



**ANALYZING TURKEY'S CONSUMER
PROTECTION POLICY: HISTORICAL
PATH-DEPENDENCIES, THE EU IMPACT,
AND GLOBAL DYNAMICS**

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ABSTRACT

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Master of Arts Program in Political Science and International Relations

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The phenomenon of consumption, which has been changing in global terms, has brought with it the need for regulations on consumer protection. The communities have tried different methods for the protection of consumers throughout history. Turkey also had various experiences in this sense; however, there is an assumption that European Union candidacy process-based directives have remarkable conditioner effects on Turkey's consumer protection policies. This study, including various consumer organization representatives, academics, and bureaucratic evaluation, reveals the comparative analysis that Turkey's consumer policies are not only a reflection of the European Union candidacy process but are also based on a suitable ground in terms of internal dynamics, traditions and the global factors for the formation of these policies.

Here, with this study, while determining the development of consumer rights in Turkey in parallel with the European Union integration, practices that can be characterized in the context of 'consumer protection' policies such as Akhi Community and guilds in the historical background of Turkey are explained, and it is attempted to prove the tendency towards developments in this direction. The thesis differs from other studies in the literature, in its discussion of the EU integration process, the role of past experiences and global developments in terms of policy harmonization in the Europeanization literature and aims to make determinations and present suggestions to the policymakers to act as a guidance for consumer policies.

Keywords: Consumer Protection, European Union, Turkey, Europeanization, Conditionality, Akhi Community

ÖZET

TÜRKİYE'NİN TÜKETİCİ KORUMA POLİTİKALARININ ANALİZİ: TARİHSEL BAĞIMLILIKLARI, AB ENTEGRASYONU VE KÜRESEL DİNAMİKLERİN ETKİLERİ

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Küresel anlamda değişen tüketim olgusu, tüketicinin korunmasına yönelik düzenlemelere duyulan ihtiyacı da beraberinde getirmiştir. Tarih boyunca toplumlar tüketicinin korunmasına yönelik farklı yöntemler uygulamıştır. Türkiye de bu anlamda çeşitli deneyimler yaşamıştır; ancak Avrupa Birliği'ne adaylık süreci temelli direktiflerin Türkiye'nin tüketiciyi koruma politikaları üzerinde dikkate değer koşullandırıcı etkileri olduğu varsayımı hakimdir. Çeşitli tüketici örgütü temsilcileri, akademisyenler ve bürokratik değerlendirmelerin yer aldığı bu çalışma, Türkiye'nin tüketici politikalarının sadece Avrupa Birliği adaylık sürecinin bir yansıması değil, aynı zamanda iç dinamikler,

gelenekler ve küresel gelişmeler açısından da uygun bir zeminde bulunduğunu karşılaştırmalı analiz yöntemiyle ortaya koymaktadır. Bu çalışma ile Türkiye'de Avrupa Birliği entegrasyonuna paralel olarak tüketici haklarının gelişimi belirlenirken, Türkiye'nin tarihsel arka planında Ahilik ve loncalar gibi 'tüketiciyi koruma' politikaları bağlamında nitelendirilebilecek uygulamalara ve küresel gelişmelere bağlı olarak şekillenen sürece yer verilmiştir. Çalışma, Avrupalılaşıma literatüründe politika uyumu açısından AB entegrasyon sürecini, geçmiş deneyimlerin rolünü ve küresel gelişmeleri tartışmak suretiyle literatürdeki diğer çalışmalardan farklılık göstermekte ve politika yapıcılara tespitlerde bulunmayı, öneriler sunmayı ve tüketici politikaları için bir rehber olmayı amaçlamaktadır.

Anahtar Kelimeler: Tüketicinin Korunması, Avrupa Birliği, Türkiye, Avrupalılaşıma, Koşulsallık, Ahilik

To my beloved husband Murat Sarı,

To my dear parents Gülnaz & Yusuf Keskin,

And to their patience for every moment I had to compromise...



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LIST OF ABBREVIATIONS

4077 TKHK: Law No.4077 on the Consumer Protection

6502 TKHK: Law No.6502 on the Consumer Protection

ACCCP: ASEAN Coordinating Committee on Consumer Protection

ADR: Alternative Dispute Resolution

BEUC: European Bureau of Consumers' Union

BTD: Bursa Consumers Association

CI: Consumers International

CPA: Consumer Protection Act No.6502

CPC: EU Consumer Protection Cooperation Network

CSR: Corporate Social Responsibility

EC: European Commission of the European Union

ECC NET: European Consumer Center Network

ECSC: European Coal and Steel Community

EU: European Union

FIAGC: Ibero-American Forum of Consumer Protection Agencies

FinCoNet: International Financial Consumer Protection Organization

GAEN: Global Anti-Fraud Enforcement Network

ICC: International Chamber of Commerce

ICPEN: International Consumer Protection and Enforcement Network

NPAA: National Programmes for the Adoption of the Acquis

OECD: Organization for Economic Cooperation and Developments

RAPEX: Rapid Exchange of Information System of the European Union

STGM: Civil Society Development Center

TBF: Consumer Union Federation

THD: Consumer Rights Association

TOBB: Union of Chambers and Commodity Exchanges of Turkey

TOF: Federation of Consumer Organizations

TKPGM: The Directorate General of Consumer and Competition Protection

TSE: The Turkish Standards Institute

TÜBİDER: Consumer Awareness Development Association

TÜÇEDEF: Consumer and Environmental Rights Federation

TÜDEF: Federation of Consumer Associations

TÜDER: Consumers Association

TÜİK: Turkish Statistical Institute

TÜKDER: Consumer Protection Association

TÜKDES: Consumer Support Association

TÜKO-Bir: Consumer Protection and Solidarity Union

TÜKODER: Consumer Protection Association

TÜSODER: Consumer Problems Association

TÜRÇED: Consumer Rights and Environmental Protection Association

UNCTAD: United Nations Conference on Trade and Development

UNCITRAL: United Nations Commission on International Trade Law

UNGCP: United Nations Guidelines for Consumer Protection



CHAPTER 1: INTRODUCTION

Because consumption has become an inseparable part of our daily life, the necessity of consumer protection and the importance of this concept have become clear and has made the whole society the subject of this action (Akipek, 1999). Human beings, who earlier used to consume the value of their labor , later started to consume the products of their close circles, and with the trade that started with the barter method, consumption diversified (Tunç, 2015).

In modern life, developing technologies, social and economic changes have revealed the consumer protection movement. Although in history, there were legal regulations including consumer protection, they could not go beyond the protection of the public and reach a special structure (Gole, 1983). The consumer protection policy, which is based on the consumer and includes protective measures in their purchase of goods or services, has taken a prominent role especially in the United States of America (USA) and the European countries.

Over time, since the subject of consumer protection constitutes a separate study, Turkey began to establish regulations for consumer protection like many other countries. It is also important, in terms of Turkish law, to put the issue of consumer protection among the duties of the state by including the article on the need for state protection of the consumer in the Turkish constitution of 1982 (Article 172 of the Turkish Constitution).

In the light of all these reasons, the development process of consumer protection policies should be among the priority issues in terms of consumers and future consumer policies and be examined. In this respect, this study aims at assessing the relative importance of the EU integration process, domestic factors and global dynamics on evolvments in consumer protection and at identifying legal regulations in Turkey.

To examine Turkey's consumer protection policies, it is first necessary to define concepts such as consumption, consumer, seller, goods, and services. The terminology of Turkish law, EU law, and the regulations of international organizations are used to give these definitions. In addition, it is necessary to talk about the rights granted to the

consumer in the historical process. Developments in the consumer protection movement are discussed in the following sections of the study by emphasizing basic consumer rights. In the historical background of the thesis, historical developments in consumer protection are discussed, starting with the developments in the USA, where the most concrete steps were taken.

It is crucial to state that this study only discusses whether the EU is the main contributor to the development process of consumer policies in Turkey. However, as it is discussed whether Turkey's past experiences or global developments have been more effective, this study does not include a detailed analysis of consumer law. As an interdisciplinary study, the research question of the study, which aims to be a synthesis of international relations and law, is the role of the EU in Turkey's consumer policies.

Although consumer protection is included in the field of law, especially consumer law, it is a subject that needs to be examined by considering the field of political science and international relations in terms of EU-Turkey relations and the policymaking process. The perspective of international relations and the policymaking process are efficient in handling the subject of consumer protection, despite consumer law's predominance of the study.

To sum up the structure of the study; after the introduction chapter, the second part of the study includes the research design in terms of the theoretical background, literature review, hypothesis formation, methodology of research, the method used in collecting data, and the details of the interview.

The third chapter constitutes the conceptual framework of the study by underlying definitions such as consumption, consumer, goods, and services for concepts of consumer protection, reasons to protect consumers, and the parties to guide these policies.

In the fourth chapter, the analysis dimension of the study begins with an assessment of the domestic factors that shape Turkey's consumer policies, together with the historical framework. Depending on this factor, the situation in Turkey is divided into pre-Republican and post-Republican periods.

The fifth chapter is significant by analyzing the effectiveness of the EU factor on Turkey's consumer policies. At this point, the study is handled under two headings, and EU effectiveness is discussed separately in terms of the Customs Union and EU integration.

The effects of global factors on Turkey's consumer protection policies are evaluated in the sixth chapter by the impacts of formation of international settlement mechanisms, Turkey's involvement in this process, and increasing volume of international trade, especially facilitations in transportation and communication during the process.

In the seventh chapter, which is probably the most substantial part in terms of the results of the study, all these three factors are discussed and evaluated together with the data obtained from the interviews.

Evaluation of the main results of the study and the contributions to the policymaking process on consumer protection takes place in the last chapter.

This study is a comparative study in general, and it is significant in terms of the effect of Turkey's harmonization process with the EU legislation has on Turkey's consumer policies. By evaluating all the conditions together, the main aim of this study is to contribute to the improvement of the current situation in Turkey and the development of consumer policies. In addition, the study is also notable in terms of showing the impact of consumer policies on an international scale in the historical process and addressing the Europeanization literature through policy compliance. For this reason, the study has an interdisciplinary nature in international relations and law.

CHAPTER 2: RESEARCH DESIGN

2.1 Theoretical Background

As the theoretical background in the study is handled in terms of the principles of Europeanization and conditionality, it is necessary to make a transition to the developments in consumer policies by explaining these concepts. By defining the implications of the idea of Europeanization, it will be beneficial for the results of the study to examine Turkey's candidacy process with the EU within the framework of conditionality. Turkey's EU policies are examined under the Europeanization mechanism because the EU is a mechanism that works by asserting the conditionality, which since 1993, has been included in the Copenhagen criteria for candidate countries.

While explaining conditionality and its methods, it is necessary to define Europeanization first. The concept of Europeanization, which entered our lives in the 1990s, has become a popular discussion with the EU's enlargement process, especially in Eastern Europe, and Turkey's candidacy status (Özçelik, 2015). Although there are different approaches for the way of Europeanization in the field, the general opinion is that the EU's policy-making process operates with a top-down mechanism and this is linked to the conditionality principle.¹

Conditionality presents a governmental level of the democratization process that does not include other parties of the society such as political parties, civil society (Reinhard, 2010). Therefore, it represents the top-down model of Europeanization, and there is no intervention of internal actors beyond governments. Reinhard defines conditionality as

“an agreement between two actors, in which actor 1 offers a reward to actor 2. This reward is granted if actor 2 fulfills certain conditions. In the case the conditions are not met by actor 2 the reward is simply withheld (positive conditionality) or punishment follows (negative conditionality) (Reinhard, 2010, p. 200).”

¹ Scholars such as Shimmelfennig, Sedelmeier, Reinhard and Bürgin discuss that top-down mechanisms are dominant in this regard, referring to the EU-driven transmission of harmonization.

By keeping the conditionality mechanism active for candidate countries, the EU prioritizes the condition, not the result of full compliance with the EU. Therefore, compliance with the *acquis communautaire*² conditions is an absolute status for membership. *Acquis*, addressed by Grabbe as

“the whole body of EU rules, political principles and judicial decisions,”

was set in 1993 under the name of Copenhagen conditions/criteria and includes 31 chapters to provide a well-functioning integration and that facilitate the measurement of countries' achievements (Grabbe, 2002, p. 251).

Among the definitions, the most emphasized definitions made for Europeanization have been Radaelli's (Özçelik, 2015) where he defines Europeanization as a

“processes of a) construction, b) diffusion and c) institutionalization of formal and informal rules, procedures, policy paradigms, styles, 'ways of doing things' and shared beliefs and norms which are first defined and consolidated in the EU policy process and then incorporated in the logic of domestic (national and subnational) discourse, political structures and public policies (Radaelli, 2004, p.3).”

According to Bürgin, the candidate states may implement Europeanization by two methods. First, the top-down dynamics that identify the EU as an 'external ally,' and the second is bottom-up dynamics by the efforts of domestic actors. If the internal dynamics are convinced that there are policies that overlap their values and norms, policy changes towards the EU become applicable through internal dynamics; while in the first case, it can be seen that the EU is a driving force against the member states for policy changes (Bürgin, 2014).

EU governs the candidacy process by use of conditionality as a way of rule transfer for the full membership (Schimmelfennig and Sedelmeier, 2004). Schimmelfennig and Sedelmeier analyze conditionality by dividing it into two: democratic conditionality and *acquis* conditionality (Schimmelfennig and Sedelmeier, 2004). While democratic conditionality is a conditionality that includes the basic political principles of the EU, basic norms such as human rights and democracy, *acquis* conditionality includes a

² “the body of common rights and obligations that are binding on all EU countries, as EU Members” (Glossary of summaries, 2022)

preparatory process for accession negotiations and the EU membership (Schimmelfennig and Sedelmeier, 2004).

At this stage, the study is concerned only with the *acquis* conditionality, which includes the condition of full compliance with the candidacy conditions. Since consumer policies have developed in full compliance with the EU *acquis*, the democratic conditionality section is not included in the study and the factors that underlie the consumer policies' current state are examined. Therefore, the conditionality mentioned in the study from this point on refers only to the *acquis* conditionality.

EU *acquis* conditionality is working with the external incentives model, including cost and benefit calculations for candidate countries that Schimmelfennig and Sedelmeier describe as a bargaining model for Europeanization's conditionality (Schimmelfennig and Sedelmeier, 2019).

By the motivation of twinning projects,³

“harmonization with EU standards is not considered to be the result of strategic cost-benefit calculation, but rather, of the learning process based on the principles of partnership, mutuality, and equality” (Bürgin, 2014, p. 459).”

EU uses social learning as a tool to encourage developments towards EU *acquis* in Turkey. At the same time, internal actors can come to a supportive position as they see the rationale and appropriateness behind these policy changes as role models. Therefore, the issue discussed in this study is whether it is possible to make changes in consumer protection policies where EU policies coincide with internal dynamics in Turkey or the opposite case applies and the EU policies are imposed on Turkey through the conditionality of membership as a top-down model.

During the period of the golden age (Bürgin and Oppermann, 2019) in Turkey-EU relations, when the EU effect was most visible on Turkey when Turkey started to fulfill the Copenhagen criteria and implement reform packages with the start of the warrants, there were developments in consumer policies as in all areas.

³ Assisting the candidate states to strengthen their capacity in preparation for EU membership in the sense of bringing it closer to the EU *acquis*.

EU presents conditionality to candidate countries as a means of meeting the conditions for EU membership by using ‘the carrot and stick’ mechanism in return for full membership and also promotes 'modes of flexible integration' for conditions that could not be fulfilled (Reinhard, 2010).

2.2 Literature Review

The rapidly developing world in the information age is faced with the fact that consumption has become as unlimited as production. As a result of economic and technical developments, the consumer protection movement has emerged (Gole, 1983). Because the mass production created complex standards for consumers' purchasing behavior, over the years, the lack of technical knowledge has made consumer protection mandatory. By keeping the issues such as consumer safety and product safety within its scope; along with environmental problems and transportation problems, consumer protection is trying to keep its place in the foreground and to be constantly improved (İnal, 2014).

The issue of consumer protection requires a deep field survey. First of all, it is necessary to define the term consumer protection together with its historical development. Here, classification and interpretation of the Turkish legal system, European Union legislation, and international organizations strengthened the definition of consumer protection.

Regulations that stipulate mandatory standards in the goods offered to consumers, as well as regulations aiming to prevent exploitation by entrepreneurs in the legal transactions of consumers in the goods and service markets, also aim at protecting the consumer (Sirmen, 2013). Therefore, since it is not possible to analyze a single law branch or field, a synthesis of international relations with law was applied in the study. The interaction between the effect of international cooperation in this field and the formation of legal norms are discussed.

First of all, the terminology and discourses of consumer protection policies, which constitute the main theme of the study, are tried to be clarified. While Trumbull identifies consumer as a *'political or economic citizen'* (Trumbull, 2006), the European Parliament considers the consumer as

“any natural person who, in contracts covered by this Directive, acts for purposes which are outside his trade, business, craft or profession (Directive 2011/83/EU of the European Parliament and the Council).”

On the other side, the Turkish Parliament considers the consumer as a natural or legal person acting for commercial and non-professional purposes (6502 sayılı Tüketicinin Korunması Hakkında Kanun, 2013).

After the discussion on the term “consumer,” the conditions that make consumer protection necessary are also highlighted. It is attempted to give the of consumer rights with universal characteristics, rather than as mandated by national regulations (Sirmen, 2013). The “consumer” has become universal without any other identity like gender, race or religion. Therefore, the need for the legislative movements for consumer protection started to take the ground in the field of law. Thus, the first part of the study discusses the reasons for protecting the consumer and the findings supporting this argument. For instance, Maksym argues that consumers are on the weak side of contracts and cannot be experts in the goods and services they bought (Maksym, 2016). On the other hand, Akipek emphasizes the advantageous position and the capacity of the producer to organize against consumers (Akipek, 1999).

After the elimination of all these situations, the necessity of protecting the “consumers” encompasses the whole society and has brought along different structures over time. Throughout history, each state has tried to solve this problem with different methods and has developed different solution mechanisms over time, like ensuring standards and unity in measurements and settings (Akipek, 1999). However, these efforts accelerated with the industrial revolution, where mass production began, and the meaning of consumption turned into a “need” (Altiner Yolcu, 2018).

As for the research question, since the thesis answers the question of whether Turkey's consumer protection policies have developed as a result of the EU candidacy process or as a result of internal dynamics and global conditions, it is necessary to consider the study from three different viewpoints. Therefore, this study creates a framework starting from the development of consumer policies in the world, Europe, and Turkey in the historical setting and aims to find out the direction the answer to the research question shifts in line with the data of this framework.

The EU's effectiveness on Turkey's consumer policies is given over the Europeanization mechanism, and, as Schimmelfennig and Sedelmeier specifically stated, it includes the status of *acquis* conditionality (Schimmelfennig and Sedelmeier, 2004). Although Reinhard states that conditionality works at the level of governments, Schimmelfennig and Sedelmeier divide conditionality into two - top-down and bottom-up - and argue that the candidate countries use these two different methods according to the agenda. In this sense, the start of negotiations in the EU candidacy process in Turkey keeps the different dimensions of conditionality on the agenda by internalizing it between the current periods. In particular, while the permanent steps taken by the government and the Europeanization conditionality in the Customs Union process, which entered into force before the start of the negotiations, show a top-down model, the cessation of negotiations in the post-2016 period can be emphasized in terms of the fact that the process is progressing from the bottom up.

2.3 Hypothesis

H1: The trade volume, which has expanded as a result of global economic developments, has brought the issue of consumer protection to the forefront for each country. Therefore, the relationship between the development of consumer protection policies in Turkey and global developments is more influential than the EU membership process and the domestic factors on consumer policies.

H2: Turkey has a candidacy process with the European Union since 1987 and tries to fulfill integration conditions. Therefore, the relationship between Turkey's consumer protection policies and the EU membership process is more influential than the global and domestic factors in shaping the consumer policies.

H3: Turkey has regulatory historical background on consumer protection, with traditional methods like the *Akhi* community, and guilds. Therefore, the relationship between Turkey's consumer protection and domestic factors are more influential than the EU membership process and global factors on consumer policies.

2.4 Methodology of the Research

The subject of this study is a comparative analysis of the European Union integration process and traditional methods in Turkey's consumer policy developments. It aims to investigate how developments in consumer policies in Turkey have evolved and what contribution the EU integration process has had on the progress. For this reason, the qualitative method was used in the research, which aims to examine the variables, not to measure them.

Qualitative analysis is one of the methods that are frequently used in comparative and international politics. John Gerring describes qualitative work as follows:

“expressed in natural language, employs small samples, work draws on cases chosen in an opportunistic or purposive fashion, and often focused on particular individuals, events, and contexts (Gerring, 2015, p. 18).”

Researchers who conduct qualitative studies focus on reaching the perceptions and thoughts of the participants and the participants' own words (Seggie and Bayyurt, 2015).

In this study, it is meaningful to use the qualitative method instead of examining the legislation provisions currently implemented in Turkey by going through the EU consumer policies and reaching limited results. It is aimed to bring together various instruments in the formation of today's consumer policies based on the practices in the background, and in this context, to interpret of the views represented by different interest groups to make better sense.

2.4.1 Scope and Limitations of the Research

The scope of the study is related to the comparison of factors that are effective in the formation of Turkey's consumer protection policies. At the beginning of the study, the practices aiming to protect the consumer, which have occurred in the structure of the Turkish society since the organization of Akhi, are emphasized, technical definitions for consumer policies are presented, but the details of these practices and the laws that reach today are not included.

Although all parties that have contributed to the formation of consumer policies were discussed and it was attempted to include their views, the details of the dispute resolution mechanisms at the EU level were not mentioned.

2.4.2 Data Collection Tools

In the research, the interview technique, the most widely used data collection model in qualitative research, was used by adopting it as a data collection tool.

The opinions and statements of individuals who are competent to represent a community with their own field experiences on the subject of our research have been efficient in this technique's use in the research.

For the research to work in accordance with its purpose, interviews were held on different dates to represent the groups that play an active role in consumer protection policies. The view that is effective in the selection of these individuals is that the efforts they make in the fields they are present are relatively strong. The study does not include demographic data of participants, such as age, gender, and marital status.

2.4.3 Data Collection

Although the number of consumer organizations operating in Turkey is high, the fact that the headquarters of the organizations are located in different provinces can cause difficulties in identifying their opinions. For this reason, by making the interviews in the status of provincial representatives, it was attempted to keep the representation rate high.

Since I have been working as the Rapporteur of the Consumer Arbitration Committee within the Ministry of Trade since May 2018, I have been in contact with representatives of different economic sectors during the professional training process at the Ministry and the period she worked as a rapporteur in Arbitration Committees, which serve as an active dispute resolution mechanism in the field. The participants of the research who consist of representative individuals, helped find an answer to the research question.

For the participants to present accurate data, attention was paid to their positions in the institution or organization they represent. At the same time, it has been fruitful for

them to actively work on the subject of the research in the field, to follow the current situations, and to interpret the process.

Interviews with the participants whose opinions were needed were held between November and December 2021 at a time and place deemed appropriate. Before the interview, the participants were informed about the subject and purpose of the study. Their views on this subject were not recorded, but notes were taken.

2.4.4 Data Evaluation

The data obtained in the research were carefully examined and the results were assessed by using descriptive analysis. In the descriptive analysis, the interviews were used by quoting them in a way that does not allow any change in the meaning obtained. To observe their contributions to the study the opinions of different field representatives on the same question were interpreted in the form they were obtained. In the interviews with the participants, importance was given to the integrity of the questions, and the questions were concentrated within the field they represented.

2.4.5 Interviews with Ministry Officials, Scholars and Consumer Association Representatives

In total, following seven people were interviewed: Prof. Dr. Murat AYDOĞDU, Av. Ali İhsan ARICAN, Prof. Dr. Şebnem AKİPEK ÖCAL, Dr. Yakup GÜZEL, Dr. Deniz ÖNER, Av. Yağız GÜNDOĞDU, and Fuat ENGİN.

In the thesis research, the participants were asked the following questions:

- 1- If you had to explain the place the concept of consumer protection has in the historical and cultural structure of Turkey, inspired by the most striking examples that you came across in practice, what would your answer be?
- 2- What do you think has been the driving force behind the development of Turkey's consumer policies, especially in the 1990s?
- 3- What do you think are the effects of the European Union membership process on consumer protection?

4- As a representative of a consumer organization operating in Turkey, do you have the opportunity to benefit from European Union-supported project resources in your efforts in this field? If yes, please explain.

5- If there was no European Union membership process, would Turkey's consumer policies and practices take their current form? Why or why not?

6-As the representative of the consumer organization/academy/bureaucracy, what kind of activities do you carry out with the prospect of providing a solution if there are consumer disputes that reach you?

7- How can you contribute to the consumer policymaking process? Can you take part in activities like a project/seminar you would implement jointly with the Ministry?

8- What is the source of motivation that enables you to take part in a consumer organization focusing on consumer protection?

CHAPTER 3: CONSUMER PROTECTION POLICY: DEFINITIONS AND CONCEPTS

3.1 Definitions

A generation ago, based on the concept of the customer, the subject mentioned had been the person who buys goods or the customer who pays for a service (İnal, 2014). By the effects of successful traders' sales methods, former buyers have been replaced by consumers who buy to consume (İnal, 2014). Akipek specifies consumption as

“a phenomenon that occurs as a result of the combination of products and services with current demands in a particular market” (Akipek, 1999, p. 74).

Although the word consumer has many different meanings, it is used in the broadest sense; in the current market, a demander is a person who seeks to meet his needs or any entity that acquires and uses goods or services to maintain its life and existence (Akipek, 1999). The word consumer means all individuals, institutions, and organizations that have a need to be satisfied and also, money and willingness to spend. (Tunc, 2015). Directive 2011/83/EU of the European Parliament and the Council explains “consumer” as

“any natural person who, in contracts covered by the Directive, is acting for purposes outside his trade, business, craft or profession” (Directive 2011/83/EU of the European Parliament and of the Council, 2011).

Law No. 6502 on Consumer Protection also defines the consumer as

“a natural or legal person acting for commercial and non-professional purposes (6502 sayılı Tüketicinin Korunması Hakkında Kanun, 2013).”

The definition of the goods is also as follows:

“The subject of shopping; movable property, immovable property for residence or holiday purposes, and software, audio, video and similar intangible goods prepared for use in the electronic environment (6502 sayılı Tüketicinin Korunması Hakkında Kanun, 2013).”

As it is seen in this definition, while there is an opinion that immovable property for residential or vacation purposes are within the scope of the law, and while there is an opinion that immovable property is not included in the scope of consumer law for they appear with investment purposes in the EU directives, it is understood that in Turkish law, immovable property is handled from the perspective of a "need" and hence, they are not the object of commercial or professional purposes (Aydođdu and Kahveci, 2021).

Service, which is another subject of consumer contracts, is defined by Aslan as human activities providing benefits to human beings, which meet human needs directly or indirectly, and that do not take the form of tangible goods (Aslan, 2016).

As the other parties in consumer contracts, supplier and seller are defined as follows:

“Supplier: A natural or legal person who provides services to the consumer for commercial or professional purposes, or acts on behalf of or behalf of the service provider, including public legal entities.

Seller: A natural or legal person who offers goods to the consumer for commercial or professional purposes, or acts on behalf of or behalf of the supplier, including public legal entities (6502 sayılı Tüketicinin Korunması Hakkında Kanun, 2013).”

Consumer protection is a sequence of efforts by the state, businesses, independent organizations, and the consumers and producers, which determines all relations between the consumer and the producer, aiming to protect these rights with administrative, technical, legal, and economic measures, particularly against the practices that harm consumer rights,. (Akipek, 1999) While a broader sense of consumer protection contains environmental issues, nuclear energy, etc., in the narrower sense, the topic is as fundamental as transactions between buyers and sellers (Meier, 1987).

In the Consumer Protection Specialization Commission Report, consumer protection is defined in a narrow sense as the full value of the money paid by the consumer, while in a broad sense, it is expressed as the spending of social resources on areas that will provide better recreational facilities and services that will improve the welfare, health,

and education of the people, and consumer-oriented policies developed by businesses (DPT, 2001).

A definition of consumer rights was put forward for the first time by the European Community. The First Consumer Protection Program, which entered into force with the Council's approval on 14 April 1975, was intended to put into practice the consumer rights of this Program, and by specifying five consumer rights, it can be considered as the European Declaration of Consumer Rights (Akipek, 1999).

3.2 Reasons to Protect Consumers

Considering that the subject of consumer protection in the past dates back to the primitive beliefs, the protection of the consumer was seen from the viewpoint of the rightful due, and criminal practices were applied within the structure of religion and morality (Tunç, 2015).

Technological developments, growth in the volume of goods and services have also brought changes in quality and diversity (Akipek, 1999). Due to deceptive advertisements, the consumer has difficulty in choosing the appropriate one among the diversified goods and services under all these conditions (Gole, 1983). While the good features of the goods and services offered for sale are exaggerated and marketed thus to the consumer, the missing aspects are not mentioned during the sale (Akipek, 1999).

In the face of technological developments, the consumers have to be protected when they are in a weak condition against those who offer goods and services to them, due to the economic and social aspects, as well as the negativities arising from ignorance (Sirmen, 2013). Consumers cannot be experts of goods and services, because they don't have time or money for market research (Maksym, 2016). This situation causes the consumer to be deceived and not to make the right choice.

On the other hand, the fact that the consumer cannot interact with the producer as close as before as a result of developing technologies is one of the reasons that discourage the consumer to be protected (Akipek, 1999). Before mass production and fabrication, every consumer knew the producer/supplier of the goods or services they bought. If there is a problem; the consumer could provide a first-hand solution. Due to complex

structures of products and a wide variety of vendors, it has become difficult for the consumer to find a single contact.

Another reason for consumer protection is that the producer is in a more advantageous position than the consumer in financial and organizational terms (Akipek, 1999). Since each member of the society qualifies as a consumer as a party to each sales contract, the capacity to organize and create financial resources has not developed as much as the producers. For instance, Chambers of Commerce and Industry, professional associations are the mechanisms that connect the producers in this regard (Akipek, 1999). Atamer also argues that, due to the principle of freedom of will prevailing in legal systems, social justice can only be achieved if the legislator exerts its authority in favor of the weak in legal relations established between unequal parties (Atamer, 1996).

However, since the purpose of consumer law, as in other branches of law, is to protect the public interest, it has become necessary to take measures that do not undermine their financial situation but increase productivity in production, by not placing an excessive burden on businesses in the economic system and on the other hand, that are still able to protect the consumers (Sirmen, 2013).

Although the issue of protection of the consumer first focused on the protection of the consumer health, protection of their economic interests is now also included in the scope of the primary objectives (Atamer, 1996). Considering all these reasons, steps have been taken to create the necessary awareness and public opinion on consumer protection, especially based on the health and life safety of the consumer.

3.3 Parties to the Consumer Protection Policy

Organizations that are effective in consumer protection can be divided into two in terms of their structures: civil organizations and public organizations. At this point, non-governmental organizations are examined as national and international organizations, and national organizations are handled as consumer organizations, consumer foundations, consumer superior organizations, and other non-governmental organizations. International organizations such as Consumers Union and The Consumers Federation of America in the USA, as well as organizations such as

Consumer International, European Consumer Unions Bureau, can be clustered under the title of international organizations (Aydoğdu and Kahveci, 2021).

On the public side, these institutions are the Ministry of Trade before the Ministry, TSE before other institutions, institutions affiliated to other Ministries, Advertising Board, Advertisement Council, Consumer Council, Consumer Arbitration Committees, and Consumer Courts (Aydoğdu and Kahveci, 2021). The bureaucratic wing makes a positive contribution to the policymaking process by inculcating policymakers on regulations (Meier, 1987). Therefore, it is possible to emphasize that bureaucracy acts as an influential group among the parties by creating a balance between them.

It is possible to talk about the effects of four main groups on consumer policies: Influential parties in consumer protection are consumer groups, industry groups, bureaucracy, and elected officials (Meier, 1987). Consumer protection policies achieve success as a result of the effective work of the consumer, bureaucracy, and selected groups within a well-functioning system. Since every part of the society has the characteristics of a consumer in every purchase and sale transaction, the implementation of consumer protection policies will only be successful and inclusive with the participation of each segment of the society.

In this context, the first and the most influential group will be consumers. Although consumers defy the producers with their scarce resources, they are not abstaining from the regulatory process. On the contrary, they are the group that greatly influences this policymaking process with their organized work (Meier, 1987).

While creating the supply-demand balance, which is the basis of economy, the view of the industrialist that supports the regulations on consumer protection is a vital move to increase the demand (Meier, 1987). Thus, competition increases, and the consumer grabs the opportunity to access to higher quality goods and services. In this way, larger firms gain an advantage over smaller firms (Meier, 1987). While large firms in the producer/seller group generally support consumer policies, small firms, due to their lack of competitiveness, cannot support to these policies.

At this point, the role of scholars and the media is undeniable, especially in terms of consumer health and safety. However, our study includes no assessment in terms of social policies, especially since it is basically an examination in terms of the policymaking process.



CHAPTER 4: AN ANALYSIS OF DOMESTIC FACTORS

4.1 The situation in the Turkey

Global changes in consumption have pushed states to turn to consumer policies. Looking at the historical process of Turkey, it is observed that the consumer is protected by different methods. Aydođdu and Kahveci state that in the pre-Republican era, it is possible to talk about a tripartite system to ensure the balance of power between the producer and the consumer: the first of these is the state represented by the kadis⁴ and mayors, the second is the Akhi Union as the tradesmen's organizations, then professional organizations such as guilds, and the third is the city, which can be considered as the representative of the consumer notables (Aydođdu and Kahveci, 2021).

Turkish society, like other cultures, has included various regulations in its commercial transactions throughout its history. However, when we think about today's idea of consumer protection, we come across several practices that play a dominant commercial role in the Turkish history. Although it does not adopt the principle of protecting the consumer directly, these practices have provided a well-functioning mechanism by creating an element of trust in the market.

During the Seljuk and Ottoman Empire periods, legal regulations were effective in retail trade, as well as in professional organization of the tradesmen. 'Organizations of tradesmen,' comparable to 'chambers of commerce' of today, were founded in the Seljuk period and turned into an organization scheme that expanded gradually during the Ottoman period (Akipek, 1999).

In this context, the study deals with consumer protection practices by addressing the two main practices; Akhi community, and guild organizations, and then analyzes the developments experienced in Turkey in the Republican period.

⁴ Muslim judges.

4.1.1 Practices in the Pre-Republic Period

4.1.1.1 Effects of Akhi Unions on Turkish Consumer Policies

Although Akhi Unions is a concept based on human benevolence (Yavuz et al., 2016), the word Akhi means 'my brother' in Arabic.⁵ The Akhi organization, founded in Anatolia by the influence of the Iranian Sheikh Nasiruddin Mahmud, known as Akhi Evran, was formed by the organization of tradesmen such as shoemaker and saddlers (Akbas et al., 2018). With Ahi Evran's opening of a leather shop in Kayseri, Akhism became widespread among the artisans and craftsmen around the shop. In addition to the economic life, the Akhi community has been effective in individuals' acquiring of a profession and in the rapid development of villages and cities.

Having adopted a nomadic lifestyle for many years, the Turks struggled with the Greek and Armenian tradesmen after they settled down in Anatolia, and their act of uniting among themselves revealed the concept of the Akhi order (Akbas et al., 2018). Turks who migrated from Asia to Anatolia had an organizational need to hold on against the local traders, and they became qualified professional organizations with a completely tight structure (Akipek, 1999).

Akhism is a non-governmental organization that aims to provide social benefits and directly affects the economic life of the society (Akbas et al., 2018). Akhi Unions form a set of ethical values that have been influential in Turkey's social and economic life from the 13th century to the present, which includes principles such as protecting mutual interests by balancing the expediency relations between the consumer and the producer, where it is aimed to meet the expectations of the "gain" of producers and the expectation of the "benefit" of the consumer (Yavuz et al., 2016). Akhism is a Turkish artisan association, a harmonious combination of morality and art, brought about by historical and socio-economic difficulties (Akipek, 1999).

To understand the structure of the Akhi organization better, it is necessary to talk about the concept of '*futuwwa*⁶', which is used for beauty in Islam. Akhi order is a lifestyle or a thought system that aims to integrate Turkish culture and traditions with the

⁵ In the studies on the word *akhi*, it is also prominent opinion that the word is derived from the word "akı," which means bravery, heroism, hospitality, and openness in Turkish.

⁶ Futuwwa means "fütüvvet" in Turkish, a word that includes the features of humility, bravery, generosity, and loving others.

understanding of *futuwwa* in Islam (Yavuz et al., 2016). The rules of *futuwwa*, which is an organized structure established for the training of young people in a discipline, are included in the works called *futuwwetname* (Akbas et al., 2018).

In addition to the rules regulating social life, such as prohibition of lying and not abusing the trust, *futuwwetnames* had principles to prevent attitudes that would harm the buyers in trading. The organizational structure of Akhism was also arranged according to this order stipulated in the *futuwwetnames*.

Akhi organizations played an active role in the economic, social, and cultural lives of Anatolian Turks. They have aimed at educating the consciousness of social assistance and solidarity in human behavior in a divine and moral sense (Yavuz et al., 2016). This moral framework has shaped the principles of Turkish artisans and craftsmen in business life. At the production stage, the ethical values formed this way have been effective on the behavior of the employees, and the production processes were based on morality.

Akhi organization is not only a form of tradition, but also a set of Islamic beliefs and principles. In this unity and solidarity, the problems of artisans and craftsmen were tried to be resolved, the relations between the producer and the consumer were balanced, and moral values and economic values acted in cooperation (Yavuz et al., 2016).

The artisans and craftsmen, who constitute the bulk of the Turks who migrated to Anatolia, needed to establish solidarity to compete with the local merchants there. Therefore, they came together and began to produce products of the standard type, which led to the emergence of Akhi associations (Yavuz et al., 2016).

With the donations they collected within their structure, they created the solidarity system they called the “Middle Fund,”⁷ - similar to social security - to support the members of the organization at their needs, such as birth, wedding or funeral (Yavuz et al., 2016).

⁷ ‘Orta Sandığı’ in Turkish and means the income sourced from the donations made to the guild, , and is the aid and solidarity fund established to provide economic and social assistance to their members.

In addition to professional ethics, Akhi unions worked for the establishment of a solid and orderly social structure that strictly adhered to religious rules (Akipek, 1999). In this way, they aimed to balance the relationship between producers and consumers. Akhism has the understanding of 'ashraf-i mahlukat ⁸', which sees man as the supreme being, and aims to educate the whole society at a level to attain this qualification. So much so that it aims for people to be in peace and prosperity not only in the hereafter but also in social, cultural, and economic life (earthly life) (Yavuz et al., 2016). Akhism is a set of social as well as economic values that can bring prosperity to the whole society by raising individuals with a high level of moral values, and within this structure, social relations based on trust have been made more valuable than wealth (Mamuti, 2021)

In Akhism, the same tradesmen groups are not allowed to conflict each other, undeserved earnings are rejected and it is attempted to prevent waste, deception of the consumer, exploitation of labor, and unfair competition (Yavuz et al., 2016). It was desired to keep the prices in balance by producing on demand, and it was aimed to ensure that the produced goods were of high quality.

Tradesmen who compromised on quality would be excluded from the union, and in this sense, the social benefit would be maximized. The following are the cases that are accepted as serious faults in the union: to deceive the consumer, to imitate the goods of others.

Contrary to Akhism, with the Industrial Revolution, the serialization of production and the notion of “more production for more consumption (Yavuz et al., 2016)” emerged, and through misleading advertisements, people were encouraged to consume more. The contributions of Akhism to today's Turkey in terms of work ethics in society, institutions such as social insurance, commercial organizations, and workers' unions have been widely discussed (Yavuz et al., 2016).

Another institution that protected the consumer by conducting market inspections was the institution of 'acquisition authority,' similar to today's municipality and municipal police model (Akipek, 1999). This institution worked to adapt the work of artisans and

⁸ It means the most honorable of beings.

craftsmen to a certain order, to offer products for sale at certain prices, or to comply with certain methods in production or services.

In the Ottoman Empire, by publishing “regulations,” the state would impose the working principles that tradesmen and craftsmen were obliged to follow. Designating the rules to be obeyed in manufacturing and marketing, prices in scales and sizes, and the penalties to be imposed if they are not complied with, is an indication that efforts made were very close to the protection of the consumer in the modern sense (Akipek, 1999).

The 'Kanunname-i İhtisap,'⁹ published in 1502, is one of the most significant regulations of the Ottoman Empire period. It is an indication that the concept of standards was introduced by the Turks in those years. In this regulation, practices such as follows, protecting the health and safety of the consumer as well as their economic interests were included:

Lemon: When the weight of the lemon goes to one hundred and eighty akchas, two hundred eighty dirhams will be for one akcha.

Olives: Karaburun olives and Çekişte olives will cost two hundred dirhams for one akcha. One okka of the Yalı olive will be equal to one akcha (İstanbul Umum Pazarcılar Esnaf Odası, 2016).’ and also

Structures: When the buildings were examined, the Sultan's decree was found. Architects have commanded twelve coins a day. It was decided accordingly. They will not be able to pay architect fees until they mature to their students who work alone with them.

Jewelers: The gold they embroidered should not be less than sixty akchas (TSE, 2013).’

. Along with all these, besides being the largest municipal law, it has features such as being the first law protecting consumer rights, the first food regulations, and the first standards law in the world (Aydoğdu and Kahveci, 2021).

⁹ Known as the Law of Municipality of Bursa.

Another method applied by the state for the protection of the consumer in this period is fixing the price.¹⁰ By fixing the price, the state was protecting the purchasing power of the poor people and preventing unfair profits by determining the highest profit rate in the retail sale of the goods offered for sale in the market, (Akipek, 1999).

This system, which worked until the 19th century, weakened with the collapse of the Ottoman Empire, and the controls made by the guilds were abolished in 1839, the fixed price in 1965, and the practices for the protection of the consumer did not continue (Akipek, 1999).

4.1.1.2 Effects of Guilds and Gedik Organizations on Turkish Consumer Policies

Akhi order also forms the basis of guild organizations. During the Ottoman Empire, it became easier for each artisan group to operate collectively at certain locations, and it became easier for the consumer to reach the goods of the desired quality with controllable quality and price (Akipek, 1999). This system, which can be called a kind of self-regulation mechanism, had a functioning similar to the “chamber of commerce/tradesman” that exists in today's Turkey.

Due to the need for tradesmen and artisans from among the non-Muslim population, increased by the effects of the expansion of the Ottoman Empire, to have them placed under a similar organization; a guild system in which people from different religions could cooperate was established (Mamuti, 2021).

The Gedik means a monopoly that has privilege in terms of guaranteeing their rights on a particular trade by not letting others practice it (Mamuti, 2021).

4.1.2 Republican Period on Turkish Consumer Policies

After the collapse of the Ottoman Empire, with the Republic proclaimed, the Turkish administration was concerned with the establishment functions in a new period. Although there were no laws that were directly related to the consumer, it was attempted to indirectly protect the consumer by various laws (Gole, 1983), such as the Pharmaceutical and Medical Preparations Law of 1928, Municipal Law of 1930,

¹⁰ *Narh*, the Arabic word that means the price is determined by the official authorities to protect the consumer, and valid everywhere.

Control and Determination of Cost and Sales Prices of Industrial Products Law of 1936, Private Hospitals Law of 1933, and the Obligation to Sell without Bargaining Law of 1938. While the main purpose of these laws was to ensure rapid development by providing the state's intervention in the free market economy, they also indirectly protected the consumer (Akipek, 1999).

Aydođdu and Kahveci, on the other hand, argue that, due to the rights granted to individuals by the principles of freedom of will and freedom of contract, which prevailed with the entry into force of the Code of Obligations in 1926, sales contracts, which are functioning between equals, have had a victimizing effect on the consumer by transition to a free market economy, and thus, special regulations that protect the consumers were needed (Aydođdu and Kahveci, 2021).

Consumer protection in Turkey gained momentum with the change in consumption habits after the 1990s. Especially as of 1960, industrialization and development plans caused an increase in private consumption expenditures, and these absolute laws protected the consumer. As a result of the joint work of the TSE and the Ministry of Trade, a seminar¹¹ on consumer protection was held in scientific terms (Gole, 1983).

The Turkish Standards Institute (TSE) was established on October 16, 1954, with the charter prepared within the Union of Chambers and Commodity Exchanges of Turkey (TOBB), the legal entity representing the private economic sector in Turkey (TSE, 2021). The most significant task of TSE is to prepare standards and to issue certificates for goods conforming to these standards. By doing so, TSE not only increased the quality of the goods and services produced but also created an element of assurance for consumers (Akipek, 1999). Through these primary duties of TSE, definite standards become binding in production, and consumers' safe shopping is guaranteed.

In 1971, a draft consumer protection law was prepared and submitted to the parliament, but it was not possible to enact the law under then current conditions (Akipek, 1999). In 1978, the Draft Law on the Regulation of Domestic and Foreign Trade and the Law on the Protection of Integrity in Trade was prepared by the Ministry of Trade, and in 1980, it also included the protection of the consumer (Gole, 1983).

¹¹ Seminar on Consumer Issues, Ankara 1970.

Despite the absence of specific legislation on consumer protection in Turkey, the protection function introduced by the Article 172 of the Constitution, and the Customs Union agreement that entered into force in 1997, which brought the partnership process with the EU, and the need to bring policies and legal regulations closer to EU regulations in the areas of free movement provided a legal framework (Sirmen, 2013).

The most important developments in the 1980s were the provision for the protection of consumers in the 1982 Constitution, and thanks to this provision, efforts on consumers gained momentum. While the Law No. 4077 on the Protection of Consumers (4077 TKHK), enacted in 1995, was the first, since it is a law with general content, it did not mention the details. With the effect of this law, consumers have started to be protected by various methods with the help of the state and with the influence of private institutions.

The purpose section of the 4077 TKHK dated February 23, 1995, includes the provision “the purpose of this Law is to comply with the requirements of the economy and the public interest to take measures to protect the health, safety, and economic interests of the consumer, to enlighten, to educate, to compensate for their damage, to protect them from environmental hazards, to encourage consumers' self-protective initiatives, and to encourage voluntary organizations in the formation of policies on this issue”. With this provision, the law includes the basic consumer rights accepted by the EU regarding the protection of the consumer (Sirmen, 2013).

The institutions establishment of which was stipulated by the 4077 TKHK are divided into advisory bodies and solution bodies: Advisory bodies are the Consumer Council and the Advertisement Board, and the solution bodies are the Arbitration Committees for Consumer Problems and Consumer Courts (DPT, 2001). The Consumer Council convenes at least once a year with the participation of representatives of public institutions, professional organizations, and consumer organizations under the chairmanship of the Minister (Trade) or an authorized person to be appointed, in order to investigate the necessary measures regarding the protection of the consumer and to convey these opinions to the relevant authorities.

On the other hand, The Board of Advertisement, which meets at least once a month, is the body that has duties such as designating the principles to be followed in

commercial advertisements and promotions, conducting investigations, and punishing those who violate the provisions (DPT, 2001).

Regarding solution bodies, the Arbitration Committee for Consumer Problems is operated by an officer to be appointed by the chairman and a representative each from the municipality, bar association, chambers of commerce and trade, and consumer organizations in all provincial and district centers, to find a solution to disputes between consumers and sellers (4077 sayılı Tüketicinin Korunması Hakkında Kanun, 1995). On the other hand, it was envisaged to establish Consumer Courts to take decisions in a short time with a simple trial procedure (DPT, 2001).

Although the 4077 TKHK had many shortcomings, it was significant in terms of being the first systematic law in Turkey in terms of consumer protection (Aydođdu and Kahveci, 2021). Regulations were made with the Law No. 4822 Amending the Law on the Protection of the Consumer regarding the deficient aspects, but the Law No. 6502, the simplest, comprehensible and inclusive version, entered into force on May 28, 2014 (T.C. Resmi Gazete, 2013).

In the context of ministries, the Ministry of Health in terms of consumer health, the Ministry of National Education in terms of awareness-raising, and the Ministry of Industry and Trade have undertaken the biggest tasks. The Directorate General of Consumer and Competition Protection (TKPGM) (T.C. Resmi Gazete, 1993), which was established under the Ministry of Industry and Trade (Canoz, 2015), effective in the protection of the consumer and the creation of a healthy competitive environment, has been the most effective unit in consumer protection law.

In addition to these efforts made at the government level, it has been observed that private enterprises, especially chambers of commerce, have begun to address consumer problems. The chambers, especially in their professional decisions, have adopted the principle of not deceiving the consumers and have taken an active role in resolving disputes between the merchant and the consumer, and also, the disputes between the merchants (Gole, 1983). Even today, complaints sent to merchants and industrialists through chambers, mainly to protect the reputation of the business world, often result in favor of the consumer.

In this context, especially in the 56th article of the TOBB and Chambers and Commodity Exchanges Law (Türkiye Büyük Millet Meclisi (TBMM), 2004), the provision, “to take the necessary measures to protect the consumer and to create a healthy competitive environment, to perform other duties to be assigned by the Ministry and ministries in this and similar matters by the legislation, and to establish the necessary organization” includes the duties of TOBB. By this provision, it is obligatory to take measures to protect the consumer.

Article 167 of the Turkish Constitution and the provision that the state is obliged to take the necessary measures to prevent monopolization and cartelization are also practices aimed at protecting the consumer. Since consumers were not in an organized state before the 1990s, it is observed that the work done by the state has been decisive in these developments (DPT, 2001). At this stage, voluntary consumer organizations are formed in Turkey, making crucial contributions to the regulations on consumer policies. Consumer organizations are non-governmental organizations that are created to represent consumers and to ensure their access to healthy goods and services on the basis of their demands, independent of commercial relations, based on volunteerism, and operating under the norms designated by Consumer International (DPT, 2001). As of 2021, there are currently almost a hundred (T.C. İçişleri Bakanlığı, 2021) consumer organizations in Turkey.

- a. Federation of Consumer Associations-TÜDEF
- b. Federation of Consumer Organizations-TOF
- c. Consumer Union Federation-TBF
- d. Consumer and Environmental Rights Federation-TÜÇEDEF
- e. Consumer Protection Association-TÜKODER
- f. Consumer Awareness Development Association-TÜBİDER
- g. Consumer Protection Association-TÜKDER
- h. Consumer Support Association-TÜKDES

I. Consumer Rights Association-THD

j. Consumer Rights and Environmental Protection Association-TÜRÇED

k. Consumer Protection and Solidarity Union-TÜKO-Bir

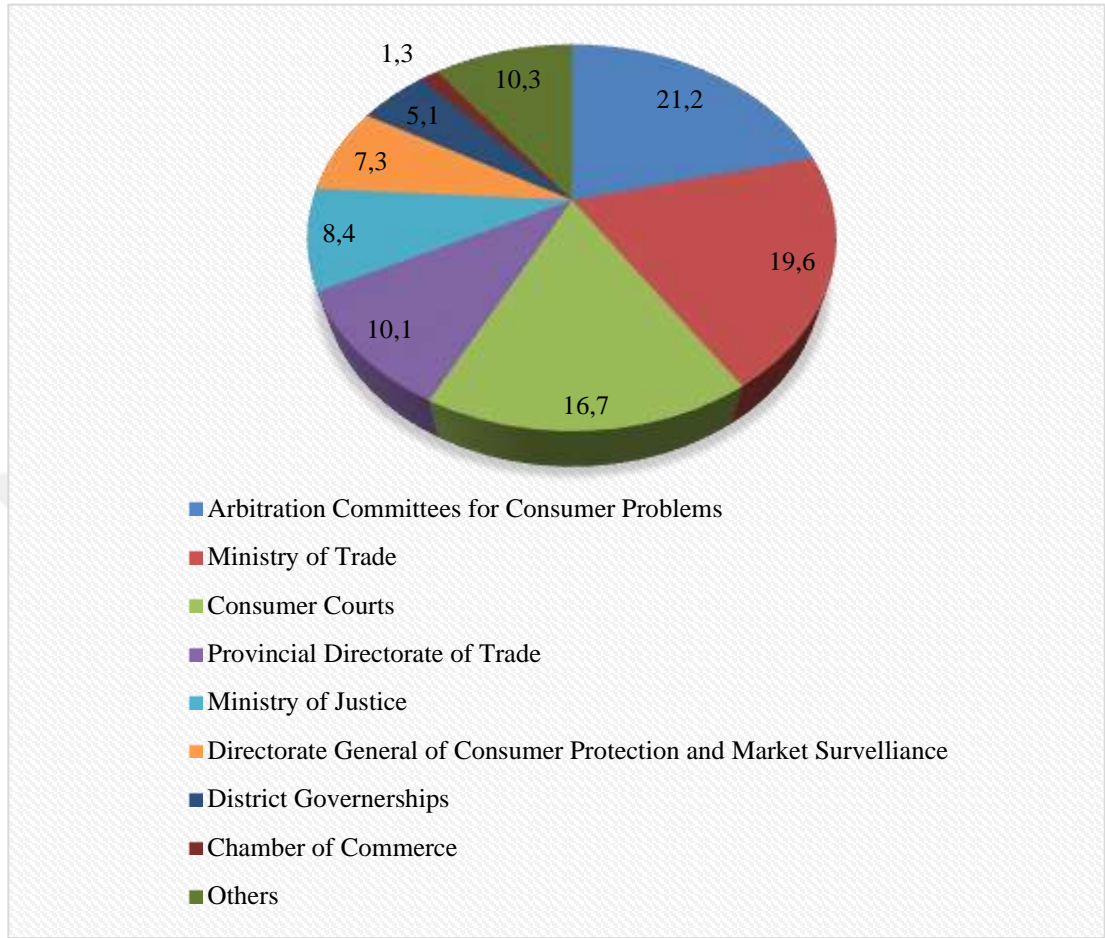
l. Bursa Consumers Association-BTD

m. Consumers Association-TÜDER

n. Consumer Problems Association-TÜSODER

These organizations, in general, have practices involving various professional groups that serve voluntarily in the resolution of consumer disputes. By making it compulsory to have a representative within the Arbitration Committees and therefore assigning one member to the relevant Arbitration Committees, consumer organizations take an active and responsible role in the resolution of consumer disputes. Besides the ministries, concrete steps have been taken at local administrations to protect consumers by establishing Arbitration Committees for Consumer Problems, especially at municipalities and in each province and district centers and establishment of consumer courts is planned (Akipek, 1999). In this context, according to the Consumer Profile and Awareness Level Research Report obtained within the scope of the Technical Assistance for Strengthening Consumer Protection carried out by the Ministry of Trade and the EU, the public institutions that first come to mind for consumer protection in Turkey are listed in the table below (T.C. Ticaret Bakanlığı Raporlar, 2020). When the list is examined in detail, it is clear that the Consumer Arbitration Committees, Ministry of Commerce, and Consumer Courts are the leading institutions for protection of consumers in Turkey.

Table 1. The Public Institution that First Comes to Mind for Consumer Protection in Turkey (%) (Source: Ticaret Bakanlığı Raporlar, 2020)



CHAPTER 5: AN ANALYSIS OF EU-RELATED FACTORS

5.1 Practices in the European Union

Each EU member state has a different background and history for implementation of consumer policies. However, the EU tries to create a standard basis for all member and candidate states for unification in all spheres of EU identity. (Maksym, 2016) Consumer organizations are essential for consumer protection and many countries in the EU support these groups acting as a civic movement to develop non-governmental actions (Maksym, 2016).

The first initiative for the European Coal and Steel Community came from the French Minister of Foreign Affairs, Robert Schuman. The Treaty of Paris, which forms the basis of today's European Union, was signed among Germany, Belgium, France, the Netherlands, Italy, and Luxembourg on April 18, 1951 (Bozkurt et al., 2011). European Community, which was formed in 1967 with the fusion of the European Coal and Steel Community, the European Economic Community, and the European Atomic Energy Community, took the name European Union with the Maastricht Treaty on November 1, 1993 (Akipek, 1999).

Developments in the US and President Kennedy's efforts over consumer policies led the European Community to decide to provide solutions with three programs on consumer protection policies at the Paris Summit of Presidents in 1972 (TUSIAD, 1990). EU, which started as an economic integration movement, started to focus on social policies over time. The preliminary program of the European Economic Community for consumer protection at the EU level, which is also called a European Consumer Bill of Rights, entered into force in 1975 (Sirmen, 2013).

The basic consumer rights established within the framework of the First Consumer Protection Program are explained as follows (Akipek, 1999) :

- 1- Right to Demand Protection of Health and Life Safety
- 2- Right to Protection of Economic Interests
- 3- Right to Compensation
- 4- Right to Information and Education
- 5- Right to Representation

Then, the Council of Europe increased these rights to eight with the adoption of the “Consumer Interest and Protection Program” and the “Consumer Protection Policy Acceleration Program” in 1986 (Zevkliler, 2001) :

- *Right to Relief of Basic Needs*: benefiting from rights such as food, clothing and shelter to sustain one's life.
- *Right to Trust and Security*: protection against goods and services harmful and dangerous to health and life, such as seller behavior.
- *Right to Free Choice of Goods and Services*: providing the consumer with a variety of goods and services of satisfactory quality.
- *Right to Information*: providing information that will enable the consumer to make the right decision at purchasing goods and services.
- *Right to Education*: training by educational institutions to be a conscious consumer.
- *Right to Compensation*: compensation for all kinds of material, moral, and economic damages in case of the purchase of defective goods and services.
- *Right to Representation*: to be represented, taken into account, and consulted in the formulation of economic policies.
- *Right to a Healthy Environment*: having an environment that will increase the quality of life, protection from environmental hazards (DPT, 2001).

With the adoption of this program, especially the health and safety of the consumer, as well as the procedures that would ensure the withdrawal of goods from the market in case of any threat was emphasized (TUSIAD, 1990).

Various directives issued by the Council of Europe (later by the EU) have aimed at protecting the consumer. Examples of such Directives are as follows (Zevkliler, 2001):

- Council Directive 84/450/EEC of September 10, 1984 relating to the approximation of the laws, regulations and administrative provisions of the Member States concerning misleading advertising.
- Council Directive 87/102/EEC of December 22, 1986 for the approximation of the laws, regulations and administrative provisions of the Member States concerning consumer credit.

- Council Directive 90/134/EEC of June 13, 1990 on package travel, package holidays, and package tours.
- Directive 94/47/EC of the European Parliament and the Council of October 26, 1994 on the protection of purchasers in respect of certain aspects of contracts relating to the purchase of the right to use immovable properties on a timeshare basis.
- Directive 97/7/EC of the European Parliament and of the Council of May 20, 1997 on the protection of consumers in respect of distance contracts.
- Directive 1999/44/EC on certain aspects of the sale of consumer goods and associated guarantees.
- Directive 2011/83/EU of the European Parliament and of the Council of October 25, 2011.
- The Directive (EU) 2019/770 on contracts for the supply of digital content and services (the Digital Content Directive).
- The EU Directive on contracts for the Sale of Goods 2019/771/EU (the Sale of Goods Directive).

Through various practices, the EU enforces the consumer policies it has developed with all these directives: online dispute resolution, alternative dispute resolution for consumers, ECCNet, European small claims procedure, out of court resolution bodies by country (European Commission, 2021). The European Commission creates a fast and easily accessible system with these solution mechanisms offered to EU citizens regarding the consumer problems they experience. Each citizen of the Union is informed step by step on how they can request the resolution of any dispute they experience in various areas, ranging from package tours to air passenger rights, from defective products to warranty periods.

In addition, as alternative solution options, consumers are offered faster and more affordable applications such as an ombudsman and arbitration, conciliation, mediation, and complaints boards (European Commission, 2021). Alternative resolution mechanisms, which are one of the methods frequently used in the EU, offer the opportunity to easily make application from another EU member state and reach a solution with minimal time and cost for a transaction made in an EU member state.

In the EU, the development of the ways of consumers to claim their rights has been in the form of initiating and supporting various projects in the member states (Avrupa Birliği Genel Sekreterliği, 2011).

5.2 History of Turkey-EU Relations

Shortly after the establishment of the EEC in 1958, the Ankara Agreement, which was signed in 1963 as a result of Turkey's negotiations with the Community to which it applied for partnership, constitutes the official basis of Turkey-EU relations (Aytuğ et al., 2017). The purpose of the Ankara Agreement is stated as follows:

“To promote the uninterrupted and balanced strengthening of commercial and economic relations between the Parties, taking fully into account the accelerated development of the Turkish economy and the need to increase the employment level and living conditions of the Turkish people (TBMM, 1963).”

With the Additional Protocol, which was signed in 1970 and entered into force in 1973, and the preparation process foreseen in the Ankara Agreement, the transition period conditions were determined. As of 1971, within the framework of the Additional Protocol, the EC was expected to reset the customs duty and quota practices for industrial goods (except some petroleum and textile products) imported from Turkey, while it was envisaged that Turkey would similarly cancel out the customs duty on industrial products exported from the EU (T.C. Dışişleri Bakanlığı Avrupa Birliği Başkanlığı, 2020).

After the stagnating developments due to the 1980 coup, the process of opening up continued with Turkey's application for membership to the EC in 1987. On the EU side, the Community did not accept the admission of a new member before its internal integration process was completed and stated that Turkey should also make progress in social, political, and economic fields (T.C. Dışişleri Bakanlığı Avrupa Birliği Başkanlığı, 2020).

After the Customs Union, which is one of the most concrete stages towards the destination of integration in the Turkey-EU partnership, another significant development took place at the Helsinki Summit and Turkey's EU candidacy was officially announced.

Within the framework of all these developments, Turkey has reaped the fruit of the arrangements it had made in areas such as fundamental rights and freedoms, democracy, human rights, and freedom of expression, and since the political measures have been adequately met, on October 3, 2005, at the Brussels Summit in 2004, it was decided to start the negotiations.

5.2.1 Turkey's Consumer Policies Run by EU Harmonization Process

Turkey, as a candidate state for the EU, has pursued the Europeanization process especially by the effects of accession talks since 1999 in Helsinki (Bürgin and Aşıkoğlu, 2015). However, this process has the EU dominance by the use of conditionality strategy. EU conditionality for Turkey started with the Helsinki Summit when it was defined as a candidate country, and the membership was conditional upon fulfillment of the Copenhagen Criteria (Özer, 2015). Like the other candidate states, Turkey is pushed to prepare its administrative and social mechanisms at an adequate level with the EU standards.

The coalition government (CNN Türk, 2018) of that period first accepted the constitutional amendment package for democratic reforms based on this conditionality and took very radical reform steps, such as abolishing the death penalty and giving minorities the right to education in their mother tongue (Özer, 2015). Improvements in the democratic direction continued when the Justice and Development Party (AKP) was in power in a one-party government, and thus, on October 3, 2005, following the fulfillment of the Copenhagen political criteria, the accession negotiations between Turkey and the EU started (Özer, 2015).

By defining Turkey as a candidate country in 1999, thus, the EU not only took a convincing stance, but also kept the conditionality in effect by linking the start of the negotiations to the Copenhagen criteria, and increased its power of persuasion on the Turkish public so that membership would be achieved as a 'reward' if the conditions were met (Özer, 2015).

Bürgin and Oppermann stated that the confidence in Turkey's EU membership has weakened despite the breakthrough negotiations that started in 2005 due to effects of difficulties experienced in the Eastern enlargement, the rise of Islamophobia in

Europe, and as a result of all these decreases in support for EU membership in the Turkish public opinion. Bürgin adds,

“Turkey’s new strategic options as an economically prospering rising regional power apparently weakened the priority of EU membership (Bürgin and Aşıkoğlu, 2015, p. 5).”

Since the start of the accession negotiations, the developments in democratization in Turkey have come to a standstill. Particularly, initiatives such as the democratic Kurdish initiative, which made a great impression in this period, activated nationalism. Although it is not directly related to the harmonization criteria from the EU, the Cyprus issue was brought to the agenda, and this situation, on the other hand, has deteriorated the EU’s credibility for carrying out a consistent enlargement policy, and the process began to stall (Özer, 2015).

Within the EU, the opposition to Turkey's membership brought the issue of offering “privileged partnership” to Turkey, rather than full membership after a while, and even if the reforms continued, doubts about full membership formed (Özer, 2015).

With the cessation of the negotiation process, Turkey's EU policies have focused more on Europeanization, which includes a social learning model for the Turkish bureaucracy, NGOs, and policy networks (Bürgin, 2019).

By all these consequences and the implementation method of EU standards in Turkey, policy changes are created due to domestic needs rather than EU conditionality, given existence of issues that overlap the demands of the internal actors in Turkey and EU presents a role model for the Turkish policymaking process (Bürgin and Oppermann, 2019). The global developments also serve as a driving force for Turkish policy changes and have affected Turkish policy actors. In the light of global developments, Turkey has facilitated policy transfers in communication with all other international organizations and mechanisms.

Nevertheless, although Turkey does not set conditionality aside and follows conditional policies towards full membership to the EU, it benefits from EU support within this scope by being included in the policy learning process. This cost and the benefit-based process is progressing at a level that can harmonize the policy-making

process of the candidate country Turkey with the EU, with various learning programs financed by the EU (Bürgin and Oppermann, 2019).

While the EU carries out the training programs it funds and the process of joining the network of non-governmental organizations in Europe, the aim is to stay in touch with state institutions and non-governmental organizations in Turkey and try to improve the cooperation process (Bürgin, 2019). One of these studies is the IPA project “Strengthening Consumer Protection”, a program for consumer protection. prepared for the 2014-2020 period of the European Commission Instrument for Pre-Accession Assistance (IPA II).

Reinhard stated that conditionality is a promising strategy that includes attractive incentives, credibility, low adoption costs, lack of alternatives, and asymmetry in negotiations in favor of the EU. Finally, the interest of important stakeholders and veto players should not be harmed (Reinhard, 2010). In this way, the EU presents a cost-benefit-oriented perspective that the target/candidate country is likely to harmonize the regulations directed by the EU.

It is seen that the new Turkish Consumer Protection Law No. 6502, which entered into force on 28/12/2013, has taken advantage of the EU legislation. So much so that Atamer and Baş gave examples of similar points with EU directives in this regard: defective goods, the proof of the defect, the consumer's optional rights in case of a defect, the optional warranty, etc. (Atamer and Baş, 2014).

In addition, when the national program on the website of the Directorate for EU Affairs of the Ministry of Foreign Affairs of Turkey is examined, for example, the European Parliament and Council Directive dated May 25, 1990 and numbered 1999/44/EC on sales of consumer goods and some aspects of collective guarantees is spotted. In return, it has been expressly declared that the Regulation on the Implementation Procedures of the Warranty Certificates and the Regulation on the After-Sales Services of Industrial Goods was created within the framework of harmonization with the legislation of the European Union within the scope of Consumer Protection ((NPAA), 2019). For instance, explanation for the time limits in the Article 5 is as follows:

“Unless proved otherwise, any lack of conformity which becomes apparent within six months of delivery of the goods shall be presumed to have existed at the time of

delivery unless this presumption is incompatible with the nature of the goods or the nature of the lack of conformity (EUR-Lex, 2011).’’

At the same time, this issue is regulated under the title of the burden of proof in the Article 10 of the Law on Consumer Protection No. 6502:

‘‘Defects that appear within six months from the delivery date are deemed to exist on the delivery date. In this case, the proof that the goods are not defective belongs to the seller. This presumption does not apply if it is incompatible with the nature of the goods or the defect (6502 sayılı Tüketicinin Korunması Hakkında Kanun, 2013).’’

It is obvious that Turkey has inherited a significant accumulation and legacy from its past on consumer protection, especially with the Akhism and Guild Organizations (Tunç, 2015), but it would not be wrong to say that it, unfortunately, has shortcomings in updating all this knowledge and adapting it to developing technologies. While the establishment functions were fulfilled in the first years of the Republican era, consumption, which remained in the background, developed with the increase in production. Standardization studies started in 1930, and the Standardization Department, which can be considered as a pioneer in the establishment of TSE, was established in 1936 (Tunç, 2015).

Undoubtedly, the most concrete step taken for the protection of the consumer is the constitutional guarantee of the protection of the consumer with the Article 172 of the Constitution. Discussing the other concrete steps taken, it is clearly observed that there have been institutional developments since that date.

While the sensitivity created in the world public opinion with the Universal Declaration of Consumer Rights adopted in 1985 at the UN was the trigger for the studies in this field in the member countries, the 1982 Constitution and the EU membership process also became a source of motivation for Turkey for the efforts in this context.

In addition to the variety of products offered to the consumer in various brands, prices, and quality, the development of sales techniques has brought along problems for who consumes more and unconsciously (DPT, 2001). For this reason, the way to minimize

consumer problems will be possible by materializing the universally defined consumer's rights to education, information, and organization.

In fact, in the Consumer Protection Specialization Commission Report dated 2001, the primary objective is to establish a fair balance between consumers and sellers, to compensate the damages in cases where the consumer is harmed, to provide the consumer with the opportunity to seek rights, while the secondary objective is to bring a legal system in line with the EU law (DPT, 2001).

In terms of harmonization with the EU acquis, 31 specified negotiation chapters have been determined; 35 for Turkey, and protection of the consumer and his health has been discussed under title 28 (Bozkurt et al., 2011). It has been confirmed in writing by the Commission that 7 closing criteria of 5 chapters in total, including chapter 28) Consumer and Health Protection, which were negotiated on 19/12/2007, are fulfilled. Other chapters are 6) Company Law, 20) Business and Industrial Policy, 21) Trans-European Networks, and 32) Financial Control (T.C. Dışişleri Bakanlığı Avrupa Birliği Başkanlığı, 2021). While 13 chapters were opened for negotiations in the 2006-2010 periods, only 1 chapter could be opened in the 2010-2013 periods due to the political atmosphere.

First of all, it is clear that the political atmosphere that emerged after the coup attempt in 2016 also affected Turkey-EU relations. Since Turkey's candidacy process started in 1999, EU policies and legislation have been initiated to be adopted by Turkey. The political atmosphere after 2016 hindered the progress of political reforms, and the EU Parliament decided to suspend the negotiations because the Copenhagen criteria were not met, and no new chapter has been opened since 2016. (Müftüler Baç, 2018).

Although there are discussions in the Annual Report published in 2018 that Turkey i could have been persuaded by using financial resources within the EU, it was found risky, because unanimity is essential for the enlargement strategy (Müftüler Baç, 2018)

Müftüler Baç states that, although Turkey is not a member with the external differentiated integration model defined for itself, it will continue to cooperate with the EU in various fields and will always 'keep its cooperation on EU membership on track (Müftüler Baç, 2018).

5.2.2 Customs Union Effects on Consumer Policies in Turkey

Customs Union is a form of economic integration in which measures in commercial transactions between the parties are abolished, there are no customs and quotas, and a common customs tariff is applied against third countries (Ticaret Bakanlığı, 2021). In a period when communication and transportation techniques are developed to such a degree, the integration of countries with each other is inevitable. Customs Union, as an integrated structure that includes the free movement of industrial goods and processed agricultural products between the EU and Turkey, has created the obligation for Turkey to harmonize its legislation with EU policies (Hobikoğlu, 2007).

Hobikoğlu attributes the success of integration to conditions such as the development levels and production structures of the countries being close to each other, the completion of the economies, the availability of infrastructure opportunities such as energy, transportation, and industry, the existence of common reserves, and the elimination of differences that may arise within the union (Hobikoğlu, 2007).

With the Customs Union, the removal of restrictions on customs practices creates a mechanism that will increase competition for member countries. So much so that efficient producers who are able to compete will create a permanent environment of improvement in consumer policies, because the productive and effective work of the producers bring about the development in the level of economic efficiency and welfare. It is foreseen that the complaints will be reduced to a great extent, by ensuring the satisfaction of the consumer with quality products and competitive prices.

In the EU integration process for a prospering economy, the Customs Union provides an infrastructure for integration with efforts that can increase the power in international competition, such as the protection of the consumer rights, and intellectual and industrial property rights, and the establishment of a Patent Institute (Hobikoğlu, 2007).

For Turkey, the Customs Union is a union structure that will last until an unspecified date in terms of validity, but ending with the transition to EU membership that includes the following issues (Bozkurt et al., 2011):

- Buying and selling non-agricultural products produced in Turkey or the EU or coming from third countries between Turkey and the member states without being subject to any customs duty,
- Mutual zeroing of customs duties,
- Mutual abolition of quota applications,
- Harmonizing the import and export policy of Turkey to third countries with the Community legislation,
- Harmonizing Turkey's legislation on competition rules with the Community legislation, and
- Making use of EU opportunities by cooperating on issues like industrial cooperation, transportation, communication, justice, and culture (Official Journal of the European Communities, 1996).

Bozkurt et al. state that goods, persons, capital, and services must circulate freely in the geographical area constituting the union, to form an economically and politically unified structure (Bozkurt et al., 2011). For the free movement of goods, it is necessary to agree on the customs union, because economic developments can be achieved by bringing customs legislation closer to each other.

In a sense, the Customs Union has given direction to consumer protection policies in Turkey. This agreement paved the way for the EU to export products to Turkey. So much so that, in this way, better-quality and affordable goods from the EU entered the Turkish market, and Turkey's domestic producers had to increase quality and price regulations to compete with these goods and prices (Sertoglu and Ozturk, 2003). Even this factor has formed one of the sub-stages for the development of Turkey's consumer protection policies.

With the establishment of the Competition Board, it was aimed to prevent unfair competition. Turkey eliminated restrictions on customs and adopted the EU Customs Union Tariffs for import with third countries (Aytuğ et al., 2016). Customs Union leads Turkey to remove technical barriers to trade and to regulate competition and trade policies.

It has been observed that studies on testing and accreditation services should be carried out to prevent time loss at customs based on cooperation and the Customs Union leads Turkey to modernize its customs administration, and harmonize its technical legislation with the EU (Aytuğ et al., 2016).

Turkey's integration with the EU and global markets has had economic benefits, and Turkish manufacturers had to increase quality to compete with imported products. Thus, Turkish companies were able to offer their products duty-free to the European Economic Area (Aytuğ et al., 2016).

Because of the developments in the internet and transportation industry, the economic consideration has evolved as well. Manufacturing from a distance became easier and cheaper than the state's front with the free trade agreements (Dawar et al., 2018). Both Turkey and the EU agreed on updating trade and investment that mainly focused on economic integration including free trade agreements, liberalization in agriculture, and sustainable development (Dawar et al., 2018). According to Dawar et al., it is complementary for the Customs Union to include agriculture, food safety, and animal and plant health protection systems (SPS), dispute settlements, sustainable developments, public procurements policies for the economic integration; however, the opinion that Turkey will have difficulties especially in agricultural policies is dominant (Dawar et al., 2018). In matters such as public procurement, the need for transparency is emphasized.

EU General Affairs Council's decision about Turkey's membership for not opening new chapters is a critical decision that further affects Turkey's EU relations, since the EU has a bargaining mechanism such as the Customs Union. Turkey's encounter with refugee problems and counterterrorism concerns cause member states like France and Germany not to support Turkey for a membership position (Adar et al., 2020).

According to the Association Council decision numbered 1/95, provisions such as free movement of goods, harmonization with technical legislation, harmonization with the common commercial policy cover industrial and processed agricultural products (Ticaret Bakanlığı, 2021).

CHAPTER 6: AN ANALYSIS OF GLOBAL FACTORS

6.1 Historical Practices for Consumer Protection

In history, even in the oldest periods, there is information that the consumer was protected by different methods. Regulations on preserving the purity of food and ensuring honesty in measurements in the Laws of Hammurabi, Sumerians, and Roman and Greek laws are also associated with consumer protection (Yolcu Altiner, 2018) .

For many countries, laws have been protecting consumers in different forms; such as preventing fraud via controlling diluted milk, beer, impurities of cheap metals in gold, etc. (Maksym, 2016). In the Middle Ages, with the effect of new developments, especially in England and France, the protection of the consumer came to the fore with the arrangements made to ensure unity and standards in measurements and settings (Akipek, 1999). With the Magna Carta Libertatum dated 1215, making the measurement units for wine, beer, fabric, and similar products uniform in London is considered as the first concrete step in terms of consumer protection (Altiner Yolcu, 2018).

The industrial revolution in the nineteenth century had become a cornerstone for mass production. Effects of mass production have led a new way for 'needs,' so that the idea of consumption has become a 'need' itself (Altiner Yolcu, 2018). The performance in the production phases had revealed the complexity of the commodities by lack of labor.

With industrialization, while life was being made easier for people, on the one hand, problems in shopping life started to increase. The consumer has become more and more unsatisfied and more unprotected in their consumption expenditures (Aslan, 2016). To solve these problems, the global development was to characterize consumer rights as a part of human rights (DPT, 2001). Nevertheless, in the contemporary sense, regulations started to protect consumers since the industrial revolution. People's attitudes in shopping have changed. Unlike before, mass production began to create a new identity of 'seller' who is not a producer of products he sells. This separation made the market impersonal, and products started to come from afar, with creating the possibility of fraud. (Maksym, 2016) Therefore, consumer, with a lack of knowledge, has become vulnerable against seller/producer.

Food and Drugs Act and the Meat Inspection Act came into force in 1906 in America as a result of the researches revealing that many substances mixed with foodstuffs were toxic and dangerous (Göle, 1983). However, the focus of these laws was on the protection of the public rather than the protection of the consumer (Gole, 1983).

Two functioning organizations in America, the Consumers' Union, and the American Consumer Federation operate on non-profitable grounds in areas such as consumer's education and quality control, which are positive advances in voicing consumer problems. Consumer Union was established in 1936 and the organizations provide their financial resources through membership fees and donations and the sales of a magazine called "Consumer Reports" (Hayta, 2007).

The foundations of consumer law were laid with the speech of American president John F. Kennedy in 1962. Kennedy emphasized the importance of consumers with these sentences:

"Consumers, by definition, include us all. They are the largest economic group in the economy, affecting and affected by almost every public and private economic decision. Two-thirds of all spending in the economy is by consumers. But they are the only important group in the economy who is not effectively organized; whose views are often not heard. (Kennedy, 1962)"

After that speech, the World Consumer Rights Day has been celebrated on March 15^t each year as an anniversary of the speech where President Kennedy declared four basic consumer rights: the right to safety, the right to be informed, the right to choose, the right to be heard (Consumer Association of South Australia Inc., 2021). These rights are known as the Consumer Bill of Rights and formed the basis of consumer protection policy.

After Kennedy's message, the consumer protection movement gained momentum and more comprehensive policies began to develop, especially with the personal efforts of a lawyer named Ralph Nader. Nader, with his book titled *Unsafe at Any Speed*, has contributed to the legalization efforts for the US National Traffic and Motor Vehicle Safety Act in this direction, by examining the production failures in automobiles and the accidents caused by them (Göle, 1983). It was a symbolic act for the United States'

consumer protection policy. This process continued to be developed with the Child Safety Act and Cigarette Labeling and Advertising Act of 1966, the Consumer Credit Protection Act of 1968, and the Consumer Goods Security Act of 1972 (Aslan, 2016).

6.2. Effects of Global Factors on Turkish Consumer Policies

Consumer protection has become a wide-range issue that states have to take necessary measures to provide a safe environment for all universal consumers. By the effects of technological developments and transportation facilities, people's mobility has developed. Therefore, collective measures have to be taken at the international level for consumers' national and international purchases. In this context, the following consumer organizations have been established by governments around the world to provide a safe market for consumers (ICPEN, 2021):

- Organization for Economic Cooperation and Development (OECD)
- United Nations Conference on Trade and Development (UNCTAD)
- Consumer International (CI)
- European Consumer Centre Network (ECC-Net)
- EU Consumer Protection Cooperation Network (CPC)
- Ibero-American Forum of Consumer Protection Agencies (FIAGC)
- ASEAN Coordinating Committee on Consumer Protection (ACCCP)
- International Financial Consumer Protection Organization (FinCoNet)
- Global Anti-Fraud Enforcement Network (GAEN)

United Nations Conference on Trade and Development (UNCTAD) defines the United Nations guidelines for consumer protection as

“a valuable set of principles for setting out the main characteristics of effective consumer protection legislation, enforcement institutions, and redress systems and for assisting the interested Member States in formulating and enforcing domestic and regional laws, rules and regulations that are suitable to their own economic and social and environmental circumstances, as well as promoting international enforcement cooperation among member states and encouraging the sharing of experiences in consumer protection (United Nations Conference on Trade and Development, 2016).”

The International Consumer Protection and Enforcement Network (ICPEN) is one of the worldwide consumer protection networks, which aims to lead to solution centers for both national and cross-border levels of disputes by logging consumer complaints on its website. Such a well-functioning system based on consumers' national levels, the network provides a facility by country selection and then leads them to the national application board (ICPEN, 2021). On cross-border level disputes, the system suggests contacting econsumer.gov (econsumer.gov, 2021), the initiative of the ICPEN. EEC-Net ((EEC-Net), 2021) also serves on the EU-level disputes.

Like other organizations, the Organization for Economic Cooperation and Development (OECD) also brings together countries and creates a platform for them to make action plans to support consumer protection and presents reports on developments ((OECD), 2021). The Global Recalls serves as a portal under the OECD platform that presents product recalls about the products that have failed to meet standards (GlobalRecalls, 2021). For instance, in 2019, a Turkish robe sold to Canada was defined as a hazard on the list and consumers were urged not to use it (The Global Recalls, 2019). By all these measures, these platforms help to ensure product safety and set the agenda for defective goods, and create consciousness on consumer protection.

Established in 1960, the International Organization of Consumer Unions aimed at protecting consumers with international cooperation, led by Australia, the United Kingdom, the USA, Belgium, and the Netherlands, and was renamed the Consumer International (CI) in 1965 (Wood, 2017). The organization, especially in cooperation with the UNCTAD, has been efficient on the UN Guidelines for Consumer Protection's (UNGCP) adoption at the UN General Assembly in 1985.

CI has a different feature than the other institutions in collecting the consumer groups under the umbrella of the system and providing the voice for the consumer practiced harmful experience because of unfair actions of companies (Consumers International, 2021). Consumer Organizations Federation (TÖK) and the Consumer Rights Association (THD) from Turkey are also available on the CI website, which provides information on member consumer organizations that take action as representatives on a country basis.

Organizations such as the UN, OECD, and the G20 carry out studies that promote consumer protection regarding e-commerce. The handling of the G20 Consumer Protection Summit in 2017 with the motto “building a digital world that consumers can trust” is one of the concrete steps of protecting measures (UNCTAD, 2018). While people's access to the internet has been improving by years, e-commerce will inevitably increase in the world where there are over five billion internet users as of today (Internet Live Stats, 2022). OECD-run definition of e-commerce transaction is as follows:

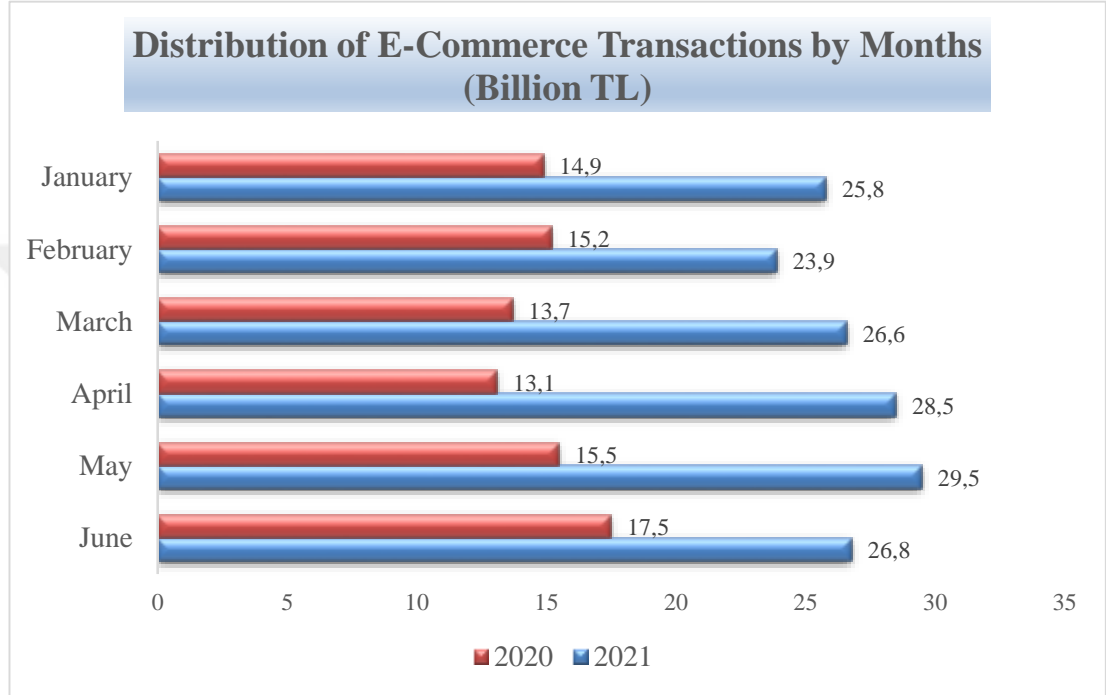
“The sale or purchase of goods or services, conducted over computer networks by methods specifically designed for the purpose of receiving or placing of orders. The goods or services are ordered by those methods, but the payment and the ultimate delivery of the goods or services do not have to be conducted online. An e-commerce transaction can be between enterprises, households, individuals, governments, and other public or private organizations. To be included are orders made over the web, extranet or electronic data interchange. The type is defined by the method of placing the order. To be excluded are orders made by telephone calls, facsimile or manually typed e-mail ((OECD), 2021).”

E-commerce, which has been on the rise with companies such as Alibaba and Amazon, also contributes to the development of cross-border trade by creating robust solution mechanisms for the consumers' complaints such as product non-delivery and non-return, by providing consumers with a secure infrastructure for their electronic shopping (UNCTAD, 2018). Similarly, provider infrastructures in Turkey also contributed to the development of e-commerce; In particular, it reveals the conclusion that consumers make their purchases safely with the effect of factors such as internet access and ease of payment, especially when shopping through e-marketplace applications such as Trendyol, Hepsiburada, Çiçeksepeti, Gittigidiyor, N11, and Morhipo (E-Pazaryeri Platformları Sektör İncelemesi Ön Raporu, 2021).

It should be said that this process is especially effective in the rise of electronic commerce since the coronavirus pandemic. Its impacts should be examined under the current global developments. The table below, prepared in line with the data published by the Ministry of Trade, Department of Electronic Commerce, shows the increase in e-commerce expenditures for the same periods in 2020 and 2021 (Ticaret Bakanlığı

Elektronik Ticaret Dairesi Başkanlığı, 2021). The trend towards e-commerce during the closure periods, especially in the shopping of household needs for food, clothing, technology, home, and living spaces, paved the way for the spread of e-commerce in this sense.

Table 2. Distribution of E-Commerce Transactions by Months (billion TL), (Source: T.C. Ticaret Bakanlığı, 2021)



At the same time, the existence of multinational companies has revealed the importance of branding for Turkey. Particularly, the more active action of multinational companies in the areas of corporate social responsibility (CSR) brings with it situations that provide benefits to the consumer beyond the law (UNCTAD, 2018). Similarly, Zara, one of the companies of Inditex Group, operating in Turkey, grants the consumer the right to return and exchange even if there is no defect in the product within one month, although it is not included in 6502 TKHK (ZARA, 2021).

As the interactions between people increase with the development of internet opportunities and the spread of social media applications, companies also benefit from these interactions. Since consumers share their complaints with brands through the social media channel, which facilitates accessibility in terms of marketing strategies and has become a frequent situation especially in recent years, brands have begun to equip themselves to provide solutions even through social media to show their power

of customer relations and competition. According to Alireza Golmohammadi, Taha Havakhor, Dinesh Gauri, and Joseph Comprix, the most successful companies are the ones that can provide solutions by directing the complaints received via social media to their homepages so that the negativities are not noticeable (Golmohammadi et al., 2021).

A consumer who submits complaints via social media can get the response to a request immediately. In a period when consumers convey their complaints via social media, especially on Twitter, other than classical methods, companies' solutions are offered at least as fast as the internet speed (TIME, 2017). The consequential point here is that it paves the way for companies to provide productive solutions through “naming and shaming” (Kerwer, 2005). Companies, on the other hand, have started to have the equipment to provide solutions to consumer problems even with a single event by putting corporate solution mechanisms into action in order not to be placed under a negative label.

In the light of global developments, Turkey's involvement in structures that can activate international measures and take measures to protect consumers through international cooperation is clear proof of Turkey's developments under the influence of global dynamics. In addition to the fact that Turkey has multinational companies due to the increase in international trade volume, the effect of social media interactions and the establishment of branding awareness are observable in terms of contributing to the operability of the solution mechanisms offered to the consumer.

In addition, all these developments in communication and transportation facilities make extensive contributions to humanity and bring the mobility of consumers as well as the mobility of goods and services. In this respect, the mobility of the consumer brings with it the need for a collective problem-solving mechanism at the international level. It is the product of this collective work to present legal regulations that can serve as a model through the efforts of the United Nations Commission on International Trade Law (UNCITRAL) and UNCTAD to protect the citizens of member states with laws compatible with each other through the UN and to adapt them to their legislation by the parties' states (UNCTAD, 2018).

CHAPTER 7: FINDINGS AND DISCUSSION

7.1 Findings: Evidence from the Interviews

As a result of the interviews and findings, to serve as an answer to the primary analysis question of the study; although the opinions seem to point to consumer policies originating from the EU, it is an obvious fact that the structures acquired through Turkey's unique dynamics are also dominant in the field of application. The ideas and information obtained from one-on-one interviews on different dates made significant contributions to the quality of the study.

7.1.1 Assessments on Domestic Factors

The common point in their perspectives on the development processes of consumer policies is that, as the Chairman of the Consumer Problems Federation (TÖF), Fuat Engin, the Chairman of the Consumer Problems Association (TÜSODER), Deniz Öner, and TÜSODER Member of the Board of Directors and Legal Committee, Yağız Gündoğdu stated that the persistence of a culture of claiming rights and an organized structure determines the direction. In particular, Engin mentions the close relationship between development and democracy and states that in societies where individuals who think, question, participate, supervise, and seek their rights, control mechanisms fulfill their function, and thus, solid steps can be taken at the point of becoming a social state.

Öner and Gündoğdu, on the other hand, attribute the incomplete implementation of the organized consumer movements that started in the USA to the lack of a culture of claiming rights in Turkey, emphasizing the point that the factors protecting the consumer in the past, such as the weight of bread and the quality of meat, could only be fulfilled by means of using organizations such as Akhi and guilds.

In addition, practices obtained through organizations such as the Akhi-order and guilds, which have a very strong history with Turkish values and are experienced, are the structures that form the basis for Turkey in its sociological dimension. Today, there are examples where organizations such as Chambers of Commerce, Industry and Tradesmen, and tradesmen/vendor/producer unions, which can be described as similar to these practices, act as resolution mechanisms for consumer complaints. However, Yakup Güzel, Head of Department, Ministry of Customs and Trade, Directorate

General for Consumer Protection and Market Surveillance and Ali İhsan Arıcan, Member of the Board of Directors and Legal Committee of TÜKODER also state that at this point, it is tried to resolve partial complaints by making the integrity of the union the basis and that the sole aim is not consumer satisfaction.

Professor Murat Aydođdu, a lecturer at Dokuz Eylül University Faculty of Law, states that lawyers are obliged, in this sense, by acting with dignity, tolerance, and logical indulgence, not to abuse the goodwill of the Turkish nation. Engin also draws attention to the fact that the institutional structure is also effective in these developments. Particularly the General Directorate of Consumer Protection and Market Surveillance of the Ministry of Trade are in interaction with consumer organizations, and even a "Consumer Organizations Department" has been established, and functioning works are carried out for constructive efforts in this direction.

The organization of representatives, state that they provide services on notification of defects, warnings, statement of withdrawal, application for arbitration committee or petition of a lawsuit. Applications are made to consumer application centers, and consultancy services are requested, guiding the consumers. On the other hand, they highlight the findings obtained from the members of the arbitration committees, and the applications made to the association are conveyed in consultation with the Ministry of Trade and the representatives of the relevant sector for a solution.

Öner and Gündođdu, on the other hand, stated that they carried out many informative activities in the local and national media through members who were competent in their fields, and likewise, they actively participated in the resolution mechanisms by membership in the arbitration committee. Although the mechanism of the Arbitration Committees was established with the Law No. 4077 of 1995, its decisions were in a situation that narrows its field of activity, as it was not binding, as a result of Law No. 6502. Arbitration Committees, which act "like a court," are actively functioning with binding resolution authorities that ease the workload of Consumer Courts, with a monetary upper limit of 10,280 TL for districts and 15,430 TL for provinces (T.C. Resmi Gazete, 2021) as of 2022. Consumer organizations have also fixed their place in dispute resolution by having a member in arbitration committees.

While Engin was in contact with the Ministry of Trade and some public institutions during the policymaking process, they could not receive a response to their requests to

take part in parliamentary commissions and therefore, could not contribute directly. Öner emphasized that since consumer activities are carried out through the directorates under the Ministry of Trade, they are in constant contact with the Ministry.

While Gündoğdu defines his motivation for pursuing efforts in the consumer field with being a lawyer and the sanctity of rights advocacy, Öner underlines that she met TÜSODER after the victimization she experienced as a consumer and that she served as the chairman to set an example in the organization; she joined so that other people would not experience a similar situation. On the other hand, Engin emphasizes that the source of motivation is to develop organized work as a part of the solution.

7.1.2 Assessments on EU-related Factors

Opinions draw attention to different points in the emergence of concrete practices, especially in the 1990s, in the developments in Turkey's consumer policies. While Şebnem Akipek Öcal, Professor of Civil Law at TED University, and Engin emphasize that the Customs Union and the partnership market application, which was put into effect while the EU membership application was still ongoing, are the driving forces in these developments, Öner adds that the spread of the global media and the developing technologies, and the presentation of the published protection policies to the public raises the awareness of the public and makes them demand such protection.

Engin also states that consumer organizations that started in the 1990s are the driving force at the point of the Customs Union and Common Market with the EU, while conducting exemplary studies implemented since the consumer arbitration committees, which entered to our lives with the TKHK No. 4077 that came into force in 1995, are an unprecedented practice in the world.

The prevailing view during the meetings is that concrete steps were taken in the harmonization of legislation, especially with the start of negotiations, to fulfill the Copenhagen criteria within the EU harmonization process, and progress was made in the 28th chapter; the Protection of Consumer and Health, and the requirements of the chapter were fulfilled.

At this point, Akipek Öcal separates the development of consumer policies from the EU harmonization process and concentrates on the Customs Union. Akipek Öcal underlined that, together with the implementation of the common market and the

Customs Union agreement, the legislative arrangement, which is the necessary infrastructure work for Turkey's common market, has been implemented, and that concrete steps have been taken to protect the consumer, as well as the free movement of goods, and customs work to create a functioning mechanism.

According to Aydođdu, facing the compelling effect of the Customs Union in the EU accession process underlines that TKHK No. 4077 of 1995 was enacted and that TKHK No. 6502 could be enacted systematically with the regulations developed during the harmonization process with the EU directives. It is obvious that with the establishment of the Competition Board, it was attempted to prevent unfair competition, and that the domestic manufacturer should have a certain line in the quality and price balance to compete with imported goods with the zeroed customs duties and abolished quota applications. As Akipek Öcal addressed, harmonization policies of Turkey's commercial legislation, customs, and consumer areas were followed with the Customs Union as the first step to ensure the union's integration through economic returns.

Although its basic background depends on this point, it should be discussed that even if it is the Customs Union in the forefront, the objective of integration has been the Community partnership for Turkey since 1959. Although this included only the economic integration of countries during the establishment period, today an idea of adopting holistic EU legislation in the macro framework seems more likely, since only economic integration does not create a satisfying position to become a member of the Community.

In this context, Güzel underlines the successful work of the Ministry of Trade TKPGM, stating that the arbitration committees are a solution mechanism unique to Turkey, which does not have another example. Emphasizing clearly that the Law No. 6502 is an adaptation of the EU acquis and the existence of EU influence in this sense, Güzel states that by the establishment of the Competition Board, the consumer policies that have been implemented in the field with price controls and the branding culture gains of companies have had significant effects on consumer protection.

Although it is stated that Turkey deals with these legal regulations on an EU basis, Güzel discusses that the internal dynamics of the country can be at least as determinant as this effect in practices. The right of withdrawal for products with book training kits

in out-of-office sales contracts is included in Turkey's practice, because there were many grievances in this regard in their practices, although the right of withdrawal on this subject is not included in the EU legislation. Examples like these also reveal data in response to the research question. Policies based on EU legislation are likely to cause problems when they do not match with the internal dynamics of the country. As a matter of fact, updates can be brought to the point of suitability for such problems, by trial-and-error method.

Regarding whether there is a resource transfer from EU-supported projects to consumer organizations, Güzel stated that the items created by the determined budget could not be exceeded, and therefore there was no resource transfer. Claiming organizations can only be invited to seminars and conferences as project stakeholders, they can be promoted in this way, and they can benefit from the transfer of information from the projects. It also clearly reveals that the scope of activity of consumer organizations has narrowed due to scarcity in resources.

With the statement of Güzel, who stated that the IPA Project is over but negotiations on new projects are continuing, it is understood that the common working ground will continue by keeping the consumer policies up to date.

On the effect of the Customs Union, which is another controversial issue, Akipek Öcal states that if the common market application had not been implemented, a holistic law or subject-based non-inclusive regulations could have been created without details depending on economic developments.

7.1.3 Assessments on Global Factors

Aydoğdu states that the differentiation of consumption needs and the increase in expenditures on behalf of brands and fashion in the 1990s imposed people's dependency on banks in almost every country, including Turkey, and that special attention should be given to the protection of consumers.

On the other hand, it would be unfair to say that only external factors are efficient in the social policymaking processes such as Turkey's consumer policies. Turkey, a young and strong economy with a population of around 84 million (TÜİK, 2021), is a country with functioning institutional structures that closely follow global developments, as well as with a demographic power that sustains this economy. For

this reason, as Öner and Gündoğdu pointed out that, with the effect of globalization the media and the internet are so powerful, and communication mechanisms work so actively that it is necessary not only for Turkey, but also for developed countries to make updates for improvement to compete in the process.

So much so that it would not be out of place to state that social media is very effective. Consumers interacting with each other even through websites such as şikayetvar.com, Twitter, Instagram, and Facebook can gain “sanctioning” power over companies even with the hashtags (#) they use. As Güzel and Arıcan emphasized, it is a fact that the existence of such solutions, even if they originate from reputation, is at a level that cannot be ignored. In terms of their effectiveness in practice, they come second after legal regulations.

Besides, Öner points out that even if there were no harmonization process with the EU legislation, certain mechanisms could have been formed in line with certain demands of the public, and there may be policies in favor of the consumer by applying common norms for product quality and consumer satisfaction to importing and exporting companies in particular. From this perspective, it would not be wrong to say that the EU factor cannot be a uniform application area, but still plays a dominant role in consumer policies through institutionalization and legal infrastructure.

The common point in the participants’ views on the efforts made by consumer organizations is that they had the opportunity to take part in various EU projects such as seminars and conferences. Öner explains that they receive support such as rent, transportation, and subsistence, brochures for training, and expert support for strategic planning, especially from organizations such as the European Union Sivil Düşün (Think Civil) Program (Avrupa Birliği Sivil Düşün, 2021), and the Association of Civil Society Development Center (STGM) with small sub-projects. Although not directly within the scope of EU projects, it is understood that consumer organizations also gain experience and knowledge from this process indirectly. Expressing that membership to the Consumer International as TÖK is a significant development in terms of increasing organizational capacity; Engin also explains that project initiatives can show major evolvments through this channel.

7.2 Discussion

While examining the development of Turkey's consumer protection policies, conditionality is examined under the theory of Europeanization. At this point, in the examination made in the light of all this information and data, it is clearly understood that the EU offered the integration conditions as a condition within the ongoing period after the partnership application, and in return, concrete steps were taken. Customs Union, which Akipek Öcal and Aydoğdu emphasize specifically, is the most important of these concrete steps. Customs Union, which has officially and de facto implemented economic integration, has brought *acquis* condition to Turkey with issues such as legislative harmonization, common customs policies, and policy harmonization, and aimed to attain concrete “awards” by harmonizing these processes in Turkey. As a matter of fact, in the dated DPT Report, it is clearly stated that the main purpose is to bring the legislation on the protection of health and safety of consumption and economic interests closer to the EU legislation (DPT, 2001).

On the other hand, as discussed, the Europeanization mechanism is a process that has been operating in Turkey since the 1990s, with top-down support from the governments' decisions from time to time. Bottom-up support from bureaucracy, academics, and civil society-based movements and perspectives in times of hardening relations is another result.

At this point, it can be concluded that the theory of Europeanization is effective in creating a public opinion with the effect of soft power rather than bringing concrete steps, however not as effective as conditionality in terms of consumer policies. Because, while Europeanization is a process that continues to be supported by bureaucracy, academics, and civil society, the existing concrete steps in Turkey's consumer policies, such as consumer laws, regulations, and the establishment of consumer courts, are products of conditionality. With the effect of twinning projects, a kind of policy convergence based on mutuality, which is the result of a different partnership process apart from the membership process, has been one of the most utilized mechanisms in legislation making, especially in consumer legislation. As Atamer stated, the concepts of burden of proof in the Law No. 6502 and the same definition in the Directive 1999/44/EC of the European Parliament and of the Council

of May 25, 1999 on certain aspects of the sale of consumer goods and associated guarantees can be given as examples to embody such practices.

Although it is understood from the data obtained as a result of the interviews that EU integration is the most important factor playing a role in the development process of consumer policies in Turkey, it should not be overlooked that other factors also play a role in the development of legislation and practices. Chambers of commerce and tradesmen, which can be considered the current version of the organization of the Akhi and guild, which is one of the internal factors, are structures that can provide solutions beyond certification in terms of the quality and safety of the services provided, although they do not contain a strict discipline. In this sense, it is important in terms of providing reputation-based solutions in consumer disputes directed to them, especially as Arican mentioned, and providing solutions in practice, even if not theoretically.

As a country that closely follows global developments, like every other developing country, Turkey constantly updates its consumer policies depending on the practices occurring in the world. In particular, the development of international private trade with the increase in internet and transportation opportunities has led to structures that will protect consumers in the global sense, so that by applying these applications within itself, Turkey has created a reliable environment in terms of the products that its domestic sellers can sell, and also adds protective measures for global and domestic consumers to the country's economy, which yield beneficial results. CI memberships of consumer organizations take firm steps towards creating an environment of trust by taking part in networks such as ICPEN and providing mechanisms that consumers can apply in case of any dispute.

Internet access, the transformation of social media into a power mechanism, and the fact that it is advertised in a way that can be defined as “naming and shaming,” create a basis for consumers to give voice to their justified demands. With all these social and soft power sanctions, companies create quick problem-solving mechanisms in order not to fall victim to a negative hashtag, and beyond the after-sales services that can be reached even through applications such as telephone, internet, and even WhatsApp. Customer service applications and fast solution mechanisms have been created, thus beyond the efforts of states. They have provided dynamic solution mechanisms

between the consumer and the seller/provider, the parties to the contracts. However, while this ground is valuable in terms of the results it offers in practice, in theory, it does not accept any comparison with the legal framework.

Even though the consumer does not have a right of withdrawal in the Law 6502 regarding what he/she sees and knowingly purchases, the sellers offer the right to return and change within one month when they offer to the consumers - particularly clothing products - and the consumer thinks that this is a legal right. Hence, the thought that it is another right occurs and if the same right is not present at another store, it comes to the point of complaint. The message to be conveyed is concise that, with the effect of global developments, producers, vendors, and providers sometimes offer an opportunity for rights beyond the law, and by solving consumer problems within their means, they make an extra contribution to the process by being in a marketing race to both increase sales figures and provide consumer satisfaction.

The observations on the EU-based factors integrated with the theoretical part of the study, it is an undeniable fact that top-down mechanisms have been replaced by bottom-up policies, while it is an observable result that the Europeanization mechanism has been applicable for Turkey since the 1990s. Especially in the period after the 2016 coup attempt, Turkey entered a stagnation period in terms of EU relations negotiations. At this point, it can be said that as of 2016, the Europeanization mechanism operates in the form of bottom-up applications, which include support from the bottom, as Bürgin states. Here, bureaucracy, academics, and non-governmental organizations have a great share in the execution of the process.

While the Customs Union agreement is an economic integration that provides mutual benefit for Turkey and the EU, Turkey has tried to implement legislative harmonization within the framework of the Community partnership at this point. Success in the Customs Union is the result of concrete steps taken by Turkey. As Akipek Öcal and Aydoğdu stated, since the harmonization of consumer policies and legislation began before the start of negotiations for the functioning of the Customs Union, when the negotiation chapters were opened, it was clearly among the chapters that were successful. For this reason, although it is argued that conditionality is the basic norm in Turkey-EU relations, it should be emphasized that it also leads to clear gains.

To summarize, in this study, the factors that shape Turkey's consumer policies are discussed from three different points: global factors, EU-based factors, and internal factors. While internal dynamics can solve problems on a small scale and individually, since they do not contain a strict discipline or have a binding function as the structure of the Akhi or guild organizations in the social dimension, they are expressed as structures that can only look at consumer policies from the point of view of the seller, supplier, and producer and can be present to establish a balance. Because in Turkey, small-scale elements of perception that can deter the consumer from seeking rights are still applicable, even in the presence of the rights defined to the consumer, by placing banners such as "sold goods are not refundable" the consumers encounter when entering small-scale shops. Although it cannot be generalized in this sense, it is an issue that needs discussion on how applicable the ethical measure in organizations such as Akhi is today.

Even in the 2020 report prepared by the Ministry of Trade of TKPGM, arbitration committees are among the institutions that the consumer first applies to in search of rights, while seller and producer unions are at the bottom of the list in this sense, and their weakness in making a voice can be clearly seen.

As a second factor, EU conditionality has been one of the mechanisms that benefited the most in terms of consumer policies. While the partnership application has had various benefits for Turkey since 1959, it should be accepted that a lot of progress has been made in the field of consumer policies with *acquis* conditionality and the ground that protects today's consumers has been created. Especially after the Customs Union, the adoption of the consumer law, the establishment of consumer courts, the mediation system that has come today includes the important effects of these processes. Although arbitration committees are mechanisms that have been active since 1995 when they were formed by TKPGM as a consumer-specific structure, they offer solutions in a wider framework (in terms of monetary limits and quick decision-making) and at a more accessible level, apart from the structure similar to the simple trial procedure of the EU. Also, consumer laws and regulations are progressing in parallel with EU legislation, and it is the part where the EU influence is felt the most in terms of being able to be adopted under the dynamics of the country.

Global developments, on the other hand, are important for Turkey in terms of the route to be followed in the next period, as a structure that includes technology will also shape the future. Rapidly developing conditions bring unity and solidarity in consumer protection programs with the spread of international companies. Considering the increase in the trade volume of the countries, by establishing mechanisms that can provide after-sales services in almost every country, they increase their sales capacities by offering satisfactory solutions to the consumer in each country they are located. While this situation shapes consumer motivation on its own, the formation of platforms that protect the consumer also supports this process. In this sense, Turkey also takes action according to the developing conditions as a part of this process.



CHAPTER 8: CONCLUSION

Technologies developing with globalization have changed consumption habits, and this situation has revealed the necessity of protecting the consumer. Although Turkey has had different experiences in its historical processes, as in the rest of the world, it is possible to focus on the impact of three different factors in the current state of consumption policies: domestic factors, EU-sourced factors, and global factors.

In this study, while investigating which of these factors predominate, the issue is discussed in-depth in terms of the EU integration process and theoretically discussed based on Europeanization and EU conditionality. The research was supported by the document analysis and interview technique with different group representatives, and it was aimed to get healthy answers to the research question.

The study consists of eight chapters. After brief introduction chapter, in the second part, the theoretical background of the research question is drawn by designing the research. Hypotheses are created, and the methodology for obtaining results is explained. The data obtained by the in-depth interview method, which is one of the qualitative research methods with the comparative analysis, made a great contribution to the results of the study.

In the third chapter, a concept analysis for the protection of the consumer is made, and concepts such as consumer, seller, and consumer protection are defined. In addition, it was attempted to express the purpose of the research question by explaining the conditions that make it necessary to protect the consumer. Furthermore, the parties to the consumer policies are also specified and the people, organizations, and institutions that direct these policies are explained.

In the fourth chapter, Turkey's domestic factors are discussed historically in terms of the development of consumer policies. By revealing the past experiences of Turkish society, it was attempted to analyze whether it is the mainstay of today's consumer policies.

EU-based factors in consumer protection policies are discussed in the fifth chapter, and EU-Turkey relations are examined from a historical perspective. As given in the discussion section, it has been discussed whether the EU integration or the Customs

Union implementation, which is the outcome of the Community partnership, directs today's consumer policies, notably as it is shaped by the results of the interviews with academicians.

The global factors identified as a third factor are discussed in the sixth chapter. First of all, the details of developments throughout world history are given, and it is emphasized how the consumer policies are shaped on a global basis in the current situation and how Turkey benefits from this situation.

In the seventh chapter, which is one of the most important sections, the data obtained from the interviews are analyzed with theoretical lines, and the factors that play an active role amongst the three factors are highlighted.

To summarize, two main results emerged from this study: First, the effect of the protective mechanisms formed as a result of the reshaping of internalized consumption habits with the consequence of global factors on internal dynamics. The second and more effective one is Turkey's changes in the process since the establishment of the ECSC, which as an unavoidable impact of the Customs Union and EU integration process, is one of the benefits of the Community partnership demands, have shaped Turkey's consumer policies.

First of all, from the data obtained as a result of the interviews, it is observed that global developments not only change consumption habits, but also direct the consumer's quest for rights. So much so that, as a result of technological developments, the mobility of people and goods, as well as the technological and economic developments in the fields of transportation and infrastructure, the formation of platforms that enable the product demanded from the other end of the world to reach the consumer in a much shorter time than before have emerged, and as a result of the increase in the opportunities and diversity of people to travel and buy, the necessity of providing solutions to the problems related to the goods and services sold in direct proportion with the institutionalization of the manufacturers/firms has become vital for all countries of the world that want to exist in the system.

Therefore, while the states are taking consumer protective measures, especially exporting and importing companies have begun to offer consumers optional rights to increase their sales at this point and to gain concrete benefits from this. As Öner and

Gündoğdu have argued, the facilities brought by the media and the internet have created a basis for consumers to claim their rights through these platforms.

On the other hand, thanks to the efforts of global organizations, Consumer International and the UN, international platforms have been created for consumers, who have gained a universal identity, to seek their rights. Turkey also continues to be involved in such formations by following global developments closely. Turkey's membership in channels where consumers are piloted directly to an electronic application system, notably through networks such as ICPEN, proves that consumer policies are carried out in line with global developments.

Another factor is the domestic factor that has been examined especially by considering the historical experiences of Turkey. However, in the interviews, it was stated that these factors are not at a competitive point on global and international levels and that they are limited to disputes submitted to them, rather than providing a permanent solution to the consumer disputes of the structures such as the chambers of industry and commerce, which can be considered the current version of the Akhi and guild organizations, and even as Arıcan stated, it aims to protect the reputation of the structure and therefore, provides a non-permanent solution.

In this sense, vendor/producer organizations, one of the stakeholders of consumer policies, do not exhibit a binding feature in terms of ethical elements in this sense, forming a union for the seller/supplier that is considered as the already “strong side” of consumer policies on the basis of organization, and setting certain standards in terms of certification processes. Although their functions are undeniable, it is not possible to say that they play an active role in consumer protection directly.

Secondly, a detailed examination was made on the factors based on EU integration, which is one of the most important findings of the study. This factor, unlike the others, includes the most comprehensive part of the study, since the theories of Europeanization and EU conditionality are also discussed. In this context, when the developments in the EU integration process and the current state of the process are examined theoretically, the following conclusions have been reached.

First of all, EU integration refers to a process that has been going on for many years as a result of Turkey's partnership approach to the European Economic Community, which started in 1959. When the convergence and divergence tendencies, which differ from time to time in Turkey's historical process, are considered together, Turkey's delayed candidature process brings many gains, while Turkey has not yet achieved EU membership that is the primary goal. At this stage, the Customs Union, as the building block of economic integration, has been an application that has been positively received and action has been taken in terms of being closer to the EU membership process, as well as guiding Turkey's commercial and economic policies.

The EU used conditionality as a mechanism for membership, acted as the driving force for Turkey to comply with the Copenhagen criteria, and presented EU membership as a reward in return. Turkey is considered to have completed the EU process, especially in terms of compliance with consumer policies. The factor, in this case, is the effects of the aforementioned Customs Union. With the Customs Union, which Turkey agreed to in 1995, Turkey has started to implement the requirements in the economic integration wing of the EU as of this date.

In addition to resetting customs duties and removing quota applications, steps have also been taken for activities regulating domestic and foreign trade. Akipek Öcal, in particular, states that the main goal in harmonization with consumer protection legislation is to increase the effectiveness of the Customs Union since they were included in the Special Expertise Commission carried out by the State Planning Organization at that time.

From this perspective, with the establishment of the Competition Board, the unfair competition was attempted to be prevented, and practices that mislead consumers became controllable in this way. In addition, in terms of price and quality competitiveness of domestic producers with products from EU countries, the quality of domestic production has increased, and competitive producers have been able to exist in the market. The rights granted to the consumer by the legislation, the specialized Consumer Courts after the establishment of the Arbitration Committees in 1995 and the establishment of the Advertisement Board are among the most concrete examples that can be exemplified at this stage.

As Akipek Öcal emphasized, it was one of the first chapters to be closed at the start of the negotiations, as the consumer policies, which are about to be completed, coincide with the consumer's health and protection chapter in the EU legislation.

This study depends on international relations under the umbrella of international organizations represented by the EU, but on the other hand, maintains a sphere for the state in the legislative process by the codification regulations about Turkey's consumer protection policy. When all these developments regarding consumer protection are considered together, the effectiveness of EU directives is indisputable; however, the problems in the implementation of these legal regulations should also be closely monitored and a better functioning system should be targeted.

With this study, in line with the European Union integration, determinations were made regarding the development of consumer rights in Turkey, and suggestions were presented to the policymakers and it was aimed to be a guide for consumer policies.

To state it briefly, Turkey is a country that takes and continues to take measures to protect the consumer within the framework of all these conditions. While the protection of the consumer should be given great importance even in terms of its contribution to the country's economy and its large population both with its historical experiences and the agenda, it is also important for it to take steps to remove the emphasis that the "consumer," which includes all segments of the society, as essential as it is, is the weak side of the contract in every field.

In this research, the development of Turkey's consumer policies was discussed with the interview and document analysis methods. These developments were examined under three headings, namely Turkey's internal dynamics, EU effects, and global dynamics. In the study, the assumption that EU-based factors are the most influential factors was evaluated together with the other two factors' evaluations. EU was assumed to play a triggering role in the policymaking processes for consumer protection.

In the research, firstly, internal factors were handled in terms of historical methods, and it was assumed that traditional methods could guide today's consumer policies through ethical values. Here, the variables were evaluated by inspection and standard mechanisms similar to today's municipal controls and TSE standards, especially Akhi,

guilds, and Bursa Municipal Law. However, in the findings, it was observed that these factors could not go beyond the standardization and control mechanism, and the internal factors did not create results that were fully consistent with the hypothesis, with the evaluations made in terms of ethical values providing a solution in terms of reputation for companies.

On the other hand, in terms of legal regulations currently in force in Turkey - consumer courts, consumer arbitration committees, Advertising Board, Competition Board, consumer organizations - and the EU effect were positively associated, especially within the scope of the Customs Union. As a result of the hypothesis discussed in terms of policy coherence under the Europeanization theory, it is a clear result that the EU acquis has improved in terms of closing the consumer protection chapter. Although its positive effect is associated with the current operation, the suspension of the negotiation process after the coup attempt in 2016 raises doubts in terms of the sustainable results of the factor, but the steps taken to update the Customs Union (T.C. Ticaret Bakanlığı, 2015) are promising for the continuity of legal regulations based on economic integration.

Although some global variables such as branding and the power of social media are difficult to measure, in terms of the findings, they were positively correlated with the impact of global developments. It was emphasized that, based on the fact that rapidly developing technologies facilitate consumers' access to goods and services, it is necessary to offer collective solutions to consumer problems at the international level. In this context, it was assumed that the transformation of social media as a legal platform to claim rights, with the benefits of multinational companies' branding policies and competition with each other, and the developments in the transportation and communication sectors, would have a positive result in terms of global dynamics.

When all hypotheses are evaluated together with the variables, this research supports the view that while the internal dynamics currently perform the passive certification and standardization functions, the EU factor assumed a stagnant position after 2016, and global dynamics take a leading role in Turkey's consumer policies by the effects of rapid technological developments. It is clear that for Turkey to become a country with world-class production capacity, it should also offer problem-solving mechanisms at world standards, by providing permanent and concrete solutions to

consumer problems, regardless of whether it is supporting organized structures or facilitating the time limits for claiming rights.

In this respect, there is no doubt that global development will shape consumer policies, which are thought to have developed as a concrete result of the phenomenon of Europeanization, which has come from the 1990s to the present day. Governments should follow global developments closely, pave the way for consumer organizations to take part in international platforms, with infrastructure works that can enable the bureaucracy and academicians to be included in programs where they can follow foreign developments, and well-functioning of arbitration committees and consumer courts, which are currently functioning solution mechanisms, before the Ministry of Justice and the Ministry of Trade. It is significant to implement measures to increase efficiency by conducting studies in terms of providing permanent solutions to consumer problems. Although domestic factors give birth to consumer policies and the EU integration process has contributed to the developments, the global factors will shape the future of Turkey's consumer policies.

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APPENDICES

Appendix A: Interviews

1. December 22, 2021: Dokuz Eylul University, İzmir. Prof. Dr. Murat AYDOĞDU
2. December 22, 2021: TÜKODER, Member of the Board of Directors and Legal Committee, İzmir. Av. Ali İhsan ARICAN
3. December 27, 2021: TED University, Ankara. Prof. Dr. Sebnem AKİPEK ÖCAL
4. December 27, 2021: Head of Department, Ministry of Customs and Trade, Directorate General for Consumer Protection and Market Surveillance, Ankara. Yakup GÜZEL
5. December 30, 2021: TÜSODER, Chairman of the Consumer Problems Association, Dr. Deniz ÖNER
6. December 30, 2021: TÜSODER, Member of the Board of Directors and Legal Committee, Av. Yağız GÜNDOĞDU
7. December 31, 2021: TÖF, Chairman of the Consumer Problems Federation, Fuat ENGİN