UPPSALA UNIVERSITY

European Master's Degree in Human Rights and Democratisation

Academic Year: 2014 / 2015

Turkey: A pathway to Europe for forced migrants from Middle East or a legal buffer zone between Europe and Middle East?

A study focusing on Europeanization process of Turkish migration framework and Syrian forced migrants in Turkey

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July 2015

ABSTRACT

Turkey: A pathway to Europe for forced migrants from Middle East or a legal buffer zone between Europe and Middle East?

By Aytek Çingitaş

This thesis was written in order to analyze and show whether Turkey –a country with a vital strategic and geographical position in terms of migration- is a legal *buffer zone,* which EU uses while tackling with irregular migration, or is it a *pathway*, which migrants use to pass through on their way to Europe. The reforms on Turkish legal framework, European influence on these reforms, Turkish and EU policies regarding migration, pros and cons of Europeanization process of Turkish migration framework and social and legal status of Syrian forced migrants in Turkey were analyzed and discussed while finding an answer to the main thesis question. Syrian forced migrants who have fled their countries after 2011 crisis and settled in Turkey were the focus group while analyzing these issues and finding an answer to the main thesis question. Both legal frameworks and policies of EU and Turkey were analyzed with usually ordering the issues into two different eras; as pre-Syrian crisis and post-Syrian crisis. As a conclusion, this thesis finds that Turkey has both of these roles depending on the individual forced migrant's needs and shows the reasons why Turkey has different roles in international migration arena.

Abbreviations

1951 Convention: Convention relating to the Status of Refugees

1994 Regulation: Turkish Regulation on the procedures and principles related to population movements and aliens arriving in Turkey, either as individuals or groups, seeking asylum either in Turkey or requesting residence permits in order to seek asylum in another country.

AKP: Adalet ve Kalkınma Partisi (Justice and Development Party)

Asylum and Migration Bureau: Turkish Asylum and Migration Bureau for the development and implementation of legislation and administrative capacities

CEAS: Common European Asylum System

CHP: Cumhuriyet Halk Partisi (Republican People's Party)

EASO: European Asylum Support Office

ECtHR: European Court of Human Rights

EU: European Union

EURODAC: European Dactyloscopy

EUROPOL: The European Police Office

EUROSUR: European Border Surveillance System

FRONTEX: *Frontières extérieures* from French for "external borders"

LFIP: Law on Foreigners and International Protection

NAP: Turkish National Action Plan for the Adoption of the European Union Acquis in the Field of Asylum and Migration

NGO: Non-Governmental Organization(s)

ORSAM: Ortadoğu Stratejik Araştırmalar Merkezi (Centre for Middle Eastern Strategic Studies)

UN: United Nations

UNHCR: Office of the United Nations High Commissioner for Refugees

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PREFACE

This thesis has been written as the Master's Thesis of the author, who believes every individual living on earth, is a migrant. In a world history full of migration flows, clashes between nations and displaced persons (willing or unwilling), it is unthinkable to determine whose ancestors came from where and it is difficult to understand who gives or takes the right of an individual to settle on a land. Author, who is currently a master's student in 'European Master's Degree on Human Rights and Democratization' program in EIUC, is from Adana, a Turkish city very close to Syrian border. He thinks humanity has been facing one of the most catastrophic humanitarian crises in Syria since 2011 and he wishes this thesis would at least be helpful in order to understand the miserable situation of Syrian forced migrants and Turkey's role in this crisis. This thesis contains work done from December 2014 to July 2015.

The thesis supervisor on this project has been Assoc. Prof. Rebecca Thorburn STERN, from Uppsala University Faculty of Law and the author hereby thanks her for her help, interest and effort on this thesis. Besides, the author also thanks Assoc. Prof. Anna – Sara LIND, the E.MA Director of Uppsala University, who was always kind, helpful and thoughtful during the author's second semester studies in Uppsala.

13 July 2015 – Uppsala, Sweden

"It is not a question of eliminating ethnic and political borders. They are a historical given: we do not pretend to correct history, or to invent a rationalized and managed geography. What we want is to take away from borders their rigidity and what I call their intransigent hostility."

Robert SCHUMAN – 1963

Before I built a wall I'd ask to know
What I was walling in or walling out,
And to whom I was like to give offense.
Something there is that doesn't love a wall,
That wants it down.

Robert FROST – "Mending Wall"

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1 INTRODUCTION

1.1 Conceptual Framework

Turkey forms a major migration route with increasing numbers of forced migrants fleeing from their economically and politically unstable Middle Eastern countries and trying to migrate into European Union (EU). Turkey has always played and still playing a crucial role both for the EU and the migrants in this massive migration flows. Turkey, thanks to its strategic geographical position, has borders with EU countries as well as with unstable and crisis ridden countries such as Syria and Iraq. So, one can easily say that EU's external borders have started to been pushed farther east with Turkey's accession negotiations started in 2005 and with the memberships of Balkan countries. It is obvious that the EU is now more open to migration movements directly coming from Middle East, besides the migration flows coming from Africa via Mediterranean.[1]

The Syrian crisis that began in 2011 has started one of the most catastrophic migration flows in history, which is originating from Middle East and mostly aiming Europe. With the Syrian crisis in its fourth year, unfortunately a political solution has not been found yet. More than half of all Syrians have been internally or externally displaced, making this one of the largest displacement crisis in history. Unfortunately, all indicators show that this displacement will continue to grow in 2015 too.[2]

Turkey, as a neighboring country to Syria, has declared a temporary protection regime in October 2011 as an emergency response to this humanitarian crisis. Although Turkey still maintains the geographical limitation to 1951 Convention Relating to the Status of Refugees (1951 Convention) and does not grant "refugee" status to the asylum seekers from out of Europe, the Turkish Government ensured non-refoulement and limitless duration of stay for Syrian forced migrants with this temporary protection regime.

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[1] Özer, 2014, p. 46.
[2] OCHA, The 2015 Strategic Response Plan for Syria, 2014.

As of July 2015, 1.805,255 Syrian forced migrants (can also be called as "temporary refugees" or "guests") have been registered by the Turkish Government under this temporary protection regime.[3]

The question is; what do these 1.805,255 Syrian forced migrants want to do about Turkey or want Turkey to do for them? Do they want to stay in Turkey, turn back to Syria or use Turkey as a hopping point to Europe? It is usually said that Turkey has a transit country role for the migrants because of its geographical position, which can easily be imitated as a "bridge" between Europe and Middle East. But, with the extension of EU borders farther east to Bulgaria, border control between Turkey and neighboring EU states (Bulgaria and Greece) has gained an important role for EU's migration policy [4] and became stricter. We see that most of the Syrian forced migrants who are settled in Turkey cannot go westbound from Turkey because of these strict border control policies and cannot use Turkey as a hopping point.

These facts led me to think that Turkey started to have a second role for migrants, which can be called as a *buffer zone* or an external border that is used by EU in order to control migration flows coming from the Middle East. So, in the light of these, one can say that EU's migration strategies and policies started not to remain within the limits of its interior borders, but extend beyond them in order defend the *Fortress Europe.*[5] Thus, we can see that it is not a coincidence that Turkey has started to work on its 'National Action Plan for the Adoption of the European Union Acquis in the Field of Asylum and Migration' (NAP) in 2005, simultaneously with the start of its EU accession negotiations. Asylum and migration law is one of the most important areas where reform is needed for Turkey's legislation to be harmonized with the EU acquis and maybe more importantly with the EU policies.

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[3] UNCHR, Syria Regional Refugee Response, at http://data.unhcr.org/syrianrefugees/country.php?id=224.
[4] Özer, 2014, pp. 46-47.
[5] Aksel & Danış, 2014, p. 267.

In this thesis, I will try to understand whether Turkey is a legal *buffer zone* like an external border of *Fortress Europe,* which migrants face while trying to migrate into EU countries, or is it a pathway, which migrants pass through on their way to Europe. I will try to answer these questions with a special focus on Syrian forced migrants who have fled their countries after 2011 crisis. As I believe that Turkey has both of these roles, I will try to show the reasons why I think Turkey has both of these roles and will try to show the current legal and social status of Syrian forced migrants in Turkey.

1.2 Methodology

In this work, a textual and descriptive research method will be used which is mainly based on a combination of traditional library research and research on current developments and up to date information regarding Syrian migrants in Turkey. So, it can be said that, this thesis will be written in a mixed method, which includes both quantitative and qualitative research methods.

Turkish Law, international law instruments, EU law instruments and academic literature will be used as primary sources. As secondary sources, articles written by journalists, interviews made with head of states and politicians (made by journalists and Non-Governmental Organizations), Statistics of NGOs and International Organizations, the data received from Turkish Government, response plans of international organizations and reports of national and international NGOs in regard to the issue will be used.

Considering that the new Turkish law was strongly influenced by European legislation on migration and asylum, a review of basic EU legislation on asylum will be mentioned in order to see the common points and differences with the new Turkish Law. So, a comparison of the EU acquis and Turkish legislation will be made in some points when it is needed.

Besides, EU and Turkish policies on migration will also be mentioned and discussed, as migration is an issue that is closely connected with political and economical situations of the states.

The author will also benefit from statements of politicians and head of states, articles in magazines, NGO reports, various web sources, newspapers and specific reports and bulletins.

1.3 Outline of Chapters

Chapter two reviews the Turkish legal framework on migration, dividing the issue into two periods as pre-2005 and post-2005 periods. 2005 is significantly an important year for this research, as Turkey's 'National Action Plan for the Adoption of the European Union Acquis in the Field of Asylum and Migration' started in 2005 forms the basis of the new Turkish law on migration entered fully into force in 2014. The connection between EU asylum law and Turkish migration law will also be discussed in this chapter, while mentioning the EU influence on the new Turkish law. The Common European Asylum System (CEAS), binding instruments of the CEAS Qualification and the Dublin Regulations and Turkey's situation on adopting these instruments will also be mentioned. The current legal status of Syrian forced migrants in Turkey will also be analyzed in this chapter, regarding the basic rights they have and the legal sources / documents regarding their rights.

Chapter three will be more of a *policy* chapter, which will include Turkish policy on migration and again dividing the issue into two different eras; this time as pre-Syrian crisis and post-Syrian crisis. As significant changes in Turkish migration policy can be seen after Syrian crisis, we can say this crisis is a corner stone for Turkish policy on migration. While analyzing this issue, the Turkish public opinion on Syrian forced migrants will also be mentioned as I think public opinion is one of the pillars that policies are standing on.

EU's migration policy will also be analyzed limitedly with the changes that occurred in its policy after Syrian crisis, also taking the current changes occurring even while this thesis is being written in 2015.

The current social status of Syrian forced migrants in Turkey will also be examined in the third chapter, regarding the social reception they received from the Turkish community, and whether this reception is hostile or not.

Chapter Four will be the breakaway point of the thesis, answering the main thesis question from various aspects and showing Turkey's different roles regarding migration.

Lastly, Chapter Five will conclude the thesis.

2 TURKISH LEGAL FRAMEWORK ON MIGRATION

2.1 Introduction

Although Turkey has a significant experience and an important geopolitical position in receiving migration flows since the era of Ottoman Empire, [6] Turkish governments and authorities up to now did not really focus on having a specific and comprehensive law on migration and asylum for many years. During all these years, Turkey used to have an outdated legal framework on asylum, migration and border management. [7]

Although Turkey has received huge refugee flows notably starting from 1980's, caused by social movements in the region such as 1979 Iranian Revolution and catastrophic events such as 1980 Iran-Iraq War, Saddam Hussein Regime, Gulf War in 1991, Bosnia War in 1992, Kosovo Crisis in 1999, Afghanistan Intervention in 2001 and Second Gulf War in 2003, Turkey still acted poorly compared to European countries in terms of its asylum and migration policies and frameworks. [8]

Although Turkey has acted poorly for long years, we see that a new and modern migration framework started to develop after 2005 (which will be analyzed below in 2.2), and a new *Europeanized* immigration law has been accepted in 2014, of which its roots rely on the 2005 National Action Plan. This is why I will analyze the Turkish legal framework on migration in two different eras, as pre-2005 and post-2005.

Besides, asylum and migration is particularly important for EU - Turkey relations, as it is one of the areas in which the EU acquis and policies are influencing Turkey's legal framework. [9] This relation and influence will also be detailed in the following parts of the chapter.

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[6] Kirişçi, 2012, p. 65.
[7] Tolay, 2012, p. 40.
[8] Tolay, 2014, pp. 78-79.
[9] Tolay, 2012, p. 40.

2.2 Pre-2005 Period

As it was mentioned above, Turkey did not have a specific and systematic legal framework on migration and asylum for years and these issues were regulated by many different, disorganized and separate laws, regulations and international agreements. This complex legal framework turned migration and asylum into extremely complicated issues for scholars and experts to work on during these years in Turkey. [10]

The basis of Turkish legal framework in this period was the Law of Settlement (İskan Kanunu, law number 2510), which was adopted in 1934 and then renewed in 2006 (law number 5543). This law was determining who can be admitted into Turkey and who cannot, on which conditions. This law was regulating the issue with a highly nationalist understanding in a historical context, regulating only the entrance and settlement of persons who are of *Turkish descent or Turkish culture.* In order to understand the motivation and reason behind this nationalist law, one must look into history;

Ottoman Empire, precedent state of Turkey, was a multinational empire that once controlled Anatolia, Middle East, Southeast Europe, Western Asia, North Africa and Horn of Africa at the same time in its prime eras (16th - 17th Centuries) [11]. After its prime era has finished in 19th century, it started to lose lands to other states such as European and Balkan states, Russia and retreated back to Anatolia, reducing its ruling areas. [12] This caused a situation that many Muslim and Turkish settlements were left behind, which were once controlled by Ottomans but now being controlled by European / Balkan states and Russia.[13] These Muslim and Turkish civilians were suppressed by their new governments and they found that the only way to have a better life was migrating back into Ottoman lands. [14]

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[10] Ekşi, 2012, p. 19.
[11] Imber, 2004, p. 1
[12] Blumi, 2013, pp. 1 – 3.
[13] Şirin, 2013, p. 2.
[14] McCarthy, 2001, pp. 110 – 119 and Blumi, 2013, pp. 3 – 9.

Thus, if we think of this migration flows of Turks coming from the states once ruled by Ottoman Empire but which started to have hostile policies amongst Turks after collapse of the Ottoman Empire. (eg. Bulgaria, Greece), it is understandable why the government regulated the migration issue with a connection to Turkish descent or Turkish culture.

So, nationalist context of this law may be understandable under the historical circumstances after Ottoman Empire's regression and collapse periods. The problem is; none of the Turkish governments since 72 years have ever came with the idea of changing this law on migration.

The law had a distinction while defining a migrant; individual migrant and group migrants. Individual migrants are the ones who settled in the country without assistance, whereas group migrants are the ones who were settled by the government. (Not to mention both of the groups shall have a connection with Turkish descent or culture)

Thus, this law caused that individuals who are not of Turkish descent, culture or origin shall not be considered as "migrants", and may only enter Turkey as "visitors". The status of these "visitors" were regulated by two other different laws adopted in 1950; Passport Law (Pasaport Kanunu, no. 56829) and the Law on Residence and Movement of Foreigners in Turkey (Yabancıların Türkiye'de İkamet ve Seyahatleri Hakkında Kanun, no. 5683)

If we take a look at international law sources of Turkish legal framework in pre-2005 period, we see that Turkey was one of the drafting countries of the 1951 Convention Relating to the Status of Refugees (1951 Convention hereafter) and ratified it in 1961. Although Turkey was one of the drafting and leading countries of the Convention, unfortunately it kept the geographical limitation of the Convention, which means that Turkey did not pledge to give the refugee status to any individual coming from outside of Europe. [15]

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[15] Tolay, 2014, p. 82.

In my opinion, this geographical limitation causes the Convention turn into a meaningless document from the point of Turkey, whereas the great majority of asylum seekers seeking asylum in Turkey is obviously non-Europeans.

This legal framework that is based on two main but completely opposite pillars -the nationalist and narrow Law of Settlement and 1951 Convention-, caused a preposterous asylum system in the country; a system which individuals of Turkish culture or descent shall be accepted as "migrants" under the Law of Settlement, whereas European asylum seeking individuals shall be accepted as refugees under 1951 Convention and lastly, asylum seekers coming out of Europe shall not be accepted either as migrants or refugees. Nevertheless, we should mention that Turkey had different arrangements with Office of the United Nations High Commissioner for Refugees (UNHCR) regarding the situation of non-European asylum seekers and gave them temporary protection until they were accepted as refugees in a third country.

This ineffective legal framework continued until the 1990's, when Balkans and Middle East started to face wars and many catastrophic humanitarian crisis which caused migration flows originating from Balkans and Middle East into Turkey. Ineffective Turkish legal framework started a crisis between international community and Turkey, as international community put more pressure on Turkey regarding asylum and migration. [16]

Turkish authorities could not stand more to this pressure and adopted a regulation regarding the issue, regulating the procedures and principles related to population movements and aliens arriving in Turkey, either as individuals or groups, seeking asylum either in Turkey or requesting residence permits in order to seek asylum in another country. (1994 regulation hereafter) Although it was a regulation, not a law, this regulation was the basis of Turkish legal framework on asylum until the Post-2005 period. [17]

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[16] Kirişçi, 2001, pp. 72-73.
[17] Tolay, 2014, p. 85.

This regulation did not bring anything new to the legal framework and kept the existing practice,[18] which allows non-European asylum seeking individuals in the country but not as refugees, giving them a temporary protection until they were settled and accepted as refugees in a third country by the UNHCR. But, this regulation legally defined the existing temporary protection regime in writing and made the government legally bound with that. Besides, this regulation is significantly important for this thesis whereas in my opinion it created the idea that Turkey was a legal pathway for asylum seekers between Middle East and developed third countries (Mostly European countries resettling asylum seekers via UNHCR).

After significant rulings of ECtHR such as Jabari v. Turkey (2000), Mamatkulov and Askarov v. Turkey (2005) and Abdolkhani and Karimnia v. Turkey (2010), and because of the efforts to be a full member of EU, Turkish authorities started to realize the lack of a new, modern and systematic legal framework on migration and asylum, which has European standards.[19] So, In 2003, Turkey adopted the accession partnership prepared by the European Commission and undertook to create a new acquis on asylum, strengthening the legal framework, which also includes the probability of lifting the geographical limitation to 1951 Convention.

By 2005, Turkey adopted the "National Action Plan for the Adoption of the EU Acquis in the Field of Asylum and migration" (NAP) and started the new era of Turkish legal framework on asylum and migration. [20]

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[18] Tolay, 2014, p. 85.
[19] Tolay, 2014, p. 87.
[20] Tolay, 2014, p. 88.

2.3   National Action Plan and Post 2005 Period

After facing a pressure from international community, particularly EU, Turkish government started to take actions regarding asylum and migration and adopted the accession partnership prepared by the European Commission in 2003, as it was mentioned above.

But first, Turkish government, authorities and bureaucrats were in need of breaking their shells, forgetting the state tradition which was build up in years and having a revision in their minds before having a revision in the legislation. [21] So, the NAP was particularly important for breaking the state traditions regarding migration and asylum. It helped the legislators and bureaucrats to have a new mindset and made them open themselves to changes regarding the field. [22]

Thus, as a show of goodwill and its efforts to the international community, Turkey became a member of International Organization for Migration in November 2004 and started to operate more effective in combating human trafficking.[23] Within its efforts on having a revolution on its asylum and migration framework based on EU legislation, Turkish Government implemented many twinning projects implemented EU countries as well. [24] For example, "Migration and Asylum" Twinning Project was implemented from 8 March 2004 to 8 March 2005 with the cooperation of Denmark and England.[25]

The first reflections of NAP in the legislative field were the revisions of Law of Settlement in 2006 and the adoption of a new Passport Law in 2007.[26]

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[21] Ekşi, 2014, p. 9.
[22] Tolay, 2014, p. 89.
[23] Turkish Ministry of Foreign Affairs, Turkey's fight against illegal migration, at http://www.mfa.gov.tr/turkey-_s-fight-against-illegal-migration.en.mfa.
[24] Ekşi, 2014, p. 9.
[25] Turkish Ministry of Foreign Affairs, Turkey's fight against illegal migration, at http://www.mfa.gov.tr/turkey-_s-fight-against-illegal-migration.en.mfa.
[26] Tolay, 2014, p. 89.

Besides, many administrative decisions regarding the practice of asylum were also adopted such as the Implementation Directive in 2006, encouraging a better asylum system providing detailed regulations on access to asylum procedure, healthcare, education, work permits etc. for the asylum seekers.[27]

As another important outcome of the NAP, Turkey has had its first government agency focused on migration and asylum. According to the NAP, Ministry of Interior has had the initiative and task of creating the new legal framework. For this cause, "Asylum and Migration Bureau for the development and implementation of legislation and administrative capacities" (Asylum and Migration Bureau) was created in October 2008 by the Ministry of Interior. [28] This Bureau is the first of its kind, the first government agency focused on migration and asylum in 85 years old history of Republic of Turkey.

Asylum and Migration Bureau has had four main duties;

1- Performing works and studies on having a new legal and administrative framework on migration and asylum,
2- Determining whether the requirements in order to comply with EU legislation are met or not,
3- Monitoring coordinating with the current EU projects and developments on migration and asylum
4- Informing the Ministry regarding all these issues. [29]

Asylum and Migration Bureau started to work on creating the new legislation in 2009, as its first and main duty. In the first stage, it was planned that the legal framework shall be formed of four main laws, such as;

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[27] Tolay, 2014, p. 89.
[28] Ekşi, 2014, p. 10.
[29] Ekşi, 2014, p. 10.

1- The Law on Foreigners,

2- Law on Migration,

3- Revised version of the Law on Residence and Movement of Foreigners in Turkey,

4- Law on Tasks and Duties of Directorate General of Migration Management.[30]

Nevertheless, during the meetings, seminars and studies on the issue, Turkish Government decided not to make the same mistake as having a complex legal framework based on many different laws as it was in the past. So, Ministry of Interior decided to gather the legal framework under a single roof and having one law regulating all the issues in one document, which is a decision also supported by NGOs, international organizations, international researchers and academics.[31]

Thus, after more than two years of work, Ministry of Interior presented the Draft Law on Foreigners and International Protection to the Parliament in May 2012.

The draft law was examined by many different Commissions of the Parliament, including Human Rights Commission and EU Integration Commission. After all the discussions and examinations, it was accepted by the Parliament on April 2013 and entered into force completely with all its articles on 11 April 2014.

2.4   The New Law on Foreigners and International Protection

Law on Foreigners and International Protection, which entered into force on 11 April 2014 has brought significant improvements to Turkish legal framework and practice on migration. [32] As it was mentioned above, this law is the first single body of law in history of Turkey that is comprehensively regulating the issues of migration and asylum. In this part, I will make a very brief examination of the law and show some of its main articles regarding this thesis.

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[30] Ekşi, 2014, p. 10.
[31] Ekşi, 2014, p. 11.
[32] An English version of the law can be found at; http://www.goc.gov.tr/files/files/eng_minikanun_5_son.pdf.

If we take a look at the law, we see that it consists of five main parts, such as;

Part One, which is clarifying the purpose and scope of the law, definitions and non-refoulement which consists of Article 1 to Article 4.

Part Two, which is entitled as "Foreigners" and regulating the entry of foreigners into Turkey, visa policy, residence permits, stateless persons and removal from the country which consists of Article 5 to Article 60.

Part Three, which is entitled as "International Protection" and regulating the types of international protection, exclusion, refugees, procedures and applications for asylum and rights and obligations which consists of Article 61 to Article 95.

Part Four, which regulates the common provisions regarding foreigners and international protection which consists of Article 96 to Article 102.

Part Five, which regulates the establishment, duties and mandate of Directorate General of Migration Management which consists of Article 103 to Article 126.

When we start examining the law, in the very beginning, in Part One, it is said that; *"Article 1: The purpose of this Law is to regulate the principles and procedures with regard to foreigners' entry into, stay in and exit from Turkey, **and the scope and implementation of the protection to be provided for foreigners who seek protection from Turkey,** and the establishment, duties, mandate and responsibilities of the Directorate General of Migration Management under the Ministry of Interior."[33]*

Thus, it is clearly visible from this article that; this is a very comprehensive law, regulating all legal issues regarding law of foreigners, visa policy, border management, residence permits and migration / asylum law.

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[33] Article 1 of The Law on Foreigners and International Protection.

The phrase which is in bold fonts above shows us that the Turkish Government finally had a law regulating the protection to be provided for foreigners who seek protection from Turkey, which is a definition including asylum seekers, refugees, regular migrants, irregular migrants and forced migrants.

Last but not least, another article that should be mentioned in Part One is Article 4, whereas it regulates the non-refoulement principle, which is a principle Turkey had for long years because of being a contracting state to 1951 Convention, but was never written in a law making the government bound with it. *"Article 4: No one within the scope of this of this Law shall be returned to a place where he or she may be subjected to torture, inhuman or degrading punishment or treatment or, where his/her life or freedom would be threatened on account of his/her race, religion, nationality, membership of a particular social group or political opinion."[34]*

When we start to examine Part Three of the law, entitled "International Protection"; unfortunately we see that Turkey is still keeping the geographical limitation to 1951 Convention, which means any person coming out of Europe and demanding international protection (asylum) from Turkey will not be protected within the scope of this law. While defining "Refugees" in Article 61, the legislator defined a "refugee" as; *"A person who **as a result of events occurring in European countries** and owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his citizen- ship and is unable or, owing to such fear, is unwilling to avail himself or herself of the protection of that country; or who, not having a nationality and being outside the country of his former residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it, shall be granted refugee status upon completion of the refugee status determination process."[35]*

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[34] Article 4 of The Law on Foreigners and International Protection.
[35] Article 61 of The Law on Foreigners and International Protection.

In my opinion, geographical limitation nullifies the importance of the law whereas the great majority of the asylum seekers and forced migrants demanding protection from Turkey are coming from non-European countries. I will focus on geographical limitation, the reasons why Turkey still keeps it and possible lifting of it in the following chapters of this thesis.

Regarding asylum seekers coming from out of Europe, the legislator defined them as "Conditional Refugees" in Article 62. With this definition, the existing practice is kept, which allows non-European asylum seeking individuals in the country but not as "refugees", rather giving them a temporary protection until they were settled and accepted as refugees in a third country. *"Article 62; A person who as a result of events occurring outside European countries and owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself or herself of the protection of that country; or who, not having a nationality and being outside the country of former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it, shall be granted conditional refugee status upon completion of the refugee status determination process. Conditional refugees shall be allowed to reside in Turkey temporarily until they are resettled to a third country."[36]*

While 'Europe' is not defined in any international law document, the Turkish law has defined 'Europe' as 'Council of Europe countries' in Article 3.[37] In practice, there is little difference between the social and economic rights granted to refugees and conditional refugees in the law. The main difference is that conditional refugees shall be resettled by UNHCR into a third country.[38] This practice, which was going on for years and finally put down on paper in Article 62, is a significant example of the idea that Turkey is a pathway, a waiting lounge or a bridge between Middle East and Europe for migrants.

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[36] Article 62 of The Law on Foreigners and International Protection.
[37] Article 3 of The Law on Foreigners and International Protection.
[38] Açıkgöz & Arıner, 2014, p. 19.

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If we generally analyze the rights given in International Protection section of the law, we see a human rights based and Europeanized catalogue of rights such as; improved registration system in Article 69, Information and translation services in Article 70, Interview in Article 75, Accelerated procedure in Article 79, Administrative review and judicial appeal for decisions in Article 80, Legal services and Counseling in Article 81, Reception and accommodation centers with healthcare and education in Article 95, Harmonization of refugees into the society in Article 96.

As it is seen and as I have mentioned before, migration / asylum law is one of the most important fields in Turkey, where reforms are motivated by EU acquis harmonization. The new Law on Foreigners and International Protection may be the biggest outcome of Turkish migration framework's Europeanization process. Thus, in the following part, I will examine how the Turkish migration system has been Europeanized in years, the influences of EU acquis on the new Turkish law and pros and cons of the Europeanization process.

2.5   Europeanization of Migration Framework in Turkey

Except the early changes in the mid-1990s, such as 1994 Regulation, all other reforms in Turkish migration framework were implemented in the scope and purpose of EU harmonization process.[39] So, one can easily say that EU has tried and is still trying to export its migration model to Turkey,[40] aiming to create a buffer zone between Middle East and Europe in order to strengthen Fortress Europe. On the other hand, from Turkey's point of view, one can say that Turkey is showing off to Europe with reforming its migration system just for the purpose of EU accession but these reforms are only on paper, whereas Turkey is not really doing anything in practice regarding the issue.

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[39] Tolay, 2012, p. 46.
[40] Tolay, 2014, p. 79.

If we take a look in the past, we see that Turkey has undertaken large-scale revisions of many of its regulations in order to start the negotiations with EU, especially starting from 2000's. After negotiations started in 3 October 2005, asylum and migration has gained importance for the harmonization of Turkish law with EU acquis. As I have mentioned before, the adoption of the National Action Plan and twinning projects are clear outcomes of Turkey's purpose to orient with EU's conditionality and demands for harmonization. [41] The question is; is Europeanization really a positive development for Turkish migration framework?

2.5.1 Positive Aspects of Europeanization Process

I can say that Europeanization Process of Turkish legal framework is mainly a positive movement, whereas I think it still has some significant problems, which will be mentioned in 2.5.2.

If we start with the positive aspects of the process; I think the most important positive aspect of Europeanization Process is the improvements in migrant rights. From a human rights point of view, one can easily say that Europeanization of Turkish legal framework has a human rights based approach which created a legal framework respecting and protecting human rights of migrants. In the old legal framework, before the Turkish legal framework started to get Europeanized, it was even difficult to understand who is a migrant, who is a refugee and who has which rights. [42] But with the new Law on Foreigners and International Protection, Turkish legal framework gained a comprehensive legal document and a catalogue of rights with a human rights based approach for migrants, refugees and forced migrants.

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[41] Tolay, 2012, pp. 43-44.
[42] See Chapter 2.2. of this thesis.

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Another positive aspect of Europeanization process is that the migration / asylum framework of Turkey has been gathered under a single roof which made it easier for academics, practitioners and government officials to deal with the issues in the field easier. Before the framework was Europeanized, it was based on 25 different laws and 22 different regulations and directives. [43]

Besides, the administrative framework was collected together with the creation of Directorate General of Migration Management under Ministry of Interior. It was also established by the new Law on Foreigners and International Protection in Article 103 *with a view to implement policies and strategies related to migration; ensure coordination between the related agencies and organizations in these matters; carry out the tasks and procedures related to foreigners' entry into, stay in, exit and removal from Turkey, international protection, temporary protection and protection of victims of human trafficking.*[44]

Last but not least, civil society and NGO's focused on migration and asylum have gained particular importance in Turkish framework. Role of the NGO's in asylum and migration fields have started to emerge and are still emerging as a fact of Europeanization Process. [45]

Although the Europeanization process seems to go on smoothly on paper, as I have said, I think it still has some significant problems. As *Tolay* mentions, in practice it is incomplete [46] and crippled at some levels.

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[43] Özgür, 2010, p. 225
[44] Article 103 of The Law on Foreigners and International Protection.
[45] Balta, 2014, p. 216.
[46] Tolay, 2012, p. 48.

2.5.2 Problems regarding the Europeanization Process

a- Geographical Limitation

In my opinion, the first issue that is an obstacle for a real 'Europeanization' is the geographical limitation and this is the most crucial obstacle for Turkey in order to be able to 'harmonize' with EU standards. It is also a problem with a domino affect that causes other problems and an umbrella problem that involves other problems as well.

In principle, Turkey agrees lifting the geographical limitation and is aware that the limitation is a big obstacle in its path to EU membership [47] but Turkish authorities think that the issue should be resolved without harming Turkey's economic, social and cultural conditions.

Besides, Turkey is trying to make a connection between lifting the geographical limitation and its full membership to the EU. [48] In other words, Turkey uses the limitation as a trump for the EU membership, which means Turkey does not want to lift the limitation unless it becomes a full member of the EU. [49] It is also seen in NAP that this lift has been conditioned on Turkey's full membership to EU, stating that Turkey strongly attaches the lift and the membership to each other. [50]

There are of course several reasons that Turkey put forward for maintaining the limitation.[51] Turkey mostly bases these reasons on its geographical position, which is like a geographical bridge between Middle East, Africa and Asia. [52] Turkish authorities think that, as a result of this geographical position, Turkey will face more direct migration flows in the following years and these flows will cause more problems with the lack of coastal security and weak border management.

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[47] Kaya, 2009, p. 12.
[48] Idem.
[49] Ekşi, 2014, p. 9.
[50] Tolay, 2012, p. 49.
[51] Turkish National Action Plan, 2005, pp. 50-51.
[52] Tolay, 2012, p. 49

Other reasons that Turkish authorities bring forward in NAP are; probable terrorist activities hidden in migration flows, lack of financial sources, instable and insecure neighboring countries who have wars or civil wars nearly every year, having no readmission agreements between African, Asian or Middle Eastern countries and lack of international burden sharing after the migration flows that Turkey face. [53]

b- Burden Sharing

Of course, as all other countries do, Turkey also does not want to be under a heavy burden of migration without the certainty of EU membership. [54]

As I have mentioned before and as it is clearly stated in NAP, thanks to its geographical location, Turkish officials are afraid that Turkey has a risk of becoming a buffer zone or a dumping ground for EU's unwanted asylum seekers and refugees. [55] Because, if we take a look at it this exported or 'European' model of migration, we see that it gives more right and opportunities to 'wanted' migrants but raises serious barriers for 'unwanted' migrants, creating Fortress Europe. [56] So, Turkish authorities are afraid that the full adoption of the EU acquis without a geographical limitation would make Turkey the "first country of asylum" which turns Turkey into a buffer zone or a filter for 'wanted' or 'unwanted' migrants between 'Fortress Europe' and Middle East.

Ironically, it is also difficult to understand how a Europe that creates a fortress and strengthens its borders against migrants could be a good example for Turkey in terms of migration, human rights, burden sharing, harmonization and credibility. [57]

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[53] Ekşi, 2014, p. 9 and Turkish National Action Plan, 2005, pp. 37-38.
[54] Lagrand, 2010, p. 157.
[55] Kirişçi, 2012, p. 75.
[56] Tolay, 2014, p. 80.
[57] Kirişçi, 2012, p. 75.

This risk of being a buffer zone or a dumping ground concerns Turkey in terms of economic reasons as well and Turkish officials desire to see a burden sharing that would go beyond what the current funds can offer. [58]

c- Financial Sources

Another reason why this 'Europeanization' process is crippled is the economic reasons. Many Turkish officials dealing with the asylum and migration system believe that if the system is fully Europeanized and if the geographical limitation were lifted, a huge number of refugees would arrive in the country, creating a huge financial burden. [59]

This point is also connected with the burden-sharing problem, as the 'burden' is usually understood as 'economic burden' by governments. According to NAP; Turkey *"should not be expected to handle issues of asylum (...) and (...) irregular migration on its own"*.[60] The NAP defines burden sharing which *"should both include the financial burden and refugees/asylum seekers according to parameters such as national income and population density of countries."* [61]

In NAP, Turkish Government clearly states that; *"Keeping in mind the refugee movements Turkey may encounter with the lifting of the geographical limitation the following points should be realized with the financial support to be provided supplementary to the Pre-Accession Financial Assistance Programs of EU:*

- *Establishing reception and accommodation facilities for asylum seekers and founding refugee guest houses,*
- *Operation of the mentioned centers,*
- *Training personnel to be recruited at these centers,*
- *Establishing a country of origin and asylum information system,*

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[58] Turkish National Action Plan, 2005, pp. 50-51.
[59] Kaya, 2009, p. 15.
[60] Turkish National Action Plan, 2005, pp. 50-51.
[61] Idem.

- *Establishing a Training Academy (Institute),*
- *Establishing a service building for the asylum unit."* [62]

According to NAP, the following topics should also be taken into consideration: [63]

- *The expected amount of increase in the number of refuges to arrive in Turkey following the lifting of the geographical limitation,*
- *Locations and costs of asylum seeker reception and accommodation centers, refugee guest houses, accommodation centers and return centers to be established,*
- *Costs related to the establishment of a permanent training academy for the regular training to be provided to personnel working/to work in the field of asylum and migration,*
- *Costs of financing required for the integration of migrants and refugees in Turkey.*

So, from Turkish point of view; it is understood that the EU's financial help is needed not only to lift the geographical limitation, but also to implement the physical requirements of NAP and the EU *acquis*. [64]

d- Skepticism on EU's Sincerity

There is also a negative recognition in the minds of Turkish authorities and public, which creates skepticism about the policies, recommendations and reforms exported by the EU. This exported system of migration coming from the EU is seen as attempts of EU to pressurize Turkey.[65] As EU is introducing stricter visa conditions and creating a 'Fortress Europe' by tightening its borders, the migrants become stranded in Turkey, which turns into a 'buffer zone' or 'waiting area'. At the same time, EU is pushing Turkey to adopt a European asylum system, including lifting the geographical limitation.

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[62] Turkish National Action Plan, 2005, pp. 50-51.
[63] Idem.
[64] Kaya, 2009, p. 15.
[65] Kaya, 2009, p. 17.

This attitude of the EU is regarded as hypocrisy as it limits the entrance of migrants, but on the other hand, puts pressure on Turkey to accept more migrants. [66] This situation is unfair from Turkish perspective, as the relation with the EU is seen strongly imbalanced in favor of EU and that the EU is gaining more advantage from the relation than Turkey does.[67] Besides, it is difficult to say that, this approach is compatible with a sincere and true understanding of Europeanization.

Turks worry that Turkey would turn into a huge refugee camp as EU demands are designed to use Turkey as a buffer zone and dumping ground of migrants in the process of building "Fortress Europe".[68] This belief is highly present among the general public, officials and politicians.[69] This is also connected with the idea that, instead of sharing the burden, EU is trying to shift the burden to Turkey and using the membership bid as a tool to "make use" of Turkey in terms of migration. [70]

e- Skepticism on Turkey's Sincerity

Another important question regarding the Europeanization of asylum and migration in Turkey is the sincerity question of Turkey. Are the Turkish reforms true, sincere and genuine in the name of human rights or are they just a show off or tactical moves from Turkey in order to gain certain advantages, particularly EU membership? Scholars are taking this issue with different terms. According to *Schimmelfenning*; Europeanization may be driven by the "logic of consequences" (according to state interests) or the "logic of appropriateness" (when the states sincerely adopt the EU values and believe them to be the appropriate values for themselves).[71]

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[66] Tolay, 2012, p. 50.
[67] Idem.
[68] Tolay, 2012, p. 54.
[69] Kaya, 2009, p. 17
[70] Tolay, 2012, p. 54.
[71] Schimmelfenning, 2012, pp. 6-11 and Tolay, 2012, p 49.

If we look to Turkey's Europeanization reform on migration and asylum, it is not difficult to say that Turkey is acting towards its logic of consequences.[72] One can easily say that Turkish authorities are using 'Europeanization' in order to gain advantages, particularly EU membership and visa-free regime for Turks traveling to Europe. The most significant indicator is the readmission agreement [73] signed between Turkey and EU in 2013.

In the negotiations regarding the readmission agreement for years, Turkey has used it as a leverage to obtain other readmission agreements with countries sending migrants into Turkey, as well as to ease the visa requirements for Turkish nationals entering the Schengen area. [74]

This is also very obvious if we read European Commission's statement on the ratification of the EU-Turkey readmission agreement by the Turkish Parliament, dated 26 June 2014.

The statement, after mentioning the readmission agreement continues with mentioning the EU-Turkey visa liberalization dialogue, stating that the start of the dialogue was a pre requisite for the ratification of the readmission agreement;

*"The aim of the **EU-Turkey visa liberalization dialogue** is to make progress towards the elimination of the visa obligation currently imposed on the Turkish citizens travelling to the Schengen area for a short term visit. [It] will essentially consist of a screening of the Turkish legislation and administrative practices, (…) by the Commission on the basis of a document, (…) called **"Roadmap towards the visa-free regime with Turkey".** This lists the requirements, which should be fulfilled by Turkey to allow the Commission to present a proposal based on solid grounds to the Council and the Parliament (…) to move Turkey from its negative to the positive list. The requirements included in the Roadmap many refer, inter alia, to the need to implement in a full and effective manner the readmission agreement (…) **Once the Commission considers that all the requirements listed in the***

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[72] Tolay, 2012, p. 49.
[73] Idem.
[74] Idem.

Roadmap are fulfilled (…) , proposal will be voted by qualified majority by the Council of the European Union and the European Parliament. The Roadmap does not set a specific timetable by when the dialogue should be completed or this proposal should be presented, the speed of the process towards visa liberalization will depend essentially on the progress which will be made by Turkey in addressing the requirements set out in the Roadmap."[75]

Also a very up to date development regarding this topic has occurred during this thesis was being written, in 22 May 2015. Turkish EU Minister Volkan Bozkır, who is also the top negotiator in the EU accession process, has said the EU has to lift visas on Turkish citizens or they will cancel the readmission agreement. [76] He clearly said; *"What I say is that if you do not lift the visas we will annul the Readmission Agreement; we will do it, no joking."*

As a result of all these problems regarding the Europeanization; it is difficult to be certain on whether Turkey is truly Europeanized or not regarding asylum and migration. Turkey shows different characteristics in this still ongoing process, overall showing evidences of Europeanization both on paper and in practice, but also showing some resistance and room for future changes, which will be analyzed in the following chapters. [77]

2.5.3 Influence of EU acquis on the new Turkish law

From a technical legal point of view, we see that most of the articles in the new Turkish law were influenced by EU acquis and CEAS; not only articles in the International Protection part of the new law, but also the articles in other parts of the law such as visa policies and residence permits.

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[75] European Commission Statement, by Cecilia Malmström on the ratification of the EU-Turkey readmission agreement by the Turkish Parliament, 2014.
[76] Hürriyet Daily News, 'Turkish Minister to EU: Lift visas or we'll cancel key deal', 22 May 2015
http://www.hurriyetdailynews.com/turkish-minister-to-eu-lift-visas-or-well-cancel-key-deal.aspx?pageID=238&nID=82844&NewsCatID=510
[77] Tolay, 2012, p. 51.

Though, I will limit myself with the provisions regarding international protection and enlist the most prominent EU acquis that influenced the articles in International Protection part of the new law;

1- First of all, it is difficult to give specific articles but if we take a general look on the spirit of the new Turkish law, it can be said that the *"Convention determining the State responsible for examining applications for asylum lodged in one of the Member States of the European Communities (Dublin Convention)"* and the *"Council Regulation (EC) No 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national. (Dublin II Regulation)"* have influenced the general rationale, the spirit and the basics of the of the new Turkish law.[78]

2- When we look to the Articles 66, 71 and 95 of the new Turkish Law, we see that the state has the responsibility to provide shelter and physical reception conditions to asylum seekers such as establishing reception and accommodation centers for the asylum seekers and refugee guest houses, which is clearly influenced by the EU Council directive on reception conditions. *(Council Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers. [Reception Conditions Directive])*

3- According to Article 79 of the new Turkish law, some asylum applications shall be evaluated under accelerated procedure in cases where the applicant falls under the conditions in the article [79] and these applications subject to the accelerated procedure should be examined and decided upon in a short time with priority while the legal guarantees are safeguarded. It is clearly obvious that this accelerated procedure is

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[78] Ekşi, 2014, p. 33 and Rationale of the Law on Foreigners and International Protection.
[79] Article 79 of the Law on Foreigners and International Protection.

influenced by EU Council Procedures Directive *(Council Directive 2005/85/EC of 1 December 2005 on minimum standards on procedures in Member States for granting and withdrawing refugee status. [Procedures Directive]).* According to Article 80 of the new Turkish law, explanation of the grounds for the negative decision to an asylum application should include factual and legal grounds of refusal in line with the EU Council Procedures Directive as well. Lastly, if we take a look on Articles 118-120, regulating the personnel working in the field of asylum and migration, we see that they should be divided into branches and a continuous occupation of positions in this field should be maintained. This is again a regulation clearly influenced by EU Council Procedures Directive.

4- Although Turkey has already been applying the principle of Non-Refoulement within the framework of 1951 Geneva Convention, we can say that having the principle written in a legal document (Article 4 of LFIP) for the first time was influenced by the Article 21 of *"Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted. (Qualifications Directive)"*

5- Subsidiary Protection in Article 63 and Residence Permits based on Humanitarian Grounds in Article 46 of LFIP and procedures related to these issues are some other articles of the new law, which were influenced by the Qualifications Directive again. Procedures related to "Subsidiary Protection" and "Residence Permits based on Humanitarian Grounds" shall be established in order to avoid arbitrary and different implementations in practice and to guarantee uniformity, which shows us that these articles are in line with the EU Qualifications Directive.

6- As I have mentioned before, "Temporary Protection" is regulated between Articles 91 and 95 in the LFIP. We easily see that the definition, basics and the procedures of the Temporary Protection system in Turkey is influenced by the *"Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof. (Temporary Protection Directive)"*

7- According to Article 48 of the LFIP, *"A residence permit valid for thirty days shall be granted, by the governorates, to foreigners who are victims of human trafficking or where there is strong circumstantial evidence that they might be victims with a view to allow them to break from the impact of their [negative] experience and reflect on whether to cooperate with the competent authorities."* So, it is not difficult to see that Turkish lawmaker was influenced by *"Council Directive 2004/81/EC of 29 April 2004 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subjects of an action to facilitate illegal immigration, who cooperate with the competent authorities."* regarding this article.

2.6   Current Legal Status of Syrian Forced Migrants in Turkey

It has nearly been 5 years since the Syrian crisis and the migration flow from Syria into Turkey and there is still an ongoing uncertainty about the legal status of Syrians in Turkey. Just after the Syrian conflict has started, in mid-2011, Turkish government started to accept and welcome all Syrian forced migrants because of humanitarian reasons without requiring a legal status. Besides the humanitarian reasons, Turkey was also expecting that the conflict in Syria would not last long. [80]

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[80] ORSAM Report, No: 189, 2014.

However, as the conflict and war grew longer, the legal status of the Syrians in Turkey became uncertain day by day. Besides, due to geographic limitation to 1951 Convention, Syrians –who are obviously "non-Europeans"- cannot gain "refugee" status in Turkey.

So, in April 2011, the Syrians were officially received as "guests" by the Turkish government. Since this definition did not have any legal meaning, arbitrary treatment towards Syrians was the risk.[81] So, in October 2011, about 6 months after the conflict, Turkish government declared that the Syrians, -whom a large amount was already in the country-, would be granted 'Temporary Protection'.

This 'Temporary Protection' given to Syrians in October 2011 was based on the Article 10 of the 1994 Regulation, which stated that; "*Those who seek asylum from Turkey and take refuge in Turkey are under the protection and supervision of the state whilst they remain in Turkey.*"[82]

But there were still legal gaps regarding the conditions, procedures, applications and rights of Syrians in the country. So, the first legal document about the status of the Syrians was amended in 30 March 2012; *The No. 62 "Directive on Receiving and Sheltering the Syrian Arab Republic Citizens and Stateless Persons Living in the Syrian Arab Republic, who Entered Turkey for the Purpose of Mass Sanctuary"*. This directive defines the status of the Syrians as 'temporary shelter' and this temporary shelter status is currently ongoing. This directive is just definitive, defining the legal status, procedures and applications regarding Syrians. It is not a detailed and a comprehensive catalogue regarding the rights of Syrians.

So, there was still a gap regarding the basic rights of Syrians although millions of them were already let in the country. Thus, Turkey has adapted the second legal document regarding Syrians, the Regulation on Temporary Protection (Geçici Koruma Yönetmeliği) dated 13 October 2014.

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[81] ORSAM Report, No: 189, 2014.
[82] Article 10 of 1994 Regulation.

This regulation is compatible with the minimum international standards [83] and contains principles such as open door policy (unobstructed admission of Syrian refugees to Turkish territory), non-refoulement and determining individual status, providing shelter and basic services in camps and cities such as food and medical support, education, labor, social helps, translation. [84]

In fact, this temporary protection was inspired and modeled after the European Union Directive on Temporary Protection (2001), which outlines EU member states' obligations in responding to a mass influx of displaced individuals. [85] Therefore, Turkey's temporary protection and the rights given to Syrians might be seen in line with international standards. One can ask why most of the Syrians are not regarded as Conditional Refugees, mentioned in Article 62 of the new Turkish law and why they are not resettled in a third-country by UNHCR. [86] Although the existing practice is kept in this Article, which gives non-European asylum seeking individuals a temporary protection until they were settled and accepted as refugees in a third country; for most of the Syrians in Turkey, third-country resettlement is not an option under the 'temporary protection' policy. Because most Syrians in Turkey continue to live outside of the formally established UNHCR camps and to wait in local towns, villages, and cities and does not apply to UNHCR or the Turkish Government for refugee status determination process. This makes them fall out of the scope of third country resettlement procedure governed by UNHCR. [87] Besides, the number of third countries carrying out resettlement programs for Syrians in Turkey via UNHCR is still relatively low.

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[83] ORSAM Report, No: 189, 2014.
[84] Regulation on Temporary Protection.
[85] Stanislava, 2014.
[86] See p. 16 of this thesis.
[87] Stanislava, 2014.

Although the temporary protection regime falls in with minimum international standards, and give the Syrians basic humanitarian rights, there is still lack of a detailed legal framework that clearly defines the legal status, future and rights of Syrians. Yes, Turkey may have its new comprehensive and modern law on Foreigners and International Protection, but the law has just one article defining "temporary protection" and leaves the details and entitlements under this type of protection to the secondary legislation [88] such as the Regulation on Temporary Protection. Unless a detailed and a comprehensive legal framework defining and detailing the situation of Syrians is amended and went into effect, Syrians in Turkey will continue to be stranded between political decisions and be deprived of rights without having a certain future.

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[88] Ramey, Refugee Solidarity Network, '*Syrians in Turkey'* at http://www.refugeesolidaritynetwork.org/syrians-in-turkey/

3 - TURKISH AND EU POLICIES ON MIGRATION AND ASYLUM

As it was mentioned in prior chapters, due to its geographical position between Europe and Middle East, Turkey is an important player for Europe in terms of migration policies and it is at the nexus of emigration, immigration, and transit migration.[89]

In the past, as explained in pre-2005 section of this thesis [90], Turkey's asylum and migration policies were very deficient in comparison with EU's asylum / migration policies, which have higher, standards. However, with the Europeanization process [91] of Turkey's legal framework, this situation has recently been changed as Turkey has already adopted its new Law on Foreigners and International Protection. Besides, on the policy level, Turkey started to contrast its policies with EU's closed-door policy and started to have an open-door policy. Ironically, it can be said that, while Turkey has been Europeanized, Europe has been Turkisized regarding migration policies in the last years.

Indeed, we see a very significant contrast between Turkey and EU's migration policies regarding their approaches towards Syrian crisis and Syrian forced migrants since the crisis started in 2011. Unlike the EU's slow moves and de facto closed-door policy for many Syrian forced migrants, Turkey has been quick in responding the crisis and has been applying an open-door policy towards Syrian citizens seeking protection at its southern borders, welcoming more than 1.800.000 individuals since 2011. [92]

Maybe as a coincidence, in the first half of 2013, -one and half years after the Syrian crisis- both Turkey and the EU had important developments in their legal frameworks on migration and asylum. Turkey adopted the "Law on Foreigners and International Protection" in April 2013 and it came into effect in April 2014, whereas European Parliament endorsed the "Common European Asylum System" (CEAS) in June 2013, with

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[89] Kirişçi, *'Turkey: A Transformation from Emigration to Immigration'*, Migration Information Source, Migration Policy Institute, November 2003.
[90] See Chapter 2.2 of this thesis.
[91] See Chapter 2.5 of this thesis.
[92] UNHCR, Syria Regional Refugee Response, http://data.unhcr.org/syrianrefugees/country.php?id=224

the expectation that it should be implemented by fall 2015, which seems difficult due to political unwillingness of EU for implementing it fully. Although Turkey has adopted its new law, I still have doubts that nothing has changed regarding the non-European forced migrants and refugees, as Turkey is still maintaining the geographical limitation to 1951 Convention.

Actually, the important changes in Turkey and EU's migration policies after the Syrian crisis are beyond the technical developments in their legal frameworks. [93] In my opinion, there are further changes in their policies, understandings and their human rights approaches towards the issue of asylum and migration; with Turkey having a more humanitarian approach with an open-door policy, whereas the EU is paralyzed by a security approach which is helping the creation of a Fortress Europe with its de-facto closed door policy.

So, I will examine the Turkish and EU migration policies in two eras; before and after the Syrian Crisis, as this thesis is aiming to analyze the main research issue with a specific focus on the migration flow caused by the Syrian crisis.

3.1   Turkish and EU Policies Before the Syrian Crisis

As I have mentioned in Chapter 2, Turkish legal framework and policy on migration in Pre-2005 era were based on various separate documents, which have shaped the main policy on the issue in Turkey. *Settlement Law* adopted in 1934 was in the center of the system, regulating the issue with a narrow understanding of Turkish descent and culture. Although this law has been replaced with new legislations, the understanding of "Turkish descent" remained as a key element of Turkish policy for long years. [94]

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[93] Tolay, 2014 (b), p. 123.
[94] İçduygu, 2015, p. 4.

1951 Convention and its 1967 Additional Protocol were also the international documents shaping Turkey's migration policy in that era, although Turkey still maintains the geographical limitation and gives the asylum rights and refugee status only to Europeans.

Turkey's migration policy has started to change since 2000s, with the motivation and the desire to become a full EU member state as it was mentioned in Chapter 2. At the beginning of its EU candidacy adventure, which began in 1999, Turkey started to undertake various steps in order to fulfill EU criteria on migration. The most significant ones of these steps were;

1- Being a more active and important actor in the regional and international migration area,

2- Having a comprehensive renovation in its migration policy and legal framework.

So, on international level; besides the 1951 Convention, Turkey also started to sign many other international agreements regarding migration, such as the UN Convention against Transnational Organized Crime (on 2000), its Additional Protocol against the Smuggling of Migrants by Land, Sea and Air (on 2003) and the UN International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (on 1999).

Turkey has also been collaborating with international organizations like the UN High Commissioner for Refugees (UNHCR) since its establishment and the International Organization for Migration (IOM) since 2004 in the field of asylum and human trafficking.

On regional level, Turkey is also attempting to create free travel opportunities to its citizens and signing visa liberalization agreements with a variety of countries all around the world and an important number of its neighbors; such as Syria (2009), Lebanon (2010), Albania (2009), Libya (2009), Jordan (2009), Tajikistan (2009), Azerbaijan (2009).

Turkey has also signed readmission agreements with various countries such as: Syria, Kyrgyzstan, Romania, Ukraine, Greece, Bosnia, Herzegovina, Pakistan, Yemen, Russia, Nigeria, and Moldova over the last couple of years to cooperate with these states on irregular migration.

As an important regional actor in migration, Turkey has chaired the Budapest Process and its Silk Route Working Group since 2006, in order to develop active cooperation with source countries for migration on the historical migration route to Eastern Europe and Turkey. Turkey has also assumed the Chairmanship of Global Forum for Migration and Development (GFMD) as of 1 July 2014 from the ex Chair, Sweden.

On European level, after the Europeanization process started in 2000's, Turkey also implemented Twinning Projects on "Migration and Asylum" in 2004-2005 with the cooperation of Denmark and England, and on Integrated Border Management with the cooperation of France and England, and signed bilateral and multilateral agreements.

Most importantly, the last and most significant outcome of this progress was the new Turkish Law. [95] It has introduced a new legal and institutional framework for migration and asylum in Turkey. It has been seen by international community as a clear sign of Turkish efforts to create a comprehensive and an effective migration framework in line with EU standards. [96] The EU has also appreciated these Turkish reforms, particularly during the Syrian refugee crisis.[97]

So, we see that these developments in Turkish policy and legal framework started with EU membership hopes but then Turkey internalized this progress in time, which caused Turkey to has its own momentum and dynamism for further reforms in the field. [98]

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[95] See Chapter 2.4. of this thesis.
[96] Kilberg, 2014, 'Turkey's Evolving Migration Identity', at http://www.migrationpolicy.org/article/turkeys-evolving-migration-identity
[97] Elitok, 2013, p. 164.
[98] Elitok, 2013, p. 165.

As *Elitok* mentions, Turkey has had massive legal and policy gaps on migration and asylum in the past and these gaps coincided with the prerequisites of EU membership criteria. This combination caused an evaluation in Turkish migration policy and gave Turkey the vision to implement reforms on its own (even without the EU), and put forward its own standards.[99]

Some may say Turkey could not have implemented these reforms in a few years without the criteria set by EU for the membership and its pushing power. This may be true, but one must examine EU's migration and asylum policies too, whereas EU is pushing Turkey to have a more developed one.

The EU has been trying to create a Common European Asylum System (CEAS) since 1999, aiming to move the asylum policy from an intergovernmental to a supranational level and having a common and standardized Asylum system for all its member states. Since then, in order to have a common and standardized asylum system, some measures have been taken such as the 2001 Directive on Temporary Protection, a European Refugee Fund was created in 2008, the European Asylum Support Office was established in 2010 and a number of additional actions were taken such as FRONTEX since 2004, EURODAC since 2003, and recently EUROSUR.

Regarding the legislative documents forming CEAS, five main legal documents that were implemented from 2003 and onwards have formed CEAS, which are; revised Asylum Procedures Directive, the revised Reception Conditions Directive, the revised Qualification Directive, the revised Dublin Regulation (also referred as Dublin III) and the revised EURODAC Regulation. [100] Finally, the CEAS was adopted on June 2013.

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[99] Elitok, 2013, pp. 168-172.
[100] A Common European Asylum System, Factsheet, European Commission Home Affairs, EU, 2014.

All of these documents and measures aim at making member countries to have uniformed asylum policy and frameworks, in order to enhance cooperation and share responsibilities more equally, and to improve the quality of protection offered to asylum seekers within the EU. [101]

Although it was adopted in 2013, it is still very early to say how and when the CEAS will be implemented fully by all EU member states. UNHCR and many NGOs have criticized CEAS, recognizing and appreciating the improvements but also mentioning that the CEAS could have provided a more protective, clearer and more human rights based legal framework by avoiding unclear and arguable language, which has the risk for member states to align to the lower, rather than higher standards of protection. [102]

Most of the NGO's, UNHCR and other observers also stated that the implementation of CEAS by member states is more critical than the system itself and that the European Commission should closely monitor this process to prevent the member states to implement or interpret the CEAS in a wrong way. [103]

EU's approach to asylum and migration has an external dimension as well. The issue is one of the most important components of EU's foreign policy. For example, EU has created a number of "Regional Protection Programs" (Such as in Africa and East Europe) since 2005 to enhance the protection capacity of non-EU countries which refugee flows originate from. [104] A Joint Resettlement Programme was also adopted by EU in March 2012, aiming to involve the EU member states more and equally regarding the resettlement of refugees in third countries. [105]

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[101] A Common European Asylum System, Factsheet, European Commission Home Affairs, EU, 2014.

[102] Citizenspact for European Democracy, 'Monitor the Implementation of the Common European Asylum System', 2013 and UNHCR, 'Moving Further Toward a Common European Asylum System', 2013.

[103] Idem.

[104] European Commission, Migration and Home Affairs, Common European Asylum System, External Aspects, http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/asylum/external-aspects/index_en.htm

[105] European Commission, Migration and Home Affairs, Common European Asylum System, External Aspects, http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/asylum/external-aspects/index_en.htm

However, there are still some controversies regarding the gaps between high levels of protection promised in the programs and the actual low levels of protection provided by different member state governments. Doubts on the issue still continue, as these programs are usually being implemented differently by the member states. Especially the difference between the Southern / Mediterranean European states and the Western / Northern ones is significant. [106]

From all these measures taken, legislative documents implemented and programs adopted, we see that the connection between the migration and security is still quite strong and security is still a dominant factor for EU in shaping its migration and asylum policies. [107] For years, the main and the most important criticism on EU's migration and asylum policy in general was that the EU is more focused on security and border management, rather than human rights aspect of migration and asylum. In fact, EU is unfortunately funding and enforcing projects that focus on migration control (border security, information systems, fingerprint collections etc.) rather than projects dealing with migrants' rights, especially in the case of asylum. [108]

Unfortunately, migration and asylum issues are being taken from a security point of view not only by European countries but also by most of the world countries, including Turkey (as we will see in the next part). In such a global context, EU has its own reasons to act from a security point of view and this view has been caused by some noticeable reasons.

First of all, refugees, migrants and forced migrants are still subject of politics and populist or right-wing political leaders are still misusing migration and asylum issues for votes. Nationalist parties are also politically using the public perception that the amount of migrants coming to Europe is too high. [109]

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[106] Gainche, 2012, pp. 369 - 373.
[107] Elitok, 2013, p. 171 and Gainche, 2012, p. 378.
[108] Idem.
[109] Gainche, 2012, p. 356.

Second, terrorist attacks on the World Trade Centre in New York City - USA on 11 September 2001 ("9/11 attacks") caused a global panic and fear atmosphere, causing the governments to promote the fight against terrorism and the defense of security, at the cost of reducing fundamental rights and human rights protections. [110]

Thirdly, the global economic downturn forced the world governments to take migration and asylum issues with a "control" approach, rather than a "welcoming and hosting" approach.[111]

Hence, migrants are still seen as a threat to security, a danger to society and social order by many governments. Unlike many countries have done in the last years; migration and asylum should be taken from a human rights based perspective instead of the security approach. Protection of migrants and asylum seekers, their families and the guarantee of their access to basic human rights should have the priority in the policies of the all countries.

Now we will take a look at the changes on Turkey and EU's migration and asylum policies after the Syrian Crisis, whether they found a balance between a humanitarian approach and the security perspective. Besides, the coordination and relationship on migration and asylum between EU and Turkey gained significant importance after the Syrian crisis, as the migration flows coming from Syria to EU through Turkey has increased a lot. [112]

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[110] Gainche, 2012, p. 356.
[111] Idem.
[112] Elitok, 2013, p. 170.

3.2   Turkish and EU policy responses after Syrian Crisis

As a country which has usually applied a closed-door policy and a geographical limitation to forced migrants and asylum seekers coming from out of Europe, it is not difficult to say that things have changed for Turkey after the Syrian crisis. Turkey has quickly responded to the crisis by opening its Southeastern borders to Syrian citizens who were started to flee from the civil war in April - June 2011 and has still been applying this open-door policy since that time.

Just after the Syrian refugee flow started to Turkey, in June 2011, Recep Tayyip Erdoğan, who was the Prime Minister of that time, has said that *"Turkey will continue to accept the hundreds of Syrian refugees who are fleeing their nation's violence (...) It is out of question for us to shut down the border crossings."* [113]

So, as a neighboring country to Syria with deep cultural and historic ties, Turkey has given one of the quickest responds to this crisis and opened its borders when Syrian citizens started to flee from civil war in their country and demand refuge from Turkey. But this open-door policy did not have any legal grounds until October 2011.

In October 2011, Turkish government declared that the Syrians, -whom a large amount was already in the country-, would be granted Temporary Protection. This Temporary Protection was based on the Article 10 of the 1994 Regulation, which stated that; *"Those who seek asylum from Turkey and take refuge in Turkey are under the protection and supervision of the state whilst they remain in Turkey."[114]*

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[113] The Telegraph, 'Syria: Turkey will accept hundreds of refugees, Recep Tayyip Erdogan says' 08 June 2011.
[114] Article 10 of 1994 Regulation.

So, at first stage, Turkey's open-door policy towards Syrians got legalized and formalized with the 1994 regulation [115] as Turkey extended the status of "temporary protection" to Syrians, granting them access to Turkish territory, guaranteeing non-refoulement and providing access to basic humanitarian services.

But there were still legal gaps regarding the conditions, procedures, applications and rights of Syrians in the country. So, Turkey has filled these legal gaps with 2 main legal documents; The No. 62 *"Directive on Receiving and Sheltering the Syrian Arab Republic Citizens and Stateless Persons Living in the Syrian Arab Republic, who Entered Turkey for the Purpose of Mass Sanctuary"* dated 30 March 2012 and the *Regulation on Temporary Protection (Geçici Koruma Yönetmeliği)* dated 13 October 2014. [116]

We see that, Turkey's open-door policy to the Syrian crisis has been and still being accompanied by three main policy elements: (1) temporary protection, (2) principle of *non-refoulement* and (3) providing optimal humanitarian assistance. [117]

As the crisis emerged suddenly, Turkey responded physically at first stage and then made his legal moves afterwards, which means the legal framework for granting this temporary protection status has been created throughout the crisis by the Turkish government.

We see that the creation of this legal framework is still ongoing after the crisis. The temporary ID cards provided by Turkey for Syrians in order to allow their employment within a legal framework (2014) or temporary Turkish license plates given to cars owned by Syrians (2015) can be shown as examples of this ongoing progress.[118]

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[115] See Chapter 2.6. of this thesis.
[116] See p. 30 of this thesis.
[117] İçduygu, 2015, p. 8.
[118] Hürriyet Daily News, 'Turkish gov't to provide temporary ID cards for employment of Syrian refugees', 12 November 2014 and Hürriyet, 'Suriyelilere Geçici plaka verilmeye başlandı', 07 July 2015.

Regarding the financial aid made and the physical conditions provided by Turkey to the Syrian forced migrants; Turkey had set up 24 refugee camps, which have earned the praise of the UNHCR and international community for their high-level quality and standards by June 2015. [119] Turkish funds for humanitarian help to Syrian refugees have also exceeded USD 3 billion [120], which is as nearly as much as the combined EU aid of USD 4 billion. [121]

Turkey has also revised its policy in the meantime, as a response to changing realities of the crisis and the Syrian community in the country. For instance, the Government changed its approach from a state-centered one to a more civil one reflecting the principles of "good (global) governance" by involving academia, international organizations and NGO's on the issue. [122]

So, it is seen that, Turkey has changed its migration policy remarkably after the Syrian crisis, left the geographical limitation aside and opened its borders to fleeing Syrian individuals. Turkey was once a closed-door country or a transit country for Non-European asylum seekers and forced migrants, but now it is an haven particularly for Syrians fleeing from the civil war.

Although Turkey's open-door policy, quick response, humanitarian approach on the issue and high standards of its refugee camps has been internationally praised, it is also receiving criticism that this policy is unfair to other non-European asylum seekers and forced migrants. It is criticized that this policy is only in favor of Syrian individuals, whereas many asylum seekers from other countries such as Iraq, Afghanistan, Pakistan, Bangladesh are not let in Turkey, sent back or temporarily let in until resettled by a third country.

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[119] UNCHR, Country Operations Profile – Turkey.
[120] OCHA, The 2015 Strategic Response Plan for the Syrian Arab Republic.
[121] European Commission, ECHO Factsheet, Humanitarian Aid and Civil Protection, Syria Crisis.
[122] İçduygu, 2015, p. 9.

This creates skepticism on Turkey's sincerity with the open-door policy and gives the idea that Turkey's reaction to the issue is mostly a political move against Bashar Al-Assad and his regime.

Another criticism regarding Turkey's open-door policy comes on the legal uncertainties on the duration and status of Syrian forced migrants. As the crisis is nearly entering its fifth year, Syrian refugees in Turkey are still "temporary guests" and some voices in Turkey started to rise against the duration of this "visit".

It is even seen that there are uncertainties in the minds of some government officials and the ruling party. For example, regarding the duration of stay; Deputy Prime Minister Numan Kurtulmuş said that the 1.6 million (at that time) Syrian refugees were in Turkey to stay on November 2014. He said; *"Unfortunately, we looked on the Syrian refugees as temporary, that they would arrive and leave in a few months. But after three and a half years of this civil war it looks like they will remain here."* [123]

Even while this thesis has been written, there were still contradictory statements coming from Turkish officials regarding how long this open-door policy would continue. For instance, on 10 June 2015, Deputy Prime Minister Numan Kurtulmuş said; *"Turkey will no longer let Syrians enter and will henceforth stop their crossing, as "there is no longer a humanitarian tragedy."*[124]

After this statement of Deputy Prime Minister on 13 June 2015, Turkish security forces used water cannon and fired warning shots to push the Syrians away from the border as thousands massed at the border to escape the latest fighting in Syria. [125]

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[123] Today's Zaman, 'Turkey: Syrian refugees seem to stay permanent', 06 November 2014.
[124] Hürriyet Daily News, 'Turkey won't let Syrians cross border unless there is new humanitarian tragedy',
    11 June 2015.
[125] Hürriyet Daily News, 'Turkish forces push massing Syrians from border', 13 June 2015.

However, Although the Turkish military backed the Syrian refugees on June 13 after the deputy prime minister's statements on June 10, Turkey could not just stand and watch the thousands who gathered at its border and let them in on June 14, as clashes intensified in Syria and thousands rushed to the border. [126]

Another current development and reason not to be sure of the future of Syrian individuals in Turkey is the results of Turkish general election made on 7 June 2015. Justice and Development Party (AKP), who was the only ruling party in the parliament since 2002, created their own policy and approach towards the Syrian refugee crisis without an opposing party or force on the issue.

But, as the AKP has lost its majority in the 7 June 2015 elections and as it is not the only ruling party anymore, questions are arising on what will happen to Syrian individuals in Turkey and how Turkish policy will change on the issue. This is making the uncertain situation even more uncertain as none of the Turkish political parties could manage to get sufficient votes to form a government. It was still not certain whether a coalition will be formed or early elections will be held, while this chapter has been written.

Syrian population in Turkey was also an important issue during the election campaigns, as the opposition party (Republican People's Party - CHP) leader Kemal Kılıçdaroğlu criticized the government's policy on Syrians many times. On November 2014, he criticized AKP for paving the way for work permits for Syrian refugees and compared the numbers of Syrians with Turkish nationals stating; *"Government is finding jobs for Syrians, but not the unemployed Turkish youth."*[127]

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[126] Hürriyet Daily News, 'Turkey sees new refugee influx with ISIL at border', 14 June 2015.
[127] Ajans Haber, 'Kemal Kılıçdaroğlu: Suriyelilere değil Türklere iş bulun', 16 November 2014.

He also pledged that CHP would send nearly two million Syrian refugees who fled the civil war back to their country if it came to power after the June 7 general elections. Kılıçdaroğlu said: *"[The CHP] will send our Syrian brothers back. We will say to them, 'Sorry, but go back to your hometown.'"[128]*

The situation of the government, whether a coalition will be formed or whether early elections will be made was still not certain while this chapter was written. Nevertheless, it is certain that Turkish political leaders, no matter what the election result is, should find a balanced and a humanitarian solution on this issue concerning millions of lives.

If we take a look on EU's policy on Syrian refugee crisis, first of all, we see a huge unbalance on the burden sharing between Turkey and EU; as more than 1.800.000 Syrians have found refuge in Turkey under temporary protection, while only 300.000 Syrians could apply for asylum in all EU member states since April 2011. [129] EU numbers states are indeed falling short comparison to the number of Syrians received by Turkey (or other neighboring countries like Lebanon and Jordan). These numbers also help us to see the *de facto* closed-door policy adopted by most EU member states for the Syrian individuals.

The seriousness of the Syrian crisis and its extension until now show us the different understandings and approaches of EU and Turkey on the issue. [130] Whereas Turkey has applied an open-door policy, unfortunately EU has applied a closed-door policy and a security approach so far. Speaking of being partners of Turkey and EU, even only the numbers above strengthen our idea that EU is using Turkey as a buffer zone between its borders and Middle East, rather than being a cooperating partner with Turkey on the issue.

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[128] Daily Sabah, 'CHP's latest election promise of sending back Syrian refugees in Turkey comes under criticism', 23 April 2015.

[129] UNHCR, Europe: Syrian Asylum Applications, http://data.unhcr.org/syrianrefugees/asylum.php.

[130] Tolay, 2014(b), p. 127.

The unbalanced burden sharing and EU's unresponsiveness are issues which bother Turkey too, as Turkish President Recep Tayyip Erdoğan said on 13 May 2015; "*Turkey has spent $5.6 billion to care for 1.7 million Syrians and 300,000 Iraqis in refugee camps or living in Turkish cities (…) developed countries should do their "duty" and offer solutions for the migration crisis. Hundreds of migrants have died so far this year in sea crossings trying to reach Europe.*"[131]

The European response to the Syrian refugee shows us some contrasts in EU policy.[132] For years, we have usually seen that the EU and its member states were the world leaders in responding to the humanitarian crisis at political and humanitarian levels, however, the EU's response to the Syrian refugee crisis has centered on the financial / humanitarian help and enforcing its border control management so far. The European approach to the Syrian crisis has primarily been to control and support the refugee flows within the countries neighboring Syria, providing support for refugees in those countries and to strengthen the European borders. [133] Unfortunately, as I have mentioned above; the security fear of EU member states, xenophobia and right wing politics made the governments paralyzed and their response to the Syrian refugee crisis has been inadequate regarding the international protection and asylum for the refugees. As I have mentioned the numbers above, the numbers of Syrian asylum seekers admitted into EU are incredibly low compared with the number of refugees protected in the neighboring countries of Syria.

If we take a look at the humanitarian aid and financial help made by EU so far, we see a comprehensive and a generous humanitarian aid going to crisis area from EU and its member states. The EU has funded the humanitarian aid directing it at international, governmental and non-governmental organizations working in the region.

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[131] Hürriyet Daily News, 'Erdogan calls on Europe to welcome more migrants', 13 May 2015.
[132] Orchard & Miller, 2014, p. 34.
[133] Idem.

As of April 2015, the EU and its member states had contributed more than €3.6 billion in humanitarian and development aid in response to the Syrian crisis, with an €14 million further from Norway and Switzerland.[134]

As the second aspect of European approach to the crisis, we see a highly strong reinforcement at EU border management, especially along the Greek-Turkey border and Mediterranean Sea where most Syrians cross the border into EU. Naturally, Syrians need a Schengen visa to come to Europe, which forces them to attempt to enter the EU through irregular channels such as crossing land and river borders between Turkey and Bulgaria / Greece or crossing the Mediterranean by human smuggling boats.

As Greece and EU has increased the surveillance and has constructed a fence along Turkish border in 2012 and as another fence was built along the Bulgarian–Turkish border in 2015, we can say these land routes are not likely passable for Syrian asylum seekers anymore. In July 2012, Greece even placed 26 floating barriers along the Meriç River, which divides the countries in order to stop the migrants. [135] The European Commission has also prepared a mission with EASO and FRONTEX, in order to support the Greek government with the deployment of the additional border guards. [136] Expansion of FRONTEX operations in 2013 resulted in significant decreases in the numbers of Syrian people attempting to enter Europe along the Greek and Bulgarian land borders with Turkey. [137]

For this reason, more asylum seekers and forced migrants are risking their lives with unsafe boat journeys through Mediterranean Sea every day. Due to the border fences, walls, barriers, surveillance and strict border control between Turkey and EU, Syrian arrivals in EU via the Mediterranean Sea have increased in 2013-2015.

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[134] European Commission, ECHO Factsheet, Humanitarian Aid and Civil Protection, Syria Crisis.
[135] Huffington Post, 'Greece Border Controls Toughened Over Potential Influx Of Syrian Refugees', 30 July 2012.
[136] Fargues & Fandrich, 2012, p. 12.
[137] Orchard & Miller, 2014, p. 35.

Numbers show that only in first 6 months of 2015, as of 8 June, a total of 103,000 refugees and migrants had arrived in Europe via Mediterranean: 54,000 in Italy, 48,000 in Greece, 91 on Malta and 920 in Spain.[138] Due to EU's strict border management and the fortress built at Greek and Bulgarian borders, hundreds of migrants die in sea journeys to Europe each year, and are also exploited by human smugglers.[139]

If we take a look on some statements of the European politicians regarding the Syrian refugee crisis, we unfortunately see a considerable amount of them are looking at the issue from a security frame and with a nationalist approach.

For example, in 2012; Antonios Samaras, Greek Prime Minister at that time stated that Syrians entering Greece would destabilize the country. He said that: *"I wake up every morning and say, 'Has anything happened to Syria today?' If something happens in Syria, thousands of people would be flowing into Greece. Illegal immigrants are already a very big problem for us. We are already taking big steps to disallow illegal immigrants from coming in. Imagine if that number is multiplied by 10."* [140]

Again in 2012, Greek Public Order Minister Nikos Dendias said that the entry of Syrian migrants into Greece brought the country *"to the brink of collapse," and that "What is happening now is [Greece's] greatest invasion ever."* [141]

Martin Henriksen, a member of the Danish Parliament, stated on 24 September 2014, that; *they would love to help Turkey in financial means if Turkey would accept the Syrian refugees demanding protection from Denmark too.* [142]

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[138] UNHCR, 'Mediterranean crossings in 2015 already top 100.000', 09 June 2015.
[139] Idem.
[140] The Washington Post, 'An interview with Antonis Samaras, Greek prime minister, on austerity and unrest', 14 September 2012.
[141] International Business Times, 'Greece, Former Land Of Migrants, Now Kicks Out Those Who Come In', 06 August 2012.
[142] Hürriyet, 'Danimarka: Türkiye bize gelen Suriyelileri de kabul etsin', 24 September 2014.

On 27 February 2015, Viktor Orbán, the prime minister of Hungary, said multiculturalism in the EU was a *"delusion"* and *"The Hungarian man is, by nature, politically incorrect. That is, he has not lost his common sense (...) He does not want to see throngs of people pouring into his country from other cultures who are incapable of adapting and are a threat to public safety, to his job and to his livelihood."* [143]

These statements and many more that were not written here, are exhausting the hopes on Europe having a human rights approach towards the Syrian crisis, instead of having a security approach pumped by nationalism.

Apart from the member states and their politicians individually, we unfortunately see that the European Commission also adopt the security approach as well. As an example; on 20 April 2015, at a joint meeting of Foreign and Interior Ministers, held in Luxembourg, Migration, Home Affairs and Citizenship Commissioner Dimitris Avramopoulos presented a 10 point plan of the immediate actions to be taken in response to the crisis situation in the Mediterranean. When we take a look on this plan, we unfortunately see nine of these ten points have security based approach and focus on dealing with security issues like border management, surveillance and human smuggling, rather than having a humanitarian approach. This is another example showing EU's de facto closed-door policy and the Fortress Europe built against Syrians by the EU. Some of the points in the plan are like following; [144]

- Reinforce the Joint Operations in the Mediterranean, namely Triton and Poseidon, by increasing the financial resources. Extending their operational area, allowing to intervene further, within the mandate of Frontex. A systematic effort to capture and destroy vessels used by the smugglers.

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[143] Daily Mail, 'Hungary's premier rejects immigration, multicultural society', 27 February 2015.
[144] European Commission, Press Release, Joint Foreign and Home Affairs Council: Ten point action plan on migration, Luxembourg, 20 April 2015.

- EUROPOL, FRONTEX, EASO and EUROJUST will meet regularly and work closely to gather information on smugglers modus operandi, to trace their funds and to assist in their investigation.
- EASO to deploy teams in Italy and Greece for joint processing of asylum applications.
- Member States to ensure fingerprinting of all migrants.
- Establish a new return Programme for rapid return of irregular migrants coordinated by FRONTEX from frontline Member States;
- Deploy Immigration Liaison Officers (ILO) in key third countries, to gather intelligence on migratory flows and strengthen the role of the EU Delegations.
- A EU wide voluntary pilot project on resettlement, offering a number of places to persons in need of protection.

However, there are also some contrasting and prudent voices rising in EU lastly, as an example; Migration, Home Affairs and Citizenship Commissioner Dimitris Avramopulos stated on 30 September 2014 that *"The answer [to the current challenges] is definitely not Fortress Europe (...) History has proven that fortresses built for the protection from external threats ended up enslaving those they were built to protect (...) FRONTEX should be turned into a body that will save lives but simultaneously protect the borders"* [145]

Apart from this, the officials of Syriza, the left wing Greek Party who won the elections in 2014 are also reluctant on building a Fortress Europe and unwilling on keeping the fences which their predecessors has built in the Turkish border. Giorgos Chondros, a member of the executive board of Syriza, said that the fence on the Turkish border is a source of disgrace for a democratic country such as theirs. He stated that; *"Greece is a gateway to Europe (...) The asylum policy [of Greece] will be fundamentally changed. We will give a message not only for Greece but for Europe as well."* [146]

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[145] Euractiv, 'Immigration Commissioner denounces 'Fortress Europe' at hearing', 01 October 2014.
[146] Today's Zaman, 'Greek official says fence on border with Turkey should be dismantled', 10 February 2015.

Last but not least, maybe not a voice rising inside the EU but from Council of Europe; Parliamentary Assembly of the Council of Europe (PACE) President Anne Brasseur stated on 16 June 2015 that; *"I am both impressed and ashamed by what I have seen. Impressed by what Turkey is doing to provide safe haven to two million refugees from Syria and Iraq, and ashamed that the rest of Europe is failing to give the country more support (…) The EU and individual European countries must now offer much greater financial support to Turkey to continue this great effort"* [147]

We even see that the problems for Syrians are not ending after reaching Europe. There are also some further arbitrary problems for the Syrian asylum seekers who could make it to Europe. There is a high concern over the differences between the European countries in their ability to handle the Syrian asylum crisis. Unfortunately we see that the Syrian asylum seekers are not granted the same protections and rights across the Europe. Adrian Edwards, the spokesperson for the UNHCR, stated on October 2012 that: *"While most countries are processing claims and granting protection to Syrians, the approaches to protection and the type of status and entitlements vary considerably."* [148]

Indeed, some European countries have been more protective than others. For instance, large majority of 48.350 Syrians (as of September 2014) [149] seeking asylum in Sweden were granted permanent residence permits with individual asylum investigations. Besides, Sweden is still very active regarding the resettlement of Syrians and highly cooperative with UNHCR. [150] Germany, Norway and Denmark are also other European countries that have relatively higher application and acceptance numbers for Syrian asylum seekers, with a more humanitarian approach than the rest of European countries.

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[147] Council of Europe, Parliamentary Assembly, Statement from the President, 16 June 2015.

[148] UN News Centre, 'As Syrians continue to flee, UN urges European Union to uphold asylum principles', 16 October 2012.

[149] European University Institute, Syrian Refugees, http://syrianrefugees.eu/?page_id=10.

[150] Government Offices of Sweden, 03 February 2015, http://www.government.se/opinion-pieces/2015/02/sweden-producing-new-strategy-for-syrian-crisis/.

For instance, Germany has received 66.845 Syrian asylum applications as of January 2015. [151] As another example, Norway –which has already granted residence to 5.000 Syrians so far- has agreed to take 8.000 more Syrian refugees by the end of 2017 [152] and still increasing its resettlement quota. [153]

However, some other countries, like Greece and Eastern European countries have higher rejection rates of Syrian asylum applications compared to rest of Europe. [154]

There are also some concerns regarding the detention of Syrian asylum seekers when they reach Europe. Although asylum-seekers may be detained only in exceptional circumstances under international law, European states have various practices on the issue.

There are allegations of unlawful detention, poor conditions and abuses of Syrians in some countries, particularly in the Southeast European countries such as Greece and Bulgaria, which are forming the borders of Europe and the first EU countries a significant amount of Syrians arrive. [155]

Even though EU has been called and warned numerously to adopt a humanitarian approach to the Syrian conflict and the refugee crisis, in practice, as I have mentioned above, a vast majority of Syrian refugees are being denied protection and asylum due to the security concerns of EU and its member states.

Last but not least, the current Syrian crisis and the refugee flow caused by it may be the real reason behind the unwillingness of EU member states to implement the CEAS fully. As the Syrian crisis has started in 2011 and the CEAS talks in 1999, we see a significant slowdown on the progression of CEAS since 2011.

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[151] European University Institute, Syrian Refugees, http://syrianrefugees.eu/?page_id=199.
[152] Daily Star Lebanon, 'Norway to take in 8000 Syrian Refugees in three years', 10 June 2015.
[153] UNHCR, 'Norway Doubles its Resettlement Quota for Refugees in Urgent Need of Protection' http://www.unhcr-northerneurope.org/news-detail/norway-doubles-its-resettlement-quota-for-refugees-in-urgent-need-of-protection.
[154] Idem.
[155] Orchard & Miller, 2014, p. 44.

Unfortunately, this slowdown and general unwillingness of the European leaders in the last years make us think that they may be "waiting" the Syrian crisis to end in order to implement the CEAS fully and to have a uniformed asylum system.

3.3 Social status of Syrian forced migrants and Turkish public opinion

As Turkish politicians are divided on the open-door policy and extremely high hospitality shown towards the Syrian forced migrants, Turkish society is divided on the issue as well. The Turkish society's opinion and concerns on the issue also change dependently to where they live. Thus, whereas some Syrian forced migrants are living in camps built by the Turkish government, some of them are living in cities close to Syria such as Hatay, Kilis, Gaziantep, Şanlıurfa and big cities like Istanbul, Ankara and İzmir as well.

If we look on the general public opinion of Turkish citizens; we see that the inevitable increase in number of Syrian forced migrants and their open-ended duration of stay are causing the earlier the hospitality replace into a hostile reception by Turks due to some difficulties of integration. Turkish society's acceptance of Syrians as "guests" is unfortunately changing negatively as the crisis is entering its fifth year.

First of all, Turkish citizens living in the bordering cities to Syria feel the impact of the Syrian refugees stronger than the Turkish citizens living in big cities or in Western / Northern parts of the country. In the early days of the crisis, ethnic and family ties between Syrians and the Turks in the area were very beneficial, helping Syrians to get basic services in urban areas with the help of their relatives. Many families took their Syrian relatives in their homes, provided them shelter, food, basic services and helped them find jobs. [156] So, at the first stage, the family relations and the tragedy the Syrians have suffered evoked sympathy for Syrians among the Turkish society.

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[156] İçduygu, 2015 and ORSAM Report, No: 189, 2014.

However, this sympathy slowly went by over time. According to ORSAM;[157] *"Some local Turks stated that they did not know how much longer they could host their Syrian guests, since they see low probability for their return back to Syria and they expect the immigration to continue at an increasing rate."*

According to AFAD (Afet ve Acil Durum Yönetimi Başkanlığı - Disaster & Emergency Managmenet Authority), it is also believed that nearly 60.000 Syrian babies were born in Turkish territory as of September 2014. 158 These numbers started to scare Turkish society as they see the situation as a threat to their future. Indeed, as the length of Syrians' stay and the number of Syrians' is increasing, public opinion has become more unwelcoming, even hostile especially in bordering cities and also big cities.[159]

We can give some examples to this hostility such as; clashes and fights in Hatay between Syrian migrants and Turks happened in 10 May 2014 [160], clashes between Turks and Turkish police in Şanlıurfa on 17 May 2015 due to Şanlıurfa Governorship's ban on the *"We don't want Syrians"* protest organized by Turks [161], the Turkish landowner killed by his Syrian tenants in Istanbul on 30 November 2014 [162], attacks by Turks on Syrians in Gaziantep who were taking photos in front of a monument of Atatürk on 03 November 2014 [163] and clashes, fights, arsons and stabbings between Syrians and Turks in May 2015 in a slum neighborhood of Istanbul. [164]

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[157] ORSAM Report, No: 189, 2014.
[158] Hürriyet Daily News, '30.000 Syrian babies born in Turkey's border Provinces', 08 September 2014.
[159] İçduygu, 2015, p. 10.
[160] Al Jazeera Türk, 'Hatay'da Sığınmacı Gerginliği', 10 May 2014.
[161] Radikal, 'Şanlıurfa'da Suriyeli Gerginliği', 17 May 2015.
[162] Haber Türk, 'Misafir Ettiği Suriyeliler Tarafından Öldürüldü', 30 November 2014.
[163] CNN Türk, 'Atatürk anıtı önünde fotoğraf çektiren 2 Suriyeliye saldırı', 03 November 2014.
[164] BBC Türkçe, 'Güvercintepe: Suriyeliler gitsin, huzur kalmadı', 14 May 2015.

One of the main reasons for the hospitality to get to an end is the increasing proportion of Syrians living in Turkish towns. Turkish society in the bordering cities has limited capacity to host Syrian population and they have come to the extent of this limit. In some province and districts, the number of Syrians has even surpassed the Turkish population. [165]

This problem can be seen particularly in smaller districts such as Reyhanlı, which has a population of 63,000 but is hosting an estimated 100,000 Syrians or such as Kilis, which has a population of 90,000 and houses approximately 80,000 Syrians. [166] As the conflict in Syria continues, Syrians started to find themselves in the uncomfortable position of overstaying their "welcomed visit" and as the proportion of the Syrians increase, local Turkish community tend to adopt a more hostile reception. [167]

Another common complaint coming from the Turkish communities in many bordering cities is that the Syrians caused the wages to fall and the prices / rents to increase. Thus, Turkish people started to think that their employment and financial situations started to deteriorate due to Syrian populations in their cities. Turkish people who face difficulties in finding jobs started to complain about Syrians and connect their failure in finding jobs with their presence. Indeed, it is really seen that the market and the rental prices in the border provinces have raised due to migration and this is an important reason for local Turks' reactions. According to reports coming from the region, it seems it is almost impossible to find a rental house in the bordering cities. Rise in the rental prices also started to cause problems between the landlords and tenants as landlords cancel the contracts with current Turkish tenants and attempt to rent their properties to Syrians for higher prices. [168]

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[165] İçduygu, 2015, p. 11.
[166] ORSAM Report, No: 189, 2014.
[167] İçduygu, 2015, p. 11.
[168] ORSAM Report, No: 189, 2014.

A recent study in 2014 [169] showed that Turkish community's concerns are focused on; raised rent and housing costs, unemployment and economic competition (by the low wages Syrians get from illegal markets), competition from newly established Syrian businesses and the poor living conditions of Syrians, who are forced into more illegal roles like working as street sellers and begging, which influence the Turkish opinions of the general Syrian population in a negative way. Indeed, this is true for Syrians in urban areas, especially those who are living in cities, while more than three-fifths of Turkish population thinks that Syrians are committing crimes and are threats to public order and peace wherever they were settled. [170]

Indeed, the Syrians living outside of camps form the majority of the Syrians in Turkey and the Turkish society sees them as the threats rather than the Syrians living in camps. The official number of the refugees living outside of camps is 600,000 by April 2014; however the real actual number is thought to be higher than that. [171] Unfortunately, nowadays one can see a lot of Syrians desperately living and usually illegally working on most streets of Turkey, including metropolitan areas such as Istanbul, İzmir and Ankara.

So, Turkish citizens living in the big cities feel the impact of Syrians as well. They may not be affected in financial or employment terms like the Turkish citizens in bordering cities but they feel themselves rather affected in terms of security concerns. Yet, majority of Syrian forced migrants living in big cities are unemployed and they are unfortunately living on the streets or in crowded houses with extremely bad conditions, trying to earn money by begging, cleaning windows shields of cars in traffic, prostitution, theft and other illegal activities. This is causing high concern among the middle and upper class Turkish citizens as they see Syrians as a threat to their secure environments.

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[169] Erdoğan, Türkiye'deki Suriyeliler: Toplumsal Kabul ve Uyum, 2014.
[170] Erdoğan, Türkiye'deki Suriyeliler: Toplumsal Kabul ve Uyum, 2014.
[171] ORSAM Report, No: 189, 2014.

For example in big cities, the public even started to express that they are generally afraid of going to particular neighborhoods where mostly Syrians live. So, as it is seen; the living conditions in the camps may seem decent and acceptable under international standards, but the real tragedy is being faced outside of camps, as the living conditions for Syrians outside of camps are extremely difficult.

The Syrians living out of camps could not have a smooth social integration to the Turkish society as well. As big city life was something they have not experienced before, the ones living outside of camps or far from border are having sociocultural shocks.

However it is defined, the Syrian refugee crisis is a migration of a sociologically important amount (nearly 2.000.000) of people into a country and culture most of them haven't seen before. [172] Thus, the Syrian immigration to Turkey, which was thought to be temporary, is becoming a permanent situation and a social problem day by day. This situation has inferences for both Syrians and Turks with respect to their daily lives, securities, psychologies and reactions.

Although the Syrians living in bordering cities may seem to have better social adaptation, there are still some ethnic and demographic problems for them as well. Ethnic characteristics of the city hosting Syrians determine the conditions for Syrians who live there and the attitudes towards those Syrians by the host population. [173] Conflict is inevitable in some cases, for example, the Alawite Muslim population in Hatay strongly opposes the rising numbers of Sunni Muslim Syrians coming and living in the town. As another example, researches show that Syrian Kurds find it easier to settle and live in Turkish cities with Kurdish populations, as there is sympathy towards Kurds and antipathy against Arabs in these places that Kurds have the majority. As another example, it is seen that the majority of Turks sympathize and welcome the Turkmens fleeing from Syria.

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[172] ORSAM Report, No: 189, 2014.
[173] İçduygu, 2015.

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The problem is not only ethnic or religious, but also political in some cases, for example, Kurds in Turkey think that Arabs are supporting radical Islamic groups such as ISIS or Al-Qaeda. In return, Arabs in Turkey think that Kurds are trying to divide Syria and support the PKK in Turkey. [174] So, the general acceptance along the border cities shows us that the Turkish people living there shape their approach towards Syrians in accordance with their own ethnic, religious and political identities.

It is of course not fair to think that Syrians have only had negative affects on Turkey's social and economic life. In economic life for example, there are many Syrian companies and businessmen who transferred their capital and business to Turkey, therefore contributing to Turkish economy. [175]

From a social point of view, it is difficult to say all Syrians had problems in adapting to the society. As a rare example, a Syrian teenager who fled from the civil war in 2012 and settled to Turkey has hopes of studying music in New York. [176] Although he had never played piano before, a piano teacher in Turkey saw his "genius" potential and volunteered to pay all the costs of his education. After a year of studying, he earned championships in several prestigious piano competitions.

As another example of Syrian presence's positive aspects to the Turkish social life, Syrian forced migrants in Turkey have opened an Arabic and multilingual bookstore in Istanbul that will also have a café and function as a cultural center and gallery space, hosting events, and screening films. [177]

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[174] ORSAM Report, No: 189, 2014.
[175] Idem.
[176] Hürriyet Daily News, 'Syrian piano genius teenager in Turkey dreaming of New York with right notes', 14 November 2014.
[177] Publishing Perspectives, 'Syrians Open New Arabic and Multilingual Bookshop in Istanbul', 08 June 2015.

Apart from the city centers and towns, there is also a significant amount of Syrians living in 24 camps built by the Turkish Government. Turkey acted different from the other countries hosting Syrians and has chosen to take full responsibility for building, funding and managing the camps through its own national organizations, rather than giving the responsibility it to international organizations such as UNHCR. [178] The cost of building and managing these camps has also affected Turkish public opinion negatively.

3.4 Living conditions in camps for Syrian forced migrants in Turkey

If we take a look on the refugee camps built by Turkey, we see that they generally have significantly higher standards compared to the camps in other countries hosting Syrians such as Lebanon, Iraq and Jordan. According to ORSAM: [179] *"Turkish camps are far superior compared to those in other countries, in terms of order, social facilities, education-health opportunities, and security and hygiene conditions."*

Regarding security, it can be said that living in the camp is way more secure than living in an urban area for a Syrian forced migrant. There is night illumination and guards operating in the camps. According to ORSAM, Syrians stated that camps are totally safe.[180]

Regarding social activities, the Turkish camps meet the international standards for social facilities and activities. There are training programs for adults and social facilities such as mosques and playfields for children. The training programs help the Syrians to socialize and learn new professions.[181]

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[178] İçduygu, 2015.
[179] ORSAM Report, No: 189, 2014.
[180] Idem.
[181] Idem.

The camps in Turkey have a different and a better method concerning food aid too. In Turkish camps, Syrians are receiving a cash aid, which is loaded into their cards every month and they can shop for food freely in markets operating in the camps. In addition, they receive dry food aid from the government as well. [182]

Regarding hygiene, Turkish camps have also better bath and toilet facilities. Syrians have access to various washing and hygiene facilities as each family receives tickets that can be used in washing and drying machines.[183]

Regarding education, the schools in the camps are at the same standard as the schools in cities. As of April 2014, 65.000 Syrian students have been receiving education at elementary, middle and high schools.[184]

Regarding health services; Turkish doctors are serving in health clinics in the camps. Ambulances stand ready at each camp and transport patients to the nearest hospital when needed. [185]

After all, Syrians living in the camps are still having psychological and social problems. Although Turkish government has provided good and standardized conditions in the camps and basic needs are met, the vast majority of Syrians choose to live in cities. The biggest reason for this is the boredom due to living in camps. [186]

According to ORSAM: Syrians have dissatisfaction with doing the same activities every day in an isolated area. Many of them see the camp life as temporary and express that they wish to live in cities and work to earn money. [187] Therefore, we see that Syrians living in the Turkish camps are struggling with emotional and psychological problems rather than problems related to their basic needs and services.

[182] ORSAM Report, No: 189, 2014.
[183] Idem.
[184] Idem.
[185] Idem.
[186] Idem.
[187] Idem.

To sum up Chapter 3; we can say that, there is a significant contrast between Turkey and EU's migration policies regarding their approaches towards Syrian crisis and Syrian forced migrants since the crisis started in 2011. The important changes in Turkey and EU's migration policies after the Syrian crisis are beyond the technical developments in their legal frameworks. [188] The further changes are in their policies, understandings and their human rights approaches towards the issue of asylum and migration; with Turkey having a more humanitarian approach with an open-door policy, whereas the EU is paralyzed by a security approach, which is catalyzing the creation of a Fortress Europe with its de-facto closed door policy.

Unlike EU's de facto closed-door policy, Turkey has been quick in responding the crisis and has been applying an open-door policy towards Syrian citizens seeking protection at its southern borders, welcoming more than 1.800.000 individuals since 2011. [189] Whereas EU was mainly focused on humanitarian financial aid to the crisis, Turkey was focused on temporary protection for Syrian forced migrants. But we also see that the process of creating a legal framework for Syrians in Turkey is still ongoing. Besides, on the political level in Turkey, there are some controversies, opposite voices and doubts about Syrians' duration of visit and their uncertain future. We also see that Turkish society is divided on the open-door policy and extremely high hospitality shown towards the Syrian forced migrants too, like the Turkish politicians. Majority of Turks see Syrians as a threat to security and society, especially the ones living in urban areas. We also see that the developments in Turkish policy and legal framework started with EU membership hopes but then Turkey internalized this progress in time, which caused Turkey to has its own momentum and dynamism for further reforms in the field. [190] Hence, unfortunately, we also see that migrants are still seen as a threat to security, a danger to society and social order by many governments, including European and Turkish ones.

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[188] Tolay, 2014 (b), p. 123.
[189] UNHCR, Syria Regional Refugee Response, http://data.unhcr.org/syrianrefugees/country.php?id=224
[190] Elitok, 2013, p. 165.

4 – TURKEY'S ROLE FOR EUROPE

In this chapter, I will focus on finding an answer for the main question of the thesis, whether Turkey is an external border / a waiting area of Fortress Europe or a transit way in terms of migration. Throughout the thesis so far, I have tried to touch upon this question under different chapters with various aspects. Now, I will try to sum up and merge all those aspects and find the answer conclusively. While doing this, I will also mention Turkish visa policy, border management and the human smuggling through Turkey as they are important points that should be discussed while determining Turkey's role.

4.1   Turkey as an external border / buffer zone for Europe

As mentioned before, Turkey's role for EU in terms of migration gained significant importance simultaneously with EU's securitization approach started in late 1990's. Since those dates, challenges and risks arising from migration flows originating from Eastern Europe and Middle East made the EU strengthen its borders and approach the migration issue with a security point of view. With the Schengen Agreement signed on 1985 but became effective on 1995, the external borders of EU started to shape and Fortress Europe has begun to be constructed step by step [191]. Various institutions and frameworks have strengthened this fortress against irregular migration in years, such as FRONTEX, EUROPOL, EURODAC, EUROSUR, Readmission Agreements with third countries and implementation of CEAS.

The roles of neighboring countries also have become crucial for EU in order to create its migration policies and strategies after 1990's. Regarding the southeastern borders of EU – which is vital regarding both irregular and regular migrant entrances into EU-, the geographical position of Turkey that is between Europe, Middle East and Asia required EU to be concerned about Turkey's role and Turkish framework regarding the issue.

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[191] Özer, 2014, p. 33.

We have seen that Turkish migration framework has strongly been reformed and shaped by the possibility of EU membership and liberalization of Schengen visa requirements for Turks. In order to gain these benefits, Turkey has undertaken various harmonization efforts with the EU; adopted a developed legal and institutional framework on migration and started to create an integrated border management system

If we look on the outcomes of EU-shaped Turkish migration framework, (which was analyzed in Chapter 2 as "Europeanization Process"), we see that Turkey was anxious that this process and its legal and political outcomes could turn Turkey into a buffer zone between EU countries and conflict ridden Middle Eastern countries. On the other hand, if we look on EU's migration policy, we see that EU is closing its doors, strengthening the fortress and adapting a security approach day by day. So, whereas EU is pushing Turkey to adopt its own 'modernized' migration framework in order to expand its border safety down to Middle East and strengthen Fortress Europe, it is causing Turkey turn into a buffer zone by closing the doors of Europe.

Another step Turkey has taken in order to align with EU was signing the readmission agreement on December 2013, allowing Turks and third-country nationals who traveled to the EU via Turkey irregularly, to be returned to Turkey. The asymmetries and uncertainties in Europeanization process have been strengthened with the readmission agreement and become even more complicated. [192] As mentioned before, signing of the readmission agreement and visa-free travel to Europe for Turkish citizens were issues that are directly linked to each other for the Turkish authorities. Thus, Turkish authorities started to get anxious as they have signed the readmission agreement but EU has still not met with their expectations regarding the visa-free regime. This is also another reason that turns Turkey into a 'buffer zone' or a 'dumping ground for unwanted migrants' in the minds of Turks.

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[192] İçduygu, 2011, p. 10.

Another point that should be discussed here is the future of Turkey's EU membership. Although the full membership negotiations that started in 1999 are still ongoing, significant amount of EU countries still do not have willingness for Turkey's EU membership for various reasons. Surprisingly, most of the Europeanization reforms on Turkish migration framework have happened between 2005 and 2014, which is a time when Turkey's EU membership process was slowed down, even frozen.[193] Therefore, a disconnection started to arise between the EU membership and the Europeanization process, showing that Turkey started to adopt the EU reforms on its own, adapting them independently from the outcome of the EU membership process.[194] This disconnection caused Turkey to selectively adopt the European reforms and implement the EU-driven policies with a "Turkish" approach.[195] The main reason for this is, after the stall of membership negotiations, Turkish authorities started to think they are "being taken advantage of", whereas EU is not taking any actions to ease the visa-free regime and the EU membership. These have caused Turkish officials to feel themselves distanced from European practices and EU-driven policies.

Besides, although Turkish migration framework seems developing on paper, as I have mentioned before, there are still some problematic points about Turkish migration framework being incomplete and non-Europeanized at different levels; such as burden sharing, financial issues, sincerity questions and geographical limitation.[196]

Indeed, another point that should be discussed here is the possible lift of geographical limitation. Whereas EU is pushing Turkey to lift the geographical limitation, Turkey thinks lifting the geographical limitation would turn Turkey into an even worse buffer zone or 'dumping ground' due to its geographical position and direct borders to Middle Eastern countries. In this scenario, Turkey is afraid of becoming the first country of asylum for millions of asylum seekers coming directly from Middle East and Asia.

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[193] Tolay, 2012 (b), p. 127.
[194] Tolay, 2012 (a), p. 51.
[195] Tolay, 2012 (a), p. 41.
[196] See Chapter 2.5.2. of this thesis.

As many Turkish officials mention [197], despite its efforts for EU membership, Turkey does not want to bind itself fully with EU-driven policies and lift the geographical limitation as migration has significant effects on its economic, social and political situations. Turkey wants a fair burden sharing and not to be the dumping ground of EU, as it sees the geographical limitation as a "lifesaver" for itself against irregular migration.

If we discuss this 'buffer zone' role focusing on Syrian forced migrants, we see a totally different picture. Although Turkey still maintains the geographical limitation to the 1951 Convention and does not grant "refugee" status to asylum seekers coming from out of Europe, the situation is different for nearly 2.000.0000 Syrian migrants. They have been settled in Turkey in the last 4 years and defined as 'guests' under the Turkish temporary protection regime. Due to this temporary protection regime, which has an uncertain future for Syrians, we can say that Turkey has both a waiting area and a bridge role for Syrians, some of whom are staying in Turkey and waiting to go back to their countries when the situation is stabled, some of whom applying to UNHCR for resettlement in a third country, some of whom are desiring to settle in Turkey and do not want to go back and some of whom are trying to find irregular ways to reach Europe. So, it is possible to say that Turkey has a different role for each Syrian individual, such as; a safe waiting area, a new home or a bridge between Europe and Syria.

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[197] USAK Report No: 10-02, March 2010.

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4.1.1 Turkish visa policy and border management

Border management and visa policy are also the fields that Turkey started to have reforms triggered by the EU but then ended up with having "Turkish" or "hybrid" frameworks. These fields should be discussed, as they were one of the important issues in Europeanization process and Turkey had started to have reforms regarding them in order to meet the requirements of EU membership and Schengen system. Besides, they show us the distinctions between EU and Turkey regarding the whole picture of their migration policies and approaches.

Regarding the visa policy; during the first years of Europeanization process, EU and Turkey agreed that Turkey would adopt the negative list of Schengen agreement to align with EU's visa policy. [198] So, Turkey started to implement the EU policy, and by 2005, Turkey was only short with 5 countries on the Schengen negative list. [199]

By 2009, this picture started to change due to Turkish government's "zero-problem" policy in international affairs. Turkey started to reverse its visa policy in opposition to the Schengen system, by removing visa requirements with neighboring countries and almost every country it was entering in a political or an economical agreement. Starting from 2009, Turkey has lifted visa requirements with many countries in the Schengen negative list, such as; Syria, Libya, Jordan, Tajikistan (2009), Russia and Lebanon (2010), Qatar, Bahrain, Ukraine and Kyrgyzstan (2011), Belarus, Mongolia, Iraq (2014).[200] Currently, Turkey has visa-free agreements with 79 countries, which many of them are in the negative list of Schengen. Besides, nationals of 44 countries are also eligible to apply and easily obtain a Turkish visa online (E-visa).[201]

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[198] Turkish National Action Plan, 2005.
[199] Tolay, 2012 (a), p. 45.
[200] Ministry of Foreign Affairs, 'Yabancıların Tabi Olduğu Vize Rejimi', at http://www.mfa.gov.tr/yabancilarin-tabi-oldugu-vize-rejimi.tr.mfa
[201] Idem.

This was an unexpected move for EU, but an expected one for Turkey. One can say Turkey started to create its "own" visa policy because it could not stand the frozen EU membership negotiations and EU's slow moves on visa-free travel for Turks to Europe. This can also be interpreted like Turkey has lost its "hopes" to get accepted into EU and Schengen. Thus, as I have mentioned, reforms in this area have started and been triggered by Turkish hopes to get into EU and Schengen but then transformed by Turkey into a hybrid / Turkish system.

Regarding border management, we see big differences between EU and Turkish approaches again. Turkey has been a transit country in the last 20 years between Europe and countries that are torn between wars and unstable conditions (Syria, Iraq and Afghanistan). Besides, due to being a geographical bridge between Asia, Europe, and Africa; Turkey is also a transit way to Europe for displaced people, coming from; Afghanistan, Pakistan, Myanmar, Iran, Egypt, Sudan, Somalia and Bangladesh. Besides its transit role, due to its economic development and stability, Turkey is also becoming a destination country and an interest point for migrants coming from the former Eastern Bloc countries (such as Belarus, Georgia, Moldova, Romania, Ukraine, Azerbaijan and Turkmenistan) and Middle East countries (such as Syria, Iraq).

It is a necessity for Turkey to have an integrated border management and security system in regard to its EU and Schengen membership bids. According to Article 8 of the Additional Protocol of the Amsterdam Agreement, candidate countries shall have the capacity to apply the Schengen system in their own borders before becoming a EU member.

So, due to EU / Schengen accession process and because of its transit position between different countries; Turkish authorities realized that they must have an integrated and developed management system on Turkish borders. Therefore, in 2004, Turkey has started to develop an integrated border management strategy in connection with its accession

process to the EU and this strategy is still in process. [202] Bureau for Border Management was established and its main task is to develop the legal and institutional structures in order to have an integrated border management system. Determining the requirements of EU / Schengen and ensuring that required steps are taken in order to align with Schengen system are also included in the Bureau's task. At the time this thesis has been written, Turkey (Bureau for Border Management) was still working on having an integrated border management and security system with forming a specialized government authority focusing on the issue, which will be called *"Sınır Muhafaza Teşkilatı"* and be formed under the Ministry of Interior (Believed to be formed in 2018).[203]

So, we see that the main difference between EU and Turkey in terms of border management is that, Turkey still does not have a specialized government institution or authority focusing on the border control and management such as FRONTEX of EU. This causes a significant discrepancy between EU's and Turkey's border policies, as Turkish borders' control, safety and management is still under the responsibility of Turkish Armed Forces (Turkish Land Forces, Gendarmerie and Coast Guard Command) which causes a duality on the border management and security. [204]

There are also some difficulties making this task challenging for Turkey. First problematic point is that security forces responsible with the security and management of the borders are responsible for other several tasks too, such as fighting with smuggling and fighting against terrorist groups (mostly PKK) and preventing terrorist groups get into the country (ISIS members in the last years). [205]

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[202] Sert, 2013, p. 176.
[203] Hürriyet, 'İçişleri Bakanlığı'ndan İki Dev Yapılanma', 11 May 2012.
[204] Sert, 2013, p. 177.
[205] Sert, 2013, p. 175 and the Author's personal military experience in Turkish – Iran border.

Second point is the geography and climate. We see that Turkish borders have totally different geographical characteristics and climates from EU's external borders. The general border control and management approach of Turkish Armed Forces is having several border posts throughout the borders under the command of Turkish Land Forces. These border posts, which have around 40 – 150 soldiers under their command also have emplacements throughout the borders in order to carry surveillance and reconnaissance operations. There are also some several areas having razor wires and different prevention techniques when the geography allows. [206]

As a country covering 814.578 km2, Turkey has geographically and climatically different characters even in the country, changing from region to region. This causes Turkish Armed Forces to deal with borders that have totally different characters than each other. For example, if we look on the Greek and Bulgarian borders, we see that these borders are mostly formed by natural rivers and the walls / fences built by Greece and Bulgaria. This situation makes these borders the easiest ones to deal with for Turkish Armed Forces. Georgian, Armenian and Azerbaijan borders are also the other borders with less problems and obstacles. But if we take a look on Syrian border, we see that Turkey has a 91 kilometers long border with Syria and this area has a climate and geography that can easily be called desert-like. Regarding the Iraq and Iran borders, the mountainous geography and hard climate conditions during winters are obstacles for Turkish Armed Forces to effectively control the borders. The different characters of borders are big problems to having integrated and securitized Turkish.

Last but not least, Turkey's Middle Eastern neighbors do not give attention and priority to border security due to their domestic instabilities and insufficient resources. This increases the security and management burden on Turkey throughout the Middle Eastern borders. [207]

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[206] Author's personal military experience in Turkish – Iran border.
[207] Sert, 2013, p. 175.

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As seen from the prior chapters of this thesis, Turkey has adopted some basic instruments of EU migration framework, but when it comes to border management, it can be said that Turkey is still far away from having an integrated border management system such as FRONTEX of EU. Besides, we see that Turkey has a "hybrid" border management system, specifically with different approaches on its Western and Eastern borders, as Turkey's borders are different from EU's external borders.[208]

Turkey is also following different policies in its western and eastern borders, whereas European type of border management is being implemented on Greek and Bulgarian borders, an open border policy is still going on with the Eastern and Southern neighbors especially with visa-free agreements and open-door policies to displaced people.

As a result, we see that there are still some key points where Turkey distinct from EU such as the border management and visa policies and this chapter shows us that policy decisions taken by Turkey are not always aligning with EU demands.[209]

4.2   Turkey as a pathway to Europe

In my opinion, there are 2 main points making Turkey to have a "pathway / bridge" role for Middle Eastern forced migrants: geographical limitation and human smuggling.

If we start with the geographical limitation to 1951 Convention, which is causing non-European asylum seekers to settle in Turkey only temporarily until they have been resettled to third countries by UNHCR, we see that asylum seekers arriving Turkey from non-European countries have to apply to UNHCR (directly or via Turkish government) in order to be resettled in a third country.

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[208] Özer, 2014, p. 63.
[209] Aksel, 2014, p. 284.

While non-European asylum seekers –who are the vast majority of asylum seekers in the world- cannot gain refugee status in Turkey; Turkey is still not a first country of asylum for them. It is just a bridge they use in order to reach the third countries via help of UNHCR.

Human smuggling is the second point that gives Turkey a "pathway" role, as it is nearly impossible for an individual to pass international borders without the help of professional smugglers. Wars and conflicts in nearby countries such as Syria, Iraq and Afghanistan has led to major humanitarian flows from these countries to Europe via Turkey in the last 15 years. For example the Syrian crisis, which has pushed 4 million Syrians to flee their country until 2011 [210], has increased the human smuggling activities originating from Syria to Europe via Turkey. We can define Syrian, Iraqi and Iranian borders of Turkey as "entry points" and Turkish and Greek / Bulgarian borders as "exit points" for human smugglers.

Besides, in terms of Turkey's position as a country of transit, human smuggling is an issue which not only Turkey but also EU is trying to tackle with. In fact, there are a number of ongoing co-operative efforts to overcome the problem by EU and Turkey. For instance, the strengthening of Greek and Bulgarian borders are important concerns for human smugglers in the last years. [211] However, both sides (EU and Turkey) often blame each other on the issue.

For the EU, Turkey is not able to cope with the issue and there is a Turkish unwillingness to fight with the human smuggling. According to Turkey, more resources and greater co-operation needed, while Turkey faces the most direct and biggest irregular migration flows, but there are problems caused by EU such as limited resources, lack of financial help and a lack of co-operation. [212]

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[210] UNHCR, Syria Regional Refugee Response, http://data.unhcr.org/syrianrefugees/regional.php.
[211] Kahya, 2013, p. 262.
[212] İçduygu, 2011, p. 14.

If we discuss this 'pathway' role focusing on Syrian forced migrants, we again see a picture just like it was mentioned in the 'buffer zone' part. They are protected under temporary protection regime, but it is unclear whether Turkey will allow them to stay indefinitely or integrate into the society. Due to this temporary situation, which has an uncertain future for Syrians, some Syrians started to "solve" the problem on their own with finding irregular ways to get into Europe via human smuggling. Besides, there is also an increasing number of Syrians in Turkey being resettled by UNHCR to third countries via resettlement program. However, they are unlikely to get third-country resettlement by UNHCR in significant numbers compared to their total 2.000.000 population in Turkey, as a very little number of third countries (developed countries) have launched resettlement programs for the Syrians in Turkey so far.

As the Syrian crisis is entering its 5th year, Turkey must have a comprehensive plan to address the longer-term future for Syrians and end this uncertainty. Syrian people in Turkey are still protected under the temporary regime and unable to return their homes with an uncertain future. So, it is again possible to say that Turkey has a different role for each individual Syrian forced migrant and being a "bridge" between Europe and Syria is among these roles.

5 – CONCLUSION

In this thesis, we have seen that Turkey is a vital character for international community, specifically EU, in terms of migration and asylum issues. As being a naturally formed geographical bridge between Europe and the Middle East (Also Asia and Africa), and a state wishing to have full EU membership for long years, it is inevitable that Turkey has been influenced by EU legal framework and policies regarding migration. Besides, it is also inevitable that whatever the outcome of Turkey's accession to EU will be, EU will always include Turkey in any migration debate. [213] Especially with the Syrian crisis, which caused more than 4 million Syrians to be displaced from their homes, Turkey's role in the migration agenda became more of an issue for EU.

Furthermore, these issues are likely to remain on both sides' agendas, as Turkey has a strategic buffer zone role between the EU and the source countries that are originating migration flows towards EU. Regarding this role, we have seen that Turkish authorities are anxious that EU is "taking advantage of" and "making use of" Turkey in terms of migration as EU has imposed its policies and forced Turkey to sign the readmission agreement, but doing less regarding Turkey's expectations on visa-free regime and EU membership. In Turks' minds; Europe is trying not to share the burden but shift it onto Turkey and that as EU is introducing stricter visa conditions and creating a 'Fortress Europe' by tightening its borders, the migrants are becoming stranded in Turkey, which turns it into a 'buffer zone' or 'waiting area'. [214]

Besides, although the economic, social and political bonds between Turkey and the EU and membership to EU is a vital goal for Turkey, we have also seen that there are still some problematic sides of Europeanization process of Turkish legal framework. As this process seems good on paper, we can say that Turkey, in practice, has created its "own" framework and

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[213] İçduygu, 2012, p. 24.
[214] Tolay, 2012 (a), p. 54.

"hybrid" policies and understandings regarding migration. This is of course connected with the impression of Turks that the EU demands are designed to use Turkey as a buffer zone and dumping ground for migrants in the process of building 'Fortress Europe'. Regarding visa-free policy promised by EU to Turkey, we see that EU is raising the European borders for Turks while expecting Turkey to do the same towards its Middle Eastern neighbors. Besides, we also see that EU is imposing a security based migration policy while also expecting a human rights based approach from Turkey in different fields. Turkey, as stranded between East and West, turned to itself and created its own policies due to these dilemmas caused by EU.

We have also seen that Turkey, a country still applies the geographical limitation to 1951 Convention, is a transit pathway used by migrants in order to reach Europe. This role is again vital for EU as EU is reinforcing its borders and visa policies every day and strengthening its external and internal legal barriers in order to tackle with irregular migration. Indeed, throughout the thesis, we have seen that while EU is having a closed-door policy day by day, in opposite, Turkey started to have an open-door policy (especially in the case of Syrian migrants). Due to having a closed-door policy, EU wants Turkey to be more active on fighting irregular migration too, which is originating from Middle East and reaching Europe via Turkey. However, Turkey has its own concerns regarding this issue too such as burden sharing and financial sources. EU wants Turkey to lift the geographical limitation but Turkish authorities are again afraid that the adoption of the EU acquis without a geographical limitation would make Turkey the "first country of asylum" which turns Turkey into a filter for 'wanted' or 'unwanted' migrants between Europe and Middle East.

On the other hand, we have also seen that EU's own migration policy is not even completely compatible with international human rights and does not have a fair burden sharing. We see that while EU still does not have a fair burden sharing inside the EU (with the Dublin system) it is also shifting the burden to third countries outside the EU (with the readmission agreements).

As a result, we have seen that Turkish migration framework is somewhat improved in the last years through the EU membership motivation, but there is still a lack of complete compatibility of Turkish migration framework with international standards and the EU acquis. Although Turkish migration framework has started to get reformed towards a direction to have a human rights based policy, in the meantime, there is also the risk of Turkey getting isolated from EU and getting closer to non-EU states, adhering to its "zero-problem" policy more tightly.

Thus, although Turkey has opened its borders to 2.000.000 Syrian forced migrants, adopted a human rights approach to Syrian refugee crisis and made laudable humanitarian moves, it is still far from being a safe haven for many asylum seekers and forced migrants coming from different nations. Turkey must lift the geographical limitation and adopt a human rights approach towards all asylum seekers coming from different nationalities, by championing the human rights regime over its political concerns. However, it is still debatable that whether the EU membership can lead to this goal or at least will be helpful for it.

In my opinion, the solution to all these controversies is clear: As *İçduygu* mentions, both EU and Turkey should realize that, migration is not a problem, but it is "a phenomenon that requires governance" through "social transformation".[215] Both parties must realize that "sharing problems and liabilities"[216] and tackling with the political and social reasons of migration in their source countries, are the only ways in order to reach this solution, instead of tackling with individual migrants on the European land borders or in the Mediterranean Sea. As *İçduygu* mentions; current "passing the buck to the other" approach of both parties will not solve any problems and will not provide any solutions in a long-term approach.[217]

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[215] İçduygu, 2012, p. 22.
[216] Idem.
[217] Idem.

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