

“Building “Fortress Turkey”: Europeanization of Asylum Policy in Turkey¹

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During the last decade asylum and migration have become a challenge in Turkey’s accession process. Turkey is a transit and lately destination country for hundred thousands of asylum seekers coming from challenging regions such as Middle East, Africa, South Asia, Caucasus and Central Asia. Since 1995 Turkey granted asylum 34.270 out of 68.802 asylum applications. Today there are 19.000 asylum-seekers and 40 refugees registered at UNHCR Office in Turkey. According to the official data 207.182 irregular migrants have been deported since 2006.³ And finally, Turkey is fait accompli destination country for more than 4000 extended refugees living under protracted refugee situation. All those numbers require an overall and indepth reconstruction of the asylum and migration system established under the conditions of the Cold War and the 1990’s mass refugee crisis at the southeastern border of Turkey.

Since the beginning of the accession process in 2003 the europeanization of the asylum and immigration policies in the EU plays effective role as a leverage over further manufacturing and reform of the asylum and migration policy in Turkey. The adoption of the EU asylum *acquis* has impact at two general levels:

- *Upgrading the domestic asylum system in line with the EU protection standarts through adoption of the EU norms and standards*
- *policy formation and implementation in line with the EU standards: institutional, infrastructural and structural building*

1. Europeanization at the institutional and legislative level

Since the adoption of the 2003 Accession Partnership Document there is an ongoing intensive transfer of guiding principles of certain norms, policy programs, procedures, instruments and progressive institutional transfer through building specialized administrative agencies in the area of asylum.

Following the Accession Partnership Document, the Turkey’s National Harmonization Program of 2003 proposed the first consistent implementation program in the area of asylum and migration. It launched Turkey’s EU harmonization process through further adoption and implementation of the EU *acquis*, extensive institutional building and legislative formation. Under the 2003 National Program, Turkey commenced a comprehensive work on harmonization of Turkey’s Law on Migration, Foreigners and Asylum and its legislative and administrative regulations based on special asylum law and single institutional body in the area of migration and asylum.

In 2005 Turkey adopted a National Action Plan for Alignment with the EU *acquis* on Migration and Asylum, followed by the Implementation Direction of 2006 that recently serves as the only available comprehensive “law on asylum”. In general the asylum practices are regulated by a number of pieces of legislation linked to the Law No. 2510 on Settlement, the Law No. 5683 on Residence and Travel of Foreigners in Turkey, the Passport Law No. 5682, the Law No. 4817 on Work Permits of Aliens and by the Bylaw on No. 6169 of 1994, amended by the Implementation Direction of 2006.

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³ Data provided by the MoI responsible officer during a conference on the Recent Developments in the field of Asylum and Migration in Turkey, held in May 2010, Istanbul: ITO Conference Center.

According to the 2007 Turkey's Progress Report the Turkish legislation is to a certain extent aligned with the EU *acquis*. However, there is a need for further institutional and technical improvement. There is a lack of single institutional body to initiate a far-reaching policy and transparent account of the situation of asylum in the country. (UNHCR, 2008) Under completion is the so called Asylum and Migration Specialization Unit established under the authority of the MOI and the Deputy Directorate of Foreigners, Asylum and Borders. When finalised this specialized asylum agency will undertake the all asylum and amigtaion procedures.⁴

According to the 2007 Report of the Directorate of Fight Against Smuggling and Organized Crime-KOM (KOM, 2008: 148-9), there is an intensive work on securitization of the borders and migration through projects and action plans on fighting illegal migration (Ay, 2006), terrorism and organized crime, trafficking and smuggling through high technology borders and registration, and Europol documentation security etc. Though scrutinized as a national security matter, asylum harmonization in Turkey involves international actors such as UNHCR, IOM and the European Commission as central partners of the harmonization process. UNHCR undertook important role in processing applications originating from outside Europe, as well as in the education, training and capacity building of the asylum police force, and the legislative body. (UNHCR, 2008)

The perils of the Iraqi refugee crisis of 1991 continue. Indeed, the “*Bylaw on the Procedures and the Principles Related to Mass Influx and Foreigners Arriving in Turkey either as Individuals or in groups Wishing to Seek Asylum from a Third Country*” of 1994 continue to define the security-oriented foundation of the refugee policies in Turkey. Written under the conditions of the Iraqi refugee crisis of 1991-1992 the Bylaw of 1994 has designed strict securitization procedure and practices for coping and managing asylum in the country. It not only affirms clear distinction between asylum seekers and refugees, European and non-European refugees, but conveys the foundational security-concern that sees the refugees from Middle East as a potential threat to the public order and national security. This tendency shows convergence with the so called “war on terror” prosecution, deportation and extradition policies applied by some EU member states. (AI, 2005) The asylum policies in both Turkey and the EU show significant resemblance in the general perception of refugees as a source of threat and insecurity in its traditional *high politics* dimension. In both cases the concepts of “danger to national security” and “particularly serious crime” lack clear definitions under the EC and the Turkish law, thus open the way to extensive interpretations.⁵ In both cases the highly politicized practice of “diplomatic assurances” serves as a base for the abuse of both the right to asylum and non-refulement principle. (AI, 2005)

The Bylaw of 1994 keeps the absolute role of the MoI in both domestic policies and the pre-accession harmonization process in Turkey. MOI keeps its authority not only in regard to the refugee issues but at the very foundation of the forthcoming asylum law in Turkey. According to the National Action Plan of 2005, the EU funds and the national budged provided for asylum policies are placed under the jurisdiction of the MoI. This decelerates the institutionalization of a rights-based asylum and refugee legislation. Important decisions about the destiny and rights of the refugees appear captured within the personal attributes and personal degree of tolerance of the police officers both in the Foreigners Departments of MoI or in the Governorship.

According to the National Action Plan, Turkey plans to lift the geographical limitation on condition that necessary asylum information infrastructure (AsyInfoSystem) and administrative reforms are finalized, “freedom of movement” for Turkish citizens is provided and fair “burden sharing” provided. (Güvenç, 2005) Since 2006 the local human rights organizations have been involved in the asylum reforms. There is an undergoing technical and physical infrastructure

⁴ Ankara University Human Rights Research Center (2008), Personal Notes from the NGO Meeting on Asylum Legislation in Turkey, Ankara, December 1-2, 2008.

⁵ Human Rights Watch, Diplomatic Assurances Report, Supra No: 115. According to AI, the case of the deportation of Kaplan from Germany to Turkey showed that the proof for committed crime is not needed, suspicion based on facts suffices for deportation. (AI, 2005)

construction and administrative capacity building in the fields of data protection, fight against illegal migration and organized crime, drugs, trafficking in persons, fraud, corruption, money-laundering and border management. After 2008 Turkey initiated extensive utilization of the EU funds in education and training of asylum and country of origin specialists in the border security and reception offices, 25 legislation specialists, 50 interviewers at the satellite city foreigners' department offices, 25 educators in asylum and migration at the police academy. Some of these initiations move ahead through twining projects for adoption and implementation of accession legislation and policies initiated in cooperation with EU member states known for their restrictive asylum policies such as Denmark, Austria, and United Kingdom⁶, and lately with Finland, Czech Republic and Germany.

Most issues related to the establishment of Asylum Coordination and Research Unit and Asylum Education Academy under MoI, country of origin and asylum database system and equipped reception centers are postponed for completion during 2010-2011. There is vivid success in the EU-drafted training and education projects for higher awareness of the rights of asylum seekers among the police staff and local authorities. Since 2009 there is a positive change in the general attitude of the officials in the field of migration, borders and asylum. As expressed by a MoI Chief Inspector on Asylum and Migration⁷, the ECtHR landmark judgement for violation of the Articles 5 on right to liberty and security and Article 13 on effective remedy through unlawful detention in the case of *Abdolkhani and Karimnia vs. ex-PMOI members* triggered significant change in the legislative and institutional restructuring of asylum and migration. As expressed by the high inspector all ECtHR decisions are to be reevaluated and taken under consideration during the ongoing legislation reform. Recently in April 2010 the ECtHR ruled four more judgements on violation of the Article 5 and 13. The physical conditions of the removal centers are found to violate the Article 3 of the Convention. That is why during an academic cooperation meeting organized by UNHCR in Ankara, the asylum undersecretary of the prime ministry underlined a need for human rights perspective in the asylum policy in Turkey.⁸ This awareness encourages the activities of the NGOs and motivate the asylum officials to forward refugee-concerned decisions. For example, lifting the residence fee and facilitated right to employment are expected in the forthcoming Law on Asylum.

Europeanization led to observable legal and institutional initiations after 2009. The assignment of two new senior officials to the Asylum and Migration Bureau intensified the institutional and legislative reforms in asylum and migration. The Bureau formed an Inter-Ministerial Task Force on Asylum and Migration composed of representatives experienced in migration and asylum issues both at the ministries and different state institutions. The Task Force meetings are open for the delegations of key international actors such as UNHCR, IOM and the EC. At the beginning of the 2010 the MoI issued important circulars instructing a more liberal implementation of the exemption clauses of the Law on Charges especially in the case of residence fee obligations of the asylum seekers. The Circular on Residence Fee leaves the exemption decision to the discretionary power of local authorities, thus it is not expected to change the ongoing practice. The Circular on Illegal Migration issued in March 2010 enables access to the asylum procedures by persons caught by the security forces for illegal presence in the territory or illegal passage of the borders and also people kept in the foreigners guesthouses, recently renamed as "removal centres".⁹

Important question is to what extent these legal and administrative adjustments find reflection in the field. It is early to talk about the outcomes of the recent circulars, however the 7-year old practical experience and data show that europeanization in fact institutionalize and

⁶ MoI(2006), Personal notes from the meeting with the refugee-concerned NGO's, Istanbul, June 23-24.

⁷ Personal notes taken during a conference on the the Recent Developments in the field of Asylum and Migration, held in May 2010, in Istanbul: ITO Conference Center

⁸ Personal notes from the "Academic Cooperation Meeting on Asylum, Displacement and Statelessness", December 3-4, 2009, Ankara: UNHCR.

⁹ MoI Circular on Refugees and Asylum Seekers, March 2010

legalize the securitization of the migration-asylum nexus in Turkey. How that works? The issue of asylum often takes place beneath the reforms in fighting irregular migration and border management. During a conference on the Recent Developments in the field of Asylum and Migration, held in May 2010, in Istanbul, the most part of the presentation held by the MoI Chief Inspector on Asylum and Migration has focused on the late developments in fighting illegal migration in Turkey. The officials prioritise issues such as additional capacity building of detention, removal and reception centers in fighting irregular migration. There is an ongoing work on upgrading six removal centers with total capacity of 7.030 persons. Each of the removal centers includes a detention center with capacity of 100 persons for the rejected asylum seekers. This fact raises concerns among the representatives of the human rights organisations about eventual widespread application of the accelerated procedure following a chain deportation through readmission agreements. The expectation of irregular immigration flows from the south and eastern borders of the country keeps its priority in the joint EU-Turkey-Turkish State Planning Agency “effect analysis” on the potential of irregular flows after eventual release of the geographical limitation or after eventual completion of community readmission agreement with the EU. The readmission agreement policy of the EU adopts as a model in Turkey’s national strategy in fighting irregular migration.

The most part of the budget of the National Harmonization Program of 2008-2011 covers expenses on building administrative and technological capacity in fighting illegal migration, data management, repatriation, detention, deportation and strengthening border management and security through building border reception, detention and deportation centers, technological innovation in the sphere of custom monitoring, cooperation, information exchange, and education and training of specialised police force. The human rights and freedoms aspect of the asylum reforms seem postponed to 2011 when the new asylum law and law on foreigners will be in force. Relative withdrawal from the previous well-motivated Europeanization tendencies rised some pessimism among the civic actors in the field of asylum after 2008. By the end of 2009 numerous refugee-concerned NGOs expressed pessimism in regard to the harmonization reforms and emphasized the priority of the human rights provisions under the international refugee law that apparently has gained priority over the interest in the EU alignment process.

Five years after the commence of the asylum reforms in 2003, only 50 Iranians from a total of 4000 UNHCR-supported Iranian asylum claims were granted asylum by MoI in 2008. In the same year Turkey detained 350 refugees and deported over 200 of them. (USCRI, 2009) Similarly, in 2009, 37 out of the 260 asylum seekers subject to deportation to a third country, were registered with UNHCR as asylum seekers, while four were recognised as refugees.¹⁰ Turkey has drawn a considerable list of deportation and expulsion of asylum seekers and convention refugees during 2007-2008. The human rights organizations say that this was not a case during 2006-2007¹¹ and point to return to the securitized perception of the refugees as a threat to national security. Until 2010 this backlash in the harmonization reforms had both internal and external dimensions. The domestic dimension has been related to the growth in the number of protracted refugee situations followed by high social burden, human rights abuses, organised pressure of the human rights organisations and the revived historical suspicion in the EU’s intentions in funding a new border, asylum and immigration infrastructure in Turkey. The pro-nationalist ideological formation and attitude of the top officials in the asylum team at the MoI has also important effect on the general ideological background of the asylum reforms.

In regard to the external factors, the priority that EU gives to border security and fight against organized crime, drug trafficking and human trafficking (CEC, 2007) followed by

¹⁰ Personal Interviews with a representative of the UNHCR in Turkey, May 2010.

¹¹ Interviews and notes from a meeting of the volunteer asylum lawyers organized by AI and Ankara University, Human Rights Research Center, 28-29 December 2008, Ankara.

sustained efforts in police cooperation and external borders¹² have converged with Turkey's priorities in the implementation of Chapter 24 of the EU Acquis (see Table 1).

An indirect factor that led to lag in Turkey's alignment process is related to the weaknesses in the *communitarisation* of the EU asylum regime and the restrictive and externalizing asylum practices in most of the EU member states. The gaps in the overall EU asylum system and practice abrades Ankara's motivation for extensive implementation of the EU criteria. The "Fortress Europe" principles of "safe third country" and "first country of asylum" found reflection on Turkey's arguments to keep the geographical limitation in spite of its discriminative impact on the universal right for protection. Indeed, refugee rights such as release from registration fee, access to employment and social security, right for self-reliance, right to free settlement etc. are almost approached as reforms contingent upon realization of "fair burden sharing" agreement with the EU. The 2006 Council Decision on the Principles, Priorities and Conditions Contained in the Accession Partnership with Turkey suggests that asylum takes place under a heading to be considered during the last stages of the harmonization process and completed upon lifting of the geographical limitation.

2. Europeanization of the asylum policy: building "Fortress Turkey"

Since year 2003 the implementation of the criteria brought by the Accession Partnership Document has prioritized two important dimensions of the asylum policy in Turkey: the following National Action Plan designed in accord with the EU asylum legislation¹³. The implementation of these dimensions follows two central pathways- strengthening of *external borders* and building *internal* ones in fighting illegal migration- that end up at improved management of migration and security through building Fortress Turkey via rules adopted by the EU asylum and migration system. Following the EU policies, Turkey seeks:

- 1- *preventive pre-frontier measures* of fighting irregular migration through management of the porous borders, strict border security policies, heavy entrance procedures, and psychological deterrence through building "Fortress Turkey".
- 2- *post-entry measures* to reduce succeeding in the asylum procedure especially of the irregular migrants by the way of geographical limitation followed by temporary protection; detention; accelerated procedures through readmission agreements and cooperation with the transit countries, safe third country rules, restricted access to mobility, employment and social services.

These are the goals/rules that lie at the basis of the asylum and migration systems both in the EU and in Turkey.

2.1. Building the frontier of "Fortress Turkey"

Building "Fortress Turkey" through fighting irregular migration and extension of border control and security remains the principle issue in the asylum practices in Turkey. Indeed, the most important outcome of the asylum harmonization process is building expensive and high technology border control and migration management systems based on EU modeling and funding. Beside its own traditional security considerations, the EU is the main model in rebuilding the system of border management and security in Turkey. One of the most significant legacies of the Iraqi refugee crisis is the fact that the Turkish border easily becomes a passage for

¹² Council Decision on the principles, priorities and conditions contained in the Accession Partnership with Turkey, 23 January 2006, (2006/35/EC)

¹³ Accession Partnership with Republic of Turkey, Helsinki European Council Decision, <http://www.mfa.gov.tr/grupa/ad/adc/Accession.partnership.pdf>

terrorist actions from neighboring states and massive refugee flows. This paranoia rests at the subconscious of the authorities both in the EU and Turkey. Thus for the EU, strict control of the external border is a significant factor in any accession negotiations. (Prosser, n.a.) Border control and SIS (Schengen Info System) are a priority area of the EU funds and projects for strengthening of the external borders and utilize the most part of the EU funds. (MOI, 2008) According to the budget of 2008 National Harmonization Program, the EU funds %75 of the border security implementation projects for building Centers for fighting Illegal Migration, Repatriation and Deportation, Border Security Unit, so called Border Police, and Border Management Education, and Administrative capacity building for mass refugee influx situations in Turkey(See Table 1)¹⁴

Table 1: Summary of the 2008 Turkey's Harmonization Program to the EU Acquis, Chapter 24					
2009		2010		2011	
Subject	EU meets *	Subject	EU meets	Subject	EU meets
Conditions to be evaluated upon the membership perspective	Constituting a Council for Evaluation of Appeals to the 1st instance asylum decisions	%100	Fingerprint Data basis for enabling Dublin to work in Turkey	%80	
Building authority for protection of the personal data, biometric data etc.	%81	Building Immigration and Asylum Unit	%70	Preventing discrimination in the public services	
EU Legislation Implementation Education Project		Acceptance of Comprehensive Asylum Law		Custom monitoring, cooperation, information technological innovation.	
Administrative capacity building for mass refugee influx situations	%95				
Reform of the armed forces task and international cooperation	%80	Law for Foreigners under the Schengen Criteria for combating Illegal & economic Migration		Operational cooperation with Europol in the areas of information privacy and security	
Building Centers for fighting Illegal Migration, Repatriation and Deportation	%75	Border Security Unit and Border Security High School	%75		
Building Criminal laboratories and fight against terrorism, combating cyber crimes	%75	Asylum Competent Translation Team	%80	National Schengen System N-SIS and connection to Central SIS infrastructure	
Establishing Country of Origin and Asylum System	%85	2005 EU Council Procedure Directive, establishment of Asylum Education Institute	%85		
Opening of Asylum Reception centers, Detention centers and Guesthouses	%75			Entering Regulation for Implementation of the Asylum Law: under the EU principles and papers on safe 3rd countries, countries without well-founded risk of persecution, ill-grounded asylum applications, minimum standards for asylum procedures, Amsterdam Treaty Protocol for asylum for EU citizens, 2004 Charter/Directive	

Source: MOI(2008), *Turkish National Harmonization Program*, August 2008.

¹⁴ According to the data expressed by the chief officer of the asylum and migration unit in the MoI, the EU funds will cover 75 % of the expences. See: Recent Developments in the migration and Asylum

* EU meets % of the foreseen budget, i.e. the percentage of the budget to be covered through EU funds.

After the membership Turkey will have to control one of the most volatile borders, thus, it needs very strict border control system to ensure the internal security of the “Fortress Europe”. That is why border security, fighting irregular migration and organized crime raise as the primary areas under the Chapter 24 (see Table 1). Without a doubt Turkey prioritizes the EU criteria related to border security and fighting illegal migration, organized crime, drugs and human trafficking.¹⁵ These conditionalities also address Turkey’s concerns on its fight against PKK whose primary source of income is based on arms and drug trafficking and human smuggling across the southeastern border. It is not easy to convince Turkey in ceasing deportations to Iraq while the conflict with PKK stays on the agenda. After the membership as a safe country of origin, Turkey is expected to face with these problems and accept the repatriation of the Turkish refugees living in its neighborhood (i.e. Northern Iraq) and in the EU member states. That is still not on the agenda.

So far the introduction of “europeanised” security, control and inspection facilities, information and biometric technology, and training of border guards and liaison officers is the major priority in the MoI’s planning of the EU funds. Indeed, one of the first concrete initiations in compliance with the EU *acquis* was the introduction of a Special Task Force, three working groups and three strategy papers in the fields of “protection of external borders of Turkey”, “migration management” and “asylum”. The strategy paper on protection of the external borders of Turkey, followed by the National Action Plan for Implementation of the Integrated Border Management Strategy were initial among the others and occupied the prior part of the General National Action Plan adopted in 2005. Intentions for rapid progress in aligning the country’s border and migration management with Schengen system covers most part of the 2008 National Harmonization Program between 2009 and 2011.

Published at the end of 2009 The Communication from the Commission to the European Parliament and the Council on Enlargement Strategy and Main Challenges 2009-2010 found relative reflection in external borders, Schengen, migration and asylum policy in Turkey. In the mean time Turkey accepted to resume the negotiations on signing a community readmission agreement with the EU. By the end of 2010 Turkey envisions concrete results in harmonization in the area of biometric data, armed forces, mass refugee influx, “centers for fighting illegal migration”, fight against terrorism, all issues related to strengthening of the border security. Most part of the budget of 2009-2011 is delivered to personnel education and training, infrastructure and capacity building. As Table 1 shows, asylum take place under two headings: one related to management of asylum via established country of origin and asylum data system; and the second aiming at opening of reception, detention and repatriation centers. Until the end of 2010 Turkey foresees the establishment of Immigration and Asylum Unit, introduction of a comprehensive law on asylum, and education of an translation team in the field of asylum. The main part of the EU provisions and directives on minimum standards, repatriation, safe third country, ill-grounded asylum etc. The implementation of the first Turkish Law on Asylum is left for the year 2011. All this policy background shows that until 2011 asylum policy works within the framework of securitization of the borders and fighting irregular migration. There is less emphasis on fighting human trafficking and smuggling.

The “Fortress Turkey” project prioritizes preventive and restrictive measures that end up at restricted and discouraging profile of Turkey as a transit country. That is why conditions related to Turkey’s transformation into a country of asylum, i.e. constituting appeal system and Dublin-oriented biometric data systems are conditional to final evaluation upon finalized membership perspective. This approach fits to one of the primary EU objectives, i.e. “...installation of deferential measures in order to discourage potential asylum flows...”. (Phoung, 2003:397) This EU objective is especially important for protecting internal peace and security in

¹⁵ Commission of the European Communities, Communication from the Commission to the European Parliament and the Council: Enlargement Strategy and Main Challenges 2007-2008, COM(2007) 663 final, Brussels, November 6, 2007, p.60

the “Fortress Europe” and is condition for concessions on freedom of movement and abolition of the internal borders upon Turkey’s membership.

The general tendency in the EU supports Turkey’s priority in institutional and legislative improvement in the management and security of the external borders. What lacks at that point is the absence of an attempt to reconcile the strengthening state security with human rights dimension aiming at social, administrative and legal improvements in the field of asylum and migration.

2.2. Fighting Asylum Burden through *Internal Borders*

The second dimension of the “Fortress Turkey” project rests on building “internal” borders *as post-entry measures* for control and management of irregular migration and asylum through detention, accelerated procedures, repatriation, and deportation, restrictions on mobility, employment, accommodation and social services. Based on discrimination and otherisation at the local level, the internal borders result in failed access to universal protection for the asylum seekers who fall out of the geographical limitation and restricted social rights.

Following the EU’s policy of fighting immigration through psychological discouragement of potential flows, the Turkey’s asylum practices seem parallel to the contemporary asylum practices applied in some of the EU member states. As reported in numerous asylum reports, the EU member states are profoundly criticized for expanding practices of refoulement and deportations, low recognition rates, and hard detention and settlement conditions. (USCRI, 2006) Most of the EU directives on minimum standards on procedures, reception, qualification of refugees and procedures introduced after 2005 resulted in different asylum policies in the EU. (USCRI, 2006) Similarly to some EU member states, there is expanding utilization of practices such as manifestly unfounded applications and accelerated procedure in Turkey. That leads to deep concerns among the human rights organizations in Turkey.

The leading provisions related to the alignment process are planned under common project on building a Country of Origin and Asylum Information System and Country of Origin Information System under the guidance of German Federal Asylum and Immigration Section since the beginning of 2008. There are more than 114 EU-funded projects under implementation in reception centers of 7 Regional Centers for Processing Asylum Information set up in Istanbul, Ankara, Izmir, Kayseri, Gaziantep and Van. These centers aim at close and coordinated prosecution of the refugees after their entrance in the country. The projects prioritize coordinated collection and share of biometric and all personal information about the refugees. This asylum information system aims at securitization of asylum through close observation, prosecution and seizure of the refugees who leave or intend to leave the legal space. Without improvement in the legal and social rights of the refugees this system will serve as a guard against any attempts for local integration.

Similarly to the reception centers, the detention practice in Turkey corresponds to the one in some of the EU member states. EU has recently accepted deterrence measures for fighting irregular migration through 6 to 12 months long detention of irregular migrants that very often include considerable number of refugees. (AB’de yasadışı Göçle..., 2008) As already mentioned the apprehended migrants and refugees in Turkey are detained in removal centers (known as “foreigner guesthouses” in the near past) with conditions that correspond to the ones in the “warehouses” in Mauritania (Spain), Samos (Greece), Sand Holm (Denmark) or Lampedusa (Italy). As such, the problem of inhuman conditions in these centers lies at the very foundation of the violation of basic human rights in regard to the irregular migrants and refugees in Turkey. Indeed, the uprisings, the harsh police treatment and hunger strike initiated in some of the main detention centers-for example Kırklareli and Kumkapı, (MAZLUM-DER, 2008) have strong impact on the EU accession process and the international credibility of the country, especially after the last judgements of the ECtHR.

Since the deportation procedure usually takes place in an accelerated manner and out of sight, there is rarely access to appeal procedure provided at the removal centers. In most of the cases deportation bases on readmission agreements concluded with the neighboring countries such as Greece, Syria, Bulgaria, Uzbekistan, Lebanon, Libya etc. Turkey operationalizes these agreements in a manner that corresponds to the way the old and new EU member states utilize the readmission agreement and the accelerated procedure. The human rights NGOs are concerned about the combination of the readmission agreements with the Dublin Convention and the application of safe third country rule as a way for “chain deportations” of refugees all back to the countries of origin. Likewise, there are not strong guarantees against direct and indirect refoulement practices. The EU-designed strict immigration measures increased the rate of the rejected applications and the risks of refoulement in the new member states. (Guild, 2006) Similar tendency is expected in the case of Turkey. The process of criminalization of the refugees and irregular migrants itself is a process that produces numerous open doors for deportation or repatriation based on “violation of the public order or national security”.

Restricted freedom of movement and expected encampment of the asylum seekers and refugees are practices imported via the EU provisions. In the current practice Turkey allows residence on an out camp basis within the borders of the 31 satellite cities. According to the 2005 National Action Plan there is a process of establishing seven regional reception, screening and accommodation facilities. AI criticized this policy since it foresees warehousing of the refugees in camps with capacity of 5000 people. (AI, August 2008) This provision is not grounded on practical reasons such as difficulties in providing public services, as raised by the Governorships and local charity associations; but the encampment approach is imported by the diverse asylum practices and directives in the EU. So, although the EU Qualification Directive grants freedom of movement for refugees and beneficiaries of subsidiary protection, the EU Reception Directive allows states to restrict the freedom of movement of asylum seekers within the national borders. Similarly the EU Directive on Long-Term Residence does not grant freedom of movement to the refugees. (USCRI, 2006)

Numerous studies show that encampment does not mean necessarily more security for both states and refugees and certainly endangers further integration. Obviously any attempt for local integration requires prospects for legal residence *and personal autonomy* that is possible only on condition that right for self-reliance is provided. Restriction of the rights of self-settlement and freedom of movement obstructs the attempts for self-reliance among the asylum seekers and leaves them to the mercy of the local society. Not only the conditionalities and the minimum standards, but the need for more secure environment urges Turkey to provide dignifying conditions for the social needs and social rights of the refugees. (UNHCR, 2008) There is clear need for facilitated access to employment, public services, and residence. Similarly to the practices in some EU countries Turkey has been approaching these issues through the migration-asylum nexus. Indeed, the EU Reception Directive and the Directive on Refugee Status allows states to restrict access to employment based on the situation of the labor market and allows states to give priority to the EU citizens. As a consequence, the right to earn a livelihood or access to employment in Turkey resembles the general practice in Germany, an EU member state where the asylum seekers and refugees are pushed into competition with the unemployed EU or German national. (USCRI, 2006) That often result in illegal employment/exploitation left out of any basic social rights.

As a compensation for the so far restricted right to employment, the EU law grant asylum seekers right to subsistence-level public assistance that could be limited and is in practice limited to core benefits. In this way the public order is to certain extent protected through provision of minimum health and accommodation services to the “unwanted foreigners”. Similarly to Germany and Poland (USCRI, 2006), there is also a minimum level of public assistance provided in Turkey, recently transferred to the religious humanitarian associations.

So far exposed, both Turkey and the EU member states construct the general perception of asylum as a social burden based on the traditional migration-asylum nexus. Indeed, both the

National Action Plan and the European Commission insist that there is mutual interaction and connection between irregular migration and asylum. (Kale, 2005: 280) This is an important point from the aspect of the social rights of refugees, so far defined under the Law for Foreigners. The absence of a Law on Asylum to grant social rights to the asylum seekers and refugees, leads to impoverishment and externalization of the asylum seekers in the country. This is verified by the Ankara's insistence to not include the so called "fellow countryman" refugees and asylum seekers in its Poverty Reduction Strategy Paper prepared for international donors or in other development plans. (USCRI, 2008) There is not any separate clause related to the social rights of the asylum seekers and refugees in the ongoing National Harmonization Program of 2008.

And finally, no single provision could work efficiently without further awareness among the officials and bureaucrats in the asylum-related ministries, Foreigners Departments and local administration. As already mentioned the General Directorate of Security is the only authority that has the competency to use the fund for personal education. Accordingly, most part of the education and training budget is allocated for training of security officials in the Department of Foreigners, Borders and Asylum. (Kale, 2005:255) There are not enough asylum-informed officials at the local level or at the level of the associated ministries.

So far introduced the Turkey's alignment to the EU criteria on asylum do not seem to progress "*in line with the EU's best practices*", available at no more than 4 or 5 members of the EU. Thus so far performed the alignment process fell short of bringing a comprehensive rights-based approach to the asylum policy in Turkey. The development of a rights-based approach depends primarily on the completion of the goals put forward in the ongoing National Harmonization Program of 2008. The practical experience shows that the improvement of the competence, specialization and precision of the officials involved in the asylum policies brings remarkable progress in the access to protection and rights-based treatment. Indeed, the absence of institutionalization and the rotation of the officials jeopardizes the accumulation of expertise knowledge and leaves the refugee-concerned practices to the officials' goodwill and capacity to undertake refugee-concerned initiatives.(Şefkat-Der, 2008). This practice not only abrades the legitimacy of the official practices, but also jeopardizes the security of the refugees and asylum seekers. Furthermore, the general treatment of the refugees as subjects of the local's mercy becomes obstacle in the entire implementation of the EU asylum reforms.

As the experience of the new EU members show, the so far imported EU asylum legislation do not promote further access to the procedure, instead, restricts the access to protection and leads to strengthening of the migration-asylum nexus.(Phoung, 2003: 394) Moreover, based on exclusion at the Frontex-protected borders and responsibility under the safe third country and safe country of origin principles, the contemporary EU asylum policy demonstrates inconsistency in the EU's commitment to the international asylum law. (Guild, 2006) As such the Fortress Europe project tends to aggregate implications in the asylum and refugee protection in the Aegean and in Turkey as the future southeastern border of the EU or "safe removal country" of the Fortress Europe.

Conclusion

The asylum practices in Turkey show that the europeanization of the asylum policy in Turkey does not end, but affirms and modernizes the ongoing practices of detention, deportation, social marginalization and otherisation of the refugees. As a project based on tight border security and prevention measures, the ongoing "Fortress Turkey" project does not prevent the irregular trespassing across the country. The data show that in spite of the harsh deterrence policies the number of the irregular migrants and refugees across the Aegean is in constant growth. While there were 63.000 irregular migrants apprehended in 2005, the Turkish Armed Forces General Staff statistics show that by December 2007 their number reached 104.574 people. (UNHCR, December 2007) This data proves that so far exercised security-based

detention and deportation policies do not promise durable solution to the boat people problem across the southeastern borders of the EU. The restrictions on the access to local integration produce “boat people” who continue to defy the modern privatized high-technology security equipment of the “Fortress Europe”.

According to the UNHCR’s data, Turkey is one of the Top-20 ranking of countries based on applications lodged during the first quarter of 2008. At the same time it is one of the top-20 ranking of countries of origin of asylum. (UNHCR, October 2008) By receiving 14% of the total Iraqi asylum claims, Turkey was the third country in the ranking of countries based on number of logged Iraqi asylum claims during 2008. As a result of the geographical limitation, Turkey ranks among the states with low rate of asylum applications. (UNHCR, October 2008) On the other hand, differently from the new EU-member states Turkey is placed on the transit route of the irregular migration originating from the main asylum-producing regions such as Middle East, Central Asia, South Caucasus and South Asia. (UNHCR, December 2007) Because of that, Turkey is pronounced for the great numbers of asylum seekers transiting or waiting at the Turkish southeastern border. After lifting the geographical limitation Turkey is expected to face with intensive flow from Middle East, Africa, Asia and the Caucasus. As the German perspective anticipates, when reaches asylum system equivalent to the one in the EU member states, Turkey will be prepared and expected to receive returned asylum seekers, and probably undertake the most part of the “asylum burden” in the EU. Indeed, one may infer that this is the inner condition under which EU agrees to meet 75 percent of the Turkey’s budget on Chapter 24 of the National Harmonization Program of 2008. That recalls the case of German-Polish readmission agreement, where Germany funded 120 million DM for Poland to readmit the respective refugees. (Phoung, 2003: 397)

Significant dimension of Turkey’s perception of the asylum issue in the region draws on its reservations about the EU’s intention to reach fair burden sharing within the EU and among the EU and Turkey. As officials use to say, Turkey does not want to fall into a buffer zone of first asylum countries surrounding the EU or turn into safe third country, in case membership fails. Important point of disagreement and tension between EU and Turkey from the very beginning of the accession negotiations is the issue of community readmission agreement with Turkey under the status of “*safe third country*”. As Phoung points out, the EU use to employ these agreements in order to transfer its asylum burden to the candidate or new member states. (Phoung, 2003:393) This tendency has had significant impact on Turkey’s reserved approach to conclusion of readmission agreement with the EU. Today Turkey is up to sign a community readmission agreement with the EU in exchange for facilitated visa arrangement¹⁶.

Placed on one of the most sensitive borders of the EU, the so far available protection infrastructure and financial budget and the readmission-based EU response to burden sharing issue do not seem to address the security implications associated with the foundational insecurity drive behind the Turkey’s anxiety toward refugees from Iraq. For difference from African refugees who constitute mainly socio-economic burden, the refugees from Iraq are perceived as a source of threat of secession and terrorism. So, for difference from the other new EU member states, Turkey is concerned of mass influx of refugees from its southeastern borders, that may accumulate long-term threat to its national security and public order. From this point of view, the ongoing resettlement of the Iraqi and Iranian refugees conciliates Turkey’s decisiveness in the process of harmonization. The understanding of burden sharing as a practice of resettlement of the unwanted refugees seems to gain advance both in Turkey and in the EU.

¹⁶ According to quantitative study held at the Bosphorus University, Center for European Policy Studies, if Turkey enters the area of free movement of labour by 2015, the potential emigration from Turkey between year 2004-2030 ranges between 2 and 3 million. The successful accession scenarios, i.e. stable growth, social and economic welfare, lower unemployment etc. would lead to higher return migration from the EU countries to Turkey, lower pressure for emigration among the Turkish citizens (about 1 million)¹⁶ and higher desire for integration among the asylum seekers and irregular migrants in Turkey.

In principle, sharing any potential asylum burden should aim at reaching durable and rights-based protection to *all* refugees regardless of their country of origin or ethnic background. Otherwise burden-sharing could emerge as a discriminative practice of “wiping out” the “fake refugees”, i.e. the potential terrorists etc. Approached as such burden sharing stands up as another possible source of insecurity for Turkey and the region. The divergence and inconsistency in the construction of this notion within the EU itself opens the way for its erosion as an opportunity for constructing a safer environment in the EU.

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