ministries of Family, the Labour and Social Services, Justice (MoJ) and Health worked on further bolstering national child protection systems, with a special emphasis on improving childcare systems, supporting refugee children, improving the juvenile justice system and coping with the rising trend of child marriage. The EU Ministry -now under the Ministry of Foreign Affairs as the Directorate for EU Affairs- was responsible for monitoring and coordinating the activities carried out by public institutions towards aligning the Turkish legislation with EU *acquis* in the fields of political criteria, justice, freedom, security, judiciary and fundamental rights, the latter

closely connected with child rights. However, the importance accorded to child rights remained patchy and did not show a consistent picture across time.

Meanwhile, the EU's only benchmarks to show progress in the area of child rights were the progress reports and the technical meetings held with Turkish officials – e.g., twinning projects through which civil servants in EU member states came together with their counterparts in Turkey or in Brussels to transfer best practices in a specific policy field. Where the *acquis* conditionality was concerned, the European Commission began identifying the 'misfits' in child rights regulation in Turkey from 1998 onwards, of which the main ones were in the areas of:

- (1) definition of child;
- (2) juvenile justice;
- (3) child labor, including in its worst forms;
- (4) freedom of expression;
- (5) violence against children;
- (6) sexual abuse;
- (7) lack of monitoring on the rights of the children; and
- (8) schooling rates of children, especially for the Roma.

Therefore, the misfit between European and domestic policies and institutions led to the adoption of several reform packages including improvements pertaining to child rights. In line with the conceptualization by Risse, Green Cowles and Caporaso (2001), the EU pressure on domestic actors and/or institutions through legislative or institutional alignments results in an adaptational response. The degree of adaptational pressure created by this Europeanization varies with the fit or misfit between domestic structures and European institutions. In the Turkish case, the compatibility, or fit, between European legislation/institutions and domestic legislation/institutions was low especially during the 'golden years of Europeanization' for child rights in the country. This policy and institutional misfit generated domestic change with the adoption of several harmonization packages and development of several institutional structures such as the EU Ombudsperson and institutional reforms to the juvenile justice system. But the fact that the EU blocked the opening of some key negotiation chapters such as Social Policy and Employment, and Judiciary and Fundamental Rights, decreased the

credibility of the EU membership reward and acted as a disincentive/veto factor against rule adoption and transformation.

Following the interview with the EU Ministry official (Interview, 2015), the direct domestic impact of the EU on Turkey's legislative improvement through the repeated emphases in progress reports, technical meetings, funded projects and Accession Partnership Document can be summarized as follow:

- **The EU-required amendments made to Turkish constitution** with the 12 September 2010 referendum concerning Article 10, which regulates Equality Before Law, and the introduction of positive discrimination for children, along with the elderly, disabled people and women;
- **The EU-required legislative changes made to the Civil Code** in November 2001 and subsequent reform packages being adopted in 2002, although some changes are needed for a full compliance with the European Social Charter. These changes introduced improvements in areas of child protection. As mentioned in the European Commission's Turkey progress report in 2002 (European Commission, 2002b, p.40), the new Article 182 introduced the concept of the interests of the child in separation or divorce cases in line with the European and international norms, while changes to Article 282 removed discrimination between the legal status of legitimate and illegitimate children. *"Turkey still does not comply with Articles 7 ("child's right to protection") and 17 ("right of mothers and children to social and economic protection") of the European Social Charter"* (European Commission, 2002b, p.40).
- **The adoption of the Law No. 6284 on Protection of family and Prevention of violence against women** in March 2012. Accordingly, detailed provisions were adopted for protecting the children of women victim of violence. Preventive measures were introduced regarding the issues of guardianship, custody and personal connection. The changes were welcomed by the EU in the subsequent progress reports.

- **The introduction of a nationwide Child Rights Strategy and Action Plan** (2013-2017), with a special reference to the relevant child rights documents of the European Union, United Nations and Council of Europe that were mentioned as the basis of the Strategy in its Preamble (Child Rights Strategy and Action Plan, p.3).
- **The inclusion of provisions on juvenile justice** in the Judicial Reform Strategy and Action Plan in 2009. “Continuation of activities for improving Juvenile Justice System in line with international documents” was mentioned as a short-term priority and included in the 2009-2011 budgets of Ministry of Justice. Under this target, the Ministry of Justice committed to examine the practices of other countries will, and conduct studies on need analyses in cooperation with the relevant institutions. The Ministry also pledged to consider the principle of high interest of child when developing a new juvenile justice system. “*Activities will be carried out on solving the problems deriving from prosecution, arrest, trial, sentencing and execution of sentences of juveniles coerced into crime. Necessary legislation amendments will be made*” (Directorate General for Strategy Development, 2009, p.16).
- **The adoption of national programs to fight against child labor.** Child labor was a problem area that was regularly mentioned in all of the progress reports for Turkey that were screened between the period 1998-2016.
- **The amendment of Article 71 of the Labor Law No. 4857** which was made in line with the Council Directive 94/33/EC of 22 June 1994 on the protection of young people at work. Specific clauses were introduced for regulating the working age and restricting the employment of children.
- **The establishment of an Ombudsperson institution,** with a special Ombudsperson dealing with issues related to child rights. The EU as well as the European Ombudsperson institution and its national members had regular meetings with their Turkish counterparts in this process to provide a template and best practices to emulate. Elite socialization has been very

apparent and sustainable during the establishment of this institution that was endowed with a strong EU funding mechanism from the very beginning.

On the other hand, Turkish authorities have regularly filed their contributions and inputs to the preparation phase of the annual regular reports by the European Commission. EU-Turkey Subcommittees No.8 and No.19 where issues related to judiciary and fundamental rights as well as social policy and employment are being discussed respectively have regularly met and still hold regular meetings with Turkish and European officials. The Delegation of the European Union to Turkey also meets civil society members as well as Turkish officials with systematic intervals about the conduct of the EU-funded projects on child rights. The European Commission and the Joint Monitoring Committee of the IPA funds organize a joint meeting once a year.

But, although these changes were noted in the progress reports as ‘important pieces of legislation’ (European Commission, 2012, p.9), the EU criticized that these improvements did not fully result in necessary alignment with the *acquis* or with European standards. “*The EU Harmonization Committee remains an auxiliary committee with a limited mandate and ability to scrutinize legislation*” (European Commission, 2012, p.9). In the process leading to 2016, European Union was used as an anchor for political change and modernization, while the existence of a candidacy link with the EU often provided an avenue for cooperation between norm entrepreneurs in Turkey and the European actors. ‘Europe’ was used as a legitimization device for policy changes at the domestic level. However, for the EU to generate lasting domestic change in Turkey’s child rights area under the candidacy period, it is a must that two negotiation chapters namely, Chapter 19, Social Policy and Employment and Chapter 23, Judiciary and Fundamental Rights, are opened as they are directly linked with the improvement of child protection (Interview, Adem Arkadas-Thibert).

In light of the two logics of domestic change as a result of Europeanization, the thesis concludes that domestic change in the realm of child rights in Turkey can be both explained by **a process of redistribution of resources** –in which Europeanization appeared as an emerging political opportunity structure, with the establishment of new

institutions and re-organization of some sub-sectors like juvenile justice, offering some actors additional resources to exert influence and constraining the ability of others to achieve their goals- and **a process of socialization and learning** –in which actors such as Turkish Ombudsperson institution learned to internalize new norms, rules and ways of doing things in order to be part of international society. The two logics of change were not mutually exclusive in the case of child rights in Turkey and they occurred sometimes simultaneously under the process of adoption of rules and norms or implementing EU-funded projects. However, unlike the Romanian case, one cannot claim that the European Commission and the European Parliament acted in a coordinated way for the harmonization of Turkey with the child rights requirements at the EU level.

In terms of Europeanization mechanisms, external incentives and social learning emerged as the main models. The external incentives mechanism operated via EU conditionality, being based on a system of external sanctions and rewards. At that point, Turkey made cost-benefit calculations and had the greenlight to start accession talks after the reform packages it enacted between 1999-2005. On the other hand, the social learning model operated on Turkey's identification with EU norms that was facilitated by the capacity-building efforts for institutions that work on child rights as well as the promotion of transnational exchange of good practices with twinning projects and EU-funded programs that helped civil society actors in norm construction and norm entrepreneurship. With the blockage over new accession chapters, however, the external incentives-driven conditionality mechanism in Turkey shifted to social learning and capacity building mechanism, which started after 2005 and continues since with baby steps.

Analyzing the Europeanization process in social policy areas is not an easy task because these areas are historically linked to the soft law and strict compliance had never been demanded, that is until the Romanian accession process. With the impact of the *acquis communautaire* and alignment with the Copenhagen criteria in the adoption of new regulations in child protection and implementation of new EU-funded pre-accession assistance programs, this social policy area gained more and more ground in

the Europeanization of candidate countries which adopted new norms, altered their existing legislation and changed pre-existing childcare institutions to boost institutional capacity. As explained above, the domestic impact of the EU on the candidate country may vary based not only on the level of adjustment pressure to which domestic institutions are exposed, but also depending on the attitude of domestic actors and the receptiveness of the domestic context for European requirements.

The thesis argues that the impact of Europeanization on Turkey's child rights was dependent on the actors (*multiple veto points or norm entrepreneurs like epistemic communities and advocacy networks*) and institutions (*cooperative or not*) because domestic institutions and the rational choices of the actors creates a large impact upon the strategies by which EU's adaptational pressure facilitates or hinders domestic adoption. In terms of Turkey's EU membership journey, it was not an easy task for Ankara to proceed with EU-driven reforms because of continuous disagreements between Turkey and the EU, which in turn made the prospect of membership recede further as time passed. Turkey, which applied for membership to what was then the European Economic Community in 1987, waited for a very long time to become an EU member. It took eighteen years to start the accession negotiations. On December 16-17, 2004, the European Council in Brussels welcomed the ground-breaking progress made by Turkey with its comprehensive reforms since 2001 and declared that Turkey satisfactorily met the Copenhagen political criteria to open accession negotiations. In light of this crucial decision, the intergovernmental conference convened on October 3, 2005 to open accession negotiations with Turkey. Paradoxically, it was around the same time that the Europeanization trend was reversed in Turkey, with the lowest moment being the decision of the EU leaders in December 2006 to halt accession negotiations on eight of the 35 chapters until Turkey implemented the Additional Protocol that extends the application of Turkey-EU Customs-Union to Greek-Cypriot aircrafts and ships. Furthermore, no chapter would be provisionally closed until the Commission confirmed that Turkey satisfied its commitments related to the Additional Protocol.

This tense period was the beginning of the slow-down of EU-related reforms as the EU began losing its appeal in the induction of domestic change in the country. Thus,

2005 may be said to mark the onset of the period of inertia in reforms. In the meantime, new leaders with center-right tendencies in Germany and France began suggesting a ‘privileged partnership’ model for Turkey as an alternative to EU membership, pushing Turkish public opinion to think that whatever Turkey did, Europe would not accept it as a full member – in other words, the sense of EU double standards began to take firm root. This whole picture therefore discouraged Ankara in using the EU anchor as leverage for domestic reforms in every sphere, including child rights. A stalemate began blocking further progress in Turkey-EU relations and EU-induced reform willingness seemed to run out of momentum. In this way, the EU lost its transformative power on the Turkish political elite and the society because of the widespread feeling among the latter that they were being treated unfairly.

During this period, Turkey was never given a clear deadline and/or any indication of an accession date. On the other hand, Turkey’s EU membership was not conditioned on improvements in the child protection regime, as had been the case with Romania. Such a lack of certainty and clarity inevitably resulted in a loss of EU credibility in the eyes of Turkish decision-makers and the greater public. In other words, the EU conditionality exerted on Turkey, especially between 2002-2005, which had re-affirmed the Union’s commitment to Turkey’s membership with a clear accession strategy was not sustained after 2005 due to various blockages coming from both the EU and Turkey, which weakened the other facilitating factors such as elite support and domestic resonance of the EU membership bid. Therefore, the interaction between domestic and European-level dynamics is closely linked to EU conditionality. On the other hand, the more veto agents emerged in the Turkish domestic setting, the more difficult it was to achieve progress in the Europeanization process for several democratic reforms, including child rights.

However, it would not be true to say that the EU lost all relevance in Turkey after 2005 because Brussels continued to play a significant role in triggering domestic change in Turkey’s child rights sector through social learning among domestic actors under EU-funded projects and twinning programs, regular visits by EU officials to Turkish institutions and interactions between Turkish and European political elites in

routine meetings. The learning process in the twinning projects involves cognitive and socializing dimensions through which participants understand how others operate and imitate their best practices. Therefore, the EU had still power to influence the ideational references of domestic actors as well as power configurations in the domestic political system as it triggered legislative changes in child rights as well as the establishment of institutional settings that improved the child rights monitoring system. Therefore, it needs to be said that the domestic impact of the EU has been differential and varied across institutions and policy areas according to political calculations and use of the EU as a 'legitimization device' by Turkey's domestic actors (Tsarouhas, 2012; Icduygu 2013).

Although Turkey had made an ambitious effort to fit its domestic and foreign policy moves with the EU over the years, it is no secret that post-2005 it gradually deviated away from the EU path, with top figures in Turkish foreign policy, like the current President Recep Tayyip Erdogan, blaming the EU for being unfair towards Turkey and applying double standards to put more obstacles in Turkey's path and making it wait at the door for fifty-three years (Official website of Turkish Presidency, 2016). After the AKP's closure case of 2008, the ruling government decided to pursue its EU accession agenda again, as it began considering EU democratization reforms as its savior, and an external anchor. This 'revived Europeanization trend' pushed the government to adopt some EU-induced reforms in child rights, such as broadcasting in Kurdish and constitutional amendments on the protection of child rights with a reformist strategy in mind. The higher the degree of misfit between the norms in Turkey and the EU, the stronger the adaptational pressure on Ankara was, and thus the bigger the domestic change in the legislative sphere and institutional changes, such as to juvenile prisons or the establishment of an Ombudsperson institution. However, this domestic change again remained patchy. The European Parliament's decision to recommend temporarily freezing accession talks in November 2016 also had an impact on breaking bilateral ties and fed into the Euro-skepticism among Turkish decision-makers. In other words, EU membership became less important for them and for the national elite, who began to turn towards alternatives to the EU. Western countries' increased concerns about Turkey's deteriorating human rights and democratization

record also influenced the de-Europeanization trend, and both parties lost their appetite to work together towards a common European future. The Transatlantic Trends Survey of German Marshall Fund of the United States revealed that the percentage of Turkish citizens who assumed that Turkey joining the EU would be a good thing dropped from 73% in 2004 to 38% in 2010, and bounced back up to 53% in 2014 (Transatlantic Trends Survey, 2014).

However, despite the almost decade-long stalemate in Turkey-EU relations, child rights remained a significant part of EU-funded projects in Turkey, and several important achievements were obtained in the field of juvenile justice and education, bringing them into greater compliance with international standards. Even after 2005, relevant actors in Turkey continued generating domestic change with the accommodation of the norms, standards and rules on child rights. For instance, as mentioned earlier, the *Justice For Children* Project, which began in January 2012 and lasted for 35 months with a budget €3,345,000, improved coordination between the institutions dealing with juvenile justice, helped establishing child interview rooms in the courthouses -a landmark step towards protecting child well-being- while the project also contributed to training of prosecutors and juvenile justice professionals in child-friendly justice. The project also aimed to “develop an effective conditional release mechanism for children, construct a rehabilitative environment and implement individual programs for the children who are deprived of their liberty” (Delegation of the European Union to Turkey, Justice for Children). As part of this EU-funded project, child-friendly judicial interview rooms in the courthouses were established across forty-nine cities. The aim was to prevent secondary victimization of children during judicial proceedings. These interview rooms helped Turkey in adopting the standards under Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime and Council Framework Decision of 15 March 2001 on the standing of victims in criminal proceedings (2001/220/JHA). Therefore, EU funds continued to generate domestic change in Turkey in terms of ideational frameworks as well as institutional settings and legislative pieces.

On the other hand, there was another significant difference between the Romanian and the Turkish cases in EU treatment during their pre-accession period: Unlike in the Romanian case, neither the European Parliament nor the European Commission showed a genuine effort to support the Turkish case, especially in child rights. Although the reform process was monitored and supported by the EU under the country's pre-accession process, there was not a similar backing from the European Parliament and European Commission to proceed with the reforms on child rights, as they did in the Romanian case.

Giving an exclusive interview for this PhD thesis during the field study on November 4-8, 2015 in Brussels, Marietje Schaake, then a member of the European Parliament, who is also on the European Parliament's Human Rights Sub-Committee, said:

The EU criteria seek to improve the rule of law and fundamental freedoms in Turkey. The labor and social rights chapters are also relevant for the position of children. These criteria, but also the treatment of refugees according to international standards, are the guiding ones for the EU when assessing how Turkey is developing. Proposals to introduce more mandatory religious classes would not be a step towards European criteria (Interview, November 5, 2015, Brussels).

Asked whether the European Parliament serves as a 'monitoring body' for addressing the deficiencies in child rights' legislation and practices in Turkey, Schaake thinks that the issue of child rights does not always receive the attention it deserves in the EU's loaded agenda. *"It is not possible for the EU or for anyone other than the Turkish government, civil society and people in Turkey itself, to make the needed reforms to improve the lives of children"* said Schaake (Interview, November 5, 2015, Brussels).

According to Schaake, child rights should feature prominently in every accession process, to demonstrate meaningful reforms and respect for human rights of which child rights is an integral part, and essential for the future of a country. Schaake also said that she was determined to raise the child rights issue more actively in the future at the European Parliament. *"The best way to address child rights in Turkey is through the progress reports of the foreign affairs committee"* she said.

Most debates on Turkey's Europeanization and de-Europeanization have focused on the reasons behind the slowdown of reforms since 2005. The de-Europeanization process in Turkey is related mainly to the blocked chapters in the accession negotiations and the endless debates revolving around the EU's absorption capacity for an eventual Turkish membership. As a result, credibility of the prospect of EU membership progressively declined in the eyes of both the average Turkish citizen and national authorities. This unwelcoming atmosphere inevitably led to a slowdown in the reform process (Aydin-Duzgit and Noutcheva, 2012). De-Europeanization is also connected to the ruling party's policy preferences, especially in terms of authoritarianism or detachment from the West (Cebeci, 2016; Yilmaz, 2016; Sipahioglu, 2017). However, the harmonization process in child rights was selectively retained in certain policy areas, depending on the national priorities of the government or influential interest groups. In other words, although negotiations in Turkey-EU relations were in standby mode for years, Europeanization of Turkey at the societal level continued uninterruptedly but patchily as EU and Turkish civil society actors have become intertwined at various levels. Negotiation chapters related to child rights were blocked, but the institutional ties had already been built and the social initiatives taken in child protection in Turkey through agents of change continued to progress.

In the case of child rights, the slowdown was mostly apparent after 2012, following the establishment of the Ombudsperson institution as part of EU-induced reforms. While there had been more and more signs since 2005 on the Turkish side that the government was using the EU harmonization process for its empowerment, its own legitimization and for its own strategic interests in sustaining international recognition, EU-funded projects and capacity-building at the institutional level continued at a moderate pace. In the same period, the EU also began losing its credibility in Turkey, with no new accession chapters being opened and with bilateral mechanisms like the Reform Action Group frozen. This new pattern, along with the domestic empowerment of the AKP after its second victory in the 2007 general elections, allowed the government and its affiliated elite to select instrumentally which EU reforms to comply with, without any more systematic consideration of the need for furthering Turkey's democratization record in light of critical EU reforms. However, this selective and

survival-based approach alienated Turkey's pro-EU elite segments, whose support for the Europeanization process waned.

In the meantime, the European Commission's Eurobarometer surveys still constituted the most credible resource for both Ankara and Brussels in revealing a reliable picture on European integration and Turkey's potential membership (Standard Eurobarometer 82 - Autumn 2014). For instance, according to the 2014 Barometer results, the EU meant economic prosperity for 18% of Turks, unemployment for 20%, loss of cultural identity for 15%, social protection for 15%, cultural diversity for 15%, and freedom to travel, study and work across the EU for 16%. On the other hand, in the Eurobarometer's Spring and Autumn 2000 results, support for the 13 EU applicant countries wishing to join the EU ranged from 30% for Turkey to 50% and then 48% for Malta. According to the Eurobarometer Perceptions of the EU survey (2001) which measures publics' attitudes and expectations of the EU, among the fifteen member states and nine candidate countries, Turkey was spontaneously considered to be non-European, with figures underlying that what makes Europe is mainly its history and culture (Perceptions of the European Union, 2001).

With children's rights becoming embedded in all EU institutional and policy settings following the Romanian accession process, it is therefore logical to expect an innovative approach by the EU towards Turkey's membership process as the EU had already faced a long list of problems and challenges regarding child rights. It is clear that the expertise and experience accrued by the Commission during its accession period intervention in Romania could now be used during accession negotiations with other later candidate countries, although each has its unique circumstances. For instance, the post of task manager in children's rights under the European Commission Delegations was created for the first time for the Romanian case and continued with other candidate countries. However, the Commission did not use child rights as a critical benchmark for Turkey's membership, as it had with Romania. This weakened the Commission's transformative power in terms of the promotion of child rights, even though the Commission's Enlargement Strategy and Main Challenges 2010-2011 document emphasized that children's rights were now monitored in all current and

potential candidate states, (European Commission, 2010a). “*The protection of children’s rights constitutes now a sine qua non accession condition in the current enlargement process*” (Ingi, 2012, p.222).

Therefore, the formalization of children’s rights as one of the EU accession conditions resulted in the use of a specific policy template for all successive enlargement processes, and Turkey should not have been an exception to this. “*Indeed, the underlying vision of Europe as a space where children’s rights are respected and their welfare guaranteed has now become fundamental to the EU’s narratives regarding its scope and role in the protection of human rights*” (Ingi, 2012, p.225). However, the bottom line is that further research in this area is extremely important for as long as there is a candidacy process to look at in Turkey. Apart from the endless debates on whether Turkey will be an EU member state one day, there is only one certainty: EU membership is not a *deus ex machina* capable of resolving all issues pertaining to child rights in Turkey. This thesis, though, tried to show that the pre-accession process most definitely generated real domestic change in terms of child protection, no matter how the debates of membership conclude.

4.3. Comparison between the Turkish and Romanian Cases

The Turkish and Romanian cases are comparable in the sense that they both concerned ‘children in crisis’ whose well-being was endangered by multiple exogenous and endogenous factors, linked mainly to poverty and mismanagement. The success of child rights Europeanization in Romania derived from (i) the existence of high EU political conditionality and pressure that made a clear connection between child rights reforms and EU accession, (ii) direct financial support during the pre-accession period, (iii) the consistent membership deadline offered to the country accompanied, and (iv) speedy reforms. Romania, from the very beginning, received strong political conditionality from EU, mainly based on a ‘carrot and stick’ policy, which concentrated on efforts to align child protection regime with the EU standards. The only ‘harsh’ reaction to the country’s accession bid was expressed in 2001 by the European Parliament’s special envoy for Romania, Emma Nicholson, who issued a draft report criticizing Romania’s lack of progress in improving the situation of child protection,

with special emphasis on abandoned children and the situation in orphanages. The report also cautioned Romania that enlargement talks could be suspended if reforms continued to lag. In the meantime, EU pre-accession funds continued to flow into the country and strengthened the position of active NGOs in supporting the implementation of speedy reforms in child protection regime.

However, Romania's coalition government, with a pro-EU tendency, and its close partnership with NGOs on the ground, were the main catalysts during this process, along with strong conditionality from the European Parliament and European Commission, which showed in their various statements and reports that the country would surely get the membership prize once it established the minimum well-being standards for Romanian children. They fulfilled this promise in 2007. "*The children's rights accession conditionality applied to Romania amounted to an interventionist policy, which radically overhauled the Romanian children's rights provision*" (Iusmen, 2012, p.210).

The Europeanization of child rights in Romania happened through the development of institutional structures like the Independent Panel of Family Law, comprised of experts on child rights from EU Member States, and policy mechanisms such as conditioning the accession on the improvement of child rights, or the moratorium on inter-country adoptions advocated by the European Parliament rapporteur for Romania. Therefore, Romania's ability to meet the political criteria was dependent on the country's resolution of the childcare crisis. The transformation of the child protection regime in Romania happened thanks to the presence of consistent EU instruments and strong political leverage as well as a pro-reform coalition coming to power after 1999 in the country.

As for the Turkish case, from a rational choice institutionalist perspective, Turkish policy-makers triggered Europeanization of child rights as a result of choices made by rationally self-interested utility-maximizing agents during the emergence of the AKP as a distinct political actor in the national and international spheres. Therefore, political institutions determined the strategies that policy-makers adopted in pursuit of their core interests in response to assumed benefits (material EU support and social

support of their constituencies) or the threat of sanctions. Their rationalist logic embodied the logic of consequentialism (March and Olsen, 1989) in which they engaged in strategic interactions with EU policy-makers. The existence of multiple veto points in Turkey's institutional configurations and their potential to obstruct domestic accommodation was overcome in this period. In the meantime, as a mediating factor, the existence of formal institutions such as the Reform Monitoring Group provided political and bureaucratic actors with material, institutional and ideational resources for better exploiting European opportunities and promoting domestic change. Between 2002 and 2005, the misfit between European and domestic policies and institutions led to the adoption of several reform packages, including important changes for child rights policy in Turkey, which provided societal (NGOs) and political actors (ministries) with new opportunities in the pursuance of their interests.

From a sociological understanding of institutions, the political actors were also motivated in their actions on the basis of norms, identity, and culture. During the twinning projects, the domestic actors and their European counterparts frequently interacted with each other to exchange best practices and such socialization avenues provided Turkish actors with an opportunity to cultivate a familiarity with the European policy-making processes when learning to internalize new norms and rules given that adaptational pressures on domestic processes did not resonate well with domestic norms and collective understandings attached to them.

Therefore, EU political conditionality for Turkey was generally strong from 1999 to 2005, a period marked by a miraculous political conditionality that sparked a sea change on various fronts, including child rights, through a series of reform packages even on sensitive issues. The democratic transformation of Turkey during that period was therefore driven by strong political and efficient conditionality. The EU appeared committed to Turkish accession and the domestic transformation of the country in dealing with problematic policy issues that had remained untouched. During this time, there were no suggestions emerging from EU member states of alternatives to membership for Turkey, and there were no perceptions of any EU double standards in Turkey when implementing EU requirements and trying to resolve the misfits between

Turkish and European norms on child rights. Germany, the Scandinavian countries and even Greece were lending their support to Turkey's membership preparations. It was significant that the new government in Germany in 1998, "*formulated an inclusionary policy towards the Turkish accession, emphasizing the significance of political and economic criteria in the process, rather than the religious and cultural factors underlined by the previous Christian Democrat government*" (Eralp, 2009, p.156). Such supportive statements produced a sense of belonging on the Turkish side and further encouraged the initiation of reforms.

Therefore, a favorable external context enabled the domestic changes in Turkey especially after 2002, with the emergence of what was then the pro-EU AKP party, which was deeply committed to strengthening the reform track and winning an external ally in the EU in order to consolidate its newly-won power and gain legitimacy—a rational choice at that time. The AKP ruling government even had EU accession as an objective in its 2002 election manifesto to illustrate its commitment. The establishment of a Reform Monitoring Group was also another demonstration of this willingness to join the European family by engaging in deep and wide reforms because this new institutional configuration was tasked with monitoring the Europeanization process in the country in the fields of democracy, fundamental rights and freedoms and rule of law, with the involvement of various ministries around the table. There was support at the elite level of parliament, with almost all parties also present in the moment, while in 2002, 65% of Turkish people supported the country's accession to the EU as a 'good thing', while 73% considered EU enlargement a benefit to the country (Candidate Countries Barometer 2002).

Therefore, calculations of cost-benefits, consistency in governmental commitments and the non-presence of veto agents between 2002 and 2005 generated the Europeanization process in Turkey and the child rights standards resulted in accommodation as an outcome. However, in post-2005 period, the efficacy of political conditionality on Turkish domestic politics began fading, with EU leaders deciding in December 2006 to suspend negotiations on eight chapters until Ankara implemented the Additional Protocol that extended the application of the Turkey-EU Customs Union to

Greek-Cypriot aircraft and ships. Since then, Europeanization debates in Turkey have shifted from democratization efforts to patchy reforms with weak efforts to align with EU demands triggered by a sentiment of ‘whatever we do, they will not allow us to join the Club’.

However, in the case of child rights, Europeanization of child rights continued in a selective way until 2012, with (i) the opening of child judicial interview rooms through EU technical and financial assistance, (ii) the launch of child support centers in 2015 to meet the National Action Plan for EU Accession Phase-1 requirements and to align with the EUROPE 2020 Strategy, (iii) an increase in the number of juvenile courts around the country to meet the EU’s constant requirements constantly referred to its previous progress reports; (iv) the implementation of new architectural designs to the courthouses to meet the needs of children and regularly informing the Council of Europe of measures taken regarding juvenile justice. The opening of child centers under Bar Associations and universities, Turkey’s participation in EU agencies –e.g. the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA)-, the networking meetings with EU ombudspersons at regular intervals, participation in twinning projects, establishment of the Reform Monitoring Group all occurred in the period between 2002-2012 despite the ongoing stalemate in Turkey-EU relations. The lower compliance costs were, the stronger harmonization was, as for example in the cases of Ombudsperson who was member to ENOC and observer to European Network of Ombudsperson for Children, and education of Syrian refugee children. However, issues such as broadcasting and education in the mother tongue drew public criticism and did not get much support from the political elite, thus increasing compliance costs, while the establishment of the Ombudsperson institution with EU financial assistance was supported by field studies and twinning projects with France, Spain and Portugal as a form of elite socialization.

In the cases of Romania and Turkey, though, there were two different scenarios in terms of Europeanization. In contrast to the high conditionality and successful transformation of child rights in Romania, there was only moderate pressure and low support in the Turkish case, where child rights reforms came about in slow motion.

Consequently, while Europeanization was observed in the Romanian case, de-Europeanization became prevalent in Turkey, with patchy reforms on child rights that could only be sustained with EU funding, EU-sponsored networks and EU-led twinning projects. The reasons for this divergence are related in particular to governmental preferences and the degree of socialization of the domestic elite, as well as to internalization of these norms through the logic of appropriateness. Romania's main goal was to internalize EU-induced norms on child rights and then to reach the membership target as quickly as possible, while Turkey's appetite for pursuing harmonization reform packages was harmed by the EU's internal inconsistencies and the emergence of veto players on both the European and Turkish sides.

In the Romanian case, activism by several norm entrepreneurs, formal/informal advocacy networks such as Romanian branches of international child rights groups (e.g. Save the Children or UNICEF) and growing international media attraction were also influential in the country internalizing European ideas and norms that had not resonated on the domestic level previously. Therefore, the impetus for change came mainly from interaction between endogenous and exogenous dynamics. In addition to this, the engagement of EU institutions, at both European Parliament and European Commission levels, broke the resistance to change among veto agents (i.e. adoption lobbies, state-run orphanages). The domestic authorities, pursuing the logic of consequences, were increasingly bound to operate within the normative framework of the EU's requirements rather than from traditional and outdated positions.

Additionally, one should note that EU conditionality had an important and even catalytic role in encouraging reforms and sustaining the Europeanization process in Romania. This EU conditionality was supported by a broad consensus among the political, economic and social elite in the country as the EU requirements found normative resonance among citizens who were disappointed with the communist legacy and its imprint on child welfare. Moreover, the radical reforms in the child protection regime in Romania was also sustained by the presence of a reformist coalition government, whereby the burden of executing these reforms was placed not on one actor, but on a wide range of parties in the domestic politics.

Table 10
Logic of Consequences and Logic of Appropriateness in Terms of Romanian and Turkish Cases

| Logic of Consequences | | Romania | Turkey |
|---|--|---------|---|
| Clarity of EU's demands | Present | | Present until 2005 |
| Size and Credibility of EU's incentives | Present | | Present until 2005 |
| Preferences of the governing parties | Present | | Present until 2005 |
| Presence of veto players | Absent after 2001, strong before 2001 with the adoption of coalition government, outdated childcare institutions | | Present with the unitary state conception, nationalistic and anti-EU stances of some parties, business lobbies standing against the restrictions on child labor |
| Logic of appropriateness | | Romania | Turkey |
| Interactions under EU-led networks | Present | | Present |
| Normative resonance with the EU | Present | | Patchy |
| Domestic political elite identification with the EU | Present | | Patchy |
| Outcome | Europeanization transformation | / | Europeanization accommodation and absorption |

Having said all of the above, the situation in Turkey diverged from the Romanian success story because in the latter case the European Union used a strict conditionality regime that generated the ownership of the acute problems in Romania by all relevant parties. This same process was uneven and patchy in the Turkish case. The scope of Europeanization in Turkey was rather more partial and selective with policy changes generally limited to the abolishment of some discriminatory practices and extension of equal rights in some fields like broadcasting and education, leaving almost untouched some other areas such as a systematic fight against child labor and the provision of rights and services for vulnerable child groups in the justice system. Initially, adoption of the Copenhagen Criteria in 1993 required that respect for human rights, including child rights, become an explicit condition for EU membership. Consecutive progress reports by the European Commission addressed shortages in Turkey's domestic legislation and recommended some reform steps in this field. Between 1999 and 2005, several constitutional and legislative reform packages, dubbed

EU harmonization packages, took steps to improve child rights in the country, with the EU assuming the role of facilitator and guarantor. Although there were several veto players who tried to block improvements in human rights—for instance on the issues of education in the mother tongue, broadcasting in the Kurdish language and child labor—the government gave initial impetus to the reform wave in order to consolidate its domestic voter base and improve its image globally. However, the gradual slowdown of EU-Turkey accession negotiations and Turkey’s changing interests in favor of a more independent stance in its immediate region undermined the charm of the EU membership bid as well as the value of EU conditionality on the reform process, which lost most of its momentum in several fields including child rights.

The effectiveness of Europeanization in a specific policy area is highly connected to a clear prospect of membership. It is one of the most apparent divergences between the Turkish and Romanian cases. In Romania, effectiveness and authority of the EU’s active leverage derived from the attractiveness of the membership benefits, all the pre-accession funding and a clear membership target. In the Turkish case, the incessant debates on its membership and alternative suggestions of ‘privileged partnership’ or ‘special relationship’ undermined the credibility and effectiveness of political conditionality (Anastasakis, 2008, p.375). In other words, Brussels’ lack of clarity and consistency on the subject of Turkey’s membership, the absence of well-defined policy guidelines for an effective protection of children restricted the transformative power of Europeanization in the Turkish case. As part of the EU conditionality mechanism, Turkey committed itself to the accession bid, especially in the first half of the 2000s and followed the benchmarking and sanctioning mechanisms of the EU with the expectation that full membership would be offered if these conditions were met. Moreover, domestic actors calculated costs and benefits for pursuing EU-induced child rights reforms, even when it came to difficult and sensitive domains regarding the sovereignty of nation states and culturally sensitive issues. Europeanization therefore generated domestic change by facilitating internationalization of its norms, standards and procedures concerning the protection of children, with the intervention of national (e.g. NGOs, academics) and international norm entrepreneurs (e.g. UNICEF, ILO, UN) and/or advocacy groups.

Although the EU has a thin *acquis* in this area, with child rights a field for member and candidate countries to decide on their own, Brussels “*was able to essentially outsource the writing of substantive conditions by drawing on existing United Nations conventions and then credibly defend them in ways the UN had been unable to do*” (Jacoby et.al, p. 113). In this sense, the Romanian accession was a turning point for the EU involvement in child rights reform in its candidate countries as Brussels played a key role in the childcare deinstitutionalization by using conditionality, know-how and material as well as ideational resources of some transnational actors including agencies of the United Nations (UN), multilateral and bilateral donors as well as some international NGOs. As a result, the incremental developments in Romania triggered a major change and produced a precedent in European Union’s child rights action (Iusmen, 2014; Stalford, 2012).

However, unlike UNICEF or UNDP, which only provide technical expertise in reforming its child protection regime without any conditions attached on the membership, the EU has political conditionality to sustain the rule adoption process in Turkey that has the potential to be linked with the membership. Given that Romania experienced a process in which EU conditionality assumed an important role in Europeanizing public policies, the examination of Romania’s experience during its accession period, with all its successes and inherent failures, was very useful and may be taken as a ‘mirror example’ in order to avoid repeating mistakes and take some exemplary practices to emulate and acknowledge that EU involvement produced different impacts on the child protection systems of the candidate countries.

The thesis findings show that at the time the EU began using its leverage to align child protection regimes in candidate countries with EU norms, rules and standards, the gaps between the Romanian, Turkish and European systems were considerable. Therefore, both Romania and Turkey were at the receiving end of a high level of adaptational pressure in the specific policy area of child rights. In response to such a high adaptational pressure, both governments introduced a number of harmonization steps, with legislative and administrative adjustments to comply with European requirements. However, while a close look at Europeanization in Romania

reveals transformation, the same look at Turkey reveals a patchy Europeanisation process because of the divergent EU candidacy paths that these two countries took. Such a comparison also revealed the existence of domestic actors supporting the Europeanisation process in child rights and of those supporting the status quo and rejecting any change. In both cases, the degree of misfit—between both European norms and practices and the countries, and between the two countries themselves—was relatively high, while the degree of adaptational pressure was significantly high in both concerning their child protection regimes. Therefore, high adaptational pre-accession pressure on both countries deeply changed the domestic balances of power and helped norm entrepreneurs in bypassing multiple veto points, while also triggering institutional and legislative inertia in some policy areas that hindered the full implementation of the reforms.

Table 11
Main Misfits of Child Rights Regimes in Turkey and Romania

| Main misfits | Romania | Turkey |
|---------------------|---|--|
| | De-institutionalization State-run outdated childcare institutions | De-institutionalization |
| | Child adoption | - |
| | Child labor | Child labor |
| | Situation of Roma children Early/forced child marriages among Roma | Situation of Roma children Early/forced marriages |
| | Child poverty | Child poverty |
| | Education of children from low-income families | School enrolment rates |
| | - | Juvenile justice |

The comparison between these two illustrative cases should inspire further research on EU consideration of the use of other political and financial incentives during its enlargement policies to encourage further child protection reforms. This thesis asserts that it is possible, in light of previous enlargement waves, to revive Turkey’s Europeanization process, especially with Romania taken as an example, since it presents a success story on how a candidate country’s pre-accession process can contribute to improvement of its children and their rights and also to the EU as a

template for child rights. Although both countries had different problems pertaining to children rights, these problems were mainly concentrated on child poverty and mismanagement of the child protection regime by the respective governments. Therefore, the common denominator was the best way to handle ‘children in crisis’.

This thesis revealed that adoption of EU rules and norms in child rights depends on proximity and consistency of the accession date, the mobilization of civil society actors in favor of reforms and the leverage these reforms can have over general EU willingness to accept Turkey as a full member. Following EU enlargement to include Bulgaria and Romania in 2007, a new set of concerns was raised about the future path of EU enlargement especially in terms of creating a clear vision for aspiring countries to reform their social policies, including child rights. With the EU promoting child rights inside and outside Europe since the early 2000s, the European Commission tries to Europeanize both member states’ and candidate countries’ policies, politics and institutional structures related to child rights. However, because of the contested competence of the EU in child rights and deeply fragmented policy processes, the Commission makes use of different policy frames and instruments to shape the Europeanization of child rights at the domestic level. In this process, the EU generated differential impact at the national level due to various mediating factors and the misfit between the EU and the domestic context. Indeed, the impact of the EU on domestic policies and structures has been patchy because domestic dynamics performed a filtering role in adjusting the EU’s impact at the national level. Therefore, the EU used soft law and non-legally binding transformation model for candidate countries in its efforts to Europeanize their child rights policies. In areas where Brussels’ competence is contested, the European Commission adopts different policy templates to shape national context and implement EU measures at the domestic level. Therefore, EU enlargement after Romanian accession impacted on EU human rights policy as the feedback effects of EU-Romania engagement led to the emergence of an EU-wide child rights policy, putting child-related issues at the forefront and reinforcing such an engagement by constitutional and legal provisions in the Lisbon Treaty. It may be argued that EU enlargement with Romania—a quantum leap for the potential improvement of child

protection regimes across the EU—resulted in the emergence of a more coherent EU child rights regime in terms of institutional framework and policy scope.

To summarize, Europeanization of child rights of Romania and Turkey converged and diverged on several fronts during their pre-accession periods. For Romania, the size and credibility of EU rewards was an important motivation as a strategy of reinforcement for improving its child protection regime and dismantling the old system of state-run orphanages as well as corrupt networks of inter-country child adoption. The EU rewards became much more credible and sizeable with the emergence of a new pro-EU governing coalition in the country which found in the EU an external ally and a legitimization device for the big reform steps it had to take in eradicating the communist legacy and pushing the country closer to the European club.

The EU's ultimate reward for Romania was membership once the country aligned its child rights regime with the EU, as demonstrated by the draft report of the EP Rapporteur Nicholson in 2001. In the meantime, Romania benefited from technical expertise and financial assistance from the EU to comply with the EU requirements. Institutional ties between the Romanian government on the one hand and the European Commission and the European Parliament on the other hand, were influential in enforcing compliance and providing certainty for the whole harmonization process. Romanian authorities were made aware of that they would be entirely excluded from EU membership reward if they did not comply with the required reforms, exactly as formulated by Grabbe (2001) as the process of 'gate keeping' whereby EU lets the candidate country in when it proves the progress made towards accession goals. In the meantime, the prospect of membership was not distant, which motivated Romanian policy-makers in their belief that the reforms they made in the domestic sphere would deliver expected rewards in a foreseeable future. It was one of the main dynamics behind the strong opposition to veto players (e.g. pro-adoption lobbies in the country and across Europe) because the costs of non-compliance with EU de-institutionalization and anti-adoption requirements were so high that the Romanian government could miss the 'EU membership train'. In other terms, the rewards offered by the EU were worth the costs of domestic adoption costs. In the meantime, the credible process of EU

candidacy and the constant flow of pre-accession financial and technical assistance pushed the civil society to identify with the EU, making the conditionality much more effective with the domestic resonance it generated on the ground. Social actors became much more open to social learning and to persuasion although pre-existing norms values and practices did not completely match with the EU.

However, for Turkish case, the size and credibility of EU rewards were high only in the first half of the 2000s, when several important reforms were made in the child rights policy area to comply with EU demands. During that period, civil society activism was also very high, with several interest groups, business communities like TUSIAD, and NGOs supporting the EU reform process on several fronts, including child rights. The increased credibility of the prospect of EU membership at that time was reinforced by the presence of civil society actors whose presence and activism was putting pressure on the Turkish government to continue democratic reforms, even in the most sensitive areas in the Turkish context. In other words, the Europeanization process offered an anchor for the emergence of these actors and for governmental steps to further democratization efforts in the country although the reforms were still far from generating exhaustive changes in the normative sphere and deep-rooted understandings attached to them.

However, after 2005, and ironically with the launch of accession talks, the EU began offering Turkey ‘alternatives’ to membership, immediately reducing the credibility of the EU rewards of membership and perceived legitimacy of EU conditions. Therefore, the EU strategy of reinforcement by reward faced several obstacles after that date, with Turkish decision-makers taking relatively moderate steps of alignment with EU requirements. Domestic adoption costs became higher for the government in areas where EU conditions threatened the longstanding cultural and political traditions of the country, or where rent-seeking opportunities became stronger, with the only incentive being pre-accession EU financial assistance to trigger domestic change. These difficulties in turn increased the number of veto players (e.g. political elites de-emphasizing the EU in their speeches, Turkey’s military emphasizing the unitary structure of the state as against EU demands for education in the mother

tongue). When the costs of compliance became too high and the veto players too strong, the transformation in the pre-accession period became costly and Europeanization of child rights began to stall.

Uncertainty on the country's EU accession also pushed the government towards reform fatigue on various fronts, including child rights. Between 2006 and 2008, the government adopted one new law on the Regulation of Broadcasts via Internet to harmonize domestic legislation with the European Strategy for a Better Internet for Children, while child rights were again placed among short term priorities of the Third Accession Partnership Document in 2008, with a focus on street children and child labor. The interesting aspect of Europeanization of child rights in Turkey was that, despite the stalemate in Turkey-EU relations, it was possible to detect a patchy Europeanization between 2008-2012, with efforts on putting child rights under a separate part of the NPAA for the first time, and references to EU financial assistance to Turkey in fighting against child labor when drafting the 2009 report to the UNCRC. It is also worth noting that the Judicial Reform Strategy (2009) contained strong references to Turkey's EU accession process and improvements in juvenile justice.

Studying the different Europeanization paths of these two candidate countries during pre-accession provides insightful clues to the causal mechanisms between conditionality and Europeanization patterns. This comparison therefore provides for a better understanding of how civil society activism, a pro-reformist political elite, a favorable domestic environment and a supportive EU with a credible accession conditionality may result in the transformation of deep-rooted child rights norms, culture and understandings in one country, and in a patchy change process in another. Even though Europeanization in neither country progressed in a smooth linear manner, but faced ups and downs, the end result was not the same.

CONCLUSION

By opening the Pandora's Box of Turkey's EU candidacy path using the prism of childhood, this thesis analyzed the transformative sway of Europeanization concerning the protection of children in member and candidate countries and revealed its inherent constraints due to the lack of concrete mechanisms concerning child rights in the EU itself. In light of case studies drawn from Romania and Turkey, the thesis argued that Europeanization has a differential and contextual impact in candidate countries mainly related to the degree of misfit and the consistency of EU political conditionality. The degree of misfit between Romanian and European processes, policies and institutions on the one hand, and between Turkish and the European cases on the other hand, were extensive, and the goodness of fit allowed varying degrees of Europeanization in both countries because the incompatibility between the norms and the collective understandings attached to them were largely incompatible and gave rise to compliance and implementation problems. Therefore, Europeanization became an efficient instrument for democratization processes in Romania and Turkey, albeit to varying degrees, via gradual compliance with EU membership conditions through positive incentives (funds, projects, institutional ties and ultimately EU membership). On this train of thought, the thesis tested the domestic factors and external incentives in both countries to scrutinize the conditions under which these varying degrees of domestic change came about.

The principal motive behind writing this thesis was to look at Turkey's Europeanization journey from a different perspective by examining the effectiveness of conditionality strategy in two countries which encountered different problems related to children, but which were obliged to initiate reforms for aligning child rights with international and European standards as a membership condition. The thesis therefore consists of historical, sociological, political and also philosophical aspects to come up with a fresh look at the EU's impact on Turkey's child protection regime during its pre-accession period. Since the end of the Cold War, the EU, which is often described as a normative power (Manners, 2002) that exports human rights criteria and norms through its external relations and transforms its neighborhood accordingly, has made use of

conditionality in several policy areas through funding programs, trade agreements, foreign aid and pre-accession assistance in return for which target countries have been required to meet certain specified conditions. The EU, which is based on the principles of human rights, democracy and rule of law, commits itself to promoting its own values in its external relations, including the rights of the child, as a form of conscious projection of its own identity onto its foreign policy moves. Yet, the effectiveness of the EU normative power within enlargement has not been investigated deeply in terms of child rights, although there is no one-size-fits-all model for all candidate countries.

The EU, which had adopted child rights mainstreaming in its external policy by the early 2000s, accords considerable importance to fundamental rights since the recent legal arrangements of the Lisbon Treaty. Sometimes this engagement happens despite the EU having a limited legal mandate in the field. In those instances, the existence of some facilitating factors and conditionality tools can act as drivers. Therefore, what was put under the microscope in this thesis was the degree of ‘change’ driven by the EU accession process in a soft law area in which the EU had limited legal competence, but where it outsourced its rules from international and supranational organizations such as the UN, the Council of Europe and the ILO. Yet, as Mörth suggests, “*a perspective that focuses on a close interaction between the EU level and the domestic level means that the source of change cannot be easily determined*” (Mörth, 2003, p.160).

As mentioned earlier, the European Union does not hold the exclusive competence to legislate on child protection, as this policy field is within the sole authority of individual EU member states. However, during Romania’s candidacy process, the inhumane conditions of Romanian children in the country’s state-run orphanages and the corrupt networks of inter-country child adoption became two key issues with EU accession conditionality and pressure from civil society. The European Council then decided to consider the UNCRC as an inseparable part of the EU legislation and put it in the *acquis communautaire* for monitoring the accession negotiations.

The Romanian case, therefore, provided the EU with a window of opportunity to incorporate the protection of child rights into its internal and external policies. In

practice, it entailed establishing and upholding institutional and policy structures for child rights in the candidate countries; while the EU intervention in this key policy area also entrenched the Commission's role and impact as a child rights actor. All relevant services under the European Commission, from the Directorate General (DG) Justice, Freedom and Security to the DG Enlargement, pooled their expertise in dealing with child rights in Romania to transform the child protection and inter-country adoption system in this candidate country to harmonize it with the UNCRC principles.

The fact that the European Commission and the European Parliament spoke with one voice during pre-accession negotiations with Romania not only counterbalanced the vested interests of the countries adopting out of Romania, especially Italy, Ireland, United States, Israel and France, but also improved the country's state-run childcare institutions and provided a template for future enlargements since the protection of children, as part of the Copenhagen criteria, became an important prerequisite for EU accession. Even though human rights had a significant place in the *acquis communautaire*, child protection had been a vague area within the Union's legislative sphere, and this compelled the EU to offer innovative templates and outsource the standards from international organizations such as the Council of Europe and United Nations. Now, the EU still considers child rights protection as a pre-condition for EU accession.

This thesis had two main objectives. One was to define both the European and international child protection regimes by focusing on the evolution of European child rights policy, which stands at the center of the research. The second objective was to evaluate the dynamics, the rationale and the actors behind the Europeanization processes in which all relevant actors to some degree played a role. Although the candidate status *per se* mattered for transformation of the child protection regime in both countries, the dynamics behind the limited impact of EU normative power on Romania and Turkey during a certain timeframe was also dealt with in order to unpack the influence of domestic veto players, high costs of compliance and inconsistencies in membership prospects. The in-depth analysis of these two cases revealed that for EU accession conditionality to be credible it should be accompanied by facilitating

conditions and favorable cultural resonance in order to generate domestic change in a candidate country because ‘one size fits all’ does not match the reality on the ground, especially regarding social problems that are specific for each country.

The findings of this thesis provide contributions to two areas of Europeanization literature: firstly, the feedback impact of EU enlargement on EU institutions and policies on a soft law area in which the EU is not endowed with a broad legal competence, and secondly the possibility of triggering a domestic change in a policy area that pioneered the accession of a specific candidate country. With respect to the first impact, the thesis claimed that a consistent and innovative policy entrepreneurship at the EU level could contribute to the reinforcement of EU agency in an area where Brussels had not previously triggered any domestic change. Regarding the second impact, the findings of the thesis fully confirm that a pro-EU domestic coalition, consistent and timely EU backing for the enlargement and systematic steps for rule adoption are paramount in facilitating the accession process, while harmonization in policy areas such as child rights that directly touch on daily lives can facilitate the process and boost the image of the EU in the eyes of the citizens. The Commission’s increased role as a child rights actor inside and outside the EU following the Romanian accession is also a facilitator.

This thesis then evolved around two main questions: *What was Europeanized?* (i.e. where did the domestic impact of Europeanization materialize), and *to what extent was it Europeanized?* (i.e. the direction and extent of Europeanization). As a result of the in-depth interviews and the literature review, it has become clear that the EU remains the most significant actor for improving child rights in Turkey, although with some limitations. The EU created an institutional window of opportunity for civil society actors working on child rights to strengthen their position vis-a-vis the government, while it also contributed to mainstreaming child rights into all relevant public policies through the funding it provided. Turkish legislation changed positively with respect to child protection. Finally, although the NGOs advocating child rights in Turkey were already working for legislative and institutional changes in a systematic way, the EU contributed significantly to their efforts—be they in prisons or in schools

or on hazelnut farms—by legitimizing and empowering them to generate domestic change. Even though the EU lost a significant part of its initial transformative power on this candidate country, it provided a normative and institutional reference point by persuading and mobilizing the government to introduce reforms in child rights as part of the EU membership process. Although all developments pertaining to child rights were not realized after Turkey’s EU candidacy, the interviewees all agreed that the EU constituted a normative reference point for domestic changes in child rights. The unwillingness, however, of the public authorities to fully transform the child protection system—revealed in the lack of statements praising European values on child rights—rendered additional harmonization steps much more problematic, especially in light of what became deteriorating Turkey-EU relations. A general overview on the progress reports between 1998 and 2016 clearly showed that Turkey made some legislative changes to comply with EU demands, but these changes were reflected weakly and unevenly at the operational level. Therefore, the conditionality strategy of the EU was ineffective in achieving necessary compliance due to the absence of a fertile ground.

This thesis adapted the external incentives and social learning models of Europeanization, and this provided the main clues for the analysis of the changes to child rights policy in Turkey during the specified timeframe (1995-2016). The thesis therefore focused on four different dimensions: the source of domestic change, the reasons behind this change, the agents that enabled or hindered this process, and the outcomes of this Europeanization. The thesis concluded that Turkey’s child rights policy was Europeanized to a certain degree and patchily. The legal and institutional changes required by the EU presumed establishing new institutions (e.g. a fully-aligned Ombudsperson institution or an active reform monitoring group that included regular meetings between European and Turkish officials), transforming cultural norms (e.g. education in the mother tongue, broadcasting in regional languages, shortcomings in the juvenile justice and in the conditions as well as treatment at the detention centers) still continue to be a problem area and continue to be mentioned in progress reports (European Commission, 2021c). However, the monitoring mechanisms of progress reports and accession partnership documents, the establishment of institutional ties between Turkey and EU through parliamentary groups and epistemic communities, as

well as the consistent funding mechanism through projects and programs has served to prevent a complete de-Europeanization in child rights.

Therefore, this thesis aimed to provide an answer to a challenging question: How should the European Union promote child rights to Turkey following the Romanian example? In order to address this question I used in-depth interviews with the representatives of civil society organizations, public officials and experts. The interviews were designed to reveal how domestic actors respond to EU's adaptational pressures and how the Turkish domestic context mediates the factors employed by the EU in this process. The central aim of the thesis was to explore some processes that contributed to improving EU child rights conditionality to its candidate countries. The effectiveness of this external governance will indirectly affect the long-term success of EU human rights export to its candidate countries. Since the enlargement policy of the EU aims at integrating new members after they adopt the required criteria of accession, EU conditionality remains a key tool for motivating the candidate countries on their accession path for domestic compliance with the fundamental values of membership. Analyses about the past enlargement waves can partly help us understand the EU's strategy towards Turkey, as each enlargement round has its own characteristics with different historical, political and sociological contexts. However, a comparison taking a general view about how the EU gained successes in generating domestic change in a candidate country over a soft law area would give important clues to understand what it failed to do in its relations with Turkey.

Based on Radaelli's definition of Europeanization, the thesis concentrated on the process of how "*the formal and informal rules, procedures, policy paradigms, styles, 'ways of doing things' and shared beliefs and norms*" of the European child protection regime are constructed and diffused and to what extent they are institutionalized (Radaelli, 2003, p.30). Turkish elites' way of socialization, through their involvement with the EU –with several twinning projects, EU-funded programs, field studies of Turkish Ombudsperson to the EU countries, involvement of the NGOs in the project conferences- is revealed as the main mechanism of Europeanization in Turkey because agents of change interacted in this process with broader institutional

contexts and adopted new preferences and interests in improving the child protection system. In contrast, the presence of veto agents, particularly post-2008 and especially in the domestic political sphere, could explain the importance of sustaining norm entrepreneurs in a candidate country in order to proceed with the EU reforms since the EU conditionality was, after a certain point, found to be weak at promoting domestic compliance when various EU demands, including on child rights, met with domestic resistance.

It is also worth noting that instruments such as IPA, EIDHR and consultations between the Turkish ombudsperson and his/her EU counterparts were introduced as supporting factors for the Europeanization of child rights in Turkey. Twinning projects, as a form of technical assistance between two public institutions, also contributed to improving the institutional capacity of Turkey as a recipient country by using tactics such as negotiating, transfer of know-how and consultations. Thus, shedding light on the way in which norms of the child protection regime are constructed, framed and interpreted is essential. The main contribution of this thesis is, therefore, to see why and how norms have been adopted in Turkey in an area such as child protection, where there is no direct pressure. The thesis also argued that EU intervention in child protection in Romania helped EU institutions in acquiring significant expertise, institutional capacity and experience regarding child rights, with Baroness Emma Nicholson, the EP's rapporteur for Romania, putting child rights—especially the problem of international adoption and the corrupt networks connected with it—on Romania's EU accession agenda. This politicization of the adoption issue, the individual involvement of EU actors such as Emma Nicholson and EU Commissioner for Enlargement Günter Verheugen, and the plight of children in outdated care institutions in the country therefore triggered further engagement of EU institutions in child protection reform and raised awareness of child rights inside and outside the EU, boosting the political visibility of problems faced by children of various nationalities.

It needs to be said of course that the Europeanization framework is not a panacea for improvement of child rights in Turkey, but it nevertheless opened a door to a debate between EU politics and the traditional domestic structures for a

comprehensive understanding of the evolution of public policy and governance in terms of child rights. It therefore helps in understanding the amount of change generated within the accession process and the social construction of politics. The thesis elaborated on the core question of ‘How and to what extent did the EU play a normative transformation role in Turkey’s child rights’ policy between 1995 and 2016?’. To answer this question, the emphasis is put on the period between 1995, when Turkey became party to the UNCRC, and 2016, when already deteriorating relations between Turkey and the EU hit a new low. The interviews revealed that Turkey’s domestic socio-political settings and its bilateral relations with the EU were key determinants in understanding the degree of Europeanization. The findings of the dissertation also suggest that the patchy Europeanization in Turkey’s child rights policy area is also related to the weak capacity of some NGOs in terms of financial capabilities and human resources. Several NGOs that work on EU-Turkey relations also remained confined to big business and the private sector (Kaliber et al., 2005, p.9). This weakness prevented several members of civil society from establishing the necessary channels of dialogue and impact desired by the EU. This finding suggests that the EU should develop new models of interaction with Turkish civil society that take into consideration the changing socio-political structure as well as the emerging constraints within NGOs. *“The more freedoms are extended, the more civil society groups are able to work without being stifled by repressive laws and bureaucratic procedures and in turn, the greater the flourishing of civil society in Turkey”* (Tocci, 2005, p.81).

Between 1999 and 2005, Turkey witnessed major reforms in the realm of child rights policy, in which the country shifted from inertia to the adoption of laws and policies that specifically aiming to change it. These changes, beginning with the adoption of the UNCRC in 1995, were the outcome of a complex process of interaction between domestic and European actors, with the positive momentum of the EU accession process generating a significant influence over the outcome. Therefore, even in the absence of clearly articulated EU norms, domestic change in child rights happened in Turkey through interactions between the European Commission, European Parliament, member state governments, and civil society actors at the European and domestic levels, which in turn motivated policy-makers and NGOs to enact reforms and

trigger much-needed capacity-building mechanisms. According to Yilmaz, Turkey's Europeanness could be elaborated on through the lens of Europeanization between the years 1999 and 2004, when EU conditionality was an effective tool and there was a strong pro-EU calling inside the country (Yilmaz, 2016b). However, from 2005, this trend was transformed into a selective/patchy Europeanization and may now be considered as a form of de-Europeanization (Yilmaz, 2016, pp.86-87).

In terms of child rights, the recognition of Turkey's status as a candidate country in 1999 boosted the momentum gained by Turkey's ratification of the UNCRC. In the early years of the 2000s, Turkey underwent a deep process of domestic change with the EU-induced reform packages and this continued, with ups and downs, until the 2010s. In the field of child rights, the Europeanization process faced a downward trend after 2012, just after the establishment of the Ombudsperson institution—a significant high point in evoking a Europeanization outcome—and the EU as a reference point in domestic governance began losing its momentum. Although the general trend of Turkey-EU relations may be defined now as 'de-Europeanization', the child rights area still retains potential for accommodation and absorption of EU rules, with flows of pre-accession financial assistance and institutional ties between Turkey and Brussels in issue areas pertaining to child rights, i.e. child labor, child protection regime, Ombudsperson institution and the situation of Syrian children.

However, key factors that promote Europeanization in Turkey—the presence of a pro-reform government, consistent targets of EU membership and strong consensus among EU member countries backing the country's membership bid, the involvement of all state and civil society actors in harmonizing with European standards— all constituted an uneven and patchy picture, especially after the early 2010s. Meanwhile, unlike the Romanian case, Turkey has not received the ultimate reward for its efforts, with a resulting loss of trust in the EU. In other words, although some key steps were taken at some points to improve child rights in Turkey, neither Brussels nor Ankara developed consistent 'workarounds' against the obstacles they faced—something which *did* happen with Romania.

The unsteady development of child rights in Turkey shows that external pressure can spark lasting domestic change only if it is backed up by long-term internal accommodation and if the EU regains the credibility of its accession conditionality that will, in turn, boost Turkey's desire to implement the necessary reforms. Although from 1999 to 2005, there have been domestic and *ad hoc* changes in the realm of child rights that could qualify as Europeanization, from 2005 to 2012, EU pressures lost its power over Turkish domestic system, and thus we saw a waning response in the form of legal changes. Apart from some delegation visits and preparation of its annual progress reports, the EU currently has a rudimentary monitoring system, with its carrots (the hope of membership and pre-assistance aid) and sticks (threat of exclusion from membership) not becoming a part of domestic settings.

Unlike in the Romanian case, where EU representatives—for instance, Emma Nicholson—were present, this has not been the case in Turkey, with no such individuals acting as leverage over the reform process and as an 'agent of change' in such a sensitive policy area in Turkey as child rights in which there has been insufficient performance over many years. Also, unlike in the Romanian case, the European Commission restricted its recommendations to Turkey to the accession partnership documents and its criticisms to the regular reports, which was not sufficient. Turkey lacked a strong stick of conditionality from the EU side. For instance, the European Commission warned in its 1999 progress report on Romania that the accession talks with Bucharest would only be open if Romanian authorities take necessary measures to allocate budgetary resources to child protection and to implement required reform steps about infamous childcare institutions before the year 1999 ends (European Commission, 1999).

No similar criticisms/warnings making child protection reform a legislative priority for the accession bid are to be found in the progress reports for Turkey. Closure of old-style childcare facilities, development of family-like childcare and prevention of child abandonment all derived from Romania's fulfillment of EU and international requirements, and show that there were behavioral changes. In this context, it therefore needs to be said that normative pressure alone cannot push a candidate country towards

fulfillment of EU requirement. There is also need for membership conditionality, and this time it was needed in a policy area where Brussels had a thin *acquis*, but significant experience from the Romanian accession process.

Since the EU could not propose a strict model in the realm of child rights, Turkey had to find reasons for voluntarily transforming its whole structure of child protection in line with European norms and beliefs through joint actions, sustainable strategies, elite socialization and transnational interactions through twinning projects that teach domestic actors the importance of acting and working together. In other words, in light of Börzel and Risse's interpretation of the 'logic of consequentialism', the necessary misfit condition in Turkey as a candidate state creates adaptational pressure for domestic change resulting from redistribution of resources among actors who are considered as rational, goal-oriented and utility-maximizing. Whilst this misfit is an indispensable criterion, governments subjected to adaptational pressure should also have sufficient capacities to consider new opportunities or cope with the constraints ahead, leading them to a bargaining process where veto players as well as supporting institutions play significant roles in determining domestic power struggles.

In the Turkish context, policy change resulted both from endogenous inputs (e.g., domestic EU-funded projects, the governing party's EU-focused policies, the activities of the pressure groups, and civil society effect) or exogenous impacts (e.g., developments in the relevant policy area, the stages of the candidacy process). The technical assistance of UNICEF was helpful in reaching out to even remote regions of Turkey when it came to schooling or other child-related problems like juvenile justice. However, EU pressure was instrumental in changing administrative structures and establishing the Ombudsperson Institution in 2012 in reference to EU practices in this country where public authorities had rarely, if ever, been held accountable in the eyes of another public institution. It was that institutional misfit in the candidate country that triggered EU adaptational pressure.

It also needs to be said that in the case of Turkey Europeanization in child rights took place through EU membership conditionality, with a vertical and hierarchical process that was incorporated into the accession partnership documents,

regular progress reports of the European Commission and various strategy papers. The direction of domestic change has been a top-down and asymmetrical process because the candidate country is not capable of affecting EU policies. On the path to EU accession, Turkey therefore faced conditionality through (i) the EU *acquis* to which it was expected to comply and which it was to implement, and (ii) political criteria of human rights and democratization. As argued by Sinem Akgul-Acikmese, “*ups and downs in Turkey’s democratization process can only be grasped with the presence/absence of EU conditionality coupled with endogenous and exogenous factors that affect its operability*” (Acikmese, 2010, p.130).

Therefore, the prospect of EU membership definitely played a role in the Europeanization of child rights in Turkey and the conditionality tools provided a useful framework for understanding and analyzing Turkey’s compliance with EU criteria. However, conditionality *per se* could not have generated full-scale and viable domestic change in Turkey’s child rights’ area since several mediating factors, both endogenous and exogenous, were absent. This explains why this area did not become a ‘success story’ or a ‘referential’ for Turkey’s Europeanization journey. Instead, it remained rather patchy and had limited domestic impact because effective Europeanization in child rights is a complex process that requires consistent and considerable institutional coordination, allocation of resources (Stalford and Drywood, 2009, pp.165-166) as well as a pro-EU leadership to translate norms into policy outcomes.

It is worth mentioning that the EU-promoted legal and institutional changes for Turkey’s accession case presumed the creation of new institutions, change in cultural norms and behaviors as well as economic dependencies (for instance regarding child labor or child poverty). However, it was not rational to expect that EU pressure alone could fully transform the flawed child protection system in just 17 years. And it did not. Several key problems still remain unsolved, some half-solved and others on the verge of being solved. Turkey has made real progress in Europeanizing its child rights, but it has still a long way to go in keeping itself on track. It needs to call on both European and domestic actors to re-engage in the Europeanization project as an antidote to the de-Europeanization trend in the country in various other sectors.

There is also a need to make a distinction in Turkey's Europeanization journey in child rights in terms of input and output. In terms of inputs, Turkey passed through a normative adoption process with several reform packages, establishment of institutions and constitutional amendments. In particular, in the 2002-2005 period that followed the granting of official candidacy status and marked strong public support for the country's EU membership bid, the ruling Justice and Development Party embarked upon an unprecedented reform wave with harmonization packages covering a wide range of human rights issues, including child rights. During this process, the Turkish Parliament adopted a new Civil Code, accompanied by some amendments in constitutional provisions on child rights. With the impetus of these comprehensive reform steps, the European Commission's October 2004 progress report gave Turkey the green light for accession negotiations, and this led to the decision of the Council of Ministers to open accession negotiations with Turkey on October 3, 2005. Therefore, the EU leverage helped in accelerating reform willingness in Turkey, and generated an enabling environment where previously underestimated social actors, such as NGOs working on child rights, were encouraged to take steps for contributing to a revised child rights perspective in the country.

However, in terms of output, the effects of EU rule adoption have been short-lived, since full alignment with the Copenhagen political criteria was still influenced by domestic institutional preferences, state-centric political culture and domestic understandings. Growing alienation between the EU and Turkey's political elites over several disagreements on human rights issues also led to this impasse. This thesis therefore has theoretical and empirical implications for the literature on EU child rights governance in candidate countries, starting from the current position of Turkey. Theoretically, the findings show that Europeanization can help explain domestic changes in a candidate country in the field of child rights by shedding light on how and to what extent Brussels can generate domestic change in candidate countries. Empirically, the results of this thesis urge relevant parties to shift their focus from purely political obstacles in EU-Turkey relations and begin to take steps on practical and social issues that have the potential to re-energize ties.

This thesis contributes to Europeanization and de-Europeanization literature through in-depth interviews and its literature review, and it differs from the other theses on child rights in that it is the first to study Europeanization through the prism of child rights in Turkey. It also makes suggestions to the EU and Turkey to use the accession process as a kind of leverage for reforming child rights' regime in the country, and asserts that both parties need each other to be a template for any future enlargements. However, the key point here is that the EU should work to revive its appeal for the Turkish political elite and civil society in their creating a roadmap for aligning Turkish legislation with that of the EU in several areas, including child rights. The only cure for the current de-Europeanization and Euro-skepticism is to make the EU a reference point once more in the dominant discourse and practice in the country, in a fashion similar to that of the golden years' of the early 2000s.

Considering the current record of Turkey in terms of child rights, child poverty, child labor and child abuse, making the EU-derived reforms a part of Turkey's policy choices will revive bilateral ties on a normative basis and will show Turkey's commitment to be a member of the EU by considering its flaws and pledging reforms in this regard. In this respect, the participation of all public authorities and key civil society actors in sending their evaluations for the EU's progress reports each year, as well as the yearly meetings between Turkish public authorities and the European Commission on implementation of IPA projects have been valuable cases of social engagement and elite socialization. In terms of Radaelli's (2003) four-fold approach on possible outcomes of Europeanization, Turkey absorbed EU norms and standards on juvenile justice and child labor in 2000-2005, but then a period of inertia and limited rule adoption followed. The degree of misfit between EU demands and Turkey's domestic policies was high on child labor and juvenile justice, which created adaptational pressures from the EU and challenged domestic structures and practices.

With much of the debate on Turkish EU membership focusing on cultural comparisons or political obstacles, this vicious circle totally ignores the need for building mutual trust and developing innovative strategies for cementing mutual values. In light of the Romanian accession process, one of the greatest achievements of the EU

lies in reforming its child rights system by using accession conditionality in order to ease the internal accommodation from national and transnational actors. Therefore, the entrepreneurship of the EU in Romania for the improvement of child rights constitutes significant experience that can inspire later enlargement waves and further energize the ties between Brussels and EU candidate countries by encouraging rule adoption and restructuring domestic institutions in line with EU rules and standards. The increased importance accorded to human rights by the EU since the 2004 enlargement and to child rights since the 2007 enlargement should provide a new perspective to those who study Europeanization from a wider perspective. Such a perspective is very important in re-conceptualizing Turkey-EU relations from a specific but ‘concrete’ angle that can translate into tangible outcomes for children and for Turkey’s membership bid as well.

As we are walking a thin line in terms of EU-Turkey relations, making projections about the fate of this relationship is not an easy task, especially as both the EU and Turkey often backpedal on Europeanization—a ‘reverse Europeanization’—due to the illiberal turn taken by Ankara and the loss of EU willingness to accept it as a member state. However, both parties need to preserve the achievements that have been gained so far and ensure that their relationship continues in a constructive way, especially as possibilities for improving the lives of children are on the table. Therefore, this policy area may inspire decision-makers on both sides to seek alternative and realistic channels and models to generate domestic change on the ground. In order to regenerate Turkey’s ties with the EU and pass beyond a strategic partnership model that is only based on positive agenda, Brussels should be more specific about how the Copenhagen criteria are to be handled during accession negotiations and what the role of child rights is in giving more substance to this critical process. Such a step could re-define what membership would mean for both parties and what both parties expect from this process. As long as the EU focuses on social policy issues such as child rights in a more consistent and determined manner, it will boost the image of the EU in the eyes of the candidate country’s ordinary citizens and will mobilize both internal accommodation and elite socialization that will build further bridges between the parties for successive cooperation avenues and help them in better framing the cost-benefit

ratio of Turkish membership by using tangible references that have a concrete and direct impact on daily lives.

In this sense, the EU's conditionality mechanism that is applied in Romania on child rights covered *gate-keeping* (access to negotiations was conditioned with fulfillment of minimum requirements), *provision of legislative and institutional models* (e.g. establishment of the Ombudsperson institution, re-structuring the childcare institutions), *flow of money and channeling technical assistance* (e.g. pre-accession funds), *benchmarking and monitoring* by the EU and other Europeanizing institutions like the ILO, the CoE as well as the UN, all of which complemented the role of the EU in the context of child rights (i.e. use of progress reports and accession partnership documents), and advice and twinning.

Since the European Commission left Turkey out of the enlargement picture in its updated enlargement strategy from spring 2020, a more transactional relationship between Brussels and Ankara that is merely focused on counter-terrorism efforts, trade development and migration management has been gaining ground. However, the Commission and the European Parliament still have transformative power over candidate countries during the pre-accession period by providing a prospect of EU membership perspective and encouragement in fulfilling accession criteria. Therefore, reviving this process by taking child rights area as a vehicle could restart the process or at least provide some impulses for returning to the negotiation table. Despite the perceived double standards on EU practices in human rights, enlargement may inspire domestic adaptations in a specific field by requiring monitoring mechanisms for the member states (Hillion, 2013, pp.2-10). In this sense, continuation of pre-accession funding mechanisms, establishment of pro-EU institutions in child rights such as the Ombudsperson institution, increased ties between the member countries and Turkey through twinning projects are of primary importance in sustaining this critical relationship and creating immediate results in child well-being in Turkey. Enlargement is not only about extending the geographic frontiers of the EU, but also about expansion of respect for the fundamental rights of vulnerable groups, including children. For Europeanization of child rights in Turkey, EU-funded projects, field studies and joint

meetings were therefore a strategic tool in respecting social and cultural sensitivities and adding local ‘ownership’ to child rights reform by developing active civil society support from below and a logic of appropriateness. How effectively this logic will translate into shaping child rights in Turkey and encouraging reform in later periods remains to be seen. Although the prospect of Turkey’s joining the EU remains uncertain, the years-long political dialogue and technical interaction between Ankara and Brussels have generated and should continue to generate significant implications for both sides, with the ultimate winner being children whose rights will be improved and aligned with their European peers. This is why—in contrast to Radaelli—Europeanisation was seen as a *solution* that provides conceptual explanations, not as a *problem* in this thesis (Radaelli, 2004, p.2).

To conclude, between 1995 and 2016, the EU brought about some domestic changes in child rights in Turkey, and despite slow and patchy functioning with a fragmented *acquis*, became one of the major agents of change in Turkey’s child protection with the projects, meetings, progress reports and networks it established in these years. Turkey’s constitution, and legislative pieces such as its penal and criminal codes, as well as several other related laws bear the imprint of the EU in terms of changes in child rights clauses. However, unlike what happened in Romania, where EU leverage was consistent and result-oriented, the EU leverage employed on Turkey especially in the juvenile justice, child labor and education remained an ad hoc policy. The dominant approach to EU child rights conditionality in Turkey was and is still marked by a patchy policy-making, norm-sharing and institution-building character that reduced Turkey’s pre-accession relations with the EU to an uneven bargaining process. The legislative changes did not translate into cognitive dimensions or behavioral change among stakeholders, as several NGO representatives underlined (Interviews with Arkadas-Thibert, Akco).

After all, changing behaviors and cognitive frames is much harder than building institutions and developing legislation because it needs strong thresholds and a set of institutional checklists as well as real support from the domestic government. The main reason for this lack of transformation is simply because Turkey’s EU accession

process lost momentum a long time ago now, and was not supported by any internal accommodation, while child rights is still regarded as a policy area purely under national sovereignty because there are sensitive points on which Turkey's policy-makers do not want to emulate the EU models, but amend them according to national sensitivities. Also, some external issues, such as the refugee crisis, the COVID-19 pandemic and economic challenges, have had a negative impact on Turkey's Europeanization process and restricted dialogue channels between Ankara and Brussels. To talk about a transformative and durable outcome for the Europeanization of child rights in Turkey, EU authorities must use the model applied in the Romanian accession process, while Turkish authorities and the civil society actors should be more receptive in their logics of appropriateness and consequentialism in transposing these norms and policy styles into the domestic context. Therefore, more collaborative and coordinated action by Brussels and Ankara is needed if Turkey's child protection to be Europeanized. On the other hand, all efforts on the ground, either by EU-funded projects or regular meetings between European and Turkish experts, will remain superficial and fail to generate sustainable domestic change as long as the relevant negotiation chapters that cross-cut the child protection regime remain closed. With the wide range data collected throughout the fieldwork and in-depth expert interviews, this thesis also provided an additional layer of empirical contribution to Europeanisation literature and social policy changes at domestic levels.

The opening up of Chapter 19, Social Policy and Employment and Chapter 23, Judiciary and Fundamental Rights, would also carry the child rights policy in Turkey to a higher stage and provide more adequate conditions for Europeanization processes. The present challenge is also to devise a new EU strategy de-linking the harmonization of child rights with the EU *acquis* and standards from the changing dynamics of EU-Turkey relations. In this way, Europeanization mechanisms for improving the child rights protection system in Turkey will be more sustainable and crisis-proof.

Future Research

This thesis argues that the differential impact of EU conditionality on two candidates resulted in transformation of the child protection regime of one country,

Romania, while in the other, Turkey, it generated a patchy Europeanization in the child rights system due to a combination of several endogenous and exogenous factors. In this respect, the findings of this thesis point to areas that could be investigated further to advance this research. In this context, one aspect for further research may be a comparative analysis between the Romanian and Turkish civil society actors with respect to assuming the costs of compliance with EU requirements on child rights.

Another research might focus on comparing the post-accession Romania's child rights regime with Turkey in the period after 2007, the date of Romanian accession to the EU. Such research would bring insights about how accession conditionality is sustained post-accession. Further research could look into the Europeanization of civil society in Turkey during its accession process to see the extent to which these organizations helped diffusing European norms and values.

Another research could concentrate on a comparative analysis of the Romanian and Turkish ombudspersons to see how these two key institutions acted as catalysts and drivers for EU-induced domestic change during the candidacy process. Finally, further research is advisable on the impact of a scenario where Chapter 19, Social Policy and Employment and Chapter 23, Judiciary and Fundamental Rights are opened to accession negotiations, since it is after this crucial stage that the real impacts of Europeanization will be felt in the Turkish domestic context. Therefore, further researches about the Europeanization of child rights policy in Turkey specifically with the opening of these critical negotiation chapters would make a significant contribution to the debates and literature of Europeanization in candidate countries.

On the other hand, further researches should concentrate on the ways to expand the role of civil society actors in the Europeanization of child rights in candidate countries because due to weak and limited organizational capacities of the NGOs in Turkey and in the lack of a robust civic engagement culture, civil society has not been adept enough to exert much pressure on public authorities from below, generate much domestic change or persuade the state authorities into pioneering comprehensive reforms on child rights without the EU anchor. A comparison with a 'success story' in the EU member countries would be inspiring for Turkish case.

As children make up more than 26% of Turkey's general population, any Europeanization efforts to improve their living conditions contribute greatly to the general democratization trend in the country ahead of its accession. Therefore, EU-Turkey relations need to go beyond technical assistance and financial support in child rights, and there is a need to find a new *modus vivendi* to re-energize ties as they were in the early 2000s with a new wave of harmonization packages and more committed EU projects that merge formal adoption and effective implementation on the ground.

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