

EUROPEANISATION OF GENDER EQUALITY POLICIES: AN ANALYSIS  
OF THE GENDER EQUALITY IN EMPLOYMENT IN TURKEY

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## **ABSTRACT**

### **EUROPEANISATION OF GENDER EQUALITY POLICIES: AN ANALYSIS OF THE GENDER EQUALITY IN EMPLOYMENT IN TURKEY**

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M.S., European Studies

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This thesis analyses the domestic transformation that Turkey has experienced in terms of gender equality in employment and the role of the European Union (EU) on this process. Besides providing an account of the laws affecting Turkish women's employment by comparing the periods before and after Turkey's acceptance as a candidate state to the EU, it also examines the success of the adopted laws' translation into implementation in a way to improve Turkish women's position.

By adopting a bottom-up approach to Europeanisation, it treats the EU as one of the possible explanations causing domestic change in terms of gender equality in employment rather than a predominant causal factor. As an attempt to discern the impact of the EU from other variables, particular focus is put on the perceptions of the member of women's civil society organisation (CSOs) of the role of the EU in the reform process. In conclusion, it demonstrates that that the EU is the most significant actor for improving gender equality in employment although its impact

is limited mainly due to the gap between the gender equality legislation that have been transposed during the EU accession process and its actual implementation.

**Keywords:** Women's Rights, Gender Equality, Europeanisation, Employment Policies

## ÖZ

### CİNSİYET EŞİTLİĞİ POLİTİKALARININ AVRUPALILAŞMASI: TÜRKİYE’DE İSTİHDAMDAN CİNSİYET EŞİTLİĞİNİN ANALİZİ

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Bu tez, Türkiye'nin istihdamda cinsiyet eşitliği açısından yaşadığı dönüşümü ve Avrupa Birliği'nin (AB) bu süreçteki rolünü analiz etmektedir. Türkiye’de kadınların istihdamını etkileyen yasaların, Türkiye’nin AB’ye aday ülke olarak kabul edilmesinden önceki ve sonraki dönemler karşılaştırılarak incelenmesinin yanı sıra, söz konusu yasaların kadınların istihdam alanında konumunu iyileştirecek şekilde uygulamaya geçirilmesindeki başarı da değerlendirilmektedir.

Çalışmada aşağıdan yukarıya Avrupalılaşma yaklaşımının benimsenmesi nedeniyle, AB değişimin temel sebebi olarak değil, değişimin olası açıklamalarından birisi olarak ele alınmaktadır. AB’nin etkisini değişime sebep olmuş olabilecek diğer etkenlerden ayırt etmek amacıyla, kadın hakları alanında çalışan sivil toplum kuruluşlarının üyelerinin görüşlerine, AB’nin Türkiye’de gerçekleşen dönüşüm üzerindeki etkisi çerçevesinde yer verilmektedir. Sonuç olarak, AB’nin Türkiye’de istihdam alanında cinsiyet eşitliğinin sağlanmasına katkıda bulunan en önemli aktör olduğu, öte yandan AB’nin etkisinin AB’ye uyum

sürecinde deęiřtirilen cinsiyet eřitlięi kanunlarının uygulaması alanında yařanan sorunlar nedeniyle sınırlı kaldıęı gösterilmektedir.

**Anahtar Kelimeler:** Kadın Hakları, Cinsiyet Eřitlięi, Avrupalılařma, İstihdam Politikaları

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## **LIST OF ABBREVIATIONS**

CEECs	Central and Eastern European Countries
CSO	Civil Society Organisation
EC	European Commission
ECJ	European Court of Justice
EEC	European Economic Community
EU	European Union
TEU	Treaty on European Union
TFEU	Treaty on the Functioning of the European Union

## **CHAPTER 1**

### **INTRODUCTION**

The European Union (EU) is an outstanding actor for promoting women's rights since the early years of European integration. It endorses gender equality as a foundational value not only within the union but also beyond its borders. The accession process is one of the strongest instruments that the EU exerts its influence regarding gender issues outside the union. However, the performance of the accession process in terms of its contribution to improving gender equality varies significantly in different national contexts.

This study seeks to address to what extent the EU accession process contributed to gender equality in employment in Turkey, in which it is argued that its impact is limited due to the gap between the gender equality legislation that have been transposed during the EU accession process and its actual implementation. Regarding the domestic transformation that Turkey has experienced after the EU candidacy status that had been granted in 1999, this study adopting a bottom-up approach to Europeanisation, argues that the EU should be treated as one of the possible explanations causing domestic change in terms of gender equality in employment rather than a predominant and privileged causal factor.

Equality between men and women is a fundamental value for the EU as stated in the Articles 2 and 3 of the Treaty on the European Union (TEU). The principle of equal pay between women and men was enshrined in the Treaty of Rome in as early as 1957. While gender equality has been dealt in a limited way with the principle of equal pay as the only reference to it for a long time, new directives, case law and changes to the Treaties have supported the mainstreaming of gender equality into all policy areas of the EU.

Not only the gender equality agenda of the EU but also its geographical limits have been widened as the EU's efforts to improve gender equality extend beyond its borders. In the policy dialogues with partner countries, the EU encourages the inclusion of a gender equality perspective. Strengthening gender equality and women's empowerment are prioritized in the external action of the EU as well as in the enlargement context.

One of the most effective instrument that the EU has for promoting gender equality beyond its member states is the accession process as it expects the candidate countries to embrace its values and norms as well as to transform their legislation and policies in line with the EU acquis on the subject prior to their accession. The EU also supports the transformation of candidate countries regarding gender equality through funding programmes. The European Commission's Strategic engagement for gender equality 2016-2019 ensures integration of a gender equality perspective into all funding programmes of the EU.

Although the EU has a high leverage and strong monitoring mechanisms like the annual progress reports for candidate states prepared by the European Commission during the accession process, its performance in transforming member states in line with its norms and values varies in different contexts. As candidate states have different laws, institutions and traditions prior to their candidacy, the accession process yields varying results for each one of them. Since the EU legislation and policies on gender equality are filtered through the domestic elements and context, they may either trigger or limit their impact.

According to Dobrotić et al. (2013), there are two issues to consider while studying the impact of the EU regarding gender equality on its member and candidate states, which are also relevant for the case of Turkey. Firstly, it must be examined whether there is a disjuncture between integration of the EU *acquis communautaire* into national legislation and its actual implementation. While legal reforms are

necessary in order to improve gender equality, they do not lead to any improvement unless they translate into implementation.

The period between the recognition of Turkey as a candidate country for the EU in 1999 and the beginning of accession negotiations between Turkey and the EU in 2005 has seen the ‘golden age’ of reforms to bring itself in line with the EU. The momentum created by Turkey’s candidacy led numerous changes in legislation for harmonisation of its laws with the EU acquis in many areas including gender equality. The EU’s triggering impact on Turkey in terms of reforming its legislation on gender-related issues is covered by a substantial body of literature as well as the EC’s reports on Turkey. However, it is necessary to analyse whether there is a gap between formation of legislation and its meaningful implementation in Turkey to be able to comprehend the actual impact of the EU on improving gender equality.

Secondly, the influence of domestic factors on the success of compliance must be considered since implementing same laws and policies in different national contexts may produce varying results based on the previous laws, policies, institutions, norms and values. Even a positive change occurs during the accession process, domestic elements can be equally important to explain it. In line with this, analysing the impact of the EU accession process on gender equality in Turkey incorporates a causality problem. Discerning the impact of the EU and other national elements on changing laws and policies regarding gender equality may be challenging since they may also work together to create domestic change in various ways.

In this thesis, the impact of the EU on gender equality in employment in Turkey will be analysed through firstly examining the success of the changes and amendments in Turkish legislation to bring itself in line with the EU acquis regarding the equality between men and women in employment. Secondly, the Progress Reports on Turkey will be reviewed as an attempt to provide a complete account of the progress of Turkey since the beginning of the accession process on

the issue. Also, Turkey's success in terms of translating the transposed gender equality laws into practice in a way to strengthen women's position in employment will be evaluated by analysing the change in gender equality indicators, which are relevant to the issues covered by the Progress Reports during the accession process. Finally, in order to provide a more accurate picture on the benefits and limitations of the EU accession process on gender equality in employment in Turkey as well as to mitigate the difficulty of analysing the impact of the EU compared to the domestic actors, the perceptions of women's CSOs will be involved into the study on whether they attribute any improvement in women's employment to the impact of the EU. As a result of employing these research strategies together, it will be possible to provide a better analysis of the benefits and limitations of the accession process to the EU to improve gender equality in employment.

The EU gender policy developed in a way to involve new issues such as domestic violence and women's representation in politics. Although the principle of equal pay had been the only reference to gender equality for a long time, new directives, case law and changes to the Treaties have supported the mainstreaming of gender equality into all policy areas of the EU in time. The scope of this thesis, on the other hand, will be limited to gender equality in employment and related social policies which are considered as the main competence of the EU (Pollack & Hafner-Burton, 2000).

After the first chapter presenting an introduction to the study and providing an insight on the subject in question, detailed information on the conceptual framework of the study regarding both Europeanisation in the accession context and gender equality in the EU will be given in the second chapter.

In the third chapter, the methodology of the study to monitor change in the legislation, implementation of legislation and policies adapted in the EU accession process will be explained. In addition to this, as this study aims to involve the perceptions of women's organisations' members on the impact of the accession

process on women's employment, the methodology for selection of the CSOs, conducting and analysing the interviews will be clarified.

The fourth chapter aims to provide a background to the thesis by presenting an account of the evolution of the EU's legislation, policies and vision regarding gender equality in employment, the scope of gender issues in the EU's enlargement agenda and a literature review on whether and how the EU improves women's access to employment during accession process of its candidate states.

In the fifth chapter, the change in the legislation and policies regarding women's employment in Turkey will be presented by comparing the situation of the country in the pre-accession period and during the accession process. In order to be able to evaluate the success of the implementation of the legislation and policies regarding women's employment in Turkey, the parts of the annual progress reports, which is prepared by the European Commission and monitors the development of Turkey, regarding gender equality in employment will be involved in this chapter to present the perspective of the EU on Turkey's progress. In addition to this, the change in the gender equality indicators, which are relevant to the issues covered by the Progress Reports during the accession process, will be analysed.

The sixth chapter will include the perceptions of women's CSOs' members regarding the impact of the EU on gender equality in employment in Turkey. The results of the interviews with them will be introduced in this chapter under four interrelated themes which are created based on the various roles attested to the EU by the interviewees.

The first theme, the EU as a fading normative reference point, is about the contribution of the EU to the women's organisations to justify their work and position by providing them a normative reference point while the impact of the EU leverage has decreased along with the deteriorating relations between Turkey and the EU. The EU as a Game Changer is the second theme, in which the perceptions

of the interviewees on the significance of the impact of the EU on improving gender equality in employment in Turkey compared to other domestic and international actors will be presented.

In the third theme, the EU as a Restrictive Financial Provider, the benefits and limitations of the EU funding from the point of view of the interviewees will be introduced. And finally, the theme of the EU as a ‘Magic Wand’ with Limited Powers will involve various limitations of the policies and support mechanisms of the EU on gender equality defined by the interviewees.

The sixth chapter will also involve an account of the work and impact of the women’s CSOs on women’s employment prior to and during the accession process of Turkey and the instruments that the EU used to support women’s activism in Turkey. In the final chapter, conclusions concerning the study will be presented.

## **CHAPTER 2**

### **CONCEPTUAL FRAMEWORK**

This chapter intends to present and explore the main concepts employed in this thesis, which are Europeanisation and gender equality. Since this thesis is concerned with the impact of the EU on the gender equality in employment in Turkey, the concept of Europeanisation will be handled in the accession context as the domestic change that the accession process created in the candidate states.

In the first section, the bottom-up Europeanisation approach which is adopted by this study will be introduced. By comparing it to the top-down Europeanisation approach, the rationale behind adopting a bottom-up approach in this study will be explained. Adoption of a bottom up Europeanisation approach influences the methodology of this study, which will be outlined in the following chapter.

Also, the differences between the formal adoption of the EU laws and their effective implementation will be discussed in a way to explain the reason for dealing with the adoption of the EU acquis and effective implementation of the rules and policies adapted as a part of acquis as two distinctive stages of compliance in the accession context.

In the second section, three approaches to gender equality will be introduced; which are inclusion handling the equality as sameness, reversal based on the principle of difference and finally displacement embracing diversity politics beyond sameness/ difference debate. These three theoretical ideal types of feminist approaches also influenced the different phases of the EU's construction and strategies of gender equality, which is explained in the second section.

How the EU conceptualizes gender issues is significant to this study since the scope and direction of the agenda of the EU regarding gender equality is heavily influenced by it. The meaning of gender equality to the EU has changed from its beginnings in 1957 when the principle of ‘equal pay for equal work’ was introduced in the Treaty of Rome and remained as the only reference to the gender equality for a long time. this narrow focus has been evolved into a broader approach of mainstreaming gender into all policy areas in line with these the evolving concepts of gender equality adopted by the EU, of which implications for the legislation of the EU regarding gender equality in employment will be examined in detail in Chapter 4.

## **2.1. Europeanisation in the Accession Context**

The area concerned by the earlier studies on Europeanisation was largely confined to the EU member states. They focused on the impact of European integration on bringing domestic change to the member states, in which the relationship between domestic level and European level was defined in a top-down manner. In other words, the domestic realm of the member states had to adjust itself by downloading the practices at the European level (Alpan, 2014).

The scope of the Europeanisation literature has been expanded extensively especially after the fifth wave of the enlargement, which is also referred to as the big-bang enlargement, in 2004 in a way to include the candidate states and even the states that are not eligible for the EU membership. In line with this, the focus of Europeanisation studies has started to shift from the membership to the accession of the candidate countries. The studies on Europeanisation in the accession context, which is also referred to as ‘Accession Europeanisation’ or ‘Candidate Europeanisation’, deals with the process that harmonises the political and economic dynamics of the candidate states with the EU as a part of their domestic policy structures (Ladrech, 1994). In other words, it focuses on the domestic change that the accession process created in the candidate states.

Not only the geographical limits but also the agenda of Europeanisation has been widened since the early Europeanisation studies. While the level of change expected from the candidate states was much more limited and mainly about economic integration until then, the countries accessed to the EU in the fifth and sixth waves of the enlargement were expected to adapt a wider concept of Europeanisation. They had to bring themselves in line with the rules, values and norms of the EU, which was unprecedented in terms of the scope of the agenda and volume. However, they were not equipped with necessary resources to deal with a wider agenda, which made their accession process challenging.

Although the enlargement is recognised as one of the most successful policy of the EU to exert its influence beyond its borders until then, this has been challenged with the fifth and sixth waves of enlargement. As the success of the European enlargement became unclear, the focus of the Europeanisation has also been changed in the accession context. It shifted from the adoption of the *acquis* of the EU to its implementation, which is recognised as the actual problem. The level of compliance of candidate and new member states has been started to be questioned by focusing on concepts such as "shallow Europeanisation" (Börzel & Risse, 2012), "enlargement on paper against enlargement in practice" (Trauner, 2009) and reversibility of Europeanisation (Buzogány, 2012).

The top-down approach of the early studies on European integration<sup>1</sup> was also prevalent in the Europeanisation literature in the accession context. The focus of these studies has been the change created by the EU in the domestic structures and how the rules and practices of the EU are downloaded at the domestic level, which reveals an inherently asymmetrical relation between the European level and domestic level (Alpan, 2014).

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<sup>1</sup> For good examples of studies elaborating on top-down Europeanisation, see Börzel and Risse, 2003, Cowles et al., 2001 and Radaelli, 2004.

Since the member states have directly been involved in the making of the EU acquis, arguing that the EU impact on them is a solely top-down process is more challenging compared to the impact of the EU on the candidate states. While the candidate states have not participated in shaping the EU rules and norms, they are obliged to transform their legislation and domestic structures in line with the requirements imposed by the EU before becoming members. In other words, they are not the ‘producers’ of the EU rules but instead they are the ‘consumers’ of them (Papadimitriou, 2002). Therefore, the progress of the candidate countries in areas relevant to the acquis is considered as the impact of the EU.

Whereas European studies have focused for a long time on how Members States shape the process of European integration (bottom-up perspective), scholars have started to analyse the effects of Europe on its Member states (topdown perspective) in the last decade (Börzel and Risse 2003; Cowles et al. 2001; Featherstone and Radaelli 2003).

This top-down approach has problems in explaining the causality of domestic change with its overemphasis on the role of the EU as the main cause of domestic change. The critics of this approach argue that even domestic change occurred in the candidate countries, it may not be as a result of the EU impact.

While Europeanisation literature adopting a top-down approach tends to overemphasize the role of the EU and ignore domestic causes of change (Bulmer & Burch, 2005), the bottom-up approach emphasizes the significance of domestic actors and processes while explaining the change at the domestic realm of the candidate states. This study will employ a bottom-up approach while analysing the impact of the EU on gender equality in employment in Turkey. As will be elaborated in the forthcoming sections, bottom-up Europeanisation analyses different elements affecting domestic change and treats the EU as one of these elements rather than privileging it as the main explanation. While Turkish legislation is compared with the EU acquis and the performance of Turkey

regarding the transposition of the EU acquis is evaluated, it is not assumed that the change is led solely by the EU in this study.

Although the significance of the accession process with the EU for strengthening the position of women in employment in Turkey at least in the legal texts is recognised in this study, it is also argued domestic and other international elements may be equally important to explain the change. Actually, separating the impact of the EU from domestic elements is a difficult task as they usually work together to create change. The EU legislation and policies on gender equality are filtered through the domestic elements and context, which may either trigger or limit their impact, while the EU may also strengthen the position of domestic actors in various way.

#### **2.1.1. Europeanisation as a Bottom-up Process**

While analysing the domestic reforms in candidate countries, the top-down approach of Europeanisation of candidate states implies that any change in the laws, institutions and policies of candidate states has occurred as a result of the accession process. In other words, the progress of the candidate countries in areas relevant to the acquis is considered as solely the impact of the EU.

This approach has been increasingly criticized by its overemphasis on the role of the EU as the main cause of domestic change. The critics of this approach argue that even domestic change occurred in the candidate countries, it may not be as a result of the EU impact. While Europeanisation literature tends to overemphasize the role of the EU and ignore domestic causes of change (Bulmer & Burch, 2005), domestic elements can be equally important to explain the change. On the contrary, the bottom-up approach of Europeanisation it examines the domestic change with a focus on the domestic context while the EU is seen as one of the possible explanations for the change. In other words, it analyses different elements affecting domestic change rather than assuming that the EU caused the change.

This study will employ a bottom-up approach while analysing the impact of the EU on gender equality in employment in Turkey. While it will firstly focus on the scope of the EU acquis regarding gender equality in employment to provide a basis for the evaluation of Turkey's performance on transposition and implementation of the EU laws, and then examine the legal texts of Turkey to evaluate whether the legal framework in Turkey is in line with the EU acquis, it does not assume that the change is led solely by the EU. Although the significance of the accession process with the EU for strengthening the position of women in employment in Turkey at least in the legal texts is recognised in this study, it is also argued domestic and other international elements may be equally important to explain the change.

The influence of domestic elements on the success of compliance is recognised since implementing same laws and policies in different national contexts may produce varying results based on the previous laws, policies, institutions, norms and values. The EU legislation and policies on gender equality are filtered through the domestic elements and context, which may either trigger or limit their impact. Similarly, the EU may also strengthen the position of domestic actors in various ways. Therefore, in this study, it is argued that the EU and domestic actors worked together to create domestic change, which makes separating the impact of the EU from domestic elements challenging. In order to mitigate the difficulty of analysing the impact of the EU compared to the domestic actors, the perceptions of women's CSOs regarding whether they attribute any improvement in women's employment to the impact of the EU will be involved in this study.

While domestic change usually implies a change in the laws, institutions and policies of candidate states, the impact of Europeanisation in terms of changing domestic structures is not limited to these areas. The accession process also leads to changes in the domestic opportunity structures of candidate states through redistributing resources and opportunities among domestic actors (Börzel & Soyaltin, 2012). Since complying with the EU laws and rules may be painful

especially in economic terms in candidate countries, this process can equip some domestic actors with new opportunities while it can also confront the interests, preferences and attitudes of some actors (Papadimitriou, 2002) as well as introducing new limitations on the way to realize their demands.

Europeanisation process may lead to redistribution of power among domestic actors in several ways including the introduction of new legislation and provision of new resources. For instance, the accession process of the candidate countries may lead to the transposition of new legislation in line with the EU acquis which strengthens the interest groups to influence decision making process of the governments (Parau & Bains, 2008). Also, the EU funding provided in the accession countries creates new resources that interest groups can utilize to pursue their interests or objectives.

To sum up, the transformation of the domestic structures and laws can be the impact of the EU as well as the other international and domestic actors. Since they may also work together to create domestic change in various ways, it may be challenging to discern the impact of the EU from the other possible explanations of the change.

### **2.1.2. Assessing Compliance: Europeanisation on Paper vs. Europeanisation in Practice**

The Europeanisation literature deals with the adoption of the EU acquis and effective implementation of the rules and policies adapted as a part of acquis as two distinctive stages of compliance in the accession context. According to Falkner et al. (2005), the first step of compliance with the EU law requires candidate states to transfer it into their national legislation in a correct and timely manner.

Completing the first step does not guarantee success as ‘even correctly transposed legislation can remain dead letters’ (Falkner & Treib, 2008). Similarly, Bugaric (2006) argues that even when the change in legislation is in line with the EU acquis exist, it would remain only on paper as ‘formal structures without substance’.

Therefore, a second step is crucial for a complete assessment of compliance, which is the implementation of the adapted laws correctly by those attained responsibility. Enforcement of the laws by public authorities in the face of non-compliance is also critical for the second step to be successful. Similarly, Dabrowski (2011) argues that transfer of the laws and policies of the EU may involve ‘formal compliance’ rather than an actual change in ‘ways of doing things’ in candidate states, which limits the effectiveness of the laws and policies in question.

For instance, the empirical study on the formal compliance record of the new member states conducted by Sedelmeier (2008) using the Commission shows that new members perform better than old member states in terms of transposition and settling infringements of the EU laws. Similarly, Schimmelfennig & Trauner (2009) evaluated compliance of the new member states that joined the European Union in 2004 and 2007. They also found out that the transposition behaviour of the new member states is good overall. On the other hand, they found a significant gap between transposition of laws and their application. Even countries with a very good transposition record face serious application and enforcement problems.

Regarding the success of the implementation of the transposed laws during the EU accession process, the role of domestic actors is significant since they influence the outcome and act as filters for the EU laws, which justifies the adoption of a top-down approach in this study. While the EU laws and rules were created and exported to the candidate states without an actual participation of them, they may not be compatible with the interests and preferences of the domestic actors in candidate states. In line with this, Dimitrova (2010) argues that the varying success

of the implementation and institutionalisation of the formal rules of the EU can be explained by the impact of the preferences of key domestic actors.

The domestic veto players and non-state actors which are identified as the key actors in the adjustment process of the candidate countries to the EU by Dimitrova (2010) affect the fate of the adopted EU rules by leading three possible outcomes. Firstly, although they are transposed into national legislation during the accession process, the EU rules may be reversed especially in the post-accession process. Secondly, the new rules can be institutionalised, which means that they are implemented correctly. And finally, they can remain as ‘empty shells’ if domestic actors do not internalise the EU rules and use a set of parallel informal rules instead.

The study conducted by Dabrowski (2011) also shows that the process of adjustment to the norms and practices imposed by the EU tends to be driven by either necessity or the interests of the domestic actors. When there is a conflict between rules and practices imposed by the EU and the interests of the domestic actors, their internalisation of new practices becomes almost impossible although the rules are adopted on paper. In the cases where adopting the EU rules is perceived as a formality that must be completed to receive a reward such as the EU funding, the adjustment process resulted in only superficial change.

When the new practices imposed by the EU are in line with the interests of the domestic actors, on the other hand, the chances for a change in their preferences or internalisation of these new practices are significantly higher even if there are significant obstacles before the adoption of such rules and practices. As a result, the study shows that the ‘depth’ of Europeanisation depends on the attitudes and preferences of domestic actors. In other words, adjustment to the EU rules and norms may take place only formally without being internalised while it can also lead to profound changes in the attitudes and preferences of domestic actors depending on their compliance with the domestic actors’ interests.

In line with this, even if Turkey was successful in terms of transposing the EU acquis on gender equality in employment to its legislation, it does not provide a complete assessment of the EU's impact. Therefore, the transposition of the EU acquis and its implementation in a way to improve Turkish women's position in employment will be evaluated separately in this thesis.

## **2.2. Gender Equality in the EU**

Gender equality is a notion which is highly debated in feminist theory. While there are different perspectives of various actors about gender equality, the concept also has been changed throughout the history. Despite of the existence of so many debates and visions about gender equality, it is possible to identify at least three distinct ways of conceptualizing it in literature<sup>2</sup>.

The first approach takes its starting point from the principle of equality as sameness, in which the problem is defined as women's exclusion from political space and the proposed solution is inclusion of women with equal rights and opportunities that men have (Verloo, 2007). This approach, referred as inclusion by Squires (1999), seeks gender neutrality. In other words, the idea is that gender equality will be ensured if women are treated same as men.

According to Verloo (2007), the strategy of inclusion wants to extend dominant values to every individual in a gender-neutral way. This approach is commonly linked to liberal feminists and criticized for not challenging patriarchal values and extending them to women instead.

The principle of difference constitutes the basis for the second approach, which is named as reversal by Squires (2005). Instead of accepting 'male as a norm' like the equality as sameness approach, it focuses on difference in the positions of men and women. Those who pursue this vision think that the argument of sameness of

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<sup>2</sup> See Squires, 1999; Rees, 2005; Verloo, 2007.

women with men obscures structural conditions that put women into a disadvantage. Instead of embracing the existing patriarchal values and adopting gender neutral lenses, its objective is to create a distinctive identity for women different from men's.

The strategy of reversal pursues a change in politics in a more gender-sensitive way. By accepting the differences between men and women, the strategy of reversal paves the way for measures addressing disadvantageous position of women as a result of those differences. In this way, political space would be more open to gender differences. Strategy of reversal is usually associated with radical feminists (Squires, 1999).

Finally, the third approach, displacement, is based on the principle of diversity. The vision of displacement deals with the patriarchal world order that creates disadvantages for women. The answer of the vision of displacement to the gender inequality is embracing diversity politics beyond sameness/ difference debate (Verloo, 2005).

The meaning of gender equality to the EU has changed from its beginnings in 1957 when the principle of 'equal pay for equal work' was introduced in the Treaty of Rome in line with these three approaches. These three theoretical ideal-types of feminist approaches influenced the different phases of the EU's construction and strategies of gender equality.

According to Rees (2002), three phases can be identified in the evolution of the European Commission's gender equality approach with respect to the adopted concepts; which are equal treatment, positive action and gender mainstreaming. These three approaches, which are also named as 'tinkering', 'tailoring' and 'transforming' by Rees (2002) respectively, are characterised by the strategies of inclusion, reversal and displacement (Squires, 1999).

The concept of equal opportunities approach has been relevant to the gender policies of the EU since 1957. However, its impact has been the most visible during the 1970s (Verloo, 2007). The objective of gender policies on equal opportunities is ensuring that women have the same rights and opportunities which men already have. As the rights which were designed for the needs of men is the starting point of this approach, it may not offer a viable solution for women and even lead to discrimination.

Also, the equal opportunities approach is mostly limited to the labour market issues. According to Rees (1998), this approach fails to include the rights of women except their formal rights as workers. Another weakness of the equal opportunities approach is the fact that it does not provide a solution for the underlying causes of gender inequality including patriarchal society, which may prevent women to enjoy same rights and opportunities with men even if those rights and opportunities are offered equally regardless of gender.

During the 1980's, the EU has gradually moved from equal treatment approach, and adopted the approach of positive action in the gender policies of the EU. Unlike the equal opportunities approach dictating that women and men should be treated the same, positive action recognises that women have different needs than men. To this end, it aims to address these specific needs and disadvantages faced by women as a result of their differences (Pollack & Hafner-Burton, 2000).

The motivation of the EU to adopt the positive action approach was to compensate for indirect disadvantages caused by offering women the same rights and opportunities that are designed for men as reported by Rees (2005). By providing services such as childcare, education and business support as well as conditions in favour of women, the unequal starting position between women and men can be overcome.

The shortcoming of the positive action approach is not being able to create systematic change. It focuses on measures to compensate for disadvantages faced by women in systems and structures designed for and by men instead of challenging them. In other words, positive action approach recognises male norms as the starting point as equal opportunities approach.

In 1990s, especially after United Nations Conference on Women held in Beijing in 1995, the EU has adopted gender mainstreaming as its official policy approach to gender equality (Rees, 2005). Unlike equal opportunities and positive action approaches, the focus of gender mainstreaming is not individual rights or specific needs of women. It does not recognise male as the norm. Instead, it aims to bring systematic change by incorporating gender equality into systems and structures.

The objective of the gender mainstreaming is redistribution of power in the patriarchal societal context by identifying structures, policies and practices that cause gender inequality and eliminating them. According to Squires (1999), gender mainstreaming's systems approach has more potential to create an actual transformation compared to equal opportunities and positive action approaches. It also has broadened the scope of gender equality policies in the EU beyond issues related to the labour market by incorporating a gender dimension into all policies of the EU (Pollack & Hafner-Burton, 2000).

In sum, the concepts beyond the EU's official policy approach to gender equality are equal opportunities to positive actions, and then gender mainstreaming. Although each concept dominated a specific decade, it does not necessarily mean that the EU has dropped one concept while moving to another. On the contrary, three concepts may be complimentary to each other.

According to Rees (2005), the EU currently adopts both positive action and gender mainstreaming concepts in its gender equality policies. Gender mainstreaming is a long-term approach, which could take considerable time for it to be embedded in

the institutions and gender equality actors. Therefore, Rees (2005) argues that continuation of the existence of equal opportunities and positive action approaches in the gender policies of the EU is essential.

The scope and direction of the agenda of the EU regarding gender equality is heavily influenced by how the EU conceptualizes gender issues. For instance, whereas the principle of equal pay was the only reference to gender equality when the predecessor to the EU, the European Economic Community signed the Treaty of Rome in 1957, this narrow focus has been evolved into a broader approach of mainstreaming gender into all policy areas.

In the fourth chapter of this thesis, the legislation of the EU regarding gender equality in employment will be introduced in line with the evolution of the concepts adapted by the EU. By reviewing the directives, communications, recommendations, policy documents and reports published by the EU, it will illustrate the change that is expected to be seen in Turkish legislation as a result of the accession process.

## **CHAPTER 3**

### **METHODOLOGY**

#### **3.1. Rationale for the Research Methodology**

In this study, the extent of the EU accession process' impact on Turkey in terms of improving gender equality in employment will be examined. The adoption of the EU acquis and effective implementation of the rules and policies adapted as a part of acquis will be handled as two distinctive stages where the impact of the EU may be observed.

The first step of harmonisation with the EU requires the candidate states to transfer the EU acquis into their national legislation in a correct manner (Falkner et al., 2005). As an attempt to illustrate the change that is expected to be seen in Turkish legislation as a result of the accession process, the EU legislation relevant to the gender acquis will be presented in the fourth chapter by reviewing the directives, communications, recommendations, policy documents and reports published by the EU.

To be able to discuss whether the EU has an impact on gender equality, there must be rules enforced at the EU level prior to domestic change. In other words, the laws of the EU must take effect before a development occurred in Turkey. Therefore, the legislation of the EU regarding gender equality in employment will be introduced from a historical perspective to illustrate when the relevant laws have been entered into force and how it has changed in time. In this way, a reference point will be provided to be able to compare the situation of Turkey in terms of women's employment.

After detailed information about the laws of the EU regarding gender equality in employment is provided, the success of Turkey in terms of transposing it to its legislation will be discussed. In order to illustrate the change in the laws during the accession process, an account of the laws affecting women's employment before Turkey's acceptance as a candidate state will be introduced firstly. Secondly, the amendments and changes in the gender equality legislation relevant to women's employment since the beginning of the accession process in Turkey will be presented. By evaluating the transposition process of Turkey, whether the legislation of Turkey regarding gender equality in employment is in line with the EU acquis will be examined.

Completing the first step does not guarantee the success of any law or policy as 'even correctly transposed legislation can remain dead letters' (Falkner & Treib, 2008). It is argued that transfer of the laws and policies of the EU may involve 'formal compliance' rather than an actual change in 'ways of doing things' in candidate states, which limits the effectiveness of the laws and policies in question (Dabrowski, 2011).

In line with this, even if Turkey was successful in terms of transposing the EU acquis on gender equality in employment to its legislation, it does not provide a complete assessment of the EU's impact. Therefore, a second step which is crucial for a complete assessment of the impact of the EU on gender equality in employment in Turkey is the translation of the adopted laws into implementation in a way to improve Turkish women's position. In this study, the Progress Reports on Turkey published since 1999 will be reviewed as an attempt to provide a complete account of the progress of Turkey since the beginning of the accession process on the issue. In this way, the perspective of the EU regarding the progress of Turkey in terms of both transposition and implementation of the laws related to gender equality in employment will be presented. However, the data on these reports regarding the progress of Turkey is superficial and may be biased since it reflected the point of view of the EU.

In order to compensate for these shortcomings, this study will also focus on the expected outcomes of proper implementation of the EU acquis. While several problems identified in the progress reports regarding the situation of gender equality in employment, this study follows the assumption that transposition and correct implementation of the EU gender equality legislation leads to improvement in these problematic areas. Therefore, Turkey's success in terms of translating the transposed gender equality laws into practice in a way to strengthen women's position in employment will be evaluated by analysing the change in gender equality indicators, which are relevant to the issues covered by the Progress Reports during the accession process. Also, the availability of statistical data will be taken into consideration while choosing the indicators. For instance, 'average annual income from employment by gender' is used as an indicator since the EU prohibits direct and indirect discrimination in pay based on gender. In line with this, the income of men and women should be similar if the principle of equal pay is successfully implemented.

As an attempt to present more information regarding the benefits and limitations of the EU accession process on the issue, the interviews with the members of women's CSOs who work in the field of employment will be conducted. In this way, it will be possible to find out their observations and perceptions about the implications of the legislation change on gender equality in Turkey as a result of the EU accession process for the employment of Turkish women.

Although the top-down perspective of Europeanisation studies emphasizes the role of the EU as the main cause of domestic change, this study adopting a bottom-up research methodology recognises the importance of domestic actors to achieve any domestic change. In other words, it does not assume that any improvement in the position of the women in the labour market is the impact of the EU accession process. Instead, it treats the EU as one of the possible causal factors of the change together with other international and domestic actors.

Separating the impact of the EU from domestic elements is a difficult task as they usually work together to create change. The EU legislation and policies on gender equality are filtered through the domestic elements and context, which may either trigger or limit their impact, while the EU may also strengthen the position of domestic actors in various way. In order to mitigate the difficulty of analysing the impact of the EU compared to the domestic actors, the perceptions of women's CSOs will be involved into the study on whether they attribute any improvement in women's employment to the impact of the EU.

In this study, it is argued that the efforts of women's organisations and the EU accession process have been complimentary to each other to persuade the government to take action for improving gender equality in employment. Whereas the contributions of women's CSOs to improve gender equality in employment is recognised, it is also argued that change in domestic policy structures in favour of women's CSOs as a result of Europeanisation and the pressure created by the EU conditionality on the government made positive outcomes possible in this thesis.

## **3.2. Interviews with Women's CSOs**

### **3.2.1. Design of the Interviews**

In this study, semi-structured interviews are used to find out the observations and perceptions of the members of the women's organisations about the impact of the EU on gender equality in employment in Turkey. The first reason to choose semi-structure interviews over other methods of research is the fact that it is best suited to explore the subjective views, experiences and perceptions of the interviewees (Flick, 2014), which exactly serves to the objective of the study.

Secondly, its flexibility helped to gather answers through a standard set of questions while it also allows the interviewees to discuss the issues based on their own perceptions and what is important to them. The set of questions which are

asked to the interviewees are open-ended and broad to allow the interviewees to express their opinions on the impact of the EU without limiting and manipulating their responses. However, the data gathered as a result of the interviews would be also too general if semi-structured interviews does not allow follow-up questions.

Thanks to the follow-up questions tailored to the responses of the interviewees during the interviews, the impact of the EU on specific areas are revealed to be of the most relevant based on the experiences or observations of the interviewees. It also provides the opportunity to investigate specific points raised by the interviewees in more detail. Although the same set of questions are asked to the interviewees, these additional questions help to explore the issues that emerged as significant and relevant for the interviewees in-depth as well as the new lines of enquiries developed during the interview.

While using the flexibility of semi-structured interview method, a standard set of questions are prepared for enabling the comparison among the answers of the interviewees and avoiding losing the focus of the study. The interviewees are asked the following questions: 1) Do you think that the accession process of Turkey to the EU has a positive impact on gender equality in employment? 2) Is there any specific progress regarding gender equality in employment in Turkey that can be attributed to the accession process? 3) In what ways do you think the EU supports gender equality in Turkey? 4) Do you think that the EU has an influence on strengthening the position of women's CSOs in Turkey? 5) What are the limitations of the policies and support mechanisms of the EU on gender equality?

### **3.2.2. Identification of the Interviewees**

The interviewees are chosen by using a mix of key informant sampling and snowball sampling among the members of women's organisations. Firstly, the women's organisations which conduct activities in the field of women's employment are listed. 8 CSOs which have been engaged in EU-funded projects

or activities are chosen among them since it is highly probable that they have members who are knowledgeable about the issue.

After the attempts to contact them by telephone and e-mail, five interviewees agreed to complete the interviews. All the interviewees are asked whether they recommend the involvement of a particular member of the women's organisations who can contribute to the study. One more interviewee is included into the study with their recommendations. The profile of the interviewees who are participated in this study is presented in the Table 1.

Table 1

*The Profile of the Interviewees*

<b>Interviewee No.</b>	<b>The position of the interviewee in the CSO</b>	<b>The period of establishment of the interviewee's CSO</b>	<b>The level/ area where the interviewee's CSO works</b>	<b>Engagement of the interviewee's CSOs with the EU through projects or other activities</b>
Interviewee 1	The project officer of the CSO, full-time, paid employee	In the pre-accession period of Turkey	At national level, both rural and urban-based	Yes
Interviewee 2	Representative of the CSO in a foreign country, part-time, paid employee	In the pre-accession period of Turkey	At national level, urban-based	Yes
Interviewee 3	Board member of the CSO, part-time, volunteer	During the accession period of Turkey	At local level, rural- based	Yes
Interviewee 4	The founder of the CSO, part-time volunteer	During the accession period of Turkey	At local level, urban- based	Yes

Table 1 (Continued)

Interviewee 5	Board member of the CSO, part-time, volunteer	In the pre-accession period of Turkey	At national level, urban-based	Yes
Interviewee 6	The founder of the CSO, full-time, paid employee	In the pre-accession period of Turkey	At national level, urban-based	Yes

### 3.2.3. Data Collection

The interviewees are asked to answer the questions based on their personal observations and perceptions rather than the official position of their organisations as an attempt to gather more in-depth information. Since the organisations of all interviewees receive funding from the EU and/or the government, the expressions in line with their official discourse may be superficial and refrain from any criticism. Therefore, the answers of the interviewees do not reflect the official position of any women's organisations.

The objectives and methodology of the study are briefly explained to the interviewee when they are initially contacted through phone or e-mail. The written informed consent was obtained from each interviewee before starting the interview.

The interviews with the interviewees living in Ankara are carried out face-to-face in the offices of the women's organisations while the interviewees living outside Ankara are interviewed over the telephone. They last for 30 minutes on average. The interviews are audio-recorded with the consent of the interviewees in a way not to include any personal information since they are assured about

confidentiality. Also, the field notes are taken to supplement the audio-records and keep the record of the occurrent themes in the accounts of the interviewees.

The interviews are conducted in the mother tongue of the interviewees, which is Turkish for all of them. After the transcription of the interviews in Turkish, the accounts of the interviewees are translated into English.

#### **3.2.4. Analysis of the Interviews**

The analysis of the interviews will be realized by using thematic analysis method, which is useful to sustain the flexibility of semi-structured interviews in the process of analysis. Since the semi-structured interviews allow gathering data based on the perceptions of the interviewees and what is important to them, using pre-determined structures for their analysis may lead to the exclusion or neglect of significant pieces of information. The thematic analysis, on the other hand, allows the analysis of data under patterns and themes contained in the data itself. In order to realize the thematic analysis of the accounts of the interviewees, following steps will be followed.

Firstly, the interviewees are given numbers from 1 to 6 and referred to as I1, I2, etc. and their accounts are transcribed from the tape-records. In order to facilitate the analysis of the transcripts, they are imported to the Nvivo computer software. Then, the transcriptions are examined thoroughly to identify common codes contained in the answers of the interviewees, which are assigned to the expressions similar in terms of their inferred meanings.

After all relevant data pieces in the transcriptions are coded, the codes that are referred to by the highest number of the interviewees are sorted into the potential themes. The themes are chosen in a way to cover all relevant codes and in relation to the research question such as the different aspects of the benefits and limitations of the EU accession process.

Both the codes and the themes are not determined prior to the process of conducting interviews. Rather, they are guided by the recurrent expressions in the interviews to reflect the perceptions of the interviewees properly and their relevance to the impact of the EU on gender equality in employment in Turkey.

After themes are identified, quotations from the interviewees representing the issues sorted under each separate theme will be presented. In this way, it will be possible to better illustrate several aspects of the themes based on the accounts of the interviewees.

## **CHAPTER 4**

### **THE EU ACQUIS ON GENDER EQUALITY IN EMPLOYMENT AND ITS IMPLICATIONS IN THE EU ACCESSION CONTEXT**

This chapter aims to provide a background to the thesis by presenting an account of the evolution of the EU's legislation, policies and discourse regarding gender equality in employment, the scope of gender issues in the EU's enlargement agenda and a literature review on whether and how the EU contributed to gender equality in employment of its member and candidate states. By doing so, this chapter will provide a reference point to be able to compare the situation of Turkey with the EU in terms of gender equality in employment since there must be rules enforced at the EU level prior to domestic change in Turkey to be able to discuss whether the EU has an impact on Turkey regarding the subject.

In the first part of this chapter, the legislation of the EU regarding gender equality in employment will be introduced from a historical perspective and in line with the evolution of the concepts adapted by the EU. In this way, a reference point will be provided to be able to compare the situation of Turkey in terms of women's employment. Secondly, the scope of gender issues in the context of the enlargement will be presented. Finally, existing literature on whether and how the accession process has been beneficial to improve gender equality for member and candidate states will be discussed.

Gender equality is recognised as one of the strongest elements of the EU's social dimension because of its inclusion into the legislation and policies of the EU since the Treaty of Rome signed in 1957 (Hyman, 2008). Its strong position enabled the EU to lead not only the member states but also the candidate states to put gender equality into their agendas.

The focus on labour market issues that the EU embraced in its gender policies has shifted in line with the evolving concepts (equal opportunities, positive action and gender mainstreaming) behind the policies of the EU. Whereas the traditional understanding of the EU's gender equality was limited to equal pay and equal treatment in the workplace, scope of the EU's gender policies has been expanded in a way to include all areas where gender inequality exists such as domestic violence and participation to politics especially with the introduction of gender mainstreaming.

As the areas that the EU has been trying to ensure gender equality has been broadened, women's employment is still recognised as the main competence of the EU regarding gender policies (Lombardo & Meier, 2008). This chapter will explain the legislation and policies of the European Union related to gender equality in employment in line with the focus of this thesis.

The EU's legislation and policies regarding gender have their roots in the *acquis communautaire*, which is defined as 'the sum total of obligations that have accumulated since the founding of the European Coal and Steel Community and are embedded in innumerable treaties and protocols' by Schmitter (1996). The EU gender equality *acquis*, on the other hand, refers to the Treaty provisions, legislation and the case law of the EU regarding gender equality.

Gender equality framework of the EU has three main elements according to Fagan and Rubery (2018), which are hard law, soft law and financial incentives. The EU directives and European Court of Justice case law constitutes hard law while soft law involves guidelines, targets, policy processes, etc. Financial tools are evaluated as a part of gender equality framework as they are significant in putting gender equality into the agendas of the countries and actors that receive the grants and resources within and beyond the EU.

To be able to discuss whether the EU has an impact on gender equality, there must be rules enforced at the EU level prior to domestic change. In other words, the laws of the EU must take effect before a development occurred in Turkey. Therefore, the legislation of the EU regarding gender equality in employment will be introduced from a historical perspective to illustrate when the relevant laws have been entered into force and how it has changed in time. In this way, a reference point will be provided to be able to compare the situation of Turkey in terms of women's employment.

#### **4.1. Legislation and Policies of the EU regarding Equal Opportunities in Employment**

The principle of equal pay for equal work for men and women was the first reference to gender equality in the history of the EU. It was introduced with the Article 119 (later Article 141) of the Treaty of Rome, originally known as Treaty Establishing the European Economic Community, which was signed in 1957. The Treaty of Rome was the equivalent of a constitution by its function for the European Economic Community, which is the predecessor to the EU.

The main purpose of the European Economic Community was facilitating economic integration rather than protecting individual rights. Although there is a social chapter in the Treaty of Rome, the motivation behind it was rather economic than social, which is an attempt to harmonise national social systems and remove barriers to trade among founding member states (Defeis, 1999). The principle of equal pay was likewise addressed to ensure that founding states compete on a level playing field.

Before the Treaty of Rome was signed, France was the only state that had a law mandating equal pay principle among the founding members. France had concerned that its strong textile industry could be negatively affected by the distorted competition as companies in other states were not bounded by this

principle. As a result of a long negotiation process, France succeeded in to involve principle of equal pay in the Treaty of Rome as a part of the social chapter (Abels & Mushaben, 2012).

Although the Treaty of Rome embodied the principle of equal pay, it took almost two decades for the member states to enact their own legislation on it. They were required to comply with the principle by 1962, which was later extended to 1964 because of the low levels of compliance among member states (Defeis, 1999). Despite of the unwillingness of the member states to incorporate the principle of equal pay into their national legislation, women's activism and several cases on the principle of equal pay taken to the European Court of Justice (ECJ) had been significant for making this principle effective at national level.

In 1966, the protests of the women working in an arms factory in Belgium and earning 25% less than their male co-workers turned into a sizeable strike lasting for three months with the participation of other factories in the area. Although their efforts were only partially successful, the fact that their demands were based on the article 119 of the Treaty of Rome has been a great source of inspiration (Debusscher, 2015).

Éliane Vogel-Polsky, an academic lawyer following the protests closely, claimed that female citizens of the member states could straightforwardly demand their rights under European law. In order to be able to prove her argument, she needed to take a case to the ECJ on the principle of equal pay, and finally, the cases of *Defrenne vs. Sabena* gave her this opportunity (Debusscher, 2015).

Defrenne was an air hostess, who used to work for a company named Sabena. When she was reaching the age of 40, the company terminated her job contract because of the company policy while her male co-workers could work until the age of 55. As a result of this policy, male workers could have an additional pension. In

addition to this, female air hostesses could earn less money for the equal work than males.

Three cases challenging different forms of unequal treatment were brought to the ECJ by Vogel- Polsky, which were against the additional pensions that only male workers were entitled to (Case 80-70, Defrenne vs. The Belgian State, 1971, ECR 445), unequal pay for women and men (Case 43-75, Defrenne vs. Sabena, 1976, ECR 455), and unequal conditions applied for the retirement age of women and men (Case 149/77, Defrenne vs. Sabena, 1978, ECR 1365).

Since the Article 119 of the Treaty of Rome did not provide protection against unequal treatment in terms of the conditions of pensions, the cases challenging the unequal pensions and retirement age were not resulted in favour of Defrenne. On the other hand, the case challenging the unequal pay for female and male workers were won, which established the Article 119's direct effect. In other words, it enabled the individuals to take cases on article 119 against states and private actors regardless of the existence of national legislation on the principle of equal pay (Debusscher, 2015).

The high-profile ECJ cases as well as rising women's activism in the member states have initiated three directives to ensure equal opportunities for women and men during the 1970s. First one is the Equal Pay Directive, which was adopted in 1975. The Equal Pay Directive clarified the member states' liabilities under the Article 119 of the Treaty of Rome by elaborating on the definition of equal pay principle as "the same work or for work to which equal value is attributed the elimination of all discrimination on grounds of sex with regard to all aspects and conditions of remuneration".

As it became obvious after the Defrenne cases that the equal pay principle was not enough to ensure gender equality in employment, the Equal Treatment Directive was issued in 1976 to expand the extent of the equal pay principle. Thanks to the

Equal Treatment Directive, equal treatment principle was ensured not only in terms of equal pay but also regarding ‘access to employment, including promotion, and to vocational training and as regards working conditions and, ... social security’. Finally, the third Directive adopted in 1978 ensured equality in the statutory systems of social insurance.

The implementation of the directives adopted during the 1970s were costly, therefore member states have been less willing to accept incorporating further directives into their own legislations in the 1980s, especially with more and more conservative governments as a result of the 1979 oil crisis and the succeeding economic recession (Debusscher, 2015). Only two directives were issued during the 1980s, which are on occupational social security schemes (Council Directive 86/378/EEC, 1986) and on self-employment (Council Directive 86/613/EEC, 1986). The first directive was to ensure the implementation of the principle of equal treatment for men and women for social security schemes that are not covered by the Council Directive 79/7/EEC. On the other hand, the second directive’s objective was to apply the equal treatment principle for women and men who are engaged in or contributing to an activity in a self-employed capacity by including aspects which are not covered by the Council Directives 76/207/EEC and 79/7/EEC.

Although the visibility of equal opportunities approach in the EU law was the most visible during the 1970s, its scope has been further broadened with new directives during the 1990s and 2000s. In the 1990s, equal treatment was ensured on issues of family leave, equal treatment for part-time workers, and other labour standards with four new directives.<sup>3</sup>

Most of the directives issued in the 2000s were to replace former directives as an attempt to strengthen the original ones. The Council Directive 76/207/EEC on

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<sup>3</sup> See Council Directives 92/85/EEC, 96/34/EEC, 97/81/EC and 99/70/EC for further information.

equal treatment was replaced by the Directive 2002/73/EC of 23 September 2002, which provided definitions for harassment, sexual harassment, direct and indirect discrimination as well as the requirement for the member states to ‘designate and make the necessary arrangements for a body or bodies for the promotion, analysis, monitoring and support of equal treatment of all persons without discrimination on the grounds of sex’. Another significant contribution of the Directive 2002/73/EC is bringing the obligation of establishing equality bodies, which are responsible for promoting, analysing, monitoring and supporting equal treatment regardless of gender.

Also, the Directive 2006/54/EC, which is also called as the Recast Directive, brought several gender equality directives<sup>4</sup> as well as ECJ case law to address issues regarding equal treatment and opportunities in employment and occupation including promotion, social security, burden of proof and equal pay together in a single text. The expected competences of ‘equality bodies’ are addressed in the Article 20 of the Recast Directive (2006) as ‘providing independent assistance to victims of discrimination ..., conducting independent surveys concerning discrimination; publishing independent reports and making recommendations ..., exchanging available information with corresponding European bodies...’ The Recast Directive also shifted the burden of proof, which plays an important role in the enforcement of the equal treatment principle, to the respondent in the cases of discrimination in line with the rulings of the ECJ.

#### **4.2. Positive Action and Work-Family Reconciliation Measures in the EU Legislation**

The equal opportunities approach has been limited to address gender inequality in the EU as ensuring equal treatment and equal opportunities does not directly lead

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<sup>4</sup> The directives that were replaced by the Recast Directive are the Directive 76/207, as amended by Directive 2002/73; the Directive 86/378, as amended by Directive 96/97; the Directive 75/117 and the Directive 97/80.

to an improvement in the position of women (Debusscher, 2015). Therefore, the objective of the gender policies of the EU has been shifted from the equal access to opportunities to equal outcomes through creating conditions to overcome disadvantaged starting point of women during the 1980s (Rees, 1998).

Unlike directives regarding equal opportunities and equal treatment, the positive action provisions are not usually binding. The approach of the EU law to the positive action measures is considering them as an exception to the equal treatment principle. This approach is apparent in several provisions of the EU,<sup>5</sup> which allows derogations from the equal treatment approach in the form of positive action and facilitated the member states' adoption of equal treatment measures (Martín, 2014).

Positive action was restrained by strict application of the of equal treatment principle in the EU. This situation was addressed by the Equal Treatment Directive in 1976, which is the first and the only time for more than two decades that the positive action has been mentioned in the EU law. Article 2 (4) of the Equal Treatment Directive permits to take measures to promote equal opportunity for men and women, in particular by removing existing inequalities which affect women's opportunities but this does not impose an obligation for the member states (Council Directive 76/207/EEC, 1976).

In the absence of binding measures, non- binding soft law was complementary to introduce positive action to the national law of the member states of the EU. The first example of the soft law promoting positive action was the Council Recommendation 84/635/EEC of 13 December 1984 on the promotion of positive action for women. The Council Recommendation 84/635/EEC acknowledges that "... existing legal provisions on equal treatment, which are designed to afford rights to individuals, are inadequate for the elimination of all existing inequalities

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<sup>5</sup> The examples of this approach are Article 2(4) of Council Directive 76/207/ECC, Article 3 of the Recast Directive 2006/54/EC and Article 157.4 of the Treaty on the Functioning of the European Union.

unless parallel action is taken by governments, ...to counteract the prejudicial effects on women in employment which arise from social attitudes, behaviour and structures” (Council Recommendation 84/635/EEC, 1984).

These non-binding and imprecise provisions have been the only references to the positive action for a long period of time in the EU gender equality laws. Their inaccuracy led to broad discrepancy and confusion in the implementation of the positive action measures in the member states (Martín, 2014) and the cases regarding the issue to be taken to the ECJ. The *Kalanke v Bremen* and *Marschall* cases<sup>6</sup> have significant importance in adoption of positive action measures as they illustrated the need for clear binding rules for overcoming structural discrimination that put women into a disadvantageous position.

In the *Kalanke v Bremen* case (1995), Kalanke brought it to the court on the grounds of the alleged sex discrimination against him. He applied for a job along with a female candidate; however, he could not get the job because the German law requires women to be prioritized over men in appointments when female and male candidates have equal qualifications and if women are underrepresented in the relevant department.

The Court argued taking measures to ensure equal opportunities for men and women, and to remove inequalities that put women in a disadvantageous position regarding equal opportunities are allowed by the Article 2(4) of the Equal Treatment Directive, which is an exception of the equal treatment principle. However, the Court Ruled that the German law was in contradiction with the exception provided by the Article 2(4) of the Equal Treatment Directive as it directly prioritizes women over men instead of fostering equal opportunities (*Kalanke v Bremen*, 1995).

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<sup>6</sup> See the Cases C-450/93 Eckhard Kalanke v. Freie Hansestadt Bremen (1995) ECR 1995 and Case C-409/95 Hellmut Marschall v. Land Nordrhein-Westfalen (1997) ECR I-6363.

Kalanke case, which caused criticism throughout the EU and the European Commission itself, is significant as it illustrates that the absence of specific and binding provisions can lead to interpretations influencing gender equality negatively (Kantola, 2010). The European Commission issued a Communication<sup>7</sup> to interpret and soften the negative impact of the ruling of the ECJ, in which the need for the continuation of the positive action measures was emphasized. It is also stated that the ECJ ruling could not affect existing positive action measures implemented in the member states including the quota systems which were not automatic.

In *Marshall v. Land Nordrhein-Westfalen* Case (1997); on the other hand, the ECJ adopted a more positive approach for positive action. *Marschall* challenged the German law prioritizing equally qualified women over men for promotion. Similar to the *Kalanke* case, *Marschall* argued that preference of women over men because of the law disrupts the equal treatment principle. The ECJ distinguished *Kalanke* and *Marschall* cases as the relevant law in the case of *Marschall* did not guarantee prioritization of women. Under this law, it was still possible for male candidates to be chosen over women if they had specific characteristics.

This case was significant as ECJ acknowledged in its ruling that equal starting points (equally qualified female and male candidates, in this case) does not guarantee equal possibilities because of the prejudices against women in the workplace (Martín, 2014). Due to these considerations, the ECJ ruled that the German law with a saving clause was within the scope of the exceptions provided by the Article 2(4) of the Equal Treatment Directive. The judgement of the Court on the *Marschall* case has been useful to reinforce that positive action measures are

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<sup>7</sup> See the Communication from the Commission to the European Parliament and the Council on the interpretation of the judgment of the Court of Justice on 17 October 1995 in Case C-450/93, *Kalanke v Freie Hansestadt Bremen*, COM/96/0088 FINAL.

permitted within the EU especially after the uncertain position created by the Kalanke case (Martín, 2014).

The article 119 of the Treaty of Rome, which was the first reference to the gender equality in the legislation of the EU, was later modified by the Treaty of Amsterdam in 1999. The Article 141 of the Treaty of Amsterdam added an explicit support for the implementation of positive action measures in the EU:

The principle of equal treatment shall not prevent any Member State from maintaining or adopting measures providing for specific advantages in order to make it easier for the under-represented sex to pursue a vocational activity or to prevent or compensate for disadvantages in professional careers.

The Treaty of Amsterdam recognises ‘underrepresented sex’ as the focus of the positive action instead of ‘women’ as in the article 119 of the Treaty of Rome. This situation, which was met with criticism as it lacked clarity, was addressed by a declaration<sup>8</sup> stating that Member States should prioritize improving the situation of women in employment initially. Another point that the Article 141 was criticized is weakness of the form in which the concept of positive discrimination is expressed (Lombardo, 2003). The reworking of Article 141 of the Treaty of Amsterdam in the Treaty on the Functioning of the European Union (Article 157) was further enforced positive action, which also provides that Member States may adopt measures including ‘specific advantages’ for women. The article 23 of the Charter of Fundamental Rights of the EU also reproduces the Article 157 of the Treaty on the Functioning of the European Union with minor changes, which ensures the permission for positive action measures regarding employment.

Finally, a new directive, which is also known as Recast Directive, brought together existing directives on gender equality<sup>9</sup> in a single text as an attempt to clarify the

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<sup>8</sup> See Declaration on Article 119(4) of the Amsterdam Treaty.

<sup>9</sup> The Recast Directive brought together the Directives 76/207, 86/378, 75/117 and 97/80.

main provisions regarding employment, promotion, vocational training, social security, equal pay and working conditions in 2006 (Directive 2006/54, 2006). Recast Directive addressed gender equality beyond preventing and compensating for disadvantages by allowing member states to adopt measures providing advantages for women.

While the focus of gender equality framework of the EU was based on equal pay and equal treatment during the 1970s, positive action strategies of the 1980s also excluded the rights of female workers as mothers. The directives adopted in the 1990s as well as the Action Programmes addressed the issue of work and family reconciliation regarding the rights of pregnant workers, parental leave and part-time work.

In 1992, the Pregnant Workers Directive (Directive 92/85) was adopted to encourage regulations improving safety and health of pregnant workers as well as mothers who gave birth recently or are breastfeeding in the working environment. This directive regulated maternity leave, stating that female workers should have at least 14 weeks for maternity leave in the member states and their rights regarding employment must be protected. In other words, the member states must ensure that female workers may return to their jobs under the same conditions after the maternity leave ends.

The directive prohibited offering women returning from maternity leave less favourable conditions at work while it also ensures that female workers benefit from any improvement in the working conditions occurred during their absence. It provided protection for pregnant women against dismissal because of their pregnancy or absence due to a pregnancy-related illness. Health and safety protection of women is another issue addressed by the Directive. For instance, obliging pregnant women to work at night was prohibited. In addition to these, the directive stated that pregnant women are entitled to both payment and allowance.

The Directive 97/81/EC (1997) supported the EU's commitment to ensure equal treatment principle in the labour market, which prohibits discrimination between part-time and full-time workers. Not only part-time workers but also women engaged in activities in a self-employed capacity are the subject of the equal treatment principle. The Directive 2010/41/EU on the application of the principle of equal treatment between men and women engaged in self-employed activities aims to combat any discrimination based on gender when establishing a company, which also includes provisions to ensure that self-employed individuals benefit from the maternity benefits and social protection.

Another directive regarding work and family reconciliation was adopted in 1996 on parental leave (Directive 96/34). It stated that member states must ensure the right to parental leave for at least three months from either the birth or adoption of a child. According to the directive, the right to parental leave is non-transferable, can be used until the child is eight years old, and dismissal on the grounds of an application for parental leave must be prohibited by the member states. Similar to the Directive 92/85, Parental Leave Directive (1996) ensures that workers have the right to maintain the same or an equivalent job at the end of the parental leave.

The directive on parental leave was amended firstly by the Council Directive 97/75/EC in 1997 and later by the Council Directive 2010/18/EU. These amendments extended parental leave to temporary, part-time and interim workers. Also, it increased the duration of the parental leave from three months to four months, of which at least one month cannot be transferred to the other parent.

Although directives regarding work and family reconciliation provide regulations for different needs of women as mothers than men, it is debated whether they can be regarded as positive action measures. According to Martín (2013), only the measures implying preferential treatment in women's access to employment or promotions should be considered as positive actions while the measures regulating social security schemes, benefits and working conditions as well as other measures

facilitating the reconciliation of family life and working must be considered as 'protecting action' or 'equal opportunities policies'. Such rights are seen as necessary to be able to ensure equal opportunities between men and women in employment while they were perceived as an exception to the principle of equal treatment since they give special rights to women that men cannot use.

These directives address elimination of conditions preventing women's participation to employment rather than providing a favourable treatment. For instance, pregnant women are entitled to allowance and payment as well as special conditions at the workplace. However, these measures cannot be regarded as positive action as these measures aim to create conditions that pregnant women can continue working during pregnancy. On the contrary, not providing such conditions is discriminatory treatment based on pregnancy, which is considered as direct discrimination based on the rulings of the ECJ since it is not possible for men to be pregnant.

#### **4.3. Gender Mainstreaming in the EU Employment Policy**

In the United Nations Fourth World Conference on Women organised in Beijing in 1995, gender mainstreaming was established and promoted as a major strategy for gender equality. The EU both advocated gender mainstreaming actively in Beijing and officially adopted it right after the conference by integrating gender mainstreaming into its gender policies.

The shift in the gender equality approach of the EU has been reflected in the European Commission's Communication on Incorporating Equal Opportunities for Men and Women into all Community Policies and Activities in 1996. According to the Communication, gender mainstreaming "involves not restricting efforts to promote equality to the implementation of specific measures to help women, but mobilising all general policies and measures specifically for the purpose of achieving equality by actively and openly taking into account at the planning stage

their possible effects on the respective situation of men and women (gender perspective). This means systematically examining measures and policies and taking into account such possible effects when defining and implementing them”. This refers to inclusion of a gender equality perspective into all laws and policies of the EU and member states. Therefore, gender mainstreaming has a high potential to address gender inequality by transforming rules and structures causing disadvantages against women.

Gender mainstreaming discourse of the EU broadened the scope of the gender equality provisions and policies, which were mainly focused on employment and labour market traditionally, to all action areas of the EU. However, this shift has not been supported by measures binding on member states. Instead, soft law was operationalized to support and promote gender mainstreaming, which caused implementation of gender mainstreaming measures to depend heavily on the interpretation of the actors involved in the process. As a result of this, gender mainstreaming policies of the EU tend to be interpreted in a non-binding manner and to lose its meaning in the translation process (Debusscher, 2015).

The attempts to extend hard laws regarding gender equality has been stalled in the mid-1990's and several draft directives has been waited before the Council for years<sup>10</sup>, which increased the significance of non-binding measures for promoting gender equality (Debusscher, 2015). Gender mainstreaming reinforced this trend to adopt soft measures on the part of the EU. The strategic programming tools such as The Women's Charter (2010), the European Commission's Strategy for Equality Between Women and Men 2010-2015 (2010) and European Pact for Equality between Women and Men for 2011-2020 (2011) were significant soft law instruments strengthening the commitment of the EU to gender equality.

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<sup>10</sup> For example, the proposals on maternity leave (2008), equal treatment irrespective of religion or belief, disability, age or sexual orientation (2008) and improving the gender balance in non-executive board-member positions (2012).

An important development for the use of soft law measures for gender mainstreaming was the launch of the European Employment Strategy in 1997. It included equal opportunities as one of its four pillars of policy while gender mainstreaming was integrated as a requirement for all European Employment Strategy Policies. Also, it introduced Open Method of Coordination, which requires member states to report on their development regarding the targets set by the EU annually. The Open Method of Communication has become the main instrument for monitoring the development and implementation of gender mainstreaming in the EU.

The Treaty of Amsterdam (1997) introduced an explicit task for the EU to eliminate inequalities, and to promote equality between men and women in all its tasks and activities, which broadened the competence of the EU regarding gender equality into all areas. In other words, it obliged both the Community and the member states to consider the objective of achieving gender equality when formulating laws and policies. These provisions were also reiterated in the Lisbon Treaty in 2009.

In addition, the EU Charter of Fundamental Rights addresses the issue of gender equality. Article 23 of the Charter recognises the right to mainstream gender equality in all policy areas of the EU as well as allowing positive action measures. Although it was not a hard law instrument initially, it became binding on member states with the entry into force of the Lisbon Treaty in 2009.

The discourse in these documents regarding gender mainstreaming is criticized with being too general. Although they broadened the scope of the gender equality, they were not useful in deepening it. According to Lombardo and Meier (2007), the implementation of gender mainstreaming has been challenging because of the lack of concrete objectives, specific measures, timetables, allocated resources as well as a strategy for monitoring and sanctioning member states that does not comply. Also, it is stated that gender mainstreaming has to be promoted in these

documents instead of setting the objective of actually achieving it (Lombardo & Meier, 2007).

Another tool of the EU to support the integration of the gender mainstreaming is financial instruments. As an important consequence of gender mainstreaming, the evaluation criteria of the European social funds were enlarged in a way to include gender equality. In this way, receiving parties were provided with a financial incentive to promote gender equality. As well as adding gender equality as an evaluation criterion for the social funds of the EU, specific funds were devoted for supporting gender policies of the EU. For instance, Daphné III was a programme designed to EU programme designed to prevent and combat all forms of violence against children, young people and women as well as ensuring a high level of well-being and social cohesion.

To sum up, implementation of gender mainstreaming policies has been challenging both at the national and the EU level although starting position for it was promising in terms of improving gender equality. Because of the problems faced during the implementation of gender mainstreaming, the European Commission proposed it as complimentary to equal opportunities and positive action measures instead of a replacement (Pollack & Hafner-Burton, 2000).

Although the mainstreaming approach failed to create binding hard law measures, its greatest promise in the accession context in the short-term is the transformation of the financial instruments in a way to incorporate a gender equality approach. In this way, a financial incentive was created for the candidate countries receiving the financial support to promote and improve gender equality. Regarding the impact of the EU funds on improving gender equality in employment in Turkey, the perceptions of the women's CSOs will be presented in the sixth chapter of this study.

#### **4.4. The Scope of Gender Equality within the Enlargement Agenda of the European Union**

The aim of the EU accession process is preparing candidate states to become member states eventually by aligning their legislation with the EU acquis as well as complying with the obligations associated with the EU membership. Since gender equality is one of the core values of the EU, it works to promote gender equality within and beyond its borders as a gender equality actor with growing importance.

The EU gender equality legislation is a part of the *acquis communautaire*, which the candidate states to the EU must comply with before becoming members. It is a ‘catalyst for reform’ for the candidate states since national legislation and policies of the candidate states regarding gender equality could not usually match the requirements of the EU except for Sweden (Fagan & Rubery, 2018). In addition to complying with the EU acquis, candidate states are expected to establish or adapt their administrative and institutional framework, which has the capacity to ensure the implementation of the acquis at the national level as well as monitoring the progress before becoming members.

The body of the EU legislation regarding gender equality includes related provisions of the treaties, directives and case law of the ECJ. Whereas candidate states must comply with and implement binding hard law provisions, they are also encouraged and expected to adopt soft law measures voluntarily during the accession process. For instance, Bulgaria and Romania were expected to promote women’s representation in politics voluntarily although there was no binding rule regarding this issue during their accession process (Fagan & Rubery, 2018).

The *acquis communautaire* of the EU is divided into 35 separate chapters. The accession negotiations for the EU membership are based on these chapters. Each single chapter corresponds to a different area of the EU legislation, which also

constitutes accession conditions for candidate states. Before the accession negotiations begin, a preparatory stage is carried out by the European Commission and each candidate state, which is called screening. During the screening phase, candidate countries' legislation and institutional framework are compared with the EU acquis to see their compatibility. After the screening, the areas in which further progress is needed are negotiated individually under relevant chapters of the acquis. The decision to open a chapter is taken unanimously by the Council. After a chapter is opened, the progress of the candidate countries regarding its requirements is regularly evaluated. The chapters are closed when candidate countries bring their legislation in line with them and no further progress is needed.

The chapters of acquis relevant to gender equality in employment are Chapter 19 (Social Policy and Employment) and Chapter 23 (Judiciary and Fundamental Rights). The Chapter 19 deals with the standards in employment including equality, anti-discrimination, health and safety at work as well as social inclusion and protection. Provisions regarding gender equality in employment are mostly addressed under this chapter. Chapter 23 also has a gender aspect as it aims to enforce human rights protection for specific groups including women. Under this chapter, candidate states are evaluated for their legislative and institutional framework on equality between women and men regarding the issues like discrimination against women and gender-based violence.

The scope of the gender equality framework of the EU has been expanding since 1957 in a way to include more areas in line with the evolution of the gender equality approach of the EU from equal opportunities to positive action, and then to gender mainstreaming. This means that candidate states who applied for the membership later also must meet higher standards.

The EU's commitment to ensure gender equality is emphasized in several policy documents. For instance, Strategic Engagement for Gender Equality 2016-2019 makes this issue a priority of the policies regarding the EU's external relations

including enlargement. According to the document, candidate states' adoption of the EU gender equality laws as well as Copenhagen Criteria regarding human rights including gender equality must be monitored regularly. Also, it envisages the inclusion of gender mainstreaming perspective in all programmes receiving funding from the Instrument for Pre-accession Assistance (IPA).

The significance of the EU funding to encourage candidate states to adopt and implement gender equality laws of the EU is recognised in the second gender action plan for 2016-2020, which is referred to as GAP II. It reiterates the call for the inclusion of gender mainstreaming approach in the programmes receiving the EU funding. It also demands involvement of women's civil society organisations and gender equality mechanisms operating at national level in the planning of the IPA programmes. Finally, the Commission's June 2018 proposal for a regulation on IPA III for the next multiannual financial framework (2021-2027) intends to mainstream gender in the actions and programmes.

Despite the existence of various policy documents emphasizing the EU's commitment to ensure gender equality in the accession process, the actual importance attributed to the situation of gender equality in the candidate countries by the EU followed an inconsistent path. While the EU expects the candidate countries to embrace its values and norms as well as to transform their legislation and policies in line with the EU legislation regarding gender equality prior to their accession, the study conducted by Galligan and Clavero (2007) showed that CEECs were not in complete harmonisation with the EU acquis in terms of its gender equality provisions when they became members to the EU in 2004. The study illustrates the fact that membership status can be granted by the EU even if a candidate country's harmonisation process is not complete certain areas including gender equality depending on the context at the time of accession, candidate country and policy area.

The inconsistent progress toward gender equality in the EU member states has been reversed after the international financial crisis that began in 2007 (Rubery, 2015). While the experiences of different member and candidate states of the EU in the face of the financial crisis vary, the austerity policies have prevailed especially after 2008 across the EU, which had a gendered impact affecting especially the position of women in the labour market.

The study of Karamessini and Rubery (2014) analysing the impact of the financial crisis and austerity measures on eight EU countries revealed that women's position in the labour market tend to get affected more negatively from the implementation of austerity policies compared to men especially in the long term. While the crisis has influenced the every day lives of women in the EU member and candidate states, it also led governments to downgrade gender equality in a way to risk the progress that has already been taken in several ways.

Firstly, both the protection measures against unemployment and pay has been cut in the public and private sectors. The implications of decreasing quality and quantity of employment opportunities especially in the public sector had more severe consequences for well-educated women since the public sector is usually the first to implement gender equality measures in employment (Karamessini and Rubery, 2014).

Secondly, decreasing public expenditures as a result of the deteriorating financial conditions affected the provision of social services funded by the state including child and elderly care. This, in turn, caused the domestication of such services, which are traditionally seen as the responsibility of women in families.

In the political climate created by the financial crisis, it became more difficult to find support to further gender equality policies and measures. Similarly, the financial support to women's organisation for improving gender equality has been cut. In this context with no or little effort to pursue gender equality policies from

the governments and weakened mechanisms to put pressure on them to do so, the compliance of both member and candidate states with the gender equality laws and policies of the EU has weakened (Juhasz and Pap, 2018).

#### **4.5. Reviewing the Success of Gender Equality Policies of the EU in the Enlargement Context**

In this part, the impact of the EU accession process and membership on gender equality will be examined as an attempt to illustrate what to expect from the accession of Turkey to the EU. By including a review on the performance of the member and candidate states regarding their transposition and implementation of the gender equality legislation of the EU, it is aimed to reveal the characteristics and limits of the transformative power of the EU in terms of improving gender equality in employment.

Among all the EU member states, only the experiences of the countries which became the members of the EU in the last two waves; in other words, the fifth and sixth waves of the enlargement will be reviewed in this study. The gender equality legislation of the EU has been expanding since 1957 and the candidate states who applied for the membership later also must meet higher standards.

While the level of change expected from the candidate states was much more limited until then, the countries which accessed to the EU in the fifth and sixth waves of the enlargement were expected to adapt a wider concept and legislation of gender equality. Therefore, the experiences of the countries becoming members more recently as well as the other current candidate states are more relevant for Turkey.

There are various views about the extent of the EU's success in improving gender equality from very outstanding to insignificant (Walby, 2004). According to Pollack & Hafner-Burton (2000), 'optimists' on the EU's impact on gender

equality argues that legal framework of the EU provides a new legal resource, which creates enforceable rights for European women interpreted expansively by the ECJ. On the other hand, the correct and timely transposition of the EU laws do not necessarily lead to any improvement unless they are translated into practice in a way to strengthen the women's position.

There are two common trends in the studies on the impact of the EU on gender equality in employment in the member and candidate states of the EU which are under review. Firstly, they tend to handle the transposition of the EU laws into national legislation of the candidate and member states and their implementation as two distinct steps of compliance with the EU acquis. Secondly, they all include the impact of the domestic elements while explaining the level of compliance of the candidate and member states.

To begin with, Spehar (2012) finds that the EU accession processes has been beneficial for Croatia and Macedonia in terms of the introduction of new gender legislation and institutional mechanisms for the advancement of gender equality. On the other hand, the EU gender strategy has also shown serious limitations including strong contrast between stated goals and their actual implementation. Spehar (2012) argues that unless profound institutional changes as well as changes in political culture take place in Croatia and Macedonia, the poor compliance with the EU gender equality norms and policies will be hard to overcome.

In the Czech Republic, on the other hand, the accession process to the EU has been the most significant force that legitimized promotion of gender equality in the country (Hašková and Křížková, 2008). Although economic reforms dominated the agenda of the country and the focus was not on the social reforms during the accession period, it still accelerated the assertion of gender equality as a political issue. The government officials and politicians of the Czech Republic were the driven force behind the change since the demands of the women's CSOs were only marginally placed into the political agenda during the accession process. However,

Hašková and Křížková (2008) argues that transposition of the EU gender equality laws and establishment of gender equality bodies also created an environment that gender mainstreaming can be actually employed in the future.

While these two studies show that there is a gap between the transposition of the legislation and its actual implementation, the performance of the member and candidate states of the EU varies in the both steps. As a result, some studies on the impact of the EU on gender equality in the member and candidate states focus on explaining the possible reasons of this variation, which are mostly relevant to the national contexts or domestic actors.

Sissenich (2007) finds that in Hungary and Poland, formal adoption of the legislation was high, but it was followed by weak enforcement and no behavioural change. This is explained by the low levels of two factors that determine successful rule transfer in acceding states; which are state capacity and organized non-state interest (specifically, parties in social dialogue). A combination of weak states and weak organized interest, a situation that Sissenich regards as typical for Central and Eastern European Countries (CEECs), will accordingly lead to low formal and low behavioural adoption.

The study of Sedelmeier (2009) analyses the variation in the performance of Czech Republic, Hungary, Lithuania and Slovenia in terms of the transposition of EU gender equality laws and their national equality institutions' capabilities for enforcing the transposed laws. According to the study, there are two paths that lead to the success of transposition of the EU acquis and its enforcement by the equality bodies. The first one depends on the absence of high adjustment costs. If the laws adopted by the national governments are met with resistance by the domestic actors that the government depends on for maintaining their power negatively or the transposed laws affect them negatively, then the adjustment costs are considered high. The second path depends on the collaboration of a strong and democratic

government and CSOs that have the expertise to support the government in transposition and implementation of the gender equality laws of the EU.

Similarly, Aydeva (2009) explores the factors that influence the level of compliance with the requirements of the EU acquis in four EU accession countries (the Czech Republic, Hungary, Lithuania and Poland). According to the study, acceding countries pursuing actual change of policy create strong institutions with broad functions and adequate authority for implementation of new laws and policies. However, candidate states pursuing marginal policy reforms also create weak institutions unable to control the implementation of new policies.

Another important element that explain variation in the compliance of the acceding states is the level of pressure from activists. Aydeva (2009) argues that governments pursue comprehensive reforms when they face activist demands for improvement of government practice regarding gender equality norms.

While the role of the women's CSOs is significant for the improvement of gender equality, the findings of the study of Regulaska and Grabowska (2008) shows that the EU accession process strengthens the position women's CSOs to engage politically in Poland. Although state has the ultimate power to determine the placement of women's concerns and demands into political agenda, it is argued that the accession period improved the ability of women's CSOs to influence decisions of governments.

#### **4.6. The European Union: A Defender of Women's Rights?**

The laws and policies of the EU regarding gender equality in the sphere of employment were reviewed in detail in the first part of this chapter, which are summarised in the Table 2. As revealed by this review, the gender equality is deeply integrated into the legal framework of the EU in a legally binding way while the scope of the legal framework on it has been expanded since 1957 in a way to

include more areas in line with the evolution of the gender equality approach of the EU from equal opportunities to positive action, and then to gender mainstreaming.

Table 2

*The EU's Legal Framework on Gender Equality in Employment*

Provision	Scope	Legal Basis
Equal Treatment for Men and Women	Equal access to employment, as well as to promotion and vocational training opportunities	Article 157 TFEU The Gender Recast Directive 2006/54
	Equal conditions in the workplace	
	Obligation of establishing equality bodies	
	Prohibition of direct and indirect discrimination based on sex	
	The burden of proof regarding discriminatory practices rests on the employer	
	Equal treatment of men and women who are engaged in or contributing to an activity in a self-employed capacity	Directive 2010/41/EU
	Prohibition of discrimination between full-time and part-time workers	The Directive 97/81/EC
Equal Pay for Men and Women	Equal treatment of women and men in occupational pension schemes	Chapter 2 of The Gender Recast Directive 2006/54
	Equal treatment of women and men in statutory schemes of social security	Statutory Social Security Directive 79/7/EEC
	Prohibition of harassment and sexual harassment	The Gender Recast Directive 2006/54
	Prohibition of direct and indirect discrimination in pay	Recast Directive 2006/54/EC.
	Equal pay for men and women for equal work or work of equal value	Article 157 TFEU

Table 2 (Continued)

The Protection of Pregnancy and Maternity	Prohibition of unfavourable and discriminatory treatment against a woman on the grounds of their pregnancy or maternity	Recast Directive 2006/54/EC.
	Protection against dismissal during pregnancy and maternity leave	
	Permission for granting special rights related to pregnancy and maternity	Pregnant Workers Directive 92/85/EEC
		Recast Directive 2006/54/EC (Article 28)
	Maternity Leave (At least 14 weeks)	Pregnant Workers Directive 92/85/EEC
	The right to maintain the same/equivalent job after maternity leave	Article 15 of Recast Directive 2006/54.
	The right to benefit from improving conditions that occurred during maternity leave	
Parental Rights	Granting parental leave for at least a period of 4 months before the child is 8 years old	Parental Leave Directive 2010/18
Positive Action	Allowing the measures of positive action in employment	The Treaty on the Functioning of the European Union (Article 157)  Directive 2010/41/EU  The Charter of Fundamental Rights of the EU  The Case Law

Although the areas that the EU has been trying to ensure gender equality has been broadened, women's employment is still recognised as the main competence of the EU regarding gender policies (Lombardo & Meier, 2008). Its strong position

enabled the EU to lead not only the member states but also the candidate states to put gender equality in employment into their agendas. In the accession context, this means that adoption of the EU laws regarding gender equality in employment is obligatory for the candidate states before becoming members since the aim of the EU accession process is preparing candidate states to become member states eventually by aligning their legislation with the EU acquis as well as complying with the obligations associated with the EU membership.

Despite the existence of various policy documents emphasizing the EU's commitment to ensure gender equality in the accession process, the actual importance attributed to the situation of gender equality in the candidate countries by the EU followed an inconsistent path. While the EU expects the candidate countries to embrace its values and norms as well as to transform their legislation and policies in line with the EU legislation regarding gender equality prior to their accession, the membership status can be granted by the EU even if a candidate country's harmonisation process is not complete in certain areas including gender equality depending on the context at the time of accession, candidate country and policy area.

While there has been progress toward gender equality until the financial crisis of 2007, the austerity measures had gendered consequences, which reversed the progress in varying degrees in different member and candidate states. The political climate created by the financial crisis made it more difficult to find support to further gender equality policies and measures and weakened the compliance of both member and candidate states with the gender equality laws and policies of the EU. While the inconsistent attitude of the EU may influence the outcome of the accession process in terms of strengthening women's position in labour market, the variables at the domestic level also affect the level of success. The characteristics and limits of the transformative power of the EU vis à vis domestic actors and national contexts in terms of improving gender equality in employment are revealed in this chapter through reviewing the performance of the member and

candidate states regarding their transposition and implementation of the gender equality legislation of the EU in the fourth part of this chapter.

According to the studies reviewed in this chapter, the performance of the both member and candidate states of the EU varies in the both the transposition of the legislation and its actual implementation due to the influence of national contexts and domestic actors although the EU accession process yields more positive result regarding formal adoption of the rules. In other words, the level of success is determined mostly by the domestic variables such as the will of government officials and politicians, existence of an organized and strong civil society, the absence of adjustment costs on the government and the collaboration between domestic actors. Also, the most significant contribution of the EU is creating a positive environment for further efforts to improve gender equality even in the countries with lower compliance records.

The EU contributed to the gender equality in employment by supporting the position and ability of women's CSOs to engage in the policy making processes regarding gender equality. This is also relevant for Turkey especially in the early years of the accession process as revealed by the interviews conducted with the members of women's organisations as a part of this thesis. Indeed, the interviewees recognise the significance of the EU as a 'normative reference point' that facilitated justifying their work and position in a society where the women's ideal role is constructed as mothers and wives. By reviewing the legal framework of the EU regarding gender equality in employment and its implications in the accession context as well as reviewing the performance of the member and candidate states regarding their transposition and implementation of the gender equality legislation of the EU, this chapters illustrated the change that is expected to be seen in Turkish legislation as a result of the accession process. In this way, a reference point was be provided to be able to compare the situation of Turkey in terms of women's employment in the Chapter 5.

## **CHAPTER 5**

### **THE GENDER EQUALITY IN EMPLOYMENT IN TURKEY**

In the previous chapters, it has been argued that the EU's conceptualization of gender equality has been evolved from equal opportunities to positive action and finally to gender mainstreaming, which can also be traced in the policies of the various member countries. This transition does not take place in all member and candidate countries in the same way. On the contrary, a variety of visions regarding gender equality may be found in different national contexts in the EU as a result of the impact of various domestic elements such as national values, norms, culture and history (Verloo, 2005). In other words, the representations of gender inequality as a problem and proposed solutions to it vary among the EU member and candidate states, which may or may not be compatible with the EU's vision.

Conceptualization of gender issues may have a significant impact on the scope and direction of national agendas regarding gender equality. This is also relevant for the impact of the EU accession process on candidate countries since the EU legislation and policies on gender equality are filtered through national values, norms, attitudes, existing legislation and policies of candidate states as well as their vision of gender equality (Ostner & Lewis, 1995). They all influence candidate states' interpretation and implementation of the EU legislation and policies regarding gender equality. This means that varying visions of gender equality in different national contexts of candidate countries as well as other domestic elements affect the success of the compliance with regulations of the EU regarding gender equality.

Through its normative power as defined by Manners (2002), on the other hand, the EU has the capability to project its norms and values on candidate states in a both

efficient and legitimate way during the accession process, which is one of the strongest instruments for EU to exert its normative power (Haukkala, 2008). Therefore, it is likely to expect a change in the vision of candidate states on gender equality during the accession process.

The inequality between women and men is a problem that persists in the EU despite of the existence of laws, policies and institutions supporting gender equality. It is a common issue that does not exist only in Turkey or Europe; it is rather a global problem. However, the inequality is deeper in some countries compared to the others as it is the case for Turkey.

Turkey is a candidate country with a significantly different culture and values compared to the other member and candidate states. The women's ideal role in Turkish society is constructed as mothers and wives, which manifested itself in the low female labour force participation (Dedeoğlu, 2012). In fact, it has the lowest percentage of female labour participation in comparison with the EU member states. The peculiarity of the case of Turkey regarding gender equality among the EU member and candidate states is illustrated by the study of Gerhards (2007).

In his study, Gerhards (2007) first constructed the EU blueprint of the ideal family structure and gender roles based on the treaties, directives, regulations and recommendations of the EU, which rests on the equality in employment with the help of appropriate childcare support systems and split of family duties between men and women. Then, he investigated the attitudes and beliefs of the citizens of the EU member and candidate states on 'ideal family' investigated with the help of secondary data including European Values Survey results.

While the level of support for the EU's position is the strongest among old member states, it decreases with each subsequent waves of accession. Turkish people, on the other hand, has the lowest level of support for EU family policies. They also tend to reject the ideal family of the EU and commits to a traditional and patriarchal

order most strongly. Although the study of Gerhards has been conducted in 2007 ago and may not reflect the current position of Turkish society, it shows incompatibility of the visions of gender equality of the EU and Turkey at least in the early years of the accession process.

In this chapter, the impact of the EU accession process on gender equality in employment in Turkey will be discussed. After the pre-accession situation and progress of Turkey since the early years of the Republic in terms of equality of women and men in employment is illustrated, the change in the legislation and policies of Turkey in line with the requirements of the EU accession process will be presented.

As discussed in the Chapter 2, the Europeanisation literature deals with the compliance of the candidate states to the EU acquis as two distinctive stages, which are the transposition of the EU acquis into national legislations and effective implementation of the rules and policies adapted as a part of acquis. Therefore, examining the change in the legislation is not enough to evaluate the level of compliance of Turkey with the EU regarding gender equality in employment.

As the legal reforms do not lead to any improvement in female employment unless they translate into implementation, monitoring the implementation of gender equality laws that are transposed during the accession process is necessary. In this chapter, success of the implementation of the EU gender equality laws integrated into the legislation of Turkey will be evaluated especially in the face of deteriorating relations. It will be done by analysing the change in the gender equality indicators regarding employment since the beginning of the accession process.

## **5.1. Turkish Legislation and Policies Regarding Women's Employment**

### **5.1.1. The Pre-accession Situation**

The efforts to integrate women's rights into the legislation and policies of the state has started as early as 1923 with the foundation of the Turkish Republic. As a part of the modernization and democratization efforts of the state, Turkish women were granted social and political rights such as the suffrage rights, ban of polygamy and unilateral divorce, equal divorce and inheritance rights as an attempt to endorse the sameness of Turkish women and men (Dedeoğlu, 2013).

The process of integrating the rights of Turkish women into state policy during the early years of the Republic is called 'state feminism' since these rights were granted and promoted by the state elites (who were mostly men) and not as a result of a women's movement which was very weak at that period (Binder & Richman, 2011).

The rights granted to Turkish women in the early years of Turkish Republic was radical for the time and portrayed as one of the most significant success stories of the century in terms of improving women's rights. However, the embeddedness of the issue of women's rights into modernization efforts of the state rather than handling the liberation of women as a broader question limited the impact of the reforms (Gündüz, 2004).

It remained mostly symbolic while only a small fraction of women who belong to higher classes and live in urban areas could benefit from them. As a result, the formal rights could not be translated into any improvement for the social position of most Turkish women. According to Müftüler- Bac (1999), modernization process of Turkey, which occurred at least on paper, also delayed the organisation

of a women's movement in Turkey until the 1980s by creating the perception that women were emancipated and therefore a women's movement was unnecessary.

While the change of legislation in the area of gender equality in employment gained momentum mostly after the 1990s, the inclusion of the principle of equal pay for equal work regardless of gender into the legislation was as early as 1967 following the ratification of the International Labour Organisation (ILO) agreement of 1951. The prohibition of discriminatory pay based on sex was prohibited in the Labour Law No.1475 enacted in 1971. Also, the principle of equality before law regardless of one's sex was involved into Turkish constitution in 1961.

In 1980s, Turkey's transition to an export- oriented industrialization model and rural-urban migration has affected women's participation to the labour force negatively. Along with the migration trend to the big cities, migrant women who used to work as agricultural workers could not find employment opportunities in urban areas since the economy has a limited capacity in terms of creating employment especially for women. As a result, female labour force participation dropped from 72% in 1955 (Özar, 1994) to 30.59% in 1985 and to 22.73% in 1996 (Kucukkalay, 1998).

Another element contributed to the decrease of women's participation to labour is neoliberal policies which have become dominant starting from 1980s by narrowing down the scope of services provided by the welfare system in Turkey. According to Bugra and Candas (2011), informal support networks (mainly households) replaced the formal social security mechanisms in their absence while the roles of women as mothers and wives remained central to sustain this system.

While 1980s has seen a drop of female labour force participation, several steps have been taken by Turkey for improving gender equality as required by international agreements that Turkey ratified such as the European Social Charter, Beijing Declaration and the Action Plan of the Cairo Conference on Population

and Development. Ratification of the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) by Turkey in 1986 was especially significant in terms of improving gender equality.

CEDAW is one of the most important human rights frameworks at international level, which is also referred to as ‘women’s bill of rights’. Adopted by the United Nations General Assembly in 1979, it describes discrimination against women in detail and proposes an agenda for ending such discrimination and achieving gender equality. The states ratifying CEDAW including Turkey are responsible for implementation of its provisions as well as submission of regular reports in every four years including their progress.

At the national level; on the other hand, women’s participation to employment has never been a priority beyond overall statements and no specific policies addressing the issue were developed until the 1990s (Toksöz, 2011). The monitoring activities required by CEDAW as well as the efforts of women’s organisations prompted policies and actions of the government for improving gender equality in the 1990s.

The first formal document mentioning the gender issues as a distinct problem was the Fifth Development Plan (1985–1990). However, it was not until the release of the Sixth Development Plan for 1990-1994 that the issue was addressed in the employment context, in which the need to create environments promoting women’s employment in sectors beyond agriculture was emphasized.

Ratification of CEDAW by Turkey has also initiated the establishment of public institutions and departments addressing women’s rights. In this context, a significant development was the establishment of General Directorate for the Status and Problems of Women for supporting gender equality in society in 1990 as it was an obligation for the countries ratifying CEDAW. By establishing the General Directorate, the existence of problems of women was recognised by the government. Also, a Parliamentary Commission was formed as an attempt to

evaluate the women's status in Turkish society. The centers and programs for women's studies were founded in the 1990s at several universities, which contributed to the discourse and academic resources regarding gender equality.

The developments in 1990s raised the issue of gender equality in a more formal way and increased its visibility. The issue was involved in the next development plans regularly which shows the orientation of the government policies for the development of the country at least on paper. New institutions established during this period increased the visibility of gender issues and awareness at state level. The approach to gender equality, on the other hand, followed the legacy of the early years of the Republic by framing the issue either as a private affair or as a matter of modernization instead of individual rights and equality (Dedeoglu, 2012).

In the pre-accession period, the inequality of the position of women compared to men was visible in the legislation of Turkey, which worked against women's participation to labour. For instance, the Article 154 of the Civil Code, which was in force before the accession process of Turkey to the EU, assigned the husband to represent the marriage as the head of the family while its Article 159 required women to obtain the permission of their husbands to be able to work. The Article 159 of the Civil Code emphasized that the welfare of the marriage must overweight the right to choose a profession and work for women even after it was amended in 1990 by the Constitutional Court.

The modern and egalitarian image of Turkish legislation guaranteeing the rights of women in terms of equal pay and opportunities in fact built upon and reflected traditional gender roles in the society. According to Muftuler- Bac (1999), the gender ideology of Turkish state follows the "male breadwinner-female homemaker" family model. In other words, women's main role in the society is perceived as being mothers and wives, which is also promoted by laws.

In Turkish Labour Code, workers are not entitled to severance payment if they quit their jobs. However, working women who are married are exempted from this rule within one year from their marriage while it is not applicable for married men. Although the articles of former Labour Code No. 1475 enacted in 1971 were abolished and replaced by the Labour Code No. 4857, the women's right to severance payment after marriage, which is regulated by the Article 14 regarding severance payments in general, is still in effect.

The dependent position of women over men was also apparent in the provisions regarding social security. Women received benefits such as healthcare and survivor's benefits based on the status of either their father or their husbands. The entitlement of the sons and daughters of insured individuals to social provisions also differs. Sons are subjected to age limits for receiving such benefits while daughters can enjoy them unless they are employed or married. These prevents the formal involvement of women into social security systems as individuals independent from their fathers and husbands.

The work and family reconciliation provision were also inadequate. Despite the existence of a large female population who had to work part-time to be able to take care of their families, the rights of part-time workers were not legally defined. This caused women who had part-time jobs to work usually in inferior conditions.

Regarding the protection of pregnancy and maternity in working life, there were significant differences between public and private sectors. According to the Labour Law of 1971, the women working in the public sector could have twelve weeks of paid parental leave (six weeks before and six weeks after they deliver their children). While they could also have an additional six months of unpaid leave, they also had the right to keep the same post after they turn back from the leave. The rights of the women who were employed in the private sector, on the other hand, were left on the initiatives of their employers. Also, their employers were entitled to dismiss pregnant women according to the law.

The gap between the rights of public and private sector workers were also apparent regarding paternal leave. Only the fathers who were employed in the public sector had the right to parental leave between 3 to 10 days. The rights of male workers who were employed in the private sector to parental leave, on the other hand, were not clearly defined in the Labour Law.

A positive development that took place in 1987 for the provision of work and family reconciliation measures is the introduction of a bylaw regarding the issue in 1987. The bylaw, which was issued by the Ministry of Labour and Social Security, regulated the requirements of employers to provide nursing room and childcare services and the conditions they must provide for pregnant and nursing female workers. According to the Bylaw, employers must offer nursery rooms if they employ more than 150 women while they were obliged to establish childcare facilities if the number of female workers which they employed was higher than 300.

Although the rights granted to Turkish women provided legal equality to a certain degree, the legislation regarding gender equality in employment was limited. While the provisions regarding gender equality were provided in general terms, their relation to the labour market was not clearly defined and there was no direct reference to ensuring equality between men and women in labour market. In addition to this, the traditional values embedded in the legislation and policies of the government exclude women from employment while it also reinforces gender segregation in the professions and working environments.

#### **5.1.2. Change of Legislation and Policies during the Accession Process**

The period between the recognition of the candidacy of Turkey in 1999 and beginning of the accession negotiations in 2004 has initiated an ambitious reform process in various areas including gender equality. The legislative reform that has taken place during this period in line with the EU acquis contributed to strengthen

the position of Turkish women in employment as independent individuals at least in the legal texts.

The principle of equality before law regardless of one's sex was involved into Turkish constitution in as early as 1961. While the same provision is maintained in the Article 10 of the Constitution of 1995, a paragraph extending this provision with a specific emphasis on equality between men and women was added in 2004.

The traditional family roles in Turkish society which assigns the role of breadwinner to men while it defines women mainly as wives and mothers discourages women's participation to labour. Therefore, the equal status of men and women in marriage with equal rights and responsibilities is an important prerequisite of increasing women's employment. While the previous Civil Code had discriminatory provisions including assigning men as head of the family and requiring women to obtain the permission of their husbands, the new Civil Code which was went into effect in 2002 introduced equal rights for men and women in family as well as eliminating the existing discrimination. The new Civil Code has contributed to ensuring equal rights and responsibilities in various ways. However, its most significant contribution to women's employment is clarifying the right of women to work outside their houses without permission of their spouses with its Article 192.

The new Labour Law, which was enacted in 2003, was especially important for bringing Turkish legislation in line with the provisions of the EU laws on gender equality in employment in various aspects. Firstly, it introduced the principle of equal treatment in employment between not only men and women but also between all individuals regardless of their race, ethnicity, religion or ideology. According to the Article 5 of the Labour Law, it is prohibited to make any direct or indirect discrimination based on sex of employees in the recruitment process, determining the conditions of a job, execution and termination of a business contract. The

Labour Law also ensured prohibition of discriminatory practices between part-time and full-time employees.

Secondly, its provisions ensure the protection of pregnant women and mothers from unfavourable treatment including dismissal. The Article 5 of the Labour Law stipulates that discrimination based on an employee's maternity is prohibited. In the new Labour Law, the scope of the maternity leave is expanded. The right of pregnant employees to paid leave was increased to sixteen weeks instead of twelve weeks.

Also, the right to maternity leave is expanded in a way to include all workers while only public servants could use it before the new Labour Law. The adoption of Law No. 5510 on Social Security and General Health Insurance further contributed to the harmonisation of legislation regulating issues regarding protection of pregnancy and maternity in employment by merging social security systems, which used to vary based on the employment type, into a single system.

Regarding the protection of pregnancy and maternity, another important contribution of the new Labour Law is prohibiting termination of a job contract on the basis of the absence during maternity leave. The employees who take maternity leave are also entitled to be treated as having been worked in determining their right to annual leave.

While protecting female workers against discrimination based on pregnancy and maternity, the new Labour Law also gives special rights to them. For instance, pregnant women are allowed to take pay leave for their medical examinations. Also, the law ensures that pregnant women may be assigned to lighter duties if it is advised by a physician.

Thirdly, the Labour Law introduced the possibility to shift the burden of proof on employer. The burden of proof normally lies on the employee who raises the

discrimination claim. However, the new Labour Law stipulates that if an employer is able to bring a convincing argument regarding the high possibility of such an incident, then the burden of proof can be shifted on employer.

Although the equal pay principle has already been guaranteed in Turkish legislation following the ratification of ILO Convention on equal pay and in the former Labour Law, the new Labour Law also maintained the legal basis for the equal pay for equal work principle regardless of gender.

Regarding the prohibition of harassment and sexual harassment, three pieces of legislation was important, which are the Labour Law, Penal Code and Code of Obligations. While there was no specific reference to harassment and sexual harassment in the previous Penal Code, sexual harassment was described as an offense in the Article 105 of the Penal Code, which was enacted in 2004. In line with the definition provided in the Penal Code, Article 24 of the Labour Law stipulates that sexual harassment in the workplace provides a justifiable ground for termination of the working contract.

Although the momentum created by the Turkey's candidacy to the EU was the strongest between the years of 1999 and 2004 in terms of legislation change in many areas including gender equality in employment, it would be wrong to argue that the reform process has stalled after this period. The Constitution and Labour Law was amended while the Law on Human Rights and Equality Institution of Turkey established an equality body in line with the EU gender equality

In 2010, the scope of the Article 10 of the Constitution regarding equality is further expanded. With the Act No. 5982, the statement that measures taken for ensuring gender equality cannot be interpreted as against the equality principle added to the Turkish Constitution. This statement is interpreted as allowance to positive action.

In 2011, the Code of Obligations included a provision regarding prevention of the harassment in the workplace in its Article 417. According to the law, employers are obliged to provide a working environment protecting employees from psychological and sexual harassment. If an employee is subjected to harassment, employer has the obligation to take necessary measures to protect the employee from further damage.

In 2016, the equality body required by the EU acquis has been established by the Law No. 6701 on Human Rights and Equality Institution of Turkey. Besides establishing an equality body, fighting against discrimination and ensuring the equal treatment principle are among the objectives of the law. Although the principle of equality before the law is enshrined in the Turkish Constitution and prohibition of discrimination based on one's sex is involved in the Labour Law, the Law on Human Rights and Equality Institution of Turkey introduced a broader definition regarding these issues. The sixth Article the Law on Human Rights and Equality Institution of Turkey regarding employment and self-employment states that:

An employer or a person authorized by the employer shall not discriminate against an employee or applicant for a job, a person gaining applied work experience or an applicant for that kind of work and anyone wishing to receive information about the workplace or the work in order to be an employee or gain applied work experience, while being informed of the work, during the application process, selection criteria, work and termination of work and in terms of conditions for recruitment.

The scope of the prohibition of discrimination stated in the law includes any discrimination during announcing an available vacancy, in working environment and working conditions including promotions and hierarchy, access to vocational counselling and training as well as other types of trainings.

It also contributed to the protection of pregnancy and maternity by prohibiting the rejection of job applications by the employers on the grounds of the applicants'

pregnancy, maternity or childcare responsibilities. The law further widened the scope of the prohibition of discrimination to people working in a self-employed capacity regarding the “acceptance to self-employment, license, registration, discipline and similar subjects”.

The Table 3 illustrates how and when the EU laws on gender equality in employment were transposed to Turkish legislation. As presented by the Table 3, there were some provisions ensuring equality in employment in the pre-accession period although they were quite limited.

In line with the argument that the period between the recognition of Turkey as a candidate country for the EU in 1999 and the beginning of accession negotiations between Turkey and the EU in 2005 has seen the ‘golden age’ of reforms to bring itself in line with the EU, most of the reforms regarding gender equality in employment has been made within this period. The amendments to the Constitution as well as the introduction of the new Civil Code and Labour Law took place during this period, which established a legal framework ensuring equal treatment of men and women in the workplace, prohibition of discrimination and protection of pregnancy and maternity.

However, the legal reforms have continued after this period in the area of gender equality. The Code of Obligations, Law on Human Rights and Equality Institution of Turkey, Regulation for Pregnant or Nursing Women, and amendments to the Labour Law by the Law No.6663 on Amending Income Tax Law and Some Other Laws and to the Article 10 of Turkish Constitution have been all introduced after 2005, which completed the alignment of Turkish legislation regarding gender equality in employment with the laws of the EU regarding the issue to a great extent.

Table 3

*Transposition of the EU Gender Equality Law into Turkish Legislation*

<b>The EU requirements on gender equality in employment</b>	<b>Legal Basis in Turkish Legislation</b>	<b>The Scope of the Relevant Law in Turkish Legislation</b>	<b>The Date of Transposition into Turkish Legislation</b>
Equal access to employment, including promotion, and to vocational training	Article 10 of Turkish Constitution	All individuals are equal before Turkish law regardless of their sex.	1982
Equal working conditions		Men and women have equal rights.	Paragraph added in 2004, Act No. 5170
Prohibition of direct and indirect discrimination based on sex	Civil Code	Men and women have equal rights in the family.	2002
	Article 6 of the Law No. 6701 on Human Rights and Equality Institution of Turkey	Discrimination based on sex is prohibited in the job advertisements, working conditions, access to training and counselling opportunities as well as the promotion.	2016
	Article 5 of Labour Law No. 4857	In an employment relationship, there shall be no discrimination based on an employee's sex.  The employers shall not discriminate against employees based on sex in the hiring process, condition of the work, and ending employment contract. Only exception to this are the reason which are biological or related to the job's nature.	2003

Table 3 (Continued)

Obligation of establishing equality bodies	Article 9 of the Law No. 6701 on Human Rights and Equality Institution of Turkey	An equality body which deals with the prohibition and discrimination and ensuring equal treatment is established.	2016
Placement of the burden of proof regarding discriminatory practices on the employer	Article 5 of Labour Law No. 4857	While the burden of proof belongs to the employee raising the claims of discrimination, it can shift on the employer if employee can prove the strong likelihood of the incident.	2003
	Article 21 of the Law No. 6701 on Human Rights and Equality Institution of Turkey	If an individual applying to the institution can present a strong argument regarding the alleged violation of discrimination, then the party who is alleged to discriminate is responsible to prove that they did not violate the rule regarding the prohibition of discrimination.	2016
Equal treatment of men and women who are engaged in or contributing to an activity in a self-employed capacity	Article 6 of the Law No. 6701 on Human Rights and Equality Institution of Turkey	The discrimination against self-employed individuals based on their sex in terms of their acceptance to self-employment, license, registration, discipline and similar subjects is prohibited.	2016
Prohibition of discrimination between full-time	Article 5 of Labour Law No. 4857	Unless there are essential reasons for differential treatment, the employer must not make any	2003

Table 3 (Continued)

and part-time workers		discrimination between a full-time and a part-time employee.	
Prohibition of harassment and sexual harassment	Article 24 of the Labour Law	The working contract shall be terminated justifiably on the grounds of sexual harassment.	2003
	Penal Code	Description of sexual harassment as an offense was provided.	2004
	Article 417 of the Code of Obligations	Employer shall take necessary measures to prevent psychological and sexual harassment and to prevent further damage if an employee is exposed to harassment.	2011
Equal treatment of women and men in occupational pension schemes	Article 10 of Turkish Constitution	The principle that men and women have equal rights applies to both occupational pension schemes and statutory schemes of social security although there is no specific law regarding the subjects.	2004
Equal treatment of women and men in statutory schemes of social security			
Prohibition of direct and indirect discrimination in pay	-Article 5 of Labour Law No. 4857	Differential pay for work of equal value is not permissible.	2003
Equal pay for men and women for equal work or work of equal value		The fact that an employee benefits from protective measures because of his/her sex cannot be used to justify the payment of a lower remuneration.	

Table 3 (Continued)

Prohibition of unfavourable treatment of a woman related to pregnancy or maternity	Article 5 of Labour Law No. 4857	The employers shall not discriminate directly or indirectly against employees based on employee's pregnancy in the hiring process, condition of the work, and ending employment contract. Only exception to this are the reason which are biological or related to the job's nature.	2003
Protection against dismissal during pregnancy and maternity leave			
The right to return to the same or an equivalent job on terms and conditions which are no less favourable	Article 18 of Labour Law No. 4857	An employee's job contract cannot be terminated because of the absence during the maternity leave.	2003
The right to benefit from any improvement in working conditions	Article 55 of Labour Law No. 4857	The days that female employees do not work during the maternity leave is treated as they worked while determining their rights to annual leave.	2003
	Article 6 of the Law No. 6701 on Human Rights and Equality Institution of Turkey	The rejection of job applications on the grounds of pregnancy, motherhood and childcare by employers is not allowed.	2016
Permission for granting special rights, related to pregnancy and maternity, such as maternity leave	Article 21 of Labour Law No. 4857	Pregnant employees have the right to leave with pay during their pregnancy for their regular examinations.	2003
Maternity Leave (At least 14 weeks)	Regulation for Pregnant or Nursing Women	If deemed necessary in the physician's report,	2012

Table 3 (Continued)

		<p>the pregnant employee may be assigned to lighter duties without a change in her wage.</p> <p>Female employees who gave birth have the right to a maximum six months of unpaid leave after their paid leave</p> <p>Nursing employees have the right to feed their children younger than one year old for one and a half hour each day.</p> <p>Female employees have the right to sixteen weeks of maternity leave.</p>	
Parental Leave for at least a period of 4 months before the child is 8	Article 13 of the Labour Law as amended by the Law No.6663 on Amending Income Tax Law and Some Other Laws	<p>Although there is no specific legislation regarding Parental Leave, there are various leaves related with the parental responsibilities.</p> <p>After the end of the maternity leave, one of the parents have the right to work on a part-time basis until the beginning of the child's primary education.</p>	2016
Permission for positive action measures regarding employment	Article 10 of Turkish Constitution	The measures taken by the state to ensure that men and women have equal rights do not contradict with the equality principle.	Sentence added in 2010; Act No. 5982

## **5.2. Monitoring the Implementation of the Legislation and Policies Regarding Women's Employment in Turkey**

In the previous part of this chapter, an account of the laws affecting Turkish women's employment was introduced by comparing the periods before and after Turkey's acceptance as a candidate state to the EU. It is concluded that the amendments and changes in the laws since the beginning of the accession process in 1999 were successful to bring Turkey in line with the EU acquis regarding gender equality in employment to a great extent.

While the rights granted to Turkish women provided legal equality to a certain degree, the legislation regarding gender equality in employment was limited during the pre-accession period in Turkey. Also, the traditional values embedded in the legislation contributed to the exclusion of women from employment and gender segregation in the professions and working environments. The period after the recognition of the candidacy of Turkey in 1999; on the other hand, has witnessed an ambitious reform process regarding the equality between men and women in employment. The legislative reforms that have taken place during this period was successful to bring Turkey in line with the EU acquis on gender equality in employment while it also contributed to strengthen the position of Turkish women in labour market as independent individuals at least in the legal texts.

Although it is presented that Turkey was successful in terms of transposing the EU acquis on gender equality in employment to its legislation, it does not provide a complete assessment of the EU's impact. The harmonisation with the EU requires the candidate states to transfer the EU acquis into their national legislation in a correct manner as the first step. However, the success of the adopted laws' translation into implementation in a way to improve Turkish women's position should also be evaluated in order to provide a complete assessment of the impact of the EU on gender equality in employment in Turkey.

As an attempt to provide a complete account of the progress of Turkey since the beginning of the accession process on the issue, a review of the Progress Reports on Turkey published since 1999 will be provided in this study. In this way, the perspective of the EU regarding the progress of Turkey in terms of both transposition and implementation of the laws related to gender equality in employment will be presented. However, the data on these reports regarding the progress of Turkey in gender equality in employment is superficial and may be biased since it reflected the point of view of the EU.

In order to compensate for these shortcomings, this study will also focus on the expected outcomes of proper implementation of the EU acquis. While several problems identified by in the progress reports regarding the situation of gender equality in employment, this study follows the assumption that transposition and correct implementation of the EU gender equality legislation leads to improvement in these problematic areas. Therefore, Turkey's success in terms of translating the transposed gender equality laws into practice in a way to strengthen women's position in employment will be evaluated by analysing the change in gender equality indicators, which are relevant to the issues covered by the Progress Reports, during the accession process. Also, the availability of statistical data will be taken into consideration while choosing the indicators. For instance, 'average annual income from employment by gender' is used as an indicator since the EU prohibits direct and indirect discrimination in pay based on gender. In line with this, the income of men and women should be similar if the principle of equal pay is successfully implemented.

As an attempt to present more information regarding the benefits and limitations of the EU accession process on the issue, the following chapter will also present the findings of the interviews conducted with the members of women's CSOs who work in the field of employment will be conducted. In this way, it will be possible to find out their observations and perceptions about the implications of the

legislation change on gender equality in Turkey as a result of the EU accession process for the employment of Turkish women.

The Progress Reports are prepared by the EC on an annual basis to evaluate the progress of the candidate countries in the accession process. They reveal how much the candidate countries achieve in a given year vis a vis the expectations of the EU in 35 separate chapters of the *acquis communautaire*. As gender equality is a part of the EU *acquis*, the reports provide useful insights about candidate countries regarding the situation of gender equality in employment. They also reveal the progress of candidate countries from a historical perspective since they have been published annually since 1998.

The chapters of *acquis* relevant to gender equality in employment are Chapter 19 (Social Policy and Employment) and Chapter 23 (Judiciary and Fundamental Rights). Chapter 19 deals with standards in employment including equality, anti-discrimination, health and safety at work as well as social inclusion and protection. Provisions regarding gender equality in employment are mostly addressed under this chapter. Chapter 23 also has a gender aspect as it aims to enforce human rights protection for specific groups including women. Under this chapter, candidate states are evaluated for their legislative and institutional framework on equality between women and men regarding the issues like discrimination against women and gender-based violence.

The European Commission has published progress reports for Turkey as well as other candidate countries since 1998 when the Directorate General for Enlargement was established. Only exception to this happened in 2017 when the EC did not publish any progress reports for candidate countries since 1998. Although they are commonly referred to as the Progress Reports, the reports that will be reviewed in this study have been published under the title of ‘Regular Progress Report for Turkey’ Report’ in the period of 1998-2005 while they have been named as

‘Turkey Progress Report’ from 2006 to 2014. Since 2018, the title of ‘Turkey Report’ has been used by the EC.

In the reports prepared by the EC for Turkey, country’s performance in ensuring gender equality is evaluated from various aspects in line with the requirements of the EU acquis. While the early reports mainly focus on the legal aspect of gender equality in employment in Turkey, the EC has included to the reports the availability and efficiency of institutions as well as the performance of Turkey to implement legislation to the reports, which has also been supplemented with additional data and statistics on gender equality since 2005.

In the early years of the accession process, the degree of alignment of Turkish legislation with the EU acquis was limited regarding gender equality in employment. The Progress reports published from 1998 to 2002 highlighted the discriminatory provisions in the Civil Code including the requirement for women to obtain the permission of their husbands to be able to work, which was incompatible with the principle of equal opportunities. Therefore, introduction of a new Civil Code in 2002 which abolished the discriminatory provisions was perceived as a positive development by the EC.

Regarding the protection of pregnancy and maternity, the reports praised the extension of maternity leave to 16 weeks as well as regulations on working conditions of pregnant and breastfeeding women and on working conditions of women in night shifts, which aim to bring Turkish legislation in line with the Directive on the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding. The legislative amendment granting public servants the right to paid maternity leave of 16 weeks and the possibility to return to the same post, if they apply for it, at the end of their maternity leave was recognised as another positive development in the report published in 2009.

The provision of family and life reconciliation measures is one of the most problematic issues in the progress reports. The 'package law' adopted in 2011 incorporated several amendments concerning parental rights, particularly for civil servants. However, as a result of these amendments, while the parental rights of civil servants have improved, the gap between workers and civil servants has widened. In 2016, tax incentives supporting the creation of private nurseries and day-care establishments were introduced.

However, these developments were not able to adequately address the issue. The lack of institutions and services providing care for children, the sick and the elderly people continues to hinder women's employment, while the relevant legislative and institutional mechanisms needed to balance family and working life are still lacking as of 2019.

Despite several positive developments including the circular issued by the Turkish Employment Agency banning gender-based discrimination in job matching services and allowing employment of male nurses in 2007, the principle of non-discrimination is not also sufficiently protected by law or enforced fully in practice in Turkey as reported by the progress report of 2019.

The progress reports evaluated the position and contribution of various institution in terms of their contribution to ensuring gender equality. Establishment of the Directorate General for the Status and Problems of Women in 2004, the Advisory Board on the Status of Women in 2005 and a consultative parliamentary Committee on Equal Opportunities for Men and Women in 2009 was praised in the progress reports while the need to strengthen their administrative capacity was also regularly emphasized. While Turkey established several institutions dealing with gender issues during the accession process, the equality body required by the EU acquis has not been established until 2016, and this was highlighted regularly in all progress reports since 2015.

The Progress Reports published in 2008 and 2011 involved the problems of Turkish civil society organisations working in the field of gender equality. Regarding the consultations organised by the government on the direction and implementation of gender policy, it was reported that only a limited number of organisations were involved in the consultation process. While CSOs working for gender equality face financial difficulties, their statements about the public institutions' biased attitude in favour of pro-government organisations found place in the 2011 report.

The progress reports have identified the problems in terms of gender equality in employment especially after the second half of 2000s. In the progress reports, the low rates of women's participation to labour, gender-based discrimination in the workplace, limited provision of work and family life measures have always been raised as points of concern by the EC. Although 'equality between women and men is in place in the legislative and institutional framework' as stated in the last Progress Report published in 2019, the problems identified in the earlier progress reports remained unsolved which are presented in the Table 4.

Table 4

*The problems in Turkey in terms of gender equality in employment*

Women's low presence in formal economy	<p>Women's participation in the labour market is still very low.</p> <p>Women entering the labour market are likely to be employed in the informal sector including unpaid work in agriculture.</p> <p>Women continue to be predominantly employed in low-skilled jobs.</p>
Gender Pay Gap	Turkish women earn less than men for work of equal value.
Insufficiency of Work and Family Reconciliation Measures	The provision of affordable child and elderly care services is insufficient. The quality of support services is low.

Table 4 (Continued)

Discrimination based on Pregnancy and Maternity	Some women are dismissed or discouraged to work as a result of being pregnant or having children.
Discrimination and harassment against women in employment	Discrimination in recruitment based on gender, occupational segregation, women's low representation at management levels in the public and private sectors, bullying and sexual harassment at work are still common problems.
Lack of strong political commitment to gender equality	Frequent public statements of high-level officials reflecting a conservative view of the role of women

To begin with, the Progress Reports on Turkey argues that the level of women's presence in formal economy is insufficient. Although the legal framework relevant to women's access to employment is in place, Turkish women's participation to labour is significantly low compared to men and there has been no significant improvement in this area as shown by Figure 1.

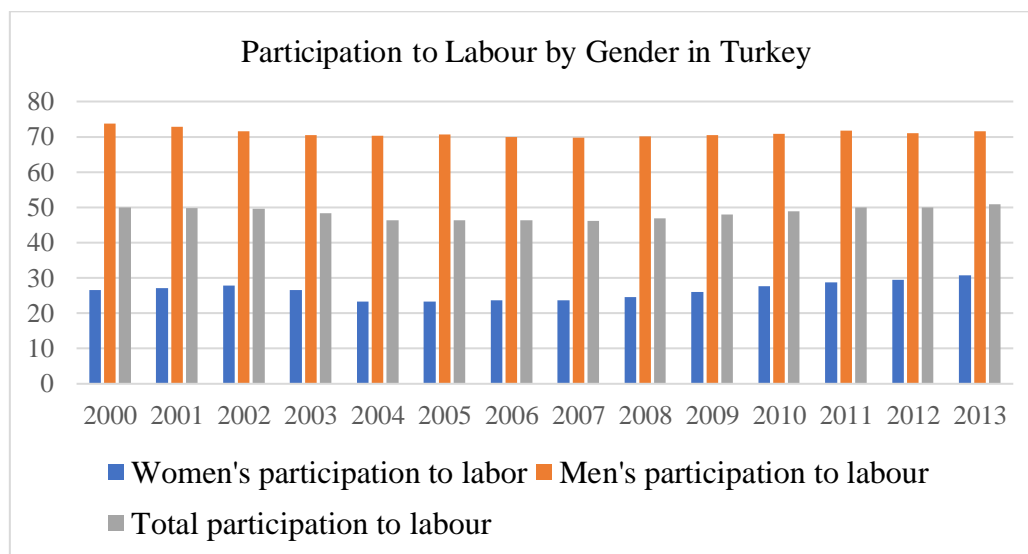


Figure 1. Participation to Labour by Gender in Turkey. Data from Turkish Statistical Institute.

The low levels of women's participation to labour compared to men is a problem that persists in Europe. However, the gap between the rates of participation to employment by gender is deeper in some countries compared to the others as it is the case for Turkey. Figure 2 illustrates that the rate of female participation to labour in Turkey is the lowest among the EU member countries and compared to some candidate countries.

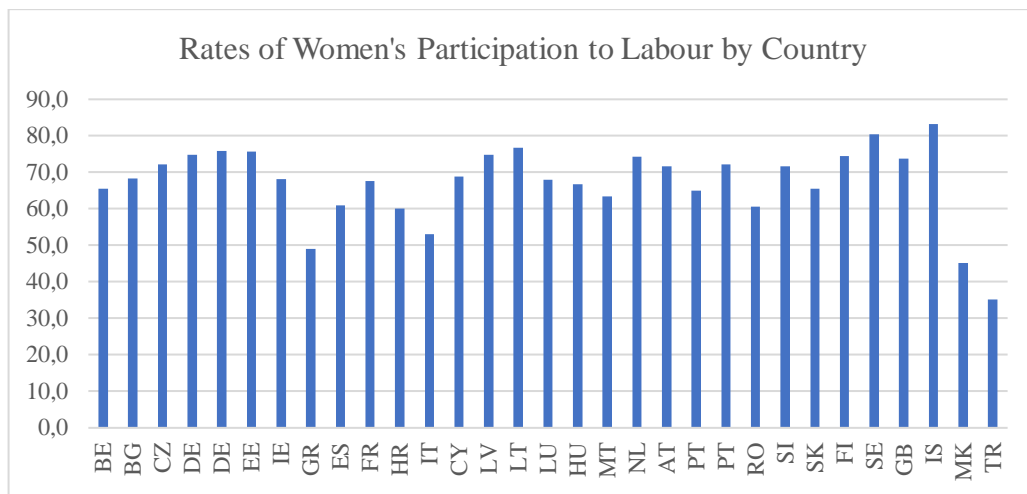


Figure 2. Rates of Women's Participation to Labour by Country. Data from Gender Statistics of the EC.

According to the Progress Reports on Turkey, women's employment in informal sector is another problem. The Informal employment is prevalent in Turkey regardless of gender. However, the Labour Force Statistics of TSI reveals that the rate of women working in the informal sector compared to men is significantly higher. While Turkish legislation ensures the provision of the rights of women including in the cases of pregnancy and maternity, they are not in effect in the informal sector. As a result, workers employed in the informal sector have limited access to social security, healthcare, retirement and severance payment since they work in an unrecorded manner. Also, they tend to suffer from working hours longer than stipulated in Turkish legislation, poor working conditions including lack of assurances regarding work safety of the employees. Therefore, it is necessary to

create more formal employment opportunities for women in order to improve their working conditions and position in the labour market.

The principle of equal pay was incorporated into Turkish legislation as early as 1967 following the ratification of the International Labour Organisation (ILO) agreement retirement and severance payment since they work in an unrecorded manner. The prohibition of discrimination regarding pay based on sex was prohibited in the Labour Law No.1475 enacted in 1971.

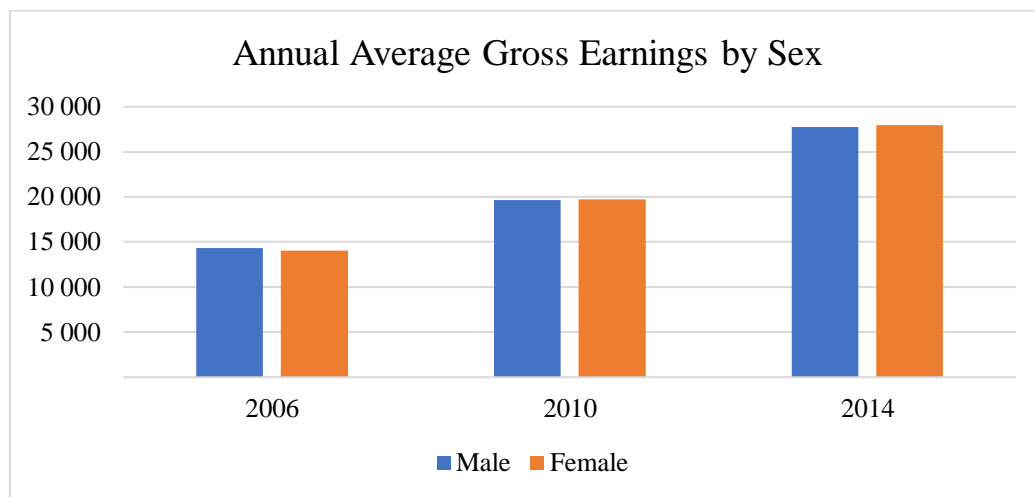


Figure 3. Annual Average Gross Earnings by Sex. Data from Turkish Statistical Institute.

Although the legal basis for prohibition of discriminatory practices in remuneration is available since 1967, the Progress Reports state that Turkish women earn less than men for work of equal value. On the contrary, the gender pay gap calculated based on the annual average gross wages by sex in Turkey shows that there was a 0.7% gender gap in Turkey in 2014 based on the statistical data of Turkish Statistical Institute in favour of women as seen in the Figure 3 while there were a slight difference between the incomes of men and women in the years of 2006 and 2010.

A detailed analysis on pay gap between women and men at all educational levels, on the other hand, reveals that men earn more than women on average regardless of their educational attainment. In 2014, women completing higher education earn 1.3% less than male workers at the same education level. The pay gap was the deepest between male and female employees graduated from high school with 1.8%.

This contradictory situation is caused by the difference between women and men in employment in terms of their distribution to different educational levels. The fact that most of the women in the labour market graduated from higher education while men completing the primary school or below dominates the labour market. Since women have higher levels of educational attainment, they earn more compared to men in average.

Another problem affecting women's participation to labour is their household and care responsibilities. The Progress Reports on Turkey argues that the services provided for child and elderly care is inadequate in Turkey both in terms of number and quality. It is usually women who undertake these responsibilities and perform care duties when the access to care services is limited. This, in turn, may result in their exclusion from labour market as in the case of Turkey. The study of Turkish Statistical Institute regarding the reasons of not being in labour force shows that the primary reason of women's inability to work is their household responsibilities with almost 40% in 2018.

In Turkish society, the care of children, elderly and disabled people are usually seen as the responsibility of women. The day care of 86% of children in Turkey is provided by their mothers while the use of nurseries or kindergartens for the care of children is quite low with 3% among all day care options according to statistics regarding the daycare of kids provided by Turkish Statistical Institute in 2016.

According to the Progress Reports on Turkey, a problem that has persisted in years is discriminatory practices against women in the labour market. Discrimination in recruitment based on gender, occupational segregation, women's low representation at management levels in the public and private sectors, bullying and sexual harassment at work are still common problems. The interviews conducted with the members of the women's organisations as a part of this thesis also indicates that although the legal framework protecting the rights of women in employment is in place, there are still various ways to discriminate against women in the workplace in a legitimate way in Turkey. While the discrimination against women in the recruitment processes affect women's access to employment opportunities negatively, discrimination and harassment at work may cause women to quit their jobs. The discrimination between men and women in terms of accessing management positions is prevalent in Turkey as revealed by the Figure 4, which was prepared based on the statistical data of Turkish Statistical Institute. While it is the men who usually occupy these positions, women do not have equal chances for promotion. In 2012, almost %90 percent of management posts were held by men. This situation has been improved only slightly in years.

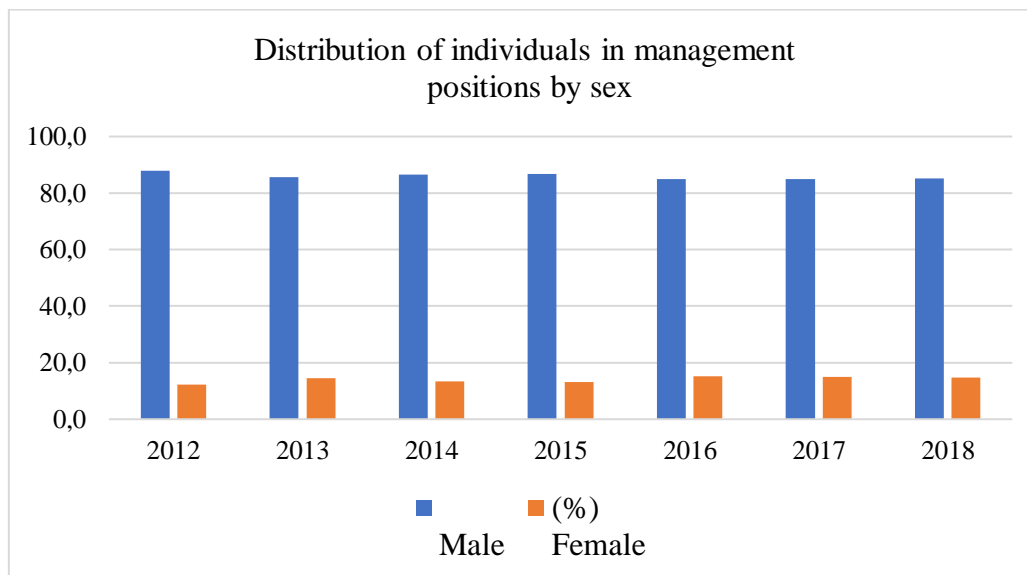


Figure 4. Distribution of individuals in management positions by sex. Data from Turkish Statistical Institute.

Finally, regarding the implementation of the gender equality laws transposed to Turkish legislation, the Progress Reports criticizes the government with not showing a strong will. The unwillingness of the government is especially revealed in the statements of public officials praising traditional values on gender equality according to the Progress Reports.

While the official approach of Turkish government regarding gender issues has been more positive after Turkey obtained the EU candidate status, it has changed over time that led to the criticism in the Progress Reports. According to Aybars and Ayata (2019), the approach of the government to gender equality can be analysed under three different periods. In the 2002-2007 period when most of the legal changes regarding gender equality has taken place, the attitude of the government toward gender equality and women's organisations was positive and supportive. Despite the conservative nature of the Justice and Development Party (JDP) government, it had a strong commitment to the EU accession process during this period. Therefore, it had a positive climate that made legal reforms possible which improve gender equality at least on paper.

In the second period from 2007 to 2013, the government's ambitious commitment for complying with the requirements of the EU has weakened gradually in all areas including gender equality. Instead, the government proceeded with a more conservative discourse regarding women's issues emphasizing women's place in family rather than in employment in line with the traditional values.

After 2013, the women's issues have been handled by the government in a conservative way like the previous period while it was also reflected in the statements of the public officials more and more. The position of the government on women's issues was supported by the pro-government women's organisations as well as some circles of academia.

This is also reflected in the conceptualization of gender equality in Turkey. The official approach of Turkish government regarding gender issues is based the concept of gender equality, which is also stipulated in the Turkish legislation. In this respect, it is in line with the EU's vision of gender equality. However, there has been a shift from gender equality to gender justice in discourses of high-level public officials especially after 2013. The adoption of gender justice concept was also followed by conservative women's CSOs in Turkey, which created a dichotomy among different lines of women's movement.

In conclusion, the performance of Turkey in translating the laws regarding gender equality into practice in a way to improve the position of women in labour market was not as successful as its process of transposition of the EU gender equality laws into its legislation. Although the legal framework ensuring equal opportunities and treatment between men and women in employment is broadly in place, it has not completely eradicated the problems of labour market related problems of women.

It is certain that Turkey has made progress in terms of gender equality in employment to a great extent in terms of transforming its legislation and in a more limited way regarding the implementation of the relevant laws to strengthen women's position in employment and ensure gender equality during its accession process. However, improvement regarding gender equality in employment may be the impact of domestic actors instead of the EU as well. Separating the impact of the EU from domestic elements is a difficult task as they usually work together to create change.

As an attempt to mitigate the difficulty of analysing the impact of the EU compared to the domestic actors, the perceptions of the women's CSOs who work in the field of employment will be involved into the study. In the following chapter, the results of the interviews with the members of women's CSOs will be presented. In this way, more information regarding the benefits and limitations of the EU accession process on the issue will be provided while it will also be possible to find

out their observations and perceptions about the implications of the legislation change on gender equality in Turkey as a result of the EU accession process for the employment of Turkish women.

## **CHAPTER 6**

### **ADVANCING WOMEN'S POSITION IN THE LABOUR MARKET IN TURKEY: WHOSE IMPACT IS IT?**

In the previous chapter, it is shown that Turkey has made progress in terms of gender equality in employment to a great extent in terms of transforming its legislation and in a more limited way regarding the implementation of the relevant laws to strengthen women's position in employment and ensure gender equality during its accession process. However, the fact that all developments occurred after Turkey's candidacy to the EU does not prove the existence of a causality. In other words, the positive developments regarding gender equality in employment may be the impact of domestic actors instead of the EU as well.

In this chapter, the contributions of the one of the most significant domestic actors which work for advancing gender equality in Turkey, which is the women's CSOs, to the progress on women's employment that has taken place during the accession of Turkey to the EU will be discussed. In the first part, the achievements of women's movement prior to the EU candidacy status that had been granted to Turkey in 1999 will be presented. In the second part, how the EU and women's CSOs work together to create change will be explained, which was followed by an account of the tools that the EU uses to support women's CSOs.

In the previous parts of the study, the impact of the EU on gender equality in employment in Turkey is examined at the level of both transposition of legislation and implementation of the adopted laws. As an attempt to present more information regarding the benefits and limitations of the EU accession process on the issue, the results of the interviews with the members of women's CSOs who work in the field of employment will be presented in this chapter, which involve their observations

and perceptions about the implications of the legislation change on gender equality in Turkey as a result of the EU accession process for the employment of Turkish women.

While several specific improvements identified in the previous chapters regarding gender equality in employment, this study adopting a bottom-up research methodology recognises the importance of domestic actors to achieve any domestic change. In other words, it does not assume that any improvement in the position of the women in the labour market is the impact of the EU accession process. Instead, it treats the EU as one of the possible causal factors of the change together with other international and domestic actors. As an attempt to discern the impact of the EU from other variables and to learn more about its interaction with them, the women's CSOs will be asked whether they attribute any improvement in women's employment to the impact of the EU mitigates the difficulty of analysing the impact of the EU compared to the domestic actors.

### **6.1. A Brief History of the Achievements of the Women's Movement in Turkey in the Pre-accession Period**

Although the history of women's movement dates to the Tanzimat period, it is accepted that the first wave of women's movement in Turkey emerged with the foundation of the Turkish Republic. After her party aiming to improve women's rights was shut down as a result of the unreadiness of the state to deal with multi-party regime yet, Nezihe Muhittin established the Turkish Women's Union (Türk Kadınlar Birliği). Women's demands regarding their civic and political rights were voiced in an organised manner under the Turkish Women's Union, which were in line with the reform process in the early years of the Republic.

Integration of the rights of Turkish women into the laws and policies during the early years of the Republic was mostly led by the state itself. As a result of this 'state feminism', Turkish women were granted rights which were considered as

extraordinary for the time being. Arguing that the women already had equal status with men, the state demanded Turkish Women's Union to close in 1935 since its existence was deemed unnecessary.

Within this context ending the first wave feminism in Turkey, it was not until 1970s that the needs and demands of women were raised again. While there were no separate women's organisations during 1970s, women organised under socialist organisations' women's branches such as the Progressive Women's Organisation, which was affiliated with the Communist Party of Turkey. Although they address the problems of especially working mothers such as maternity leave and day care services, they haven't identified themselves as feminists.

The military coup in Turkey in 1980 ended the existence of such structures including the Progressive Women's Organisation. Despite the unfavourable domestic conditions for civil society created by the military coup, Turkey's increasing association with the West in 1980s facilitated the emergence of the second wave of feminism in Turkey (Arat, 2000). The women's movement in Turkey dealt with the issues such as oppression and violence against women, the unequal position of women in family and sexual harassment during this period. The issues raised during this period were in private realm accommodating the ideas of the new wave of feminist movement in Western countries, which were different compared to the first wave feminist movement that mostly focused on the problems in the public realm.

The second wave of feminism in Turkey started as small awareness raising groups. Foundation of independent magazines revealing the frequency of violence and harassment that women faced in Turkey were followed by mass public protests and campaigns during 1980s. The first public demonstration that were organised in large scale by women's movement was took place in 1987. In the 'Women's Solidarity March against Violence', women protested male violence and oppression. Although the members of second wave of women's movement were

mostly educated and from the middle class living in the big cities, it attracted a more diverse and large population compared to the first wave.

In the 1990s, different lines of women's organisations emerged incorporating alternative visions regarding gender issues, which is accepted as the beginning of third wave feminism in Turkey. They offered divergent visions on the reasons of and solutions to gender inequality mostly based on their ethnic and religious backgrounds as well as sexual orientations. For instance, the rise of Islamic feminism in 1990s raised the issue of headscarf ban. While this situation contributed to the diversity of civil society in Turkey, it also made the coalitions among women's organisations more challenging.

During the pre-accession period, women's movement in Turkey followed a parallel path with the development of three waves of feminism in the West (Diner & Toktas, 2010). Although emergence of an independent women's movement has been delayed until 1980s, it evolved in a relatively short period of time. From its beginning in 1920s to the 1990s, the number of women's organisations has increased dramatically. While there were about 100 registered women's organisations in 1980s, it rose to more than 350 in 1990s (Tekeli, 2006). Along with the proliferation of women's organisations, women's movement also expanded to the different parts of Turkey from large metropolitan areas (Keysan, 2012).

According to Keysan (2012), institutionalisation of women's movement also took place in Turkey during 1990s. The women's organisations established strong networks especially with government institutions and improved their lobbying activities as well as taking various actions such as organising petition campaigns and public debates. This, in turn, increased their influence over the policies of the government, which contributed to the government's recognition of women's problem as well as related policy developments.

## **6.2. The Work and Impact of the Women's Organisations on Gender Equality during the Accession Process of Turkey**

Turkey's acceptance as a candidate state in 1999 has created a favourable atmosphere for the work of women's CSOs. The fact that Turkey had to bring its legislation in line with the EU acquis strengthened their position in terms of putting pressure on the government to reform the Turkish Penal Code, Civil Code and Labour Law involving discriminatory clauses against women.

In 2001, the coalition of more than 120 women's organisations initiated a large-scale campaign for amending the Civil Code, which incorporated several articles in discordance with the principle of gender equality. In the same year, a new Civil Code has passed, which abolished the articles assigning the husband to represent the marriage as the head of the family and requiring women to obtain the permission of their husbands to be able to work. In this way, the equality between men and women in the Civil Code was established.

Shortly afterwards this campaign, several women's organisations came together for another campaign to amend Penal Code under the Platform for the Reform of the Turkish Penal Code. The campaign had lasted for three years from 2002 to 2004 until the adoption of the new Penal Code in 2004. The new Penal Code introduced several legal changes improving women's rights such as the criminalisation of harassment either in the workplace or marriage as well as the prevention of sentence reductions for honour killings.

The campaigns organised by the women's organisations raised awareness about the subject and put pressure on governments to realize the change of legislation. However, the response of the government tended to be slow to the demands of the women's organisations. While they influenced the agenda of the government by raising the issue of gender equality, the process of legal change could have been delayed if the EU accession process would not require these amendments (Gunduz,

2004). In other words, the role of the EU accession process to accelerate and facilitate the process was noteworthy. The prospect of being a member state of the EU provided a strong motivation for the government to realize the legal reforms demanded by women's organisations in a short period of time.

The period between the recognition of the candidacy of Turkey in 1999 and beginning of the accession negotiations in 2004 created a favourable environment for realization of the demands of the women's organisations, which were in line with the gender equality vision of the EU. Despite the positive climate of the early 2000s, the relations of the government and women's organisations has been deteriorated with gradual detachment of the government from the EU accession process and adoption of a more conservative attitude and discourse on women's issues (Aybars and Ayata, 2019). The Gezi events of 2013 also contributed to the growth of the distance between the civil society and government as well as the polarization among women's organisations.

Declining commitment by Turkey for the harmonisation of its legislation with the EU acquis after this period made it more difficult for women's organisations to use the leverage of the EU. The lack of communication between women's organisations who are not overtly pro-government and the government also has made it challenging for them to persuade the government to pursue further gender equality legislation and policies.

### **6.3. Why and How Does the EU Support Women's Activism in Turkey?**

The EU considers the civil society organisations as a vital component and proof of a functioning democracy, in which citizens can freely organise to engage in activities for communicating their needs and demands as well as influencing governmental policies. Through supporting and empowering the civil society, the EU intends to ensure that its norms and principles are successfully incorporated into domestic policy structures and to foster a stimulating participatory democracy.

Gender equality is one of the core values of the EU, which is promoted within and beyond its borders. Since the women's organisation play an important role in empowering women and improving gender equality, they contributed to the enforcement of the principles of the EU regarding gender equality in the accession countries. Therefore, their work is important and supplementary to the efforts of the EU.

As underlined in the Guidelines for EU support to civil society in enlargement countries (2014-2020), the empowerment of the CSOs in the candidate countries are significant for two reasons. Firstly, considering the candidate countries face challenges in many areas including democratic governance, rule of law and fundamental rights, the contribution of civil society organisations (CSOs) becomes even more significant in the accession context. This is because CSOs have great potential to influence and support governments to meet the demands of the accession process.

In addition to their transformative potential, CSOs contributed to the accession process by conveying the requirements and direction of the accession process to the citizens. In this way, engagement of the citizens into the public debate and decision-making processes about the accession process is ensured, which would otherwise remain limited to the domain of the government. The EU's willingness to involve citizens through CSOs in the accession process is related to the increase the legitimacy of and public support for it. According to Pérez-Solórzano (2016), the EU is concerned with creating a public space in the candidate countries where the accession process is not only debated but also supported by the citizens.

The EU' work to empower civil society organisations in Turkey through legal, financial and technical support (İçduygu, 2011). The Guidelines for the EU support to civil society in enlargement countries (2014-2020) presents two main objectives of the tools and activities that the EU employs to empower CSOs. Firstly, the EU works to create a conducive environment that the CSOs can freely organise and

exercise, which can be classified as ‘legal support’. A conducive environment implies the availability of necessary regulations granting the CSOs the rights to freedom of expression, assembly and association as well as financial benefits and support.

The accession process, which may lead to the redistribution of power in a way to strengthen the position of civil society organisations (CSOs) in the decision-making processes, offers more than a ‘conducive environment’. In this process, introduction of new legislation in line with the EU *acquis* strengthens the civil society organisations to influence decision making process of the governments (Parau and Bains, 2008) and facilitates them to pursue their interests.

Secondly, the EU provides technical and financial assistance to the CSOs to develop their capacity in enlargement countries to the point that they become efficient, self-sufficient and independent organisations. Capacity development includes a range of areas such as improving the autonomy, transparency and accountability of the CSOs, widening their geographical reach and member base. As emphasized in the Guidelines for the EU support to civil society in enlargement countries (2014-2020), the EU funding, which is one of the main tools of the EU for supporting CSOs, also aims to transform CSOs in a way to become less dependent on funding from donor organisations by strengthening their financial capacity.

The changes and amendments in Turkish legislation in the accession process contributed to the establishment of an environment that CSOs can function freely. With the contribution of the EU funding which is provided directly by the EU institutions or indirectly through national funds, both the number of the CSOs in Turkey and the projects conducted by them has significantly increased. To illustrate, the number of active associations has increased from 72364 in 2001 to 117180 in 2019, which is shown in the Figure 5.

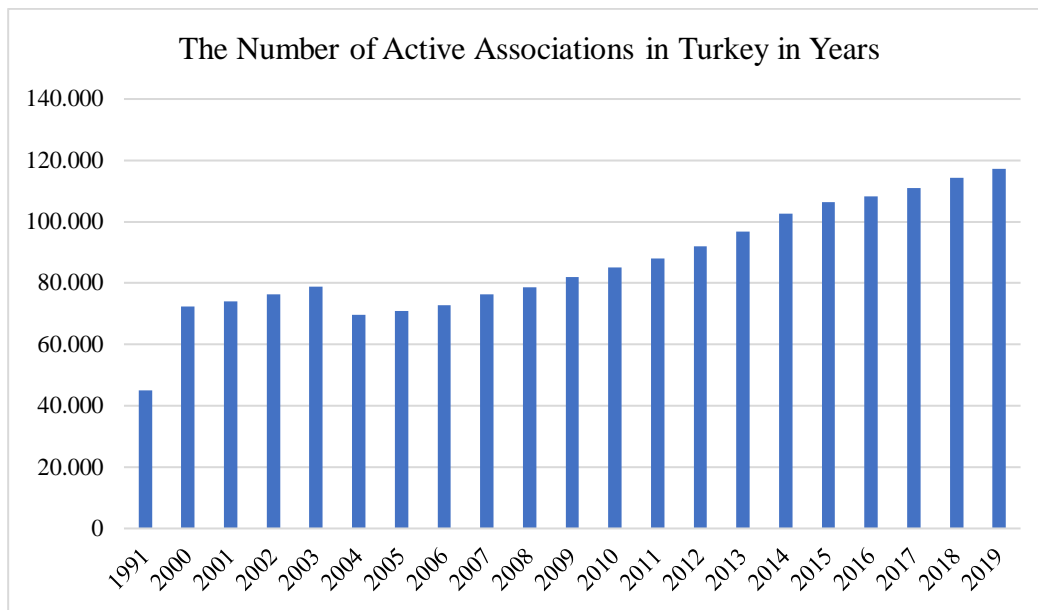


Figure 5. The Number of Active Associations in Turkey in Years. Data provided by the Ministry of Interior Directorate General of Civil Society Affairs.

In line with this ‘CSO-isation’ trend, women’s organisations are also proliferated since 1999. They have increasingly participated in funding schemas and received significant funding from the EU that supported them to realize their projects. This significant increase in the number of women’s organisation led by mainly the funding opportunities offered by international donors and primarily the EU raised the questions about the sincerity and intentions of new established organisations.

In this line of criticism, it is argued that the funding mechanisms of the EU are driving women’s organisations away from the principles and spirit of feminism, which has turn it into ‘project feminism’. The women’s organisations whose main motivation is assumed to be receiving funding from international organisations. As a result, the end of funding risk their existence. Also, they tend to focus on the priorities of the EU in a superficial way to increase their chances to get funded. As a result, it is argued that the funding given to support their projects does not lead to any significant improvement in women’s position.

#### **6.4. Perceptions of the Women's CSOs regarding the Contribution of the EU to Gender Equality**

In the previous parts of the study, the impact of the EU on gender equality in employment is examined at the level of both transposition of legislation and implementation of the adopted laws. The performance of Turkey in terms of implementation is evaluated based on the indicators of the expected outcomes of transposed gender equality laws. Regarding gender equality in employment, there is a limited amount of data which is available since the beginning of the accession process. Therefore, an evaluation through the indicators, which is chosen based on the availability of data, has significant limitations to reveal whether the legislation change could be translated in practice to improve gender equality in employment.

The evaluation of the success of the implementation is supplemented by a review of the Progress Reports on Turkey published since 1999. However, the data on the progress of Turkey regarding gender equality in employment is superficial and may be biased since it reflected the perspective of the EU.

As an attempt to present more information regarding the benefits and limitations of the EU accession process on the issue, the interviews with the members of women's CSOs who work in the field of employment is involved into this study. In this way, their observations and perceptions about the implications of the legislation change on gender equality in Turkey as a result of the EU accession process for the employment of Turkish women will be presented.

Although several specific improvements identified in the previous chapters regarding gender equality in employment, it may be the impact of domestic actors instead of the EU as well. Separating the impact of the EU from domestic elements is a difficult task as they usually work together to create change. Involvement of the perceptions of women's CSO into the study regarding whether they attribute

any improvement in women's employment to the impact of the EU mitigates the difficulty of analysing the impact of the EU compared to the domestic actors.

The interviewees of this study are member of the women's organisations which conduct activities in the field of women's employment and have been engaged in EU-funded projects or activities. They have different roles and positions in the women's organisations including the two founders, two board members, one project officer and one representative in a foreign country. They are actively engaged in the women's movement since the early years of their career. Two of the interviewees are employed full-time in women's organisation while four of them have other professions and engaged in the activities of the organisation in their spare times.

All the interviewees agreed that the EU and the accession process has contributed to gender equality in employment in Turkey. They also referred to the impact of civil society organisation in Turkey and/or international organisations especially in the context of the international conventions that Turkey ratified when they explain the change. Their opinions about how, when, how long and on what areas this impact has occurred, on the other hand, are varied. Also, a common narrative in the accounts of the interviewees is constructing the government as an actor that needs to be persuaded and the EU as an ally that support them to pursue their interests and appease the opposition from both the government and society.

When the interviewees explain how the EU contributed to gender equality in Turkey, the members of women's organisation tended to attest various roles to the EU and explain its contribution based on these roles. In line with this recurrent narrative in the data, the findings are presented as four interrelated themes based on the various roles played by the EU in supporting gender equality in Turkey: The EU as a fading normative reference point, the EU as a game changer, the EU as a restrictive financial provider and the EU as a 'magic wand' with limited powers.

The benefits and limitations of the EU's work and the accession process in terms of improving women's employment is also sorted in line with the themes.

#### **6.4.1. The EU as a Fading Normative Reference Point**

In response to general questions on the impact of the EU on gender equality in employment and its support mechanisms, most interviewees noted that the EU provides them with a normative reference point that they can justify their work and position. Since the women's ideal role in Turkish society is constructed as mothers and wives, it has been a challenging task to advocate for gender equality in employment for Turkish women's organisations as expressed by the Interviewee 4:

The concept of gender equality and feminism has negative connotations for a certain segment of society. The idea that their wives and mother leave their care-taker positions and start to work terrifies them. Such conservative values have also been adopted by most governments in Turkey, which makes it even more challenging to stand for gender equality during the history of the republic.

They expressed that the EU accession process facilitated the mobilization of the government to introduce reforms in gender equality. When the enforcement of principle of gender equality is tied with the EU membership, some interviewees observed that they face less opposition. While the answers of the interviewees on the willingness of the government to support gender equality vary, most of them agreed its connection to the carrot of the EU membership "makes it legit to stand for women's rights especially when the credibility of the accession process was still high".

The momentum created in this process has faded in time, which has been slowed down the reform process and decreased the commitment of the government. In line with this trend, the interviewees noted that it has become more challenging to

persuade governments to engage in further gender equality activities by using the leverage of the EU. As argued by the Interviewee 6:

The discourse on ending the accession process and a hostile attitude toward the EU is common in public as well as at the level of government because the accession process is turn out to be a disappointment to them. In this context, even sustaining the acquired rights in the accession process is a challenge let alone persuading government to introduce new reforms for harmonising with the EU.

On the other hand, it is identified that the interviewees still refer to the EU as a normative reference point even it lost its initial transformative power as revealed by the Interviewee 2:

Even the accession process has slowed down, we still need the EU because we have no other feasible option. The EU sometimes causes disappointment and frustration for women's organisations, too. However, the fact that it is still there to support us and provide us with various supporting mechanisms matter a lot.

The accounts of the interviewee revealed that their vision of gender equality is in line with the one of the EU to a great extent. One interviewee expressed the internalisation of the gender equality norms and values of the EU in some women's organisations as 'Turkish women's organisation became a part of the EU before the Turkey'. Some interviewees expressed that the concept of gender equality is not imported from the EU, it is inherited in the founding values of the modern Turkish Republic. The Interviewee 5 stated:

I believe that gender equality principles of the EU suits very well to the needs of Turkish society after I see that they exactly match with the values adopted in the early years of the Republic.

Although the interviewees embrace the gender equality values of the EU, they do not represent the point of view of the average Turkish citizen. The gap between the values of many Turkish citizens and the EU is recognised by most interviewees.

However, some interviewees pointed that the support mechanisms of the EU, especially the EU funding contributed to a change in this conservative mindset:

Many women were not aware that they were discriminated, harassed and oppressed, therefore it would not make sense to expect them to stand up for themselves and demand their rights. The concept of gender equality travelled to various parts of Turkey through the EU-funded projects. Even those projects could not provide employment opportunities for women, they created an awareness that women should demand equal treatment in hiring processes and workplace. Not only the funding... The reports, especially the progress reports, opened many gender issues into public discussion for the first time.

While the relations between Turkey and the EU deteriorates, the differences between the values of Turkish society and the values and principles of the EU become more visible in the public discourse as well as in the statements of the ruling elite, which is revealed by the Interviewee 6 as:

The conservative values existing in society is become more apparent and legitimate especially in the last 4-5 years. This mindset is not even close to the vision of the EU on gender equality. This limits everything that has been done to improve gender equality until now, including the implementation of adopted laws.

During the interviews, it is also noted that the women's main role as care providers for their family is so embedded in Turkish society that it is possible to find discourse in line with this view even in the accounts of the interviewees who have been engaged in women activism for years may define themselves. In different contexts, two interviewees (Interviewee 3 and 4) are defined themselves as the 'firstly the mother of their children' in different contexts.

#### **6.4.2. The EU as a Game Changer**

All interviewees agreed that the legislation of Turkey has changed positively regarding gender equality in employment. They perceive the reforms in this area

including amendments and changes in the legislation as positive developments. Also, they believe that the EU positively contributed to the reform process. Their answers, on the other hand, regarding the significance of the roles played by domestic and international actors including the EU in terms of initiating these reforms differ.

Some interviewees argued that women's organisations must be given more credit for persuading the government to make the reforms they demanded, which is expressed by the interviewee 1 as:

Women's organisations have been already working for equal rights long before the EU candidacy of Turkey. The issue has been discussed even during the Ottoman period. Women's organisations have worked since then... I cannot say that the EU accession process is the responsible for reforms since we have worked so hard for it.

The interviewees emphasizing the role of the domestic actors pointed that a top-down approach could not lead to success for ensuring gender equality in Turkey. It is the attitude of and power relations between domestic actors what really matters according to them.

Three interviewees (I1, I2 and I4) referred to other international organisations such as the United Nations (UN) and World Bank as well as International Conventions that Turkey is a part of when they explain the change and reforms regarding gender equality in employment in Turkey. Two interviewees (I5 and I6) argued that they facilitated the work of women's organisation when the EU leverage was not available. As they precede the Turkey's candidacy to the EU, the interviewees recognised their contributions to create pressure on the government to initiate necessary reforms especially in 1980s and 1990s.

The interviewees, who gave reference to the international organisations and conventions, were also asked about their perception on the significance of their

impact vis a vis the EU's. They had clear views about the fact that the EU has an unprecedented influence on domestic structures of Turkey:

I cannot deny that they contributed to gender equality in Turkey substantially. They matter for women's movement in Turkey, I would not say that they did not. However, I must also admit that the role of EU has been especially important because when you became a candidate to the EU, you have the responsibility to take the steps required by your candidate status. Not complying with the requirements of other international conventions, for instance, has no serious consequences for the government. It is not like that with the EU.

While they referred to domestic and international actors to explain various developments, most interviewees agreed that amendment of Turkish legislation in line with the principles of gender equality is made possible by the EU. The Interviewee 6 explained this situation as:

The EU has changed the game on behalf of the women's organisations. While we have demanded these changes for several years, we had to deal with a patriarchal mindset, which would not change anything just because some women told them to do so. However, they acted immediately when our demands are in line with the EU requirements and closely linked with the membership prospect.

#### **6.4.3. The EU as a Restrictive Financial Provider**

The funding of the EU as a mechanism to support gender equality is covered by all interviewees in the interviews. The frequency of the occurrence of the issue in the accounts of the interviewees is the highest among other issues. As the members of the CSOs who have received funding from the EU, they all recognised the significance of the grants provided by the EU through central grant schemes. However, the interviewees criticized the way EU provides financial support to women's organisations in several ways.

Firstly, the top-down approach of the EU when determining the priorities that will be funded was criticized by two interviewees. They pointed that the EU dictates what their problems are and how they should be addressed while providing financial support. Instead, they argue that the EU must support the own initiatives of the women's organisations since "They obviously knew better than the EU how to address the problems of women in their own countries".

Secondly, most interviewees agreed that the application process to the EU funds as well as the implementation of the projects includes too much paperwork and bureaucracy:

Most women's organisation does not have necessary human resources to apply for the EU funds. Even they knew how to prepare the project application, it still takes a lot of time. Therefore, we think twice before we decide to submit a proposal. I can totally understand why this is necessary on the part of the EU. They must be accountable and transparent. Still, I believe that there must be another way...

The interviewee 4 claimed that the EU prefers to support women's organisations whose institutional capacity is high, which means that they have engaged in many donor-funded projects, had financial stability and human capacity for this reason.

The EU is also aware that preparation and implementation of the EU-funded project requires a high level of skills. In order to ensure the implementation of the projects continue without problems, they tend to support big and well-established organisation especially if the amount of the grant is high. As a result, it becomes a challenge for the small-scale women's organisations to receive funding.

The proliferation of 'project CSOs' is another problem associated with the EU funding by three interviewees. They pointed that the difficulty of project preparation and implementation created CSOs who are specialized in this process, as reflected by the Interviewee 6:

This is not a convenient way to support women's movement in Turkey anymore. The project CSOs are too project-focused and has no long-term strategy. The results of their projects are not sustainable since they rush into one project to another.

The accounts of some interviewees pointed to some side benefits of the EU funding. The first one of these benefits is the increased cooperation among women's organisations at both national and international level as stated by the Interviewee 2:

The chance to work with women's organisations who experienced the same problems with you and found working solutions is truly amazing. Learning their experiences and working together on how to adopt the methods and tools employed by them in the context of Turkey are useful for us. I think that facilitating cooperation among the women's organisation in Europe is the most valuable part of the EU funding.

Secondly, most interviewees argued that the EU funding contributed to raising awareness on gender equality in the society. Even the grant schemes that are not specifically prioritize women's issues encouraged greater involvement of women either as project officers or beneficiaries of the project. The Interviewee 4 stated:

You have to explain in every project regardless of its subject how you mainstream gender into it. To increase your chance to receive funding, you must explain how much women you will involve, how you will empower them... In this way, people at least started to involve women into their projects.

The interviewee 3 pointed the contribution of the EU funding to disseminate the concept of gender equality into the even the most conservative cities of Turkey:

We could continue to work for improving gender equality in İstanbul, Ankara and İzmir without the EU funding. However, I could not imagine that we would organise events that gender equality is discussed in Hakkari, Van and Erzurum. There should be local organisations dedicated to improving gender equality in these cities for sustainable work, which probably would not exist if they could not receive international funding.

#### **6.4.4. The EU as a ‘Magic Wand’ with Limited Powers**

As a response to the question about the limitations of the policies and support mechanisms of the EU on gender equality, the interviewees defined various limitations. This theme sorting the interviewees perceptions about these limitations is named after a statement of an interviewee regarding the early years of the accession period, which is “...the EU was almost like a magic wand. I said almost because it has obviously its limitations”.

Most interviewees argued that the reform process initiated by the EU has been limited to legal changes. It did not lead to a greater structural and societal change, which limit the implementation of the transposed laws significantly.

The gender equality laws of the EU are adopted by Turkey. Of course, it is progress, it is better than nothing. A law could improve the position of women only when it is embraced and enforced efficiently by the government, which has not been the case for us.

Some interviewees (I3, I4 and I6) criticized the EU for the way it initiated legal change in Turkey. They pointed that the EU should mobilize domestic actors and empower them to create change instead of imposing its conditions on the governments:

The change should begin from the inside. Otherwise, there is a risk of losing your acquired rights when the leverage of the EU stopped existing. The fact that certain segments of society see gender equality as an imported concept makes its internalisation even more challenging. Creating a visible link between the gender equality and the EU may not work sometimes.

Although the legal framework protecting the rights of women in employment is in place, some interviewees pointed that there are still various ways to discriminate against women in the workplace in a legitimate way:

I must be paid equally with a man who does the same work with me by law. However, if my employer wants to pay more to a male colleague than me, assigning him a title would do it without violating the laws although we still do the same work.

While some laws are supposed to improve gender equality in society, they may work against women as noted by most interviewees (I1, I4, I5 and I6). “For instance, some employers limit the number of their female employees under 150 to avoid the obligation to open children care facilities”.

They also argued that the difficulties faced in the implementation of the gender equality legislation have been deteriorated because protection of family is prioritized over individual rights of the women in the discourses of political elite.

If the focus of the policies is family, then it is very difficult to ensure equal treatment in the hiring process and workplace since the breadwinner role is assigned to men traditionally. As a result, it is normalized to choose hiring men over women since they have a family to care for even a female candidate is more qualified. Similarly, if an employer must discharge a worker, female workers are considered in the first place in order to avoid causing suffering of a family.

#### **6.5. Turkish Women’s CSOs and the EU: Working Together for Gender Equality in Employment?**

Although the establishment of an independent women’s movements delayed until 1980s, they managed to institutionalise and strengthen their capacity in a short period of time. Prior to the Turkey has been granted its candidate status by the EU, they established strong networks especially with government institutions and improved their lobbying activities as well as taking various actions such as organising petition campaigns and public debates. In this way, they managed to increase their influence over the policies of the government, which contributed to the government’s recognition of women’s problem as well as related policy developments.

The period between the recognition of the candidacy of Turkey in 1999 and beginning of the accession negotiations in 2004 created a favourable environment for realization of the demands of the women's organisations, which were in line with the gender equality vision of the EU. While the campaigns organised by the women's organisations raised awareness about the subject and put pressure on governments to realize the change of legislation, the process of legal change has been more challenging and could have been delayed if the EU accession process would not require these amendments. In other words, the role of the EU accession process to accelerate and facilitate the process was noteworthy.

The prospect of being a member state of the EU provided a strong motivation for the government to realize the legal reforms demanded by women's organisations in a short period of time, which is recognised by the members of the women's CSOs interviewed for this thesis. Although they gave varying answers on the significance of the roles played by domestic and international actors including the EU, they agreed on the fact that the EU has an unprecedented influence on domestic structures of Turkey including gender equality reforms as elaborated under the 'EU as a Game Changer' theme. While they referred to particular domestic and international actors to explain various developments, most interviewees agreed that amendment of Turkish legislation in line with the principles of gender equality is made possible by the EU accession process, which facilitated the mobilization of the government to introduce reforms in gender equality.

On the other hand, declining commitment by Turkey for the harmonisation of its legislation with the EU acquis after this period made it more difficult for women's organisations to use the leverage of the EU. As explained in the 'the Eu as a Fading Normative Reference Point' theme, the momentum created after Turkey's candidate status was announced has faded over time. In the face of deteriorating relations between the EU and Turkey, it has become more challenging to persuade governments to engage in further gender equality activities by using the leverage of the EU.

Besides having a strong influence on the reform process, the interviewees recognised the significance of the grants provided by the EU through its grant schemes. However, they also criticized the way EU provides financial support to women's organisations in several ways including its the top-down approach when determining the priorities that will be funded, heavy bureaucracy and paperwork the application process to the EU funds as well as the implementation of the projects, and the EU's contribution to the proliferation of 'project CSOs' as discussed under 'the EU as a Restrictive Financial Provider theme.

As revealed by the results of the interviews, the reform process initiated by the EU has been limited to legal changes. It did not lead to a greater structural and societal change, which limit the implementation of the transposed laws significantly as explained by the interviewees in 'the EU as a 'Magic Wand' with Limited Powers' theme. Although the legal framework protecting the rights of women in employment is in place, it is pointed that there are still various ways to discriminate against women in the workplace in a legitimate way. The difficulties faced in the implementation of the gender equality legislation has been deteriorated because protection of family is prioritized over individual rights of the women in the discourses of political elite.

As a result of the interviews, it is made clear that the EU is the most significant actor for improving gender equality in employment although it has some limitations. It created a window of opportunity for women's organisations that strengthen their position vis a vis the government while it also contributed to mainstreaming gender into the project through the funding it provides. Finally, although the women's CSOs have worked for legislation change in an organized manner, the EU contributed to their work by legitimizing their efforts.

## **CHAPTER 7**

### **CONCLUSION**

Gender equality is one of the core values of the EU as affirmed by its well-established body of legislation, policy documents and elite statements. The principle of equal pay between women and men was enshrined in the Treaty on the Functioning of the European Union in as early as 1957. Over time, legislation, case law and changes to the Treaties as well as the EU's commitment to promote gender equality within and beyond its borders have reinforced the image of the EU as a significant actor in this area.

The EU works to improve gender equality not only within the union but also beyond its borders. The accession process is one of the strongest instruments that the EU exerts its influence regarding gender issues outside the union as it expects the candidate countries to embrace its values and norms as well as to transform their legislation and policies in line with the EU acquis on the subject prior to their accession.

The norms and values of the EU that are required to be adapted by the candidate states are 'fundamental and non-negotiable'. In other words, the candidate states are obliged to transform their legislation and domestic structures in line with the EU before becoming members. Adopting a top-down approach, it may be argued that the progress of the candidate countries in areas relevant to the acquis must be considered as the impact of the EU. However, the importance of domestic elements as well as other international actors is recognised in this study considering, which adopts a bottom-up approach.

Although the significance of the accession process with the EU for strengthening the position of women in employment in Turkey at least in the legal texts is recognised in this study, it is also argued domestic and other international elements may be equally important to explain the change. Actually, separating the impact of the EU from domestic elements is a difficult task as they usually work together to create change. The EU legislation and policies on gender equality are filtered through the domestic elements and context, which may either trigger or limit their impact, while the EU may also strengthen the position of domestic actors in various way.

The period between the recognition of Turkey as a candidate country for the EU in 1999 and the beginning of accession negotiations between Turkey and the EU in 2004 has seen the ‘golden age’ of reforms to bring itself in line with the EU. The momentum created by Turkey’s candidacy led democratic changes in many areas including gender equality. Although the pace of reforms has been slowed down in the face of deteriorating relations of Turkey and the EU, 2018 Report on Turkey prepared by the European Commission states that ‘A legislative and institutional framework on equality between women and men is generally in place.’ in Turkey.

In this study, an account of the laws affecting Turkish women’s employment was introduced by comparing the periods before and after Turkey’s acceptance as a candidate state to the EU. It is concluded that the amendments and changes in the laws since the beginning of the accession process in 1999 were successful to bring Turkey in line with the EU acquis regarding gender equality in employment to a great extent.

Also, in line with the argument that the period between the recognition of Turkey as a candidate country for the EU in 1999 and the beginning of accession negotiations between Turkey and the EU in 2005 has seen the ‘golden age’ of reforms to bring itself in line with the EU, most of the reforms regarding gender equality in employment has been made within this period. The amendments to the Constitution

as well as the introduction of the new Civil Code and Labour Law took place during this period, which established a legal framework ensuring equal treatment of men and women in the workplace, prohibition of discrimination and protection of pregnancy and maternity.

However, the legal reforms have continued after this period in the area of gender equality. The Code of Obligations, Law on Human Rights and Equality Institution of Turkey, Regulation for Pregnant or Nursing Women, and amendments to the Labour Law by the Law No. 6663 on Amending Income Tax Law and Some Other Laws and to the Article 10 of Turkish Constitution have been all introduced after 2005, which completed the alignment of Turkish legislation regarding gender equality in employment with the laws of the EU regarding the issue to a great extent.

The legislative reforms that have taken place after the recognition of the candidacy of Turkey in 1999 were successful to bring Turkey in line with the EU acquis on gender equality in employment while it also contributed to strengthen the position of Turkish women in labour market as independent individuals at least in the legal texts. Although it is presented that Turkey was successful in terms of transposing the EU acquis on gender equality in employment to its legislation in this study, it does not provide a complete assessment of the EU's impact. The harmonisation with the EU requires the candidate states to transfer the EU acquis into their national legislation in a correct manner as the first step. However, the success of the adopted laws' translation into implementation in a way to improve Turkish women's position should also be evaluated in order to provide a complete assessment of the impact of the EU on gender equality in employment in Turkey.

As an attempt to provide a complete account of the progress of Turkey since the beginning of the accession process on the issue, a review of the Progress Reports on Turkey published since 1999 was provided in this study. In this way, the perspective of the EU regarding the progress of Turkey in terms of both

transposition and implementation of the laws related to gender equality in employment will be presented. However, the data on these reports regarding the progress of Turkey in gender equality in employment is superficial and may be biased since it reflected the point of view of the EU. In order to compensate for these shortcomings, several problems identified in the progress reports regarding the situation of gender equality in employment were analysed in detail. In order to do this, the change in gender equality indicators, which are relevant to the issues covered by the Progress Reports, during the accession process were examined to assess Turkey's success in terms of translating the transposed gender equality laws into practice in a way to strengthen women's position in employment.

These attempts to evaluate the performance of Turkey in translating the laws regarding gender equality into practice in a way to improve the position of women in labour market were proved that Turkey is not as successful as its process of transposition of the EU gender equality laws into its legislation. Although the legal framework ensuring equal opportunities and treatment between men and women in employment is broadly in place, it has not completely eradicated the problems of labour market related problems of women.

The rate of female participation to labour in Turkey is the lowest among the EU member countries and even compared to some candidate countries while it has not improved significantly since the beginning of the accession process. For Turkish women to be able to enjoy the benefits of the gender equality laws regarding employment, they need to be employed in the formal sector. However, informal employment is prevalent in Turkey with significantly higher the rates for of women compared to men. As a result, only a certain fraction of women could benefit from their rights similar to the trend of the early years of Turkish Republic.

The fact that the provision of affordable child and elderly care services is insufficient and the quality of the available support services is low affects women's participation to labour negatively since it is usually women who undertake these

responsibilities and perform care duties when the access to care services is limited. In the labour market, women face in terms of accessing management positions in Turkey. While it is the men who usually occupy these positions, women do not have equal chances for promotion. Finally, the unwillingness of the government officials on improving gender equality in employment, revealed in the statements of public officials praising traditional values on gender equality, make any further improvement difficult especially in the face of deteriorating relations with the EU.

Although it is shown that Turkey has made progress in terms of gender equality in employment to a great extent in terms of transforming its legislation and in a more limited way regarding the implementation of the relevant laws to strengthen women's position in employment and ensure gender equality during its accession process, this does not prove that all developments occurred after Turkey's candidacy to the EU has happened as a result of the impact of the EU. The positive developments regarding gender equality in employment may be the impact of domestic actors instead of the EU as well.

As an attempt to analyse the impact of the EU compared to the domestic actors, the perceptions of the women's CSOs who work in the field of employment were involved into the study through interviews with 6 members of women's CSOs. In this way, more information regarding the benefits and limitations of the EU accession process on the issue was provided while their observations and perceptions about the implications of the legislation change on gender equality in Turkey as a result of the EU accession process for the employment of Turkish women were involved into the study.

In the interviews, while the members of women's organisation explain how the EU contributed to gender equality in Turkey, they tended to attest various roles to the EU and explain its contribution based on these roles. In line with this recurrent narrative in the data, the findings are presented as four interrelated themes based on the various roles played by the EU in supporting gender equality in Turkey: The

EU as a fading normative reference point, the EU as a game changer, the EU as a restrictive financial provider and the EU as a ‘magic wand’ with limited powers. The benefits and limitations of the EU’s work and the accession process in terms of improving women’s employment were also sorted in line with these themes.

Most of the interviewees recognised the significance of the normative reference point that the EU provides for them since it helped them to justify their work and position. As the women’s ideal role in Turkish society is constructed as mothers and wives, it has been a challenging task to advocate for gender equality in employment for Turkish women’s organisations. They expressed that the EU accession process facilitated the mobilization of the government to introduce reforms in gender equality. When the enforcement of principle of gender equality is tied with the EU membership, some interviewees observed that they face less opposition. Although the momentum created in this process has faded in time and it has become more challenging to persuade governments to engage in further gender equality activities by using the leverage of the EU, it is identified that the interviewees still refer to the EU as a normative reference point even it lost its initial transformative power.

All interviewees agreed that the legislation of Turkey has changed positively regarding gender equality in employment. They perceive the reforms in this area including amendments and changes in the legislation as positive developments. Also, they believe that the EU positively contributed to the reform process. Although they gave varying answers on the significance of the roles played by domestic and international actors including the EU, they agreed on the fact that the EU is a ‘game changer’ which has an unprecedented influence on domestic structures of Turkey.

Under the theme of the EU as a Restrictive Financial Provider, the interviewees recognised the significance of the grants provided by the EU through its grant schemes. However, they also criticized the way EU provides financial support to

women's organisations in several ways including its the top-down approach when determining the priorities that will be funded, heavy bureaucracy and paperwork the application process to the EU funds as well as the implementation of the projects, and the EU's contribution to the proliferation of 'project CSOs'.

And finally, the theme of the EU as a 'Magic Wand' with Limited Powers presented the various limitations of the policies and support mechanisms of the EU on gender equality defined by the interviewees. Most interviewees argued that the reform process initiated by the EU has been limited to legal changes without leading to a greater structural and societal change. In this context, the interviewees pointed that it is possible to legitimately discriminate against women in employment although the legal framework is in place. The interviewees also argued that the difficulties faced in the implementation of the gender equality legislation have been deteriorated because protection of family is prioritized over individual rights of the women in the discourses of political elite. In addition to these, the interviewees criticized the EU for imposing its conditions on the governments rather than mobilizing domestic actors and empowering them to create change.

As a result of the interviews, it is made clear that the EU is the most significant actor for improving gender equality in employment although it has some limitations. It created a window of opportunity for women's organisations that strengthen their position vis a vis the government while it also contributed to mainstreaming gender into the project through the funding it provides. Finally, although the women's CSOs have worked for legislation change in an organized manner, the EU contributed to their work by legitimizing their efforts.

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## APPENDICES

### A. APPROVAL OF METU HUMAN SUBJECTS ETHICS COMMITTEE

UYGULAMALI ETİK ARAŞTIRMA MERKEZİ  
APPLIED ETHICS RESEARCH CENTER



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Sayı: 286/0816/ 282

23 Mayıs 2019

Konu: Değerlendirme Sonucu

Gönderen: ODTÜ İnsan Araştırmaları Etik Kurulu (İAEK)

İlgi: İnsan Araştırmaları Etik Kurulu Başvurusu

Sayın Başak ALPAN

Danışmanlığını yaptığınız **Ecem Pınar URHAN**'ın "Avrupa Birliği Üyeliği Sürecinin Türkiye'de Kadın İstihdamına Etkisi" başlıklı araştırması İnsan Araştırmaları Etik Kurulu tarafından uygun görülmüş ve **264-ODTÜ-2019** protokol numarası ile onaylanmıştır.

Saygılarımızla bilgilerinize sunarız.

  
Prof. Dr. Tülin GENÇÖZ

Başkan

Prof. Dr. Tolga CAN

Üye



Doç. Dr. Pınar KAYGAN

Üye



Dr. Öğr. Üyesi Ali Emre TURGUT

Üye



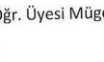
Dr. Öğr. Üyesi Şerife SEVİNÇ

Üye



Dr. Öğr. Üyesi Müge GÜNDÜZ

Üye



Dr. Öğr. Üyesi Süreyya Özcan KABASAKAL

Üye



**B. INTERVIEW QUESTIONS IN TURKISH (ITS ORIGINAL  
LANGUAGE)**

- 1) Türkiye'nin AB üyelik sürecinin kadınların istihdamı üzerinde olumlu bir etkisi olduğunu düşünüyor musunuz?
- 2) Kadınların istihdamı konusunda AB üyelik süreci ile ilişkilendirilebilecek herhangi bir spesifik ilerleme oldu mu?
- 3) AB'nin Türkiye'de cinsiyet eşitliğine katkıda bulunduğunu düşünüyor musunuz? Düşünüyorsanız, AB bunu hangi yollarla yapıyor?
- 4) AB'nin Türkiye'de kadın hakları alanında çalışan sivil toplum kuruluşlarının güçlenmesine katkıda bulunduğunu düşünüyor musunuz?
- 5) AB'nin Türkiye'de cinsiyet eşitliğini desteklemek için kullandığı politika ve destek mekanizmalarının kısıtları nelerdir?

### **C. INTERVIEW QUESTIONS IN ENGLISH**

- 1) Do you think that the accession process of Turkey to the EU has a positive impact on gender equality in employment?
- 2) Is there any specific progress regarding gender equality in employment in Turkey that can be attributed to the accession process?
- 3) In what ways do you think the EU supports gender equality in Turkey?
- 4) Do you think that the EU has an influence on strengthening the position of women's CSOs in Turkey?
- 5) What are the limitations of the policies and support mechanisms of the EU on gender equality?

#### **D. TURKISH SUMMARY/ TRKE ZET**

Avrupa Birlięi (AB), Avrupa btnleřmesi srecinin ilk zamanlarından bu yana kadın haklarını destekleyen en nemli aktrler arasında sayılmaktadır. Cinsiyet eřitlięini temel bir deęer olarak kabul eden AB'nin bu konudaki alıřmaları birlięin sınırlarının tesine uzanmaktadır. yelik mzakereleri, AB'nin kendi sınırları tesindeki etkisini en gl řekilde gsterebildięi kanallardan birisidir. Bu srete, aday lkelerin kanunlarını ve politikalarını AB mktesebatıyla uyumlulařtırmalarının yanı sıra AB'nin norm ve deęerlerini de benimsemeleri beklenmektedir. te yandan, yelik mzakerelerinin cinsiyet eřitlięi konusundaki dnřtrc etkisi farklı aday lkelerde deęiřkenlik gstermektedir.

Bu tez, Trkiye'nin istihdamda cinsiyet eřitlięi aısından yařadıęı dnřm ve AB'nin bu sreteki roln analiz etmektedir. Trkiye'de kadınların istihdamını etkileyen yasaların, Trkiye'nin AB'ye aday lke olarak kabul edilmesinden nceki ve sonraki dnemler karřılařtırılarak incelenmesinin yanı sıra, sz konusu yasaların kadınların istihdam alanında konumunu iyileřtirecek řekilde uygulamaya geirilmesindeki bařarı da deęerlendirilmektedir. alıřmada Trkiye'ye 1999 yılında AB yelięi iin aday lke statsnn verilmesinden sonra yařanan dnřm srecini aıklanırken, ařaęıdan yukarıya Avrupalılařma yaklařımı benimsemektedir. Bu erevede, AB deęiřimin temel sebebi olarak deęil, deęiřimin olası aıklamalarından birisi olarak ele alınmaktadır.

AB'nin temel deęerlerinden biri olan cinsiyet eřitlięine, AB hukuku ve politika belgelerinin yanı sıra AB temsilcilerinin sylemlerinde sıklıkla yer verilmektedir. İstihdamda cinsiyet eřitlięine dair ilk referans, 1957'de eřit iře eřit cret ilkesinin Roma Antlařması'na eklenmesiyle verilmiřtir. Her ne kadar cinsiyet eřitlięi konusunda eřit iře eřit cret ilkesi uzun sre boyunca tek dzenleme olarak kalmıřsa da yeni direktifler, itihat hukuku ve AB antlařmalarında meydana gelen deęiřiklikler ile cinsiyet eřitlięinin AB'nin tm politika alanlarında

anaakımlaştırıldığı görülmektedir. AB'nin cinsiyet eşitliği ajandası genişlemeye devam ederken, cinsiyet eşitliğinin güçlendirilmesine yönelik çalışmalar da AB sınırlarının ötesine taşınmıştır. AB dış ilişkileri kapsamında toplumsal cinsiyet perspektifinin eklenmesi teşvik edilirken, birliğin genişlemesi sürecinde de bu konunun önem kazandığı görülmektedir.

AB aday ülkelerinin üyelik müzakereleri sürecinde benimsemesi beklenen kurallar ve değerler, aday ülkeler açısından değiştirilemez ve tartışılmazdır. Diğer bir deyişle, aday ülkelerin AB üyeliği statüsünü kazanabilmesi için kanunlarını ve politikalarını AB ile uyumlu hale getirmeleri zorunludur. Bu nedenle, yukarıdan aşağıya Avrupalılaşma yaklaşımı çerçevesinde değerlendirildiğinde, aday ülkelerin AB müktesebatıyla ilgili alanlarda geçirdiği dönüşümün AB'nin etkisi olarak kabul edilmesi gerektiği öne sürülmektedir.

Aşağıdan yukarıya Avrupalılaşma yaklaşımını benimseyen bu tezde ise, AB'nin Türkiye'de istihdamda cinsiyet eşitliği alanında yaşanan değişimin temel sebebi olduğu varsayılmamakta; AB, diğer yerel ve uluslararası aktörler ve unsurlarla birlikte değişimin olası açıklamalarından birisi olarak değerlendirilmektedir. Öte yandan, AB'nin etkisini yerel unsurların etkisinden kesin sınırlarla ayırmak, çoğu zaman etkileşim halinde olmaları nedeniyle kolay olmamaktadır. AB'nin cinsiyet eşitliği üzerine kanunları ve politikaları aday ülkelere aktarılırken yerel aktörler ve unsurların filtrelerinden geçmektedir. Bu nedenle, yerel unsurlar AB'nin aday ülkeler üzerindeki etkisini güçlendirici ya da kısıtlayıcı bir rol oynayabilmektedir. AB de yerel aktörlerin konumunu güçlendirme konusunda benzer bir etkiye sahiptir.

Bu tezde, Türkiye'de istihdamda cinsiyet eşitliğinin sağlanmasında AB'nin etkisini değerlendirebilmek için yürürlükte olan AB kanunları ve politikaları taranmıştır. Bu sayede Türkiye'nin üyelik müzakereleri sonucunda istihdamda cinsiyet eşitliği üzerine kanunlarında ve politikalarında meydana gelmesi beklenen değişimin bir resmi çizilmeye çalışılmıştır.

AB'nin aday ülkelerde cinsiyet eşitliği üzerindeki etkisini tartışabilmek için, bu konuda AB düzeyinde geçerli olan kuralların aday ülkelerde meydana gelen değişimin öncesinde yürürlüğe konmuş olması gerekmektedir. Diğer bir deyişle, Türkiye'de meydana gelen herhangi bir değişimin AB'nin etkisi sonucunda oluştuğunu söyleyebilmek için, AB düzeyinde uygulanmakta olan kuralların tarihsel olarak yerel düzeyde meydana gelen değişimden önce gelmesi beklenir. Bu nedenle, AB'nin ilgili kanun ve politikalarının tarihsel süreçteki gelişimine de yer verilerek, aday ülkeler için bağlayıcı olan kuralların ilk ne zaman yürürlüğe girdikleri ve zaman içinde nasıl bir değişime uğradıkları da açıklanmıştır. Böylece, Türkiye'nin istihdamda cinsiyet eşitliği alanındaki durumunun kanunlar düzeyinde kıyaslanabileceği bir referans noktası sağlanmıştır. Aday ülkelerin AB ile uyumunun ilk adımı, AB müktesebatı doğrultusunda gerekli kanun değişikliklerinin yapılmasıdır. Öte yandan bu tezde, AB müktesebatına uyum kapsamında yapılan kanun değişiklikleri ile bu kanunların başarılı bir şekilde uygulanması, AB'nin etkisinin gözlemlenebileceği iki ayrı alan olarak ele alınmaktadır.

AB düzeyinde istihdamda cinsiyet eşitliği alanında yürürlükte olan düzenlemeler detaylı şekilde aktarıldıktan sonra, Türkiye'nin AB ile uyum sürecinde bu düzenlemeleri ulusal yasalara entegre etmekteki başarısı analiz edilmiştir. Türkiye'nin üyelik müzakerelerinin başlangıcından bu yana geçirdiği dönüşümü daha iyi değerlendirebilmek için, ilk olarak Türkiye'ye AB aday ülke statüsü verilmeden önce ülkede yürürlükte olan istihdamda cinsiyet eşitliğine ilişkin kanunlar ve politikalar aktarılmış, daha sonra bu kanun ve politikalarda 1999'dan bu yana meydana gelen değişiklikler incelenmiştir. Bu şekilde, Türkiye'nin istihdamda cinsiyet eşitliği alanında yürürlükte olan düzenlemelerle kanun düzeyindeki uyumu değerlendirilmiştir.

Değerlendirme sonucunda, literatürde Türkiye'nin AB'ye uyum için gerçekleştirdiği reformların altın çağı olarak kabul edilen Türkiye'ye AB aday ülkesi statüsünün verildiği 1999 tarihi ile Türkiye ve AB arasında üyelik

müzakerelerinin başladığı 2004 yılı arasındaki dönemin, istihdamda cinsiyet eşitliği alanında gerçekleştirilen reformlar bakımından da en verimli dönem olduğu tespit edilmiştir. Bu dönemde kadın örgütleri tarafından da talep edilen yeni İş Kanunu ve Medeni Kanun yürürlüğe girmiş, aynı zamanda Anayasa’da da cinsiyet eşitliğine yönelik eklemeler yapılmıştır. Böylece iş yerinde kadın ve erkek çalışanlara eşit muamele edilmesi, ayrımcılığın yasaklanması, hamilelik ve annelik durumunda kadın çalışanların korunması gibi AB üyeliği için de gerekli olan düzenlemelerin yasal zemini oluşturulmuştur.

Bu dönemden sonra Türkiye ve AB arasındaki ilişkinin eski dinamiğini kaybetmesi ve gittikçe kötüleşmesi nedeniyle AB’ye uyum kapsamında gerçekleştirilen reformlar da hız kaybetmiştir. Buna rağmen, istihdamda cinsiyet eşitliği alanındaki yasal reformların, bu dönemden sonra da devam ettiği görülmektedir. İstihdamda cinsiyet eşitliği alanında önemli düzenlemeler getiren Borçlar Kanunu, Türkiye İnsan Hakları ve Eşitlik Kurumu Kanunu ile Gebe veya Emziren Kadınların Çalıştırılma Şartlarıyla Emzirme Odaları ve Çocuk Bakım Yurtlarına Dair Yönetmelik 2005 yılından sonra yürürlüğe girmiştir. Gene Anayasa’nın 10. Maddesi’ne eklenen ibareler ve İş Kanunu’nda yapılan değişiklikler de bu dönemden sonra gerçekleşmiştir.

Bu tezde, Türkiye’de yürürlükte olan kanun ve politikaların AB düzeyinde geçerli olan düzenlemelerle karşılaştırılması sonucunda, Türkiye’nin istihdamda cinsiyet eşitliği konusunda AB müktesebatına büyük ölçüde uyum sağladığı tespit edilmiştir. Avrupa Komisyonu tarafından hazırlanan Türkiye 2018 Raporu’nda da belirtildiği üzere Türkiye’de ‘Kadın-erkek eşitliğine ilişkin yasal ve kurumsal çerçeve genel olarak mevcuttur’. Türkiye’nin AB üyelik müzakereleri sürecinde gerçekleştirdiği yasal reformlar, kadınların iş hayatında bağımsız bireyler olarak konumlarını en azından kâğıt üzerinde güçlendirmektedir. Her ne kadar Türkiye’nin istihdamda cinsiyet eşitliği alanında kanun düzeyinde AB müktesebatına uyum sağladığı değerlendirilse de sadece kanun düzeyinde yapılacak bir çalışmayla AB’nin etkisini tam olarak değerlendirmek mümkün

değildir. Bu nedenle, AB müktesebatına uyum kapsamında yapılan kanun reformları ile bu kanunların başarılı bir şekilde uygulanmasını AB'nin etkisinin gözlemlenebileceği iki ayrı alan olarak ele alan bu tezde, söz konusu kanun reformlarının Türkiye'de yaşayan kadınların iş piyasasındaki konumunu güçlendirecek şekilde hayata geçirilip geçirilemediği de değerlendirilmiştir.

Türkiye'nin AB aday ülkesi statüsü kazanmasından bu yana istihdamda cinsiyet eşitliği konusunda gösterdiği ilerlemeyi değerlendirmek amacıyla, bu tezle 1999 yılından bu yana Avrupa Komisyonu tarafından hazırlanan Türkiye İlerleme Raporları taranmıştır. Bu sayede, Türkiye'nin istihdamda cinsiyet eşitliği alanında hem gerçekleştirdiği yasal reformlar hem de bu reformların başarılı bir şekilde hayata geçirilmesi bakımından gösterdiği performansın AB'nin bakış açısından değerlendirilmesi mümkün olmuştur. Öte yandan, bu raporlarda yer alan veriler, Türkiye'nin istihdam cinsiyet eşitliği alanında yaşadığı sorunları aktarma konusunda oldukça yüzeysel kalmakla birlikte, yalnızca AB'nin bakış açısını yansıtmaması nedeniyle de taraflı olabilmektedir. Dolayısıyla, Türkiye'nin performansını doğru bir şekilde değerlendirebilmek için yalnızca İlerleme Raporlarını taramak yeterli değildir.

1999'dan bu yana yayınlanan Türkiye İlerleme Raporları'nda Türkiye'nin istihdamda cinsiyet eşitliği alanında yaşadığı çeşitli sorunlar tanımlanmış bulunmaktadır. Bu tez, AB müktesebatının ilgili bölümlerinin yerel hukuka doğru şekilde aktarılması ve başarıyla uygulanması halinde, İlerleme Raporları'nda bahsedilen sorunlu alanlarda gelişme sağlanacağı varsayımından yola çıkılmaktadır. Bu nedenle bu tezde, Türkiye'nin istihdamda cinsiyet eşitliği alanındaki durumu hakkında daha detaylı ve tarafsız bir değerlendirme yapabilmek için, AB müktesebatının doğru şekilde uygulamaya geçirilmesi halinde beklenen sonuçlara odaklanılmaktadır.

Bu amaçla Türkiye İlerleme Raporlarında tanımlanan sorunlu alanlarla ve AB müktesebatıyla ilişkili cinsiyet eşitliği göstergeleri tanımlanmıştır. Örneğin,

‘cinsiyete göre yıllık ortalama kazanç’ bir cinsiyet eşitliği göstergesi olarak kullanılmıştır çünkü AB düzenlemeleri gereğince iş yerinde ücret konusunda cinsiyete dayalı olarak doğrudan veya dolaylı olarak ayrımcılık yapılması yasaktır. Dolayısıyla, eşit işe eşit ücret prensibinin hayata geçirilmesi durumunda, Türkiye’den kadın ve erkek çalışanların kazançlarının yaklaşık olarak aynı olması beklenmektedir.

Bu doğrultuda belirlenen cinsiyet eşitliği göstergelerinin yıllar içinde gösterdiği değişime bakılarak, Türkiye’nin AB uyum sürecinde gerçekleştirdiği yasal reformları hayata geçirmede ne ölçüde başarılı olduğu değerlendirilmiştir.

Yapılan değerlendirme sonucunda, Türkiye’nin istihdamda cinsiyet eşitliği alanında gerçekleştirdiği reformları hayata geçirmede gösterdiği başarının sınırlı olduğu sonucuna varılmıştır. Her ne kadar iş hayatında kadın ve erkek çalışanlara eşit muamele edilmesini ve eşit fırsatlar sunulmasını temin eden yasal düzenlemeler yeterli düzeyde ve AB müktesebatı ile büyük oranda uyum içinde olsa da yasal düzenlemeler, kadınların iş hayatında yaşadığı sorunların önüne geçilmesini sağlayamamaktadır.

Söz konusu sorunların başında Türkiye’de kadınların iş gücüne katılımının oldukça yetersiz olması gelmektedir. Türkiye’de kadınların iş gücüne katılım oranı, AB üye ülkeleri ve hatta bazı aday ülkeler ile kıyaslandığında en düşük değerlere sahiptir ve üyelik müzakerelerinin başlangıcından bu yana, bu oranda ciddi bir ilerleme olmadığı da görülmektedir. Türkiye’de yaşayan kadınların iş hayatında cinsiyet eşitliğini garanti altına alan kanunlardan faydalanabilmesi için öncelikle kayıtlı istihdam edilmiş olmaları gerekmektedir. Öte yandan, kayıt dışı istihdam Türkiye’de yaygın bir sorun olmakla birlikte, kadınların erkeklere kıyasla daha yüksek oranda kayıt dışı olarak çalıştığı görülmektedir. Bu durumun sonucunda da kadınların yalnızca belli bir kısmı kendilerine tanınan haklardan faydalanabilmekte ve kanunlar tarafından korunmaktadır.

Uygun fiyatlı çocuk ve yaşlı bakım hizmetlerinin yetersizliği ve mevcut hizmetlerin kalitesinin istenilen düzeyde olmaması, kadınların iş gücüne katılımını olumsuz yönde etkileyen unsurlar arasında önemli bir yere sahiptir. Türkiye’de çocuk ve yaşlı bakımıyla ilgili sorumluluklar ailede genellikle kadınlar tarafından üstlenilmekte, bakım hizmetlerinin gerek nicelik gerekse nitelik bakımından yetersiz kaldığı durumlarda ise bakım sorumlulukları kadınların iş gücüne dahil olmasının önüne geçmektedir.

Türkiye İlerleme Raporları’nda yıllar boyunca tekrar edilen bir diğer problem iş yerinde kadın çalışanlara yönelik ayrımcılıktır. İşe alım süreçlerinde yaşanan cinsiyete dayalı ayrımcılık, terfi süreçlerinde de kendisini göstermektedir. Türkiye’de yönetici pozisyonları büyük oranda erkekler tarafından doldurulmakta, kadınlara bu pozisyonlara erişmek için eşit olanaklar tanınmamaktadır.

Son olarak, hükümetin istihdamda cinsiyet eşitliğini güçlendirmek konusundaki isteksiz tutumu da İlerleme Raporları’nda eleştirilen bir diğer konudur. Hükümet yetkililerinin toplumsal cinsiyet eşitliği konusundaki olumsuz düşünceleri, bu alanda AB’ye uyum çerçevesinde daha fazla mesafe kat edilmesini, özellikle AB ve Türkiye arasındaki ilişkilerin de kötüye gitmekte olduğu bir dönemde, oldukça zorlu hale getirmektedir.

Özetle, Türkiye’nin istihdamda cinsiyet eşitliği alanında kanunlarını dönüştürme konusunda büyük bir ilerleme gösterdiği, öte yandan söz konusu kanunların kadınların iş hayatındaki konumunu güçlendirecek şekilde uygulamaya dönüştürülmesi hususunda kaydedilen ilerlemenin daha sınırlı kaldığı görülmektedir. Söz konusu dönüşümün büyük bölümü Türkiye’ye AB aday ülkesi statüsü verildikten sonra meydana gelmiş olsa da bu süreçte gerçekleştirilen tüm reformların AB’nin Türkiye üzerindeki etkisi nedeniyle olduğu varsayılmamalıdır çünkü istihdamda cinsiyet eşitliği alanında yaşanan dönüşümde, yerel aktörlerin yanı sıra AB dışındaki uluslararası aktörlerin de önemli bir payı olabilir. Dolayısıyla bu tezde AB, diğer yerel ve uluslararası aktörler ve unsurlarla birlikte

Türkiye’de meydana gelen değişimin olası açıklamalarından birisi olarak değerlendirilmektedir.

Türkiye’de cinsiyet eşitliğinin sağlanması için çalışmalar yürüten en önemli yerel aktörlerden birisi kadın STK’larıdır. Bu tezde, kadın STK’ların hem Türkiye’nin AB aday ülkesi olarak kabul edilmesinden önceki süreçte, hem de 1999 sonrasında istihdam alanında kadın erkek eşitliğinin sağlanması için gerçekleştirdikleri çalışmalar paylaşılmıştır. Özellikle 1999 sonrası dönemde kadın STK’ları ve AB’nin çalışmalarının birbirini destekleyici nitelikte gerçekleştiği gözlemlenmektedir.

Bu dönemde kadın kuruluşları tarafından yaşanan eşitsizliklerle ilgili farkındalık yaratmak amacıyla düzenlenen kampanyalar, hükümet üzerinde de talep edilen yasal düzenlemelerin hayata geçirilmesi yönünde bir baskı oluşturmuştur. Türkiye’ye AB aday ülkesi statüsünün verilmesinin ardından oluşan olumlu atmosferde, kadın kuruluşlarının taleplerinin AB üyeliği için yerine getirilmesi gereken gerekliliklerde de örtüşmesi sonucunda, talep edilen yasal reformlar hızlı bir şekilde gerçekleşebilmiştir. Öte yandan, AB’nin etkisi olmadan kadın kuruluşları ve hükümet arasında yürütülecek görüşmelerin çok daha zorlu geçebileceği ve cinsiyet eşitliğine yönelik düzenlemelerin uzunca bir süre boyunca ertelenebileceği değerlendirilmektedir.

AB’nin Türkiye’de istihdamda kadın erkek eşitliği alanındaki etkisini değişime sebep olmuş olabilecek diğer etkenlerden ayırt etmek amacıyla, kadın hakları alanında çalışan sivil toplum kuruluşlarının (STK) üyelerinin görüşlerine, AB’nin Türkiye’de gerçekleşen dönüşüm üzerindeki etkisi çerçevesinde yer verilmiştir. Bu kapsamda kadın hakları alanında çalışan STK üyelerinin görüşlerini çalışmaya dahil edebilmek amacıyla, 6 STK üyesi ile mülakatlar gerçekleştirilmiştir. Mülakatlar yoluyla ayrıca AB üyelik müzakerelerinin istihdamda cinsiyet eşitliğinin güçlendirilmesi hususundaki faydaları ve kısıtlı kaldığı yönler hakkında da daha fazla bilgi sunulması amaçlanmıştır.

Mülakatlarda, STK üyeleri AB'nin Türkiye'de cinsiyet eşitliğine ne şekilde katkıda bulunduğunu anlatırken, AB'ye çeşitli roller atfetmiş ve AB'nin katkısını bu roller üzerinden açıklamıştır. Mülakat yapılan STK temsilcilerinin kendilerine yöneltilen sorulara verdikleri cevaplarda, AB'ye atfedilen bu rollerin birbirine benzer şekillerde tekrar edildiği tespit edilmiştir. Bu nedenle AB'nin Türkiye'de istihdamda cinsiyet eşitliği üzerindeki etkisi, kendileriyle mülakat gerçekleştirilen 6 STK temsilcisinin anlatımlarında yer alan 4 farklı rolü çerçevesinde analiz edilmiştir. Bu roller sırasıyla 'Etkisini Kaybeden Bir Normatif Dayanak Olarak AB', 'Oyunun Kurallarını Değiştiren Bir Aktör Olarak AB', 'Kısıtlayıcı Bir Finansör Olarak AB', ve 'Sınırlı Güçleri Olan Bir Sihirli Değnek Olarak AB' şeklinde isimlendirilmiştir. Gerçekleştirilen mülakatlarda STK üyelerinin AB'nin Türkiye'de kadınların istihdam piyasasındaki konumuna katkıları ve kısıtlı kaldığı alanlar hakkında aktardıkları da bu temaların altında sunulmuştur.

Mülakatlar kapsamında görüşülen STK üyeleri, AB'nin özellikle kendileri gibi kadın hakları alanında çalışan kuruluşlar için normatif bir referans noktası sağladığını belirtmişlerdir. Türk toplumunda kadınların ideal rolü anne ve eş olarak tanımlanmaktadır. Bu geleneksel aile yapısının hâkim olduğu bir toplumda cinsiyet eşitliğini savunmak, kadın hakları alanında çalışan kuruluşlar için oldukça zorlu bir iştir. Bu nedenle yapılan mülakatlarda, AB'nin Türkiye ile yürüttüğü üyelik müzakereleri sürecinde hükümeti cinsiyet eşitliği alanında yasal reformların gerçekleştirilmesi konusunda harekete geçirmenin daha kolay bir hale geldiği söylenmektedir.

Üyelik müzakerelerinin başlamasıyla cinsiyet eşitliği prensibinin uygulanması AB üyeliği ile bağlantılı hale gelmiştir. Mülakat çalışmasına katılan kadınlar, bu dönemde yürüttükleri çalışmalarda hükümetten daha az dirençle karşılaştıklarını gözlemlemiştir. Kötüleşen AB-Türkiye ilişkileriyle birlikte reformlar ivme kaybetmiş ve hükümeti AB'ye uyum kapsamında cinsiyet eşitliği alanında daha fazla aksiyon almaya ikna etmek daha da zor bir hale gelmiştir. Öte yandan, mülakat çalışmasına katılım sağlayan kadınların, Türkiye üzerindeki dönüştürücü

gücünü önemli ölçüde kaybetse de halen AB'ye normatif bir referans noktası olarak başvurdukları görülmüştür.

‘Oyunun Kurallarını Değiştiren Bir Aktör Olarak AB’ teması altında, mülakat yapılan kadınların Türkiye’de istihdamda cinsiyet eşitliği alanında meydana gelen değişikliklerde AB’nin etkisini, özellikle diğer yerel ve uluslararası aktörlere kıyasla nasıl değerlendirdiklerine yer verilmiştir. Mülakat gerçekleştirilen STK üyelerinin tamamı, Türkiye’nin iş hayatında cinsiyet eşitliğinin sağlanması bakımından önemli yasal reformlar gerçekleştirdiği kabul etmektedir. Gene bu dönemde kanunlarda gerçekleştirilen değişiklikler ve kanunlara yapılan eklemeler olumlu gelişmeler olarak algılanmaktadır. Öte yandan, bu dönüşümü yaratmada diğer yerel ve ulusal aktörlerin rolünün değerlendirilmesi istendiğinde, söz konusu aktörlere atfedilen önemin katılımcılar arasında değişkenlik gösterdiği görülmüştür. Katılımcıların üzerinde mutabık kaldığı husus is AB’nin Türkiye’nin ulusal yapıları üzerindeki etkisinin başka hiçbir uluslararası aktörle karşılaştırılamayacak kadar önemli olduğudur.

Bu bakımdan AB’nin daha önce görülmemiş türden bir etki yarattığı söylenebilir. Mülakat çalışmasına katılım sağlayan bir STK üyesi, AB’nin oyunun kurallarını kadın kuruluşlarının lehine olacak şekilde değiştirdiğini ifade etmiştir. Kadın örgütlerinin gerçekleşmesi için yıllarca mücadele verdiği reformlar, AB’ye uyum sürecinde kolaylıkla yürürlüğe konmuştur. Bu bakımdan, kadın kuruluşlarının taleplerinin AB düzeyinde yürürlükte olan düzenlemelerle örtüşmesi, hükümet nezdinde bu taleplerin daha ciddiye alınmasını ve harekete geçilmesini sağlamıştır.

‘Kısıtlayıcı Bir Finansör Olarak AB’ teması altında, kendisiyle mülakat gerçekleştirilen STK üyelerinin tamamı AB tarafından sağlanan hibelerin, özellikle kadın kuruluşları için büyük önem arz ettiğini düşünmektedir. Ancak bununla beraber, AB’nin kadın hakları alanında çalışan STK’lara hibe sağlayış biçimi de bazı açılardan eleştirilmektedir.

AB tarafından sađlanan hibelerde, hangi alanların önceliklendirileceđinin AB tarafından yukarıdan aşıđıya dikte eden bir yaklaşımla belirlenmesi bu kapsamda AB'ye y nelt len eleřtirilerden ilkidir. M lakat yapılan STK temsilcilerinden bazıları, AB'nin yerel akt rlerle  nceliklendirilmesi gereken alanları belirlemek yerine adeta kendilerine kendi sorunlarının ne olduđunu s ylermesinden duydukları rahatsızlıđı dile getirmiřtir.

AB fonlarına bařvuru s recinin  ok fazla iř y k  ve b rokrasi getirmesi de eleřtirilen bir diđer husustur. K   k ve yerel STK'lar insan kaynaklarının yetersizliđi nedeniyle bu fonlara  ođunlukla eriřememektedir. AB tarafından sađlanan hibelere bařvurabilmek i in proje hazırlama ve uygulama s recinin zorluđu, proje STK'larının ortaya  ıkmasına sebep olmuřtur. Kendisiyle m lakat ger ekleřtirilen kadınlar, AB'nin fon sađlama konusundaki politikaları nedeniyle proje STK'larının  ođalmaya devam ettiđini belirtmiřtir.

Diđer yandan katılımcılar AB tarafından sađlanan fonların, STK'ların faaliyetleri i in kaynak bulabilmesine imk n sađlaması dıřındaki faydalarına da deđiřmiřtir. AB fonlarının ulusal ve uluslararası d zeyde ortaklık yapıları oluřturulmasını sađlaması, benzer alanlarda  alıřan kadın kuruluřları arasındaki iř birliđini ve iletiřimi  nemli  l de arttırmıřtır.

AB tarafından a ılan hibe programlarında, hibe programı dođrudan kadın haklarıyla ilgili olmasa dahi, proje bařvuralarının cinsiyet eřitliđi konusunda da katma deđer yaratacak řekilde kurgulanması teřvik edilmektedir. Bu nedenle, AB fonları sayesinde kadınların projelere gerek proje sorumlusu gerek proje yararlanıcısı olarak daha fazla dahil edildiđi de ifade edilmiřtir. M lakat  alıřmasına katılım sađlayan bir STK  yesinin de belirttiđi  zere, AB cinsiyet eřitliđini projeler aracılıđıyla T rkiye'nin en  cra ve muhafazak r b lgelerinde bile g ndeme getirmeyi bařarmıřtır.

Son olarak, ‘Sınırlı Güçleri Olan Bir Sihirli Değnek Olarak AB’ teması altında AB’nin Türkiye’de istihdamda cinsiyet eşitliği alanındaki mevcut politikaları ve destek mekanizmalarının çeşitli kısıtlılıklarına dair değerlendirmelere yer verilmiştir. Bu temanın ismi, kendisiyle mülakat yapılan bir katılımcının AB’yi özellikle Türkiye’nin üyelik müzakerelerinin başlangıcında neredeyse bir sihirli değneğe benzetmesinden gelmektedir. Öte yandan, bu sihirli değneğin güçleri sonsuz değildir, hatta oldukça sınırlıdır.

Mülakat çalışmasında yer alan katılımcıların çoğunluğu, Türkiye’nin AB aday ülkesi olarak kabul edilmesinden bu yana gerçekleştirilen reformların çoğunlukla kâğıt üzerinde kaldığını, herhangi bir yapısal ve toplumsal bir dönüşüme yol açacak şekilde uygulamaya dönüştürülmediğini düşünmektedir. Yapısal ve toplumsal dönüşümün sağlanamadığı bu durumda ise, kadınları iş hayatında koruyacak yasal düzenlemelerin varlığına rağmen, iş yerinde kadın çalışanlar ile erkek çalışanlar arasında ayrımcılık yapmak yasal sınırlar dahilinde bile mümkün hale gelmektedir. Hatta kimi zaman bu yasal düzenlemeler, iş hayatında kadınların aleyhine bile çalışabilmektedir. Bu duruma işverenlerin kreş açmak gibi yasal yükümlülüklerden kaçınmak amacıyla, kadın çalışan sayısını yasalarda belirtilen sayının altında tutmaya çalışması örnek verilmiştir.

Kendisiyle mülakat gerçekleştirilen STK temsilcileri, istihdamda cinsiyet eşitliğine yönelik yasal düzenlemelerin uygulanmasında yaşanan güçlüklerle değinerek, özellikle siyasetçilerin ve hükümet temsilcilerinin söylemlerinde ailenin korunması kadınların bireysel haklarının üstünde tutulduğunda bu durumun daha da kötüye gittiğini ifade etmişlerdir.

Mülakat sonuçlarının da ortaya koyduğu üzere, Türkiye’ye AB aday ülkesi statüsünün verilmesiyle başlayan ve 1999 ile 2005 yılları arasında en parlak dönemini yaşayan reform süreci, önemli bir toplumsal dönüşüme yol açamamış, büyük oranda kanunlar düzeyinde sınırlı kalmıştır. Diğer bir deyişle, bu çalışma AB’nin etkisinin AB’ye uyum sürecinde değiştirilen cinsiyet eşitliği kanunlarının

uygulaması alanında yaşanan sorunlar nedeniyle sınırlı kaldığını göstermektedir. Hükümetin aileyi korumaya yönelik politikaları bireysel hakların üstünde tutması nedeniyle, AB uyum sürecinde değişen yasaların uygulamaya dönüştürülmesi daha da zor bir hale gelmiştir.

Sonuç olarak, tüm kısıtlılıklarına rağmen, AB'nin Türkiye'de istihdamda cinsiyet eşitliğinin sağlanması yönünde yaşanan bu değişimde en önemli role sahip olan aktör olduğu görülmektedir. Her ne kadar bu yasal değişiklikler aynı zamanda kadın kuruluşları tarafından da talep edilse de reform sürecinin hızlı bir şekilde başlamasını sağlayan AB'nin etkisi olmuştur. Kadın hakları alanında çalışan STK'lar için bir fırsat penceresi yaratan AB, söz konusu STK'ların hükümet karşısındaki konumunu güçlendirmesine de destek olmuştur.

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