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EU Gender Equality Principles in EU Accession

**A case study of the current EU candidate countries
Turkey and Croatia**

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Abstract

Gender Equality has become a major concern within the European Union. Especially gender equality in the sphere of employment can be considered as an obligatory principle which is deeply integrated into the Community's legal policy framework. Since the principle of gender equality in employment is legally binding for the Member States, it is also obligatory for all countries which are seeking for EU accession. Therefore, it is interesting to see how well EU candidate countries adopt these principles on national grounds. This study aims to examine to what extent the current EU candidate countries, Turkey and Croatia, managed to incorporate the gender equality requirements in employment, as outlined by EU Directive 2002/73/EC, into their policy and institutional framework. Moreover, a special emphasis is paid upon analyzing whether or not the conditional incentive of obtaining full EU membership can be regarded as being the driving force for compliance in both countries, thereby overruling other explanatory factors. The findings of the study indicate that overall compliance with gender equality principles in employment between 2003 until today, as required by the 2002 EU Directive, has been good in Croatia. Turkey on the other side suffers under several provisional shortcomings and transposition failures. Furthermore, the findings indicate that overall compliance in both countries can be explained through an interaction between the pressure introduced by the principle of EU conditionality and other explanatory factors that determine their willingness to comply.

List of Abbreviations

Art	Article
CC	Criminal Code
COM	European Commission
EC	European Community
ECJ	European Court of Justice
EU	European Union
GE	Gender Equality
GEA	Gender Equality Act
GECCP	Gender Equality Committee of Croatian Parliament
GEO	Gender Equality Ombudsman
GOGE	Government's Office for Gender Equality
IPU	Inter- Parliamentary Union
LA	Labor Act
LC	Labor Code
MoLSS	Ministry of Labor and Social Security
MS	Member States
OA	Obligation Act
TEC	Treaty establishing the European Community
TEU	Treaty on European Union
TFEU	Treaty on the Functioning of the Union
WWI	First World War

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1. Introduction

Within the European Union the principle of gender equality has long been of special concern. During the last decades the EU has initiated several policy measures which aim to further strengthen equal treatment and equal opportunities for men and women and are thereby fighting against any gender discriminative actions. Gender Equality policies and laws, especially as regards to the employment sector, have their legal basis within the Community's policy framework and are binding upon all Member States as well as upon those countries which are seeking for EU accession. Especially the transposition of EU gender equality principles to EU candidate countries has become a more and more popular topic among researchers. A special focus has been paid upon the factors which determine the willingness of EU candidate countries to comply with EU rules. Former research results vary significantly in their explanations for compliance. Whereas some researchers focus upon explanatory factors which explain the willingness of EU candidate countries to comply with EU gender equality principles (Sedelmeier, 2009; Avdeyeva, 2010), others regard the principle of EU conditionality as the driving force for determining compliance. What is so far missing is a research approach which tests these two different directions of analysis. In order to contribute to the existing lack of research, this study seeks to examine whether or not the principle of EU conditionality overrules other explanatory factors which determine the willingness of EU candidate countries to comply with EU GE principles. The study focuses on gender equality measures in the employment sector which have been introduced by the EU candidate countries, Turkey and Croatia between 2003 and 2010 in order to comply with EU requirements in this sphere. Both countries are expected to host different views on gender equality and the role of women in society, since they exhibit different religious, cultural and historical backgrounds that have shaped their attitudes regarding equality between men and women during the past decades. Due to these differences both countries are expected to differ greatly from each other in the light of explanatory factors that explain compliance with EU GE principles. What both countries have in common is the conditional incentive of becoming full EU members. Through the policy analysis light should now be shed upon whether this conditional incentive will drive Turkey and Croatia to put equally effort into complying with EU GE rules or whether the great disparity in explanatory factors can be considered as being the driving force for compliance.

In order to analyze how the principle of gender equality in employment has been adopted in both countries between 2003 until today, it is first of all necessary to introduce the theoretical framework of the study. This is done in the second chapter of the thesis which will present the most important theories regarding EU conditionality and other explanatory factors which determine the willingness of states to transpose and adopt EU gender equality principles in employment into their national legal system. After having introduced all necessary theoretical insights, the third chapter will then be concerned with introducing the practical background of the study. In this section the role of gender equality within the European Union and its legal Community framework will be introduced. Moreover, it will be described which specific role EU gender equality principles in employment play in the light of EU accession. The fourth section will then focus upon the methodological framework of the study. In the fifth chapter the EU Directive 2002/73/EC on gender equality in employment will be presented. This Directive will be used to measure compliance in Turkey and Croatia and is therefore of special importance during the study. The sixth chapter will be concerned with analyzing the pre-2002 situation in both EU candidate countries as regards to legislative provisions on gender equality in employment which already existed in both countries before the EU Directive was introduced. The

analysis of the time period after the Directive will be analyzed in the seventh part of the study. In this chapter, the findings of the analysis will be analyzed in the light of the theories and hypotheses which were introduced in the former part. The last chapter of the study then aims to evaluate and review the most important findings in the light of the main research question as well as concluding remarks will be given.

2. Theoretical Framework

In the following, the most important theories regarding the willingness of EU candidate countries to comply with EU gender equality principles on the labour market will be presented. This theoretical insight will be helpful in order to formulate hypotheses and to introduce preliminary answers to the research question of how well the EU candidate countries Turkey and Croatia performed with EU gender equality principles in employment between 2003 and 2010 and whether or not the conditional incentive of becoming EU member can be said to overrule other explanatory factors which determine their compliance.

Several researchers have already analyzed that there are certain factors which play a role in determining the willingness of states to comply with EU gender equality rules (Adeyeva, 2010; Sedelmeier 2009). Sedelmeier, for instance, is one of the researchers who analyzed compliance with EU gender equality Directives in workplace in the CEEC countries. In his work compliance was measured in two stages, Policy Adoption and Institutional Reform. Whereas the former stage is concerned with analyzing adoption of EU Directives into national law the latter one regards to the capacity of the domestic institutional framework to monitor and enforce EU Directives. In his analysis, Sedelmeier identifies "government orientation" as one of the explanatory factors which is seen as determining the willingness of states to comply with EU gender equality rules. Sedelmeier is not the only one who follows this assumption. Several researchers have been arguing that the ideology of parties with seats in national parliament is significant for the adoption of EU gender equality principles (Sedelmeier, 2009; Avdeyeva, 2009; Avdeyeva, 2010). According to their findings, left oriented parties in national parliaments are more likely to adopt gender equality measures in employment than right oriented parties. This means that whenever the number of left-oriented parties in the national parliament in a country exceeds the number of right oriented parties, the country is considered to be likely to implement measures which promote for greater gender equality in employment. Especially with regard to the two EU candidate countries Turkey and Croatia the orientation of parties in parliament has been of importance during recent years. Whereas in Turkey the Islamic belief as well as the secular state system has impacted the party preference of parties in national parliament (Celik, 2003), party preferences in Croatia were mainly driven by the transition from a Communist regime into a democratic political system (Berglund, Ekman, Aarebrot, 2004). These different religious and political regimes have not only impacted the preferences of parties in the national parliament of both countries, they also had and still have great impact upon how women are seen in the society and thus they impact the status of gender equality. When turning to the Turkish political party system it is to mention that the overall system has mainly been shaped through the struggle between religion and state philosophies which have created political tensions among Turkish parties (Celik, 2003). In Turkey right oriented or ultra national parties mostly favor the traditional concept of gender roles and thus gender equality is not seen as an urgent political goal (Narli, 2002). The situation of political party preferences in Croatia has been differently from the one experienced in Turkey. Under the Communist party regime gender equality was seen as an integrated part of politics (Pollert; 2003). With the transition of the Communist party regime into

democracy not only party preferences changed but also the situation of gender equality has shifted. In general, in both countries former different religious and traditional party regimes and beliefs are nowadays still considered as being influential enough to impact upon party preferences of parties within national parliaments (Poller, 2003 and Celik, 2003). These preferences on the other side are influencing the social status of women in both countries and are therefore considered as important factors for the development of gender equality policies. As already mentioned above, several researchers have found a strong positive correlation between the number of left orientated political parties in parliament and the willingness of states to take account of gender equality principles (Sedelmeier, 2009; Avdeyeva, 2010). The hypothesis which arises out of these findings is therefore the following:

Hypothesis 1: If the national parliament is dominated by left or center- left wing parties the country is more likely to comply with EU gender equality rules in employment.

Another important explanatory factor which researchers outline as being significant for determining the willingness of countries to comply with EU gender equality principles, is the percentage of women in parliament (Avdeyeva, 2010). A high number of women in parliament means, according to Avdeyeva, that the country is more likely to adopt gender equality rules. Furthermore, the proportion of women in parliament can be seen as reflecting the social situation of women within the society and therefore is closely entangled with the situation of gender equality in general (Matland, 1998). This means that if the social status of women in public life is low, their parliamentary representation will also be low. A low representation of women in parliament on the other hand means that the country is less likely to implement gender equality principles. Therefore, it can be said that the social status of women, which derives mainly from religious beliefs but also from cultural backgrounds and mentalities, determines the representation of women in parliament which then impacts upon the willingness of the country to comply with gender equality rules (Matland, 1998; Ingelhart, 2002; Avdeyeva; 2010). From this positive correlation the following hypothesis derives:

Hypothesis 2: If the proportion of women in the domestic parliament is high the country is more likely to comply with EU gender equality rules in employment.

The next explanatory factor which is also considered as influencing the willingness of countries to adopt gender equality principles is the national unemployment rate. Researchers, like Avdeyeva, have found a negative correlation between this explanatory factor and the willingness to comply. She argues that countries with high domestic unemployment rates are less likely to comply with gender equality rules (Avdeyeva; 2010). This assumption is especially valid as regards to gender equality in the sphere of employment. High unemployment rates mean that a country already faces some economic and social struggles and is therefore not seen as willing to make the situation more complicated through the introduction of gender equality measures within the national labor market (Avdeyeva; 2010). The hypothesis which derives from this explanatory factor is therefore the following:

Hypothesis 3: If the domestic unemployment rate in a country is high the country is less likely to comply with EU gender equality principles in employment.

Next to researchers who explored the important role of explanatory factors on the willingness of states to comply with gender equality principles, there are also researchers who argue that the

conditionality principle is an important factor which drives non- EU members or EU candidate countries to comply with EU rules. These researchers emphasize that the conditional incentive of gaining EU membership already had great influence in transferring EU rules to accession countries (Chiva, 2009; Avdeyeva, 2009; Agné, 2009; Schimmelfenning and Sedelmeier, 2004). According to Agné, conditionality can be considered as a “practice of setting conditions for the provision of a good from one actor or organization to another” (Agné, 2004). Furthermore he emphasizes, that in the case of EU accession EU membership is the most important goal which EU candidate countries want to achieve. Like Schimmelfenning and Sedelmeier analyzed, also in the Eastern and Central European Enlargement in 2004 conditionality played a great role in transferring EU rules to the Enlargement countries. According to them, states are willing to comply with EU rules if there is an incentive for doing so. In the case of EU accession the greatest incentive which exists is definitely gaining EU membership. Like Falkner, Causse and Wiedermann summarize from the work of Sedelmeier and Schimmelfenning, if the incentive for complying with EU rules does not exist anymore or is not as urgent as before the implementation and compliance with EU rules is greatly slowed down. Therefore, many researchers emphasize that in many cases conditionality can be considered as the main reason for EU candidate countries to comply with EU rules (Falkner, Causse and Wiedermann, 2006; Sedelmeier and Schimmelfenning, 2004).

If one now applies the principle of EU conditionality to the situation of EU gender equality principles in EU accession it is obvious that for the EU candidate countries EU membership is the highest incentive. The condition is to comply with EU gender equality principles which are either outlined in the Treaties or in EU regulations or directives. Since Turkey and Croatia are currently both seeking for EU membership, I expect them to put equally much effort into complying with EU gender equality rules on the labor market, even though they differ greatly with regard to other explanatory factors. Nevertheless, I expect that the conditional incentive of becoming EU member will override all other explanatory factors which explain their willingness to comply with EU gender equality rules. Therefore the following hypothesis arises:

Hypothesis 4: Croatia and Turkey put equally great effort into complying with EU gender equality rules in employment since they share the same conditional incentive.

Even though there are also other theoretical approaches which explain the willingness of states to comply with EU rules in general and with EU gender equality principles in specific, the research of this study will only be conducted on the grounds of the above introduced explanatory factors and the principle of conditionality. A more extensive research in which other theories and other explanatory factors are taken into account would go beyond the scope of this thesis.

3. Gender Equality in the European Union

Gender equality can nowadays be regarded as being an integral part of the European Union and is considered as a basic fundamental right within the Union’s framework. Since the principle of gender equality is a common EU value, the Union tries to protect the right to equal treatment in and outside employment and therefore often has to fight against gender discriminations in all spheres of Community life. The current strategy of the EU which is used in order to ensure gender equality in all policy areas is a two- track approach which is entangled with the Union’s concept of “Gender Mainstreaming”. During the last decades, the EU especially focused upon establishing equal opportunities and equal treatment within all spheres of the employment sector. Important

regulatory measures that were introduced by the EU in this area are for example measures ensuring for equal pay, motherhood protection and parental leave regulations. Since recent years the principle of gender equality in employment can also be found as cross-cutting issue in EU policy initiatives so that its legal framework is becoming more and more extensive. This extensive legal framework will be introduced in the following.

3.1. Legal Framework of Gender Equality in Employment

The existence of the Community legal framework on gender equality in employment can be traced back to the very first beginnings of the European Union. According to the European Commission since 1970 in total 13 legal measures were taken in order to guarantee equal opportunities and equal treatment between the sexes within the European Labor Market. The foundation of making gender equality principles in employment binding was created with the establishment of Article 119 on Equal Pay in the Treaty of Rome. Back then; this Article was the only one that was directly concerned with gender equality and was exclusively focused upon the employment sector. Later on, between 1970 and 1990, the principle of gender equality was further expanded so that equality rules also started to become applicable to other spheres of Community life. Since 1975, measures ensuring gender equality in employment are mainly introduced through EU Directives. Generally speaking one can divide EU law on gender equality in employment into three main categories. These categories are: primary law, secondary law and supplementary law provisions. Whereas primary law is mainly introduced through Treaty articles, secondary law includes legal instruments such as Conventions, Agreements, Unilateral sources etc. (European Commission; 2006). The third category of EU law is called supplementary law and includes for example ECJ decisions or international legal provisions (European Commission; 2006). In order to analyze the Community's legal framework with regard to gender equality in employment, the above mentioned categories of EU law will shortly be introduced since they create the main legal basis for gender equality within the Community.

EU Primary law on Gender Equality in Employment

Like already mentioned above, Gender Equality was legally implemented into the Community's legal framework with the adoption of Article 119 into the Treaty of Rome. The aim of this article was to ensure that men and women receive the same payment for the same occupation and are not discriminated against on the basis of gender. Other important articles which nowadays form the legal basis for EU gender equality law in employment can be found in several provisions of the TEU and TFEU in which the EU commits itself to take account of the principle of gender equality in their Community work (Articles 2 and 3 TEU and 8 TFEU) as well as to eliminate any inequalities and discriminations which are based on gender (Article 19 TFEU). Next to these rather general provisions, there are also articles in the TFEU which are more specifically linked to gender equality in employment. These provisions can for example be found in Article 157 TFEU and 157 (4) TFEU.

Now, that the main sources of EU primary law on gender equality in employment has been introduced a closer look will now be paid upon the secondary sources of EU law on GE.

EU Secondary law on Gender Equality in Employment

Like already discussed in the former part of the study, secondary EU law also has its legal basis within the Treaties. In recent years, many policies and measures on gender equality in employment were adopted through the imposition of secondary sources of EU law which were in most of the cases EU

Directives. Since all provisions of EU Directives refer to important Articles of EU Treaties, they are binding for all MS as well as for states which are seeking for EU accession. Since the principle of gender equality first appeared in the Treaty of Rome, there have been in total 13 Directives which establish measures concerning the EU's principle of gender equality. In total 12 of them are related to labor market conditions. In the following, the most important EU Directives on gender equality in the sphere of employment will shortly be presented.

The first Directive which followed the Treaty of Rome was Directive 75/117/EEC established in 1975. This Directive is concerned with Equal Pay and the prohibitions of discriminations on equal pay in employment on behalf of gender. The Directive entails that men and women are entitled to receive the same payment for the same occupation. The Directive on Equal Pay was followed by the Equal Treatment Directive 76/207/EEC which is also strongly concerned with gender equality in employment situations. According to this Directive, there cannot be any discrimination based on gender with regard to access to employment, access to vocational training and career opportunities. Moreover, there should not be any gender discrimination neither of direct or indirect nature when it comes to working conditions and work dismissal. This Directive was followed by the Directive of Social Security of 1979, 79/7/EEC and Directive 86/375/EEC which were meant to establish gender equality as regards to social and health issues and employment protection. In the same year, in 1986, another Directive followed which established equal treatment between the sexes within the sphere of Self-Employment and which established greater protection for self-employed women (86/613/EEC). Between 1992 and 1996 the European Union started to pay special attention to strengthening conditions entangled with equal opportunities in employment in areas where family matters were concerned. In order to promote for greater gender equality as regards to the protection of pregnant workers as well as better parental leave conditions, Directive 92/85/EEC and Directive 96/34/EC were established. In 1997 the Community then decided to strengthen already existing criteria on the proof of gender discrimination in employment. The outcome was the implementation of Directive 97/80/EC which requested all Member States to strengthen their own domestic criteria for proofing gender discrimination whenever one of their citizens claimed to be discriminated against by the employer on behalf of sex (European Commission, 2007). In 2002, the European Union introduced another Directive which amended the former Directive of 1976. With the new Directive the principles of equal treatment were further clarified. Moreover the new Directive asked all MS to establish GE Institutions and monitoring bodies. The last Directive which was adopted by the European Union is the Directive of 2006 (2006/54/EC). This Directive unifies four of the former mentioned Directives into a single document and further clarifies the wording and concepts of these forgoing Directives (European Commission 2007).

EU Supplementary Law

Next to the above introduced primary and secondary sources of law also supplementary legal sources can be considered as integral parts of the Community and are also concerned with gender equality in employment. Like already mentioned above, supplementary sources of law include international law as well as case law which was decided upon by the ECJ. The rulings of the European Court of Justice regarding gender equality issues have been of special importance for the further establishment and the adherence of these principles within the European Community. Throughout the last decades the rulings of the ECJ as regards to gender equality in employment were not only important to clarify the scope of EU Treaty provisions, ECJ judgments were also used as basis for the establishment of new legislature on gender equality within or outside the sphere of employment

(Chalmers, Hadjiemmanuil, Monti, Tomkins 2006). With the judgement (Case 80-70 Gabrielle Defrenne v Belgian State) of 1971 on equal pay in employment, a series of cases on gender equality as regards to equal pay for equal work was closed and decided upon by the ECJ. One example of such a case is Case 43/75 Defrenne v. Sabena in which the ECJ ruled that the principle of equal pay has direct effect and that therefore the differences in pension payment between male and female workers could not be considered as justifiable (Chalmers, Hadjiemmanuil, Monti, Tomkins 2006). Whereas the ECJ mainly had to rule on matters of equal pay in employment between 1971 and 1982, the principle of equal pay was since 1983 replaced by matters of equal treatment (European Commission, 2010). One example of a court ruling about equal treatment can be found in 1988. The ECJ ruled in Case 318/86 Commission of the European Communities v French Republic that men and women generally need to be treated equally as regards to job recruitment. Furthermore, national laws which discriminate against men and women in the accession to employment, even though if the employment is related to military service (Case C- 285/98 Tanja Kreil v Bundesrepublik Deutschland), are considered as discriminatory acts and contradict with the principle of equal treatment between men and women (Raible, 2003). During the past decades the rulings of the ECJ have been developed into an important integral part for the interpretation and creation of EU legislature on gender equality principles in employment.

Like already mentioned before, EU gender equality principles are part of the EU's legal framework and are therefore binding upon all European Member States as well as for all states which are officially announced as European candidate countries. In the following part of the study, the role of EU gender equality principles in employment will be discussed in the light of EU accession.

3.2. EU Gender Equality principles in EU Accession

In order for non EU states to reach full EU membership certain obligations have to be fulfilled. According to the European Commission every state which respects the main objectives of the European Union can apply for European membership (European Commission, 2010). After having been approved for candidature the countries which are seeking for European accession have to comply with the Copenhagen criteria. Next to establishing Institutions which ensure compliance with common European objectives and the creation of a market structure EU candidate countries also have to adopt the "Community Acquis" (Molen and Novikova, 2005). Since the "Acquis Communautaire" includes all Treaties of the European Union it also covers equal opportunity and equal treatment legislature since the principle of gender equality, especially in employment, is an integrated part of EU law (Molen and Novikova; 2005). In order to reach full membership EU candidate states are therefore also obliged to adopt the EU acquis on gender equality. The Equal Opportunity acquis basically requests EU candidate countries to adopt "the existing body of Treaty provisions, directives, and European Court of Justice decisions on equal pay, equal treatment, and maternity and parental leave [...]" (Beveridge, 2007). Next to adopting the EU acquis on gender equality EU candidate countries are also obliged to create an institutional framework which has the capacity to monitor gender equality actions and to promote the fulfillment of the principle of gender equality more efficiently on national level (Beveridge; 2007). Like many authors emphasize the principle of gender equality is most of the time not the main priority of candidate countries but through the fact that it is part of the EU accession conditions the topic gains more and more importance (Molen and Novikova, 2005; Beveridge, 2007).

4. Methodology

Like it was already stated in the former part of the paper this study seeks to analyze how well the two EU candidate countries, Turkey and Croatia, complied with the EU Directive of 2002 on gender equality in employment. Furthermore, it aims to analyze whether or not the conditional incentive of gaining full membership will drive both countries to comply with EU gender equality principles in employment or whether other explanatory factors also influence their compliance to a great extent. In this part of the paper the most important indicators and explanatory factors as well as the method of data collection will be presented.

4.1. Conceptualization

In order to follow the analysis part of the study later on, it is from great importance that the most important concepts are explained which will be used during the study. The main question which is raised throughout the research is how does Croatia comply with EU gender equality principles in employment compared to Turkey between 2003 until today. The main concept which will appear in several instances during the study is compliance with EU gender equality principles in employment. Therefore, this main concept needs to be explained. When speaking of compliance with EU gender equality principles in employment the main focus is paid upon which laws and Institutions were adopted and amended by the two candidate countries Turkey and Croatia in order to satisfy EU gender equality principles as outlined by EU Directive 2002/73/EC. Compliance means that the countries managed to establish or amend their national law and reforms according to EU requirements and that they created Institutions which are in line with EU law on gender equality. Non compliance therefore means that the above mentioned measures were not taken by the two EU candidate countries and therefore EU principles in this area were not adopted at all or were only partially adopted. The degree of actual compliance is measured against the pre 2002 situation of gender equality principles in employment in both candidate countries. Within the study, compliance is seen as the main concept but there are also other important sub-concepts which derive from the four hypotheses which were already introduced in the former part of the research. Turning to the first hypothesis, compliance is set into relation with the domestic unemployment rate. More specifically it is argued that high domestic unemployment rates lead to less compliance with gender equality principles in employment among EU candidates. In this study, the concept of the domestic unemployment rates covers the "proportion of the labour force aged 15- 74 in unemployment" (European Commission; 2009) between 2003 and 2008. The leveling board for "high" or "low" unemployment rates is the EU average unemployment rate during the same period and within the same age category. Reliable data for the calculation of the domestic unemployment rate in both countries will be taken from Eurostat statistics. When turning to the second hypothesis, which argues that a high proportion of women in domestic parliament increases the likelihood of countries to comply with EU gender equality principles in employment, the percentage of women in the Lower and Single House of the Parliament is measured. A high number of women in Parliament means that the percentage of women in the Lower and Singles House was between 2003 and 2010 above European average. On the contrary, low parliamentary representation of women means that the percentage of women in Parliament during the same period was below European average. For calculating the percentage of women in the Lower and Single parliamentary House between 2003 and 2010, data will be collected from the Inter-Parliamentary Union (IPU). With regard to the third hypothesis, the orientation of political parties in parliament, the party orientation of all parties with seats in the national parliament in Turkey and Croatia between 2003 and 2010 is measured. Party

preferences will categorically be ranked into being left, right or center-wing oriented. This orientation is assumed to determine the willingness of states to comply with EU gender equality principles in employment. In general, left or center-left oriented parties are seen as being more in favor of integrating gender equality principles into their national policy framework than right or center-right oriented parties. Hereby, data will be collected from the OSCE Office for Democratic Institutions and Human Rights. The fourth and last hypothesis of the study rests on the assumption that Croatia and Turkey are likely to put equally great effort into complying with EU gender equality principles in employment. This is assumed to be the case since both countries share the same conditional incentive. Next to the concept of compliance, which is used once more in this hypothesis, also the concept of equal effort is introduced. Within the scope of this study, equal effort means that both candidate countries managed to introduce an equal number of laws and acts between 2003 and 2010 into their national legal framework which are of similar rank and which comply with EU gender equality principles in employment as regards to policy comprehensiveness. Furthermore, equal effort also includes that both countries established a similar number of GE bodies which are of equal rank as regards to their functions and capabilities. With regard to the conditional incentive it is meant that both candidate countries have to comply with EU GE principles in employment in order to gain full EU membership.

Next to these conceptual choices also methodological choices had to be made which will be introduced in the following.

4.2. Croatia and Turkey: A two case comparison

Due to the fact that the research is only of limited scope, including the limitations regarding timeframe and length of the study, some methodological restrictions had to be made. These restrictions are noticeable as regards to the cases which were selected for the case study but also by means of data collection and the timeframe of the analysis. As regards to the selection of cases it is to say that there are currently four EU candidate countries which are Turkey, Croatia, Iceland and the Republic of Macedonia. In this study two countries were chosen for the analysis, representing current EU candidate countries. When taking a closer look upon the four countries which are currently seeking for EU accession, Croatia and the Republic of Macedonia can be viewed as sharing several similarities as regards to their religious and political background. Both countries were shaped through the influences of communism and similar beliefs and are therefore expected to host similarities regarding the three explanatory factors. As regards to Iceland, which has only recently been announced as EU candidate country, it needs to be said that there exist political, cultural as well as historical differences between the two former mentioned countries and Iceland. Nevertheless, the most significant differences can be found between Turkey and Croatia. Throughout the last decades, both countries have been embossed through different historical, political, cultural and religious backgrounds and are therefore expected to exhibit great differences as regards to the three explanatory factors. Through this great diversity, it is presumed that a clearer light will be shed upon which factors play a role in determining the willingness of both states to comply with EU gender equality principles in employment and whether or not they overrule the principle of EU conditionality. In order to detect the relation between explanatory factors and the conditional incentive of both countries to become EU members and in order to see in how far they play a role in determining compliance, both countries need to be different in view to the explanatory factors but the need to be similar as regards to their conditional incentive. Therefore, Croatia and Turkey are seen as the best choices for the case study. Since gender equality principles in employment can be

found in many spheres of Community life as well as they are content of many Directives and other legislative provisions, a choice had to be made on which legal provisions or on which directive the main focus should be paid upon. The EU Directive which is of special importance in this study is the EU Directive 2002/73/EC which is binding for both EU candidate countries. The Directive was introduced in the end of 2002, which was the time period when Turkey was officially announced as EU candidate country and shortly before Croatia applied for candidature in the very first beginning of 2003. This means that the scope of the Directive was equally binding upon both candidate countries. Moreover, during the time of implementation both countries had the same conditional incentive of gaining full EU membership through compliance. The time period during which the implementation of this Directive will be monitored is from 2003 to 2010. Like already mentioned before, by 2003 Turkey was already announced as official EU candidate whereas Croatia applied for EU membership. Therefore, since 2003 until today, both countries are hoping for EU membership and therefore need to comply with EU Directives. In order to measure policy compliance with the EU gender equality Directive in employment between 2003 and 2010, only legal provisions within the national law of the two candidate countries are taken into account. Other measures or initiatives such as national action plans or other policy programs regarding this issue area are not measured since this would go beyond the scope of this research. Furthermore, in order to measure compliance with the 2002 EU Directive, compliance is divided into two stages: Policy Adoption and Institutional Reform. Thanks to this division the performance of both candidate countries can be evaluated on the grounds of their adoption capacity and the policy comprehensiveness of national legal documents. Moreover, the enforcement capacity of these legal provisions is measured by analyzing the functions and competences of national gender equality Institutions. Moreover, in order to analyze if the conditional incentive of becoming EU member can be said to have driven both countries to comply with the 2002 EU Directive, the pre 2002 situation of gender equality in employment will be compared to the policy situation from 2003 onwards.

Now, that the most important methodological choices have been introduced outlining the scope of the study, the requirements which are imposed by EU Directive 2002/73/EC will be introduced. This is necessary in order to identify which conditions were raised upon both EU candidate states as regards to gender equality in the sphere of employment.

5. EU Directive 2002/73/EC

In order to see whether or not Turkey and Croatia put equally effort into complying with EU gender equality principles in employment it is necessary to analyze how well both countries performed in transposing EU Directive 2002/73/EC. In the following, a closer look will be paid upon the Directive in order to see which requirements this Directive imposed upon EU member states as well as upon both EU candidate countries. The Directive of 2002 on 'the implementation of the principle of equal treatment for men and women as regards to access to employment, vocational training and the promotion, and working conditions' basically amends the former Directive 76/207 and introduces substantial and procedural changes (Masselot; 2004).

In general it is to say that Directive 2002/73/EC requires that all legislative as well as administrative regulations of the Member States are eliminated whenever they contradict or harm the principle of gender equality in employment (Art. 2 (2a)). All member states and states which are seeking for EU accession have to introduce all necessary actions which are needed in order to comply with the Directive by 05.10.2005 the latest (Art. 2).

In the following, the main requirements of the 2002 Directive on gender equality will be introduced. These requirements will be grouped into in total five categories which will serve as indicators for the content analysis in the next chapter. These categories are gender equality with regard to 1) *working conditions and protection measures*, 2) *access to vocational training or/ and employment and 3) Harassment and Sexual Harassment*. In order to ensure the protection of gender equality in employment the EU Directive also outlines claim and sanctioning measures which step into action whenever the principle of gender equality in employment has not been taken account of. Therefore, the fourth category is 4) *Claims and Sanctioning procedures*. Furthermore, the Directive of 2002 asks the Member States to create and establish Institutions and Organisations to monitor and enforce the principle of gender equality in employment. Due to this requirement the last category which will be of special focus is the 5) *Establishment of Institutions and Organizations*. Contrasting to the former four categories, the last category will not form part of the policy comprehension analysis. It will rather be the basis for analysing Institutional Reform in both candidate countries. The categories which will serve as indicators during the analysis will now shortly be introduced below.

1) Gender Equality in working conditions and protection measures

With regard to working conditions and protection measures the Directive of 2002 indicates that in general, women and men need to be treated equally. Furthermore, Article 2 (1) prohibits any gender discrimination in employment especially if it is due to once marital or family situation. Furthermore, any discrimination which is based on sex is strongly prohibited with regard to issues of payment and/or job dismissal (Art. 3 (1c)). Next to the prohibition of all kinds of discriminatory acts, the protection of the rights of pregnant women and mothers is especially highlighted. This can for example be seen in Article 1 (7) which indicates that mothers, after maternity leave, have the right to return to their workplace under the same conditions than before. With regard to pregnant women, it is stated in the same article that they cannot be treated differently in their workplace as men.

2) Gender Equality in accession to vocational training or/and employment

Regarding this part of the Directive it is to say that Member States can in general not discriminate against women as regards to employment. Job selection can only be conducted on the ground of an educational characteristic which is necessary for the job (Art. 1 (6)). This means, that the employer only has the right to select possible candidates for a job if they differ in characteristics which are important for the job they are going to be employed at. If there is no such a characteristic, there cannot be any discrimination with regard to job selection criteria and neither with regard to job accession conditions (Art. 3 (1a)). When it comes to vocational training, occupational re- training and all types of career counselling, gender discrimination is strongly forbidden by Article 3 (1b).

3) Harassment and Sexual Harassment

According to Article 2 (3) of the 2002 Directive, Harassment and Sexual Harassment is strongly forbidden since both practices are viewed as acts of gender discrimination. In order to protect women from these illegal practices, Member States are obliged to introduce all necessary measures to forbid all kinds of discriminations caused by gender. This is especially necessary with regard to the prohibition of Harassment and Sexual Harassment in employment.

4) Claims and Sanctioning procedures for breaking gender equality principles

In general, Member States have to ensure that persons who claim that the principle of equal treatment in employment is contradicting to the principle they experienced in their workplace, have the right to make use of Directive 2002/73/EC in front of the court or at administrative level (Art. 6 (1)). Furthermore, people that have been discriminated against can claim for reparations (Art. 6 (2)) and have to be protected against job dismissal or other disadvantages in their workplace which are caused by their claim (Art. 7). Moreover, according to Article (8d), Member States are required to set up rules for the application of affective sanctions which can be imposed upon parties that did not comply with the requirements of the Directive (Art. 8d).

5) Establishment of Gender Equality Institutions and Organizations

In order to maintain the principle of equal treatment in employment, Member States are obliged to establish Organisations, Institutions or other juristically parties which support this principle and which help affected persons in their claim (Art. 6 (3)). These Institutions have to guarantee that the principle of gender equality in employment is not downgraded through any kind of gender discrimination as well as they have to analyse and observe the developments concerning this policy area (Art. 8a (1)). The exact requirements regarding the obligations of these Institutions are outlined in Article 8a (2b) and are the following:

- a) The Institutions have to support affected persons and Organisations in their claim
- b) They have to do research on gender discrimination
- c) They have to publish neutral and independent recommendations and suggestions regarding these gender discriminations

Like already mentioned before, the above outlined indicators for compliance with the 2002 Directive will form part of the content analysis in the next part of the thesis. They will be used in order to analyse whether or not Turkey and Croatia put equally great effort into complying with EU Directive 2002/73/EC.

6. Legislative Framework on GE in Employment prior to 2002

In order to analyze whether or not the conditional incentive of gaining full EU membership lead the two EU candidate countries, Turkey and Croatia, to comply with the EU Directive of 2002 on the implementation of the principle of equal treatment for men and women as regards to employment access, vocational training and promotion, and working conditions, it is important to analyze which legislative framework regarding the requirements outlined by the Directive already existed in both countries prior to 2002. This part of the study therefore aims to shed light upon the legislative framework in both countries before 2002. The legislative framework on gender equality in employment before 2002 will be analyzed in both countries according to the indicators of Directive 2002/73/EC which were introduced in the forgoing part of the study. In the end, a short résumé outlining the main findings will be presented.

6.1. Croatia

In general, gender equality has already been of concern for the Croatian government prios to 2002. In 2001, with the change of the Croatian Constitution, gender equality was identified as being of high importance within the Republic of Croatia (Vinkovic; 2005). Nevertheless, as regards to the indicators

of Directive 2002/73/EC it needs to be mentioned that only little policy measures were introduced by Croatia before the Directive was introduced in 2002. Prior to 2002, the most important Croatian policy document which was concerned with gender equality in employment was the Labor Act No. 758/95 of 1995. When analyzing the Croatian Labor Act of 1995, having the indicators of EU Directive 2002/73/EC in mind, it is to mention that only gender equality as regards to working conditions and maternity was taken into account. For example, there are several provisions in the Labor Act of 1995 which forbid unequal treatment of pregnant women in employment situations, especially as regards to the termination of working contracts (Croatian Labor Act, No.758/95, Section 56 and 70). This prohibition of unequal treatment of pregnant women is in line with Article 1 (7) of the EU Directive 2002/73/EC, which states that women who are expecting mothers are forbidden to be treated differently within the labor market. Furthermore, according to Section 58 of the Croatian Labor Act, pregnant women have the right to maternity leave during pregnancy and the years after the births of the child. Also the right of women to return to the same job after pregnancy or maternity leave (Croatian Labor Act 758/95, Section 72) is provided for in the Croatian Labor Act. This provision can therefore be considered as being in line with the EU Directive of 2002 (Art. 1 (7)). According to another provision of the Croatian LA “an employer shall pay equal salaries to men and women for equal work and for work of equal value” (Croatian Labor Act 758/95, Section 82). This provision complies with Article 3 (1c) of the EU Directive 2002/73/EC, which states that discrimination between men and women regarding payment is strongly forbidden. Besides the above introduced provisions of the Croatian Labor Act, there were not many legislative pieces which were introduced before 2002 in Croatia which could be said to comply with the requirements outlined in the EU Directive on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions. Like already noticed above, Croatian legislature on gender equality in employment prior to 2002, was mainly concerned with gender equality as regards to working conditions and maternity, other indicators stressed by the EU Directive 2002/73/EC such as gender equality regulations regarding access to vocational training and employment and sexual harassment and harassment were not much taken into account within the Croatian Legal Framework prior to 2002.

6.2. Turkey

Like it was the case with the legislative framework of Croatia, also Turkey did not exhibit many provisions regarding gender equality in employment before 2002, which would have satisfied the requirements outlined in the EU Directive 2002/73/EC. Even though, gender equality formed already part of the Turkish Constitution in 2001; the legal framework for establishing gender equality with regard to employment was back then strongly limited (Özbilgin; 2002). There were no direct provisions which prohibited gender discrimination on the labor market and neither did any provisions exist which granted any equality rights to women within the labor market. Prior to 2002 gender equality in Turkey was mainly established through several Constitutional provisions which were nevertheless not exclusively linked to the labor market and were formulated in rather general terms. One example of such a provision can be found in Article 12 of the Turkish Constitution of 1961. In this provision it is stated that “all individuals are equal before the law irrespective of their language, race, gender, political opinion [...]” (Bacak, 2010). The same vague formulation can be found in the Turkish Civil Code of 2001, which prohibits any discrimination based on one’s family or marital status (Sural, 2007). Whether or not this anti-discrimination rule is also applicable to the labor market is not indicated in the Civil Code. The only provision prior to 2002 that can be found in

the Turkish legal framework which is in line with the 2002 EU Directive, was introduced by Article 3308 in the Act of Apprenticeship and Vocational Education of 2001. In this article it is emphasized that, as regards to vocational education and training, discrimination based on gender is forbidden (Senol, Isat, Sayin, Acuner, 2005). This provision complies with Article 3 (1b) of EU Directive 2002/73/EC, which prohibits all types of gender discrimination as regards to career counseling, occupational re-training and vocational training. Besides this provision there are no other provisions within the legislative framework of Turkey prior to 2002 which can be said to satisfy the requirements of the EU Directive on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions.

6.3. Resume

Resuming the results of the policy analysis of Turkey and Croatia as regards to provisions on gender equality in employment which were introduced prior to 2002, it is to say that both countries did not exhibit many provisions that could have satisfied the requirements of EU Directive 2002/73/EC. Nevertheless, it is to mention that Croatia at least introduced several provisions related to gender equality in working conditions and maternity protection. These provisions are in line with Article 1 (7) of the EU Directive 2002/73/EC. Furthermore, Croatia already exhibited a provision regarding equal payment prior to 2002. When now turning to the Turkish legal framework on gender equality in employment prior to 2002, it becomes obvious that except for equality as regards to vocational education there were not many provisions prior to 2002 that could have satisfied the requirements of the EU Directive. Even though Croatia seemed to have introduced a few more provisions prior to 2002 with regard to equal treatment for men and women as regards to access to employment, vocational training and promotion, and working conditions, both countries legal framework lacked behind and only developed further after 2002.

Now that the requirements of the 2002 EU Directive as well as the pre situation of gender equality in employment of both EU candidate countries has been presented, a closer look will now be paid upon the policy analysis on gender equality in employment between 2003 and 2010 in Turkey and Croatia.

7. Analysis

In this part of the study the focus is paid upon the empirical analysis of how well EU candidate countries comply with EU principles on gender equality in employment. The analysis is divided into two parts. The first section is concerned with the analysis of explanatory factors that determine the compliance of the EU accession countries, Turkey and Croatia, with EU principles of gender equality in employment. The second section is concerned with analyzing how well Turkey and Croatia complied with the EU Directive on the implementation of the principle of equal treatment for men and women as regards to access to employment, vocational training, promotion and working conditions (Masselot; 2004).

7.1. Explanatory Factors

Like already mentioned above, researchers emphasize that there exist explanatory factors which determine the willingness to comply with EU principles of gender equality (Avdeyeva 2010; Sedelmeier; 2009). There are three explanatory factors which will be of special importance for this study. These explanatory factors are: the national unemployment rate, the proportion of women in

parliament as well as the orientation of parliamentary parties. All these factors were already introduced and explained in the forgoing part of the study and will now be analyzed with regard to the two EU candidate countries Turkey and Croatia.

7.1.1. Domestic Unemployment rate

Like it was already indicated in the theoretical part of the study, one of the explanatory factors which determines the willingness of EU accession countries to comply with EU gender equality principles in employment is the domestic unemployment rate (Avdeyeva; 2010). Whenever this domestic unemployment is high, it is less likely that the country will introduce great measures in order to promote for more gender equality within the national labor market.

When now turning to the domestic unemployment rates of Turkey and Croatia between 2003 and 2008, Chart I indicates that Turkey’s unemployment rate between 2003 and 2006 was well below the domestic unemployment rate which was present in Croatia during the same time period. This development turned around in 2007 when the domestic unemployment rate of Croatia dropped dramatically. When now comparing the results to the overall EU average during this period it is to mention that both domestic unemployment rates were considerably high.

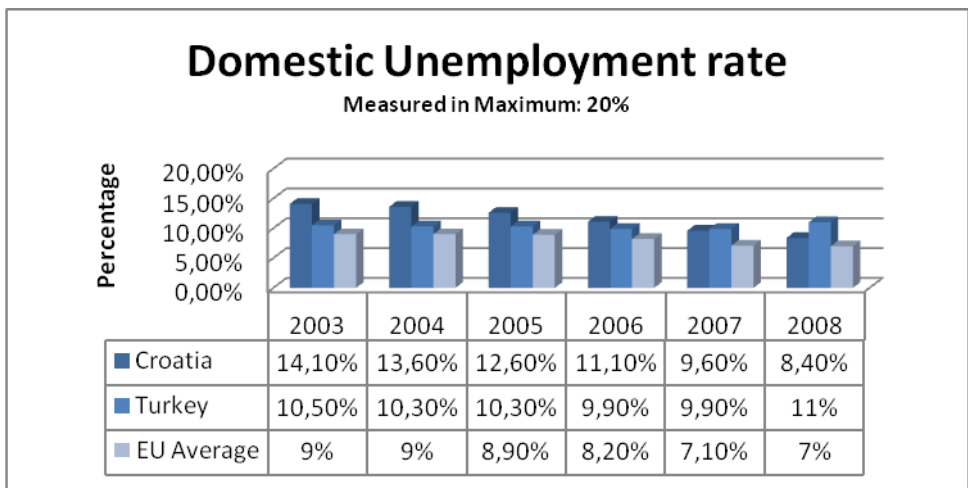


Chart I

Source: Eurostat Pocketbook 2009

When turning back to the first hypothesis of the explanatory factors: *If the domestic unemployment rate in a country is high the country is less likely to comply with EU gender equality principles in employment*, it is to indicate that according to this hypothesis both EU candidate countries are not likely to comply with EU gender equality principles in employment since their domestic unemployment rates are considerably higher than EU average. So, according to the first hypothesis and after having evaluated unemployment statistics of Turkey and Croatia between 2003 and 2008, I expect that none of these countries will comply with EU gender equality rules with regard to employment.

7.1.2. Proportion of Women in national Parliament

With regard to the second explanatory factor which determines the willingness of countries to comply with EU gender equality principles in employment, the proportion of women in national parliament, Chart II indicates that the proportion of women in the Croatian Parliament between 2003

and 2010 extensively exceeds the proportion of women in the Turkish Parliament during the same period.

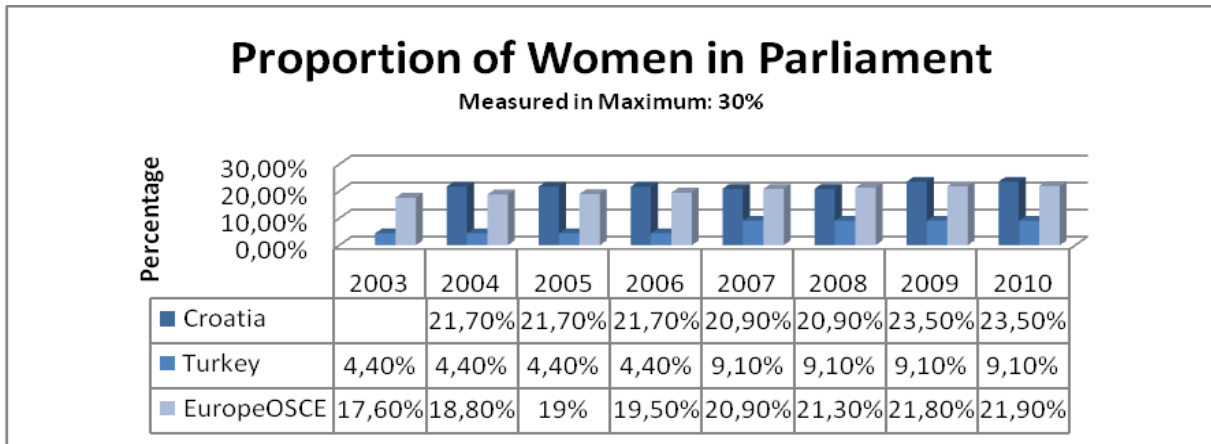


Chart II

Source: IPU 2010

When now measuring the proportion of women in parliament in Turkey and Croatia between 2003 and 2010 against European average (Europe OSCE), the proportion of women in the Croatian parliament still remains to be high since it is above European average. With regard to the proportion of women in the Turkish parliament the findings point to a contrary result. According to the percentages which are indicated in Chart II, the proportion of women in the Turkish parliament between 2003 and 2010 is settled significantly below European average. This development draws a continuous line throughout the years between 2003 and 2010. There is not one year within the indicated timeframe in which the proportion of women in the Turkish parliament exceeded European average.

When turning back to the second hypothesis regarding the explanatory factors: *If the proportion of women in the domestic parliament is high the country is more likely to comply with EU gender equality rules in employment*, the results clearly indicate that Croatia is expected to be more likely to comply with EU gender equality principles in employment, since the proportion of women in the Croatian parliament (Lower and Single House) between 2003 and 2010 is high and continuously exceeds European average.

7.1.3. Domestic Party Preferences and ideologies

The last explanatory factor which is of concern in this study is party preferences and ideologies of the domestic government. In order to measure this explanatory factor all parties which obtained seats in the domestic parliament in Croatia and Turkey between 2003 and 2007 were divided according to their orientation between being left or center-left, center and being right or center-right. All parties were then divided into these three groups and the total number of parliamentary seats was calculated. Between 2003 and 2007 there were in total 2 parliamentary elections in Croatia and in Turkey. The outcomes of these elections are outlined in the tables below:

Party Orientation in Turkey

Year:	2003	2007
Orientation:		
Left or Center Left	32,40%	22,90%
Center		
Right or Center- Right	66%	74,70%
Others	1,60%	2,40%

Table A Source: OSCE 2002 and 2008

Party Orientation in Croatia

Year:	2003	2007
Orientation:		
Left or Center- Left	41,40%	51,10%
Center	4,70%	2%
Right or Center-Right	48,70%	43,30%
Others	5,20%	3%

Table B Source: OSCE 2004 and 2008

The findings which are presented in Table A and B indicate that the EU accession countries, Turkey and Croatia, differ greatly with regard to the party preferences and ideologies of their domestic governments. Whereas the Turkish parliament was greatly dominated by right and center-right parties between 2003 and 2007, Croatia was only slightly dominated by right and center-right wing parties in 2003. This turned around in 2007. Since 2007 the Croatian parliament started to become dominated by left and center-left parties. While the domination of right and center-right wing parties increased in Turkey since 2007, it decreased in Croatia so that by 2007 the Croatian parliament was dominated by left and center- left wing parties. When now turning back to the hypothesis which is related to the last explanatory factor: *If the national parliament is dominated by left or center-left wing parties the country is more likely to comply with EU gender equality rules in employment*, it is expected that Croatia will be more likely to comply with EU gender equality rules in employment than Turkey.

When summarizing the results only on the grounds of all explanatory factors it becomes obvious that one expects that the willingness to comply with EU gender equality rules will be greater in Croatia than in Turkey. Whether or not these expectations are right will be analyzed in the following.

7.2. Policy Analysis

In this part of the study it will be analyzed whether the legislative measures which were introduced by Turkey and Croatia between 2003 and 2010 comply with EU gender equality principles in employment as requested by EU Directive 2002/73/EC. Measures introduced by each of the two EU candidate countries will be divided into the following categories: Policy Adoption and Institutional Reform (Avdeyeva; 2010). With regard to Policy Adoption it will be analyzed which legal documents were introduced by both countries in order to comply with the requirements of the EU Directive of 2002. These documents or legislative amendments will be ranked according to their capability. The second sub-category of Policy Adoption concerns the comprehensiveness of legislative provisions which are meant to fulfill the legal requirements of the EU Directive in both EU candidate countries. This analysis is a comprehensive policy analysis in which legal provisions regarding gender equality in employment in Turkey and Croatia will be compared to the indicators of the 2002 EU Directive. The next category of the analysis is Institutional Reform. Hereby the governmental institutional framework of both countries will be analyzed in order to see whether or not Turkey and Croatia have established the necessary institutional enforcement mechanisms to ensure gender equality in employment as requested by the 2002 Directive. Therefore, the related governmental institutions will be ranked according to their position within the government as well as according to the importance of their functions. In the end of this section, a summary will be presented comparing the policy initiatives of Turkey and Croatia between 2003 and 2010 as regards to the above mentioned criteria. This summary will also contain evaluation aspects made by the European Commission in its

screening and progress reports in order to see how the European Union regards the progress that has been made in both candidate countries regarding gender equality in employment.

7.2.1. Croatia 2003- 2010

In the following it will be analyzed how well Croatia complied with EU Directive 2002/73/EC. The first category of compliance: Policy Adoption will therefore be analyzed which will be followed by the analysis of the second compliance category: Institutional Reform.

Policy Adoption

While taking a closer look upon legal documents which were introduced in Croatia in order to comply with the requirements outlined by EU Directive 2002/73/EC, three legal documents are of special importance. These are: the Croatian Labor Code, the Croatian Obligation Act and the Croatian Gender Equality Act. The Croatian Labor Code was amended by the Republic of Croatia in 2003 and 2004 and constituted to a harmonization of the Croatian legislative provision towards common EU legal standards. The amended LC provides provisions which comply with the requirements of the EU Directive 2002/73/EC as regards to gender equality and equal treatment between men and women in employment. Furthermore, gender equality in employment as indicated by the EU Directive is also governed through the Croatian Obligations Act. The OA was amended in 2005 and builds the legal foundation for claiming damages whenever the principle of equal treatment with regard to employment has not been taken into account. Another legislative act which was introduced in Croatia in 2003, in order to comply with the requirements of equal treatment and gender equality in employment, is the Croatian Gender Equality Act. This act was first introduced in 2003 and later on renewed in 2008. The GEA was established in order to further align national provisions to EU standards. The main focus of the GEA is to forbid all kinds of gender based discriminations as well as to promote for greater gender equality within and outside the Croatian labor market.

The three legal documents introduced above are the main legal gender equality documents and their provisions are directly related to the requirements of the 2002 EU Directive on the implementation of the principle of equal treatment for men and women as regards to access to employment, vocational training, promotion and working conditions. These documents can be ranked according to their status within the legal order of the country. According to the ranking of policy documents, introduced by Avedeyeva in 2010, high ranking documents are provisions within the national Constitution. In the case of Croatia, there are no specific provisions in the Constitution which can be directly linked to the requirements of the 2002 EU Directive. Gender equality provisions within Croatia's Constitutional framework are rather vaguely formulated and are not explicitly linked to the labor market. The document which can be regarded as document of second-rank within the Croatian national legal framework is the LC (Avedeyeva; 2010). The Croatian LC explicitly mentions and protects the principle of gender equality with regard to employment and meets most of the requirements introduced by the 2002 EU Directive. The last category of legal documents are national legal acts (Avedeyeva; 2010). In the case of Croatia, the GEA as well as the OA can be considered as low rank documents. With regard to the policy comprehensiveness of Croatia's legal provisions on gender equality in employment between 2003 and 2010, it is to say that they are overall in line with the EU Directive.

When judging the legal provisions on gender equality according to the indicators of the EU Directive, which were introduced in the former part of the study, it becomes obvious that Croatia almost met

all requirements of the outlined indicators. This is for example the case as regards to the indicator of equal working conditions and protection measures for women. According to the Croatian Labor Code no discrimination based on gender should exist within the labor market. Pregnant women or women who return from their maternity leave can, according to the Croatian Labor Code, not be fired or transferred to another position only on personal request (Croatian Labor Code, Art. 64 and 77). Women who wish to return to their former jobs after delivery or after maternity leave have the explicit right to take up the same job they were contracted prior to their leave. If this initial job is not requested anymore, the employer has the obligation to offer the affected person an equivalent position (Croatian Labor Law; Art. 79). The provisions introduced by the Labor Code comply with the requirements of Article 1 (7) of the EU Directive on the protection and non-discrimination of pregnant women and mothers in the workplace. In addition to these regulations, also any discrimination based on the marital or family status of a person are strongly prohibited by Article 6 (2) of the Croatian GEA and comply with the requirements introduced by Article 2 (1) of the EU Directive. With regard to the right to equal pay which is requested in Article 3 (1c) of the 2002 EU Directive, the Croatian LC prohibits under Article 89 any gender discrimination which is related to remuneration.

Concerning the second indicator, gender equality in the access to vocational training and employment, as introduced by the 2002 EU Directive, Croatia performs well. As stated in the Labor Code, gender discrimination in job selection is generally forbidden. Only “special conditions, decisive and truly necessary for job performance, are not to be considered discriminatory [...]” (Croatian Labor Code, Article 3 (1)). This provision complies with Article 1 (6) of the EU Directive and can therefore be considered as being in line with EU law. Furthermore, non-discrimination and equal treatment as regards to the selection process of employers to working conditions, career advancement as well as with regard to educational access, vocational training and re-training of employers, as requested by Article 3 (1a) and 3 (1b) of the EU Directive, is also covered through several Articles of the Croatian GEA and the Labor Code (Croatian Labor Code, Art. 2; 2 (1); GEA, Art. 2 & 13).

Another requirement which was introduced by the 2002 EU Directive is the possibility to claim whenever the principle of gender equality has not been taken into account. According to the Directive, Member States have to ensure that persons who have experienced gender discrimination in the workplace have the right to claim for reparations in front of the court, using the indicated EU Directive (Art. 6 (1); 6 (2)). This requirement has once again been successfully integrated into Croatia’s legal framework. The underlying provisions granting citizens the right to claim for reparations can be found under Article 5, 6 and 109 of the Croatian LA, in Article 27 of the Croatian GEA as well as in several Articles of the Croatian Obligation Act (Croatian OA, No. 53/9, 73/91, 111/93, 3/94, 107/95, 7/96, 91/96, 112/99 and 88/01).

The next indicator which is of special focus is the prohibition of harassment and sexual harassment in the workplace. Article 2 (3) of the EU Directive considers harassment and sexual harassment as discriminatory actions that have to be forbidden. Therefore, all Member States are obliged to impose effective measures to prohibit these discriminatory actions. Also these requirements are to a great extent satisfied by Croatian law. The legal basis can be found in provisions introduced by the Croatian Labor Code as well as they are integrated into the Croatian Gender Equality Act. For example in Article 8 of the GEA and in Article 4 of the Labor Code it is stated that within the Republic of Croatia harassment and sexual harassment in employment are regarded as discriminatory practices which

are strongly forbidden. These practices are viewed as violating the working contract and every person who is found guilty of these practices has to face regulatory measures which are established for protecting the victims of such violations.

Now, that the performance of Croatia with regard to its policy adoption capacity on GE between 2003 and 2010 was analyzed a closer look will now be paid upon the institutional GE framework of Croatia.

Institutional Reform

Next to the above outlined requirements regarding gender equality in employment, the EU Directive 2002/73/EC also requires Member States to establish Institutions which are meant to secure and uphold the principle of equal treatment in employment (Art. 6 (3)). In Article 8a (1) of the Directive it is stated that Member States have to establish Institutions which analyze and observe the development of the principle of equal treatment in employment as well as they are meant to support discriminated persons in their claim for compensation. Moreover, these Institutions are responsible for conducting research on gender discrimination in employment and for publishing independent reports introducing suggestions and recommendations on that topic (Art. 8a (2b)). In Croatia there are three main governmental Institutions which are concerned with gender equality as regards to employment. These are: the Gender Equality Ombudsman, the Government's Office for Gender Equality and the Gender Equality Committee of Croatian Parliament. The first real equality body which was created in Croatia is the in 2000 established GECCP. It is a gender equality body within the Croatian Parliament which has the duty to monitor the application of national regulations on gender equality in all spheres. Furthermore, it ensures a balance of gender representation within the Croatian Parliament and it is active in drafting gender equality documents and in signing international agreements with regard to gender equality issue areas (Croatian Parliament, 2010). Due to the monitoring and enforcement competences the GECCP enjoys it can be considered to be an Institution with autonomous acting capacity. Next to this autonomous Institution, there exists another important gender equality body in Croatia which was established in 2003 and is called Gender Equality Ombudsman. This Institution was created by the Croatian Parliament on request of the Croatian Government (Croatian Parliament, 2010). It is an independent and autonomous Institution which has its legal basis within the GEA. Its main function is to review acts and activities in which the principle of gender equality, as required by the GEA, has not been taken into account (Smid, 2006). In cases in which the provisions of the GEA have been violated the GEO can make suggestions and give recommendations as well as it can admonish the involved parties (Smid, 2006). Within the scope of the GEA, the GEO is also capable to initiate proposals regarding GEA provisions and enjoys access to all relevant information regarding issue areas such as gender equality and gender discrimination. The last important Croatian Institution for ensuring gender equality is the, in 2004 established, Government's Office for Gender Equality. The GOGE is a body within the Croatian Government which also has its legal foundation within the GEA. It is an expert body which monitors the implementation of national gender equality policies and other laws regarding this issue area (Smid, 2006). It enjoys the competences to recommend laws and regulations on gender equality to the Government and provides expert help as regards to the implementation of the GEA (Smid, 2006). As part of the Croatian government this gender Institution enjoys the highest acting capacity compared to all the other gender equality Institutions which were introduced above.

Now, that the situation of gender equality in employment as regards to EU Directive 2002/73/EC was analyzed in Croatia between 2003 and 2010, a closer look will now be paid upon the situation in Turkey.

7.2.2. Turkey 2003- 2010

Here again, compliance with the 2002 Directive of the European Union will be analyzed according to two criteria: Policy Adoption and Institutional Reform.

Policy Adoption

The main legal instruments in Turkey which were introduced in order to comply with the requirements of the EU Directive 2002/73/EC between 2003 and 2010 are the Turkish Labor Code and the Turkish Criminal Code. Also the amendments to the Turkish Constitution, which were introduced in 2001 and 2004, paved the way for greater gender equality within the Turkish Community. Like already mentioned above, the Turkish Labor Code of 2003 and the Turkish Criminal Code of 2005 as well as the Constitutional amendments of 2004 establish the main base for gender equality in employment between 2003 and 2010 as regards to the requirements introduced by EU Directive 2002. The Labor Code promotes for more equal working conditions between the sexes as well as it forbids gender discrimination in the workplace. The Turkish Criminal code can be considered as the main legal document for claims and sanctions within the Turkish Community whenever the principle of gender equality in employment seems to be threatened. The amendments to the Turkish Constitution promote for greater gender equality in general and also in the sphere of employment. Due to these changes it can be said that the status of gender equality has been upgraded in the Turkish legal system. When now ranking these legal documents according to the scheme used above, the amendments to the Constitution can be considered as the highest policy document which has been established in Turkey on behalf of gender equality in employment (Avdeyeva, 2009). This high rank- legal policy document is followed by the Turkish LC and the Criminal Code which can both be regarded as second- rank legal documents which are important in order to meet gender equality principles in employment as required by the EU Directive of 2002 (Avdeyeva, 2010)

When now turning to the policy comprehensiveness of Turkish legal documents that provide provisions which comply with the requirements outlined in EU Directive 2002/73/EC, it is to mention that even though Turkey has made progress with regard to gender equality law in employment it has not experienced such a great progress like Croatia. In order to measure policy compliance with the EU Directive in Turkey, the above outlined indicators will be used again. The first indicator which will be of special importance is gender equality in working conditions. According to Article 5 of the Turkish Labor Code there cannot be any gender discrimination within the workplace. This Article complies with the general provision of the EU Directive (Art. 1 (8)). Furthermore, as stated by Article 70 of the Turkish Constitution, the principle of equal treatment needs to be protected also as regards to public service and employment. This article is once more in line with Article 1 (8) of the EU Directive. Furthermore, Article 5 (2) of the Turkish Labor Code indicates that pregnant women cannot be treated differently by their employer. This provision of the Turkish LC is in line with Article 1 (7) of the EU Directive. Also with regard to non- discrimination in terms of remunerations as indicated by Article 3 (1c) of the EU Directive, the Turkish LC performs well. In Article 5, 5 (4) and 5 (5) it is indicated that men as well as women have to receive equal payment for equal jobs. As regards to non discrimination on the grounds of family status (EU Directive, Art. 2 (1)) it is stated in Article 5 of

the Turkish Labor Code that the material or family situation is not accepted as a reason to discriminate or to terminate a working contract.

When turning to the second indicator, gender equality as regards to access to vocational training and employment, it is stated in Article 5 (3) of the Turkish LC that in general gender discriminations are forbidden within employment situations. Only if there are biological or any other characteristics which are necessary for a job, selection can be made. This provision complies with Article 1 (6) of the EU Directive. Furthermore, in compliance with Article 3 (1a) of the Directive, in the process of job selection there cannot be any other factors taken into account except for qualification (Turkish Constitution; Art. 70). Also with regard to vocational education it is stated in the LC that there cannot be any discrimination based on gender. This provision can be regarded as being in line with Article 3 (1b) of the EU Directive 2002/73/EC.

Like already mentioned in the former part of the study, another requirement which was introduced by the 2002 EU Directive is the possibility to claim whenever the gender equality principle has not been taken into account. According to Article 6 (1) and 6 (2) of the EU Directive, Member States have the obligation to ensure that persons who suffered from gender discrimination in employment can claim for reparations before the court. Within the Turkish legal order a document which explicitly refers to Article 6 (1) of the EU Directive cannot be found. This looks differently whenever Article 6 (2) of the EU Directive is concerned. The Turkish Labor Code outlines sanctions which need to be introduced for breaking the principle of equal treatment in employment. According to Article 5 of the Labor Code, if a person is released from the workplace due to gender related issues this person has the right to claim for compensation. Furthermore, according to Article 26 of the LC, persons who withdraw from their working contract due to causes of harassment or sexual harassment can also claim for compensation. These two provisions of the Turkish LC comply with Article 6 (2) of the EU Directive on the implementation of the principle of equal treatment for men and women as regards to access to employment, vocational training, promotion and working conditions. Nevertheless, the EU Directive of 2002 also requests the MS to protect people who are claiming that they have been victims of gender discrimination from unfair dismissal or other employment related disadvantages (EU Directive 2002/73/EC, Art. 7). Within the legal framework of Turkey such protection measures are not explicitly mentioned and provisions regarding this topic can neither be found in the LC nor in the CC or the Turkish Constitution.

The last indicator, which is of importance for the analysis of policy comprehension and which is as well one of the requirements requested by the 2002 EU Directive is the prohibition of harassment and sexual harassment in the workplace. As required by Article 2 (3) of the 2002 EU Directive, harassment and sexual harassment are considered as non legal actions within the framework of the Turkish LC. In Article 25c of the LC it is stated that these discriminatory actions entitle affected persons to terminate the employment contract. Furthermore, according to Article 419 of the Turkish Criminal Code, affected persons have the right to claim for compensation whenever they are victims of such practices. Like already mentioned above these provisions of the Turkish CC and the LC comply with Article 2 (3) of EU Directive 2002/73/EC.

Now, that the performance of Turkey with regard to its policy adoption capacity between 2003 and 2010 was analyzed, a closer look will now be taken upon the institutional framework of Turkey as regards to Institutions and Bodies which were established in order to promote for greater gender equality in employment.

Institutional Reform

With regard to the establishment of Gender Equality Institutions which have the capacity to monitor and support developments of gender equality in employment it is obvious that Turkey is greatly lacking behind. Like already mentioned before, the establishment of gender equality Institutions is also one of the requirements introduced by EU Directive 2002/73/EC. Nevertheless, in Turkey there are only two Institutions so far which are concerned with gender equality issues. One of these Institutions is placed within the Ministry of Labor and Social Security. The MoLSS is a governmental ministry which is concerned with monitoring the position of women within the labor market (Toksöz; 2007). The main functions of this Ministry is to monitor employment issues such as labor market flexibility, short-term training, child labor, illegal employment as well as human resource planning (Toksöz; 2007). Gender equality as well as the role of women within the national labor market is seen as a rather cross-cutting topic within the committee and is not of main focus (Toksöz; 2007). Nevertheless, the MoLSS also engages in gender equality projects from time to time but overall speaking it is not too helpful in the promotion of gender equality in employment. Another Institution in Turkey which is concerned with gender equality and the status of women in general is the Directorate General of Women's Status. The Directorate was established in 1990 and restructured in 2004 (Toksöz; 2007). It is placed within the Ministry of the Prime Minister and was created to ensure for greater gender equality in the Republic. Its main function is to improve the situation of women as regards to education and activities belonging to the industry or service sector of the national economy (Toksöz; 2007). Another issue of concern is gender equality in areas such as employment, political participation as well as the role of women in the daily social life of the Republic. In order to improve the role of women in all possible spheres and to promote for more gender equality, the Directorate assesses and monitors the sustainable development of the principle of gender equality as well as it is active in monitoring policies and programs which are concerned with issue area (Toksöz; 2007). The overall aim of the Directorate is also to ensure equal access to general resources and to improve the status of women within the national labor market. In order to ensure greater labor market participation of women, this Institution is actively involved in conducting research and surveys on the economic potential of female workers (Toksöz; 2007). Even though there are Ministries and Directorates in Turkey which are concerned with improving the role of women within the national framework, a real gender equality body as required by the 2002 Directive has not yet been established in Turkey.

7.3. Interpretation of Findings

Now that compliance with the principles of gender equality in employment between 2003 and 2010 has been discovered in Turkey and Croatia, the findings of the analysis will now be interpreted and compared to each other. Moreover, a special focus will be paid upon how the European Commission judges the overall extent of compliance in both countries. In order to estimate the Commission's opinion, the Social Policy and Employment Chapter of the screening report of 2006 as well as the 2008 Progress Report of both countries will be taken into account. These reports are established for each candidate country in order to monitor compliance with the *acquis* and therefore also serve as monitoring foundation to review compliance with the EU gender principles.

Like already mentioned before, compliance with the requirements of the 2002 EU Directive was measured in both countries between 2003 and 2010 and was divided into two stages: Policy Adoption and Institutional Reform. With regard to the former category, it can be said that Croatia

has been much more active in implementing missing provisions on gender equality in employment into its national legal framework. The main provisions can be found in the amendments of the Croatian Labor Code and the Croatian Obligation Act. Furthermore, Croatia established a Gender Equality Act in 2003 in order to satisfy the criteria of the 2002 Directive. Turkey on the other hand managed to integrate gender equality in employment into its legal framework through amendments of the Labor Code, the Criminal Code as well as through constitutional changes. Nevertheless, the Republic of Turkey did not establish a single act on gender equality in employment to satisfy the 2002 criteria of the EU Directive. When now turning to the legal order of the documents that hold rights regarding gender equality in employment in both countries it is obvious that Croatia adopted gender equality measures into two legal documents of third order (the OA and the GEA) and in one document of second order (LC). Constitutional provisions regarding gender equality, which constitute the highest rank of legal documents, also exist in Croatia but are rather broad and vaguely formulated and are not explicitly related to gender equality in the sphere of employment. When looking at the rank of provisions in legal documents which Turkey implemented in order to comply with EU gender equality principles, the highest order document is the Constitution. The Turkish Constitution mentions the right to equal treatment in employment more explicitly and therefore provides the basis for complying with the requirements of the 2002 EU Directive. Next to this high rank document Turkey also integrated legal provisions on gender equality in the sphere of employment into the CC and the LC. These documents are ranked as second order documents and are in line with EU GE principles. When it comes to policy adoption, only taking account the order of legal documents that were introduced in both countries to comply with EU gender equality principles in employment between 2003 and 2010, it can be said that generally Turkey managed to implement provisions on gender equality in employment into legal documents which are of an overall higher rank than the documents that were implemented in Croatia. Nevertheless, the adoption of high rank documents is not the only criterion which indicates whether or not Croatia and Turkey managed to comply with the requirements of the 2002 EU Directive. Another category which is a striking issue for measuring compliance as regards to Policy Adoption is policy comprehensiveness. According to the indicator analysis which has been conducted in the former part of the study, Croatia does not feature any major shortcomings or transposition failures with regard to the requirements imposed by EU Directive 2002/73/EC. The indicator analysis indicates that overall compliance with the contents of the 2002 Directive is good in Croatia. Any major lacks of provisions which are necessary for compliance cannot be found within the Croatian policy framework. As the Commission states in its screening and progress report, Croatia managed to define and prohibit all gender discriminatory actions and actions of gender based harassment and sexual harassment in employment within its national legal framework. Furthermore, policy provisions were created in order to protect and compensate discriminated persons. Nevertheless, like the Commission emphasizes, whereas pregnant women enjoy special protection within the Croatian labor market, measures against maternity discriminations need to be further strengthened (European Commission, 2006 and 2008). Despite these rather soft-gloved shortcomings, the Commission considers compliance in Croatia as overall good and regards Croatia's progress as being in line with the gender acquis (European Commission 2008). This is not the case in Turkey. With regard policy comprehensiveness the Turkish legislative framework suffers from transposition lacks and legal shortcomings. Like the Commission stated in its 2006 screening report as well as in its 2008 progress report important definitions related to EU gender equality principles, such as direct and indirect gender discrimination and harassment and sexual harassment are not clarified within the Turkish legal framework. Moreover, protections against gender discriminations need to be further strengthened since some provisions and

employment areas are not yet completely free from gender discriminations (European Commission, 2006 and 2008). Even though protection for pregnant women in employment is sufficient, regulations regarding maternity leave still need to be further strengthened as the Commission emphasizes (European Commission, 2006). Moreover, like the indicator analysis stresses, several shortcomings of legal provisions can especially be found as regards to the requirements listed in Article 7 of the EU Directive. As claimed in this Article, workers have the right to take matters in front of the court whenever they feel that they have been discriminated against in their workplace. This right is not explicitly granted by Turkish law. Also the general right to claim against non compliance (EU Directive; Art. 6 (1)) with the principles of gender equality in employment is not explicitly mentioned within the Turkish legal framework. Next to the shortcomings of legal provisions, also strong limitations of certain gender equality rights burden the Turkish legal GE framework. Just to name an example, the protection from gender caused job termination is according to the Turkish Labor Code only guaranteed if the company employs more than 30 workers and if the affected worker has been working for the company for an indefinite period of time (Senol, Isat, Sayin, Acuner, 2005). These are not the only limitations which restrict the right to gender equality in employment within the Turkish legal framework. Also with regard to job advertising the Turkish legal framework is not completely free from gender discriminations (Senol, Isat, Sayin, Acuner, 2005). Even though Turkey still suffers from legal shortcomings and transposition failures when it comes to GE in the sphere of employment, Turkey has made some progress compared to the years prior to 2002. Nevertheless, like it is emphasized in the 2008 Progress Report of the Commission, policy measures regarding gender equality in employment still need to be further developed.

Next to compliance with the contents of the EU Directive with regard to Policy Adoption, the analysis part of this study also draws conclusions about the institutional design of gender equality bodies in Turkey and Croatia. Here, it can clearly be concluded that Croatia is much more advantageous compared to Turkey. As the analysis of the Turkish Institutional Reform has indicated, Turkey suffers under an urgent lack of compliance when it comes to the requirement of the 2002 EU Directive to establish gender equality Institutions (EU Directive 2002/73/EC; Art. 6 (3)). It can even be argued, that Turkey has not yet established any gender equality bodies which are in line with this Directive (European Commission 2006). The two Institutions which are occupied with gender equality issues in Turkey are rather weak. Within the Ministry of Labor and Social Security, gender equality issues are only marginal dealt with and rather have the status of a cross-cutting issue areas. The other gender Institution which exists in Turkey, the KSHM, enjoys rather limited competences and suffers under a lack of independence. The picture turns around when taking a closer look upon Croatia's gender equality Institutions. As outlined throughout the analysis, Croatia hosts in total three main Institutions which are directly concerned with gender equality issues, also as regards to employment. These gender equality Institutions seem to have great acting capacities and are more or less independent. Overall it can be said that whereas the Croatian gender equality Institutions mostly cover all requirements outlined in Article 8a and 8b of the EU Directive, Turkey is massively lacking behind with regard to Institutional Reform.

Interpretation of the findings in the light of the three explanatory factors

When now comparing the findings of the policy analysis to the expectations of the three hypotheses that derive from the three explanatory factors, it is obvious that most of the expectations can be confirmed. As regards to the national unemployment rate, the calculation in the forgoing part of the study indicates that none of the two EU candidate countries, Turkey and Croatia, are likely to comply with the EU Directive of 2002 on gender equality in employment. This is mainly due to the fact that between 2003 and 2008 the unemployment rate of both countries was above EU average. This made compliance for both countries unlikely according to existing predictions (Avdeyeva; 2010). After having analyzed policy compliance in both EU candidate countries, the expectation of the first hypothesis cannot be confirmed. The result of the policy analysis indicates that Croatia seems to comply very well with the 2002 Directive and also advantages have been made in Turkey which satisfy several EU requirements imposed by the Directive. With regard to the other two hypotheses of the explanatory factors, the proportion of women in parliament and the party orientation of parties in parliament, calculations have predicted that Croatia is seen as being more likely to comply with EU gender equality principles in employment. When now turning to the findings of the policy analysis, it needs to be emphasized that overall compliance with the requirements of the EU Directive was better in Croatia than in Turkey. According to these findings, not enough evidence is found to reject the predictions of the second and the third hypothesis.

Interpreting the findings with regard to the principle of conditionality

According to the principle of conditionality, which was already introduced and explained in one of the forgoing chapters, the expectation arose that due to the fact that Croatia and Turkey are currently both seeking for EU membership they would both put equally great effort into complying with EU gender equality principles in employment. This assumption was therefore also seen as being valid for the transposition of the requirements outlined by the 2002 EU Directive. When now comparing this expectation to the actual findings of the policy analysis between 2003 and 2010 to the pre 2002 policy situation, it becomes obvious that both countries have experienced great policy advantages as regards to gender equality in employment. The pre 2002 policy situation in both countries looked rather similar. Both countries did, back then, not exhibit many policies within their national framework which guaranteed gender equality in employment. After the EU Directive of 2002 was introduced, the picture changed in both countries. Turkey as well as Croatia started to pay greater attention on granting gender equality rights to its citizens in order to comply with EU gender equality law. Nevertheless, even though both countries have experienced an upgrade regarding their national gender equality framework in the sphere of employment, Croatia can be seen as having made greater policy as well as institutional progress during the past seven years. In the light of the principle of conditional the findings of the policy analysis can therefore be expressed as follows: The conditional incentive of gaining full EU membership has driven Turkey and Croatia to upgrade their national policy and institutional framework regarding gender equality in employment after the 2002 EU Directive was introduced. Nevertheless, there is some variation with regard to the scope and progress of these advantages. While turning to the findings, it could be argued that EU conditionality has created some pressure among the EU candidate countries to comply with EU gender equality principles. But nevertheless since compliance has not been uniform in both countries conditionality cannot be regarded as the major driving force for adopting EU gender equality principles in Turkey and Croatia. The findings of the policy analysis rather indicate that explanatory factors played the leading role for determining policy adoption in both countries. Within the scope of this study,

explanatory factors which can be considered as having affected the status of compliance in Turkey and Croatia are: *the percentage of women in parliament as well as the ideology of political parties in national parliament*. Concluding it is therefore to mention, that in the case of Turkey and Croatia, compliance with the 2002 EU Directive on gender equality in employment was only restrictively driven by the principle of conditionality whereas explanatory factors extensively influenced the outcomes of policy compliance.

8. Conclusion

As the principle of gender equality in employment has established itself as being an integrative part of the Community framework, complying with the EU gender equality acquis has become one of the central issues for all EU Member States as well as for those countries that are seeking for EU accession. Due to the rising importance of gender equality in employment, also EU candidate countries are obliged to take account of this principle and therefore have to integrate all necessary provisions into their national legal and institutional framework in order to comply with EU requirements. This paper aimed to assess to what extent the current EU candidate countries Turkey and Croatia managed to implement EU gender equality principles in employment as outlined by EU Directive 2002/73/EC, into their national legal and institutional framework between 2003 and until today. Furthermore, another point of analysis which was of special focus during the study concerned possible explanations for compliance. In this regard, it has been analyzed whether or not the conditional incentive of gaining full EU membership was the driving force for both candidate countries to comply with EU Directive 2002/73/EC and whether this strong incentive can be considered as overruling force outracing other explanatory factors that determine the willingness of countries to comply. Even though, both EU candidate countries have since 2003 experienced a significant upgrade as regards to the introduction of gender equality policy provisions in employment and the establishment of gender equality bodies, it needs to be mentioned that advantages have been greater in Croatia than in Turkey. As the results of the analysis indicate, Croatia contrasting to Turkey, has not suffered under any major shortcoming or transposition failures as regards to the introduction and comprehensiveness of new provisions which are in line with the requirements outlined by the EU Directive. Therefore, overall policy compliance between 2003 until today was good in Croatia. Turkey on the other hand suffered under several transposition lacks as well as major shortcomings regarding policy comprehensiveness. As regards to Institutional Reform, the findings indicate that Croatia is much more advanced when it comes to establishing gender equality bodies and Institutions which exhibit great acting capacity. In Turkey such Institutions and Bodies are largely missing and existing ones need to be further strengthened. When turning to the evaluation of the policy analysis in the light of the predictions made by the three explanatory factors of the study, it needs to be indicated that two of the three factors are in line with the overall evaluation results. These two explanatory factors are related to the proportion of women in parliament and the left orientation of political parties with seats in parliament. As the general findings indicate, these two explanatory factors are regarded as being likely to have predominately influenced the willingness of both candidate countries to comply with the EU Directive of 2002. On the other hand, the findings also show that the conditional incentive of gaining full EU membership has also partially influenced the overall outcome of compliance. This is especially true when comparing the pre 2002 situation of gender equality in employment in both countries to the situation after the Directive of 2002 was introduced. After the Directive was introduced both countries experienced significant advantages as regards to the integration of gender equality policies into their national legal and institutional

framework. Nevertheless, compliance has not been uniform. Thus, conditionality can rather be seen as promoting the basis for compliance but it is neither the only nor the most significant factor which determines the scope of compliance among the EU candidate countries Turkey and Croatia. The variation in compliance can rather be explained through an interaction between the principle of EU conditionality and other explanatory factors, such as the proportion of women in parliament and the orientation of parties with seats in parliament. Nevertheless, one has to keep in mind that the above mentioned explanatory factors carry more weight in this interaction than the principle of conditionality does. Since the two above mentioned explanatory factors seem to be the driving force for compliance, it is likely that there are also other additional factors which determine the willingness of Turkey and Croatia to comply with EU gender equality principles in employment which have not been taken into account in this study. Such explanatory factors could for example include the amount and strength of societal movements in favor of gender equality in a country but also the height of the general costs which are imposed upon the candidate country for complying with EU gender equality principles and the general preparedness of the candidate to gain full EU membership (Sedelmeier, 2009; Avdeyeva, 2010). If and to what extent those additional explanatory factors take impact upon policy adoption in Turkey and Croatia can only be estimated and outlined on behalf of a follow up study. Moreover, it would also be interesting to see how compliance in Turkey and Croatia looks like when focusing on other EU Directives on gender equality in employment and in how far the incentive to comply changes in both countries after EU accession. This moreover, would bring up other interesting insights regarding the extent to which explanatory factors and the concept of EU conditionality are applicable as regards to the transposition of EU gender equality rules to its candidate states and how much weight they have in the compliance process (Sedelmeier; 2009). Like already emphasized above, in the sphere of gender equality in employment of Turkey and Croatia, explanatory factors played a stronger role for determining compliance than the principle of EU conditionality did. Thus, in this case it can be argued that even though EU conditionality has had some effect upon the willingness of both countries to comply it cannot be considered to be the strongest determinant for compliance as some researchers regard it to be.

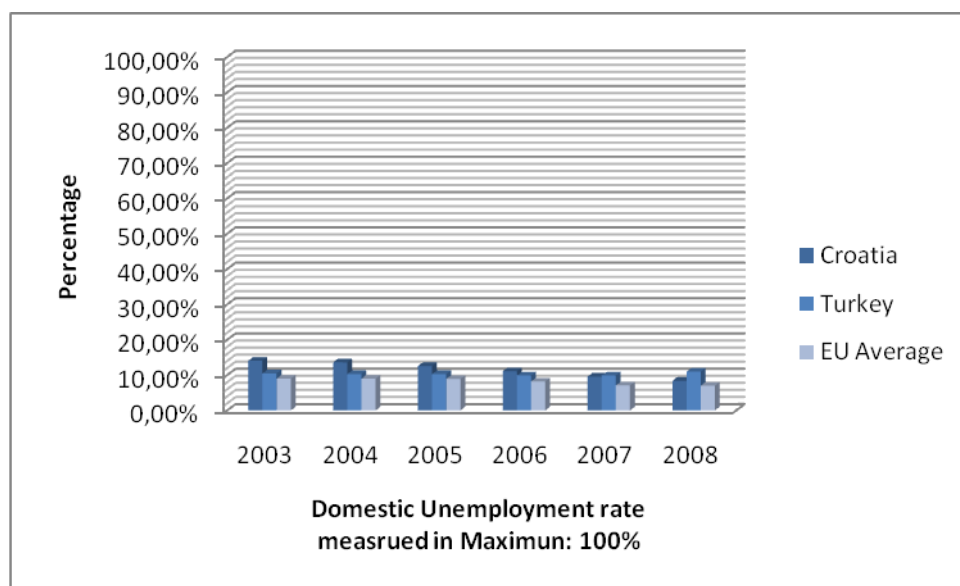
9. Appendix

9.1. Analysis of Explanatory Factors

National Unemployment Rate in Turkey and Croatia between 2003 and 2008

		2003	2004	2005	2006	2007	2008
Country	Croatia	14,10%	13,60%	12,60%	11,10%	9,60%	8,40%
	Turkey	10,50%	10,30%	10,30%	9,90%	9,90%	11%
	EU Average	9%	9%	8,90%	8,20%	7,10%	7%

Source: Eurostat Pocketbook 2009

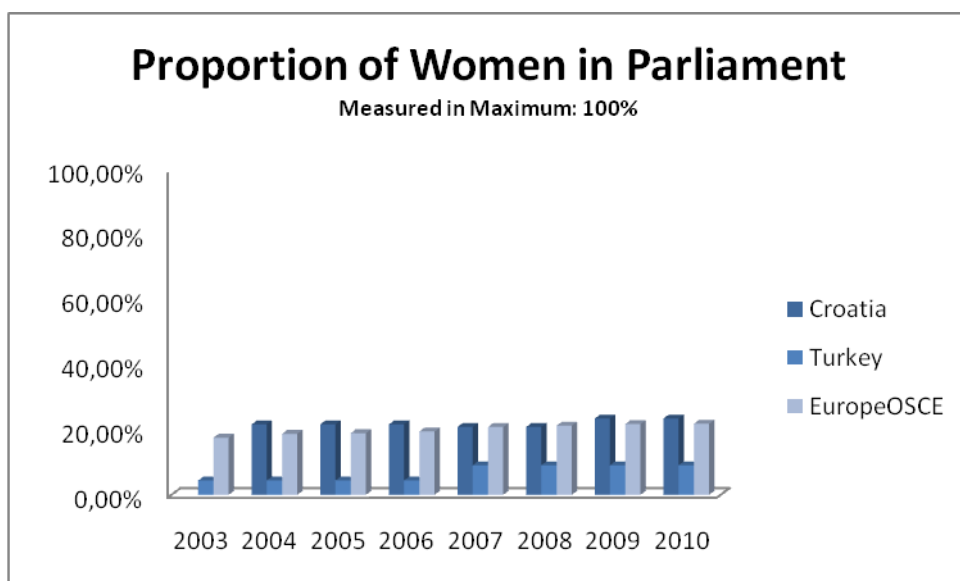


Source: Eurostat Pocketbook 2009

Proportion of Women in Parliament: Croatia and Turkey between 2003 and 2010

		2003	2004	2005	2006	2007	2008	2009	2010
Country	Croatia		21,70%	21,70%	21,70%	20,90%	20,90%	23,50%	23,50%
	Turkey	4,40%	4,40%	4,40%	4,40%	9,10%	9,10%	9,10%	9,10%
	EuropeOSCE	17,60%	18,80%	19%	19,50%	20,90%	21,30%	21,80%	21,90%

Source: IPU 2010



Source: IPU 2010

Party Orientation of Parties in Parliament: Croatia and Turkey 2003 and 2007

Seats in Parliament Croatia: 2003

Party	Left	Center	Right	Seats	in%
HDZ		yes	yes	66	43,40%
SDP,IDS,Libra,LS	yes	yes		43	28,30%
HNS,PGS,SBHS	yes	yes		11	7,20%
HSS	yes			9	5,90%
HPS			yes	8	5,30%
HSU		yes		3	2%
HSL,DC		yes		3	2%
HDSS		yes		1	0,70%
Other Minorities				8	5,30%

Source: OSCE 2004

Seats in Parliament Croatia: 2007

Party	Left	Center	Right	Seats	in %
HDZ		yes	yes	66	43.10%
SDP	yes	yes		56	36.60%
HSS	yes			6	3.90%
HSLs		yes		2	1.30%
HNS	Yes	Yes		7	4,60%
IDS	Yes	Yes		3	2%
SBHS			Yes	3	2%
HSU				1	0,70%
HSP			Yes	1	0,70%
SDSS	Yes	Yes		3	2%
SDAH				1	0,70%
Other Minorities				4	2,60%

Source: OSCE 2008

Seats in Parliament Turkey: 2003

Party	Left	Center	Right	Seats	in%
AKP		yes	yes	363	66%
Others				9	1,60%
CHP	yes	yes		178	32,40%

Source: OSCE 2002

Seats in Parliament Turkey: 2007

Party	Left	Center	Right	Seats	in%
AKP		yes	yes	341	62%
CHP	yes	yes		99	18%
MHP			yes	70	12,70%
Indep.				27	4,90%

Source: OSCE 2008

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