

Turkey's Migration Policy Revisited: (Dis)Continuities and Peculiarities

by Seçil Paçacı Elitok

ABSTRACT

The 2000s witnessed the restructuring of Turkey's migration policy, mostly because of the EU accession process. In retrospect, Turkey's migration and asylum policy did not unfold along a linear path and revealed certain gaps as well as continuities with its institutional and administrative heritage. Through incremental steps and limited policy changes, Turkey made small-scale variations from past policies and avoided radical changes. However, given Turkey's particular position at the national, regional and international level, the government in Ankara should pursue policies sharply diverging from the past, and especially insofar as refugee policy, geographical limitation, state-centricity and the security–human rights balance are concerned.

Turkey | Migration | European Union

keywords

Turkey's Migration Policy Revisited: (Dis)Continuities and Peculiarities

by Seçil Paçacı Elitok*

Introduction

Turkey's geographic location between Europe, the Middle East and Asia makes it a strategic actor in terms of regional migration governance. Becoming the host to more than three million refugees, the largest share of Syrians leaving their war-torn country, made Turkey's crucial role even more evident. As the importance of migration governance for Turkey – as well as Turkey's role in migration governance at the international and regional levels – has increased, its migration policy has received more scholarly attention.¹

This paper looks at the restructuring of Turkey's migration policy, particularly under the influence of the EU integration process since the early 2000s, points out its non-linear evolutionary path and discusses Turkey's *sui generis* position at the national, regional and international levels. The association among the various policy dimensions that will be analysed in this paper is two-fold: non-linearity and incrementality. Within this framework, the main purpose of this paper is to compare and contrast the building blocks of Turkish migration policy in the long run, and discern the common path of dissimilar policy dimensions. By drawing

¹ There is a growing literature on Turkish migration policy which is not covered here due to space limitations (see, for example, the special issue on Turkish migration policy published in *Perceptions*, Vol. 18, No. 3 (Autumn 2013), <http://sam.gov.tr/?p=4260>). For an analysis of Turkish migration policy through international relations theory and from a governance point of view see, respectively: Ahmet İçduygu, "Turkey's Migration Transition and Its Implications for the Euro-Turkish Transnational Space", in Senem Aydın-Düzgit et al. (eds), *Global Turkey in Europe II. Energy, Migration, Civil Society and Citizenship Issues in Turkey-EU Relations*, Rome, Nuova Cultura, 2014 (IAI Research Papers 13), p. 81-106, <http://www.iai.it/en/node/1805>; and Seçil Paçacı Elitok, "Turkish Migration Policy over the Last Decade: A Gradual Shift towards Better Management and Good Governance", in *Turkish Policy Quarterly*, Vol. 12, No. 1 (Spring 2013), p. 161-172, <http://turkishpolicy.com/article/617/turkish-migration-policy-over-the-last-decade-a-gradual-shift-towards-better-management-and-good-governance-spring-2013>.

* Seçil Paçacı Elitok is Visiting Adjunct Professor at the Center for European, Russian and Eurasian Studies (CERES) at Michigan State University, and Research Fellow at the Center for the Study of Citizenship (CSC) at Wayne State University.

· Revised version of a paper presented at the Euro-Mediterranean Migration Congress (ExoMed), Madrid, 26-28 April 2017.

on the commonalities of different policy dimensions and offering an analysis of incremental policies, this paper informs future policy reforms.

Turkey has made only small-scale variations from past policies. In fact, we can observe continuity in the areas of immigration and settlement policy based on ethno-religious nationalism, limited implementation of the 1951 Geneva Convention on Refugees, and contingent reform of the initiatives of the early 1990s. Besides these continuities that are still present in Turkish migration policy, however, there are elements of discontinuity, such as modification of the remittance policy, reactions to the EU's progress reports on the accession process and divergence from state-centricity. While positive, these incremental steps are not enough.

This paper is organized as follows. Sections 1 and 2 trace continuity and discontinuity of Turkey's migration policies with the past. Specifically, their relevance in terms of non-linearity will be evaluated. Section 3 discusses incrementalism in Turkey's migration policies. Section 4 presents the *sui generis* position of Turkey by focusing on three separate case studies. The closing section puts forward policy recommendations as to how Turkey can improve the legal framework of its migration policies.

1. Continuity with the past

1.1 Ethno-religious nationalism

In contrast to the "millet system" of the Ottoman era, which granted a certain degree of separate jurisdiction to the empire's religious minorities, in the 20th century the Republic of Turkey established its entire nation-building process on a homogenous Turkish identity. As a result, an ethno-religious nationalist understanding of citizenship became one of the building blocks of the country's migration policy. Since the establishment of the Republic in 1923, creating a homogenous Turkish, (Sunni) Muslim society has been the main aim of nation-building. "Turkishness" has become fundamental, not only in defining a common identity in Turkey, but also in differentiating migrants. Ethno-religious nationalism had in fact already become a powerful force before the collapse of the Ottoman Empire. The attempt at Turkification of those living in the territory of the Republic underlay the forced displacement of Armenians in 1915 through state violence, the introduction of a wealth tax for non-Muslim minorities, and later in the population exchanges (1923 with Greece) as well as the settlement law of 1934. This last is the best example to gauge the intentions of the Turkish state to homogenize the entire nation around a single Turkish Muslim identity. The law identified Turkish descent (Turkish origin and culture) as the major defining element of the "immigrant". It intended, on the one hand, to integrate those who fell under this category, and to prevent the entry of "others" as migrants, on the other. Despite the fact that the law underwent revisions in 2006, the main definition of immigrant has not changed since 1934,

and the notion of "Turkishness" continues to shape Turkey's immigration and settlement policy.

1.2 Geographical limitation

With respect to the asylum regime, the main continuity is reflected in the preservation of the geographical limitation that Turkey applied to the United Nations Geneva Convention on Refugees of 1951. A party to the Convention and the 1967 Additional Protocol, Turkey only recognizes the status of refugees from members of the Council of Europe.² Turkey's insistence on preserving this geographical limitation, due to its fear of becoming a buffer zone between the Middle East and North Africa (MENA) and the EU, remains one of the main unresolved issues between Turkey and the Union. Turkey is reluctant to lift the geographical limitation until it becomes a full EU member state. The reason is that Turkey fears to become the "dumping ground for the EU's unwanted asylum seekers and refugees"³ as harmonization with the EU *acquis* would turn it into a country of first asylum. Geographical limitation remains part of Turkey's migration law, and new categories of international protection falling short of full refugee status have been defined accordingly. However, it seems that even with the geographical limitation Turkey has turned into a refugee depot, and thus the impact of the limitation should be questioned. As of May 2018, there are 3,589,384 Syrians living under temporary protection in Turkey.⁴ In 2016, 116,422 Afghans, 29,502 Iranians and 126,756 Iraqis applied for asylum in Turkey.⁵ This limitation also stands at the core of Turkey's efforts to find a balance between security-oriented versus human rights-oriented migration policy approaches. On the one hand, lifting the geographical limitation would attract asylum seekers and make Turkey a "magnet country". On the other hand, increase in the volume of migrants further triggers Turkey's security concerns.

1.3 "Reforms" as the continuation of 1990s initiatives

The watershed period in Turkey's migration policy came in the early 2000s. The main driving forces behind revision of the migration policy include migration transition in Turkey (from an emigration to an immigration and transit country);

² For a list of 47 member states see the Council of Europe website: <http://www.coe.int/en/web/portal/47-members-states>.

³ Kemal Kirişçi, "Turkey's New Draft Law on Asylum: What to Make of It?", in Seçil Paçacı Elitok and Thomas Straubhaar (eds), *Turkey, Migration and the EU: Potentials, Challenges and Opportunities*, Hamburg, Hamburg University Press, 2012, p. 75, <https://blogs.sub.uni-hamburg.de/hup/products-page/publikationen/102>.

⁴ See the website of the Turkish Ministry of Interior Directorate General of Migration Management (DGMM): *Temporary Protection*, updated 11 October 2018, http://www.goc.gov.tr/icerik6/temporary-protection_915_1024_4748_icerik. This number excludes the unregistered Syrians and Syrians with residence permits.

⁵ See the website of the Turkish Ministry of Interior DGMM: *International Protection*, http://www.goc.gov.tr/icerik6/international-protection_915_1024_4747_icerik.

EU candidacy; and the single party rule of the Justice and Development Party (AKP) since 2002.⁶ There is, however, remarkably little awareness of the efforts and initiatives of the 1990s. Almost all of the reforms that took place under the AKP have roots in the previous period. The major difference between the AKP period and the 1990s is in the hasty finalization of reform plans. The ratification of the Law on Foreigners and International Protection (LFIP) in 2013 (and its entry into force in 2014) and the establishment of the Directorate General for Migration Management in 2013 are the most important steps in the setup of the legal and institutional framework of the Turkish migration policy. This new legal framework was founded upon earlier laws, by-laws, road maps, action plans, circulars and similar legal measures with institutionalization efforts. Likewise, the new institutional framework is based on pre-existing bodies established within the Police Department (Foreigners Unit), the Ministry of the Interior (Asylum Unit), the Ministry of Foreign Affairs (Homeland Advice Bureau), the Coast Guard Command, the Ministry of Labour and Social Security and others. Thus, even if the 2000s saw an unprecedented rise in migration reforms, almost all of the "new" policies were in continuation with the efforts of previous governments. Nevertheless, due to the emergency-driven nature of these efforts, these secondary laws were ad hoc and their ability to establish a sustainable policy guaranteeing the balance between providing basic rights to migrants and safeguarding the national security interests remained limited.

2. Discontinuity with the past

2.1 Different responses to mass flows

Within the migration history of Turkey, mass refugee flows of ethnically non-Turkish-speaking Muslim populations have a crucial place. Pomaks from Bulgaria in 1952 and then again in 1989, Kurds in 1988 and 1991, Muslim Bosnians from 1992 to 1995, the exodus from Kosovo in 1999 and the most recent but significantly bigger one from Syria are some examples of mass migrations to Turkey from its neighbouring regions. Kirişçi and Karaca compare and contrast the response of the Turkish state to these three different waves of refugees.⁷

First, they analyse the case of more than three hundred thousand Pomak refugees (Muslim Bulgarians) who left Bulgaria in 1989 right before the fall of Communism. According to their study, Turkey followed an open-door policy principally shaped by the Muslim identity of the refugees, provided full international protection, kept the UN High Commissioner for Refugees out of the process, failed to take the 1951 Geneva Convention into account and focused mainly on the integration of Pomaks

⁶ Seçil Paçacı Elitok, "Turkish Migration Policy over the Last Decade", cit.

⁷ Kemal Kirişçi and Sema Karaca, "Hoşgörü ve Çelişkiler. 1989, 1991 ve 2011'de Türkiye'ye Yönelen Kitleli Mülteci Akınları", in M. Murat Erdoğan and Ayhan Kaya (eds), *Türkiye'nin Göç Tarihi. 14 Yüzyıldan 21 Yüzyıla Türkiye'ye Göçler*, İstanbul, Bilgi University Press, 2015, p. 297-314.

into Turkish society.

Second, Kirişçi and Karaca evaluate the influx of half a million Kurds from Iraq who escaped from Iraq's dictator Saddam Hussein and sought refuge in Turkey in 1991. They argue that Turkey's national security and political interests shaped its response to the Kurdish migration from Iraq. Contrary to the Pomak case, Turkey preferred not to define this group as "refugees", and international refugee law was not taken into consideration. The "*non-refoulement* principle", according to which states receiving asylum seekers are barred from returning them to countries where they could be in danger, was not applied, and Kurdish refugees were in fact returned to Northern Iraq.

Finally, Kirişçi and Karaca analyse the Syrian refugee crisis. They state that refugees' religious identity has determined the response of Turkey's open-door, temporary-protection and *non-refoulement* policy, which differs markedly from the two previous examples.

Turkey's reaction to flows of different ethnic groups who are non-Turkish Muslims has thus varied over time. It is difficult to talk about a systematic, long-term and standardized refugee policy that equally applies to all groups of people under all circumstances. Instead, there are major breaks with previous cases and Turkey's response is flexible and ad hoc, prioritizing either human rights or security matters depending on the case.

2.2 Remittance policy

Traditionally, Turkey has been one of the top ten remittance-receiving countries, and for decades the Turkish economy has benefited from migrant remittances for covering its balance of payments deficit. Since the 1980s, Turkey has also become a country of immigration and transit. This migratory transformation has led to significant political, social and economic consequences. One of the chief among these occurred in the realm of remittances.

The late 1990s marked an unprecedented drop in remittances to Turkey. In the following years, revenues from remittances continued to decrease. In the mid-2000s Turkey became known as a remittance-sender country, following a global trend in many other developing countries with similar migration backgrounds. For instance, remittance outflows from Turkey to Germany exceeded the inflows for the first time in 2013.⁸

This transition had a direct impact on Turkey's policy. The Central Bank of the Republic of Turkey (CBRT), the main actor in Turkey's remittance policy, closed its remittance accounts at the beginning of 2014. Among the various reasons for the

⁸ Seçil Paçacı Elitok, "Remittance Flows Between Germany and Turkey: A Reverse Trend?", in *IPC-Mercator Policy Briefs*, August 2013, <http://ipc.sabanciuniv.edu/?p=2308>.

closing of the accounts, a low ratio of remittances to total foreign reserves of the Central Bank (5.2 per cent in 2013) was particularly important. This measure can be considered a major discontinuity in the remittance policy of Turkey, whereby the CBRT made it clear that it did not intend to deal with minor issues such as the money transfers of Turkish migrants. Thus the CBRT left this area to other actors, such as private and public Turkish banks.

The uncoupling of current remittance policy from policy that had existed since the establishment of the remittance department in the CBRT in 1976 also signals a change in the Turkish government's efforts to augment the development impact of remittances on the economy. Following the emigration of Turkish workers to Western European countries through the bilateral guest worker agreements of the 1960s, the state took an active role in directing remittances into investments to fulfil development targets. As the Turkish economy became integrated into global markets during the 1980s, the remittance–development link became weaker. Especially during the high economic growth years of the early 2000s, Turkey's need for remittances decreased. Instead of engaging directly with financial remittances, policy-makers shifted their efforts towards social remittances, reverse brain drain and diaspora management.

2.3 Turkey's response to EU progress reports

The progress reports over Turkey's EU accession process that the European Commission is mandated to produce on a regular basis usually trigger an animated debate in Turkey. Despite the pro-EU position of AKP, especially during the early and mid-2000s, the release of the reports has always engendered disappointment and resentment. Eventually the Turkish government decided to push back and in 2012 took the unprecedented decision of releasing its own progress report as an alternative to the official progress report of the European Commission.⁹ The EU ministry in Turkey was quite critical of the Commission's report, listing the achievements that the Commission failed to mention.

This is not a policy in itself, rather a reaction to the EU's evaluation of Turkey's migration policies. Yet this reaction from Turkey is telling in many ways. For the scope of this paper, it is the discontinuity with previous reactions and the content relating to chapter 24, namely "Justice, Freedom and Security", that is particularly crucial. The Justice, Freedom and Security chapter of the report is a list of completed and in-progress actions in the field of migration and asylum. These include: readmission agreements with the EU and other countries, progress in the integrated border management system, efforts at combating illegal immigration, challenges in managing the Syrian refugee crisis, conditions in reception and detention centres, new migration law, cooperation with Europol and Eurojust

⁹ Turkish Ministry for EU Affairs, *Türkiye Tarafından Hazırlanan 2012 Yılı İlerleme Raporu*, January 2013, <https://www.ab.gov.tr/48402.html>. See also the 2013 report: *Türkiye Tarafından Hazırlanan 2013 Yılı İlerleme Raporu*, January 2014, <https://www.ab.gov.tr/49358.html>.

(the EU's police and judicial cooperation bodies) as well as implementation of the 2005 National Action Plan. This last, formally known as the National Action Plan for the Adoption of the EU Acquis in the Field of Asylum and Migration, was an official document explaining the roadmap for harmonizing national legislation with relevant EU directives, lifting the geographical limitation and putting a fully operating national-status determination system in place.

Producing a report for the first time was quite different from any previous reaction, and was reflective of an accumulation of disappointments. The report came as the Syrian refugee crisis was mounting, and Turkey was expecting appreciation, not criticism, for bearing the heavy financial, administrative and social burden of hosting millions of people fleeing Syria. Turkey's publication of its own progress report countering the regular EU Progress Report can be partly explained by self-confidence and partly by the intention to prove the supposedly biased approach of the EU.

3. Incremental steps in Turkey's migration policy

Turkey's attempts to harmonize its migration policy with the EU can be described as "two steps forward and one step back" due to the unstable nature of the reform process, as well as scepticism about the actual implementation of the new legal frameworks.¹⁰ As İçduygu and Aksel argue, from the mid-1990s onwards both emigration- and immigration-related issues became increasingly important matters in the political agenda, regardless of the political colour of the government in power.¹¹ Successive governments have taken only incremental steps, and even the AKP-led governments have hardly introduced novelties.

The AKP governments have largely kept the geographical limitation policy intact, although they have introduced some variations and additions, such as clarifying the status of Syrians in Turkey, as well as the introduction of subsidiary protection, temporary protection status and humanitarian assistance. The 2014 Temporary Protection regulation, the 2016 Work Permit regulation for the beneficiaries of the Temporary Protection and the 2017 citizenship regulation have all been introduced in response to the Syrian refugee crisis. The geographical limitation policy became an issue after the conclusion of the 2016 EU–Turkey refugee deal, according to which the European Commission categorized Turkey as a safe third country. This classification has created some controversies, as Turkey applies geographical limitation to the 1951 Geneva Convention and the 1967 Protocol and does not grant

¹⁰ Seçil Paçacı Elitok, "Turkey's Prospective EU Membership from a Migration Perspective: Two Steps Forward. One Step Back?", in *Perceptions*, Vol. 18, No. 3 (Autumn 2013), p. 1-11, <http://sam.gov.tr/?p=4257>.

¹¹ Ahmet İçduygu and Damla B. Aksel, "Migration Realities and State Responses: Rethinking International Migration Policies in Turkey", in Stephen Castles, Derya Ozkul and Magdalena Arias Cubas (eds), *Social Transformation and Migration. National and Local Experiences in South Korea, Turkey, Mexico and Australia*, Basingstoke/New York, Palgrave Macmillan, 2015, p. 115-131.

the status of refugees to non-citizens of Council of Europe member states. Turkey introduced new regimes such as temporary protection, conditional refugee status and secondary refugee status, which are alternatives to the standard definition of refugee (recognised asylum seekers from Europe). While keeping the geographical limitation, Turkey has modified its migration law by adding new legal categories for beneficiaries of international protection.

The significant difference between the 2000s and the previous period is that Turkish migration policy has become slightly less state-centric. Multiple actors (non-governmental organizations, academia, intergovernmental agencies, etc.) have been actively involved in the decision-making process towards modernizing the legal structure of migration in Turkey under the new Law on Foreigners and International Protection (LFIP), passed in 2013. Another indication of this less state-centric trend is the establishment of the Migration Policies Council, which is supposed to be composed of representatives of local and international organizations as well as ministries, who will collectively decide on migration strategies. On the one hand, this approach gives hope for better migration governance. On the other, state-centricity has largely remained dominant in Turkey's migration policy.¹²

A novelty concerns Syrian refugees, for whom Turkey has introduced citizenship options and work permits as return options are weak due to the unrelenting civil war. Syrians are still subject to the temporary protection status, which has to be renewed every year. Those who are registered under LFIP and the provisions of the temporary protection regulation can access health-care, education, employment and similar services during their stay in Turkey. The regulation on citizenship is quite selective since it applies only to highly qualified Syrians, as citizenship will be granted on criteria such as employment, education and income. Nevertheless, providing work permits to facilitate labour-market integration of Syrians as well as access to Turkish citizenship are crucial adjustments that help make the process more manageable. While ethno-religious nationalism remains at the core of Turkey's refugee regime, the government has nonetheless shown a capacity to innovate in its response to the Syrian refugee emergency.

The change in Turkey's remittance policy can also be considered as an incremental step, as the Turkish state has reduced the role of the Central Bank in remittance management. Turkey has incrementally developed policies that discourage Turkish migrants from sending remittances to Turkey and has created alternative financial resources to remittances. Factors contributing to this policy range from

¹² İçduygu and Aksel provide a critical historical retrospective on Turkish migration policies and discuss the changing role of the Turkish state during different periods, as the issue of international migration has developed. Looking in depth at sub-periods of Turkish migration history (from two-way immigration and emigration circulation in the 1920s, the emigration boom since the 1950s, the emergence of new migration patterns in the 1980s, and new forms of migration governance since the 2000s), they describe the shift from nationalism and nation state to transnationalism and globalization. See Ahmet İçduygu and Damla B. Aksel, "Turkish Migration Policies: A Critical Historical Retrospective", in *Perceptions*, Vol. 18, No. 3 (Autumn 2013), p. 167-190, <http://sam.gov.tr/?p=4233>.

increasing the tax rate applied to remittance accounts, to decreasing interest rates annually. Gradually, remittance as the engine of economic development has lost its significance and Turkey has benefited from other reserves such as tourism revenues, "luggage trade"¹³ and foreign direct investment. In a broader sense, Turkey has shifted its vision from a remittance-dependent developing country towards a leading economic power in its region. Permanent residency of third and fourth generation Turkish migrants in their host country and their channelling of savings into investment there has also contributed to the shrinking of remittance inflows.

4. The *sui generis* position of Turkey

Turkey has lately become a crucial actor at all levels of migration governance (national, regional and international) due to its role in the Syrian refugee crisis. As there are significant interlinkages among levels, Turkey's national migration policy cannot be isolated from the regional one.

The 2000s have been characterized by the institutional and administrative reorganization of the Turkish migration policy, which has been partially harmonized with the migration and asylum system of the EU. However, the EU itself lacks a unified approach in both fields, as became apparent during the Syrian refugee crisis, when member states responded differently to the crisis, even going so far as ignoring EU-set decisions. Turkey's exceptional position is thus also related to the fact that Turkey is trying to align its own migration system with a system that is not functioning in practice. It is also hard for Turkey to apply a set of requirements when it does not participate in the decision-making process, even as an observer. Therefore, Turkey's *sui generis* position at the national level is caused by dilemmas in the EU-ization of migration policies.

The *sui generis* nature of Turkey's migration policy is reflected at the international level via the geographical limitation of the country's asylum regime. Turkey, together with the Democratic Republic of Congo, Madagascar and the Principality of Monaco, is among the few countries that still apply this limitation. Nevertheless, especially after the Syrian refugee crisis, Turkey has become a depot for refugees in spite of the limitation, and so its impact is under question. Turkey's position is peculiar in that legally it is still applying the limitation and only recognizes refugees from the countries of the Council of Europe, whereas in reality Turkey is a destination and transit country for forced migrants due to its geographic location.

¹³ Luggage trade "refers to the shuttle trade activities of migrants from Eastern Europe and former Soviet Union countries that started in the 1990s". See Seyhan Erdoğan and Nazlı Şenses, "Irregular Migrant Labour, Trade Unions, and Civil Society Organizations in Turkey", in Carl-Ulrik Schierup et al. (eds), *Migration, Precarity, and Global Governance. Challenges and Opportunities for Labour*, Oxford, Oxford University Press, 2015, p. 193.

Turkey is the only EU candidate country requiring visas. Visa liberalization has been awarded to all other candidate countries, and even to non-candidate countries (Kosovo, Albania, Montenegro, Macedonia, Serbia). In 2013, long before the mass flows of Syrians towards Europe, Turkey signed a readmission agreement with the EU, with the hope of visa-free travel for Turkish citizens. According to this agreement, migrants passing through the Turkish territory during their transit to the EU via irregular means would be readmitted to Turkey. In return, if Turkey fulfilled the criteria of the visa liberalization roadmap,¹⁴ Turkish citizens would be able to enter the EU's territory without a visa.

Visa liberalization became a key issue during the talks over the 2016 EU–Turkey refugee deal. The EU needed Turkey to act as a gatekeeper for refugees, providing security at entry points into Europe. The deal between Turkey and the EU was struck at the expense of the lives of refugees. The agreement is based on four main points: (i) financial aid to Turkey for mitigating the Syrian refugee crisis; (ii) speeding up arrangements for visa-free travel to Europe; (iii) opening new chapters in Turkey's EU accession negotiations; and (iv) a "one-in, one-out" plan, whereby for each Syrian sent back to Turkey, an eligible Syrian would be resettled in the EU.

There are various aspects of the deal that neither fully respect the *acquis communautaire* nor comply with international conventions regarding asylum. Rossi and Iafrate explain that the deal "clashes with the fundamental principles of right to asylum and protection of human rights at the international and European level", particularly "with the prohibition of discrimination established by Article 3 of the Refugee Convention, since it discriminates on the basis of nationality" in specifying that all asylum seekers can be returned to Turkey but that only Syrian refugees can be resettled in Europe.¹⁵ Rossi and Iafrate also argue that

Article 46(1) of the recast Asylum Procedures Directive provides the right to an effective appeal before a judge of an application for asylum that has been declared inadmissible, and it allows the migrant to remain in the territory of the member state pending the outcome of the appeal. Moreover, an appeal follows automatically if the ruling of inadmissibility is based on the concept of the safe third country.¹⁶

Categorization of Turkey by the European Commission as a "safe third country" has triggered a debate both because of the post-return human rights violations and because of concerns about Turkey's eligibility to be considered as a safe country. The deal, the target of widespread criticisms due its legal gaps, was very much in

¹⁴ European Commission, *Roadmap Towards a Visa-free Regime with Turkey*, 13 December 2013, http://ec.europa.eu/dgs/home-affairs/what-is-new/news/news/docs/20131216-roadmap_towards_the_visa-free_regime_with_turkey_en.pdf.

¹⁵ Enzo Rossi and Paolo Iafrate, "The EU Agreement with Turkey: Does it Jeopardize Refugees' Rights?", in *CMS Essays*, 16 December 2016, p. 2, <https://doi.org/10.14240/cmsesy121616>.

¹⁶ *Ibid.*, p. 4.

line with the “externalization of the irregular migration issue”, which is among the fundamental aims of the EU–Turkey readmission agreement. That is why the EU provided Turkey with better incentives to keep refugees in Turkey by offering visa-free travel and opening chapters in its EU accession path in return. However, promises made to Turkey in these agreements are normally extended to other candidate countries during or prior to their accession negotiations. Furthermore, promises to open new chapters or visa-free travel are not “EU favours” that are open to negotiation, rather they are the natural outcomes of a normal EU accession process. Visa requirements were not lifted, because Turkey did not fulfil the necessary requirements.¹⁷ The major issue in the visa negotiations is the 65th criterion referring to organized crime and terrorism. Considering the restrictions to civil liberties introduced after the failed coup attempt in 2016, the chances of Turkey’s revising its legislation and practices on terrorism are slim, and therefore the whole process of visa liberalization for Turkish citizens is at risk.

Conclusion and policy recommendations

The 2000s and 2010s have been characterized by a reorganization of the Turkish migration policy, both institutionally and administratively. In addition, Turkey’s regional and international role in migration governance has gained in importance. This transformation has reinforced migration studies in Turkish policy-making.

Instead of a linear development, both continuities and discontinuities characterize the case of Turkey’s migration and asylum policy. Policy-makers have made a conscious choice to avoid radical changes. But there have also been new elements such as variations in remittance policy, reactions to progress reports, introduction of integration incentives for Syrian refugees as well as the gradual shift from traditional state-centric forms of government towards a system that incorporates non-state actors into the decision-making processes. Yet, in most cases continuities appear to persist, as exemplified by ethno-religious nationalism, geographical limitation and the re-emergence of migration policies echoing those of the 1990s.

The following policy recommendations may help guarantee that Turkey’s migration policy relies on a firmer security–human rights balance.

First, Turkey should diverge from the ethno-religious notion of “Turkishness” in its refugee regime and its selective citizenship policy, which is inclusive of certain privileged groups (Sunni Muslims with high skills and finances) but excludes certain other ethnic and religious groups. Instead, asylum seekers should be treated equally regardless of their ethnic and religious background.

¹⁷ European Commission, *Turkey’s Progress on the Visa Liberalisation Roadmap*, 4 May 2016, https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/background-information/docs/20160504/turkey_progress_visa_liberalisation_roadmap_en.pdf.

The second recommendation concerns the principle of geographical limitation that has impeded Turkey's application of the Geneva Convention. As this limitation has lost its importance due to the mass movements of Syrians and because it hampers the EU accession process, not only should its application be revised but its very applicability should be reconsidered. Under a quota system based on Turkey's reception capacity and with fully functioning burden-sharing mechanisms in place, it is in Turkey's interest to fully apply the Geneva Convention and abandon the geographical limitation without losing the balance between its security concerns and its human rights obligations.

Third, while transformation of Turkey's remittance policy is admissible, the Turkish government should act with greater caution. Neglecting the continuous importance of remittance as an external source of financing and ignoring its contribution to alleviate situations of financial distress is a mistake. For an economy such as Turkey's, which is quite fragile and prone to crisis, management of both incoming and outgoing remittances is still of the essence. Policies encouraging financial remittances and those promoting social remittances are not mutually exclusive. Both are relevant and play an essential role in migration-led development.

Fourth, downsizing the role of the state in decision-making processes and including various other players (such as NGOs as the representatives of migrants) not only provides rights protection but also increases efficiency in policy-making. The advantage of broader participation by non-state actors in migration management policies is that it facilitates bottom-up decision-making processes. Non-state actors' contribution is invaluable because representatives of migrants and refugees are able to voice the challenges that they experience and make policy more effective.

Fifth, work permits and citizenship rights for Syrian refugees are progressive and positive steps in the integration policy. However, most of the Syrians are not recognized as fully fledged refugees due to the geographical limitation. In 2014, Turkey implemented a new legislation that changed Syrians' legal status from temporary guests to those under temporary protection.¹⁸ Syrians under temporary protection can access certain benefits like health-care, education, social assistance and employment during their lawful stay in Turkey. Formally, 3,404,000 Syrians are unemployed and the number of those who work in the informal economy is approximately one million.¹⁹ Hence, in practice, Syrians experience difficulty in accessing these benefits, are open to all sorts of exploitation and their integration has become even more complicated due to their legal limbo.

¹⁸ Şebnem Köşer Akçapar and Doğu Şimşek, "The Politics of Syrian Refugees in Turkey: A Question of Inclusion and Exclusion Through Citizenship", in *Social Inclusion*, Vol. 6, No. 1 (2018), p. 176, <https://www.cogitatiopress.com/socialinclusion/article/view/1323>.

¹⁹ M. Murat Erdoğan, *Syrians Barometer 2017. A Framework for Achieving Social Cohesion with Syrians in Turkey. Executive Summary*, Hacettepe University Migration and Politics Research Center, 6 December 2017, <https://mmuraterdogan.files.wordpress.com/2016/06/syrians-barometer-executive-summary.pdf>.

Finally, the future of Turkey's EU membership should not be linked to the refugee issue, since such a trade-off between partners deepens the never-ending trust crisis.

Updated 11 October 2018

References

M. Murat Erdoğan, *Syrians Barometer 2017. A Framework for Achieving Social Cohesion with Syrians in Turkey. Executive Summary*, Hacettepe University Migration and Politics Research Center, 6 December 2017, <https://mmuraterdogan.files.wordpress.com/2016/06/syrians-barometer-executive-summary.pdf>

Seyhan Erdoğan and Nazlı Şenses, "Irregular Migrant Labour, Trade Unions, and Civil Society Organizations in Turkey", in Carl-Ulrik Schierup et al. (eds), *Migration, Precarity, and Global Governance. Challenges and Opportunities for Labour*, Oxford, Oxford University Press, 2015, p. 177-196

European Commission, *Roadmap Towards a Visa-free Regime with Turkey*, 13 December 2013, http://ec.europa.eu/dgs/home-affairs/what-is-new/news/news/docs/20131216-roadmap_towards_the_visa-free_regime_with_turkey_en.pdf

European Commission, *Turkey's Progress on the Visa Liberalisation Roadmap*, 4 May 2016, https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/background-information/docs/20160504/turkey_progress_visa_liberalisation_roadmap_en.pdf

N. Ela Gökalp Aras and Zeynep Şahin Mencütek, "The International Migration and Foreign Policy Nexus: The Case of Syrian Refugee Crisis and Turkey", in *Migration Letters*, Vol. 12, No. 3 (2015), p. 193-208, <https://journal.tplondon.com/index.php/ml/article/view/502>

Ahmet İçduygu, "Turkey's Migration Transition and Its Implications for the Euro-Turkish Transnational Space", in Senem Aydın-Düzgit et al. (eds), *Global Turkey in Europe II. Energy, Migration, Civil Society and Citizenship Issues in Turkey-EU Relations*, Rome, Nuova Cultura, 2014 (IAI Research Papers 13), p. 81-106, <http://www.iai.it/en/node/1805>

Ahmet İçduygu and Damla B. Aksel, "Migration Realities and State Responses: Rethinking International Migration Policies in Turkey", in Stephen Castles, Derya Ozkul and Magdalena Arias Cubas (eds), *Social Transformation and Migration. National and Local Experiences in South Korea, Turkey, Mexico and Australia*, Basingstoke/New York, Palgrave Macmillan, 2015, p. 115-131

Ahmet İçduygu and Damla B. Aksel, "Turkish Migration Policies: A Critical Historical Retrospective", in *Perceptions*, Vol. 18, No. 3 (Autumn 2013), p. 167-190, <http://sam.gov.tr/?p=4233>

Ahmet İçduygu and Evin Millet, "Syrian Refugees in Turkey: Insecure Lives in an Environment of Pseudo-Integration", in *Global Turkey in Europe Working Papers*, No. 13 (August 2016), <http://www.iai.it/en/node/6690>

Kemal Kirişçi, "Turkey's New Draft Law on Asylum: What to Make of It?", in Seçil Paçacı Elitok and Thomas Straubhaar (eds), *Turkey, Migration and the EU: Potentials, Challenges and Opportunities*, Hamburg, Hamburg University Press, 2012, p. 63-83, <https://blogs.sub.uni-hamburg.de/hup/products-page/publikationen/102>

Kemal Kirişçi and Sema Karaca, "Hoşgörü ve Çelişkiler. 1989, 1991 ve 2011'de Türkiye'ye Yönelen Kitlesel Mülteci Akınları", in M. Murat Erdoğan and Ayhan Kaya (eds), *Türkiye'nin Göç Tarihi. 14 Yüzyıldan 21 Yüzyıla Türkiye'ye Göçler*, Istanbul, Bilgi University Press, 2015, p. 297-314

Şebnem Köşer Akçapar and Doğu Şimşek, "The Politics of Syrian Refugees in Turkey: A Question of Inclusion and Exclusion Through Citizenship", in *Social Inclusion*, Vol. 6, No. 1 (2018), p. 176-187, <https://www.cogitatiopress.com/socialinclusion/article/view/1323>

Asli Okyay and Jonathan Zaragoza-Cristiani, "The Leverage of the Gatekeeper: Power and Interdependence in the Migration Nexus between the EU and Turkey", in *The International Spectator*, Vol. 51, No. 4 (December 2016), p. 51-66

Seçil Paçacı Elitok, "Remittance Flows Between Germany and Turkey: A Reverse Trend?", in *IPC-Mercator Policy Briefs*, August 2013, <http://ipc.sabanciuniv.edu/?p=2308>

Seçil Paçacı Elitok, "A Step Backward for Turkey? The Readmission Agreement and the Hope of Visa-Free Europe", in *IPC-Mercator Policy Briefs*, December 2015, <http://ipc.sabanciuniv.edu/?p=5363>

Seçil Paçacı Elitok, "Turkey's Prospective EU Membership from a Migration Perspective: Two Steps Forward. One Step Back?", in *Perceptions*, Vol. 18, No. 3 (Autumn 2013), p. 1-11, <http://sam.gov.tr/?p=4257>

Seçil Paçacı Elitok, "Turkish Migration Policy over the Last Decade: A Gradual Shift towards Better Management and Good Governance", in *Turkish Policy Quarterly*, Vol. 12, No. 1 (Spring 2013), p. 161-172, <http://turkishpolicy.com/article/617/turkish-migration-policy-over-the-last-decade-a-gradual-shift-towards-better-management-and-good-governance-spring-2013>

Enzo Rossi and Paolo Iafrate, "The EU Agreement with Turkey: Does it Jeopardize Refugees' Rights?", in *CMS Essays*, 16 December 2016, <https://doi.org/10.14240/cmsesy121616>

Doğu Şimşek, "Transnational Activities of Syrian Refugees in Turkey: Hindering or Supporting Integration", in *International Migration*, 11 July 2018, DOI: 10.1111/imig.12489

Nathalie Tocci, "Turkey and the European Union: Scenarios for 2023 EU", in *FEUTURE Background Papers*, September 2016, http://www.feuture.uni-koeln.de/sites/feuture/user_upload/FEUTURE_Background_Paper_final.pdf

Turkish Ministry for EU Affairs, *Türkiye Tarafından Hazırlanan 2012 Yılı İlerleme Raporu*, January 2013, <https://www.ab.gov.tr/48402.html>

Turkish Ministry for EU Affairs, *Türkiye Tarafından Hazırlanan 2013 Yılı İlerleme Raporu*, January 2014, <https://www.ab.gov.tr/49358.html>

Can O. Ünver, "Social Assistance to Labour Migrants as a New Form of Public Service: The Case of Labour Attachés in Germany", in Emrehan Zeybekoğlu and Bo Johansson (eds), *Migration and Labour in Europe. Views from Turkey and Sweden*, Istanbul, Marmara University Research Center for International Relations (MURCIR), 2003, p. 82-99

Istituto Affari Internazionali (IAI)

The Istituto Affari Internazionali (IAI) is a private, independent non-profit think tank, founded in 1965 on the initiative of Altiero Spinelli. IAI seeks to promote awareness of international politics and to contribute to the advancement of European integration and multilateral cooperation. Its focus embraces topics of strategic relevance such as European integration, security and defence, international economics and global governance, energy, climate and Italian foreign policy; as well as the dynamics of cooperation and conflict in key geographical regions such as the Mediterranean and Middle East, Asia, Eurasia, Africa and the Americas. IAI publishes an English-language quarterly (*The International Spectator*), an online webzine (*Affarinternazionali*), two book series (*Quaderni IAI* and *IAI Research Studies*) and some papers' series related to IAI research projects (*Documenti IAI*, *IAI Papers*, etc.).

Via Angelo Brunetti, 9 - I-00186 Rome, Italy

T +39 06 3224360

F + 39 06 3224363

iai@iai.it

www.iai.it

Latest IAI PAPERS

Director: Riccardo Alcaro (r.alcaro@iai.it)

- 18 | 16 Seçil Paçacı Elitok, *Turkey's Migration Policy Revisited: (Dis) Continuities and Peculiarities*
- 18 | 15 Daniela Huber, *Forty Years of Camp David, Forty Years Without Peace*
- 18 | 14 Ronald H. Linden, *The New Sea People: China in the Mediterranean*
- 18 | 13 Eleonora Poli, *European External Actions in a Multilateral Arena: An Analysis of EU Relations with Brazil*
- 18 | 12 Eugene Rumer, *The US-Europe vs. Russia Triangle*
- 18 | 11 Carolina Pavese, *The European Union and Brazil in the Quest for Global Climate Governance: Potentials and Perils of a Partnership*
- 18 | 10 Luca Bergamaschi and Nicolò Sartori, *The Geopolitics of Climate – A Transatlantic Dialogue*
- 18 | 09 Emanuele Bobbio, *Winning Back the "Left Behind": Iran's New Nationalist Agenda*
- 18 | 08 Anna Ayuso and Susanne Gratius, *The Economic Agenda between Brazil and the EU: Prospects for a Bilateral and Global Upgrading*
- 18 | 07 Riccardo Alcaro, *All Is Not Quiet on the Western Front. Trump's Iran Policy and Europe's Choice on the Nuclear Deal*