

Protection of European Union's External Borders



MAGYC

Migration Governance and Asylum Crises

# Externalization of Migration Governance, Turkish Migration Regime and the Protection of European Union's External Borders

Meltem Muftuler-Bac  
Sabanci University

**MAGYC:** The MAGYC (**Migr**Ation **G**overnance and **AsYlum** **C**risis) project seeks to assess **how migration governance has responded to the recent “refugee crises” and has since been influenced by it, and how crises at large shape policy responses to migration.** This four-year research project (2018–2022) **brings together twelve international partners:** the Hugo Observatory from the University of Liège (Coordinator), Sciences Po, the University of Economics in Bratislava, the GIGA institute of Global and Area Studies, Lund University, the IDMC, SOAS University of London, the University of Milan, the Lebanese American University, the University of Macedonia, Sabanci University, IfPO/CNRS.

**Website:** [www.themagycproject.com](http://www.themagycproject.com)



This project has received funding from the European Commission's Horizon 2020 Research and Innovation Programme under Grant agreement number 822806.

**Lead authors:**

Meltem Muftuler-Bac, Sabanci University<sup>1</sup>

**Principal reviewers:**

Fiona Adamson, SOAS University of London

Başak Yavcan, The Hugo Observatory

**Publication available on:**

[www.themagycproject.com](http://www.themagycproject.com)

**Suggested citation:** Meltem Muftuler-Bac (2021), “Externalization of Migration Governance, Turkish Migration Regime and the Protection of European Union's External Borders”, Journal Submission to *Turkish Studies*, MAGYC project.

**Version History:**

Version No.	Date	Changes
1	24.10.2021	Initial version submitted as deliverable to the European Commission

**Disclaimer:** *The information and views set out in this report are those of the author and do not necessarily reflect the official opinion of the European Union. Neither the European Union institutions and bodies nor any person acting on their behalf may be held responsible for the use which may be made of the information contained therein.*

---

<sup>1</sup> Meltem Muftuler-Bac is professor of international relations and Dean of Faculty of Arts and Social Sciences at Sabanci University, Istanbul, Turkey.

Email: [multuler@sabanciuniv.edu](mailto:multuler@sabanciuniv.edu)

Personal webpage: <http://myweb.sabanciuniv.edu/muftuler>

## **Table of Contents**

<b>Introduction.....</b>	<b>2</b>
<b>Conceptualizing Externalization of Migration Governance.....</b>	<b>4</b>
<b>Evolution of the Main Pillars of Turkish Migration Governance.....</b>	<b>6</b>
<b>Transformation of Turkish Migration Governance.....</b>	<b>8</b>
<b>The Impact of the Syrian Refugees on Turkish Migration Regime.....</b>	<b>9</b>
<b>Externalization of European Migration Regime to Turkey after 2013.....</b>	<b>13</b>
<b>Turkish Migration Regime changes after 2016.....</b>	<b>17</b>
<b>Conclusion.....</b>	<b>20</b>
<b>References.....</b>	<b>22</b>

## **Abstract**

The Syrian refugee crisis presented Turkey with a major challenge in its migration policies, and unexpectedly changed the nature of the European Union's relations with Turkey, already a highly ambivalent relationship. The magnitude of this refugee flow motivated such players as the European Union and Turkey to adopt new instruments to deal with its repercussions. This paper analyses Turkish migration policies, the impact of the Syrian refugee crisis on altering these policies, the Turkish harmonization to the EU criteria, and the Turkey-EU refugee deal. The paper deduces how migration governance strategies in the wake of the Syrian crisis created new challenges for both Turkey and the EU. The paper first looks at the main pillars of Turkish migration policy and how it changed over time in response to external crisis and developments, and then analyses the Turkish-EU Refugee deal to assess how the EU relied on a third party- Turkey for the protection of its external borders . In addition, the paper assesses the emergence of a new migration governance strategy that Turkey is adopting in response to the refugee crisis.

## Introduction

Externalization of migration governance and the external protection of European borders impact the EU's relations with Turkey and the Turkish migration regime. The EU's jurisdiction in controlling its external borders through cooperation with third parties is solidified with the adoption of new tools in migration governance with the 1997 Treaty of Amsterdam, 1999 Tampere Summit, and the 2007 Lisbon Treaty. This jurisdiction is extended to its candidate and neighbouring countries, such as Turkey. Turkey as candidate country for EU accession is obliged to adopt border control mechanisms, improve its migration governance tools, and align its own legislation to the EU's rules. Turkish harmonization to the EU *acquis* constitutes an empirical validation of externalization of migration governance. This adaptation faced an urgency with the 2011 Syrian civil war and the subsequent refugee crisis which reached its zenith in 2015. Turkey's cooperation with the EU for managing migratory crisis in 2015 marked a new turning point in this process of externalization. Turkey's legal reforms and its refugee deal with the EU constitute clear examples of externalization of migration governance with the adoption of a formalized migration regime through a multilateral initiative. However, extraterritorial actions to manage migration flows -i.e., going beyond the EU's borders, might be seen as a result of ineffective migration policies.

When the Syrian civil war erupted in 2011, few scholars would have predicted its impact leading to an unprecedented displacement of people, destabilizing the region and then diffusing onto the European territories (Elitok and Straubhaar, 2012; Yildiz, 2016; Panizzon and van Riemsdijk, 2018; Zaragoza-Cristiani, 2017; Okyay, 2017; Adamson and Tsourapas, 2019). Both the EU and Turkey faced unprecedented challenges in their borders and migration regimes (Ustubici, 2018). The Syrian refugee crisis turned Turkey into a host country for the largest refugee population in the world,<sup>1</sup> with a total of 4.1 million refugees, 3.7 million of which are of Syrian origin. The magnitude of the Syrian refugee crisis motivated such players as the European Union and Turkey to adopt new instruments (Wolff, 2014; Aydin and Kirisci, 2016; Boswell, 2003; Yildiz, 2016; Slomonski and Trauner, 2018). Unexpectedly, the refugee crisis altered Turkey's relations with the EU (Saatcioglu, 2019)- already a highly ambivalent relationship (Muftuler-Bac, 2017), highlighting its transactional character. Turkey's accession to the EU and its collaboration with the EU to control migratory movements altered Turkey's migration regime significantly. The main questions that this paper aims to tackle are twofold; whether the externalization of European migration governance played a significant role in the redesign of Turkish migration governance and whether this externalization uncovered new collaboration strategies for Turkey and the EU beyond traditional forms of accession. Accordingly, this paper assesses the dual impact of the EU's externalization of border controls and the Syrian refugee crisis on Turkish migration regime. To do so, it first provides a comprehensive

## D8.7. Externalization of Migration Governance, Turkish Migration Regime and the Protection of European Union's External Borders

view of the Turkish migration regime with its sweeping reforms adopted since 2003. Second, the paper analyzes the EU's externalization of migration governance, with the extension of its jurisdiction beyond its borders to Turkey together with its accession criteria and the 2016 Turkey-EU refugee statement. The paper reveals the evolution of Turkish migration regime in response to the EU's externalization policies and the Syrian refugee crisis.

The paper has multiple sources of data, and utilizes different methodologies in historical process tracing, quantitative analysis and focus groups for the collection of this data. The paper draws its quantitative data from Frontex, Eurostat, Turkish Institute of Statistics, and the European Stability Initiative to present the impact of the Turkey-EU refugee statement on the external control of European borders. The paper's qualitative data is drawn from an in-person visit to Izmir-a city on the Aegean coast at the epicenter of refugee movements, and two focus groups conducted with a group of Syrian refugees in January 2020. The author's visit to the offices of Directorate General of Migration Management (DGMM) in Izmir and the Harmandali Removal and Deportation Center in January 2020 was conducted in order to receive detailed information on the procedures under the new International Protection laws. At the same time, the author received in person briefings on the new legal amendments, and the capacities of the DGMM in close encounters. Furthermore, the author was able to observe on a first-hand basis the conditions under which undocumented migrants are hosted while their asylum requests are processed, and how their access to fundamental services is guaranteed while in custody. These close encounters and in person inspection of the main facilities of refugee processing and deportation played an essential role in enhancing the understanding of the practicalities of Turkish migration regime. Finally, the two different focus groups were conducted on January 9, 2020 with 20 Syrian refugees in Istanbul. Each focus group consisted of 10 Syrians, with an equal number of male and female participants with a wide range of ages and education group. The focus groups were conducted in Arabic, moderated by two Syrian graduate students, and facilitated by an external expert. The participants in the focus groups were asked to sign a consent form, and informed that their answers would be kept confidential and used as part of a larger research. The results of these focus groups are utilized to pinpoint implementation problems of the Turkish legal changes, and give a voice to the Syrians whose lives are directly affected from Turkish migration regime. The data collection involving in person visits to DGMM and Deportation Center, and the focus groups reveal how Turkish migration regime impacts the everyday life of these refugees.

The next sections introduce the theoretical framework for the paper which puts the paper within the context of the existing literature on externalization of migration, a comprehensive narrative of the reforms in the Turkish migration regime, the main challenges posed by the dual pressures of adapting to the EU rules and managing the Syrian refugee crisis that the Turkish government

faces. The paper contributes to the literature on migration governance, Turkey-EU cooperation on migration and externalization of migration regimes. The findings of the qualitative research highlighting the obstacles in implementing Turkey's new policies is a comparative advantage of this paper in the larger literature on externalization of migration governance.

### **Conceptualizing Externalization of Migration Governance**

Externalization of migration governance refers to the extension of border controls from the EU to neighboring, third countries for managing migratory flows (Lavenex, 2016). Multiple scholars have focused on the EU's externalization of migration governance and the securitization of its borders (Van Houtum and Boedeltje, 2011; Rumford, 2006; Lavenex and Ucarer, 2003). These conceptual and theoretical works on European migration governance emphasize the role of borders as tools for drawing geopolitical boundaries and redefining space (Boswell, 2003; Balibar, 2004; Casas-Cortés and et al., 2016). Externalization of borders creates new spatial dimensions for the EU's immediate neighbours - such as Turkey- drawing them closer to the reformulation of migration policies. Enhanced complexity of drawing physical boundaries (Casas-Cortés and et.al, 2013) and border fluidity (Rumford, 2006; Lavenex, 2016) complicate the delineation of actor responsibilities. The EU's inability to deal with the 2015 migratory crisis highlighted its need for third parties for the protection of its borders (Lavenex, 2006; Slominski and Trauner, 2018).

The EU's migration policy is one of shared competence, and incorporates the expectation that there is a common policy 'on asylum, immigration and external border control, based on solidarity between Member states' under Article 67/2 of the Lisbon Treaty. While the EU does not have a supranational immigration policy binding all of its members to a common practice in managing migration (Adamson, 2011; Lavenex, 2006), it has, nonetheless, a legal toolbox where harmonization is required. The EU's external migration policy "attempts to manage migration through cooperation with migration sending or transit countries" (Boswell, 2003). This externalization refers to the adoption of policies beyond the European borders to prevent migrants from gaining access to the European lands with multilateral policy tools (Adamson and Tsouporas, 2019; Huysmans, 2000; Lavenex, 2006). Externalization of migration governance rests on outsourcing border controls to third parties with the adoption of tools such as readmission agreements, visas and enhanced physical checks. These policy tools range from "Political instruments (bilateral and regional policy dialogues and action plans), legal instruments (such as visa facilitation and readmission agreements), to operational support and capacity building and project support made available to third countries and other stakeholders."<sup>2</sup> Externalization occurs with two different possible measures; paying a transit country to stop migration with its own legal tools,

## D8.7. Externalization of Migration Governance, Turkish Migration Regime and the Protection of European Union's External Borders

and declaring the transit country a 'safe third country' to which illegal migrants would be returned. Both measures address the main goal of preventing migrants from reaching their ultimate destinations. For example, readmission agreements as diplomatic practices that could be negotiated bilaterally or multilaterally, are important tools of external migration controls.

The adoption of EU's migration regime is an extension of the EU's jurisdiction beyond its territorial borders, and the EU expects to see its member states and candidates to comply with the principle of non-refoulement. As externalization of European border protection entails implementation of border controls beyond the European territories, migratory flows are managed outside of the EU's own jurisdiction (Rumford, 2006). The conceptualization of European border delineation is critical in determining the modalities of the EU's cooperation with third parties in its immediate vicinity. "Governments reach out beyond their territories in extensive, routine collaboration to select and deter millions of individuals trying to cross borders" (Fitzgerald, 2020: 8). To do so, externalization mechanisms utilize development assistance- such as refugee funds, and a diversification of border control tools transferred to third parties. It is precisely this externalization of border controls and extension of EU's jurisdiction beyond European territories that makes the Turkish case emerge as an empirical verification for these theoretical premises. The EU's stance with Turkey fit into a pattern of external border management, with the EU returning the undocumented migrants/non-EU nationals back to their countries of origin or the countries through which they have passed to reach EU destinations (Turkey in this case), or with the third country blocking passage onto the European territories. Accordingly, multilateral cooperation with Turkey enables the EU to extend its jurisdiction beyond its territories.

This extension of EU jurisdiction beyond its borders is particularly important because Turkey has been associated with the EU since 1963 as an associate member, became a candidate for accession in 1999, and is negotiating for accession since 2005 (Muftuler-Bac, 2014; 2017). Its candidacy status meant that Turkey is required to adopt the EU's existing laws and policies in migration and asylum matters, and its adaptation is evaluated with Progress Reports and Accession Partnership Documents. Turkey puts forward a roadmap for its adaptation of EU rules in its National Programmes on the Accession Partnership Document. As a transit country for migration flows to Europe, Turkey finds itself at the epicenter of all externalization instruments that the EU has at its disposal, from EU accession rules to readmission agreement, to the utilization of development assistance funds. Repatriation of illegal migrants, border control measures, remote control and processing facilities are measures for extra territorialization of the EU's migration regime. As the EU's externalization of its migration regime has a prime example in the adoption of reforms in Turkey, the next section provides an analysis of the main pillars of the Turkish migration regime.

## **Evolution of the Main Pillars of Turkish Migration Governance**

The main pillars for the Turkish migration regime are set in the early years of the Turkish Republic established in 1923, replacing its predecessor the Ottoman Empire (Elitok 2018; Kaya 2012; Yıldız, 2016; Memişoğlu and Ilgit 2017; Koser-Akcapar and Simsek, 2018). Turkey's migration and citizenship rules in the early 1920s rested on the need to build a new 'homogenous' nation erasing to a certain extent the cosmopolitan legacy inherited from the Ottoman Empire (Icduygu, 2011; Icduygu and Aksel, 2014). Cultural diversity and cosmopolitan identity were sacrificed for enhancing national identity.

For that purpose, a law adopted in 1926 determined the main premises for granting Turkish citizenship to ethnic, Muslim Turks scattered around at the time, mainly in the Balkans. In 1928, a new Turkish Citizenship Law was adopted to enhance homogeneity of the Turkish population. Finally, on June 14, 1934 Turkey adopted its main legal framework, the Turkish Settlement Law, Law 2510. The 1934 Settlement Law constitutes the main pillar for Turkish migration governance, prioritizing individuals of 'Turkish origin, descent and culture'. According to Şükrü Kaya, Minister of Interior Affairs at the time :“This law will create a country speaking with one language, thinking in the same way and sharing the same sentiment”.<sup>3</sup> In its real life applications, in 1950, 160,000 Bulgarian Turks, forced to leave their hometowns (Kostanick, 1955) were settled in Turkey; and in 1989, 300,000 Bulgarian Turks were similarly resettled. Law 5682, the Passport Law and Law 5683 for residence and travel of foreign subjects both adopted in 1950 further solidified Turkish migration regime.

The second pillar on which Turkey's migration regime rests is the 1951 Geneva Convention on Refugees. As a party to the Convention, Turkey negotiated a geographical limitation as defined in Article 1.B(1)(a) of the Convention with refugee status to be granted only to those coming from a European country. Turkey signed the 1967 Protocol relating to the Status of Refugees, but kept its geographical limitations, establishing effectively a two-tiered system for refugees. Under Turkish law, asylum seekers from non-European countries were not designated as refugees under international protection, but they could still be granted temporary asylum seekers status while the UNHCR looked for permanent residence in other countries. Effectively, non-European asylum seekers could not settle in Turkey.

This was not the case for Europeans. Turkey received around 2 million immigrants from Balkan countries, notably from former Ottoman territories in the region during the Cold War years, and provided safe haven to asylum seekers from Eastern Europe and the former Soviet Union. This was in contrast to its treatment of Iraqi Kurds, 500,000 of whom crossed the border onto Turkish territory during the 1990-91 Gulf War, yet were not granted refugee status. By the end of Cold War, Turkish migration regime confronted its main challenges with ethnic Kurds running away from Iraqi government's prosecution, Iranians

## D8.7. Externalization of Migration Governance, Turkish Migration Regime and the Protection of European Union's External Borders

looking for refuge after the Islamic revolution in Iran, Bosnian Muslims fleeing the war, Eastern Europeans, and citizens of former Soviet Union looking for economic relief. While the magnitude of these refugee flows was less profound in comparison to Syrian refugees, they were, nonetheless, a premonition for the future.

In an attempt to deal with new migratory flows, the Council of Ministers adopted a Regulation on asylum seekers in 1994, Regulation No. 6169/1994. The 1994 Regulation acted as secondary law providing the legal framework for asylum seekers to remain in Turkey while their requests were processed without revoking Law 2510. Accordingly, all asylum seekers would apply to the General Directorate of Security within the confines of the Ministry of Interior Affairs for processing and had to register with the Foreigners' Office, local authorities, and the UNHCR offices. A novelty introduced with the 1994 Regulation concerned Turkish security. If a person seeking protection was deemed to pose a threat to Turkish national security, then he/she would be returned to his/her country of origin even at personal jeopardy. This was effectively a violation of the 'non-refoulement principle', i.e., Article 33 of the Refugee Convention, and also prevented Turkey to be classified as a 'safe third' country- a clear obstacle in the EU's externalization of migration governance.

Despite this reservation, Turkey provided 'temporary protection' to all asylum seekers while the UNHCR processed their applications, and until they left for their final destination. However, asylum seekers with rejected applications had to return to their country of origin. This led to an unexpected consequence that asylum seekers whose applications were rejected either would illegally remain in Turkey, or use the Turkish territory to cross over to European destinations illegally (Rygiel and et., al, 2016). Consequently, Turkish geographical limitation to the Geneva Convention meant that non-Europeans could stay in Turkey only while their applications were processed by third countries for acceptance (Kirisci, 2014; Tolay, 2012). Given these discrepancies in its legal framework towards asylum seekers, the violation of the non-refoulement principle, and the evolution of the EU's own migration regime under the 1997 Treaty of Amsterdam and the 2007 Lisbon Treaty to which Turkey had to adjust, Turkey faced a dilemma. It had to adopt multiple changes to meet its obligations under the EU accession process and respond to an unexpected migratory crisis with the flow of Syrians onto Turkish territory after 2011. However, the adoption of such measures would bring about a transformation in Turkey's migration regime. The next section addresses Turkey's harmonization to the EU rules on migration which constitutes a solid illustration of the EU's externalization of its migration regime to third countries.

### **Transformation of Turkish Migration Governance**

Starting with its 1998 Progress Report on Turkey's accession, the EU stresses that Turkey's alignment to the EU's migration rules depend on its adoption of an Asylum plan, lifting its geographical limitation to the 1951 Geneva Convention, and a Readmission Agreement with the EU. All these expectations are prime examples of externalization of migration governance. While the EU had similar expectations from other countries such as Morocco, but its conditionality over Turkey was higher due to its accession process. To meet its obligations, Turkey included lifting its geographical limitation in its 2001 National Programme on the Adoption of the Accession Partnership<sup>4</sup> which was prepared as a roadmap for its accession to the EU. Turkey revised its National Programme twice in 2003 and 2008, where it agreed on the adoption of the EU rules in visa legislation, data protection legislation to align with the EU rules, to adopt and implement EU *acquis* for admission, readmission and expulsion (Tolay, 2012; Yildiz, 2016; Kale, and et., al, 2018). Most importantly, the EU expected Turkey to find ways to resettle refugees from non-European countries, rather than sending them to 3<sup>rd</sup> parties or back to their countries of origin if their asylum applications are rejected by 3<sup>rd</sup> parties, which violated the non refoulement principle, and prevented Turkey's designation as a safe third country.

Turkey's harmonization to EU rules on migration governance as part and parcel of its accession process began in 2003. First, Turkey adopted a new Law in 2003, Law 4817- a legal regulation for Work Permit for Foreigners to be processed by the Ministry of Labor and Social Security. This was a significant harmonization attempt to make it easier for foreign nationals to apply for work permits in Turkey, bringing it closer to the EU rules, and replacing multiple aspects of the 1951 Law 5683. Second, in November 2004, Turkey became a member of International Organization for Migration. Third, in 2005, Turkish adopted a National Action plan for Asylum and Migration which looks towards the possible elimination of its geographical limitations to the Geneva Convention. This was an important reform package fulfilling Turkey's obligations under its National programme, but also an example of how the EU's externalization of migration governance led to legal reforms in third countries. Fourth, in 2006, Law -5543 was adopted for the Settlement of Foreigners, effectively replacing 1934 Settlement Law 2510, while retaining its key principles on Turkish descent and culture. Fifth, Turkey's 2008 'National Programme on the Adoption of the Accession Partnership' clearly specified the need for a National Plan for Asylum and Migration to combat illegal migration. This was a roadmap for the adoption of an asylum plan and the establishment of an Asylum Authority, and the conclusion of a Readmission Agreement with the EU.<sup>5</sup> In 2009, Law 5901 on Turkish citizenship was adopted, revising the 1934 Law. In 2010, the Presidency for Turks Abroad and Related Communities was established for assisting Turkish citizens living abroad. These changes were all adopted to align further into the EU *acquis* on migration and asylum governance as mandated by the Turkish accession process (Tolay,

## D8.7. Externalization of Migration Governance, Turkish Migration Regime and the Protection of European Union's External Borders

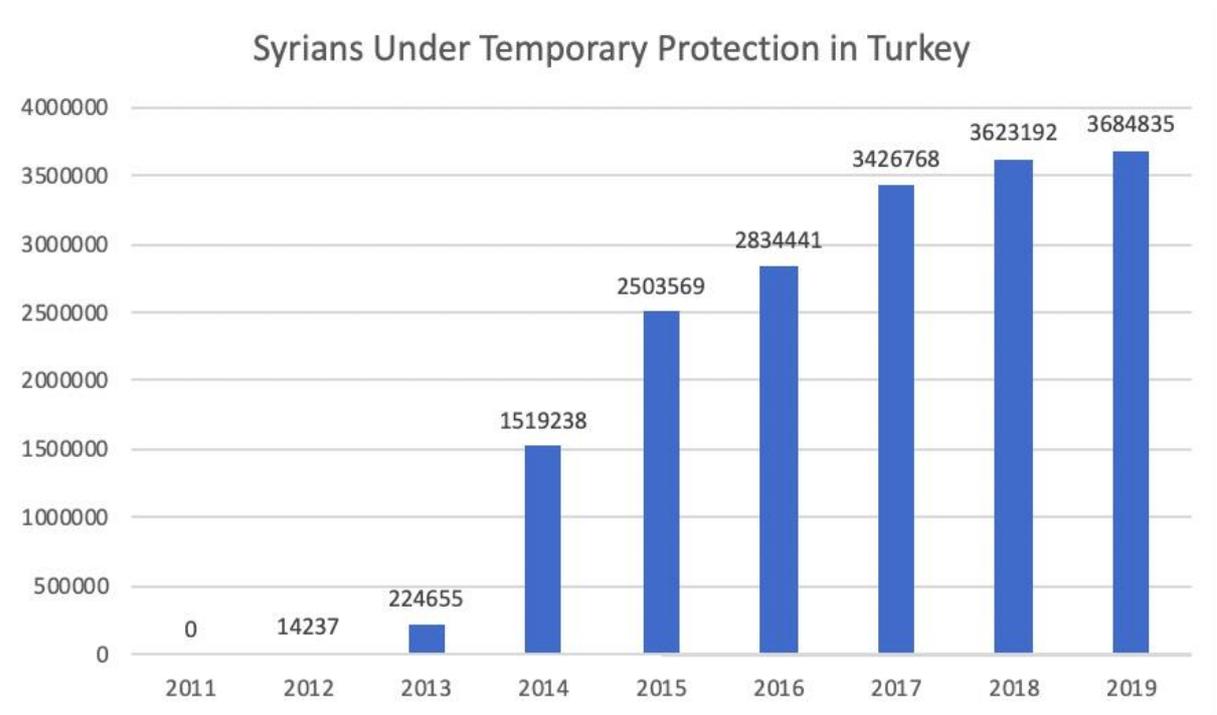
2012; Aydin and Kirisci, 2016). This adaptation to the EU rules were in line with Turkey's National Programme on the Adoption of Accession Partnership for migration governance as well as its 2005 National Action Plan For the Adoption of the Acquis in the Field of Migration and Asylum. All the legal changes from 2001 to 2011 constitute a solid illustration of the EU's externalization of its migration governance to Turkey. Simultaneously, Turkish harmonization to the EU rules was evaluated under Chapters for Justice and Home Affairs, specifically Chapters 23 (Judiciary and Fundamental Rights) and 24 (Justice, Freedom and Society). The EU evaluates Turkish progress in Chapter 24, with clear indicators of what is expected to align, even though Cyprus vetoes its opening in the European Council.

This harmonization process faced its first litmus test with the 2011 Syrian crisis and the subsequent, unprecedented flow of refugees onto Turkish territories. Partly to align with the EU rules and partly to deal with this refugee flow, Turkish migration regime went through further profound changes after 2011, addressed in the next section.

### **The Impact of the Syrian Refugees on Turkish Migration Regime**

It is precisely within the realm of the EU's externalization of migration governance to Turkey, and the subsequent Turkish adoption of the EU's standards on border controls, visa regime and negotiated by a readmission agreement that the Syrian refugee crisis erupted. Confronted with a massive flow of Syrian refugees starting in 2011, Turkey initially registered them with AFAD (Turkish Disaster and Emergency Management Authority) and classified them as 'quests' in line with its reservations on the 1951 Geneva Convention. At the same time, Turkey adopted a temporary protection clause for the Syrians in October 2011, with both non-refoulement principle<sup>6</sup> and access to humanitarian assistance, but without full access to fundamental rights. This Temporary Protection Regulation replaced the previously analyzed 1994 Regulation on Foreigners. An exponential rise in Syrian refugees led to more legal reforms in Turkey. Figure 1 shows the Syrians under Temporary protection in Turkey as drawn from the Directorate General for Migration Management reports, demonstrating the steady increase in the officially recorded figures for Syrians in Turkey.

Figure 1: Syrians Under Temporary Protection 2011-2019



As shown in Figure 1, Turkey found itself confronting a massive flow of Syrian refugees, transforming the country into a host for the world's largest refugee community. Initially registered as quests, this position seemed unstable in the longer run. As multiple focus group participants pointed out, while Turkish people were happy to host them as quests, they were reluctant to integrate them into the Turkish society permanently. "We want to be integrated, but the Turkish people do not want to see us as part of their society".<sup>2</sup> Establishing a quest status for Syrians was obviously only a temporary situation.

It is precisely due to this need posed by the Syrian refugees and the EU's migration rules that Turkey had to adopt a major reform package. On April 4, 2013, the Turkish Parliament adopted the Law on Foreigners and International Protection-Law 6458 (Yabancılar ve Uluslararası Koruma Kanunu) which went into force in April 2014. Law 6458 fulfilled a key Turkish obligation under Chapter 24, for alignment to the EU *acquis*. This new law, effectively revised Turkish migration regime which rested on the 1934 Law on Settlement, Law 2510 and the 1950 Passport Law, Law 5682. Specifically, Law 6458 removed Turkish descent and culture prerequisite from its asylum requirements, aligning closely with the EU *acquis*. Law 6458 combined different laws- Law on Aliens and Law on Asylum, to manage flow of migrants in Turkey in a more efficient, centralized manner. Law 6458 also had an important component for the integration of refugees- indicating the possibility that some of the non-European refugees in Turkey will be integrated into the Turkish system as

<sup>2</sup> Ahmet, male labourer, working as a gardener, living in Istanbul since 2018.

## D8.7. Externalization of Migration Governance, Turkish Migration Regime and the Protection of European Union's External Borders

citizens rather than sent back to their countries of origin. This was intended mostly for the Syrian population in Turkey. Furthermore, Law 6458 is the Asylum Law that Turkey committed itself to adopt in its 2008 National Programme. The new Law created a new governmental agency, Directorate General for Migration Management (DGMM) to handle all migration matters in a centralized fashion, coordinate Turkish governmental responses to immigration flows, and act as a medium of exchange between different Ministries-in particular, the Ministry of Interior Affairs, Ministry of Labour, Ministry of Foreign Affairs, Ministry of Family and Social Policy. Consequently, the asylum seekers were required to apply both to the UNHCR and the DGMM for settlement into third countries, and if successful, they would be recognized as international protection applicants under Turkish law. Yet, access to this information was restricted as stressed by focus groups participants: "International organizations need to cooperate with the Turkish government for helping the Syrians, people are without homes, jobs and do not know who to ask for help. Coordination and more information is needed at the local level".<sup>3</sup>

Law 6458 created three different categories for migrants- refugees, conditional refugees –those specifically to be settled in 3<sup>rd</sup> countries, and individuals under temporary/subsidiary protection. With this differentiation, the Law brought a new adaptation to the Turkish geographical limitation to the Convention, and enabled the government to classify Syrian refugees under a new category- individuals in need of special protection who faced security risks in their country of origin. However, the Turkish reservations on 'refugees' from non-European countries remained intact under the new Law, and these asylum seekers could apply only for conditional refugee or temporary protection status.

To address this discrepancy, the Council of Ministers adopted an additional legislation as secondary law (Temporary Protection Regulation) into Law 6458 on October 22, 2014. This additional legislation changed the Syrians' official status from 'guests' to those in need of temporary protection, and formalized the Temporary protection Regime. Almost all the focus group participants stressed a lack of knowledge of Turkish laws as a major issue. "We do not know our rights under the Turkish law".<sup>4</sup> The temporary protection position for Syrian refugees, however, prevented them from applying for settlement in third countries while they are residing in Turkey. This created a new layer of confusion: A similar complication arose from the registration procedure, as Syrians would gain access to fundamental services in health care and education only when they register with the Directorate General for Migration Management. Almost all participants in the focus groups identified multiple

---

<sup>3</sup> Saad, PhD in international relations, chair of a Syrian NGO, 60 years old, came from Saudi Arabia to Turkey in 2015.

<sup>4</sup> Safar, female nurse, aged 45 with 5 children, living in Istanbul since 2018.

## D8.7. Externalization of Migration Governance, Turkish Migration Regime and the Protection of European Union's External Borders

problems in the implementation of Turkish laws. "There are two types of Syrians in Turkey, those with a residence permit/identity and those without".<sup>5</sup> Yet, as revealed in the focus groups, Syrians seem to have concerns over their access to fundamental services and the modalities of registering with DGMM in determining this access. For example, the female participants in the focus groups, who were all mothers with a median of 4 children, pointed out that they wanted access to education for their kids. "40 % of Syrian children can not access education, some of them have to work to earn money to help their families, while some of them are not registered properly".<sup>6</sup>

With the new temporary protection clause, every Syrian who enters Turkey receives an identity card-(kimlik) granting them rights to health services, education, but only in the cities where they have originally registered. "Without a residence permit, we cannot go to hospital, our kids cannot go to school, we have no choice in choosing where we live".<sup>7</sup> The focus group participants clearly stated that they encounter serious problems in accessing their rights under Turkish Law and DGMM's processing capacities. "We encounter problems with the Police and live in fear".<sup>8</sup> Accordingly, "The main problem is the identity card- without the ID card, we are unable to receive many benefits in Turkey".<sup>9</sup> This is also compounded with uncertainty over the registration process. Applicants for international protection registered in Provincial Directorates for Migration Management are allowed to reside only in 'satellite cities' which exclude three big cities in Turkey. However, according to Syrians, mobility inside Turkey was a necessity; "We are in Istanbul because this is where jobs are, we are not guests, we work a lot to earn our own money".<sup>10</sup> Clearly, a key issue in implementing Law 6458 revolved around the Syrians' inability to access fundamental services in cities other than where they have registered. Further problems stem from the lack of mobility inside Turkey-a concern voiced by almost all the participants of the focus groups. In case they move around in Turkey, their access to social services would be disrupted. Law 6458 clearly stated the modalities of Syrians' rights as determined by the registration status.

In addition, complications arise from Turkey's reservations to the Additional Protocol and the Geneva Convention. Despite giving Syrians new rights, Temporary protection Regulation still does not imply a full recognition of Syrians' status as refugees. Furthermore, even this temporary protection status would end if a person in this status leaves Turkey voluntarily, accepts the protection of a third country or is admitted by another country for resettlement. If a Syrian under temporary protection travels to another

---

<sup>5</sup> Ramia, unemployed female housewife with two children, living in Turkey since 2015.

<sup>6</sup> Huda, female self employed as a cleaning worker, with two children, living in Turkey since 2014.

<sup>7</sup> Fatima, uneducated female, housewife, married with 6 kids, living in Istanbul since 2014.

<sup>8</sup> Maysun, male, 45 years old, married with 3 children.

<sup>9</sup> Ibrahim, male labourer married with two children, residing in Turkey since 2012.

<sup>10</sup> Arij, female student and teacher of biology, living in Turkey since 2017.

## D8.7. Externalization of Migration Governance, Turkish Migration Regime and the Protection of European Union's External Borders

country, he/she loses all rights in Turkey. Yet, leaving Turkey once a Syrian registers as a refugee is not easy either. If a Syrian refugee wants to leave Turkey permanently, then he/she has to apply for an exit visa from the Directorate General of Migration Management which can only be obtained through the Provincial Directors where he/she is already registered. However, if a Syrian under temporary protection has already moved away from his/her original city of registration, which is the case for many of these refugees, then this processing can not be completed. These requirements are not fully understood and cause delays in processing. What is more, most of these concerns apply only to those Syrians who were registered legally in Turkey, but there seems to be a substantial group of refugees who are either not registered, or do not have a right to register as a refugee, especially if they are coming from countries other than Syria. The coexistence of multiple legal schemes for different categories of migrants, refugees, asylum seekers determine these people's migration trajectories. A solid illustration of the EU's externalization of migration governance is provided with the EU's further cooperation with Turkey after 2013, addressed in the next section.

### **Externalization of European Migration Regime to Turkey after 2013**

The externalization of European Union's migration regime towards Turkey gained a new momentum after 2013. That is partly because, the EU aimed to solve its migration conundrum with an engagement with Turkey, and by externalizing its border security to Turkey (Saatçioğlu, 2019; Ozer, 2020). The 2013 Readmission agreement, 2015 Joint Action plan and the 2016 Refugee Statement are the main policy tools for externalization of migration regime and the external border controls, as addressed in the conceptual part of this paper. The Readmission Agreement aims to "establish, on the basis of reciprocity, procedures for the rapid and orderly readmission, by each side, of the persons having entered or are residing on the territory of the other side in an irregular manner".<sup>7</sup> The Readmission Agreement's reciprocal obligation meant that Turkey would take back its citizens and third party nationals who travelled to EU member states as undocumented migrants using the Turkish territory. In return, the EU would finalize a visa liberalization for Turkish nationals- pending the Turkish government's fulfilment of 72 main criteria. Under its original forms, the Readmission Agreement was to be implemented in three years' time, and visa liberalization for Turkish citizens to be realized in October 2016. Turkey also had the right to suspend and/or withdraw from the Agreement if visa liberalization for Turkish nationals were not realized at the latest in April 2018.<sup>8</sup> The Readmission Agreement became operational in 2014, with reciprocal obligations for the readmission of non-EU nationals operational on October 1, 2017. The reciprocity of the readmission agreement is tied to the EU's granting financial incentives, visa liberalization and facilitation-a clear illustration of the EU's externalization, and extra territorial migration governance.

## D8.7. Externalization of Migration Governance, Turkish Migration Regime and the Protection of European Union's External Borders

It is precisely while the EU and Turkey were adopting measures for their reciprocal obligations under the Readmission Agreement, that the 2015 refugee crisis erupted. The European Union suddenly faced one million of potential refugees and asylum seekers trying to reach European destinations. While the Readmission Agreement was negotiated under the Turkish accession criteria, and in expectation of a visa free travel for Turkish citizens, the urgency of the Syrian refugee crisis led to the adoption of new measures furthering the externalization of the EU's migration regime.

The Syrian refugee crisis visibly demonstrated Turkish role as a third party for the protection of the EU's external borders is critical. At the height of the migration crisis, the German Chancellor, Angela Merkel identified this Turkish role as "We will not solve the refugee problem completely; we need, among other things, further talks with Turkey for that. Only with Turkey we can switch illegality to legality. It is very important that the (European) Commission discusses further the migration agenda with Turkey."<sup>9</sup> Accordingly, the EU agreed on a Joint Action Plan with Turkey in October 2015 to stop refugee flows onto the European territories, through the Eastern Mediterranean route. The European Commission President at the time Jean Claude Junkers and Turkish President Recep Tayyip Erdogan met in October 2015 to negotiate the Joint Action Plan.<sup>10</sup> On 8 October 2015, the European Council declared "We are facing a common challenge. As partners, we need to respond collectively with solidarity" and suggested engaging with partners like Lebanon, Jordan, and Turkey.<sup>11</sup> In October 2015, at the Justice and Home Affairs (JHA) Council meeting, the EU member states stressed "Cooperation with the countries of origin and transit is key to successful return operations".<sup>12</sup> Angela Merkel further stressed this cooperation in her visit to Turkey in October 2015, underlining the critical role Turkey was expected to play in protecting the EU's external borders.

On November 24, 2015, the European Commission adopted a decision for Turkey putting together a Facility for Refugees to pool 3 billion Euros, providing further illustration of European funding schemes for extra territorial protection of its borders. On November 29, 2015, a bilateral summit was held between Turkey and the EU for generating the modalities of the Action plan (Muftuler-Bac, 2017; Ozer, 2020). An integral aspect of the Joint Action plan was the Turkish commitment to take back refugees which used the Turkish territory to reach European destinations, and those who could not go back to their home countries- effectively eliminating the Turkish reservations of not taking back non-European refugees once they leave the Turkish territory (Isleyen, 2018; Memisoglu and Ilgit, 2017). The Turkish government adopted a National Action Plan in November 2015 for illegal migration, as foreseen in Accession partnership documents and the Readmission Agreement. The Action plan for the implementation of institutional coordination with the EU was already signed in 2014 as part and parcel of the Readmission Agreement. This Action

## D8.7. Externalization of Migration Governance, Turkish Migration Regime and the Protection of European Union's External Borders

plan for illegal migration furthered the modalities of the EU's cooperation with Turkey, and a European official to act as a Frontex liaison officer in Turkey was appointed on April 1, 2016. This appointment of Frontex official to be stationed in Turkey illustrates the implementation of European externalization to third parties. In addition, all these new plans addressed the Turkish and European concerns over illegal migration. Most importantly, by clarifying the modalities of deportation, it allowed the EU to classify Turkey as a 'safe third' country, thereby meeting one of the EU's key criteria for the externalization of European migration governance. It is this designation of Turkey as a safe third country that enabled the EU to use new tools with Turkey to manage its external borders.

On March 18, 2016, Turkey-EU agreed on a Joint Statement (known as the Turkish-EU refugee deal) which transformed Turkey's role in managing illegal migration towards the EU. Joint Action plan and the Refugee statement provide solid illustrations of the EU's externalization of border controls. The deal incorporated a change in Turkish stance towards non-European refugees and its reluctance to take them back with the postulate that undocumented migrants arriving will be returned to Turkey if they are not under international protection, have a right to international protection, or claim asylum. Those individuals who do seek asylum but whose applications are deemed inadmissible will also be returned back to Turkey. The Turkey-EU Refugee Statement<sup>13</sup> postulates that "all irregular migrants crossing from Turkey to the Greek islands as of 20 March 2016 will be returned to Turkey, and for every Syrian being returned to Turkey from the Greek islands, another Syrian will be resettled to the EU, and Turkey will take any necessary measures to prevent new sea or land routes for irregular migration opening from Turkey to the EU".<sup>14</sup> In return, the EU agreed to lift visa requirements for Turkish citizens by the end of 2016, the revitalization of the accession negotiations and Refugee funds of 6 billion euros. At the same time, the deal aimed to curb the undocumented migrants and asylum seekers using the Turkish territory to cross over the Aegean Sea to reach Greece. The deal rests on the EU's recognition of Turkey as a safe third country, which is a central aspect for its implementation. Even though Turkey still does not grant refugee status to those non-European migrants, it was designated as a safe third country in line with the EU's Directive 2011/95. This designation was based on the non-refoulement protection and access to fundamental rights for refugees. Syrian refugees in the focus groups agreed that Turkey is a safe country for them as: "We can stay in Turkey, it is better than going to Europe, going to Europe is dangerous".<sup>11</sup> The EU assured that Turkey can provide access to fundamental services, protections against forced return to a country of origin where there is a serious risks of bodily harm. Turkey also agreed to take back all migrants who do not need international protection, but who have used the Turkish territory to reach Greece as well as undocumented migrants caught in the Turkish national waters in the Aegean

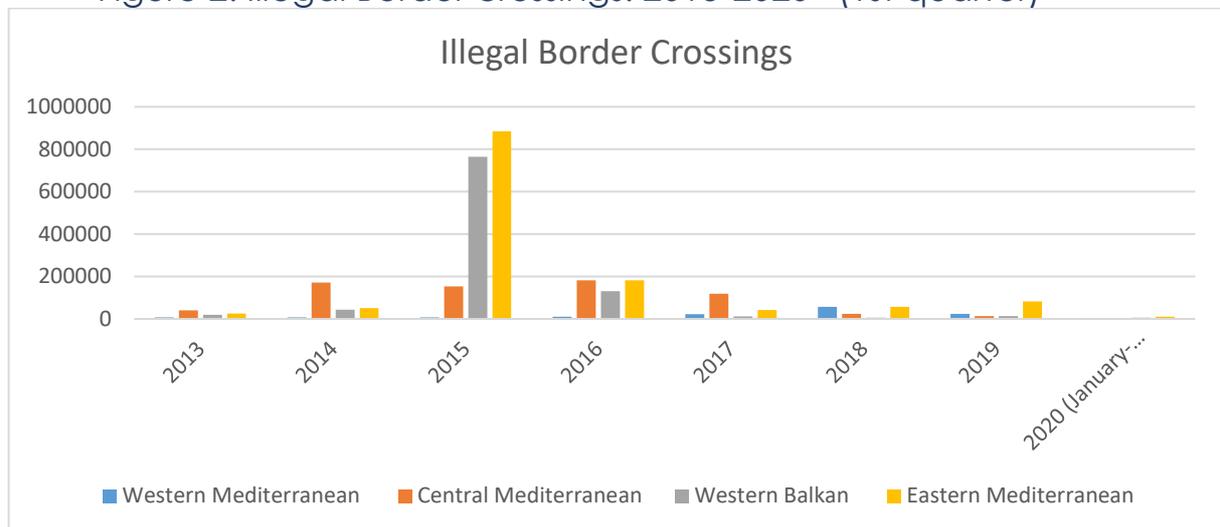
---

<sup>11</sup> Ala, 29 year old male, musician with a Bachelor degree in music, came to Istanbul in 2014.

## D8.7. Externalization of Migration Governance, Turkish Migration Regime and the Protection of European Union's External Borders

Sea. A Facility for Refugees was set up to provide funds to Turkey for providing fundamental services to these refugees. An important component of the deal was the postulate that the EU member states would process and settle refugees residing in Turkey, proportional to those Turkey readmits. Turkey-EU statement constituted a success story for the EU's externalization of migration control as the European Commission noted that irregular migrants trying to reach European destinations was down by 97% in one year.<sup>15</sup> Clearly, Turkey turned out to be a reliable partner for the external control of the EU's borders.<sup>16</sup> The European Council President at the time, Donald Tusk emphasized this as: "I would like to express our appreciation for the impressive work Turkey has been doing".<sup>17</sup> Frontex data below supports these declarations and demonstrates the effectiveness of the Turkey-EU statement on illegal border crossings.

Figure 2: Illegal Border crossings: 2013-2020 –(1st quarter)



As shown above, the peaks of illegal border crossings towards the EU territories are visible in 2015 and in the first half of 2016. From 2016 onwards, there is a sharp decline in illegal crossings through the Eastern Mediterranean route. In terms of specific tools for the EU's externalization of its border control to Turkey, two direct assistance programs for Syrians have been devised, together with the Refugee Facility tool; the Emergency Social Safety Net program and the Conditional Cash Transfer for Education program. These novel programs constitute original initiatives to assist refugees in third countries by improving their living conditions. Turkish agencies manage these European funds to enhance its services for the Syrian refugees. As stressed by the focus group participants, the most important barrier for Syrians is the language. If the education funds are to be used for teaching Syrians the Turkish language, their access to public schools, work would be higher. "If you want to send your children to school, you have to pay but we need more support for higher education opportunities". The EU Facility for Refugees enabled the provision of health care services and education facilities for the Syrian refugees in

## D8.7. Externalization of Migration Governance, Turkish Migration Regime and the Protection of European Union's External Borders

Turkey. Similarly, the Emergency Social Safety Net program became one of the largest single humanitarian projects for the EU- serving the needs of a refugee community in a third country. By February 2020, out of 6 billion euros to be allocated to Turkey for the Syrian refugees, 4.7 billion euros have already been contracted, but there is uncertainty over the continuation of the financial aid for the provision of fundamental services to the Syrian refugees. The EU also provides significant assistance to capacity building for DGMM as well as the Removal Centres. The funds for border controls, detention and removal centres and enhancing DGMM capacity are allocated from the EU budget for Turkey's Pre-Accession funds and IPAs. Yet, in comparison to what Turkey has already spent from its own resources, close to 40 billion euros in humanitarian aid to the Syrian refugees, the European financial scheme remains low. The disparity in the Turkish and European Union's allocation of funds to the Syrian refugees has motivated the Turkish government to question the EU's assistance in coping with migratory challenges.

While initially a success story, the externalization of migration governance to Turkey with the Refugee deal is not without significant problems. That is partly because, Turkey resents the EU's reluctance to grant visa free travel for Turkish citizens- as agreed upon in the 2013 Readmission Agreement and the 2016 Turkey-EU statement. Turkey has insisted that 'it would not implement the provisions that entered into force in October 2017 until the visa requirement for Turkish citizens travelling to the Schengen zone has been lifted'.<sup>18</sup> While increasing disillusioned with Europe, Turkey began to face new problems after 2016. The Turkish migration regime confronted increased securitization concerns, requiring new legal tools, addressed in the next section.

### **Turkish Migration Regime changes after 2016**

A particularly important change in Turkey's migration governance came in 2016 with the adoption of new border protection schemes. This change was motivated by the increased security risks that came with the influx of people from Syria, especially to cities in the south such as Hatay which led to an alteration in the demographic and ethnic balances in these areas (Okyay, 2017; Rygiel and et.al, 2016). While enhancing protection of its borders with new measures, Turkey adopted legal reforms to integrate those who are already in Turkey. A critical step in Turkish migration regime was taken in 2016 with a bylaw for the Law on Foreigners and International Protection for their participation in the labour market. This new amendment allowed Syrians under Temporary protection to participate in the labour market with Work Permit regulations. In July 2016, the Turkish Parliament extended the scope of this bylaw with a Law on International Labour Force allowing all beneficiaries of international protection to participate in the labour market. These changes were critical for Syrians' inclusion into the Turkish labour market. The focus groups participants stressed how both access to labour market as a crucial

## D8.7. Externalization of Migration Governance, Turkish Migration Regime and the Protection of European Union's External Borders

factor in their integration and how their position in the labour market is precarious. "We accept jobs below our levels of competence, confront animosity from our Turkish neighbours who accuse us of taking jobs from the Turks...but Turkish people employ Syrians because of their low wages, and lack of education prevents us from getting better jobs".<sup>12</sup> This inability to compete in the labour market was one of the most important concern for focus group participants. "Some Turkish people are taking advantage of our situation and make us work in bad conditions".<sup>13</sup> Yet, it seems that not all Syrian refugees are on the same boat. On July 2, 2016, paths of citizenship were opened for Syrian refugees when the Turkish President Recep Tayyip Erdogan declared that some Syrians would be granted Turkish citizenship if they qualify.<sup>19</sup> This was a welcome step for the Syrians who stressed that "Citizenship is the best solution for our situation, we need to obtain citizenship".<sup>14</sup> Syrians with education, market skills and a minimum level of income were readily integrated into the Turkish society. In 2017, the Law of Citizenship was amended which opened to the road of Turkish citizenship for 40,000 Syrians.

Multiple terrorists attacks in 2013 and 2015 such the Reyhanli bombings that killed 53 Turkish citizens illustrated the tradeoffs between Turkish security concerns and migration policy. To deal with these security threats, the Turkish government adopted increased security measures –to enhance its border security. To do so, a new border protection plan - Acil Sinir Fiziki Guvenlik Sistemi projesi- Project on Urgent Border Physical protection System- was adopted, which comprised of modular walls, watchtowers, electronic monitoring, and barbed wire. Turkey built a 900 km of a concrete wall, along with barbed wire and ditches- measures taken to ensure a physical control of the border with increased military personnel patrolling the area to prevent any more illegal crossings. The Turkish-Syrian border has become a 828 km long wall comprising the entirety of the border, ranking the 3<sup>rd</sup> largest border wall in the world following the Chinese wall and the US-Mexico border. In addition to the wall, 120 watchtowers (Kulekol) are built as bases for Turkish troops to monitor illegal activities across the border. A total of 59 high security doors which are resistant to attacks are built in the wall- 44 of which are on Turkey's border with Syria, and the rest with Iran. The physical wall effectively blocks the flow of people from Syria onto Turkish territories. The Turkish-Syrian border wall is an example of how physical space constitutes a line of demarcation, and an indicator of who belongs in and who does not. At the same time, it illustrates the change in Turkish migration governance over time parallel to the dual pressures coming from the adaptation to the EU rules and managing Syrian refugee crisis. This increased surveillance is reminiscent of the EU's own measures with Frontex, specifically the creation of Rapid Border Intervention Team stationed

---

<sup>12</sup> Izan, single male labourer working in the transportation sector together with his brother, in Istanbul since 2017.

<sup>13</sup> Shoukat, 59 year old female, with 13 kids, not working, living in Istanbul.

<sup>14</sup> Zaki, male journalist, married with 4 kids, in Istanbul since 2015.

## D8.7. Externalization of Migration Governance, Turkish Migration Regime and the Protection of European Union's External Borders

in Greek towns on the Turkish border in November 2010. Both RABIT and Turkish-Syrian wall exemplify increased border securitization.

Parallel to these measures to stop more people coming to Turkey, policy changes were adopted to deport those who reside in Turkey illegally. Reintegrating those already in Turkey went hand in hand with the elimination of potential problem cases, Turkish stance changed towards welcoming more Syrians. In October 2016, Turkey adopted an additional amendment to Law 6458 with an executive order, Decree 676. This amendment postulated foreigners affiliated with suspected terrorist organizations would be immediately deported, a significant step demonstrating Turkey's increased securitization concerns. Law 6458 has already altered the UNHCR's role in Turkish migration regime with the DGMM acquiring the power over refugees and asylum seekers. On July 1, 2018, UNHCR's Host Country Agreement with Turkey entered into force ending the UNHCR's registration of international protection applicants, but kept UNHCR in official contact. From 2018 onwards, the DGMMs took over all registration and accommodation needs of the refugees from AFAD, voiding the UNHCR's role. To implement these changes, new units were set up under the DGMM -Refugee Status Determination Centre in Ankara in 2018, and in Istanbul in 2019. On February 1, 2018, Law 7070 clarified the conditions under which deportation of undocumented migrants would take place. In September 2018, a Migration Board was established under the Ministry of Interior Affairs to coordinate Turkish migration policies. These new procedures and the Deportation centers were set up in line with the EU rules, further solidifying the EU's externalization of migration.

By 2019, new Turkish legal amendments emphasized the safe return of the Syrian refugees back to their homeland. Multiple measures were devised, encouraging them to do so. For example, an amendment to Law 6458 limited international protection applicants' access to health care to one year after their applications are registered. On December 24, 2019, residence permit rules were amended. On December 25, 2019 deportation rules were further revised opening new paths for sending Syrian refugees back home. However, according to focus group participants, there is no possible way back home as "Syrians only want physical safety, that is why we left Syria and do not want to go back".<sup>15</sup> Nonetheless, safe return became a dominant theme in Turkish policy changes, with a total of 28 Removal Centres becoming operational in different parts of Turkey by 2020. These Deportation/Removal Centres are set up with assistance from the EU, and involve significant alignment to EU rules in terms of access to services, counseling and interpretation assistance. The author's on site visit to Harmandali Deportation Center provided a first-hand witnessing of these services and facilities.

---

<sup>15</sup> Ahmed, male labourer, single, working as a gardener, living in Istanbul since 2018.

## Conclusion

This paper analysed Turkish legal reforms and the redesign of the Turkish migration governance as stimulated by EU's externalization of migration governance, the EU accession process. However, as shown with the paper's empirical data, Syrian refugee crisis after 2011 enhanced the urgency of reforming Turkish migration system with a flow of refugees onto Turkish territory at an unprecedented level, but also the EU's need to cooperating with Turkey for the external protection of its borders. The interplay of the EU's externalization of migration regime together with the pressure of the Syrian refugees led to a redesign in Turkish migration regime.

This paper demonstrated how and to what extent Turkish migration policies changed in response to its obligations to adjust to the EU criteria as an acceding country, and to deal with the unprecedented flow of refugees coming from Syria. It is the interplay of these external and internal conditions that has led to the adoption of a new migration regime, and also pave the way to finding a common policy with the EU. While Turkey has refrained from recognizing individuals from non-European countries as asylum seekers, its accession process to the EU on the one hand and the Syrian refugee crisis on the other hand necessitated this transformation. Of these significant changes, the most notable is the 2013 Law of International Protection and Foreigners. The 2013 Law is a solid example of the EU's externalization of its migration governance. While it is motivated to deal with the Syrian refugees, it has significantly changed the Turkish migration policies and created new institutions- in particular, the Directorate General for Migration Management and new instruments to deal with migratory pressures. The close correlation with the legal changes and the EU accession process is an important indicator of the diffusion of EU's migration tools to the non-EU countries, creating a new type of migration governance.

The paper assessed how EU's migration policy depends on externalization of its border protection to 3<sup>rd</sup> parties, and demonstrated how the Turkish case provides an empirical verification of this externalization. The paper revealed the reliance on comprehensive migratory tools to manage both the EU's external borders and the externalization of its migration governance. The Turkish adaptation to the EU *acquis* on migration led to multiple legal reforms from 2003 onwards, culminating in its Asylum Law of 2013.

However, developments since 2016, with the Turkish government building physical walls on the Syrian border, the increased emphasis on the safe return of the Syrian refugees back to their homes all indicate that while the Turkey-EU statement might have worked initially, it is no longer sufficient to enable Turkey and the EU to deal with the migratory challenges. Thus, Turkey's cooperation with the EU and its handling of the Syrian refugees in massive numbers could be used as yardsticks with which migration governance

## D8.7. Externalization of Migration Governance, Turkish Migration Regime and the Protection of European Union's External Borders

strategies that might be emerging in other third parties for the EU, such as Libya, Ethiopia, Nigeria and Mali could be assessed. The Turkish case provides a solid illustration of the EU's externalization of migration regime with the adaptation in Turkey partly stimulated by the EU *acquis*. However, it is the urgency of the Syrian refugee crisis that acted as a catalyst in enhancing EU's cooperation with Turkey, but also the increased adaptation in Turkey.

What also remains to be seen and assessed is how the new legal changes and policies have been implemented in practice and in what level of effectiveness. Particularly important here is the processes with which Turkey deals with asylum claims- both in terms of its time frame and the magnitude of the applications, and how the Turkish governmental agencies taking over this function could manage problems in the implementation of new migration rules. Equally important are the emerging layers of linkages between Turkey's security, military and migration policies. However, it needs to be noted that there is a high degree of interplay between changes in Turkish migratory policies and its security concerns rising from illegal migration to the Turkish territory, shaping its willingness to align to the EU rules, and continue functioning as a gate keeper for the European Union's external borders. The Turkish legal adaptation in its migration regime is, therefore, partly stimulated by the EU's externalization of its migration regime and partly by the magnitude of the Syrian refugee crisis.

## REFERENCES

- Adamson, F. B. (2011) "The Limits of the Liberal State: Migration, Identity and Belonging in Europe", *Journal of Ethnic and Migration Studies*, 37 (6): 843-859.
- Adamson, F. B. and Tsourapas, G. (2019) "Migration Diplomacy in World Politics", *International Studies Perspectives*, 20 (2): 113-128.
- Aydin, U. and Kirişci, K. (2016) "With or Without the EU: Europeanisation of Asylum and Competition Policies in Turkey", *South European Society and Politics*, 18 (3):375-395.
- Balibar, E. (2004) *We, the People of Europe? Reflections on Transnational Citizenship*, Princeton: Princeton University Press.
- Boswell, C (2003) "The ' External Dimension ' of EU Immigration and Asylum Policy ", *International Affairs*, 79 (3):619–38.
- Casas-Cortes, M, Cobarrubias, S, Pickles, J (2016) "Good neighbours make good fences': Seahorse operations, border externality and extra-territoriality", *European Journal of Urban and Regional Studies*, 23(3): 231-51.
- Demirtaş-Bagdonas, O. (2014) "Reading Turkey's Foreign Policy on Syria: The AKP's Construction of a Great Power Identity and Politics of Grandeur," *Turkish Studies*, 15 (1): 139-155
- Directorate General of Migration Management. 2019. "International Protection."[http://www.goc.gov.tr/icerik6/international-protection\\_915\\_1024\\_4747\\_icerik](http://www.goc.gov.tr/icerik6/international-protection_915_1024_4747_icerik) (March 26, 2019)
- Elitok, S.P. (2018) "Turkey's Migration Policy Revisited: (Dis) Continuities and Peculiarities." October, <https://www.iai.it/sites/default/files/iaip1816.pdf>.
- Elitok, S.P. and Straubhaar, T.(eds.)(2012) *Turkey, Migration and the European Union*, Hamburg: Hamburg University press.
- Fitzgerald, D.S.(2020) "Remote Control of Migration: Theorising territoriality, shared coercion and deterrence", *Journal of Ethnic and Migration Studies*, 46(1): 4-22.
- İçduygu, A. (2011) "The Irregular Migration Corridor between the EU and Turkey: Is It Possible to Block It with a Readmission Agreement?" Robert Schuman Centre for Advanced Studies, European University Institute 14, <https://doi.org/10.1080/14650040500318449>.
- İçduygu, A. and Aksel, D. (2014) "Two-to-Tango in Migration Diplomacy: Negotiating Readmission Agreement between the EU and Turkey," *European Journal of Migration and Law*, 16 (3): 337–63.
- İşleyen, B (2018) "Turkey's Governance of Irregular Migration at European Union Borders: Emerging Geographies of Care and Control." *Environment and Planning D: Society and Space* 36 (5):849-66.
- Huysmans, J (2000) "The European Union and the Securitization of Migration." *Journal of Common Market Studies*,38(5):751-77.
- Kale, B, Dimitriadi, A., Sanchez-Montijano, E., and Süm, E..(2018) "Asylum Policy and the Future of Turkey-EU Relations: Between Cooperation and Conflict." *FEUTURE Online Paper No:18*.

D8.7. Externalization of Migration Governance, Turkish Migration Regime and the  
Protection of European Union's External Borders

- Karadag, S. (2019) "Extraterritoriality of European borders to Turkey: an implementation perspective of counteractive strategies", *Comparative Migration Studies*, 7(12): 1-16.
- Kaya, A. (2012) "Backlash of Multiculturalist and Republican Policies of Integration in the Age of Securitization." *Philosophy and Social Criticism*, 38 (4-5):399-411.
- Kirişçi, K (2014) "Syrian Refugees and Turkey's Challenges: Going Beyond Hospitality", <https://www.brookings.edu/wp-content/uploads/2016/06/Syrian-Refugees-and-Turkeys-Challenges-May-14-2014.pdf>.
- Köşer-Akçapar, S. and Şimşek, D.(2018)" The Politics of Syrian Refugees in Turkey: A Question of Inclusion and Exclusion through Citizenship," *Social Inclusion*, 6 (1):176-187.
- Kostanick, H.L. (1955) "Turkish Resettlement of Refugees from Bulgaria, 1950-1953", *Middle East Journal*, 9 (1):41-52.
- Lavenex, S. (2006) "Shifting Up and Out: The Foreign Policy of European Immigration Control", *West European Politics*, 29 (2):329-350
- Lavenex, S. (2016) "Multileveling EU external governance: The role of International organizations in the diffusion of EU Migration policies", *Journal of Ethnic and Migration Studies*, 42(4): 554-570.
- Lavenex, S.and Ucarer, E. (2003) *Migration and the externalities of European integration*, Lanham: Lexington Books.
- Law on Foreigners and International Protection. 2013. Law No.: 6458. Official Gazette, 11 April 2013 No:339. [https://www.goc.gov.tr/files/files/law%20on%20foreigners%20and%20international%20protection\(2\).pdf](https://www.goc.gov.tr/files/files/law%20on%20foreigners%20and%20international%20protection(2).pdf)
- Memisoglu, F. and Ilgit, A (2017) "Syrian Refugees in Turkey: Multifaceted Challenges, Diverse Players and Ambiguous Policies." *Mediterranean Politics*, 22 (3):317-338.
- Muftuler-Bac, M.(2014) [Who wants to Travel to Europe: The Schengen Wall to Turkish nationals](#), IPC policy brief, May.
- Muftuler-Bac, M.(2017) Turkey's Future with the European Union: An Alternative Model of Differentiated Integration, *Turkish Studies*, 18 (3):416-439.
- Okyay, A. (2017) "Turkey's post-2011 approach to its Syrian border and its implications for domestic politics", *International Affairs*, 93 (4): 829–846.
- Ozer, Y. (2020) "External Differentiated Integration between Turkey and the European Union: the Customs Union and its Revision", *Turkish Studies*, 21 (4): 436-61.
- Panizzon, M. and van Riemsdijk, M. (2018) "Introduction: Migration Governance in an Era of Large Movements: A Multi-Layer Approach", *Journal of Ethnic and Migration Studies*, special issue.
- Rygiel, K., Baban, F. and Ilcan, S.(2016) "The Syrian Refugee Crisis: The EU-Turkey 'Deal' and Temporary Protection." *Global Social Policy* ,16 (3):315-320.
- Rumford, C. (2006) "Theorizing Borders", *European Journal of Social Theory*, 9 (2):155-169.

D8.7. Externalization of Migration Governance, Turkish Migration Regime and the  
Protection of European Union's External Borders

- Saatçioğlu, B (2019) "The European Union's Refugee Crisis and Rising Functionalism in EU-Turkey Relations." *Turkish Studies*, 21 (2):169-187.
- Slominski, P. and Trauner, P. (2018) "How do member-states Return Unwanted Migrants? The Strategic (non-) use of 'Europe' during the Migration Crisis", *Journal of Common Market Studies*, 56 (1):
- Tolay, J. (2012) "Turkey's 'Critical Europeanization': Evidence from Turkey's Immigration Policies", in Seçil Paçacı Elitok and Thomas Straubhaar (eds.), *Turkey, Migration and the EU: Potentials, Challenges and Opportunities*, Hamburg, Hamburg University Press, pp. 39-61.
- Ustubici, A. (2018) *The Governance of International Migration: Irregular migrants' Access to right to stay in Turkey and Morocco*, Amsterdam: Amsterdam University Press.
- Van Houtum, H. and Boedeltje, F (2011) "Questioning the EU's neighborhood geopolitics", *Geopolitics*, 16(1): 121-129.
- Wolff, S. (2014) "The Politics of Negotiating EU Readmission Agreements: Insights from Morocco and Turkey", *European Journal of Migration and Law*, 16 (1): 69-95.
- Yildiz, A.G. (2016) *The European Union's Immigration Policy: Managing Migration in Turkey and Morocco*, London: Palgrave.
- Zaragoza-Cristiani, J. (2017) "Containing the Refugee Crisis: How the EU Turned the Balkans and Turkey into an EU Borderland." *International Spectator* 52 (4):59-75.

## NOTES

---

<sup>1</sup> UNHCR 2020, <https://reliefweb.int/report/turkey/unhcr-turkey-fact-sheet-september-2020>

<sup>2</sup> "Migration and Asylum," European Commission, accessed April 08, 2019, [https://ec.europa.eu/europeaid/sectors/migration-and-asylum/migration-and-asylum\\_en](https://ec.europa.eu/europeaid/sectors/migration-and-asylum/migration-and-asylum_en).

<sup>3</sup> Turkish Grand National Assembly, General Assembly Deliberations, June 14, 1934. <https://www.tbmm.gov.tr/tutanaklar/TUTANAK/TBMM/d01/c010/tbmm01010fih.pdf>.

<sup>4</sup> Turkish National Programme on the Adoption of the Accession Partnership, 2001, [https://www.ab.gov.tr/files/AB\\_Iliskileri/Tur\\_En\\_Realitons/Apd/Turkey\\_APD\\_2001.pdf](https://www.ab.gov.tr/files/AB_Iliskileri/Tur_En_Realitons/Apd/Turkey_APD_2001.pdf).

<sup>5</sup> Turkish National Programme on the Adoption of the Accession Partnership, 2008, [https://www.ab.gov.tr/files/AB\\_Iliskileri/Tur\\_En\\_Realitons/Apd/Turkey\\_APD\\_2008.pdf](https://www.ab.gov.tr/files/AB_Iliskileri/Tur_En_Realitons/Apd/Turkey_APD_2008.pdf).

<sup>6</sup> Article 33 of the Convention relating to the Status of Refugees:

<sup>7</sup> Statement by Cecilia Maelstrom on Readmission Agreement, June 26, 2014, Brussels, [https://ec.europa.eu/commission/presscorner/detail/en/STATEMENT\\_14\\_210](https://ec.europa.eu/commission/presscorner/detail/en/STATEMENT_14_210).

<sup>8</sup> Agreement between the European Union and the Republic of Turkey on the readmission of persons residing without authorization, 16 December 2013, [http://eur-lex.europa.eu/legal-content/en/TXT/?uri=celex:22014A0507\(01\)](http://eur-lex.europa.eu/legal-content/en/TXT/?uri=celex:22014A0507(01)).

D8.7. Externalization of Migration Governance, Turkish Migration Regime and the Protection of European Union's External Borders

---

<sup>9</sup> Robin Emmott and Ivana Sekularac, "Slovenia sees end to EU", *Reuters*, October, 25, 2015. <http://www.reuters.com/article/us-europe-migrants-summit-idUSKCN0SJOBQ20151025>.

<sup>10</sup> "First Vice-President Frans Timmermans and Commissioner Johannes Hahn Visit to Turkey Postponed after Attacks in Ankara," European Commission - PRESS RELEASES - Press Release - First Vice-President Frans Timmermans and Commissioner Johannes Hahn Visit to Turkey Postponed after Attacks in Ankara, accessed April 12, 2019, [http://europa.eu/rapid/press-release\\_STATEMENT-15-5822\\_en.htm](http://europa.eu/rapid/press-release_STATEMENT-15-5822_en.htm).

<sup>11</sup> [Council of the European Union, "High-Level Conference on the Eastern Mediterranean/Western Balkans Route," news release, October 09, 2015, Europa, http://data.consilium.europa.eu/doc/document/ST-12876-2015-INIT/en/pdf.](http://data.consilium.europa.eu/doc/document/ST-12876-2015-INIT/en/pdf)

<sup>12</sup> Council of the European Union, "Council Conclusions on the Future of the Return Policy," news release, October 08, 2015, Europa, <https://www.consilium.europa.eu/en/press/press-releases/2015/10/08/jha-return-policy/>.

<sup>13</sup> European Council, *EU-Turkey Statement*, 18 March 2016, <http://europa.eu/!Uv88TM>.

<sup>14</sup> [https://ec.europa.eu/commission/presscorner/detail/en/MEMO\\_16\\_963](https://ec.europa.eu/commission/presscorner/detail/en/MEMO_16_963)

<sup>15</sup> "EU-TURKEY STATEMENT ONE YEAR ON," March 17, 2017, [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/background-information/eu\\_turkey\\_statement\\_17032017\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/background-information/eu_turkey_statement_17032017_en.pdf).

<sup>16</sup> Ibid

<sup>17</sup> "Preben Aamann," Consilium, March 26, 2018, <https://www.consilium.europa.eu/en/meetings/international-summit/2018/03/26/>.

<sup>18</sup> European Commission Report for Turkey, 2019, p. 46, <https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20190529-turkey-report.pdf>.

"No Contracting State shall expel or return ("refouler") a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion."

<sup>19</sup> <https://www.hurriyetdailynews.com/erdogan-details-dual-citizenship-for-syrians-101428>.