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ASYLUM AND MIGRATION IN TURKEY

AN OVERVIEW OF DEVELOPMENTS IN THE FIELD 1990–2013

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Abstract

While migration from Turkey has received scholarly attention for a long time, it is only recently that Turkey has started to be seen as a country of immigration. The new law on foreigners and protection adopted in April 2013 is one sign of this new self-perception as much as it is a consequence of Turkey's on-going membership negotiation process with the European Union. This paper looks at changing migration patterns to Turkey since the early 1990s with a particular focus on migration from Sub-Saharan African countries. It furthermore presents a thorough overview over the legislative aspects of migration and asylum, and accounts for developments in the country's asylum system.

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Introduction

Traditionally Turkey has been perceived as an emigration country, both by others and by herself. In the early 1990s the first scholarly publications on migration to or through Turkey appeared, and especially in the last decade (since 2005) the field has been growing rapidly. In the past decade, more and more scholars have paid attention to aspects of migration coupled to Turkey as a receiving country. Academic attention is about to catch up with reality: The metropolis of Istanbul (which receives a primary attention in this paper) shows multi-ethnic features hosting foreign-borns from all over the world. Nowadays, Turkey is considered a new country of immigration. This working paper's rational is to provide an overview over some of the most dominant migration patterns to and through Turkey as well as the institutional development in the field of migration and asylum. At the same time, it provides a sort of state-of-the-art of migration research on Turkey as of 2013.

Background – Turkey and Istanbul

Turkey, the successor state of the Ottoman Empire, is a relatively young nation-state, founded 1923. The country is situated between Europe and the Middle East, with one small part geographically in Europe. The eight countries surrounding it are Bulgaria, Greece, Georgia, Armenia, Azerbaijan, Iran, Iraq and Syria.

Source: Central Intelligence Agency, 2013

Istanbul has a long history of ethnic and cultural diversity. The metropolis that has been the imperial capital of the Eastern Roman, the Byzantine as well as the Ottoman Empire remained "a truly cosmopolitan centre with its multi-ethnic, multi-lingual and multi-religious composition" for about 16 centuries (Içduygu & Biehl, 2008). Being a key node for trade paths – Istanbul lies at the one end of the Silk Road –, the city has been one of the most important commercial centres in the region. With the foundation of the Republic in 1923 and its new capital, Ankara, Istanbul gradually lost a lot of its cosmopolitan life style and, above all, its dominant position as a centre of commerce. Much due to a strong spirit of nationalism in the course of nation-building, many non-Muslim and minority groups who formed the commercial bourgeoisie began to leave the city (Içduygu & Biehl, 2008).

Up until the 1950s Istanbul's population remained more or less stable in number – accounting for around 1 million inhabitants – despite the immigration of ethnic Turks and other Muslim communities from the Balkans, and the out-migration of non-Muslim minorities. However, the growing industrialisation in the beginning of the 1950s radically changed Istanbul's urban demography. In search for work, rural Anatolians from the central and eastern part of the country started to migrate to urban spaces, and over a period of fifty years the city experienced a tenfold population increase (see Istanbul Metropolitan Municipality, 2009; Içduygu & Biehl, 2008). In 2007, the city counted almost 13 million (registered) inhabitants. Still nowadays, Istanbul shows multi-cultural features; it hosts a substantial number of churches and synagogues (Istanbul Metropolitan Municipality, 2009), offers high school and university education in foreign languages. Furthermore, the countless Western Union branches as well as the numerous internet places and call shops – often decorated with a large number of predominantly Asian and African flags – indicate the presence of foreigners in the city.

Immigration to Turkey

For a long time, Turkish migration research was dominated by the study of migration patterns of emigration from Turkey to Western European countries as well as internal migration from the eastern part of the country westwards (Tolay, 2012). However, since the early 1990s immigration into Turkey as well as through Turkey has increasingly been paid attention to. Immigration patterns into and through Turkey are largely split up into two categories - the "old" and "new" immigration: The "old" immigration addressed the movement of "Ottoman", "Muslim" or "Turkish" groups into the country and basically included persons that voluntarily or forcefully migrated to Turkey in the aftermath of the fall of the Ottoman Empire (Tolay, 2012:3). Typically, such immigrations were caused by political, economic or social conflicts in the country of origin and favoured by the vision of a homogeneous national identity in the newly found republic of Turkey (Kirişçi, 2003).

Among the first account of immigration into republican Turkey was the population exchange after the Turkish-Greek war 1921. Approximately 1.3 million Greek-orthodox Christians from Central Anatolia were forced to leave Turkey for Greece, while between 400,000 and 500,000 Greek-speaking Muslims were moved from Greece to Turkey (Kaşka, 2006). Roughly 1.6 million people immigrated into Turkey between 1923 and 1997; they were either Muslim Turkish speakers or belonged to an ethnic group which were anticipated to melt easily into the Turkish society – these were Albanians, Bosnians, Circassians, Pomaks and Tatars from the Balkan (Kirişçi, 2003). This immigration was largely regulated by the Law on Settlement of 1934 which restricts immigration into the country to people of Turkish descent and culture (Kirişçi, 2003).

Up until the 1990s several other influxes of ethnic Turks immigrated to Turkey from Balkan countries that were formerly incorporated into the Ottoman Empire. For instance, ethnic Turks immigrated from Romania (122,000 between 1936 and 1946) and from former Yugoslavia (325,000 between 1949 and 1992, with the last 25,000 arriving in 1992 due to the wars in the region) (Hecker, 2006). Immigration from Bulgaria took place mainly during three distinct periods. First, between 1925 and 1939, roughly 200,000 Bulgarian-Turks were arriving, in the

beginning of the 1950s another 212,000, and lastly in 1989, with the increasing assimilation programs by the Bulgarian political regime at that time, 310,000 left Bulgaria for their 'fatherland' (Hecker, 2006). Usually, ethnic Turks have been warmly welcomed by the Turkish authorities. This was, for instance, the case for the Bulgarians arriving in 1989. Under massive media attention, Turkey opened its borders and the arrival of the Bulgarian Turks was publicly labelled as "the return of ethnic kin to the homeland" (Parla, 2007). These so-called 'return' migrants have been granted Turkish citizenship, and received extended state support in finding accommodation and a job.[12] However, Ayşe Parla (together with Didem Danış and Sema Eder in 2009) concluded in a further study that Turkish origin no longer beds for a warm reception (in Tolay, 2012:7).

Interestingly and quiet tellingly for the political use of the concept of migration in Turkey, the term 'migration' (*göç*) and 'migrant' (*göçmen*) is often associated with either Turkish labour migrants to Europe, the people uprooted by the population exchange after 1921 (own notes, but see also Hess & Karakayalı, 2007) or other immigrants of Turkish descent and culture (Pusch, 2013).[3]

Patterns of "new" immigration

The "new" immigration – which is mainly the focus of this paper –, on the other hand, includes increasingly diversified migrant categories in terms of countries of origin, legal statuses and migrant trajectories. The first scholarly accounts of these new patterns appeared in the early 1990s, authored mainly by two Turkish scholars, Kemal Kirişçi and Ahmet Içduygu. During the war between Iran and Iraq in the 1980s as well as the

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[1] After the fall of the communist regime in 1990, more than half of them returned to Bulgaria (Içduygu, 2003).

[2] Interestingly, this is in stark contrast with later arrivals of Bulgarian migrants (Parla, 2007). The post-1990s Bulgarians' migration is economically driven with no underlying political motivation prompting them to move. They were not granted citizenship automatically; and they usually enter on a three-month visa waiver as tourists and are engaging in irregular work.

[3] Accordingly then, the term 'foreigner' (yabancı) is used to designate tourists as well as immigrants of non-Turkish descent (Pusch, 2013).

first Gulf war in the beginning of the 1990s many people sought refuge across the Turkish border.[4]

Kirişçi started his list of publication on the immigration field with articles on the presence of asylum seekers and refugees in Turkey (see publications in 1991) and over time gradually shifted his focus towards the country's asylum system in relation to Turkey's potential membership in the European Union (see publications in 1996, 2002 and later years) (see also Tolay, 2012). İçduygu started out by studying Turkish emigration as well as internal migration before turning an eye on international migrants transiting the country (1995; 2005), irregular migrants in Turkey (2003) as well as circular migration patterns to the country (2008). A considerable number of scholars have joined them since, both Turkish and foreign. Today, a decade into the new millennium, "Turkey has become a country of large-scale, continuous and complex immigration" (Tolay, 2012:12). It is noteworthy, however, that up until now international migration has not been politicised in Turkey – something that is likely to be changed with the increased harmonisation of the Turkish legislation and practices with the EU asylum system.

The following sub-sections will shed light on diverse "new" immigration patterns since the 1980s.

Economic migration: the gendered Turkish labour market

With the fall of the Soviet Union in the beginning of the 1990s, Turkey (and above all Istanbul) started to experience the increased presence of migrants from a great variety of post-soviet countries; such as Russia, Ukraine, Central Asian republics, Armenia, Georgia, Azerbaijan, Moldova, and Romania. The available (English speaking) academic literature on immigration patterns from post-soviet countries is largely

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[4] A similar situation is taking place at the moment of writing: In 2012 up to 220,000 Syrian refugees have been estimated to live in Turkish camps and cities. For 2013, the Turkish government is estimated to assist up to 500,000 Syrians (UNHCR, 2013).

focused on two different categories of migrants: firstly, circular migrants that arrive in Istanbul for (mostly) informal employment and secondly, circulating migrants that engage in small-scale informal trade (see next sub-section). The literature has by and large highlighted the very female character of these newly emerged migration patterns. Many of the first category of female migrants find employment in households, in the entertainment and sex sector as well as in textile factories and in care, while men tend to find work in agriculture, construction and factories (Içduygu, 2005).

One of the migratory phenomena that received most attention is the (circular) migration of Moldovan women into Turkish households (Kaşka, 2006; Keough, 2006; Ünal, A. 2006; Ünal, B. 2008). Both Leyla Keough (2006) and Arzu Ünal (2006) direct their specific focus on transitional practices of motherhood and womenhood. Often these women are from the Gagauz region, where a Turkic language is spoken. The economic down turn following the dissolution of the Soviet Union forced many Moldovans to find employment abroad. Number one destination for Moldovan men is Russia, while women tend to migrate to Spain, Italy and Turkey. It can be assumed that the largest part of Moldovan women entering Turkey belong to the Gagauz ethnic group whose language and culture are similar to Turkish (Kaşka, 2006). Bayram Ünal (2008) also offers an interesting analysis with a look at the demand-side (Istanbulian households) in order to understand why the migration of Moldovan women that started in the early 1990s was first directed towards Istanbul in the second half of the 1990s. Her analysis of the transformed consumption practices of middle- and upper-middle class of Istanbulian households connects to Istanbul as a Global City following the city's gradual integration into the global economy in the 1990s. The management, control and servicing of capital has become a dominant feature underlining Istanbul's economic and social transformation (Ünal, 2008:90).

As stated above, Moldovan women engage in circular migration, and would usually enter Turkey on a one-month visa which they consecutively overstay for a period of six months. Their approximate salary of US$ 400 a month corresponds to about ten times the amount of a salary in Moldova (Keough, 2006). In the beginning of their arrival, the Turkish media represented Moldovan domestics as "'good' housekeepers and care takers, portraying them as 'professional', 'educated', 'European'

and 'clean'" and for a while, employing a Moldovan domestic worker has been seen as a "sign of Westernisation" (Ünal, 2006:86, 94). However, over the years, Moldovan women have increasingly come to suffer from negative stereotypes attributed to them in the Turkish society, for example by stigmatizing them as "natashas", i.e. Russian sex workers. Also, harassment from the police increased (Kaşka, 2006; Ünal, 2006).

Shuttle migration

The second category of post-soviet migrants that researchers have paid attention to is, as mentioned above, the circular traders. This informal trade is often also called suitcase trade (*valiz ticareti*) or shuttle trade. Istanbul is a regional centre for trade, both for formal and informal practices, and in the aftermath of the collapse of the Soviet Union, many nationals from post-soviet countries[5] found economic opportunities in informal trading of textile and leather garments between Istanbul and their countries. The Turkish Treasury estimates that suitcase trade to post-soviet countries accounted for almost US$9 billion in 1996, dropping by five however in 1999[6] after the Rubel crisis (in: Tan 2001:11). Textile constitutes a main share of Turkey's export products: in 2001, Turkey was the world's seventh largest apparel exporter and the fifteenth largest textile exporter. To the EU, Turkey is the largest textile exporter and the second largest apparel exporter (Tan, 2001 :11). Often heavily criticised by the EU for the liberal visa policy, some Turkish officials argue that it is exactly the country's visa policy that provided means of survival to these nationals – thereby sparing the European Union of a large number of potential asylum seekers (Kirişçi, 1996:98).

As Çağlar Keyder (1999) and Mine Eder & Özlem Öz (2010) describe, in the beginning, it was tourists from post-socialist countries arriving, filling their suitcases with items to sell back home. These 'tourists' were from Bulgaria, Romania and Moldova, but also from Russia, Central Asian republics as well as republics in the

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[5] Colloquially called "the Russians" (Péraldi 1998).
[6] To compare: The official number of Turkish textile and apparel exports was US$8.7 billion in 1996 and US$9.8 billion in 1999 (Tan, 2001).

Caucasus region. Quickly, Istanbul and in particular its neighbourhoods of Laleli, Aksaray and Eminönü, became central locations for these economic activities. As the trade volume increased, the professionalization of Laleli as a destination place took place at an equal pace: signs were increasingly written in Cyrillic letters, hotel, shop and cargo owners became more organised by hiring Russian, Bulgarian, and Romanian speaking staff and offering package deals. Deniz Yükseker's (2004) study devotes attention to the neighbourhood of Laleli as a market place in which trust is a mechanism to share risks associated with making a living in an environment full of people from elsewhere. Luisa Piart (2012) in her study on Uzbek women in the suitcase trade observes strong family ties accounting for the business to go around. Indeed, these practices exist still nowadays; in fact, it is rather common to see groups of (mostly) women from Central Asian countries with large amounts of goods packed in strong plastic bags and wall paper at Istanbul Atatürk Airport.

In the middle of the 1990s, the number of North Africans rose as well. The increasingly restrictive Schengen visa policies, as well as the high unemployment in their countries of origin are often named as underlying reasons propelling their presence in Istanbul (Péraldi, 1998; Delos, 2003). Michel Péraldi (1998) in his first text on the phenomenon notes how the discrete but nevertheless dynamic presence of Maghrebi informal traders transforms the market place of the districts of Laleli and Beyazit: the signs in Cyrillic letters were joined by signs in Arabic letters, (cargo) destinations in Algeria, Libya, and Tunisia were advertised, and shop owners picked up Arabic and French or hired personnel with the language skills – in turn providing job opportunities for Maghrebis as well as Turkish citizens from the Southeast with Arabic mother tongue.

There are strong indications that the number of traders from various countries south of the Sahara (among them Nigeria, Kenya, DRC, Senegal, Mali, Ghana) has increased considerably since the start of the 21st century (Suter 2012; Şaul, 2013). Similarly to what has been described above, their presence has offered niches for employment as well as business opportunities for their co-ethnics in and around the textile business (Suter & Baird, 2011).

Transit movements

In the past twenty years, more and more attention has been paid to Turkey as a transit country for West, Central and South Asian nationals as well as Africans nationals seeking protection and/or opportunities in European countries. In academic research, Turkey's geographical location is often cited as the main explanation (see Içduygu, 2003; 2005). However, the geographical position only accounts for some reasons as to why the phenomenon of transiting (rather than settling) migrants occurs (Suter, 2012). Turkey's reception policy towards foreigners (to be discussed later), the international asylum system in general as well as a number of other factors, such as family migration, as well as the existence of transnational social migrant networks, make up substantial reasons for migrants not to regard Turkey as their final destination.

Transit migration is often perceived as connected with irregular migration. However, due to the current asylum system in place in Turkey (explained in later sections), also asylum seekers and refugees awaiting resettlement can be conceptualised as people in transit (see also Içduygu, 2005). The number of migrants transitting remains unknown due to the irregular nature of many of their journeys. Up until now, the only statistics available that are remotely connected to the subject are the number of tourist arrivals from certain countries as well as the number of apprehended irregular migrants – numbers often used in reports on the subject (see for example Içduygu, 2005). None of these numbers however is able to give any accurate image of the phenomenon.

There are an increasing number of scholars that have produced knowledge on so-called transit movements through Turkey. For example, Sebnem Koser-Akcapar (2004) studied the practices of Iranians converting to Christianity during their transit stay in Turkey. Similarly, almost a decade later, Shoshana Fine (2013) employs a biopolitical perspective and pays attention to the Christianisation practice of some Muslim migrants in Turkey as a means to improve their conditions and to facilitate access to mobility rights. Didem Danış, Jean-François Pérouse and Cherie Taraghi (2006) have studied three groups – Iraqi Christians, Maghrebis and Afghans – and highlighted their segmented incorporation into some parts of Turkish society. A number of studies address the presence of migrants from Sub-Saharan African

countries in Turkey (in particular in Istanbul) (see for example Brewer & Yükseker 2006; Büdel, 2013; DeClerck, 2013; Fait, 2013; Suter, 2012ab; Suter, 2013). Though all of the studies depart from an understanding of a temporarily limited stay (transit), several of them make an explicit point of Sub-Saharan African nationals' settlement practices in Turkey (DeClerck, 2013, Fait, 2013, Suter, 2012).

The next section will provide an overview over legislative issues and practices in the field of migration and asylum in Turkey, followed by paragraph outlining the asylum system and its specific regulations, modes of work and consequences for individual applicants. The section ends with the mentioning of the new law in the field, adopted by the government in 2013.

Legal issues in the field of migration and asylum

At present no single legislation accounts for the fields of migration and asylum.[7] Immigration is regulated by the Law on Settlement dating from 1934 (Içduygu, 2003; Kaya, 2008). The law stipulates who has the right to enter and settle and who can to apply for asylum. Furthermore, the Passport Law (Law 5682) is applicable for governing the entry to and departure from Turkey (see Içduygu, 2003; Kaya, 2008).[8]

Asylum is regulated by the 1994 Asylum Regulation and the 2006 Circular (prepared by the General Directorate of Security at MOI) (Kaya, 2009:23). In March 2005, Turkey adopted a National Action Plan on Asylum and Migration (NAP), which spells out the changes that are necessary and the challenges involved in a harmonisation of asylum and migration policy between Turkey and the EU (or rather adaptation to EU standards). Among others, apart from the need to draft and implement an Asylum Law, it is pointed out that a single administrative unit is to be established in order to deal with asylum issues. Accordingly, a body of appeal has to be

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[7] However, this will change with the implementation of the new "Law on Foreigners and International Protection" adopted in April 2013.

[8] For a more detailed overview of the legal framework governing all aspects of immigration and irregular migration, see Kaya (2008).

installed as well. Furthermore, for the integration of recognised refugees, collaboration with NGOs and local authorities is planned (Kaya, 2009:23). Obviously, the geographical limitation – which only grants the right to apply for asylum to nationals from European countries (as will be explained below) – is the main challenge to the harmonisation process. The EU insists that for a full membership this geographical limitation must be lifted (Kaya, 2009:23).

The Turkish asylum system

Turkey is one of the original signatories of the 1951 UN Refugee Convention and its 1967 Additional Protocol. What distinguishes the country from most of the other signatory parties is that Turkey maintains a geographical limitation to the convention and the protocol. In practice this means that the protection spelled out in the convention is only understood to be applicable to refugees originating from European countries.[9] The refugee status determination process for the vast majority of asylum seekers – originating from non-European countries – falls under the mandate of the UNHCR. However, since the implementation of the 1994 Asylum Regulation the Turkish government maintains a certain control over the process. The new law on asylum of 2013 foresees full control once it is implemented.

Before 1994, the UNHCR was the main responsible agency for receiving asylum applications, conducting status determination and managing resettlement issues for refugees originating from non-European countries. Following the implementation of the new regulation in 1994, a so-called two-tiered system was created, which has non-European asylum seekers to file two asylum claims; one with the UNHCR and one with the Turkish government. With the regulation coming into effect, the Turkish police is gathering the asylum claims upon which the Foreigners Borders and Asylum Division of the General Directorate of Security under the Ministry of Interior conducts a status determination in order to determine whether an asylum seeker has 'genuine'

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[9] Only Morocco, Congo, Monaco, Madagascar and Turkey have such geographical limitations in place (Refugee Council, 2008:66). Generally, member states of the Council of Europe are understood to pass the definition of 'European' (Durukan, 2007).

reasons for applying for refugee status. If they deem this to be the case, the applicant receives 'temporary asylum', i.e. a temporary residence permit valid for the period of time it takes for the UNHCR to determine the status. Parallel to that, the UNHCR processes the applicant's claim according to the 1951 UN Refugee Convention, and – in case of recognition – is in charge of the resettlement process to third countries. In other words, while the UNHCR conducts a full-fledged refugee status determination under the 1951 Refugee Convention, the Turkish government's 'temporary asylum' grants the right to enjoy the right to refugee status determination by the UNHCR as spelled out in the Convention as well as in the 1994 Asylum Regulation. In that sense, there is a strong cooperation between the Turkish government and the UNHCR (Kirişçi,1996:305).

As of January 2013, there are roughly 14,000 asylum seekers as well as more than 260,000 refugees residing in Turkey (UNHCR, 2013). The large number of refugees consists to a large part of Syrian nationals living in camps that received a temporary refugee protection status by the Turkish government. Roughly 20,000 refugees originate from Afghanistan, Iran and Iraq. As can be seen from table 2, the UNHCR (2013) expects a huge increase in the number of persons entering Turkey in need of protection; among them Syrian nationals (more than half a million), but also of Afghan (due to the deteriorating economic situation in Iran, the former place of residence for most of those arriving now), Iranian and Iraqi nationals.

Table 2: Refugees and asylum seekers in Turkey (planned)

	Country of origin	January 2013	December 2013
Refugees	Afghanistan	3,780	5,050
	Iran	2,470	4,950
	Iraq	13,680	24,320
	Syria	280,000	500,000
	Others	2,490	3,470
Asylum seekers	Afghanistan	17,740	54,000
	Iran	6,560	11,730
	Iraq	3,570	5,350
	Others	5,300	8,470
Total		**334,000**	**617,000**

Source: UNHCR, 2013

To put these numbers into perspective, in 2011, the 27 EU countries received a total of 300,000 asylum applications. Among them, Germany and France, countries with a comparable population size of roughly 80 respectively 65 million inhabitants, received a bit more than 50,000 applications each (European Commission - eurostat, 2013).

As there is no integration into Turkey foreseen, resettlement to third countries – along with repatriation – is the only durable solution available for non-European asylum applicants in Turkey (Durukan, 2007:1). However, third countries are under no legal obligation to accept refugees for resettlement and they are free to apply their own criteria for selection (Refugee Council, 2008:66). As table 1 shows, countries that usually accept refugees recognised in Turkey are Canada, Australia and the USA as well as (in much smaller numbers) Sweden, Norway and Finland. However, with the number of refugees in Turkey growing, the path of resettlement has become narrower (Soykan, 2012).

Table 1: Resettlement from Turkey, 2005-09

	2005	2006	2007	2008	2009
Australia	199	280	280	285	411
Canada	411	540	477	506	502
USA	797	927	2051	2838	4991
Sweden	9	6	25	80	68
Total	1649	1950	2920	3879	6072

Source: IOM Turkey, 2013

Typically, applicants first lodge an asylum application with the UNHCR in Ankara. There they get information on in which of the so-called 'satellite cities' they are obliged to register with the police. The satellite cities which are dispersed over the whole country are the locations in which asylum seekers and refugees are assigned to await the UNHCR's and the third countries' decision respectively. The UNHCR may abstain from processing their claim if the applicants do not register with the police in their respective satellite cities. In those cities, people are required to sign with the police regularly, and they need to seek a permission from the police if they wish to leave the

city – for example in order to go to Ankara for any matter related to their asylum claim (Durukan, 2007).

The asylum process with the UNHCR takes between two and five years on average. During this time the Turkish government hardly provides any material or financial support; in fact, an official guiding document (the 2006 Circular) spells out that the government does not have any commitment to provide shelter, healthcare or any other assistance (Durukan, 2007). The government instead refers to the Social Solidarity and Assistance Foundations that are organised under the provincial governorates. Their target group are all inhabitants of the respective province and not solely asylum seekers (Durukan, 2007). The UNHCR, likewise, only has very little financial resources that are sometimes granted to very vulnerable refugees, mostly women with children.

Up until 2010, asylum seekers and recognised refugees were required to pay for a residence fee in order to obtain a residence permit (EU Delegation Ankara, 2011). These fees had to be paid per individual and were often criticised for being "prohibitively high" (Durukan, 2007).[10] The inability to pay for this sum prevents many applicants not only from applying for a work permit, but also to access public institutions and services including medical care, social assistance, education (Durukan, 2007, quoting from the 2006 Circular). These high fees thus prevented asylum applicants from enjoying access to basic health care and other basic necessities as well as from the possibility of working legally.

A report by the Refugee Council in the UK (Reynolds & Muggeridge, 2008) shed light on the difficulties refugees experience when trying to access the asylum system in Turkey. The report is based on interviews with NGO staff and asylum seekers/refugees and explains that migrants who are caught while trying to cross the country without any proper documents are detained and held administratively in detention centres (Reynolds & Muggeridge, 2008). In these centres it has often been difficult if not impossible to lodge an asylum claim. Often, it was found, that there has

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[10] NGO staff members mentioned sums up to 800 YTL per person per 6 months. The UK Refugee Council (2008:67) reports the sum of 300 US Dollars every six months.

not been any information or counselling on the asylum system provided by the police, and in general, there has been a general lack of interpreters at these centres (see Reynolds & Muggeridge, 2008:61). A report by the European Delegation in Ankara from 2011, however, suggests that some of these deficits have been improved (EU Delegation Ankara, 2011:11).

The Turkish two-pillar system of the asylum procedure has exemplified a fragile collaboration between the UNHCR and the Turkish government. There have been cases in which disagreements between the two bodies have lead to deportations as the government and the UNHCR in some cases disagree upon whether a person has 'genuine' reasons to apply for asylum. Thus, it has been reported a few times that Turkey deported people who were registered asylum seekers with the UNHCR or who have even been recognised as refugees. On more than one occasion, such a case was reported by fax to the European Court of Human Rights in Strasbourg (ECHR) that demanded an immediate halt on these illegal deportations (see for example Amnesty International Turkey & Helsinki Citizens' Assembly Turkey, 2007). However, the practice has continued, and in April 2008, 18 Iranian and Syrian men – among them five refugees recognised by UNHCR in Turkey – were forced to cross the border by swimming over the border river between Turkey and Iraq. Five of the men drowned, among them one refugee. The case has received attention, and in a press release UNHCR states that the organisation did not perceive Iraq as a safe country for these refugees, and seeks an explanation from the Turkish Government regarding the forced expulsion and the tragic loss of life (UNHCR, 2008). A number of NGOs working for the rights of refugees and asylum seekers in Turkey (Amnesty International Turkey, Helsinki Citizens' Assembly (hCa), Mazlumder, Human Rights Association, Mülteci-Der, Humanitarian Relief Foundation and the Human Rights Agenda Association) condemned in a joint press release the forced expulsion of bigger groups of Uzbeks at the Eastern border of Turkey at two incidents within one month in autumn 2008 (Helsinki Citizens' Assembly Turkey, 2008). In 2007, UNHCR protested against or condemned three times the forced expulsion of recognised refugees and potential asylum seekers (see UNHCR, 2007a; UNHCR, 2007b; UNHCR, 2007c). Of course, only the known cases are communicated in press releases and briefing notes. The rural

Turkish police, the *Jandarma*, estimate that they intercept around 4-5'000 people every month at the borders and within Turkey (Reynolds & Muggeridge, 2008:61) which gives substantial reason to assume that the number of forced expulsions and refoulement is much higher than officially reported.

The 1994 Asylum Regulation

The Asylum Regulation drafted in 1994 has been the backbone of the two-tiered asylum procedure in the country[11] and will continue to be important until the new law has been implemented. The regulations has been an attempt by the Turkish authorities to gain more control over the movement of people in and out of Turkey that has increased since the 1980s. As the number of asylum seekers increased and the geographical origin diversified, the Turkish government often only came to know about their existence once they passed the border control in order to leave the country for resettlement. Also, with the arrival of a growing number of irregular workers from Central Asian and African countries in the 1990s, the government expressed concerns about health and social issues (Kirişçi, 1996:300). Irregular migration was brought into connection with illegal activities, such as prostitution and drug trade. Aware of the ever restrictive immigration policies in Western Europe, as well as the conflict areas in Turkey's neighbourhood, Turkish officials became increasingly worried of their country becoming a dumping ground for irregular migrants trying to reach Europe. Therefore, the drafting and implementation of the regulation by the Ministry of Interior was the perceived need to control or prevent irregular migration flows (Kirişçi, 1996:299-300).

The regulation's overarching advantage is that provided much needed clarity to the rights and obligations of all parties involved in the asylum process, and created a certain transparency that had not been there before. Also, for the first time it has been made clear that also non-European asylum seekers and refugees fall under the principle of non-refoulement. The refoulement of non-European asylum seekers and

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[11] Amendments were made in 2000 and 2006 (Durukan, 2007).

refugees has in the past often led to conflicts between the Turkish government, the UNHCR, Western governments and NGOs (Kirişçi, 1996:300).

Those positive achievements notwithstanding, the regulation also gave way to a number of concerns. Regarding deportation, for instance, the regulation states that recognised refugees that fail to find a country of resettlement ready to accept them, can be deported back to their country of origin (Kirişçi, 1996:300). Furthermore, in the first few years, potential asylum seekers that failed to lodge an asylum claim with the Turkish police within the first five days of entry were also subject to deportation. This practice led to widespread international protests as many migrants failed to lodge their asylum claim within this period with the Turkish police. The five-days period – heavily criticised by NGOs and foreign governments as being applied to inflexible and too rigidly – has been lifted in 2006 as spelled out in the circular that the Ministry of Interior issued on June 22, 2006 (the 2006 Circular) (Kirişçi, 1996:300). Nowadays, asylum seekers are required to register with the police "without delay"; regularly arriving migrants have to register with the police in the city where they stay, while persons who entered Turkey without proper documents need to register in the town closest to their point of entry.

Importantly, the regulation should not be seen as a step towards the removal of the geographical limitation (Kirişçi, 1996:300). One reason for that is that official Turkey does not perceive itself as a multi-ethnic and multi-religious country but rather a state that stresses an all-incorporating national identity. The Law on Settlement from 1934 – still today an important document governing immigration – does not foresee the settlement of any people of non-Turkish culture. Kirişçi's (1996:300) predicament is that until that law has been altered, the lifting of the geographical limitation cannot be expected.

Latest development: Adoption of New Law

The latest development in the field of asylum and migration is the adoption of the "New Law on Foreigners and International Protection" on 4 April 2013. The new law that was drafted by the Asylum and Migration Bureau of the Ministry of Interior in

close consultation with different migrant support organisations, international organisations (such as the UNHCR), supranational organisations (such as the European Commission and the European Council) as well as academics working in the field (European Delegation Ankara, 2011). As Kirişçi (2012:79) states, the creation and adoption of the law is partly an effect of a demand to harmonise with EU standards, but can also be seen as an effect of two factors, firstly, of the training on asylum issues conducted mainly by the UNHCR and secondly, of court verdicts against Turkey by the European Court of Human Rights (ECHR) on grounds such as illegal refoulement. Importantly, in light of the vanishing support for an EU membership from the Turkish side the adoption of the law not predominantly be seen as a product of "Europeanisation" but much more as a "acculturation" of the Turkish migration and asylum officials to international human rights practices in the field. Critical for the future of migration management in Turkey is the implementation process and the possible politisation of migration in Turkey (Arıner, 2012).

For the field of asylum, it is the first piece of national legislation in modern Turkish history, and will give much stronger legal protection to people applying for asylum in Turkey. Furthermore, it regulates the entry, exit and stay of foreigners in Turkey, and is rather broad in scope regarding the various categories of foreigners and their corresponding entitlements (Soykan 2012).

However, the geographical limitation on the Refugee Convention will not be lifted, and recognised refugees from non-European countries (under the new law referred to as 'conditional' refugees) will also in the future not be allowed to settle and integrate into Turkish society. Furthermore, for the recognised refugees originating from European countries, no integration or naturalisation scheme is foreseen (Soykan 2012). The fact that a Turkish EU membership is still far from guaranteed even if all criteria are fulfilled (and this stands in sharp contrast to other countries that became EU members, such as Hungary, Lithuania, and Malta), makes this process a delicate one for the Turkish officials whose biggest nightmare it is to lift the geographical limitation while still not being accepted as an EU member state (Kirişçi, 2012:75). The EU's burden-sharing capacities (with Turkey and other 'burdened' countries) as well as

even more so its willingness to do so are crucial for the future whether or not Turkey becomes a member state (Lamort 2012).

Final remarks

In the field of migration and asylum, Turkey is in a period of transformation. Up until the 1980s, Turkey considered itself as a country of emigration in which immigration was limited for persons of Turkish descent and culture. In the 1990s, the large numbers of foreigners arriving from neighbouring countries with a need for international protection and the Turkish authorities' aim for enhanced control over the movement of these people led to the drafting of the 1994 Asylum Regulation. In the same period, nationals of various post-socialist and North African countries entered the country in order to perform in (largely informal) economic activities. In addition, many foreigners used Turkey as a transit country on the way westwards. The latest development – the adaptation of the new law on asylum and immigration – is a clear sign that Turkey has decided to become a (more) active player in the field of migration and asylum. There is evidence that immigration – with various degrees of entitlements – from various countries takes place. However, the fact that the geographical limitation is not to be lifted anytime soon, points at a still rather reluctant position towards non-European immigration.

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