

Reforming Turkey's Judiciary to Meet European Union Standards: A Cost-Benefit Analysis

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Preface

I came to be interested in this subject when I was studying abroad in London, at University College London. While there, I took a course called “Politics of the European Union,” during which I wrote a paper focused on how the European Union uses enlargement as a foreign policy tool. The general premise is that because European Union membership and access to the single market is so coveted among developing countries, the EU is able to heavily influence and initiate reforms within these prospective member countries. Generally all of these reforms take the form of democratization, westernization, and rebuilding the government in the European model.

While writing this paper I did extensive research into the economic benefits and the intricacies of the EU-Turkish relationship, and the types of reforms the EU has been able to influence in Turkey. However, I never researched the costs to Turkey itself. This prompted a number of questions. EU membership has a lot of economic benefit that the EU able to leverage in its foreign policy dealings, but has research been done on behalf of the countries who are being influenced? Are the costs of reformation really worth the benefits of membership? That’s what I set out to explore with this paper.

Abstract

Membership in the European Union has long been a goal of the Turkish Government. The economic benefits of access to the single European market are highly attractive for a developing country like Turkey. However, joining the European Union requires a number of costly reforms. The institutional, political, and economic changes demanded by the Copenhagen Criteria can rack up a large bill for some governments. This paper will focus on the costs of reforming Turkey's Judiciary to meet European Union standards, and whether or not those costs outweigh the economic benefits of membership.

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Introduction

The European Union (EU) has recently come under scrutiny: from Brexit, to the threat of Frexit, to the rise of nationalism across Europe, the EU has had to combat widespread discomfort and doubt about its true benefits and purpose. Is joining the European Union worth it? Do the benefits of membership outweigh the costs of reform? This paper sets out to explore that question, with a focus on a candidate country rather than a current member: Turkey.

Furthermore, I will refine the question to explore the cost of reforming a singular institution or branch – specifically the Judiciary – rather than the total cost of reforms.

I will begin by briefly discussing the background of the Turkey-EU relationship to date, and I will touch on the accession criteria. I will identify what criteria the EU looks for in its candidate countries, and what expectations it sets forth for membership. Then, I will analyze Romania, a country that recently joined the EU, and discuss what specific things the EU looked for regarding judicial reforms. Using this information I will build a case for what the EU will be looking for in Turkey going forward. Next, I will build out a structure for the costs I expect Turkey to incur and the projected benefits from EU membership. I will then compare the figures, discuss the results, and present a conclusion about what should be done going forward. Lastly, I will do a sensitivity analysis to account for market forces that may change my calculations

Background

In order to better frame my analysis, I would like to first look at the history of the relationship between Turkey and the EU. For over 2 millennia, Turkey has had a unique relationship with the West. I will describe key aspects of this historical relationship in an effort to highlight the unique role that Turkey has played in Europe's history. I will then dive into

specifics of the modern EU, after which I will bridge the two and discuss Turkey's relationship with the EU specifically, and the criteria for membership in the EU.

Turkey and The West

Turkey's relationship with Europe can be best traced through the importance of the role that the city of Constantinople held throughout European history. Prior to being named Constantinople, it was known as "Byzantium," a city established in 667 B.C. during the early days of Greek colonial expansion. The city possessed a particular "strategic and commercial importance, lying as it does astride both the land route from Europe to Asia and the seaway from the Black or Euxine Sea to the Mediterranean, whilst also possessing an excellent and spacious harbor in the Golden Horn" ("Constantinople", n.d.).

Constantine I, who won a power struggle to become emperor of the Roman Empire in 306 A.D., began rebuilding the city of Byzantium and in 330 formally founded the city of Constantinople. Constantinople, which was also known as Nova Roma – meaning New Rome – was rebuilt to resemble the features and structures of Rome, and soon after its founding Constantine identified Constantinople as the new capital of the Roman Empire. He felt that Rome lay too far from the Empire's eastern frontiers, and the city presented issues including political complexity as well as flooding and disease. Constantinople however had ready access to the Danube and Euphrates frontiers and could be easily defended given its positioning. Constantine also began to introduce sweeping Christian reforms to the Empire – reforms that would reverberate throughout Europe for the next 1500 years and explain Christianity's dominance in Europe today ("Constantinople", n.d.).

Constantinople gradually gained more importance within the Roman Empire, assisted by political fracturing on in the western regions of the Empire as well as attacks on the western front from the Huns, led by Attila. As cities in the Western Roman Empire fell, its leaders flowed back towards Constantinople, and with them came the enormous wealth of the Eastern Mediterranean. Constantinople solidly established its role as the center of what was left of the Roman Empire (mainly the Eastern Roman Empire, which became known as the Byzantine Empire) for nearly 800 years. The Byzantines maintained much of the roman style, with the Hippodrome becoming the center of the city's social culture and chariot races. Many of these cultural traces can still be seen in the city of Istanbul today ("Constantinople", n.d.).

The decline of the Byzantine Empire began around 1200, with decades of misrule leading to the eventual loss of the city during the Fourth Crusade in 1204. The city served as the focal point of the Roman Catholic Latin Empire for 250 more years, until it fell to Sultan Mehmed II in 1453, thus marking the transition from European rule to Ottoman rule ("Constantinople", n.d.).

Turkey's relationship with Europe didn't end with the Ottoman conquest of Constantinople, rather it represented the beginning of a cultural blending. As one historian puts it, "[the fall of Constantinople] liberated that city from a smothering encirclement. Somewhat paradoxically, it also inaugurated a merging of the Christian European and Ottoman Worlds" (Goffman, 2012, p. 13). The Ottomans' approach to minorities in their culture presented a stark difference to what had been the historical norm, and likely accounted for much of the cultural convergence during this time. While European Christians often managed Jewish and Muslim minorities with vigorous persecution and expulsion, the Ottomans took a less violent approach by insisting on an implied Muslim superiority – meaning religious minorities were taxed and

often given certain restrictions – while at the same time the Ottomans ensured “a nearly absolute but effective disregard in which the various religions, ethnicities, and aliens within the empire co-existed and comingled virtually at will” (Goffman, 2012, p. 9). Through commercial and cultural integration, “both European and Ottoman considered the new state – [The Ottoman Empire] – very much a part of the European World” (Goffman, 2012, p. 12).

The gradual decline of the Ottoman Empire came at the end of the 19th century. Clashes between the Ottomans and the West increased, with the tipping point coming in the early 20th century during World War I, when the Ottoman Empire entered the war as a belligerent siding with Germany. In 1915, at the Battle of Gallipoli, British leadership undertook a massive naval offensive in an effort to drive the Ottoman Empire out of the war. The Ottomans were able to hold off the British, buying the failing regime time. However this military success would not last long. The Allies adjusted their strategy and pushed from the south, winning control over Damascus, which ultimately led to an armistice with the Ottoman Forces (Woodward, 2011).

The Allies had defeated the Ottoman Empire, however the Allied Forces had been battered to such an extent that maintaining control over the region would prove difficult, so they entrusted control over the region to the Greeks, however this too didn't last long. In 1920, Turkish Nationalists, led by Mustafa Kemal Ataturk, began to lead an offensive for Turkish Independence. Their campaign proved successful, and on the 29th of October 1923, the Republic of Turkey was established, marking a new chapter in the Turkish-European relationship (Woodward, 2011).

Under Ataturk, Turkey underwent a litany of reforms geared towards secularization and modernization. In 1925, the government “abolished religious orders, forbade polygamy, and prohibited the wearing of the traditional fez” (“Republic of Turkey: Brief History”, n.d.). Swiss,

German, and Italian codes of law were adopted, Islam ceased to be the state religion, and the Latin alphabet was substituted for the Arabic script. In 1930, Constantinople was renamed Istanbul. In the foreign policy arena, Turkey pursued good relations with its neighbors, marked by its entrance into the League of Nations in 1932 and the move to guarantee its European borders by joining Greece, Romania, and Yugoslavia in the Balkan Entente signed in 1937. By all accounts, Turkey was becoming more and more westernized, more and more European (“Republic of Turkey: Brief History”, n.d.).

Ataturk died in 1939, however Turkish-European relations continued to grow. Despite maintaining neutrality during World War II, Turkey’s lack of participation (particularly their refusal to join the Nazis) dealt a large blow to Germany, since it restricted their access to Middle Eastern oil trading routes (“World War II: Turkey”, n.d.). Turkey truly solidified its commitment and alliance with the West during the Korean War. The Turkish Brigade won widespread praise as it fought alongside American forces, gaining recognition from individuals such as Commander of the UN Coalition Forces, General Douglas MacArthur, who said: “The Turks are the hero of heroes. There is no impossibility for the Turkish Brigade” (Weitz, 2012).

After the Korean War, Turkey and Europe enjoyed increasing levels of economic integration, which I will discuss later on. This relationship marked the foundation for consideration of Turkey as a member of Europe and the European Union.

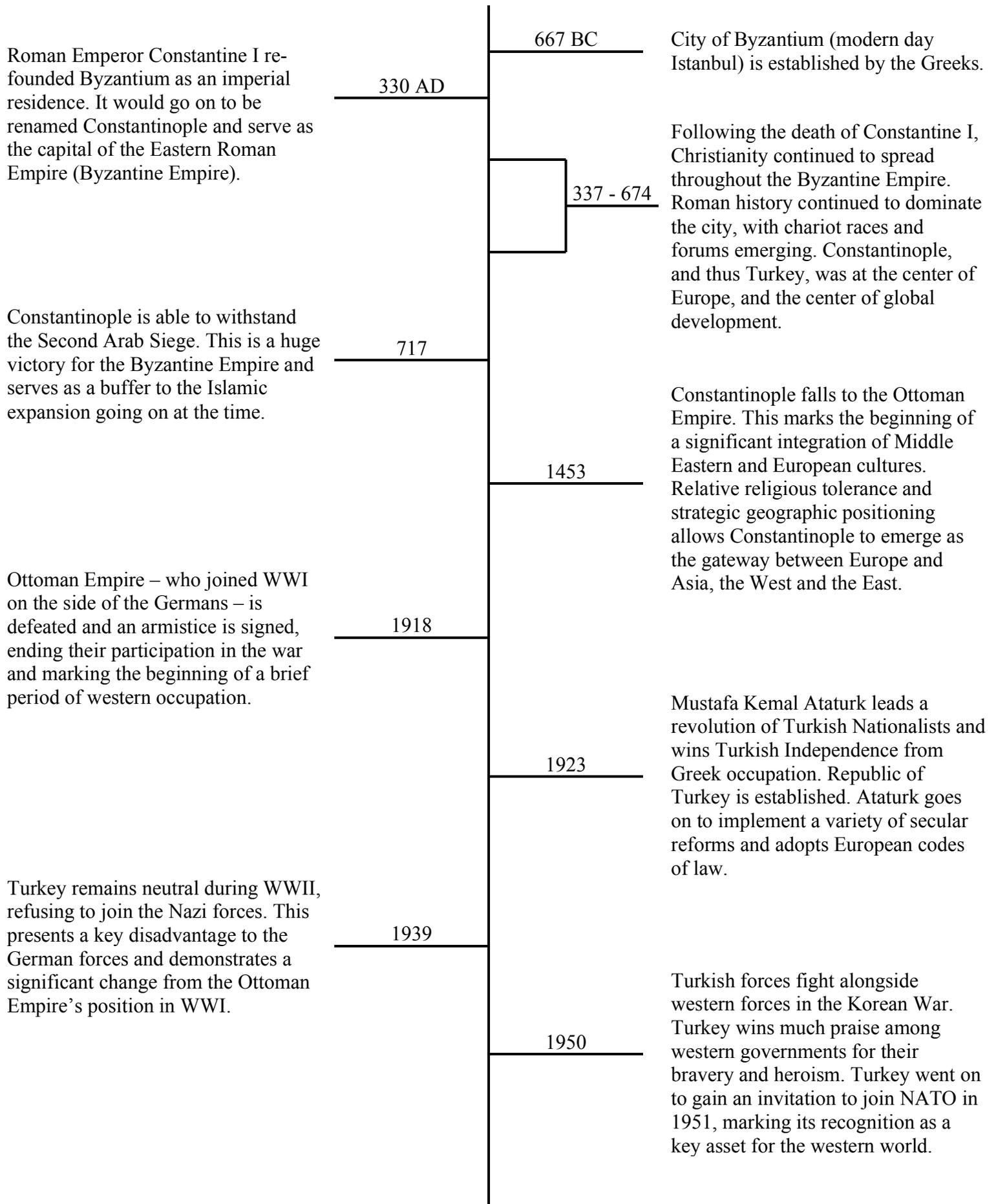


Figure 1: Timeline depicting Turkey's relationship with the West

The EU Today

The current EU as we know it was formed by The Maastricht Treaty on February 7th, 1992. Prior to this treaty, the European Union existed as European Economic Community (EEC). The Maastricht treaty accomplished a number of groundbreaking goals and set the standard for international institution building. One of the most important creations of the Maastricht treaty was a common currency – The Euro – to be managed by common monetary institutions. The treaty also set out economic criteria and parameters for countries that wished to participate in the single currency, based on benchmarks for economic indicators like the debt to GDP ratio and government budget deficits (Gabel, 2017).

The Maastricht Treaty also made some radical reforms to the legislative processes of the EEC (now the EU). It expanded the range of policies subject to qualified majority voting, it granted parliament more power when it came to rejecting legislation, and it also granted parliament veto power over certain issues. Another massive reform – one whose impacts are at the forefront of international relations today – was the establishment of free movement within the EU for all citizens of Member States. The economic impacts of creating an extremely fluid labor market have been large. The European Commission stated in a 2007 report that on average migration had a 21% positive contribution to the GDP growth in the EU-15 (the EU-15 is made up of countries that joined before the 2004 accession wave; see Table 1) between 2000 and 2005 (European Commission 2008, p. 143).

The Treaty of Amsterdam, which entered into force in 1999, built on the social protocols laid out in the Maastricht Treaty, and specifically identified the EU's objectives as being the promotion of employment, improved living and working conditions, and proper social protection. Many of the social protections enjoyed by citizens of EU member states can be traced

back to the Treaty of Amsterdam, and the important layers it added to the wider body of EU Law (Gabel, 2017).

The European Union underwent a large expansion in 2004, adding 10 countries to its ranks. This brought up a variety of concerns, mainly regarding whether or not the EU's consensus and European identity would be at risk, and if the new additions (mainly composed of Eastern European countries recovering from post-cold war reforms) would jeopardize the development of the Europe-wide foreign policy and security policy. The EU underwent another wave of accession in 2007, admitting Bulgaria and Romania. Lastly, Croatia was admitted in 2013, and the United Kingdom voted to leave in 2016, giving us the modern European Union (Wilde, 2017).

Country	Year of Membership
Belgium	1958
France	1958
Germany	1958
Italy	1958
Luxembourg	1958
Netherlands	1958
Denmark	1973
Ireland	1973
United Kingdom	1973
Greece	1981
Portugal	1986

Spain	1986
Austria	1995
Finland	1995
Sweden	1995
Cyprus	2004
Czech Republic	2004
Estonia	2004
Hungary	2004
Latvia	2004
Lithuania	2004
Malta	2004
Poland	2004
Slovakia	2004
Slovenia	2004
Bulgaria	2007
Romania	2007
Croatia	2013

Table 1: EU Member States by Year of Entry (“Countries”)

Turkey and The EU

In 1987, Turkey first applied for full membership in the EU as we know it today. The resulting impact on Turkey has taken many forms, from restructuring government institutions to opening up Turkey’s economy to various forms of international trade and foreign direct

investment. Most importantly, a new customs union was established in 1995, which I will refer to in this paper as the Customs Union. The first effect of this new agreement was for Turkey to abolish “all duties and equivalent charges on the imports of industrial goods from the EU” (“History of Turkey- EU Relations”, 2017), the first of many gradual steps to meet the all of the EU criteria.

The EU Accession criteria are referred to as the Copenhagen criteria, first established in 1993 and bolstered in 1995. The criteria are as follows (“Accession Criteria (Copenhagen Criteria)”, n.d.):

1. Stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities.
2. A functioning market economy and the ability to cope with competitive pressure and market forces within the EU.
3. Ability to take on the obligation of membership, including the capacity to effectively implement the rules, standards and policies that make up the body of EU law (the ‘acquis’), and adherence to the aims of political, economic and monetary union.

The above goals are extremely broad and general, but they are broken down into specific subsections. The EU acquis are divided into 35 separate policy fields (called chapters) – for example transportation, energy, or the environment (“Conditions for Membership”, 2016). Each of these chapters is then divided into a number of subsections that allow a very high level of detail and scrutiny in the accession process (“Chapters of the Acquis”, 2016).

Throughout the accession process, the European Commission puts together annual progress reports and evaluates a variety of statistical indicators for the different chapters. For example, in the environment section, the Commission looks at “electricity generated from renewable sources relative to gross electricity consumption (%)” (European Commission 2016c, p. 101). After analyzing these statistical indicators and looking at other qualitative factors, the Commission prepares a progress report for the country.

Within this report the commission goes chapter-by-chapter evaluating the readiness of the country in question, and when the commission finds that a chapter isn't up to EU standards, they make recommendations on what should be addressed going forward. When a country has met the opening benchmarks of a given chapter, the chapter can be opened for negotiation. Throughout the negotiation period, which often spans many years, the candidate country can make arguments and set forth plans for the reforms that will satisfy the criteria for the final closing of the open chapter. If the country is seen to have successfully completed a specific chapter, the chapter can be closed if every EU government is satisfied with the candidate country's progress. Once all of the chapters are closed, an accession treaty is drawn up. This document must win the support of the EU Council, the European Commission, and the European parliament. The treaty must also then be signed and ratified by the candidate country and every single EU country.

Within the framework of this process, I have chosen to focus on Chapter 23: Judiciary and fundamental rights. This chapter has yet to be opened to the negotiation process, however it has been given top priority by the Turkish government as well as the European Commission (“Turkey-EU Relations”, n.d.), and is one of the main focuses of the European Union, due to the democratic importance of the field that it concerns (Nozar, 2012).

The EU, in their 2016 progress report on Turkey, addressed problems that they felt needed to be fixed regarding the Judiciary. They started by acknowledging that there had been some significant progress in the area, however in the wake of 2016 attempted coup d'etat, it became evident that there were a number of holes in the judicial system that need to be plugged. Specifically, problems of corruption, separation of powers, quality of justice, and efficiency were leading factors of concern (European Commission 2016c, p. 62-64). Furthermore, Routledge published a report entitled "Turkish Accession to the EU" in which they identified the judiciary as an institution that lags in development, citing the fact that "judges are overloaded with administrative work and often under qualified" (Faucompret & Konings, 2010, p. 158). A major Turkish newspaper recently reported that the head of the Court of Cassations said "half of the 18,000 new judges and prosecutors appointed following Turkey's July 2016 coup attempt to replace dismissed judicial members are inexperienced and need much more training" ("Half of New", 2018).

Before I begin my cost-benefit analysis of bringing the Turkish judiciary up to EU standards, I want to make note of what the EU tends to actually look for in candidate countries when it comes to evaluating readiness with respect to the functioning of the judiciary.

Romania's Accession

The best way to determine what the EU is looking for in a candidate country's judiciary is to analyze an example of a candidate country that has recently joined the EU, and what reforms they made that led to their judicial system satisfying EU standards. For this analysis, I have chosen to look at Romania.

From a judicial perspective, the Romanian accession into the EU is both a story of both success and failure. The first attempts at reform came early on, in 1999, however these were slow moving, and the EU “urged Romanian elites to overcome the lack of judicial capacity and independence” (Mendelski, 2012, p. 29). From 2005 onwards the government underwent a flurry of reforms, focusing on strengthening institutional capacity, improving the judicial statistics system of the Romanian Ministry of Justice, and improving the training for magistrates. The reforms led to over 200% increases in number of professional judges per inhabitants, number of prosecutors per inhabitants, and the budgets for both of those categories. All in all, the reforms pointed to an incredible success in achieving much better judicial capacity and efficiency.

The failure however, came with establishing judicial independence and solving corruption. Romania, much like Turkey, had a longstanding issue with judicial impartiality and the inability to keep politicians and politics out of the courtroom. To exacerbate this problem, “most of the pressure on the judicial system is exerted by the mass media, which, according to Freedom House, is far from independent” (Mendelski, 2012, p. 33). Freedom house is an international think tank that tracks the freedom of the press throughout the world (“About Us”, n.d.). In Freedom House’s 2005 report, Romania’s rating was a 47 (with 0 being the highest, 100 being the lowest) (Freedom House 2005, p. 167). By comparison, in 2015 Turkey’s was 65 (Freedom House 2015, p. 23). In 2006, the European Commission wrote about Romania: “a consistent interpretation of the law at all levels of the courts in not fully ensured yet throughout the country” (European Commission 2006, p. 7), and the Commission has since voiced further concerns. However, despite these issues that would seemingly disqualify a country from being considered for European Union membership, Romania became a full member of the EU on January 1st, 2007 (“Romania”, 2018).

What then does this tell us about the criteria that the European Union is using in determining whether or not a country has met the EU acquis when it comes to their judicial system? This information shows that the EU is concerned with what they can measure and what they can quantify. In the context of evaluating the readiness of a country's judicial system, it means that they care about more judicial capacity and less about impartiality. It also means the EU looks at the indicators mentioned above, which will be the main indicators in my argument:

- Number of judges per 100,000 inhabitants
- Number of prosecutors per 100,000 inhabitants

Data and Methods

The first step in the data collection process for the cost benefit analysis was to identify the actual figures that the EU is using to make its decision on whether or not to admit Turkey. It quickly became clear that the most useful criteria would be to identify what figures the EU looked at to determine their budgeting assistance for Turkey's pursuit of Judicial Reforms. The EU channels its financial assistance to prospective member states through The Instrument for Pre-Accession Assistance (IPA), which is aimed at supporting reforms in "enlargement countries," defined as countries going through the accession process.

I began by looking at the IPA II (for the period 2014-2020) Action Document 2015 focused on the Judiciary, which outlined overarching goals, specific statistical indicators for those goals, and sources for those statistics. From there I was able to determine that the European Union uses statistics released by the European Commission for the Efficiency of Justice (CEPEJ)

as well as the Turkish Ministry of Justice in its evaluation of Turkey's judicial capacity and efficiency. The sources they identified became the main sources in my analysis.

Judicial Capacity Costs

Beginning with the structure for judicial capacity costs, I found that one of the EU's main statistical indicators is the "number of trained judges and prosecutors on criminal justice system" (European Commission 2015, p. 10). The most recent CEPEJ report published in 2016 provides a full list of judges per 100,000 inhabitants and public prosecutors per 100,000 inhabitants for all European countries (with the addition of Israel) (European Commission for the Efficiency of Justice, 2016, p. 90 & p. 121). I narrowed this list down to 2 separate categories of countries, all countries who joined the EU from the 2004, 2007 and 2013 accession waves, and those who joined in solely after 2007 (labeled 2007+ accession wave). I split the countries into two separate groups, because I expected to see differences in the average number of judges and prosecutors per 100,000 inhabitants across the two groups. My suspicions were confirmed: the countries that were part of the 2007+ accession wave – Bulgaria, Romania, and Croatia – had an average of 6 more judges per 100,000 inhabitants (nearly 25% higher than the other grouping), while prosecutor figures were relatively the same. I chose to leave off the EU-15 countries, because their dates of accession are so far removed from today and they have had so much time to develop their institutional framework that their data wouldn't be productive in determining where the bar is for a new country hoping to join the EU.

The reasons for this stratification may vary. One explanation that seems to fall in line with my research is that the bar for entry into the European union, as far as measurable numbers and figures, may be rising. Imagine for the case of judicial capacity, that a country has a judicial

system that is far behind the European level in effectiveness. The way to make a case for entry into the EU would be to get the tangible figures high enough to the point that the actual effectiveness of the judicial system, structural holes in the Ministry of Justice, and potential corruption are overlooked. Essentially, because the system is able to run so efficiently, the actual quality of justice being delivered is somewhat ignored. The study I referenced earlier on Romania's judicial reforms seems to support this theory.

Since the differences between the two groups' averages were large, I set up 2 parallel cost structures. I began by finding the most recent total number of judges in Turkey, published by the Turkish Ministry of Justice (General Directorate of Judicial Records and Statistics, 2017, p. 9). Then, I took the World Bank Turkish population figure for the same year, and derived the number of judges per 100,000 inhabitants. I then took the All Country Average for the number of judges per 100,000 inhabitants, took the Turkish population in 100,000s, and multiplied them together to calculate the implied ideal number of judges if Turkey were to meet the All Country Average. From there I took the number of judges Turkey is already employing, subtracted it from the total implied ideal count, and was able to find the number of additional judges that Turkey would need to hire in order to meet the total implied by the All Country Average. I then went through the same process using the 2007+ Accession Average and arrived at the number of additional judges Turkey would have to hire to meet the total count implied by the 2007+ accession countries' average.

The next step was to quantify these numbers and what they mean in terms of costs. I used the same CEPEJ report to find the average gross salary of judges at the start of their career (European Commission for the Efficiency of Justice, 2016, p. 110). By multiplying this salary by the number of additional judges needed, I arrived at the total amount (in euros) that would need

to be paid annually to get the ideal number of judges implied by both the All Country Average and the 2007+ Accession Average.

The next step was to find the number of prosecutors. This process was essentially identical to the process for judges. I took the absolute totals for Turkish prosecutors and using the Turkish population figures was able to find the number of prosecutors per 100,000 inhabitants for Turkey. Then, using the All Country and 2007+ Accession Averages for prosecutors per 100,000 inhabitants, I found the implied ideal number of prosecutors in Turkey. Then, by subtracting the existing number of prosecutors, I found the number of additional prosecutors the Turkish government would need to hire.

The process of quantifying this was also identical to the process for the judges. The CEPEJ provided a gross salary figure for prosecutors at the beginning of their career, and by multiplying that figure by the number of additional prosecutors the government would need to hire, I identified a full cost of bringing the count up to the necessary number of prosecutors (European Commission for the Efficiency of Justice, 2016, p. 143). Then, combining the costs for prosecutors and judges, I arrived at the cost to bring the judicial system's capacity – based on metrics the EU uses to determine judicial capacity – up to par with existing EU countries. The last step was to apply to 2016 US Dollar-Euro exchange rate and put these figures in dollar terms for future workability (“Historical Rates for the USD/EUR currency conversion on 31 December 2016”).

Training Costs

Having enough prosecutors and judges to maintain a certain standard of judicial efficiency is not enough. The EU also expects that these individuals are well trained and

prepared for their positions. Specifically, an expert of the European Commission and Consultative Council of European Judges made 2 important recommendations. The first was that the Justice Academy should be the only body in charge of training judicial personnel so as to maintain the independence of the judicial branch. The second recommendation was that the Justice Academy should provide every judge and prosecutor with at least one training event per year (Perilli, 2011, p. 43).

To determine the training costs, I first looked at the individuals trained by the Justice Academy. I found the total number of individuals they trained in 2016, found the total number of judges and prosecutors that were trained, and divided number of judges and prosecutors trained by the total number of judicial personnel trained to arrive at the percentage of individuals trained who are judges and prosecutors.

I then took the total budget for 2016, and divided it by the total number of individuals trained, in order to arrive at a training cost per individual, regardless of occupation. I then took the total implied ideal judge and prosecutor counts that I found in my calculations of judicial capacity, and combined them to get the total number of judges and prosecutors that would need annual training. Since I determined that these make up around 11% of the total individuals trained, I was able to find the total number of individuals the Justice Academy would have to train in order to reach the necessary number of judges and prosecutors. The key assumption is that the Justice Academy will scale up all of its operations in order to reach the necessary number of judges and prosecutors; this seems reasonable given that an increase in the judge and prosecutor count will require an increase in support staff as well, who will also need to be trained.

This calculation leaves us with a total number of judicial personnel that need to be trained, and a cost per individual, which allows us to calculate the total expected budget if the Justice Academy were to increase its activities to the necessary level. By subtracting the 2016 budget from the total expected budget, we can see the total increase in spending needed to train the additional judges and prosecutors (and entire legal force for that matter). This gives us the cost of increasing the training program to EU expectations. The last step was to take the 2016 US Dollar-Turkish Lira exchange rate (“Historical Rates for the USD/TRY currency conversion on 31 December 2016”) and apply it to these training costs in order to make our figures comparable.

Benefits

The calculation of benefits was done based off of a synthetic counterfactuals estimation done by Campos, Coricelli, and Moretti as well as a study done by Aytug, Kutuk, Oduncu and Togan. Campos, Coricelli, and Moretti found that on average, per capita GDP of countries in the EU would be 12% lower had they not joined (Campos et al, 2014, p. 4).

Turkey and the EU have had a customs union agreement since 1995. This agreement effectively simulates what being a member of the EU would be like for Turkey’s economy, specifically the trade and foreign direct investment benefits. Since Turkey and the EU have this customs union agreement, I was able to check the 12% figure given by Campos, Coricelli, and Moretti against the actual per capita increase that Turkey has experienced from the customs union. I found the two to be very close, with the Aytug et al study showing that Turkey has seen a 13% increase in per capita GDP as a result of the customs union (Oduncu et al, 2016, p. 419-431). This 13% figure is what we will use for our calculation.

For the actual calculation of the potential benefits to Turkey's economy, I first found the per capita GDP for Turkey in 2013, which was \$12,542 (World Bank 2013a). I used the 2013 figure for a couple of reasons. The first of these reasons was to correct for population changes due to geopolitical crises. As of 2016, 2.75 million Syrian refugees accounted for nearly 4% of the Turkish population ("Turkey's Refugee Crisis: The Politics of Permanence", 2016). This can have a large impact on per capita GDP calculations and correcting for them allows for a more accurate estimate. The second reason is that, given the nature of the issue and the type of conjecture this paper sets out to make, it is best to consider the most optimistic outcome of joining the EU, before potentially asserting that the costs outweigh the benefits.

After taking the 2013 per capita GDP figure, I applied the 13% discount, to arrive at the implied per capita GDP if Turkey didn't benefit from the customs union (which we have established as a proxy for benefits of membership, and double checked against Campos, Coricelli, and Moretti's findings). Using this adjusted per capita 2013 GDP, I calculated the total GDP by multiplying by the 2013 population (World Bank 2013b).

In their analysis Campos, Coricelli, and Moretti find that countries that adopt the Euro tend to see a 2% increase in their per capita GDP relative to countries that don't adopt the Euro (Campos et al, 2014, p. 24). They make it clear that they are not suggesting a causal relationship in this particular case, as their study is geared towards mapping cross-country variation in pay-offs from EU membership rather than making explanatory assertions. However, for our purposes, it is a statistically significant indicator and as a result we will use it. Turkey experienced a 13% GDP per capita benefit through the customs union, *without* being part of the Eurozone. Therefore, we can assume that they would enjoy the additional 2% increase should they adopt the Euro. I added on 2% to the 13% figure that we already established, under the assumption that

Turkey would adopt the Euro if they were granted membership, and they would see the 2% increase in per capita GDP among countries who adopt the Euro.

The next step was to take the GDP per capita assuming there wasn't a customs union, and applying the 15% (13% + 2%) increase. This new GDP per capita is what we would expect to see if Turkey were to join the EU. Then, by multiplying this by the population, I was able to establish the implied GDP if Turkey were to become a full member of the EU. By taking the difference between this GDP and the implied GDP in the absence of the customs union, I was able to establish the implied dollar benefit of EU membership.

Aytug's analysis is based on the 18-year customs union that Turkey benefitted from, and since our costs are annualized, our benefits must also be. This required a simple adjustment of taking the total implied benefit to the Turkish economy, and dividing by 18, to arrive at an average annual benefit. Our model then makes the assumption that this average annual benefit will continue to hold in the data going forward, making it comparable to our projected costs.

Results and Discussion

All Country Average

I'll begin with my findings using the All Country Average figures for the ideal ratio of judges and prosecutors to 100,000 inhabitants. I found that hiring the necessary number of judges to meet the all-EU average would require Turkey to spend nearly 236.8 million euros on their salaries. The salaries for additional prosecutors would run an additional 149.0 million euros, bring the grand total to a whopping 385.9 million euros in new salary costs for the government, which converts to \$406.2 million.

This however is not the sole cost that the government will incur. It must also, to satisfy EU Commission “recommendations,” provide training programs that every judge and prosecutor participate in at least once a year. The cost to the government of training all of the necessary judges and prosecutors would be in the realm of 508.2 million Turkish liras. However after accounting for the fact that the Turkish government is already training some prosecutors and judges with its current training budget of 17.5 million Turkish Lira, we find that the difference corresponds to a 490.6 million Turkish lira increase needed to train the newly hired judges and prosecutors annually. This converts to \$139.4 million.

Summing these costs we find that the total cost to the Turkish Government of bringing their judicial system up to EU standards based on the All Country Averages would be \$545.5 million.

2007+ Accession Average

Using the averages I found for the countries involved in the 2007+ accession wave, I found that the total salary cost of hiring the appropriate number of judges would be 324.6 million euros. The salary cost of new prosecutors based on the same averages corresponds to 153.3 million euros, and the total salary cost of the new employees sums to 477.9 million euros, which comes out to \$503.1 million.

As I mentioned before, the EU Commission recommends that the government go beyond simply hiring these employees and also ensure they receive training once a year. The training costs will be different from the previous section because we are hiring a different number of judges and prosecutors under the 2007+ Accession Average. I found that it would cost 576.6 million Turkish liras to train the necessary number of judges and prosecutors dictated by the

2007+ Accession Average. Accounting for how much the government already spends on training and converting to dollars I found that the cost to train all of the newly employed judges and prosecutors would come out to \$158.8 million. Combined with the salary cost, it comes out to \$661.9 million.

Cost-Benefit

The question now remains whether or not the costs of satisfying this particular segment of the EU accession criteria are compensated by the benefits. We found in our calculations that the estimated benefits of satisfying these EU protocols and ultimately joining the EU came out to \$124 billion. Annualized, this comes to \$6.9 billion of annual benefit to Turkey's economy. Subtracting out the All Country Average annual cost, we find that there remains a \$6.3 billion net benefit to Turkey. Doing the same calculation using the 2007+ Accession Average, we find that Turkey walks away with a \$6.2 billion net economic benefit.

The largest observable takeaway from this result is the amount of explicit revenue and implicit economic utility a country can get from joining the EU. \$6.9 billion annually in economic benefits is incredibly large, and serves to explain much of the allure of membership in the EU. Equally interesting is the magnitude of the total costs to the Turkish government to completely reform its judicial system. Bringing the Turkish judiciary up to EU standards would be approximately \$661.9 million *annually* (assuming 2007+ Accession Average). These are incredibly costly reforms, and can be costlier still when one considers the political motivations those in power might have for *not* reforming their judiciary.

I believe that the 2007+ Accession Average serves to best frame this analysis. To begin with, the judges and prosecutors per 100,000 inhabitants averages I found for the countries that

joined the EU in the 2007+ accession wave were notably higher than those averages for all of the EU countries. To confidently demonstrate that the benefits outweigh the costs, I believe it is crucial to go with the average that will yield higher costs.

Beyond wanting to overestimate costs, there is a fair amount of literature that suggests that joining the EU is becoming increasingly difficult. Primarily as a result of the Eurozone crisis, enlargement fell to the bottom of the list of priorities for the EU Commission (Heath, 2016). We can also infer that the difficulty in joining the EU has increased based on the fact that the number of prosecutors and judges in the joining countries has been increasing over time. 2 out of the 3 countries (66 percent) that joined in the 2007+ accession wave had more than 30 judges per 100,000 inhabitants, whereas 1 out of 10 countries (10 percent) had over 30 in the 2004 accession wave.

It is also important to consider the political component to Turkey-EU relations. Politics play a very large role in the accession process (Heath, 2016), and the general sentiment is that the Turkey's relationship with the European Union has deteriorated over the past 10 years, with the chill in relations accelerating in the past 3 years. The political atmosphere first began to cool in 2005, shortly after the European Union accepted Cyprus as a member. Turkey, Greece, and the Greek Cypriot government have had a longstanding battle over Turkey's claim to the island (Cevikoz, 2017). The relationship goes back as far as the Turkish invasion of Cyprus in 1974 ("Turkish Invasion of Cyprus", n.d).

Accepting Cyprus certainly angered the Turkish government, however the damage it did to the Turkish accession bid runs deeper. Due to the nature of accession voting, having such a hostile relationship with a member country has the potential to completely hinder a country's entry in to the EU. Furthermore, in the past couple of years Turkey has made an almost

intentional effort to damage their relationship with some member states. In August of 2017, the Turkish President Recep Tayyip Erdogan accused Germany of “abetting terrorists” and using “Nazi practices” (Griffiths, 2017). Furthermore, Turkey’s incursion into Afrin, Syria has been met with much international scrutiny, NATO members condemning Turkey’s actions (Nordland, 2018). Lastly, Turkey’s attempted coup in July of 2016 – and more importantly the government response – also garnered a lot of negative international attention. Following the coup, President Erdogan has made nearly 50,000 arrests and has detained over 110,000 people (Vonberg, 2017). Two senior EU officials went so far as to respond by urging the president to respect the rule of law, rights and freedoms (“Turkey Attempted Coup”, 2016). Tensions have certainly risen and have muddied the future for Turkey’s entrance into the EU.

It is for this reason that I think it is important to emphasize the costs to Turkey of reforming, and perhaps even discount the potential benefits based on a probability of entry. Further research on this subject is certainly needed a number of questions can yet be answered. Specifically, I have painted one part of picture, outlined the costs of complying or reforming to one specific area of the EU *acquis*. Future research would do well to quantify the costs for complying with the other elements of the EU accession criteria, and combining the total costs to see if it still outweighs the benefits of joining the EU.

Sensitivity Analysis

My model makes a number of educated assumptions – judicial capacity requirements, what the EU specifically looks for in its candidate countries, etc. – in order to simplify the process of quantifying the costs associated with judicial reform. However, one thing that my model doesn’t account for are market forces. In my analysis, I account for the enhanced judicial

capacity through increases in the number of judges and prosecutors. I quantify the cost of improving this judicial capacity by looking at how much the Turkish government would have to pay these new employees, based on the average salaries of new judges and prosecutors, figures provided by the CEPEJ. But, with the number of judges and prosecutors my model predicts the Turkish government must hire – in the case of judges they need to more than double the number of judges they have – we cannot expect the salary that these judges receive to stay constant. Unless there is a very large sudden increase in law school students, we can safely assume that the number of people working in the judicial sector in the country is relatively constant. Therefore, the Turkish government would be hiring judges and prosecutors who are already working one job or another. In order to attract enough judges and prosecutors to fill the holes in their judicial system, the salary that the Turkish government pays must increase. Below, I outline the methods and results behind accounting for this elasticity.

Data and Methods

I began by reasoning through the underlying logic behind elasticity. Specifically, from where would these judges and prosecutors be hired? The clear answer was the private sector. The first step became to determine what the private practice salaries were in Turkey. The key assumptions that I made in this were judges would need 10 years of legal experience, while prosecutors would need around 5. I found that private practice lawyers with 10+ years of experience tend to make between 20,000 and 40,000 Turkish Lira per month (Laurence Simons, 2016, p. 127). I elected to take the midpoint of this range, 30,000, and multiply by 12 to find the annual private practice salary for a lawyer with 10 years of experience, which came to be 360,000 Turkish lira – approximately 97,560 euros at an exchange rate of 3.69 (“Historical Rates

for the EUR/TRY currency conversion on 30 December 2016”). We can assume that this salary is how much the Turkish government must pay in order to attract judges away from the private sector.

Next I went about doing the same calculation for the prosecutors. I first looked at the salary range for those with 4 to 5 years of legal experience, and found the midpoint to be 13,000 Turkish Lira per month – corresponding to 156,000 Turkish Lira per year salary (Laurence Simons, 2016, p. 127). Using the same exchange rate referenced above, I found this value to be around 42,276 euros. This represents the new salary that the Turkish government must pay if it wishes to attract prosecutors away from the private sector.

With these new salaries calculated, I multiplied the salaries for the respective professions by the number of additional hires that would need to be made in those fields. I then used the euro-dollar conversion rate that we established earlier to convert this final cost into dollars, and found the total salary costs. Lastly, by summing the new salary costs with the old training costs – which I assumed didn’t have elastic properties – I was able to find the new total cost.

Results and Discussion

The results were striking. The new salary cost was nearly \$1.5 billion, representing an increase of 200% over our previous cost estimate. After including training costs this value rose to a full \$1.6 billion for the All Country Average, and \$2.1 billion for the 2007+ Accession Average. Netting these costs against our calculated benefits, the net benefit under the All Country Average falls from \$6.3 billion to \$5.3 billion, and under the 2007+ Accession Average it falls from \$6.2 billion to \$4.8 billion.

Our calculation in elasticity was aggressive, and in such a situation it is generally best to benchmark our results to existing data as a reality check. We are working with a 122% increase in the number of judges, and a 362% increase in the salaries of those judges, which corresponds to an elasticity of around .33 (122% / 362%). A study done by the Institute for the Study of Labor (IZA) indicates that labor supply elasticities in Europe tend to range from .2 to .6, with the majority of observations falling around .4 and .5 (Bargain, 2011, p. 39-42). Our calculated elasticity falls in this range, which provides a good reality check for our figures. It is important to consider that this study calculates labor supply elasticity as a percentage increase in hours worked relative to a percentage increase in wage, and does not necessarily make the employment change considerations that we are making to attract lawyers from the private sector to these public sector roles; meaning that our labor supply elasticity may be even lower than the European observations, meaning it may be even costlier we expect to pull legal professionals into these jobs.

Qualitatively speaking, our elasticity indicates that salaries must nearly triple in order to double the Turkish population of judges. In order to put this into perspective it is important to consider the Turkish public perception of the judiciary, and how attractive these jobs really are. A study published by the International Republican Institute (IRI) shows that 34% of Turks have *no confidence* in the judicial system (IRI, 2010, p. 11). Compare this figure to Denmark, an EU country, in which 83% of the population has confidence in the judicial system (OECD, n.d., p. 4). Additional concerns arise when one considers the recent executive transgressions into the judicial branch, namely the firing of 4,000 judges and prosecutors (as of May 2017) in the wake of the attempted coup d'état (Pitel, 2017). All of these factors would decrease the likelihood that someone from the private sector would readily switch to a judge or prosecutor role in the public

sector. As a result, we can feel more confident that we would have to raise salaries by so much in order to make these jobs more attractive.

While the benefits still outweigh the costs and our conclusion remains the same, the costs do drastically increase when accounting for these economic forces. This should be kept in mind when further research is done on this subject. Specifically, for those who are going to go forward and attempt to quantify other aspects of the EU-driven reforms, it will be important to consider the scale and depth of these reforms. What seemed like relatively simple changes to expand judicial capacity turned out to require enormous amounts of investment and institutional change (*doubling* the number of judges and prosecutors in employment).

Conclusion

My findings raise a number of very interesting questions and demand further research on this subject. We found that for Turkey the average annual benefits of joining the European Union do indeed outweigh the annual costs of reforming the Turkish Judiciary. What was surprising however, was by how much. The costs of Judicial Reforms, without adjusting for elasticity, made up around 10% of the economic benefits of EU membership. When adjusting for elasticity however, the costs made up nearly 30% (both calculations done with the 2007+ Accession Average). This doesn't seem concerning until one considers that the judiciary is only one branch of government, one chapter of the EU acquis. It is very possible that this cost, when combined with the rest of the costs of reforms needed to fall in line with EU criteria, will outweigh the benefits of membership.

Perhaps the costs were so high because the judiciary is such a large institution. The United States Judiciary for example asked congress for \$5.1 billion in appropriation in 2017 for courts' salaries

and expenses, nearly 10 times the amount Turkey will require (“Judiciary Transmits Fiscal Year 2017 Budget Request to Congress”, 2017). If Turkey were to spend that much reforming its judiciary, it would nearly outweigh the entire annual benefit of EU membership.

From the perspective of the Turkish government, this conclusion could be very concerning, and could significantly alter their decision to commit resources to EU reforms. The judiciary isn’t the only institutional body from which the EU Chapters demand reform. In fact, the entirety of Chapter 34 of the EU Acquis is concerned with reforming domestic institutions to encompass the legislation and procedural rules of the European Union. Further chapters that may prove to be extremely costly include Chapter 28 covering consumer and health protection – which brings with it many regulatory issues, and Chapter 31 concerning foreign, security, and defense policy (European Commission 2016a). Considering only one of the 35 Chapters of EU Accession criteria is projected to eat into nearly 30% of the potential annual benefits of EU membership, I firmly believe that my study has opened the door to demand further research on this subject.

An important consideration for further research is with respect to my calculation of the benefits of joining the EU. Since the benefits of EU membership were based on Turkey’s Customs Union with the EU rather than actual membership, the figure may have been lower than it otherwise would have. This is an area that may require more research and clarity. However, the magnitude of the costs in relation to the benefits is still alarming, and research should be done to quantify the other areas of EU reform in order to paint a full cost-benefit analysis picture. It is very possible that the overall costs outweigh the benefits, and perhaps joining the EU is a path Turkey should avoid.

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Appendix

Comparable Countries

Country	Accession Date	Judges per 100,000	Prosecutors per 100,000
Cyprus	2004	11	12.8
Czech Republic	2004	29	11.7
Estonia	2004	18	12.8
Hungary	2004	29	19.0
Latvia	2004	24	22.8
Lithuania	2004	26	24.6
Malta	2004	10	2.8
Poland	2004	26	15.3
Slovakia	2004	24	17.5
Slovenia	2004	45	9.4
Bulgaria	2007	31	20.4
Romania	2007	21	11.8
Croatia	2013	41	13.4
All countries			
Average		25.76923077	14.94615385
Std. Deviation		10.0262476	5.902205151
Median		26	13.4
2007 Accession			
Average		31	15.2

Turkish population:

79,512,426

Judges

Judge count

 Total

9271

 Implied per 100,000 inhabitants

11.65981277

Ideal count based on All-Country Average

20490

Implied additional judges needed:

11219

Ideal count based on 2007+ Accession Average

24649

Implied additional judges needed:

15378

Compensation

 Gross Salary @ beg. Career

€ 21,108.00

Prosecutors

Public Prosecutors	
Per 100,000 inhabitants	6.065718583
Total	4823
Ideal count based on All-Country Average	11884
Implied additional prosecutors needed:	7061
Ideal count based on 2007+ Accession Average	12086
Implied additional prosecutors needed:	7263
Compensation	
Gross Salary @ beg. Career	€ 21,108.00

Training

2016 training budget	
Variable costs	
Staff Expenses	3,418,665 TL
Social Security	465,038 TL
Goods and Services	12,079,319 TL
Current Transfers	333,421 TL
Total Variable Costs	16,296,443 TL
Fixed Costs	
Capital Expenses	1,237,095 TL
Total Fixed Costs	1,237,095 TL
Total budget	17,533,537 TL

2016 Number of Individuals Trained	
Those who got <i>pre-employment training</i> at The Academy	3022
Those participating in vocational training activities	3117
Judges (included in the 3117)	618
Prosecutors (included in the 3117)	499
Those participating in service training activities	3934
Total Individuals Trained	10073
Cost per Individual	1,741 TL
% of those individuals who are Judges & Prosecutors	11.09%

COSTS

Salary Forecasts	All Country Average	2007+ Accession Average
Additional Judges Needed	11219	15378
Judge Salary	€ 21,108.00	€ 21,108.00
Salaries of New Judges	€ 236,810,652.00	€ 324,598,824.00
Additional Prosecutors Needed	7061	7263
Prosecutor Salary	€ 21,108.00	€ 21,108.00
Salaries of New Prosecutors	€ 149,043,588.00	€ 153,307,404.00
Total New Salary Cost	€ 385,854,240.00	€ 477,906,228.00
Dec 31st. 2016 dollar euro conv.		
Rate	0.95	0.95
In dollars	\$406,162,357.89	\$503,059,187.37
Training Forecasts		
Total Ideal Judge Count	20490	24649
Total Ideal Prosecutor Count	11884	12086
Total Judges & Prosecutors Needing Annual Training	32374	36735
Percentage of total trainees	11.09%	11.09%
Total Individuals to be Trained	291946	331273
Cost per trainee	1,741 TL	1,741 TL
Total Training Cost	508,174,933 TL	576,629,358 TL
2016 budget	17,533,537 TL	17,533,537 TL
Total Increase in spending needed	490,641,396 TL	559,095,821 TL
Dec 31st. 2016 dollar lira conv.		
Rate	3.52	3.52
In Dollars	\$139,386,760.15	\$158,834,040.01
Total new salary cost	\$406,162,357.89	\$503,059,187.37
Total training cost	\$139,386,760.15	\$158,834,040.01
Total cost	\$545,549,118.04	\$661,893,227.38

BENEFITS

Turkey pop. 2013	75790000
Turkey per capita GDP benefit from customs union (Aytug et al)	13%
Per Capita GDP Benefit from customs union + Euro benefit	15%
Turkey per capita GDP (2013)	\$12,542
Turkey per capita GDP assuming no customs union	\$10,912
Turkey implied GDP assuming no customs union	\$826,985,616,600
Per capita GDP with 15% increase	\$12,548
Turkey implied GDP (per capita x population)	\$951,033,459,090
Implied loss without customs union (2013)	\$124,047,842,490
Average annual benefit (over 18 year period)	\$6,891,546,805

SENSITIVITY ANALYSIS: ELASTICITY ADJUSTED COSTS

Salary Forecasts	All Country Average	2007+ Accession Average
Additional Judges Needed	11219	15378
Judge Salary	€ 21,108.00	€ 21,108.00
Private Practice annual salary	€ 97,560.00	€ 97,560.00
New Judge Salary	€ 97,560.00	€ 97,560.00
Total salaries of New Judges	€ 1,094,525,640.00	€ 1,500,277,680.00
Additional Prosecutors Needed	7061	7263
Prosecuter Salary	€ 21,108.00	€ 21,108.00
Private practice annual salary	€ 42,276.00	€ 42,276.00
New Prosecuter Salary	€ 42,276.00	€ 42,276.00
Salaries of New Prosecutors	€ 298,510,836.00	€ 307,050,588.00
Total New Salary Cost	€ 1,393,036,476.00	€ 1,807,328,268.00
Dec 31st. 2016 dollar euro conv. Rate	0.95	0.95
In dollars	\$1,466,354,185.26	\$1,902,450,808.42
Total With Elasticity		
Total elastic salary cost	\$1,466,354,185.26	\$1,902,450,808.42
Total training cost	\$139,386,760.15	\$158,834,040.01
Total	\$1,605,740,945.41	\$2,061,284,848.43

NET

Normal

	<u>All country average</u>	<u>2007+ accession average</u>
Annual benefits	\$6,891,546,805.00	\$6,891,546,805.00
Annual costs	\$545,549,118.04	\$661,893,227.38
Net benefit	\$6,345,997,686.96	\$6,229,653,577.62

Elastic

	<u>All country average</u>	<u>2007+ accession average</u>
Annual benefits	\$6,891,546,805.00	\$6,891,546,805.00
Annual costs	\$1,605,740,945.41	\$2,061,284,848.43
Net benefit	\$5,285,805,859.59	\$4,830,261,956.57