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The Copenhagen Criteria

A comparative case study of Bosnia and Hercegovina and Turkey.

Bachelor's project in Europeanstudies

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Introduction

The European Union operates with two different categories of the states that has applied for membership: “candidates” and “potential candidates”. The main difference between the two categories is that the candidate countries are currently in the enlargement process whilst the potential candidates are opting to get there, but are not in the loop yet¹. Candidate country Turkey was declared eligible to join the EU in 1999 and the accession negotiations started in 2005, but they are still not members.² Bosnia- Hercegovina (hereafter Bosnia) was identified as a potential candidate in 2003 and they applied for membership in 2016.³ Five years later, Bosnia is still listed as a potential candidate.

Enlargement and integration have been a clear focus for the EU, especially in later years. Integrating new member states is of interest for the EU, because it unites European countries working together to achieve common goals. Objectives like peace, stability and democracy across the continent are all driving force for enlargement.⁴ However, the integration process can be lengthy and difficult for some countries, because there are certain criteria they have to meet, to become member states. The prospect of eventually joining the EU can also push countries to better themselves in certain areas. Enlargement is not conducted so that the EU can reform countries, but for countries to be fully integrated members, they may have to reform themselves. This is one of the reasons why some countries stay candidates or potential candidates for a long period of time.

The current last country to have joined the EU is Croatia, becoming members in 2013⁵. The European Parliament stated that Croatia’s accession to the EU “constitutes a significant incentive for other countries in the region”⁶. Bosnia is a country in the same region, the Western Balkans, as Croatia. And it seemed like it was an incentive, because they applied for membership three years later. Turkey however is a country that has opted to become members for over 15 years but is somewhat stuck in the integration process. The European Parliament has described the accession process with turkey as “*de facto* frozen” after the 2016

¹ European Commission, “Candidate and Potential Candidate Countries.”

² European Commission, “Turkey.”

³ European Commission, “Bosnia and Hercegovina.”

⁴ European Parliament, “The Enlargement of the Union.”

⁵ European Union, “Countries.”

⁶ European Parliament, “The Enlargement of the Union.”

attempted coupe, but they remain their status as candidate country.⁷ The research question of this dissertation aims to answer is: What separates candidate country Turkey and *potential* candidate Bosnia? Consequently, the following sub-questions can identify:

- Why is Turkey categorized as a candidate and Bosnia a potential candidate?
- How does institutions in the respective countries influence the integration processes?
- In what way has historical events formed these institutions over the years?

Method

The method that will be used in trying to answer these questions, is a case study. According to Gerring a case study can be difficult to define due to its wide range of usage.⁸ In this assignment, the case study means that the method is qualitative, and will be used to compare cases, it can therefore be called a qualitative comparative case study. Gerring defines the overall methodology of a case study as; “an intensive study of a single unit for the purpose of understanding a larger class of (similar) units”.⁹ For this paper the single units will be the two countries Bosnia and Turkey. By studying their similarities and differences as well as their individual struggles to achieve membership and eventually become fully integrated members of the EU, we can learn what the categorizations of future members really reflects. The two countries represent two different categories as they have received the titles of “potential candidate” and “candidate”. These two categories will represent the larger class of similar units that Gerring refers to.¹⁰

The focus will be on why Turkey is categorized as a candidate country and Bosnia as a potential candidate country, and what their categorization can tell us about their integration process, as well as the EUs reasoning behind the different categories of states that has applied for membership. The case study will try to identify the measures that can be taken by either the EU or the individual states to make the integration process smoother, with a main focus on institutional initiatives. Comparing what is hindering the process for the potential candidates and candidate countries, is important, because it can be telling of what the main

⁷ Ibid.

⁸ Gerring, “What is a case study and what is it good for?”, 342.

⁹ Ibid, 342.

¹⁰ Gerring «What is a case study and what is it good for?» , 342.

focus for the EU is when it comes to integrating new member states, but also what is important for the states wanting to become members. It is also important to know how the criteria can be more case-specific for each country, and why Bosnia and Turkey have not yet managed to meet them, as well as it is telling for the priorities in EU policy.

The reason behind this choice of method is because there are two single units here, these two units can be characterized as “cases” because they share the common goal, namely, to become members of the EU. The research question is a “why?” question, which is also ideal for a comparative case study, because it focuses on the casual nexus of the independent variables (the two states) and the phenomena to be explained (The categorization of countries that have applied for membership), according to Karboon & Beasley.¹¹ The analysis will be driven by a goal of describing the reason behind the struggles in the integration process for both countries, using existing empirical data. Each case will be analyzed empirically by document studies of a variation of sources. Because this case study is concerned with state and EU policy and politics, a number of institutional websites and documents from various institutions will be absolutely necessary to put to good use in this assignment. Government websites and documents as well as documents published by various EU institutions, will be crucial to the analysis. Data and previous work by other authors are also important, especially for context and history. News articles will be necessary to show how events were portrayed at a specific moment in time.

Theoretical framework

Historical context

The idea of a united Europe can be dated all the way back to the Roman Empire, both Napoleon and Hitler tried to unite Europe by force but failed.¹² The term “European integration” is often used to describe the cooperation between European countries in different areas of politics, through the European Union. It is important to have some knowledge about European integration, as well as the enlargement process, to be able to understand and view

¹¹ Karboon & Beasley “A Practical Guide to the Comparative Case Study Method in Political Psychology.”, 378.

¹² Watts, *The European Union* (Edinburgh: Edinburgh University Press, 2008), 3.

Turkeys and Bosnia's integration process in perspective and with context. It is useful to understand why European integration came to be and what the main driving forces behind it was and are today, to understand the requirements candidates and potential candidates needs to meet to become fully integrated members of European Union. Because this case study is also focused on the part of European integration that concerns enlargement, that will also be a focus.

After WWII the eager to secure peace on the continent grew, Europe had at that point gone through two world wars. WWII had in particular separated Germany from Europe, and the statesmen of the west faced a great challenge; tie Germany into Europe and Europe into Germany.¹³ This was however only a part of a larger recovery process for Europe, where factors like open borders, free interchange of ideas and convertible currencies could create essential networks of prosperity and therefore prevent war.¹⁴ The Schuman plan, drawn up by Jean Monnet and Robert Schuman is officially viewed as the beginning of cooperation and European integration.¹⁵ The Schuman plan was a proposal to create a common European coal and steel community, where the members of the community would pool coal and steel production.¹⁶ The reason for this creation was to make it materially more difficult for European countries (especially rivals Germany and France) going to war on each other again, but also change the way in which coal and steel was distributed, to rebuild Europe.¹⁷ The ECSC was an established a year after the Schuman plan had been presented in 1952. The reason why the Schuman plan is officially viewed as the beginning of European integration, is because it led to the establishment of a supranational organization, the ECSC.¹⁸ The creation of a supranational organization is what separates integrated organizations from other international organizations that governments can join, such as NATO.¹⁹

It is clear that one of the main driving forces behind European integration in the 1950s were peace on the European continent and preventing another war from erupting again. But since the Schuman Plan and the establishment of the ECSC, the process of European integration has continued and is still ongoing. The cooperation between the six member countries of the

¹³ Gillingham, *European Integration, 1950–2003* (Cambridge: Cambridge University Press, 2003), 3.

¹⁴ *Ibid.*

¹⁵ European Union, «EU pioneers. »

¹⁶ European Union, "The Schuman Declaration – 9 May 1950."

¹⁷ *Ibid.*

¹⁸ Dedman, *The Origins & Development of the European Union 1945-2008* (New York: Routledge, 2010), 7.

¹⁹ *Ibid.*, 7.

ECSC spilled over into other areas of politics and eventually other driving forces behind the European integration became apparent. Five years after the ECSC was established, the EEC, CAP and Euratom was established by the six member states after signing the Treaties of Rome.²⁰ Removing taxes and tariffs on imported goods and creating a free trade between countries also made economy and financial gain a driving force for further European Integration. It was also after the treaties of Rome that institutions started to play a higher role of the community, making rules, guarding the treaties and initiating policy.²¹

It took many years after the treaties of Rome were signed, for the community to expand. In 1973 the first enlargement took place, making Britain, Denmark and Ireland members. Britain had at first declined to become members of the ECSC, but soon realized that their power was declining, the commonwealth trade would probably fall and with the establishment of the EEC and CAP, creating a common market between the six member states, Britain's interests would be harmed, making membership crucial.²² It is clear that Britain's main factor for applying for membership, was financial, declining membership until a common market was in creation.

Further enlargements followed with Greece becoming a member of the community in 1981, and after Spain and Portugal's authoritarian regimes fell, the community negotiated with them for a long period of time before they eventually became members almost ten years after applying, in 1986.²³ And even though the community suffered setbacks and stagnation both financially and integration wise in 1970-80, the community continued to push forward and in 1987, the Single European Act was established, eventually eliminating all barriers to intracommunity trade between the now twelve members.²⁴

In 1993 the community had been transformed into a Union, the Union we today know as the EU. The transformation into a Union accelerated the enlargement process, with countries queuing up and potential memberships rising up to twenty-five to thirty.²⁵ The Copenhagen criteria was drawn up and was the minimum criteria for states opting for membership. The largest growth of the EU was the fifth enlargement, that resulted in twelve Eastern and

²⁰ Ibid, 82.

²¹ Ibid, 84.

²² Ibid, 96.

²³ Watts, *The European Union* (Edinburgh: Edinburgh University Press, 2008), 30.

²⁴ Ibid, 36.

²⁵ Ibid, 49.

Central European states to become members in 2004 and 2007.²⁶ These states are not enthusiastic about state intervention and are unlikely to favor any irksome interference from Brussels but are firm believers in the open markets.²⁷ As with Britain the financial benefit of a common market seems to be a driving force for membership during the eastern enlargement.

After looking at the different factors concerning both European integration and enlargement, it is clear that individual states as well as the Union, have their own driving forces and goals for integration. From securing peace to higher trade profits and lower import cost, are all factors for European integration and enlargement. Knowing and understanding the complexity of integration and enlargement process, as well as the diversity of goals and driving forces, entails a better understanding of the countries that will be analyzed in the case study.

Historical institutionalism

Because this paper is largely concerned with European integration, a theory used to describe European integration will also be applied. The theory that is going to be applied to the comparative case study, is the theory of historical institutionalism. The EU as well as the individual states consist of many institutions. These institutions are crucial in the integration and enlargement process. Institutional theory is as old as the study of politics itself, even Plato and Aristotle in their time, understood the importance of political institutions to structure political behavior.²⁸ This importance can be viewed as even stronger today, with institutions structuring behavior in a large number of areas. The Copenhagen criteria that were established in 1993 by the European council, is the criteria that any state has to meet to be eligible for membership²⁹. Both potential candidates and candidates needs to respect and promote these criteria. The first criteria state the following:

“The stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities.”³⁰

²⁶ Ibid, 55.

²⁷ Ibid, 55.

²⁸ Steinmo, «Historical institutionalism», 118.

²⁹ European Parliament, “The Enlargement of the Union.”

³⁰ European Parliament, “The Enlargement of the Union.”

With this being one of the main points, and lowest criteria to become a member state, it serves well as a focal point for this assignment, where historical institutionalism is used as a theory. Historical Institutionalism is a part of new institutionalism; a theory that contains three different streams. The different streams are different approaches of examining institutions; subcategories of the new institutionalism. These streams can in some cases overlap each other in certain areas, but they also have a unique focus of their own. Steinmo views historical institutionalism as not a particular theory, but more of an approach to studying politics and social change.³¹ The historical stream is the stream that has the most in common with the two other streams, believing that human beings are both norm-abiding rule followers (sociological stream) and self-interested rational actors (rational-choice stream).³² However, the main characteristics of historical institutionalism is that it focuses on the effect of institutions over time³³. The underlying definition of historical institutionalism in this paper is one by Fierros, Falletti, and Sheingate;

“Historical Institutionalism is a research tradition that examines how temporal processes and events influence the origin and transformation of institutions that govern political and economic relations.”³⁴

This stream of institutionalism is as the definition applies, used to analyze how different events and processes influence the institutions of each state in the case study. It is an interesting approach as it is able to see how institutions have developed over time, and what events has encouraged the path of development in the individual states. This knowledge is useful when analyzing the two states current situation and why they are in that particular situation. Using this stream of institutionalism in the case study will allow the testing of the theory as well, if in fact some of the choices that have been made in the past in the respective countries, will as historical institutionalism suggest, constrain actors in later time unintentionally.³⁵

³¹ Steinmo, «Historical institutionalism», 118.

³² Ibid, 126.

³³ Wiener, Boerzel & Risse, European Integration Theory, 110.

³⁴ Ibid, 110.

³⁵ Ibid, 111.

The reasoning behind using institutionalism as a theory in this case study, is because institutions play such a high role when a country is wanting to join a Union, not only when applying for membership but also when it comes to hindering particular policy choices, that can obstruct the process, as well as structuring a “menu” of the choices available in different regimes, that may not align with certain criteria’s of an organization like the EU.³⁶ By then using the historical institutionalism approach, one is able to examine why a certain outcome occurred and why a certain choice was made.³⁷ In the case of both Bosnia and Turkey, analyzing what choices have been taken in the past and why, and how these have affected or not affected their current situation of institutions, is useful to further understand what changes needs to be made. The reason for the historical institutionalist approach developing and why history matters when it comes to institutions, is according to Steinmo because of three things. The first one being that a political event occurs within a historical context, this context has a direct consequence for the decision or event. Secondly, history matters because actors and agents can learn from experience, understanding that behavior and strategic choices take place in a specific social, political, economic and cultural context, rather than treating all political action the same without context.³⁸ The last reason Steinmo mentions on why history matters is that expectations are molded by the past.³⁹

Literature review

The previous literature on the subject of Turkish and Bosnian membership are both conflicted and diverse. This review will shed light on previous work discussing the integration process of these two states. Most of previous work on the subject is focused on just one state respectively. It will however be of good use to review, as it can shed light on individual struggles and progress of the individual states. The review is going to focus on the integration process of the two respective countries, as well as literature that compares them in areas relevant to the topic.

³⁶ Steinmo, «Historical institutionalism», 124.

³⁷ Ibid, 126.

³⁸ Ibid, 127.

³⁹ Ibid, 128.

Turkey

Early on in the integration process of Turkey, there were many different views on EU-Turkey relations. Hodge claimed that the relationship was being strained by immaturity on both sides and argues that Turkey aspiring to become members of the EU, should be seen as a historic import and not as a nuisance.⁴⁰ He explains how Turkey becoming members of the EU can in fact promote western values that are under attack in the Islamic world.⁴¹ Reluctancy from the EUs side and a what he calls flawed common foreign policy, will fail to see Turkey as a strategic asset.⁴²

In 2005, a year after formal accession negotiations were started, Yildiz described Turkey's long struggle to become members of the EU as being over during the next decade, with Turkey being fully integrated members.⁴³ He does however question EUs motives to open the accession process and expresses that the European commission's report on Turkey presented a sanitized picture of the human rights situation in Turkey.⁴⁴

Øzer argues that the "golden carrot" of joining the EU might not be big enough due to EU demands of political and economic reforms being greater than they were for the central and eastern European countries.⁴⁵ Also in more recent literature the Turkey- EU relations is a topic of debate with multiple arguments on either side. Kaya argues that the rise of right-wing populism in EU member states, is an obstacle for Turkey's integration process, due to the hostility towards religious and ethno- cultural diversity.⁴⁶

Bosnia

Most of the relevant literature on Bosnia- EU relations, is published in the last decade. Bosnia was a part of Yugoslavia and its only after Yugoslavia's dissolution in 2003, that Bosnia was viewed as a potential EU member state in the future. Bosnia has a rough history, and after the Peace Treaty of Dayton was signed and ended the Bosnian war in December 1995, they have been under close supervision by the international community.⁴⁷

⁴⁰ Hodge, "Turkey and the pale light of European democracy."

⁴¹ Ibid.

⁴² Ibid.

⁴³ Yildiz, *The Kurds in Turkey: EU Accession and Human Rights*.

⁴⁴ Ibid.

⁴⁵ Øzer, "Turkey and the European Union."

⁴⁶ Kaya, "Right-wing populism and Islamophobia in Europe and their impact on Turkey-EU relations."

⁴⁷ Walsch, "Visegrad Four in Bosnia-Herzegovina."

When the prospect of signing a pre- accession plan became reality for Bosnia, Vogel argues that Bosnia being able to sign the plan depended on political agreement to reform the country's ethnically divided police.⁴⁸ He explains the divided perspectives, where most Bosnians wants EU membership, is due to the ethnically divided country, which after the Peace Treaty of Dayton was given far- reaching autonomy, the country therefore depends on both the Republika Srpska and a Federation of Bosnian Muslims and Croats to agree. This structure complicates the process so it might not be surprising that some, like Šarčević, argues that a new constitutional model might be the best solution for Bosnia if they want to speed up the integration process.⁴⁹ A constitution that must prohibit the protection of collective rights at the cost of individual rights, to demolish the ethnical divided politics.

Bărbulescu & Troncotă recognizes the importance of integrating Bosnia to become full members, as it will include them in developments that are going on around them as well as it will increase the stability of the entire continent.⁵⁰ They do however state that the shift from a pre-accession agenda to an enlargement agenda, overcoming the ethnic divide, has failed. They claim that the EUs strategy for integrating Bosnia, a so called "top- down" strategy where Bosnia becomes recipients to a strategy developed elsewhere and not a home grown one. This startegy might not be the best way to go as it has been seen with the security sector reform, that the difficult part of integrating Bosnia in the EU is the resistance towards EU governmentality.⁵¹

Comparisons

Turkey and Bosnia are sometimes linked together, often due to Islam being the most widespread religion in both countries, and their culture sharing similarities that is rooted in religion. Arguments for the positive side of multiculturalism in the EU are apparent in literature, Mulalic argues that a multicultural EU with fully integrated members like Turkey and Bosnia is relevant in terms of security and political stability on the continent.⁵² The two countries can form a unique identity that bridges cultural, religious, ethnic and secular

⁴⁸ Vogel, "Bosnia/EU Politics: Lowering the Bar for Bosnia?"

⁴⁹ Šarčević, "Bosnia and Herzegovina and Controversies of the EU Integration Processes."

⁵⁰ Bărbulescu & Troncotă , "The Ambivalent Role of the EU in the Western Balkans

⁵¹ Juncos, EU security sector reform in Bosnia and Herzegovina.

⁵² Mulalic, "The Islamic World and the West."

dimensions.⁵³ The two countries are also being compared in the willingness they have to abide EU's demands, Øzer compares Turkey's willingness and capacity to implement the *acquis communautaire*, to the Western Balkans, more limited than the central and eastern European countries.⁵⁴

This case study is analyzing how Turkey and Bosnia's institutional framework is affecting the integration process focusing on one specific area of politics at the time. The political areas discussed in the case study, are the ones that the EU identifies as most important for member states to thrive in. By focusing at one area of politics at the time and how the respective countries are doing, it paints a clearer picture of the integration process and how the countries need to reform to move along in the process. The focus is also on how these institutions have been shaped, and not only on how they are functioning. An important factor in this dissertation is seeing the context between the past and the present.

Case study

As mentioned earlier the focal point of this case study is going to be the political criteria of the Copenhagen criteria. From the perspective of historical institutionalism, this case study is going to analyse how historical events or history itself has formed institutions in the respective countries, and how in turn this has affected the integration process for Bosnia and Turkey. This will be telling for how much the different categories the two countries are bound to really mean when it comes to becoming fully integrated members of the EU.

Human rights and minorities

Bosnia

The latter part of the political Copenhagen criteria states that a country must have stable institutions guaranteeing human rights and that respects and protects minorities. In Bosnia's case this is one of the criteria they still struggle to meet, as their current constitution is in breach with the European Convention on Human Rights.⁵⁵ This constitution stems from a

⁵³ Ibid.

⁵⁴ Øzer, "Turkey and the European Union."

⁵⁵ European Commission, Bosnia and Herzegovina 2020 Report, 4.

historical event that shaped the institutional framework in Bosnia, the Dayton Agreement. The agreement was signed to end the Bosnian war and was a peace agreement drawn up by the international community to put an end to the ethnic cleansing. Because the war erupted from ethnic diversity the Dayton agreement was largely concerned about implementing human rights. Annex 4 of the agreement is completely dedicated to “respecting and securing human rights” as well as establishing institutions to protect human rights in all of Bosnia.⁵⁶ However in Annex 2 of the agreement, the country is divided into two entities; Federation of Bosnia and Herzegovina (mainly Croat- Bosniak populated) and the Republika Srpska (mainly Serb- populated).⁵⁷

The country divided into two entities largely based on ethnicity, also from that point forward implemented a divided presidency based on ethnicity, with one Croat, one Serb and one Bosniak, referred to as “constituents’ people” throughout the agreement and constitution.⁵⁸ This institutional framework has caused The European Convention on Human Rights to rule against Bosnia on several occasions. One of these cases is the Sejdić-Finci case, originally two separate cases of two men of Roma and Jewish origin, with prominent public positions.⁵⁹ These men are not able to stand for election to the House of Peoples or the Presidency on the ground of their Roma and Jewish origin.⁶⁰ The Dayton agreement and what later became the Constitution of Bosnia, was an agreement that was signed after long negotiations between Bosniaks, Serbs and Croats under international supervision. These were the direct parties that had been involved in the war, so the agreement and constitution is focused on the task of reconciliation and stopping the ethnic cleansing between them, thereby creating political institutions that only achieve balance between the parties that had been directly involved in the war.⁶¹ To end the war the Dayton agreement and the constitution can be viewed as successful, but in the present, 25 years later, the EU has ruled that this constitution is not securing institutional stability that will guarantee protection of human rights and minorities.⁶² The international community with European and U.S leaders in front, have been criticized for

⁵⁶ Dayton peace agreement, 76.

⁵⁷ Ibid, 82.

⁵⁸ European Committee of the Regions, “Bosnia and Herzegovina.”

⁵⁹ Sejdic and Finci v. Bosnia and Herzegovina, no. 27996/06 and 34836/06, ECHR 2009.

⁶⁰ Ibid.

⁶¹ Ibid.

⁶² European Commission, Bosnia and Herzegovina 2020 Report, 4.

developing an agreement to restore human rights, but that let the ethnic divide grow and minorities suffer the consequences.⁶³

Turkey

The EU concluded that Turkey had met the political criteria of the Copenhagen criteria in 2004, including institutions guaranteeing the protection of human rights and minorities.⁶⁴

Turkey received status as a candidate country and accession negotiations with Turkey started in 2005. The negotiation process continued until 2016, when an attempted military coup took place in Turkey on July the 15th. The reason behind the coup is still a topic of speculation, but coup leaders pointed to corruption and the threat to Turkey's secularism as reasons for their actions.⁶⁵ The EU quickly condemned the attempted coup because it represented a direct attack on democracy in Turkey and stated its full support of the democratic institutions of Turkey.⁶⁶ It's the aftermath of the attempted coup however, that would bring the accession negotiations with turkey to a standstill. President Erdogan immediately accused Muslim cleric, Fetullah Gulen, for being the mastermind behind the coup, whilst Gulen denied involvement.⁶⁷

Erdogan declared state of emergency allowing him as president and cabinet to bypass parliament in drafting new laws and restrict rights and freedom.⁶⁸ Due to this emergency rule, the institutions in place to secure human rights no longer had the authority to serve their duty. Erdogan and the cabinet fired, prosecuted or/and imprisoned over 125 000 people, working for the government, academia, the media or in the private sector, on suspicion that they had ties to, or supported, Gulen.⁶⁹ Many of the imprisoned or accused was denied access to a fair trial and Amnesty reported that human rights were being violated in official and unofficial prisons, were there had been reported torture, rape and beatings by state workers.⁷⁰ The restructuring of institutions continued when a new constitution was adopted in 2017 as an answer to the coup, a constitution that centralized all power in the hands of the elected

⁶³ Hanson, Warnings from Bosnia, 100.

⁶⁴ Directorate for EU affairs, "Accession Negotiations."

⁶⁵ Pearson, "What Caused the Turkish Coup Attempt."

⁶⁶ European Commission, Turkey 2016 report, 5.

⁶⁷Percho, Turkey since the failed July 2016 coup, 6.

⁶⁸ BBC, "Turkey coup attempt: State of emergency announced."

⁶⁹ Percho, Future EU-Turkey relations, 2.

⁷⁰ Amnesty International UK, "The aftermath of the failed Turkey coup."

president, making the president the highest institution of the state and removing checks and balances between political institutions.⁷¹ The Foreign Affairs Committee called on the Commission and national governments of the EU to stop accession negotiations with Turkey if the new constitution was introduced, based on Turkey's backsliding in areas like human rights with this constitution.⁷² The EU recognized that Turkey no longer met the political criteria, based on actions taken after the attempted coup and in the new constitution, and therefore stopped the accession process.⁷³

So, in present time the accession process between the EU and Turkey is stopped, but the question remains if Turkey should have ever been considered to have met the political criteria, based on the protection of minorities. The largest minority group of Turkey is the Kurds, mainly living in the south and east parts of the country. There are around 15 million Kurds in Turkey today, and the Kurdish population have been a part of Turkey since the birth of the new republic.⁷⁴ For decades the Kurds' existence was denied and they endured repression, violence and forced assimilation.⁷⁵ The prospect of EU membership caused extensive legislative reforms in Turkey since 2002, concerning human rights and minorities and the Kurds saw EU membership as a hope to achieve long-term justice and security.⁷⁶ However, the Commission's country report in 2004 recognizes that Turkey has failed in certain areas to adequately implement the new legislation and shows reports of continued violations and its omissions.⁷⁷

Comparison

Looking at the struggles both countries have in meeting these political criteria today, it is reasonable that none of them have yet to become members of the EU. However, the question of why Turkey was recognized as a candidate country due to the consideration that they had met these criteria in 2004 is more complicated. EU specifically states that for a country to be considered a candidate for membership first has to respect and commit to promoting the political criteria, which shows to not be the case in the Commission's report on Turkey in

⁷¹ Percho, Future EU-Turkey relations, 3.

⁷² European Parliament, "Turkey: changing the constitution could end up in freezing EU accession talks."

⁷³ European Commission, Turkey 2018 report, 4.

⁷⁴ Yildiz, The Kurds in Turkey: EU Accession and Human Rights, 4.

⁷⁵ Ibid, 4.

⁷⁶ Ibid, 20.

⁷⁷ European Commission, 2004 Regular Report on Turkey's progress towards accession, 30.

2004.⁷⁸ Turkey did pass legislation concerning human rights before they were considered candidates but even with legislation to secure human rights and institutions to be responsible for securing human rights and minorities, it may seem like the EU in some way rushed to the accession process with Turkey without following through on implementation of the legislation. Bosnia still has work to do when it comes to drawing up legislation that will protect human rights and minorities. However, the interesting part of Bosnia's struggle to meet these criteria, is the fact that the international community including members of the EU were the ones to draw up an agreement that later would become an institutional framework in breach of EU laws on human rights. As mentioned earlier, the peace agreement was designed to put an end to the war, but why was the agreement designed without a time frame? It might seem as an easy solution to design a new constitution today, but as the Dayton peace agreement in many ways enforced the ethnic divide since it was put in place, the prospect of a united Bosnia still seems bleak 25 years later. In the area of respecting human rights and minorities, what separates Bosnia and Turkey is mainly the passing of legislation. However, the Copenhagen criteria is focused on the fact that *institutions* should respect and guarantee this, which makes the difference between Turkey and Bosnia's situation smaller.

The rule of law

Turkey

When it comes to securing the rule of law in Turkey, corruption has long been a major downfall. In 2004, the year they were approved as candidates, the Commission's report states that Turkey had taken many anti- corruption measures.⁷⁹ However, the efficiency and effectiveness of institutions that had been established to combat corruption was still of concern.⁸⁰ The scope of Parliamentary immunity was one of the major problems concerning corruption in 2004, according to the commission's report.⁸¹ At that point in time the public viewed the parliamentary immunity as problematic, because it obstructed the fight against political corruption in the country, due to the wide extent to which parliamentarians were immune from the law.⁸² By narrowing down the extent of parliamentary immunity, it would be easier to prosecute parliamentarians, and limit political corruption to secure the rule of

⁷⁸ European Parliament, "The Enlargement of the Union."

⁷⁹ European Commission, 2004 Regular Report on Turkey's progress towards accession, 28.

⁸⁰ Ibid, 29.

⁸¹ Ibid, 28.

⁸² Kocan & Wigley, "Democracy and the Politics of Parliamentary Immunity in Turkey.", 129.

law. In many cases the immunity of prominent parliamentarians is protected to the fullest extent, like in the case of Mehmet Agar that faced charges like; forming a gang with criminal intent, authorizing forged gun licenses and identity papers, and helping a fugitive evade the law, regarding the Sursuluk case.⁸³ The coalition government following his own, that had protected him to the fullest, lifted the immunity on two of the charges but he evaded them due to being reelected before court proceedings could start, securing his immunity once again.⁸⁴

This case became so well known because it increased the public demands for institutional change, that would secure the rule of law and authorize the court to prosecute corrupt parliamentarians, by narrowing the extent of parliamentary immunity. Many political parties previous to Sursuluk, promised change if elected in office, but the reluctance to follow through on the promise is based on the concern that current law does not adequately protect civil and political liberties and that the judicial institutions is not sufficiently evenhanded in its treatment of political cases.⁸⁵ In 2002, Erdogan promised, if he was elected, to one day reveal the full story of the Sursuluk scandal and create a transparent government with institutions securing the rule of law, as well as narrowing the parliamentary immunity.⁸⁶

However, the European Commission report for 2007 states the lack of change and makes it clear that the problem is still evident. The commission continues to stress the importance of creating institutions that would coordinate and strengthen legislation concerning corruption.⁸⁷ Despite what the commission reported, many perceived the imprisonment of the involved in the Susurluk case, in 2007, as proof that Erdogan had in fact created a transparent government and state institutions that would abide by the rule of law.⁸⁸ In 2016, after the attempted coup, he took it one step further and stripped all the MPs of immunity, believed by many to be a strategy to target the pro-Kurdish opposition.⁸⁹ Members of the European Parliament condemned the lifting of parliamentary immunity as it breached with democratic values and the rule of law.⁹⁰ The balance has yet to be found when it comes to the scope of parliamentary immunity in Turkey.

⁸³ Ibid, 136.

⁸⁴ Ibid, 137.

⁸⁵ Ibid, 121.

⁸⁶ Hurriyet, "Bursa'da korkunç kaza! 4 kişi ağır yaralandı" (Translated).

⁸⁷ European Commission, Turkey 2007 report, 11.

⁸⁸ Gingeras, «Looking back at the Susurluk scandal 21 years on»

⁸⁹ Solaker & Pamuka, «Turkish parliament strips MPs of immunity in blow to Kurdish opposition»

⁹⁰ Banks, «MEPs condemn Turkish lifting of parliamentary immunity.»

Bosnia

Bosnia is also a country that has a major struggle with corruption. It has been a part of their history from being a part of former Yugoslavia until today. The legacy from Yugoslavia where mismanagement and limited resources due to trade restrictions, caused the black market to expand and with-it corruption started to rise, probably plays a part.⁹¹ However, the institutional framework of the Dayton Peace Agreement is also of importance when talking about corruption in present day Bosnia. The complicated power structure where two entities, sub divided into 10 cantons in the federation and 26 opštinas in the Republic Srpska, makes it unclear for citizens what areas different institutions are responsible for and difficult for citizens to hold institutions accountable.⁹² When it is difficult to hold institutions accountable, it makes it easier to abuse office and public funds. The entities were also given autonomy, which provided the political parties with control over state assets, licensing, housing policy, appointments to public offices, the privatization processes, tax collection, public utilities, customs, the security sector etc.⁹³

As the Commission's country report on Bosnia in 2018, reveals, there has been no progress towards a country-wide approach to policy making and coordination.⁹⁴ This political structure makes it difficult to perform checks and balances and, in many cases, the elite benefits from this. Take the Law on Pardon as an example, a law that allowed the presidency of Bosnia to pardon anyone standing trial or that have been committed, with full discretion, no matter what crime has been committed.⁹⁵ High Representative Ashdown, an ad hoc international institution responsible for overseeing implementation of civilian aspects of the Dayton Peace Agreement, described the law on pardon as a blow to the judicial system, and how it protects criminals having connections to political figures from the law.⁹⁶ He describes it as a law where democratic institutions will assist criminals, making them non-democratic.⁹⁷ This law was passed in record time, showing the willingness of the politicians

⁹¹ Devine & Mathisen, *Corruption in Bosnia and Herzegovina* 2005, 8.

⁹² *Ibid*, 11.

⁹³ *Ibid*, 13.

⁹⁴ European Commission, *Bosnia report 2018*, 4.

⁹⁵ Ministry of Justice of Bosnia and Herzegovina, "Execution of Criminal Sanctions."

⁹⁶ OHR Sarajevo, «Remarks by High Representative.»

⁹⁷ *Ibid*.

to push through legislation is great, when it affects them. However, in areas where they don't directly benefit from the legislation it seems to take months and years to implement legislation and the monitoring seems to lack, especially concerning anti-corruption legislation.⁹⁸

Comparison

When analyzing how the two countries are doing when it comes to respecting the rule of law, it is clear that the institutional framework makes it difficult for both of them to coordinate and monitor legislation. Corruption being an area where the rule of law is crucial, tackling the corruption by elites seems to be of less concern in both Turkey and Bosnia. The current situation in Turkey, with President Erdogan as the highest institution obstructs checks and balances in the government structure. The same goes for the very unique and complicated institutional framework in Bosnia, because it is so complicated it is difficult for checks and balances to be performed properly. There seems to be a minimal difference in the corruption amongst the political elite in both countries, which makes it difficult to see why Turkey was categorized higher by the EU. Especially when the European Council of foreign affairs has given Turkey a lower grade since 2010 when it comes to guaranteeing the rule of law (C-), than Bosnia (C/C+).⁹⁹ That Turkey never managed to score a higher grade from 2010 to 2015 also shows a lack of progress when it comes to dealing with corruption as well as other factors that obstructs the rule of law. They also went down a grade due to the aftermath of the attempted coup, clearly showing them moving further away from the EU. Whilst Bosnia shows progress, so they received a higher score in 2016 than in 2010.

Conclusion

Based on the findings in this analysis, the most reasonable categorization for both these countries should be "potential candidates". There really is not too much that separates these two countries when it comes to meeting the political criteria. The decision to start the accession process with Turkey was a diverse topic of conflict at the time it happened and ever since. Turkey- EU relations dates back to 1959 and Turkey is a key strategic partner for the

⁹⁸ European Commission, Bosnia 2018 report, 12.

⁹⁹ European Council on Foreign Relations, "Rule of law, democracy and human rights in Turkey." & "Bosnia and Hercegovina."

EU on issues like migration, security, counter-terrorism, and the economy.¹⁰⁰ The long relationship may have been a factor for making Turkey a candidate without following through on implementation of the legislation concerning the political criteria. The European Council on foreign relations even mentioned the fact that the EU muted its criticism of Turkey's situation concerning democracy and human rights, to gain cooperation on the refugee crises.¹⁰¹ Turkey's breach with the political criteria also seems to be more "hidden" than Bosnia's breach, based on the fact that Turkey actually has passed legislation to fulfill them, whilst Bosnia's still has a constitution that is in breach with it. However, when it comes to following through on the legislation this analysis reveals that Turkey is not doing their best.

Looking at these findings, it is easy to conclude that historical events can in fact influence institutions for a long period of time. The past can constrain political actors in the future and shape the institutional framework of a country, which in many cases is difficult to reform. The institutional framework in Bosnia is unique and complicated, but it is also the only one they know. By being such a young state, with a constitution drawn up by the international community, the reluctance for change is understandable. Turkey has a completely different history, but ever since the constitution of 1982, the president has gained more authority and power.¹⁰² We see that this has continued over the years and the authority of the president peaked after the attempted coup in 2016, stripping important institutions of their authority and power.

Discussion

The findings of this analysis have been interesting and revealing. However, it is important to remember that the two countries are in fact very different and that this analysis has focused only on how well they meet political criteria of the Copenhagen criteria. It has also focused on a limited number of historical events that have affected institutions to a higher or lesser extent. The dissertation aimed to answer a limited number of questions but has opened doors for further research on the topic. First and foremost, it has created a questionable standpoint as to why countries are categorized differently, when they both to some extent are in breach

¹⁰⁰ European Commission, "Turkey."

¹⁰¹ European Council on Foreign Relations, "Rule of law, democracy and human rights in Turkey."

¹⁰² Constitution of the Republic of Turkey, 1982.

with the political criteria. This can be used to analyze a number of countries that has applied for membership, as well as the current EU member states that joined after 1993, when the criteria were established. By doing so, multiple things can be discovered, as the EUs priorities and handling of each individual state's integration process and if cooperation with certain countries are more important than the general criteria, as it seemed to be in the case of Turkey.

This dissertation also shows that historical institutionalism is a theory that is applicable when talking about European integration. It shows the importance of history as well as institutions and how both of them can shape a country's political environment for a long time. This dissertations focus has been on historical events happening in modern time, due to Bosnia only receiving the status of potential candidate in 2003. However, further research can be done on older historical events that happened when they were parts of the Ottoman Empire and Yugoslavia, analyzing more in depth how the institutional framework has developed from that. Memory politics often effects the political situation of a country, so understanding the history of a country can also help the EU in promoting its values in a more case specific way, by looking at what important factors has shaped the countries institutions over the years.

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