

**THE EVOLUTION OF TURKISH ASYLUM POLICY
STRUCTURES: THE EFFECTS OF EUROPEANIZATION
AND THE SYRIAN REFUGEE CRISIS**

BY

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I hereby declare that all information in this document has been obtained and presented in accordance with academic rules and ethical conduct. I also declare that, as required by these rules and conduct, I have fully cited and referenced all material and results that are not original to this work.

Mert Koçan

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I am devoting this thesis of mine to refugees who have lost their lives in dangerous routes to survive.

Abstract

Asylum policies have been one of the most important political controversies. Starting with the early 2000s, Turkish asylum policies and practices are associated with the Europeanization approach meaning the reformation of Turkish asylum law in line with EU *acquis communautaire*. Relationship between the European Union(EU) and Turkey accelerated with the decision for the launch of accession negotiations on 3 October 2005. During that time asylum matters have become particularly important for the EU as it was preparing itself for the big bang enlargement. On the other side, despite the weak possibility of membership, Turkey continued modifying its asylum law in accordance with the EU and international standards. However, Turkey did not lift the geographical limitation on the 1951 Refugee Convention. In 2015, Syrian refugees started arriving in the member states and the EU was unable to solve the refugee crisis in itself. Hence, the EU seek to make a deal with Turkey which become a sparkle for resurrection of the relations. The existing literature has focused either specifically on the EU-Turkey Deal or generally on the EU-Turkey relations. However, this thesis aims to find out to what extent asylum laws in Turkey have changed along with the accession negotiations with the European Union. The thesis will touch upon the historical progress of asylum policies in Turkey as a consequence of Europeanization, and the relationship between the EU and Turkey in the context of Syrian refugee crisis. Policy analysis of Turkey's asylum laws, regulations and the EU-Turkey Statement will be used as a research method through process tracing.

List of Abbreviations

APD	Accession Partnership Document
ASAM	Association for Solidarity with Asylum Seekers and Migrants
DGMM	Directorate General of Migration Management
EASO	European Asylum Support Office
ECtHR	European Court of Human Rights
EU	European Union
JHA	Justice and Home Affairs
LFIP	Law on Foreigners and International Protection
MOI	Ministry of Interior
NAP	National Action Plan for EU Accession
NATO	North Atlantic Treaty Organization
NPAA	National Programmes for the Adoption of the Acquis
PJCCM	Police and Judicial Cooperation in Criminal Matters
TFEU	Treaty on the Functioning of the European Union
TPR	Temporary Protection Regulation
UDHC	Universal Declaration of Human Rights
UNHCR	United Nations High Commissioner for Refugees

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Introduction

This thesis argues that Europeanization is the main factor for progress in Turkish asylum system. However, since the Syrian refugee crisis, Turkey has gone further than the European standards. Starting with the Accession Partnership Document in 2001, Turkey devoted herself to the improvement of its asylum law. The thesis aims to find out to what extent the accession process affected the Turkish asylum law through policy analysis of secondary data which are regulation, law, and the deal between the EU and Turkey.

1.1 Background

There has been a dramatic increase in the number of refugees in the world. According to current statistics by the United Nations High Commissioner's (UNHCR), the number of refugees reached to 25.4 million in June 2018 (UNHCR, 2018). Even only during the ratification period of the Law on Foreigners and International Protection (LFIP), Turkey received 44.800 new asylum applications in 2013 and became the fifth largest recipient among the 44 industrialized countries (Bürgin and Aşıkoğlu, 2015; 8). Soon, it became the largest host country of registered refugees (UNHCR, 2018). Consequently, asylum policies are at the center of Turkey's agenda as it requires special attention.

Turkish asylum law has long been associated with the transformation according to the EU standards. The Helsinki Summit invigorated the relations between the EU and Turkey through putting an end to the decade long deadlock by welcoming Turkey's candidate status. In the summit, the parties could not set a clear timetable for Turkey's accession. Five years after the Helsinki Summit, in December 2004, the EU's heads of state declared Turkey's fulfillment of the Copenhagen criteria (European Council, 2004; Kemming and Sandikci, 2006). Basically, it took six years to start official negotiations that started on 3 October 2005 (European Commission, 2006). The years between 2001 and 2006, the EU stayed firm toward Turkey to modify Turkish asylum system in the direction of human rights based approach. However, EU's position have changed after Syrian refugees started arriving in the territory of member states. The Syrian refugee crisis opened up a new page in the EU-Turkey relations.

1.2 Research Question and the Scope

The main question this thesis aims to shed light on is the extent of which asylum laws in Turkey have changed along with the accession negotiations with the European Union. In connection with this, one of the sub-questions to find out is that whether there has been

progress in keeping up with the EU and international standards? The other question is that what have been the effects of Syrian refugee crisis and the deal on the Turkey's accession to the EU?

In the literature, scholars discussed the developments in Turkish asylum laws (Keser 2001; İçduygu, 2007; Kaya, 2009; Tolay, 2012; Aydın and Kirişçi, 2013; Bürgin and Aşıkoğlu, 2017). The period between 2002 and 2005 is perceived as a golden age of Europeanization (Öniş, 2008). Because at that time the cost of *acquis* adoption and membership conditionality were triggering Turkey to implement the *acquis*. Europeanization as an approach is defined in the next section. It has some limitations in the context of Turkish asylum law, and limitations are analysed in the fifth chapter.

Most of the studies have narrowly focused on the EU-Turkey Statement without paying enough attention to the prior framework in asylum field. Moreover, the humanitarian dimension of what has been happening since 2011 was not adequately mentioned. Besides, scholars did not pay enough attention to Turkish asylum law changes after the deadlock in negotiations in 2006. The scope of the thesis is comprehensive enough to identify fluctuations in Turkish asylum laws. Although there are studies which focus specifically on the EU progress reports, this thesis looks at the Turkish overtime to identify transformations along with the Turkey's ongoing EU accession process. This thesis brings together the Europeanization of Turkish asylum law with the EU-Turkey relations. Other works merely focus on the Europeanization of Turkish asylum law.

Changes in Turkish asylum laws can be explained by two models: External incentive model and lesson learning model which will be discussed later in the thesis. As of late 2000s, it became crystal-clear fact that the EU *acquis* on asylum matters affected the progress in Turkish asylum law. However, the Syrian refugee crisis made a breakthrough in both asylum issues in Turkey and the relationship between the EU and Turkey. The gap in the existing empirical literature is that there is no such research that presents the overall framework for the evolution of Turkish asylum law, and the relations between the EU and Turkey. For these reasons, in this thesis, I aim at contributing the literature with up-to-date and comprehensive research on the evolution of Turkish asylum system along with the accession negotiations.

1.3 Definitions and Concepts

Europeanization is defined as 'processes of construction, diffusion, and institutionalization of formal and informal rules, procedures, policy paradigms, styles, "ways of doing things" and shared beliefs and norms to a European model of governance, caused by forms of cooperation and integration in Europe' (Bulmer and Radaelli 2004; 4). Radaelli also argues that Europeanization is important when there is a misfit or discrepancy between the European level policies and the domestic ones (Radaelli, 2003). Another definition is that 'Europeanization is a political space where diverse national and supranational values and interests interact and negotiate within the dynamics and mechanisms of our globalized world' (İçduygu, 2007). On the other hand, scholars define it as a process of influence of the Union decisions on the member states' policies and administrative structures (Heritier, 2001; Grabbe, 2001). In short, Europeanization refers to national level changes in European symbols, beliefs, or values (Featherstone, 2003).

It is important to mention briefly on the Geneva Convention as it is referred many times in the thesis. 1951 Geneva Convention 1951 Geneva Convention, which determines the status of refugees and asylum seekers, is the most widely ratified refugee treaty with 147 signatories as of 2011. It is the document that defines the status of refugees. Furthermore, the 1967 Protocol lifted the time and geographical limitation remaining from the 1951 Convention. Turkey is among the few countries which sustain the limitation. The others are Morocco, Congo and Madagascar (Goodwin-Gill, 2007).

Due to geographical limitation, definition of refugee in LFIP differs from that of the 1951 Geneva Convention. Turkey limits the refugee status to those coming from the European countries. A refugee is defined as follows:

A person who as a result of events occurring in European countries and owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his citizenship and is unable or, owing to such fear, is unwilling to avail himself or herself of the protection of that country; or who, not having a nationality and being outside the country of his former residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it, shall be granted refugee status upon completion of the refugee status determination process(LFIP, art 61).

On the other hand, those coming from non-European countries are called as conditional refugee. According to definition in LFIP:

A person who as a result of events occurring outside European countries and owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself or herself of the protection of that country; or who, not having a nationality and being outside the country of former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it, shall be granted conditional refugee status upon completion of the refugee status determination process(Art. 62).

For the remaining persons, especially for Syrian nationals, Turkey established a new term named as subsidiary protections which is defined as:

A foreigner or a stateless person, who neither could be qualified as a refugee nor as a conditional refugee, shall nevertheless be granted subsidiary protection upon the status determination because if returned to the country of origin or country of [former] habitual residence would: a) be sentenced to death or face the execution of the death penalty; b) face torture or inhuman or degrading treatment or punishment; c) face serious threat to himself or herself by reason of indiscriminate violence in situations of international or nationwide armed conflict(Art. 63).

Last but not least, readmission agreement is defined as “an agreement whereby both parties undertake to admit their own citizens illegally residing on each others’ territory and/or third country citizens who illegally entered each others’ territory transiting through their own territories” (Noll, 1999; 16). Whereas Noll argues that agreements bring rights and obligations for both parties, there is asymmetrical reciprocity in the sense that third countries are not expected to expel illegal migrants to the EU member states (Tokuzlu, 2010).

1.4 Thesis Outline

In the following chapter, I will set place for the presentation of the methodology and data sources together with the timeline. In the third chapter, I will briefly touch upon the historical evolution of Turkish asylum law starting with the foundation of Turkish Republic until 1999. Then, the changes in asylum law will be examined carefully as an outcome of

Europeanization or in other words, harmonization with the EU acquis in the context of accession negotiations.

In the fourth chapter, the EU-Turkey relations will be given a place within the context of Syrian refugee crisis. The path to the EU-Turkey Statement and the Statement itself will be examined. By the end of the chapter, I will present up-to-date relations between Turkey and the EU, and their impact on asylum issues. In the fifth chapter, I will analyse the asylum documents, and the paradox of improving asylum law but stagnation of accession negotiations. In the sixth chapter, I will present the review of the thesis with concluding remarks.

Chapter 2: Methodology

My thesis topic includes legal texts and agreements; therefore, analyses of those materials is the most convenient way for my research targets. This thesis embarks on a descriptive study by employing qualitative method of policy analyses. More specifically, I have done the policy analyses of the 1994 Regulation, 2001 APD, 2005 NAP, LFIP and the EU-Turkey Deal. All of them provided useful information to observe gradual progress in Turkish asylum law in accordance with the EU acquis. I chose policy analysis as research method instead of the others because it gave me the opportunity to discover step by step progress in Turkish asylum laws as a response to the EU expectations in accession partnership documents and annual progress reports.

The thesis also consists of process tracing method because it examines the changes in Turkish asylum law starting with the foundation. Process tracing is a method that focuses on the unfolding of events or situations over time (Collier, 2011). It analyses trajectories of change and causation. Even though there are various types of process tracing, the one fits into this research is called explaining-outcome process tracing which is a repetitive research strategy aiming at tracing causal mechanisms to bring out a comprehensive explanation of a particular historical outcome (Beach, 2017).

The data collected for this thesis was mostly naturally occurring data which are textual, and documentary. The rest I collected from various non-governmental organizations such as the UNHCR. I found online available data in official websites of both Turkish and EU authorities. Also, as a secondary data, I benefited from the articles and books that are published on the subject. Population in the study consists of refugees and asylum seekers.

However, the specific attention is paid to Syrian refugees after 2015. Although examination starts from the foundation, timeline that the thesis focuses on begins with the 1994 Regulation.

Chapter 3: Evolution of Turkish Asylum Policies since 1923

Since the foundation, Turkey adopted several laws and regulations on asylum matters. İçduygu (2007) divides the changes in asylum into three periods: the pre-1994; transition to international norms from 1994 to 2001; post-2001 which he names as EU-ization period. As of today, it can be divided into four periods with slight changes: the pre-1994; transition to international norms from 1994 to 2001; Europeanization from 2001 to 2013; and post-2013. Table below pictures the chronological order of important events in Turkish asylum policies.

Chronological Order of Important Events in Turkish Asylum Policies	Date
Resettlement Law(Law no. 2510)	1934
Passport Law(Law no. 5682)	1950
Asylum Regulation(Regulation no. 1994/6169)	1994
Settlement Law(Law no. 5543)	2006
Law on Foreigners and International Protection(Law no. 6458)	2013(April)
EU-Turkey Readmission Agreement	2013(December)
EU-Turkey Statement	2016

3.1 Asylum Laws until 1999

Before the establishment of Turkish Republic in 1923, the Ottoman Empire implemented a multicultural liberal immigration policy to have more people through allowing them to settle for the establishment of strong defense and economy (Karpas, 1985; 62). Different from its predecessor, the newly founded Turkish Republic replaced it with nation-building policies (Çağaptay, 2002). 1934 Law on Settlement aimed to construct new homogeneous Turkish national identity and it was in force until 2006 (Soykan, 2012; Baklacioğlu, 2017). For three decades after the foundation, Turks and Muslims from the Balkans and other places which were under the Ottoman Empire rule migrated to Anatolia

based upon the law. Turkish government allocated lands in Anatolia to those with Turkish descent and culture.

The years between 1923 and 1945, roughly 800.000 people migrated to Turkey (Kirişçi, 1995). The first population exchange in the Republic took place with the Convention concerning the Exchange of Greek and Turkish populations in 1923. In a short period, ethnic and religious structure of the Republic changed dramatically. Whereas non-Muslim population rate was 19% in 1914, it dropped behind 3% in 1927 (İçduygu, 2008). Afterwards, 182,505 migrants from Yugoslavia arrived in Turkey between 1946 and 1970 (Kirişçi, 1994). In terms of asylum applications, roughly 13,552 asylum seekers benefited from the protection of the 1951 Convention between 1970 and 1996 in Turkey (Security General Directorate, 1996).

Starting with the early 1960s, Turkish workers migrated towards the European countries in which, as a result, Turkey started to be seen as a country of emigrants by the European countries. Between 1961 and 1974, roughly 800.000 Turkish workers, under bilateral agreements, migrated to Europe, more often to Germany (Akgündüz, 2006). Since the 1980s, Turkey has become both a country of immigration and a transit country (İçduygu, 2010; 10). Iranian nationals fleeing the Islamist regime arrived in Turkey after 1979. Kurdish people sought protection in Turkey due to war and conflict between 1988 and 1991. In 1989, Bulgarian government suppressed Bulgarian Turks with assimilating campaigns and as a result, roughly 360.000 Bulgarian Turks entered Turkish territory (Kirişçi, 1995; Markova, 2010). Bosnians and Albanians followed the trend in 1992 and 1999. Although they were Convention refugees, they entered Turkey as tourists (Kirişçi, 2003). Nevertheless, Turkey did not feel the necessity to change its asylum law until 1994 as most of the protection seekers either went back to their countries or resettled in a third country.

Armed conflict, ethnic intolerance, religious fundamentalism, and political tension are the most important reasons behind the refugee influx to Turkey (İçduygu, 1996; 127). The refugee influx of Iraq nationals, fleeing from Saddam Hussein's arbitrary arrests and torture, created the need to replace the 1934 Law on Settlement with a new legislation. Turkey prepared a new regulation on asylum which is called the Regulation on the Procedures and the Principles Related to Population Movements and Aliens Arriving in Turkey either as Individuals or in Group Wishing to Seek Asylum either from Turkey or Requesting Residence Permission in order to Seek Asylum from Another Country(the 1994 Regulation henceforth).

The 1994 Regulation has its source in increasing number of illegal migrants because of economic difficulties in former communist countries and more liberal visa regime along with the pressure from its eastern border (Kirişçi, 1996). The 1994 Regulation was the first and only national legislation on asylum until the adoption of the Law on Foreigners and International Protection in 2013, and it aimed at taking the control of refugee status determination(Kirişçi, 1996; 294). During the preparation period, Turkish government had not consulted to UNHCR or other NGOs working on the field. Even though Turkey did not ask the UNHCR's advice, they cooperated for the refugee status determination.

Refugee status is granted to applicants through the process called Refugee Status Determination(RSD). How does the RSD work? First of all, after arrival, asylum seekers are pre-registered. Secondly, they are assigned a registration appointment where they answer standard questions about their background information. Thirdly, they attend an interview with a UNHCR officer (Biehl, 2015). During these processes, generally Turkish authority waits for UNHCR decision for granting temporary asylum status. If everything goes well, unknown waiting process begins. To be resettled, they have to go through another application procedure which is more or less the same what they had previously. Towards the end of resettlement process, third countries, predominantly the US, Canada, Australia, and Nordic countries conduct interview and medical examination on potential asylum seekers. At the end of the process, he or she asks for an exit permit. The years between 1995 and 2013, these countries resettled 48.000 refugees from Turkey (Kirişçi, 2014).

Rather than lifting the limitation, the regulation replaced liberal and security threatening practice with the new one which strengthens the control on asylum matters (Kirişçi, 1996). One of the first disputes was on the Northern Iraqis arriving in Turkey. Turkish authorities considered Northern Iraq a safe place; therefore, was reluctant to admit nationals as asylum seekers. For this reason, Turkey was criticized during the preparation of the regulation by the international organizations like Amnesty International or the International Catholic Migration Commission(Amnesty International, 1995; Frantz, 2003). These criticisms are discussed in details in the policy analysis section.

3.2 Europeanization of the Turkish Asylum Law

The relations between the European Union and Turkey trace back to 1959 when Turkey applied for association to the European Economic Community. Then, Turkey applied for full membership to the EU in 1987. In Helsinki, Turkey was granted candidate status in

1999, and when the Accession Partnership Document was adopted in 2001, the relationship has accelerated (European Council, 2008). Accession negotiations contain a wide range of topics to discuss for full membership. One of the crucial negotiation issues was, not surprisingly, Turkey's asylum policies. Turkey was requested to modify its asylum policies in line with the EU acquis. The most important conditions included the lifting the geographical limitation from the 1951 Geneva Convention and bringing the asylum procedures closer to that of the EU and international standards through establishing a specific unit (European Council, 2008). In spite of keeping the geographical limitation to the 1951 Refugee Convention, Turkey signified substantial progress in terms of asylum policies. Turkey's reluctance for lifting the limitation stems from the idea that if Turkey does not end up with the EU membership she will be left alone to cope with major problems arising from asylum issues (Kirişçi, 2003).

Before going into details of change in Turkish asylum law in accordance with the EU acquis, it is important to mention on the asylum discussions among the member states. Within the EU, the idea of establishing a common asylum policy goes back to the Maastricht Treaty in 1992. The asylum field in this treaty was located under the third pillar which is Police and Judicial Co-operation in Criminal Matters(PJCCM) or with its original name, Justice and Home Affairs(JHA). Later on, additional steps were taken with the Amsterdam Treaty and Tampere Summit in 1999. Furthermore, in June 2002, Tony Blair, with the help of his Spanish counterpart, suggested having a common asylum policy and collective effort to tackle illegal migration at the European Council summit (Kirişçi, 2003).

In the beginning of common asylum policy establishment, the idea failed because the member states did not want to concede on national security issues. However, there was a little success in some policies such as the fight against illegal migration and reducing the number of asylum seekers arriving in the territories of the member states. Primarily, the member states discussed agreeing on the first country of asylum to clarify which member state receives and processes the applications. The following years, Dublin Convention, Dublin II Regulation, Dublin III Regulation, Dublin IV Regulation and EURODAC were the instruments to establish step-by-step common asylum and migration policies. For the implementation of the common policies, European Asylum Support Office(EASO) was founded in 2011. Hence, these developments in the EU increased the significance of asylum policies for both candidate and neighboring countries. For this reason, Turkey was agreed to work on the asylum field.

Preciseness of conditions, size and speed of rewards, the credibility of threats and promises, and the size of the compliance cost are the factors have an impact on cost-benefit balance (Schimmelfenning and Sedelmier, 2007; 90). Also, conditionality, which is a tool for the EU to motivate member states to reform their policies, is the most effective approach the EU can adopt for membership (Kubicek, 2003). The key for Europeanization is that the more credible membership perspective the EU has, the more successful Europeanization takes place (Tocci, 2005). For these reasons, the first years of accession negotiations, Turkey carried out tangible changes.

2001 was a turning point for international asylum regimes. The 9/11 and event alike lead to restrictions on migration and asylum which were already deeply rooted in the internal security regime of the EU and other countries (Karyotis, 2007; 5-6). In a security driven atmosphere, in 2003, the EU asked Turkey to prevent illegal migration; enhance the border management; lift the geographical limitation to the 1951 Geneva Convention; strengthen asylum application determination system; develop accommodation facilities and social support for asylum seekers and refugees (Accession Partnership Document, 2003). Over the course of many years, Turkey has worked on these requirements based on the accession partnership documents.

Hand in hand with Europeanization, several international and internal figures contributed to the Turkish asylum system. To give an example, both the Council of Europe and the European Court of Human Rights (ECtHR) took a stance against Turkey due to Turkey's human rights violations against asylum seekers in terms of non-refoulement principle which states that contracting states cannot expel or return a refugee to the territories where his or her life or freedom would be threatened (Geneva Convention, Art. 33). In a manner of speaking, the ECtHR with its convictions against Turkey was one of the key factors behind the adoption of draft law as its judgments are formally binding according to Article 46. By means of this, Turkey agreed to work on better asylum law in order not to harm its international prestige. One of the main progresses is the training for officers, including judges, gendarmeries, etc., which influence the way they look at asylum seekers. Moreover, cooperation with UNHCR contributed to the socialization of Turkey into the norms and rules of international refugee regime along with the ECtHR (Kirişçi, 2006).

Chapter 4: Syrian Refugee Crisis and Its Impact on the EU-Turkey Relations

The developments in the Middle East in the last eight years have become one of the main topics in the regional politics, and in international politics if we look at from a broader perspective. Even though Turkey has experienced several mass influxes to its territory since the foundation of the Republic, the Syrian refugee influx was an unprecedented one. To understand the magnitude of the refugee crisis, in 2015, the UNHCR had to suspend applications from all national only with the exception for the resettlement of vulnerable asylum seekers. Whereas 26.500 people applied to UNHCR in 2012, the numbers increased to 133.300 in 2015 (UNHCR, 2015). As of yet, 3.605.615 Syrians are under temporary protection in Turkey (DGMM, 2019).

In the very beginning of the mass influx, Turkey preferred to call Syrian nationals as 'guests' for more than three years which has a place neither in international law or national refugee status (Soykan, 2016). Furthermore, Syrians were viewed as victims, who should be thankful for the assistance they receive, instead of political subjects who have the right to claim rights (Baban et al., 2017). The fact remains that in Kantian hospitality, foreigners, including refugees and asylum seekers, have the right to enter a country on a temporary basis, but then there might be uncertain atmosphere in terms of adequate protection (Zavediuik, 2014).

The number of arrivals in Turkey expeditiously increased and Turkey suggested creating a safe zone in Syria just like the one in Iraq which was implemented from 1991 until 2003. Syrian Kurds and the US did not agree with Turkey's suggestion. Even though Turkey's idea to create a safe zone in Syria was not accepted by the international powers, Human Rights Watch stated that the EU would cooperate with Turkey to establish a safe zone in Syria in which it would be easier for refugees to return their lands (HRW, 2016; 7).

In the beginning of the Syrian refugee influx, they were willing to stay close to Syrian border, thinking that they would quickly return home when the civil war is over. This has changed when it became clear that the civil war will not end soon. As of today, roughly 15% of Syrian refugees reside only in İstanbul (DGMM, 2019). Nevertheless, considerable number of people still reside in cities close to the border, such as Şanlıurfa, Gaziantep, Hatay, Kilis, etc.

The relationship between Turkey and the EU was problematic before the end of the Cold War. In the 1970s, there were discussions with regard to customs union and on

democratic deficiency in Turkey in the 1980s. The EU, mainly France and Germany, wanted to grant special status to Turkey rather than full membership commitment. Some groups in Turkey opposed this idea. At the end, Turkey was given special status with a long perspective of full membership (Eralp, 2010). The agreement of the Customs Union by the Turkey-EU Accession Council breathe new life into the relationship between Ankara and Brussels for the first time since the Association Agreement in 1963 (Hale and Avcı, 2001). It was important to develop good relations with each other as both the EU and Turkey have an enormous bilateral trade volume. To illustrate, in 1998, Turkey imported 52.4% of its goods from the EU, as well as exported 50% of its commodity (The Undersecretary of the Prime Ministry of Foreign Trade, 1999). Hence, they mutually benefit from well functioning relations. Late the 1990s, the EU had concerns about the Kurdish issue in Turkey. However, when the terrorist leader Abdullah Öcalan was arrested and more minority rights were granted regarding the Kurdish issue, and as well as, this issue is excluded from the EU-Turkey relations content.

The EU and Turkey started negotiating for accession in October 2005. After some progress in negotiations, at the end of 2006, the EU suspended eight of the 35 negotiating chapters until Turkey accepts Greek-Cypriot planes and ships to its ports (Aydın, 2007). From 2006 to 2015, the EU-Turkey relations were in deadlock and the Syrian refugee crisis opened up a new page for the invigoration of relations. The crisis also became a litmus test for Turkey's asylum policies for all the world to see.

Even before the Syrian mass influx to the EU territory, the number of asylum seekers arriving in Greece increased dramatically after the increased border control in Southern European countries. For instance, Spain established a system called Integral Systems of External Surveillance (SIVE) as an early detection system against illegal migrants (Carling, 2007). In 2015, Syrian nationals arrived in the territory of member states which led to a crisis within the EU. According to the data revealed by FRONTEX, 340.000 refugees crossed the borders to the EU only between June and July 2015. The total number in previous year was 280.000 and this, per se, is enough to understand how worrisome the issue is for the EU, as it can be understood looking at EU's call the meeting on short notice.

The EU member states did not agree on a common point on refugee acceptance quota. Especially Central and Eastern European countries opposed it and Germany had to suspend the Schengen Agreement due to the fact that roughly one million refugees were accepted in a short period. Furthermore, for the member states, it would appear that national security

prevails over human security. Thus, the larger the intensity of refugees, the more they are perceived as threat (Buzan et al, 1998; 124). Despite all efforts, the EU could not find a solution to the crisis among its member states, and the EU had to knock Turkey's door as a last resort.

4.1 The EU-Turkey Statement

After the mass influx to member states, the EU decided to limit the access asylum seekers to asylum procedures. Those who had access to procedures had been shared among member states. Perceptibly, the refugee crisis kick-started the EU-Turkey relations. Merkel's visit in February 2016 to Turkey can be seen as a sign to understand how the EU wanted to speed up the agreement preparation. So to say, Germany supported Turkey to open a small number of accession chapters, such as chapter 24, as a bait to convince Turkey. As a result, the Deal paved the way for the politicization of Syrian refugees.

In the deal, the EU asked for better registration mechanism, benefit from public services, and, at last but not the least, a regulation for refugees to be able to enter labor market. In return, the EU will contribute 3+3 billion euro for refugees in Turkey through funds. According to the statement, one Syrian national would be resettled from Turkey to EU member states for each Syrian national returned from Greece to Turkey, taking into account the UN vulnerability criteria (Council of the European Union, 2016; para. 2).

Negotiation chapters will be opened, and process for visa liberalization will be finalized by June 2016. Besides of visa liberalization, tight border protection needed. Hence, Turkey needs quite a lot of time to afford financial cost arising from the border control requirement. Under the EU-Turkey Deal, Turkey and the EU will maintain the cooperation to stop migrant smugglers through NATO activity on the Aegean Sea (European Council, 2016). Furthermore, the EU will invite Turkey to EU summits. More importantly, Turkey will be added to the list of safe countries which means that member states perceive Turkey as a country that respects to human rights and free from political oppression.

The EU-Turkey Deal/Statement can be seen as a conclusion of two previous instruments which are the Greece-Turkey Readmission Protocol(2002), and the EU-Turkey Readmission Agreement(2013). The importance of readmission under the EU-Turkey Deal for the EU was previously emphasized in the Return Directive to govern the return process smoothly (Return Directive, 2008). According to EU Reception Conditions Directives(2003),

a receiving country has the duty to provide shelter and physical reception conditions for asylum seekers. The reasons behind the readmission agreements for the EU are difficulties with sending individuals to countries of origin, costs of dealing with increasing unauthorized immigrants. In addition, Turkey, under the EU acquis, signed readmission agreements with Syria, Ukraine, Russia, Moldova, etc. Legal ground of the readmission agreement lies upon the article 79 of the TFEU. The EU defines readmission agreement as follows:

An agreement between the European Union (EU) and/or an EU Member State with a third country, on the basis of reciprocity, establishing rapid and effective procedures for the identification and safe and orderly return of persons who do not, or no longer, fulfill the conditions for entry to, presence in, or residence in the territories of the third country or one of the EU Member States, and to facilitate the transit of such persons in a spirit of cooperation(European Commission, 2019).

4.2 Up-to-date Relations and Turkish Asylum System

After the Deal, in January 2016, Turkey implemented visa restrictions on Syrian nationals arriving in Turkey through air and sea borders for fear of newcomers (Heck and Hesse, 2017). First arrivals took place on April 4, 2016, and they were returned from the Greek islands, Lesbos and Chios, to Dikili, İzmir under the EU-Turkey readmission agreement (Heck and Hess, 2017). Corresponding with the deal, Greece changed the Greek Asylum Appeals Committee structure in order to send refugees back to Turkey under readmission agreement through shortening the process. Previous committees decided that in the 390 out of 393 cases, Turkey was not considered a safe third country (Gkliati, 2017). Based on this, scholars criticize the implementation of the deal (Heijer and Spijkerboer, 2016). Criticisms are analysed in details in the fifth chapter.

In July 2016, failed coup attempt took place in Turkey. The coup and the changes it brought have an important place in the EU-Turkey relations, especially in the context of asylum. After the coup attempt, concerns about Turkey's democracy and rule of law have increased due to state of emergency (Kirişçi, 2016; 83). Due to the coup, some of the NGOs were closed down, and it has led to a cut in support to refugees in which they have been negatively affected.

One of the important topics in the relations after the deal is visa liberalization. The precondition for visa liberalization was signing the readmission agreement, and the reward for

signing the readmission agreement was the initiation of visa liberalization talks. After the agreement signed, the official talks for visa liberalization have started in 2013. Although the agreement took effect two months after ratification, Turkey did not accept third country nationals until 2016. However, the readmission agreement became fully applicable in June 2016 which was decided at the extraordinary meeting on November 29, 2015. Based on the article 11 of the EU-Turkey Readmission Agreement, after the readmission application is made, it has to be replied in 25 calendar days and then readmission takes place within three months. With the agreement, the member states are able to return asylum seekers to Turkey, regardless of their country of origin.

After eighteen years of resistance in order not to lift the limitation, it can be stated that the EU asymmetric power on Turkey is not as strong as it was on the Central and Eastern European countries as they had much better membership credibility. For instance, Hungary and Malta lifted the limitation when accession negotiations had started. Although Turkey has completed almost all the EU expectations, it did not lift the limitation because of fear of refugee flow from eastern countries such as Iran, Azerbaijan and Afghanistan and so on. This would bring financial burden on Turkey side with the Syrian conditional refugees. The other concern in order not to lift the limitation was security. Possibility of internal tension as it happens between Turkish citizens and Syrian refugees from time to time tied Turkey up in knots. For this reason, since the very beginning of accession negotiations, Turkey emphasizes on burden sharing according to national income and population density to prevent Turkey from being a buffer zone, just like Ukraine, for the European Union (İçduygu and Aksel, 2013). Because if Turkey grants full refugee status to non-European nationals they would stay in Turkey instead of risking their lives to Europe (Düvell, 2012).

Two years after signing the statement, in 2018, irregular arrivals remain 97% lower than the period before the statement (European Commission, 2018). According to the EU-Turkey Statement, up to 72,000 refugees will be resettled to the EU member states in return of every Syrian refugee to Turkey. However, less than 30% of them were resettled as of April 2019. The main reason for the steady increase in the resettlement is the reluctance of member states for admission. On the other side, although visa liberalization process was launched in December 2013, as of today, seven out of seventy-two requirements have not been fulfilled yet along with German and French opposition. It is important to mention that European public resistance, particularly in Germany and France, stands firm against Turkey's membership (Macmillan, 2010; Briefing, 2005). European public opinion is against Turkey's membership

on the basis of religious differences and European identity along with the decline in democracy and rule of law in Turkey.

Nowadays, it became precise that the deal between the EU and Turkey has not been satisfactory in terms of expectations for Turkey. Therefore, Turkey maintains a stance against the EU. To give an example about how Turkey drifts away from the EU, in 2018, Turkey closed down the EU Ministry and its tasks were transferred to the Foreign Ministry. Although its organizational chart remains the same, it can be interpreted as alienation from the EU since the EU-Turkey Statement has not been as influential as Turkish side had expected. On the other side, the EU suspended the accession negotiations with an approval of a resolution in March 2019.

Chapter 5: Policy Analyses and Discussion

Beginning with the 1980s, Turkey has become both a transit and immigration country because of its economic, political and geostrategic dynamics which enabled Turkey to interact with the EU since the early 2000s (Kilberg, 2014; Heck and Hesse, 2017). Geostrategic dynamics mean that Turkey is located between the countries whose living conditions are above average and below the average. Turkey adopted different laws and regulations according to conditions of the periods.

Changes in Turkish asylum laws can be explained by two models. According to external incentive model, which is proposed by Schimmelfenning and Sedelmeier, Turkey applied EU *acquis* in asylum field as it was reinforced by reward which is the eventual membership to the EU. For a decade between 1999 and 2009, Turkey acted in accordance with this model (Aşikoğlu, 2015). However, starting with the draft law process, Turkey shifted towards the lesson-drawing model in which domestic actors may choose to adopt changes if the changes are for the benefit of the country (Rose, 1991). In the case of Syrian refugee influx, Turkey needed new legislation for its own benefits.

The first document to explore the Europeanization of Turkish asylum law as an outcome of the accession negotiation is the 1994 Regulation. From now on I will put emphasis on the criticism on Turkish legislations, and on the responses by Turkey to display the extent Turkey's asylum law evolved along with the accession negotiations. Western governments criticized the 1994 Regulation because it was security-centered regulation to a

large extent along with international organizations such as U.S. Committee for Refugees, Human Rights Watch and Amnesty International (Kirişçi, 2001).

First of all, the regulation expresses that asylum application must be done in five days. Secondly, the regulation consists of an article on the prevention of refugees from passage to Turkey. Besides, even though article 29 guarantees non-refoulement principle, previous article, number 28, allows asylum seekers to reside in Turkey until they find a country of resettlement within a specific time limit. If an asylum seeker does not find a country for resettlement in a given time limit, he or she will be sent back to country of origin (Kirişçi, 1996; 300). In addition to that if an asylum application is rejected, and he or she cannot find a country of resettlement, deportation process will be initiated. In this situation, the question of violation of non-refoulement principle arises and this is what the EU criticizes.

Another example is that the EU and the ECtHR criticized residence permit fee, which has to be paid annually to benefit from public education and health services, on asylum seekers in Turkey. The total amount of fees could reach at unaffordable amount unless asylum seekers pay them. This constitutes an obstacle for asylum seekers who are in the process of resettlement in a third country because they cannot exit the country unless they pay the total amount. After all, the fee and uncertain time of waiting pave the way for illegal border crossings towards the EU.

Before the establishment of Directorate General of Migration Management(DGMM), asylum applicants had to register with the Foreigners Police and UNHCR Turkey. If asylum seeker status is granted, the applicant is permitted to reside temporarily until he or she is resettled in a third country. Whereas non-European applicants were given asylum seeker status by the Turkish authority, they were granted refugee status by the UNHCR to resettle them in a third country (Biner, 2014; 87). Not surprisingly, the chance of third country resettlement decreases as the number of applicants increase every year. The everlasting application and waiting processes arise from twofold asylum system and it has been a warning message for potential asylum seekers to express that Turkey is not the right place to settle or seek asylum to be resettled in a third country (Kirişçi, 2002). For these reasons, Turkey was criticized by the EU.

One of the criticisms was directed on the absolute authority of the Ministry of Interior(MOI) which is perceived as an obstacle for the institutionalization of a rights based asylum legislation (Baklacioğlu, 2009; 109). As a response to this criticism, after 1996,

Turkish government gave a green light to UNHCR plan for the voluntary repatriation and procedure for refugee resettlement (Kirişçi, 1996). Another criticism was that Turkish branches working on asylum matters lacked translation facilities and the police were not well-informed about the regulation which caused different procedures especially in the first years of adoption. Addition to that appeal procedure was not a judicial appeal but an administrative one which, indeed, was not well-prepared. Later, in 1999 and in 2006, the Regulation was amended to tone down the criticisms. The time for appealing extended from ten to fifteen days. In addition to this, ten day application limitation was lifted. However, the fact is that a number of European countries allows asylum application only within 24 hours after entry (Kirişçi, 1996; 304).

Turkey was also widely criticized by the EU due to its regulations on asylum seekers. Before current modifications in asylum law, asylum seekers in Turkey faced strict regulations. They were obliged to live in a "satellite city" in which they had limited access to housing, employment and health assistance (Biehl, 2015; 58). In these cities they were isolated from the society, and they could not seek better chance of living in bigger cities such as İstanbul and Bursa. Besides, staff training in guesthouses was needed. Turkey paid attention to criticisms in this matter and progress in asylum field took place. First of all, in 2010, foreigners' guesthouses was renamed as removal centers. Before the LFIP, unclear detention frame laid Turkey open to criticism for being unlawful by the ECtHR. The idea behind isolated camps, detention and deportation centers is to control refugees' lives and isolate them from social networks (Agier, 2011; Zilberg, 2011). To illustrate, Osmaniye Düziçi Temporary Accommodation Camp became a de facto detention center for Syrian nationals where they cannot leave the facility (ECRE, 2015; 120).

The conditions in the detention centers or guest houses lacked the minimum standards of the right to housing for asylum seekers set by the international law. To give an example, Edirne Tunca Detention Facility had a capacity for 200 asylum seekers but there was 703 of them in 2008 (HCA, 2007; Human Rights Watch, 2008; 53). For these reasons, with the financial aid by the EU, Turkey increased the number of removal centers to provide better conditions in these centers. However, there is still criticism on this aspect due to the violation of the article 5 of the ECHR. The article specifies that authorities are required to provide information about the duration of the detention. In some cases, Turkey neglects the article. During his mission to Turkey in June 2016, the Special Representative of the Secretary General of the Council of Europe on Migration and Refugees, Tomáš Boček, found out that

asylum seekers in detention centers are not able to reach any NGO which may help them (Bocek, 2016; 10). Currently, Turkey has gradually been working on this to improve the conditions.

In 2001, the first APD was adopted by the EU and Turkey responded with the National Program for the Adoption of the Acquis(NPAA). In the NPAA, in order to comply with the EU acquis, 1950 Passport Law was amended to prevent illicit immigration as required by the EU. In social policy and employment section, the necessity of a draft law on the work permits of foreigners were underlined. Under the section 24 which is related the Justice and Home Affairs, Turkey displayed its committed to the EU membership through stating that Turkey will meet the obligations for tightened border controls (NPAA, 2001). However, 2001 economic crisis in Turkey, indeed, slowed down the application process of EU requirements. Nevertheless, the NPAA did not meet the expectations of the European Parliament and the Commission as mentioned in the 2001 Regular Report on Turkey Progress towards Accession. In those days' conditions, Turkey was not ready to carry out tasks arising from the EU acquis bureaucratically, organizationally or socioeconomically (Kirişçi, 2003). There were limitations such as the Cyprus issue and the role of military in Turkey (Öniş, 2003). Most importantly, lifting the geographical limitation is dependent on a condition to take necessary legislative and infrastructural measures along with burden sharing.

As I mentioned earlier on the EU expectations about the work permits, according to Law on the Work Permits of Aliens which was drafted in 2003, asylum seekers who have a six-month residence permit could apply for a work permit at a certain place after receiving a job offer as required by the EU acquis (National Action Plan, 2005). Although job offers rarely took place, it was in line with the Geneva Convention in the field of employment of refugees. In 2010, conditions for work permit was softened, and they caught up with European standards with Regulation on Work Permits of Foreigners under Temporary Protection.

To align with the EU acquis, in 2002, the necessary steps in fight with human traffickers were taken and according to article of Turkish Penal Code, traffickers will be sentenced up to 5 years imprisonment (National Action Plan, 2005; 27). In case of EU membership, Turkey will be an external border to several countries. To overcome security concerns, Turkey have taken some steps such as increased border control, fight against illegal migration, human trafficking, etc. In 2017 Turkey decided to build a wall first on the border

with Syria, and then on the borders with Iran and Iraq. It can be interpreted as a positive development for strengthening external borders as it was one of the issues mentioned in Accession Partnership Document in 2003 in which the EU demanded a tightened border with land neighbors.

In respect of human trafficking and detention centers Turkey adopted Palermo Protocols in order to meet with the EU acquis (Haase and Obergfell, 2013; 35). In 2003, National Task Force was established in order to combat trafficking in persons. In addition, Integrated Border Management Strategy was constituted in 2006 in order to comply with the EU acquis on fighting illegal migration and trafficking in human beings (Vukasinovic, 2011). Special attention also paid to victims of human trafficking. In line with the non-refoulement principle, according to article 55 of the LFIP, Turkey does not deport persons who are victims of human trafficking and violence or are decided death penalty in origin country or have risky state of health for travel. Additionally, with the ratification of LFIP, Turkey grants the humanitarian residence permit and the permit for victims of human trafficking (LFIP, Art.46-48).

Asylum-migration twinning projects were initiated in order to harmonize with the EU acquis. Participation to these projects first started in 2002 with projects predominantly on justice and home affairs. The staff working on the related area were trained through training courses and seminars. Prominently, these projects with countries like the UK and Denmark helped Turkish officials to prepare the Action Plan on Asylum and Migration in 2005 (Kirişçi, 2007; Aşıkoğlu, 2015). Although negotiations came to a stopping point after 2006, the EU sustained its influence through Instruments for Pre-Accession Aid. The total amount of aid between 2007 and 2013 reached to 4.87 billion euro (Bürgin and Aşıkoğlu, 2015). Thus, Turkey's willingness to take part in these projects reveals that the Europeanization shapes Turkey's progress in the field.

To take a step further in line with the EU acquis, Turkey adopted the National Action Plan in 2005. The aim was to pay regard to the EU criticisms on NPAA. According to it, if a refugee or an asylum seeker living in Turkey commits a crime, the same provisions which apply to Turkish citizens will be applied the same way to them (National Action Plan, 2005; 13). Therefore, Turkey did not discriminate asylum seekers. In terms of deportation matters, the National Action Plan refers to the article 19 of the Aliens Act No. 5683 which highlights that foreigners whose stay contradicts the public order or political requirements by the MOI

are first asked to leave the territory in a fixed time and then, in case they do not leave, they will be deported. Progress in line with the EU *acquis* appeared in regulations on deportation without violating non-refoulement principle.

The Action Plan on Asylum and Migration can be seen as a corner stone for the Europeanization of Turkish asylum policy through transformation in legislation and administration (Kale, 2005). Europeanization continued in the field of education too. As mentioned in the NAP, asylum seekers have the right to access education until they resettle to a third country. Furthermore, the National Action Plan was comprehensive in the sense that it paid attention to language learning and cultural adaptation activities of asylum seekers.

Since the criticisms continued after the NAP and 2006 Settlement Law, Turkey took further steps as a response. The draft law on Foreigners and international protection was a breakthrough in term of throwing light on definitions. For the first time, the draft law pieced together all related definitions under a legal framework (Soykan, 2012). Before the ratification of the Law on Foreigners and International Protection, the Commission of the European Communities(2011) stated that even though Turkey maintained the limitation to the 1951 Geneva Convention, its draft law was almost entirely in line with the EU and international standards. Thus, the EU praised the gradual progress in Turkish asylum law.

The LFIP has become the most comprehensive legislation on harmonization of the Turkey's law on migration, foreigners and asylum in line with the EU and international standards when excluding some shortcomings (Ulusoy, 2016; Amnesty International, 2017; HRW, 2016b). It brought a new era for policy making in the field of asylum and migration (Tolay, 2014). Unlike in the 1994 Regulation preparation, UNHCR, academics and civil society contributed to preparation of the law. It is comprehensive in the sense that not only it deals with the asylum matters but also fight against international drug trafficking, organized crime as they were mentioned in the accession partnership documents and in the EU progress reports on Turkey. Because in the 1990s, Turkish laws were discussed since they were not deterrent enough to prevent organized crimes and trafficking in human beings (Karabat, 2001). To combat illegal migration, Turkey cooperates with UNHCR, IOM, ICMPD, FRONREX and so on. Hence, the LFIP took a step further than the NAP in 2005. Eight years of criticisms and discussion contributed Turkish authorities to improve in this aspect.

LFIP describes procedures for application to be granted international protection. First of all, application should be done through governorates (Art. 69). After registration,

foreigners are granted free health care service under the LFIP (Art. 90). It shows that there is no fee to have access this kind of services meaning that Turkey accomplished one of the EU acquis. LFIP was amended in June 2016 with the Regulation on the Working Permits of Temporary Protection Beneficiaries. Those who have a temporary identification document and a foreigner identity number can apply for work permit exemption whenever they complete the minimum temporary protection period of six months (LFIP, Art.89/4). According to statistics, in 2018 alone, 38,289 Syrians under temporary protection status have been granted work permit in Turkey (CIMER, 2018). As mentioned before, there was some progress for work permits. Current regulation was a response to the EU criticisms. Hence, it is a proof that LFIP has taken the Law on Work Permits of Aliens one step further with much better application procedures, particularly in line with the EU acquis.

Turkey's policies towards the Syrian refugees are the evidence to claim that Turkey could go further than the European standards. Significant alteration was the adoption of the Temporary Protection Regulation in 2014 under the article 91 of the LFIP (TPR, Art.1). The TPR is similar to the Temporary Protection Directive of the EU which was adopted in 2001. This alone can be seen as an evidence of the Europeanization. Seeing that the number of Syrian refugees increased at rare bat, Turkish government needed to adopt the regulation to clarify the status of Syrian refugees. The UNHCR praised the TPR but while UNHCR perceives Syrian nationals as refugees, Turkey grants them a subsidiary protection status, also known as secondary protection or conditional refugee status, referring to article 91 of the LFIP. TPR refers to non-refoulement principle stating that 'no one within the scope of this Regulation shall be returned to a place where he or she may be subjected to torture, inhuman or degrading punishment or treatment or, where his/her life or freedom would be threatened on account of his/her race, religion, nationality, membership of a particular social group or political opinion' (TPR, Art.6).

Temporary protection status is criticized in the sense that it paves the way for uncertainty because it does not give chance to have access to long-term residence. As a result, conditional refugees are obliged to continue their temporary life while waiting to return to Syria (Biehl, 2015). Under the TPR, if a Syrian national under temporary protection leaves Turkey, his or her protection will be terminated. Yet, Turkish government amended it in 2016 and since then nationals who leave Turkey and want to return may request temporary protection again (European Commission, 2016b; 4). This amendment displays that Turkey

pays regard to criticisms and attempts to improve the conditions as quick as its legislation allows.

With LFIP, Turkey established a civilian administration under the Ministry of Interior to deal with asylum and the administration. DGMM is the executive power of the LFIP. The idea of the DGMM mentioned first in the 2003 Strategic Paper on Activities Foreseen in the Field of Asylum within Process of Turkey's Accession to the EU and then in the 2005 National Action Plan on Asylum and Migration(NAP). The Directorate General for Migration Management(DGMM) took over the responsibilities from the Department of Foreigners, Borders, and Asylum of the National Police(TNP) in May 2015 (Baker and Mckenzie, 2015).

DGMM was criticized during first months of its establishment due to its fragmented structure which misdirected refugees (Sarı and Dinçer, 2017). Also, indefinite definitions about deportation were open for criticism. To give an example, article 54 states that anyone who presents a threat to public security will be subject to deportation. However, it does not explicitly point out who and what constitutes threat to public security (Görendağ, 2016). It evokes the idea that Turkey focuses more on sovereignty than protection of refugees (Albahari, 2015; 134). Following the failed military coup attempt, Turkey coded Decree Law No.676 which modified the article 54 of the LFIP and extended the scope of deportation. The Decree stands firm in case there is a connection to terrorist organization. A foreigner who has any connection to a terrorist organization or registers with false documentation or overstays his or her visa, or works illegally is subject to removal procedure and cost of deportation is covered by DGMM (LFIP, Art.54). As of today, three years passed after the coup attempt, and the structure is reorganized. In addition to that the organization structure of the DGMM is put on the right track after staggering times.

Another issue is that DGMM officers were trained by the officers from the Turkish National Police/Foreigners Unit; therefore, civilian unit did not completely bring an end to securitization of asylum matters. To illustrate that in the LFIP, in case of a threat to public order, security, or health, the DGMM may practice a ban on entry of foreigners (Art. 9). Not only ban on entry but also the conditions for removal decision are set in the LFIP.

The EU continued criticizing Turkey's practices for Syrian nationals even though LFIP provides a single and coherent legislation for the rights of refugees and migrants. The EU stated that special attention should be paid to unaccompanied children (Progress Report, 2011). Also, the EU asked Turkey to make arrangement about removal centers (Progress

Report, 2013). According to the Commission research conducted between April 2016 and June 2017, 1,798 non-Syrian refugees in Turkey were detained in removal center where only 3% could apply for international protection (European Commission, 2017b). Also, during the same period 178 Syrian nationals were returned to Turkey where some of them were detained without legal basis.

Since the very beginning of the Europeanization process, asylum practices did not keep up with the same pace; therefore, there was ups and down along with refusal at different times (İçduygu, 2007). To give an example, in 2005, diverse regulations have been postponed to 2012 because of frozen accession chapters. Despite the fact that Turkey had been criticized by the EU member states after the 1994 Regulation throughout 1990s, Turkey's refugee recognition rate was more than 60% in the second half of the 1990s, whereas the recognition rate for the member states was between 15% to 23% (UNHCR, 2000; 175). Particularly, Greece had the lowest recognition rate among member states for a long time.

Turkey had been reluctant to reach an agreement on refugee readmission until 2013. Turkey's agelong resistance to sign readmission agreement stemmed from the experiences of the Central and Eastern European countries. Countries like the Czech Republic, Hungary and Poland had to implement more restrictive recognition measures after they are exposed to rising number of asylum applicant as a consequence of the safe third country rule (Noll, 1999). Beside this reason, Turkey felt discriminated about the visa liberalization process. On the other side of the coin, the EU governments did not want to lift the visa requirements for Turkish citizens as they feared to lose electoral power and were afraid of increasing asylum applications (Stilgmayer, 2012; 104). At the end, Turkey signed the readmission agreement for the sake of good order in relations with the EU.

Three years after the EU-Turkey Deal, it can be argued that Turkey could go further than European standards in the field of asylum. Whereas the EU implemented security driven approach towards Syrian refugees, Turkey opened its border to protect the lives of millions. About the meetings to deal with refugee crisis, promises for opening new chapters over cooperation in refugee crisis conflicts with the notion of principle-based normative Europe (Manners, 2002). Moreover, a safe third country must consist of: (a)life and liberty guarantee for asylum seekers; (b)protection from the risk of serious harm; (c)respect to non-refoulement principle; (d)freedom from torture; (e)chance to request asylum status (Asylum Procedures Directive, 2013; Art.38). As a matter of fact, Turkey is not a safe third country according to

criteria set forth above. First of all, Turkey maintains the geographical limitation to the 1951 Geneva Convention. Secondly, poor human rights reports on Turkey concerns international organizations (HRW, 2016a).

After the deal, criticism has shifted towards the EU. It is argued that the safe third country and safe country of origin principles mismatch with the EU's commitment to the international asylum law (Guild, 2006). The EU aims at sending asylum seekers to the candidate countries or neighboring countries under the readmission agreement to shift the burden rather than sharing it (Byrne, 1996; Phoung, 2003; 393). The deal has been criticized by scholars and NGOs as the EU presumed Turkey as a safe third country without detailed scrutiny on the requirements of the Asylum Procedures Directive, article 38 (Peer and Roman, 2016; Ulusoy, 2016; Al, 2017). Not to mention the fact that since Turkey will receive asylum seekers, it is more likely for EU member states to violate refugee rights through rejecting refugee claims on unclear grounds. To give an example, it was reported by the media that Greece readmitted group of Syrian nationals to Turkey without due consideration of their asylum claims (UNHCR, 2016). This and suchlike practices by the EU member states violate the 1951 Convention, and the EU Charter of Fundamental Rights and European Convention of Human Rights.

Scholars who argue that Turkish asylum law goes in tandem with securitization might be right before the LFIP. However, Turkey's open door policy, between 2011 and 2014, and the LFIP with broadened rights testify that Turkey acted in line with human right based approach unlike the EU. It is now in line with the international standards in term of protecting and assisting all asylum seekers and refugees, regardless of their country of origin (European Commission Progress Report, 2013; UNHCR, 2014).

The fact remains that, ironically, the EU has taken a more security-driven perspective towards asylum seekers, especially after the refugee crisis (Sagiroglu, 2016; Tolay, 2014). Biehl(2015) explains the security-driven approach as follows:

In the advanced economies of the world in particular immigration and refugee flows are progressively being viewed as a security threat to national welfare systems, cultural and national identities, and domestic peace and stability, which in turn has been used to justify fortified border policing measures, restrictive immigration legislation, and the narrowing of state obligations toward refugees(p.65-66).

Since the securitization of asylum law, the EU has distanced from dealing with the protection. Consequently, refugees can barely attain to right to enjoy asylum. Principally, this constitutes a violation of the Universal Declaration of Human Rights(UDHR) which indicates that everyone has the right to seek and to enjoy in other countries (UDHR, Art.14/1). According to the Article 33 of the 1951 Convention, states are obliged not to return a refugee to a country where his or her life would be threatened. Based on the International Covenant on Civil and Political Rights and Convention Against Torture, in case of a risk of torture, refugees or asylum seekers shall not be expelled or returned to country of origin (Art.12). Basically, in the EU, the abuse of asylum system turned out to be perceived as a new understanding of building a 'fortress Europe' (Geddes, 2000). Even though almost two decades passed, the statement is still valid.

Empirical data proves that development of Turkish asylum law is an outcome of Europeanization process. Turkey's policies on Syrian nationals since 2011 can be seen as an evidence to claims that Turkey is now in line with the EU standards and even keeps one step ahead of it. On the other hand, international and national actors have considerable room for maneuver when implementing EU *acquis* (Jachtenfuchs and Kohler-Koch, 2004). Before the talks with the EU for the deal, Turkey cooperated with the UNHCR to cope with the financial burden arising from asylum seekers. UNHCR is quite active as it has a mandate to provide international protection and solution for refugees. Additionally, during the preparation of the draft law, Turkish officials paid a visit to the ECtHR headquarter in Strasbourg for consultation.

Although Europeanization is the main factor behind the progress in Turkish asylum system, Turkey did not harmonize its migration and asylum policies in line with the EU *acquis* in all areas. This is the evidence that Turkey applies lesson learning model because there was no more satisfactory rewards by the EU. Therefore, Turkey implemented the *acquis* which are for the benefits of the country. To set an example, whereas the EU asked Turkey to apply visa requirements towards countries that are in EU's black list, instead, Turkey applied visa exemptions to Azerbaijan, Jordan, Lebanon, Russia, Ukraine and so on. Moreover, in 2009, Turkey and Syria agreed to lift visa requirements. Under the zero problem with neighbors policy as required by the strategic depth doctrine, Turkey's aim was to broaden the visa exemptions with neighboring countries. There was even the idea to establish Schengen type joint visa policy between Turkey, Iran, Iraq and Syria which would be called '*Şamgen*' (Özler, 2013; 52). Yet, everything tumbled with the outbreak of the civil war in Syria.

If Turkey stayed in line with the EU acquis, Turkey would have to apply closed-door policy towards Syrian refugees in the manner the EU implemented strictly security-driven approach since 2015. In addition, Turkey has spent over €33 billion for Syrian refugees while the EU only guaranteed to provide €6 billion financial aid to Turkey. Although protection of refugees is an international responsibility, neither the EU nor other international actors has given adequate support to Turkey so far. Regardless, the relations in all potential areas continue with the EU, but not like the same pace as it was between 1999 and 2009.

The attitude of the EU in the deal resembles to its actions towards neighboring Northern African countries. On the other side, Turkey was walking on eggshells and were stating that Turkey will not lift the limitation unless they agree on burden sharing and on establishment of better asylum information infrastructure (Güvenç, 2005). Most importantly, Turkey will be ready to lift the limitation whenever it accedes into the EU (Kaya, 2014). Hence, lifting the limitation is not realistic as accession is not likely to happen in the short and medium run. Three years after the deal, it can be said that although Turkey accomplished what was expected from her in the deal, there has been a frank stagnation in the relations. The refugee crisis and the deal after it had a negative impact on Turkey's willingness to join the EU. Hence, bilateral relations will maintain even though accession negotiations are laid aside.

It must be born in mind that when the Cold War ended, whereas the mass influx occurred mostly towards Turkey, the EU received fewer people than expected. One explanation could be that they had easier access to Turkey. 'Having served as the bastion of Western Europe's defense during the cold war against the Soviet Union thanks to its geo-strategically important location, Turkey, at present, would serve yet another security objective by becoming a buffer zone for checking the unwanted and/or uncontrolled movement of people into the EU' (Kirişçi, 2003; 101). Although more than 15 years passed after Kirişçi's statement, it is still valid just as the EU-Turkey Statement reveals. Besides, Turkey is an important figure for the European Union in relations with Eurasia, especially in the natural resources context.

Chapter 6: Conclusion

Although Turkey's asylum applications were a far cry from the Ottoman Empire's, both the Ottoman Empire and Turkish Republic embraced people from all over the world, regardless of their religion and nationality. Even though the EU perceives Turkey as emigrant country, since the early 1980s Turkey has become, first, transit country, and then country of

immigration for non-Turks and non-Muslims for the first time in the history of Turkish republic. Centennially, Turkey implemented different measures in accordance with the necessities of the time. During the foundation phase of the republic, policies were based on nationalism. Then, liberal asylum policies were implemented along with Turkey's engagement with global dynamics and relationship with the EU acquis (İçduygu and Aksel, 2013).

Starting from the 1980s to 2000, the EU criticized Turkey's asylum system on the basis of human rights perspective. Between 2001 and 2015, the criticism escalated. However, since 2015, to a certain extent, the direction of criticism has shifted towards the EU because of the incidents that occurred in Hungary and refugee quota crisis among the member states. So, what the EU asked from Turkey before 2015 contradicted with its policies after the refugee crisis.

Ever since the first arrival of 251 Syrian nationals on 29 April 2011, the notion of "Turkish descent and culture" was thrown background out of focus, and new notion of "religious brothers" came into prominence. Turkey's fears came true and it turned into a country of first asylum. The EU-Turkey statement turned Turkey into a buffer zone for the EU's external border protection (Burgin, 2011; Soykan, 2017). Even though geographical limitation is kept, Syrian nationals are treated just as European refugees. Not only Syrian but also other nationals, such as Afghan, Iraqi, Somali, Sudanese etc., seek asylum in Turkey (Salomoni, 2014). As of now, Turkey embraces 3.6 million Syrian refugees and other refugees from the other countries. With this embracement, Turkey took a step further than the EU influence in asylum field.

In the beginning of the refugee influx, Turkey was caught unprepared; therefore, different registration processes were applied by different government officials (Amnesty International, 2014; 20-23). It would be fair to state that as there are roughly 3.6 million Syrian refugees in Turkey, it is nearly impossible to conduct proper individual interviews. Thus, full-fledged implementation of refugee protection will be provided by time and nationwide integration policies will be initiated for Syrian nationals.

Although Europeanization process slowed down in 2006, the LFIP demonstrates that Turkey proceeded in the same direction with EU and international standards. Economic growth gave Turkey opportunity to tackle with the cost of reforms. The change with the LFIP was mainly because of the EU harmonization along with a domestic need for reform and international influence (Bürgin and Aşıkoğlu, 2015). Nevertheless, through expanding

economic relations and granting visa liberalization, EU would contribute Turkey to devote itself to be more in line with the standards of Europe as it was in the beginning of the millennium (Kirişçi, 2016). As the number of border crossings towards the EU has substantially decreased after the deal, it is obvious that it is a triumph for the EU. Thus, Turkey is perceived as a stability provider in the region along with its Western links.

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