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EU conditionality and desecuritization nexus in Turkey

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Borrowing the Copenhagen school's lexicon of desecuritization, the present paper appraises the EU's role as a desecuritizing agent for Turkey, with a particular focus on security speech-acts about 'Kurdish separatism' and 'political Islam'. Taking up the illustrative cases of silencing the military and abandoning limits to freedom of speech reflected in EU-Turkey accession documents, this paper observes the ways in which the EU membership conditionality has been an important catalyst for Turkey's desecuritizations; yet argues that the EU's impact is limited due to the necessities of the interplay between various desecuritization agents/processes as well as the existence of EU conditionality efficacy factors.

Keywords: desecuritization; conditionality; securitization; Copenhagen school; European Union; Turkey

Introduction

Through the pressures of conditionality, the fulfilment of the EU's political and economic requirements for membership has a transformative power on candidate countries' domestic modes of governance.¹ Turkey, as an EU candidate since 1999 and a negotiating country since 2005, has been in a process of substantive, if contradictory, transformation in every aspect of politics, economics and foreign policy.² When security issues are at stake, this transformative power is generally reflected in the EU's image as an agent of desecuritization, meaning that the EU accession prospect has facilitated a process of desecuritization in Turkey. The emerging utilizations of securitization theory in the Turkish case share the assumption that the EU has had a desecuritization effect on Turkey through the forces of accession (Bilgin 2011, 406). The EU's desecuritizing impact has been noted in terms of foreign policy, the Cyprus case and domestic politics in general, with a particular focus on the mainstream discourse of threats which is articulated as the 'Kurdish issue' and 'political Islam'.

With reference to the ongoing practice of desecuritization in Turkey's relations with Iran and Syria, Aras and Karakaya-Polat discuss the EU connection in the following:

Among other things, this process of desecuritization is the result of the European Union accession process and concomitant step toward democratization, a transformation of the political landscape, and the appropriation of EU norms and principles in regional politics. (2008, 495)

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In his article on the securitization of the Cyprus case, Kaliber also refers to this desecuritization impact of the EU on foreign policy by stressing that ‘EU-led reforms to strengthen the National Security Council’s (NSC’s) civilian component and to restructure the setup and responsibilities of its secretariat facilitated to a certain extent, a lessening of the securitizing tone in Turkish foreign policy discourse’ (2005, 333–4). This connection was also pointed out by Alessandri (2010, 6): ‘... the EU anchor worked also at a deeper level as reforms undertaken to meet the EU standards fostered democratization and liberalization while favoring a desecuritization of issues which had plagued Turkey’s relations with its neighbors in the past’.

As one of the primary national security concerns for Turkey, the securitization of the Cyprus problem and the prospects for the desecuritization of the conflict have been warily questioned by Kaliber (2005). Rather than a robust claim of desecuritization in the Cyprus case, he argues that ‘unlike its predecessors, the current government has avoided using a securitized discourse on the Cyprus dispute’ and implies that the ‘EU involvement’ might lead to an ‘opportunity for shifting the question from the sphere of security politics into the boundaries of normal politics’ (Kaliber 2005, 333–4). In contrast to this cautious tone, Tank clearly points to the desecuritization of the Cyprus issue through the transforming winds of EU accession process (2002, 160).

The EU influence on the practice of desecuritization in Turkish domestic politics has also been underlined by Aras and Karakaya-Polat (2008), Çelik and Rumelili (2006), Cebeci (2007), Tank (2005) and Karakaya-Polat (2009), with particular focus on political Islam and/or the Kurdish question. In their interrelated study of desecuritizations within the domestic and foreign policy contexts, Aras and Karakaya-Polat argue that ‘certain issues – especially those involving political Islam, Kurdish and other minorities, and understandings of national security – are *becoming* desecuritized’ and identify the EU membership process as the ‘main driving force’ for these desecuritizations, among other factors (2008, 499, 502).³ In their interdisciplinary article which brings together various perspectives offered by the literature on conflict resolution and European studies with an aim to analyse the role of the EU in resolving border conflicts and which borrows the four-pathway model of Diez, Stettner and Albert,⁴ Celik and Rumelili classify the impact of the EU in the desecuritization practice of the Kurdish issue as *constructive*:

The processes of European integration and EU accession activate certain discourses in conflict societies that ‘desecuritize’ the conflicts, that is to transform them from being conflicts over identity and ‘security’ into disagreements about issues that do not threaten identity of security. (2006, 207)

Based on this definition, they admit the fact that ‘EU influences, while leading to a significant degree of conflict de-escalation, have not been sufficient in bringing about the actual resolution of the conflicts’ (Celik and Rumelili 2006, 212). Contrary to Çelik and Rumelili’s arguments, which could be read as focusing on the ongoing nature of desecuritization, Tank prefers a definite tone:

The key events of 1999, the decrease in PKK attacks, its avowed transformation into a political organization, and the increasing pressure on Turkey by the EU to find political solutions, have brought about ‘desecuritization’ of the Kurdish issue. (2005, 70)

In her article on the utilizations of the Copenhagen school in Turkey, Bilgin rightly argues that:

conflating desecuritization with Europeanization as such allows authors to portray Turkey as a Europeanizing (if not European) country whose civil society and/or politicians diagnose Turkey's problems as securitization and seek to address them through desecuritization as 'proper' European actors would (2011, 408).

Accordingly, for these scholars, the desecuritization process as a cure for Turkey's security problems is mostly embedded in the dynamics of EU membership conditionality.

As indicated above, scholars utilizing the concept of desecuritization share the assumption that the EU accession process has been a catalyst for framing issues outside the security realm as a solution to the setbacks in democratization per se, and democratization-as-conditionality for EU membership. I agree with this approach of correlating the EU accession process with desecuritization; however, the questions of through which forms and to what extent the EU is an agent for desecuritizations in Turkey remain almost understudied in the existing literature. In order to grasp the EU conditionality–desecuritization correlation in Turkey, I examine the 'Political Criteria' sections of key accession texts (*Accession Partnerships* 2001, 2003, 2006 and 2008 which define Turkey's short-medium term priorities for compliance with the Copenhagen criteria in rather abstract expressions, as well as the *Regular/Progress Reports* published since 1998 which studies Turkey's yearly record in meeting EU conditionality as stipulated in the Accession Partnerships). Due to limitations of space, this reading only questions the existence and dynamics of reversing the prevailing domestic securitizations in Turkey since 1990s, which have been defined as *separatism* and *fundamentalism* by the securitizing elites, by taking up two illustrative attempts of desecuritization through silencing the military and abandoning limits to freedom of speech reflected in EU–Turkey accession documents.

In order to add up to this literature on the EU–Turkey desecuritization nexus, the present paper appraises the ways in which the EU membership conditionality functions as a desecuritizing agent for Turkey, by arguing that since 1999, EU membership conditionality has been an important mechanism for Turkey to undertake such democratic reforms that have undoubtedly contributed to the ongoing desecuritization processes; however, since security-speak on the Kurdish issue and Islamic activism has not faded away, the EU's desecuritizing role has remained limited.⁵ Yet, by taking up the illustrative cases of silencing the military and abandoning limits to freedom of speech reflected in EU–Turkey accession documents, this paper observes that the EU's impact is limited due to the necessities of the interplay between various desecuritization agents/processes as well as the existence of EU conditionality efficacy factors.

In this context, this paper will first give a background synopsis of the concept and forms/practices of desecuritization as well as traditional securitizations in Turkey in the domestic scene. Then, it will analyse the link between desecuritization and conditionality in Turkey, with a particular focus on two cases that correspond to the forms of desecuritization reflected in EU accession texts to exemplify an understanding of the ways in which and to what extent desecuritization is facilitated by the EU membership magnetism. This paper concludes with a section discussing

the limitations of EU's impact on Turkey's attempts for the desecuritizations of the Kurdish issue and political Islam due to the necessities of the interplay between various desecuritization agents in a conducive social context.

Desecuritization: concept and practice

The concept and practice of desecuritization are inextricably linked with the notion of securitization, which emerged as one of the core ideas that define the Copenhagen school, alongside five security sectors and regional security complexes (see Buzan, Wæver, and de Wilde 1998; Buzan and Wæver 2003). In a myriad of sole or co-authored texts, Barry Buzan and Ole Wæver laid the foundations of the school in the midst of contested discussions in the late 1980s and early 1990s over whether security studies should have a narrow or a wide agenda. The Copenhagen school favoured the widened agenda, but 'solved the widening impasse' of 'everything is then security' through the concept of securitization (Wæver 2011, 469). Wæver explains the emergence of the Copenhagen school as a third way from the narrow-wide security conceptualizations with the following definition of securitization:

Until the invention of the concept of securitization, 'widening security' had to specify either the actor (state) or the sector (military), or else risk the 'everything becomes security' trap. Securitization theory handled this problem by fixing *form*: whenever something took the form of the particular speech act of securitization, with a securitizing actor claiming an existential threat to a valued referent object in order to make the audience tolerate extraordinary measures that otherwise would not have been acceptable, this was a case of securitization; in this way one could 'throw the net' across all sectors and all actors and still not drag in everything with the catch, only the security part. (Wæver 2011, 469)

As observed in the above definition, the Copenhagen school distinguishes the three components (or steps) of securitization as 'existential threats, emergency measures and the effect on interunit relations by breaking free of rules' (Buzan, Wæver, and de Wilde 1998, 26). In other words,

at the point when an issue is defined as a security issue (the speech act), at the point where an audience 'backs up' or acquiesces to that designation of threat, or at the point at which extraordinary measures are implemented, we witness a case of securitization. (McDonald 2008, 575)

The process of securitization focuses on political-discursive practices that reflect the ways in which actors present certain issues – not necessarily objective ones – as threats that call for exceptionality by an authority outside 'normal' political procedures. Securitizing actors, who perform this speech-act, have an 'authority on the confronting -and construction- of threats and enemies, an ability to make decisions, and the adoption of emergency measures' (Hansen and Nissenbaum 2009, 1158). The Copenhagen school suggests that the 'common players in this securitizing role are political leaders, bureaucracies, governments, lobbyists and pressure groups' who have the authority for security-speak (Buzan, Wæver, and de Wilde 1998, 40).

For the Copenhagen school, textual analysis (whether written or publicly stated) is the way in which security speech-acts can be unveiled. In securitization studies, 'the meaning lies not in what people consciously think the concept means but in

how they implicitly use it in some ways and not others' (Buzan, Wæver, and de Wilde 1998, 24). Hence, the authority's threat designations as well as the recommended emergency measures are to be found in public texts, not in the 'thoughts or motives of the actors, their hidden intentions or secret plans' (Wæver 2001, 26–7).

The security speech-act also calls for exceptionality by offering to handle the issue 'through extraordinary means, to break the normal political rules of the game (e.g. in the form of secrecy, levying taxes or conscription, playing limitations on otherwise inviolable rights, or focusing society's energy and resources on a specific task)' (Buzan, Wæver, and de Wilde 1998, 24). By claiming security, the authority's decision on the designation of existential threats and bringing exceptionality into play in return finds resonance in the Schmittian understanding of the political order and his decisionist theory of sovereignty.⁶ Schmitt's enmity–amity distinction as the essence of the 'political' reflected in his idea of 'every concrete antagonism becom [ing] that much political the closer it approaches the more extreme point, that of friend-enemy grouping' (1996, 29) and his famous definition of the 'sovereign is he who decides on the exception' (1985, 5) invoke the politics of exceptionality that constitutes enemies within the speech-act conceptualization.

Notwithstanding the recognition of subjective construction of threats and exceptional measures by the sovereign in the Schmittian logic, the Copenhagen school adopts the assumption that 'successful securitization is not decided by the securitizer but by the audience of the security speech act', which in turn refurbishes the securitization framework with an *intersubjectivity* component (Buzan, Wæver, and de Wilde 1998, 31). Whether it conforms to the Schmittian understanding of the political, or bases itself within the contours of social constructivism through intersubjectivity following the Arendtian concept of politics, securitization is alleged to be dangerous or a negative act (Aradau 2004; Huysmans 2004; Williams 2011; Roe 2012).⁷ For Williams,

security is not about identifying threats or dangers, or articulating fears; it is also a political act that we need to approach with caution for fear of the possibility of a politics of extremity, with the unforeseen and potentially dangerous consequences that it brings. (Williams 2011, 459)

'The exceptional politics of securitization' as Aradau argues 'turns into a dangerous undertaking for democracy; even more so as the proliferation of threats risks extending "extraordinary measures" and exceptional circumstances to normality' (Aradau 2004, 393). Elbe (2006, 128) also warns about the risks of securitizing HIV/AIDS, which 'pushes responses to the disease away from civil society toward the much less transparent workings of military and intelligence organizations, which also possess the power to override human rights and civil liberties ...' Foreseeing these criticisms while designing/improving the theory, the Copenhagen school argued that desecuritization, in other words moving into a situation of *asecurity*, seems the best political choice, since 'security should be seen as negative, as a failure to deal with issues as normal politics' (Wæver 1995, 56–7; Buzan, Wæver, and de Wilde 1998, 29).

In their self-definition, the scholars of the Copenhagen school suggest that, 'desecuritization is the optimal long-range option, since it means not to have issues phrased as "threats against which we have countermeasures", but to move them out of this threat-defense sequence and into the ordinary public sphere' (Buzan, Wæver,

and de Wilde 1998, 29). Since its invention, the concept of desecuritization has generated wide range of empirical studies reflected in the examples of minorities, border problems, environmental issues, female soldiers and military conflicts (i.e. Wæver 2000; Roe 2004; Aras and Karakaya-Polat 2008; MacKenzie 2009; Floyd 2010). In her very recent article, Hansen provides an illuminative reading of these varied empirical studies, with the particular aim of observing *how* formerly securitized issues can be moved to the public sphere of everyday politics. She identifies 'four forms of desecuritization' with the robust claim of almost non-existence of 'instances of desecuritization which cannot be analysed through these four forms' (2012, 539). Desecuritization can be observed in the forms of *change through stabilization* (is when an issue is cast in terms other than security, but where the larger conflict still looms); *replacement* (one issue moving out of security, while another is simultaneously securitized); *rearticulation* (desecuritizations that remove an issue from the securitized by actively offering a political solution to the threats, dangers and grievances in question); and *silencing* (when an issue disappears or fails to register in security discourse) (Hansen 2012, 529, 541, 542, 544).

What is important for the purposes of this paper is to reflect on the forms in which EU conditionality is a catalyst for desecuritization in Turkey through a comprehensive reading of EU accession texts. This thorough reading inevitably necessitates a background synopsis of traditional securitizations in Turkey in the domestic scene, so as to facilitate an understanding of through which forms and to what extent desecuritization is constituted by EU membership conditionality. Accordingly, the next section looks at securitizations in Turkey with a particular focus on *separatism* and *fundamentalism* as domestic existential threats.

Securitizing domestic politics in Turkey: Kurdish issue and Islamic fundamentalism

Almost all of the scholarly work on Turkey's security concerns that refers to 'Kurdish separatism' and 'Islamic fundamentalism' as prioritized domestic threats cites the following quote from Karaosmanoğlu:

... fear of loss of territory and the fear of abandonment became a major aspect of Turkish security culture in the Empire, and the same fears were strengthened by the Treaty of Sevres, which provided for the partition of the Ottoman territories among the European Powers after the First World War. Inherited by the Republic, these fears continue to haunt some of the elite and public opinion. (Karaosmanoğlu 2000, 202)⁸

These fears, which were the by-products of the decline of the Ottoman Empire's great power status and demands for the partition of Ottoman territories as well as the 'ensuring rise of nationalism among Christian peoples and later Muslim Arabs', found resonance in internal and external instabilities in the early decades of the new national state established in 1923, in addition to the Soviet threat during the Cold War (Bilgin 2005, 184).⁹ Due to the global and domestic setting changes in the 1990s, security has been redefined by civilian and military bureaucratic security elites, and the focus of national security conceptualization in Turkey has shifted from external to internal threats. Changes, which at the global level brought about the end of the Cold War, have led to a situation in which the Soviet threat has disappeared as a security concern. Moreover, mainstream Cold War thinking of security that prioritized the statist-military threat conceptualization has been altered,

paving way for domestic threats to be rearticulated as security concerns. The domestic setting was also transformed in the early 1990s with the rise of fundamentalist religious movements and organizations as well as the intensified terrorist activities of the PKK, which was identified as ‘a few terrorists’ only a decade ago (see Paker 2010, 411–2). In this context, a new security discourse, especially uttered by the military elites and which prioritizes the protection of the republic against the Kurdish separatist movement and Islamic extremism, has emerged (Özcan 2006, 45). In other words, the 1990s witnessed securitizations of *separatism* and *fundamentalism* as binary threats to the territorial–national integrity and the secular character of the Turkish state (Erguvenc 1998).

After the August 1984 Eruh attack, the *Partiya Karkerên Kurdistan* (Kurdistan Workers’ Party, PKK) began to operate; however, it was in the 1990s that PKK’s terrorist acts reached such level of intensity that security establishments implemented unprecedented and excessive measures to tackle this existential threat targeting territorial and national integrity. In this way, Karaosmanoğlu’s claim that the ‘PKK’s separatist actions are to a considerable extent, the legacy of the nineteenth century nationalism’ could be read as a reminiscent of the fear of the loss of territory (Karaosmanoglu 2000, 203). Since then, terrorism carried out by the PKK as a reflection of separatism has been a major case for securitization, even though it had its lulls during negotiations as well as the ceasefire that followed the capture of Abdullah Öcalan in 1999. In an interview published in *AUC Cairo Review*, Turkish MFA Ahmet Davutoğlu reiterated this discourse by claiming that ‘the PKK terrorist organization does not constitute a threat only to the security and stability of Turkey, but also to those of our neighbors including Iraq’.¹⁰

Alongside the PKK’s separatist activities, especially in the aftermath of the so-called post-modern coup of 28 February 1997, political Islam has been considered as the ‘supreme target of securitization policies’ and has even been given priority over other security discourses (Cizre 2003, 214). With this intervention, the NSC issued an 18-point list of counter-threat measures, including the control of ‘media groups that oppose the Turkish Armed Forces (TAF) and its members’ in order to alleviate the danger posed by religious fundamentalism to the secular character of the regime.¹¹ In his speech of 24 February 1997, Admiral (Ret.) Guven Erkaya (then Naval Commander in Chief) referred to the threat of reactionary Islam (*irtica*) as more serious than PKK terrorism’s. The activities of Islamist groups like the *Hizb-ut Tahrir*, *Islamic Jihad* and *Hezbollah* in Turkey rang alarm bells in the early 1990s and they were securitized as threats directed at the secular character of the regime (see Karmon 1998).

In this context, through the securitizations of the Kurdish issue and reactionary Islam, it was during the 1990s that the ‘sub-text of fear of abandonment and fear of loss of territory was turned into text in Turkey’s security discourses’, as noted by Bilgin (2005, 184). Separatism and fundamentalism identified as threats to territorial and national integrity have remained in Turkey’s official security discourses throughout the 2000s. Therefore, it is not surprising to hear quotes such as the following in public debates as well as scholarly studies: ‘Turkey’s national security policy continues to be influenced by Sévresphobia that is the conviction that the external world and their internal collaborators are trying to divide and weaken Turkey’ (Aydin 2003, 347).

Following this logic of securitization, the NSC (*Milli Güvenlik Kurulu – MGK*) has been one of the main securitizing actors with authority over security-speak as

well as the power to recommend emergency measures to defuse threats incorporated in the security speech-act. This authority derives from Article 118 of the Constitution as well as the Law of the NSC and General Secretariat in which national security is defined as ‘the protection and maintenance of the constitutional order, national presence, integrity, all political, social, cultural and economic interests in the international field as well as against any kind of internal and external threats, of the State’. Within this definition, the NSC is tasked to ‘take *advisory* decisions on issues pertaining to the determination, establishment and implementation of the national security policy of the State, and shall provide its views with a view to ensuring the necessary coordination’.¹² As evident in the legal framework, the NSC as an institution ‘situated at the centre of state security structures’, is framed as one of the main securitizing actors in Turkey incorporating a platform that brings together military and political security elites (Özcan 2006, 42). Even though the composition and role of the NSC have changed due to EU pressures, it still remains as a securitizing actor with the capacity to formulate emergency measures.

The concept of national security is primarily described in the National Security Policy Document (NSPD) (*Milli Güvenlik Siyaseti Belgesi*) prepared by the Secretariat of the NSC, and upon approval transformed into a formal decision by the Council of Ministers. Whether accessed ‘through intermittent leaks to the media’ (Bilgin 2007, 562), or excerpted selectively and made public by the members of the NSC, this document is the main official text of the security speech-act. The Ministry of Foreign Affairs’ explanation about the NSPD clearly demonstrates the fact that NSPD is a test of securitization:

We put together a simple text. Instead of vague expressions, we made clear definitions of Turkey’s benefits and the threats. We wrote in clear terms what should be done and why. We expressed clearly the measures that could be taken against the threats. (Özcan 2006, 49)

The NSC in its NPSD of 1992 has ‘singled out Kurdish terrorist acts as the foremost security threat to the state’ and in 1997 ‘identified Islamic activism and Kurdish separatism as the paramount security threats’ (Cizre 2003, 222). This document reinforced the trend of giving internal threats higher priority to external ones. The Office of the Chief of Staff, who publicized this amendment to the NSPD, also declared that ‘internal threats against the territorial integrity of the country and the founding principles of the republic became graver than external threats’ (cited in Bilgin 2005, 188). Moreover, extreme leftist movements were also articulated as concerns for security. In 2005, in the new NSPD, ‘separatism, fundamentalism and the extreme left-wing remained as priority threats, whereas the extreme right was no longer classified as a threat, but defined only as a factor that should be monitored’. Water problems, asymmetrical threat assessments, drug and human trafficking, and problems of an economic nature were also listed as domestic security items in the NSPD of 2005. Notwithstanding the fact that they were articulated as security issues, the document attached urgency and emergency to separatism, fundamentalism and extremism as the securitization grammar would entail. Moreover, this document paralleled previous documents by suggesting that the army could be utilized to alleviate these threats when necessary (Özcan 2006, 50). Cemil Çicek, the spokesperson of the government, in 2010 told the press that revisions of this text included health, food and water safety among other changes, in addition to traditional conceptualizations of security.¹³ In

sum, since the 1990s, 'separatism' and 'fundamentalism' have been included in security speech-acts which are listed in successive NSPDs as existential threats demanding extraordinary measures, even military action when deemed necessary.

Alongside the formal mechanisms of the NSC as an originally military-guided and since 2003 a civilian-guided institution, political elites as well as military officials have also been able to securitize the very same issues in their relevant speeches outside the closed doors of NSC meetings. Numerous studies have been conducted concerning the impact of the military on Turkey's security culture, which is a consequence of political trends passed on from the years of the Empire, public trust in the military and the failures of previous governments (Heper and Güney 1996; Jenkins 2001). This role was further extended in the aftermath of the post-modern coup of 28 February 1997, on the occasion of the release of an 18-point list of measures to counter *irtica* (reactionary Islam) by the NSC to the coalition government of the time. Immediately after the 1997 coup, General Çevik Bir, then the Deputy Chief of General Staff, formulated the threat of political Islam to the secular character of the state and justified the military intervention in the following analogy:

In Turkey we have a marriage of Islam and democracy. The child of this marriage is secularism. Now this child gets sick from time to time. The Turkish Armed Forces is the doctor which saves the child. Depending on how sick the kid is, we administer the necessary medicine to make sure the child recuperates.¹⁴

Taking a similar standpoint, General (Ret.) Ismail Hakki Karadayı (then newly appointed Chief of Staff), speaking in September 1998, also described Islamist militancy as the foremost threat to the unity of the Turkish state along with Kurdish separatism: 'The dark forces [of Islamic fundamentalism],' he said, 'will continue to face the TAF as they did before' (Zaman 1998).

Throughout the 1990s, albeit with a more flexible tone in the last decade, the Turkish military has continued to exert its influence over security-speak, as evident in the preparation of the *Red Book* [NSPD] as well as in the public speeches of military top-brass. As argued by Cizre, 'the TSK [TAF], since [the last overt intervention in 1997], has made and removed governments, issued public demands and warnings to civilians ... and impinged on the day-to-day operations of elected governments' (2003, 216). However, the securitizing role of the military elites has been curbed to some extent with the changes in the composition of the NSC and the establishment of two other institutions – the Security Affairs Directorate within the Prime Ministry in 2006 tasked with 'coordinating the relevant institutions on internal security, external security and fight against terrorism' and the Undersecretariat for Public Affairs and Security in 2009 which has been linked to the Prime Ministry in 2011 – (Özcan 2012, 37) as well as ongoing cases of former or acting military personnel who have been put on trial for suspicion of attempting to overthrow the government. Despite this marginalization and the alleged 'change of the centre of gravity in the security realm from the NSC to the Prime Ministry' (Özcan 2012, 37), the military still assumes a role in security speech-acts, through its presence in the NSC as well as through individual representations, albeit to a very limited extent.

EU reflections: conditionality as desecuritization?

This security discourse, reflected both in the NSPD and the securitizing elites' speech-acts which point to Islamic fundamentalism and Kurdish separatism as the

paramount threats, opened up the debate on the securitization–democratization dichotomy both in Turkish academia and policy circles. Concurrently with the highly dramatized security rhetoric employed throughout the 1990s, the disparity of ‘more security, less democracy’ manifested itself in the implementation of exceptional suspensions of several democratic practices in Turkish politics. Cizre suggests that this new conceptualization of security in Turkey has led to the ‘codification of laws pertaining to internal security, anti-terrorism, and maintenance of public order, criminalizing certain political activities, constraining public debate and expanding military jurisdiction over civilians’ (2003, 219). From the perspective of EU accession, such anti-democratic practices and limitations of liberties as politics-of-exceptionality have impaired Turkey’s advancement towards EU membership. Accordingly, Turkey was rejected as a candidate country at the Luxembourg European Council of December 1997 because of shortcomings in fulfilling Copenhagen political criteria (stability of institutions guaranteeing democracy, the rule of law, human rights, and respect for and protection of minorities) which lie at the core of EU’s conditionality mechanisms.¹⁵

Desecuritization as a solution for Turkey’s impediments to democratization which delayed Turkey’s EU membership prospects has been suggested by various scholars, whose approach is succinctly summed up by Bilgin: ‘Turkey’s problems with democratization are rooted in the broad size of its security agenda, and the solution is to be found in restricting the framing of issues as security problems’ (2007, 561). On 4 August 2001, speaking at his party’s (Motherland Party – *Anavatan Partisi*) seventh annual convention, Mesut Yılmaz (then Deputy Prime Minister) labelled this predicament as a ‘national security syndrome’.¹⁶ This path-breaking speech depicted the panic-driven broadness of security discourses as the stumbling block to Turkey’s advancement towards democratization and EU membership, and identified possible framing of issues outside the security realm as the only way out. Since 2005, the EU has also followed up on the efforts that Mesut Yılmaz launched in 2001 by criticizing the broad security conceptualization in Turkey. The 2005 Progress Report noted: ‘Article 2a of the NSC Law provides a broad definition of national security, which, depending on interpretation, could cover almost any policy field ...’ (European Commission 2005, 14). The 2011 report also asserted that ‘the Law on the NSC was not amended and continues to provide a broad definition of security which, depending on interpretation, could cover almost any policy field’ (European Commission 2011, 14). Undoubtedly, Mesut Yılmaz’s solution of narrowing down the official understanding of security and the EU’s criticism of a wider definition resonated with the Copenhagen school’s desecuritization lexica. The following two sections will unveil the ways in which the EU has facilitated desecuritization in Turkey, by decoding the EU accession documents in the two illustrative cases of *silencing the military* and *improving freedom of expression* which are common desecuritizing attempts for the two formerly securitized issues of separatism and fundamentalism.

EU reflections on silencing the military

The EU conditionality titled as ‘civilian oversight of the security forces’ or ‘civil-military relations’ in EU accession texts has involved restricting the role of the NSC and changing its composition in such a way that the military’s *formal* role in securitizations would be limited as well as curbing direct military interference in politics in order to stifle TAF *informal* authority on security-speak.

In the 2001 and 2003 Accession Partnerships, the EU only touched upon the formal aspect of the military's securitization monopoly by asking Turkey respectively in 2001 'to align the constitutional role of the NSC as an advisory body to the Government in accordance with the practice of EU Member States' (Council of the EU 2001, 19) and in 2003 'to adapt the functioning of the NSC in order to align civilian control of the military with practice in EU Members States' (Council of the EU 2003, 44). The Progress Reports issued between 1998 and 2002 adopted a critical attitude on the role, composition and functioning of the NSC. In 1998, the Commission noted: 'The lack of civilian control of the army gives cause for concern. This is reflected by the major role played by the Army in political life through NSC' (European Commission 1998, 14). The Army's influence through the NSC, as a securitizing actor making decisions regarding security threats and strategies to overcome these challenges, is illustrative in the wording of the 2000 Progress Report: '[The NSC]'s conclusions, statements or recommendations continue to strongly influence the political processes as witnessed in the recent debate over dismissing of civil servants suspected of links with *radical Islamic* and *separatist movements*' (European Commission 2000, 14).¹⁷

Based on the landmark decision of the EU in 1999 to declare Turkey as a candidate country with which accession negotiations could start as soon as the political criteria is sufficiently fulfilled, and in tandem with 2001–2003 Accession Partnerships directions and the criticisms expressed in Progress Reports, Turkey has embarked upon a process of reform in these areas, as well as others. In this context, the first amendment appeared in Article 118 of the Constitution which increased the number of civilian members of the NSC and noted the advisory nature of the institution.¹⁸ Moreover, the seventh harmonization package, which entered into force in 2003, amended the Law on the NSC and the Secretariat General of the NSC (Law No 2945 of 11 September 1983) in a way that curbed the executive and supervisory powers of the Secretary General; eased legal restrictions for appointing a civilian Secretary General; increased the time period between NSC meetings from one to two months; and repealed the Chief of General Staff's right to convene a meeting (Secretariat Secretariat General for EU Affairs 2007, 17–18). In September 2004, Ambassador Tahsin Burcuoglu was appointed as the first civilian Secretary General, and he was not granted the power to follow up the implementation of the NSC's recommendations, thereby initiating a substantial break with past practices of national security policy formulation and implementation. Overall, these reforms were the initial steps in silencing the military's voice, albeit informally and indirectly, through limiting its representation in the NSC as well as by curbing the influence of the NSC in Turkish political life. In other words, this was an early attempt at desecuritization through the elimination of the speech-act authority of the military. However, in the early years of this reform process, the Commission in 2002 was visibly suspicious of this impact:

The introduction of a civilian majority of members and the limitation to an advisory role, in line with the Accession Partnership priority, do not appear to have changed the way the NSC operates in practice. Although decisions are taken by majority, opinions of its military members continue to carry great weight. (European Commission 2002, 25)

While raising concerns over the implementation of reforms in the reports issued between 2001 and 2004, the Commission in 2005 was finally convinced that 'as

regards the duties, functioning and composition of NSC, the *implementation* of reforms adopted in previous years has begun' (European Commission 2005, 12).¹⁹ Thus, the formal aspect of the military's role in security policy-making was diminished to a certain extent. However, first appearing in text in the 2003 Progress Report, the EU began to focus on the military's influence through a series of informal mechanisms, other than the formal procedures of the NSC (European Commission 2003, 19). In almost parallel wordings, the Commission criticized the individual military members of the NSC as well as the senior commanders of the TAF for expressing opinions on foreign policy issues, terrorism, the Kurdish issue, secularism, Cyprus, and in particular the 2010 Progress Report on judicial issues related to the *Ergenekon* investigation (European Commission 2010, 11).

On limiting the military's informal authority on security-speak, the 2006 Accession Partnership introduced a new short-term conditionality by asking Turkey 'to continue to align civilian control of the military with practice in EU member states' and to 'ensure that civilian authorities fully exercise their supervisory functions, in particular as regards the formulation of the national security strategy and its implementation' (Council of the EU 2006, 36). The 2008 Accession Partnership has only added the guarantee of non-interference of the military in political issues to the above formulation (Council of the EU 2008, 7). The adoption/implementation of this conditionality has been facilitated with the ongoing domestic political impasse created by the investigations and trials of retired or incumbent members of TAF over the *Sledgehammer* and *Ergenekon* cases, alleged by the Commission as 'coup plans' against the current government (European Commission 2011, 6–7). Whether or not it was EU conditionality or the domestic political context, or both, that paved the way for a diminishing role of the army, the EU in its 2012 Progress Report confirmed that 'the General Staff generally abstained from exerting direct or indirect pressure on political issues', however noting the criticism by the Chief of General Staff in January 2012 on the 'use of the Kurdish language in public education' (European Commission 2012, 7). Put differently, the EU conditionality has been one of the factors that accelerated the transformation of military's role almost to the point of silence in Turkish political life. This desecuritization attempt categorically fits into the *silencing* form of desecuritization pointed by Hansen, 'that one encounters in the literature applying securitization theory', 'that is when an issue disappears or fails to register in security discourse' (2012, 544).

EU reflections on eliminating limits to freedom of expression

Among many cases (i.e. State Security Courts, the state of emergency imposed on south-east Turkey between 1987 and 2002 and limitations on cultural rights such as education or broadcasting in local dialects), restrictions on freedom of expression have been justified by politico-military elites as extraordinary measures necessary to alleviate threats against the indivisibility of the nation and the secular character of the regime. For instance, Prime Minister Recep Tayyip Erdoğan was imprisoned for reciting a poem in 1997 which was alleged as an incitement to religious and ethnic hatred, under Article 312/2 of the Penal Code.²⁰ Orhan Pamuk, a Nobel laureate novelist, was brought to trial under Article 301 of Turkish Penal Code (Article 159 of the former law) in relation to remarks he had made to a Swiss newspaper on the Armenian and Kurdish issues.²¹ As various examples illustrate, open debate about the Kurdish question and political Islam was restricted on grounds of national

security, and this impaired democratic practices particularly after the dramatic securitizations of fundamentalism and separatism in the nineties.

This securitization–democratization dilemma within the context of freedom of expression has been reflected by the EU in all Progress Reports issued since 1998. Moreover, since 2001 with the first Accession Partnership, ensuring full respect of freedom of expression in line with the European Convention of Human Rights (ECHR) has been stipulated as a political condition for membership. In the exact wording of the latest Accession Partnership (2008), Turkey must: ‘in view of ensuring full respect of freedom of expression, revise and implement legislation on freedom of expression, including freedom of the press, in line with the ECHR and with the case law of the ECtHR [European Court of Human Rights]’, and ‘remedy the situation of those persons prosecuted or sentenced for non-violent expression of opinion’ (Council of the EU 2008, 8).

In the Progress Reports of 1998, 2001 and 2002, the Commission claims that Articles 159 and 312 of the Penal Code, as well as Articles 7 and 8 of Anti-Terror Law, have been the primary agents for restricting freedom of expression in Turkey (1998, 15; 2001, 24; 2002, 21). William Hale concurred by suggesting that ‘these statutes were used in Turkey for many years to restrict freedom of expression and association, particularly for these supporting dissident views on the Kurdish and Islamist issues’ (Hale 2003, 105). A closer look at the Progress Reports issued between 1998 and 2002 reveals that the Commission expressed strong concerns over the exercise of freedom of expression in Turkey and referred to the situation as ‘not [being] fully-assured’ or ‘worrying’ or implicated by ‘several serious problems’ (1998, 15; 1999, 12; 2000, 24). Moreover, in the 2001 report, it was noted that in just one year, ‘261 persons have been sentenced under Articles 159 and 312 of the Penal code and 324 under the Anti-Terrorist law’ (European Commission 2001, 24–5). As Hale notes, ‘Article 312 in particular was used to prosecute such people on grounds that calling for greater political or cultural rights for the Kurds or adherence to Islamic principles in politics, constitute an incitement to racial or religious hatred’ (2003, 105).

As part of reform packages adopted since 2002, a number of restrictions on the exercise of freedom of expression in Turkey have been lifted, which led the Commission in 2003 and 2004 to admit that the amendments on the Articles 159 and 312 of the Penal Code as well as Articles 7 and 8 of Anti-Terror Law led to both acquittals and the release of some prisoners sentenced for non-violent expression of opinion (2003, 29; 2004, 13).²² Since then, despite this modest but progressive discourse on the exercise of freedom of expression in Turkey, the Commission has highlighted the problems of consistency in interpretation and implementation by prosecutors, as reflected in heavy sentences or acquittals for similar cases as well as the ongoing referral to these and other statutes for hindering the full guarantee of this freedom. This trend remained almost unchanged with the adoption of the new Penal Code in 2004. The Commission’s conclusions in its 2005 Progress Report are worth mentioning:

Overall the new Penal Code provides limited progress on freedom of expression. Articles that have been frequently used to restrict freedom of expression and have been assessed as potentially conflicting with Article 10 of the ECHR, have been maintained or changed only slightly. The implementation of the new Code will have to be closely followed in order to assess its effect in practice. (European Commission 2005, 38)

Until the 2008 Progress Report, the concerned tone of the Commission remained quite similar in subsequent texts, and in the 2006 and 2007 reports, the EU declared that the present legal framework did not guarantee freedom of expression in line with European standards (2006, 15; 2007, 15). Since May 2008, with the amendment of Article 301, which introduced a requirement for permission to be obtained from the Minister of Justice to launch a criminal investigation, the agency granted by the article has no longer been systemically used for restricting freedom of expression. In 2010, the Ministry has approved only 10 of the 403 applications for launching a criminal investigation, whereas this number has been reduced to eight in 2011 (Progress Report Prepared by Turkey 2012, 30).

In other words, conditionality clauses have certainly urged Turkey to adopt and implement reforms that would otherwise be unthinkable in such a short period of time without EU prompting. Despite this positive record, as indicated in the 2008 report, ‘Articles 215, 216 and 217 of the Turkish Criminal Code, which criminalize offences against public order, and the Anti-Terror Law have been applied to prosecute and convict those expressing non-violent opinions on Kurdish issues’ (2008, 16). The third Judicial Reform Package adopted in 2012 has slightly shifted this negative record by widening freedom of expression through

which all probes into offences committed via the media that are punishable with jail terms of up to five years will be suspended and if the same offense is not re-committed within three years, the cases would be scrapped for good.²³

However, Turkey’s overall record in the exercise of the freedom of expression has not yet reached a satisfactory point with all the imprisonments of journalists, writers and academics, as confirmed by the Commission in 2011:

In practice, freedom of expression is undermined by the high number of legal cases and investigations against journalists, writers, academics and human rights defenders and undue pressure on the media, which raises serious concerns. The present legislation does not sufficiently guarantee freedom of expression in line with the ECHR and ECtHR case law and permits restrictive interpretation by the judiciary. (2011, 27)

Notwithstanding all the existing limitations on the freedom of expression and the ongoing imprisonments in Turkey, the EU conditionality has been a major catalyst for desecuritizing the Kurdish issue as well as political Islam through the insistence of extending the freedom of expression. This desecuritization attempt categorically fits into the form of *rearticulation* referring to ‘remov[ing] an issue from the securitized by actively offering a political solution to the threats, dangers and grievances in question’ (Hansen 2012, 542).

Limitations on the EU’s desecuritization impact

Silencing the securitizer, as in the case of diminishing the role of the military, has been a way by which the EU has facilitated to limit the mainstream threat discourses on Kurdish separatism and political Islam. Moreover, narrowing the restrictions on freedom of speech as a way to offer a political solution to the threats represents one form by which the EU has brought normalizing elements to formerly securitized issues, and as a result, fewer security dilemmas and vicious cycles have been produced. Alongside these two illustrative cases of silencing the military and

extending freedom of speech which addressed the Kurdish issue and political Islam in common, some telling examples as political solutions imposed by the EU – rearticulations in Hansen’s terminology – and implemented by Turkey are as follows: introduction of the right of broadcasting in and learning of the different languages and dialects traditionally used by Turkish citizens; abolishing death penalty; lifting of the state of emergency in 2002 in some provinces in south-eastern part of Turkey which was declared a response to the increased massive terrorist attacks in 1987; abolishing the State Security Courts in 2004, which were established according to the Article 143 of the Constitution ‘to deal with offences against the indivisible integrity of the State with its territory and nation, the free democratic order, or against the Republic whose characteristics are defined in the Constitution, and offences directly involving the internal and external security of the State’; and applying measures for developing the socio-economic situation in the south-eastern part of Turkey. All in all, these reforms could all be read as attempts for desecuritizations in Turkey, which were facilitated through EU conditionality.

Nevertheless, according to the logic of desecuritization, since these mainstream threats are still a part of security discourses and practice, this situation cannot be portrayed as one of ‘asecurity’. For Aras and Karakaya-Polat, the answer to the question concerning ‘what kind of evidence do we need in order to suggest that an issue has been desecuritized’ is ‘nothing’ (2008, 498).²⁴ Thus, what is needed to stake claims about desecuritizing separatism and fundamentalism associated with the Kurdish issue and political Islam respectively would be the disappearance/non-existence of the related discourse/practice. However, EU conditionality alone has not been powerful enough to reverse Turkey’s mainstream securitizations.

According to the Copenhagen school’s definition of desecuritization, the disappearance of the security speech-acts is inextricably linked with the movement of issues into the ordinary public sphere. Hansen describes this process as ‘creat[ing] or restor[ing] a genuine public sphere, where humans can ... debate and act to build a common world’ (2012, 531). For instance, Kurdish issue has not yet been subject to such *genuine* public debate, despite all the recent positive attempts for desecuritizing the problem. Çelik and Rumelili argue that ‘since 1999 the Turkish political public started to talk about linguistic rights, removal of the state of emergency, return to and reconstruction of the post-conflict zones, and release of the Kurdish MPs’, thereby creating a permissive condition for a desecuritization of the issue (2006, 212). Political elites’ attitudes (such as the ruling Party’s Kurdish opening since August 2005 when Prime Minister Erdogan spoke about the Kurdish problem to be solved through democratization which was previously perceived as a threat to the unitary character of the state as well as the preparations of talks with the PKK leader in prison in early 2013 with support from the opposition Party); civil society involvement (as in the case of TUSIAD publishing a report in 2007 suggesting that the Kurdish language should be taught in states as an elective course) (Aras and Karakaya-Polat 2008, 501); and media’s backing (Doğan media favoring a ‘language of peace in reporting the developments regarding the Kurdish issue in order to encourage an end to the country’s terrorism problem’) (Yetkin 2013) as well as the EU’s conditionality have been agents of moving towards an asecuritization situation. In other words, various actors and processes have been at interplay for desecuritizing the Kurdish issue alongside the EU as an actor and EU conditionality as a process; however, a genuine public debate also necessitates a conducive social context in which ‘humans can debate and act to build a common world’. The intensified

character of the PKK's terrorist acts in the recent years has hindered such a social context. Thus, Kurdish issue has not yet been desecuritized, which is also reflected in its continuing existence in the NSPD, alongside political Islam.

Above is a telling example of the *first* limitation of EU's desecuritizing impact on separatism and fundamentalism: EU through its conditionality mechanism is the only agent of desecuritizations in Turkey, and it can only impact desecuritizations within an interaction among other actors in a conducive social context. Moreover, EU conditionality per se is not sufficient mechanism for desecuritization and it is only relevant when conditionality operates effectively through the dynamics that can be defined as *efficacy* factors. EU member states' and the EU's commitment to Turkey's accession, a coherent and a consistent accession strategy pursued by the Union without any double standards, Turkey's governmental commitment to EU membership and the ongoing reform process as well as support at the societal levels both in Turkey and the EU countries are the efficacy factors that render EU conditionality to facilitate/impact desecuritizations in Turkey (Acikmese 2010). In other words, as a second limitation, if there is a lack of governmental and societal support for Turkish membership in Europe, and the EU is imposing a different accession strategy from the previous members as well as a serious backlash from EU accession dynamics within Turkey at all levels; then any attempt for desecuritization could not be equated with the mechanisms of EU conditionality, which has been the case since 2005 (Acikmese 2010).

Conclusion

The EU has the ability to trigger the reorientations of policies, politics and polities as well as life styles, informal rules, shared beliefs, and norms of member states and candidate countries towards EU's political and economic dynamics. Since its candidacy declaration in 1999, among many other issues, the security culture in Turkey has undergone a process of change as the result of EU conditionality dynamics. By utilizing the Copenhagen school's desecuritization concept, this paper has illustrated through case studies incorporated in accession documents that the EU membership conditionality has been an important mechanism for Turkey to undertake such democratic reforms that have undoubtedly contributed to the ongoing desecuritization processes; however, since security-speak on the Kurdish issue and Islamic activism has not faded away, the EU's desecuritizing role has remained limited.

In this context, two concrete conclusions can be drawn: first, the EU can only be identified as a facilitator for desecuritizations, as reflected in the examples of silencing the military and enhancing freedom of speech. Not only by pushing amendments to the role, functioning and composition of the NSC, but also by putting pressure on the senior officials of the TAF to limit their security speech-acts, the EU has the potential to trigger a desecuritizing move, both for the cases of Kurdish separatism and Islamic activism, which has mostly been securitized by the military formally or informally so far. Moreover, through amendments in the legal framework, Turkey to some extent has progressed in ensuring freedom of expression, albeit not yet to the point of European standards, as required by the EU and as promised by Turkey in its National Programme for the Adoption of the Acquis. The conditionality in this field has certainly urged Turkey to formulate and implement reforms; however, Turkey still has recourse to the restrictive tools of

Articles 301 and 216 as well as other prohibitory clauses to obstruct freedom of expression, and they still serve as extraordinary measures applicable to those who speak about the Kurdish issue and/or political Islam.

Second, EU through its conditionality mechanism could only have a limited impact on Turkey's attempts for the desecuritizations of the Kurdish issue and political Islam due to the necessities of the interplay between various desecuritization agents in a conducive social context. This is not to downgrade the EU's role as a facilitator for desecuritizations; to quote Kaliber; 'every attempt to desecuritize ... will substantially contribute ... to the democratic transformation of the political regime in Turkey' (2005, 334). However, the efficacy of EU conditionality on Turkey's desecuritizations will depend on the existence of favourable conditions about Turkey's EU membership prospects both in Turkey and the EU, which is definitely not the case by early January 2013.

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Notes

1. For Smith (2003, 108), 'conditionality entails the linking, by a state or international organization, of benefits desired by another state to the fulfillment of certain conditions'.
2. See Verney and Ifantis (2009) for a whole volume on Turkey's change in different regards as the result of EU membership prospects.
3. Emphasis as in the original. For a similar argument see Karakaya-Polat (2009, 134) and Cebeci (2007).
4. For the four-pathway model used to analyze the EU's role in the resolution of border conflicts see Diez, Stettner, and Albert (2006, 563–93).
5. For the democratic reforms see Political Reforms in Turkey (2007) and Acikmese (2010).
6. Even though Wæver admits that the 'original version of the speech act theory was formulated in 1988 without any direct inspiration', but 'notic[ed] naturally the similarities' after reading Carl Schmitt's works (http://cast.ku.dk/people/researchers/ow/Ole_W_ver_10_books_-_reposted.pdf); the correlation between Schmittian theory of the political and the securitization theory has been extensively studied in secondary literature (see for e.g. Huysmans 1998; Williams 2003; Behnke 2006). These intensive discussions on the influence from Carl Schmitt in the Copenhagen School finally has led Wæver to claim directly that the theory has 'Schmittian effects nevertheless' (2011, 470).
7. Wæver (2011, 468) is also in support of the view that the 'concept of politics' entailed in the securitization theory has been inspired by the works of Hannah Arendt (1958, 1968). For examples from the literature on the Arendtian impact on the securitization theory see Jutila (2006, 172–3) and Floyd (2010, 26–7).
8. Emphasis added.
9. For a timeline (1800–1923; 1923–1945; 1945–1989 and from 1989 onwards) of these security concerns, see Kazan (2003, 448).
10. Interview by Mr Ahmet Davutoğlu published in *AUC Cairo Review* (Egypt) on 12 March 2012, http://www.mfa.gov.tr/interview-by-mr_ahmet-davuto%C4%9Flu-published-in-auc-cairo-review-_egypt_-on-12-march-2012.en.mfa.
11. Decision Number 406 of National Security Council.
12. Articles 2, 4 of Law No 2945. Emphasis is mine.
13. <http://www.cnnturk.com/2010/turkiye/11/22/milli.guvenlik.siyaset.belgesi.kabul.edildi/597105.0/index.html>.
14. Cited in the Article titled Turkey and the US in 1997: Different Voices, Same Chord, *Hurriyet Daily News*, January 18, 1998.

15. For the Luxembourg Presidency Conclusions of 12–13 December 1997, see, http://ue.eu.int/ueDocs/cms_Data/docs/pressData/en/ec/032a0008.htm.
16. Cited in the Article titled Yılmaz Ulusal Güvenliği Tartışmaya Açtı [Yılmaz Opened Up the Debate on National Security], available at <http://arsiv.ntvmsnbc.com/news/98251.asp>.
17. Emphasis is mine.
18. Article 32 of Law No 4709 of 3 October 2001 amending the Constitution. According to this amendment and Law No 2945 (as amended on 15 January 2003), the National Security Council is composed of the Prime Minister, Chief of General Staff, Deputy Prime Ministers, Ministers of Justice, National Defense, Internal Affairs and Foreign Affairs, Commanders of the Army, Navy and Air Forces and General Commander of the Gendarmerie, under the chairmanship of the President of the Republic. The addition of Deputy Prime Ministers and the Minister of Justice to this composition through the above-mentioned amendments was a maneuver to outweigh the power of the military membership in the Council.
19. Emphasis is mine.
20. Cited in Article titled Erdogan: Turkey should get rid of Article 312, *Hurriyet Daily News*, August 22, 2000. Article 312/2 of Law No 765 reads as follows: ‘Anyone who openly incites the public hatred and enmity with regard to class, race, religion, religious sect or regional differences shall be punished by between one and three years of imprisonment’. Article 312 has been replaced with Article 216 with the new Turkish Penal Code (Law no 5237 of 26 September 2004).
21. According to Article 159 of Law No 765 those who publicly insult or deride Turkishness, the Republic, the Grand National Assembly of Turkey, the moral character of the Government, the Ministries, the military and security forces of the State or the moral character of the judicial bodies of the State, shall be sentenced between one and six years of severe imprisonment. For interpretations and changes on Article 159 and Article 301, see Algan (2008).
22. Some changes include the reduction in prison sentences, abolishing fines for criticisms in cases applicable to Article 159 and the addition of the notion of incitement in a way that may be dangerous for public order was added as an element of the offence stipulated in Article 312.
23. Reform package paves way to relieve judiciary’s burden, *Hurriyet Daily News*, August 3, 2012.
24. Emphasis as in the original.

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