

IRREGULAR MIGRATION IN TURKEY

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September 2012
ANKARA



This research is published by the
International Organization for Migration
in Turkey

This research is funded by IOM and printed under the “Supporting Turkey’s Efforts to Formulate and Implement an Overall Policy Framework to Manage Migration” project implemented by IOM Turkey and funded by the Swedish International Development Cooperation Agency.

Index

- 1. Introduction - Key Questions and Objectives of the Study 7
- 2. Statistical Overview of Irregular Migration Flows Observed in Turkey 17
 - 2.1. Irregular migration in Turkey in the 1990s: Evidence from the 1995 and 2003 IOM Studies..... 17
 - 2.2. Migration to Turkey in the early 21th century 19
 - 2.2.1. Three patterns of irregular migration 21
 - 2.2.2. Reflections of the transit migration in the EU 30
 - 2.2.3. Regular migration in Turkey 33
- 3. Legal and Institutional Framework 39
 - 3.1. Legal framework for combating irregular migration..... 39
 - 3.1.1. National legislation on asylum and immigration 41
 - 3.1.2. International documents and harmonization to the *acquis communautaire* 41
 - 3.2. Institutional adjustments for combating irregular migration..... 53
 - 3.3. Dialogue with international and nongovernmental organizations 57
- 4. Conclusion and Policy Recommendations 63
- 5. Bibliography 69

**INTRODUCTION
KEY QUESTIONS AND OBJECTIVES
OF THE STUDY**

I. INTRODUCTION - KEY QUESTIONS AND OBJECTIVES OF THE STUDY

It is today an accepted fact that despite the vigorous and oftentimes aggressive struggles of the nation states in keeping the control of the entry and the presence of foreigners within their borders, millions of people each year live under the status of irregular migrants. This massive movement of people across borders has certainly grown over the last decades, as a result of the factors in the countries of origin such as the economic and/or political deprivation, social conflict and political turmoil. While the European countries have become the main sights of attraction as a result of their geographical proximity to such regions and their higher levels of economic and humanitarian development, countries such as Turkey that share the borders of Europe, were also affected by the irregular migration flows both as destination and transit countries.

On the crossroads between immigrant sending and receiving countries, Turkey's history of the international migration consists of changing trends about the qualitative and quantitative characteristics of migration patterns. The foundation of the republic was marked by massive waves of migration across the borders that aimed at homogenizing the population on the territories of the new Turkish state. The immigration until the 1980s continued at a relatively slow pace and it was mainly limited to ethnic Turks, particularly those living in neighbouring areas, who were welcomed as part and parcel of the nation-building process. The immigration to Turkey enjoyed an unprecedented revival after the 1980s, due to the economic, social and political turmoil especially in its neighboring countries that triggered the migration pressures towards more developed west.

As a proxy indicator of the increasing mobility, and immigration and emigration flows over Turkey, it is useful to look at the arrival and departure statistics in the country (see Tables 1 and 2). Although these statistics cannot specifically pinpoint the migratory flows based on any definition of migration, they do illustrate the overall increase of mobility into and out of Turkey, as the data cover every entry and exit of Turkish and foreign traveler. According to these arrival and departure statistics, there has been an enormous increase in both the numbers of foreigners arriving and departing Turkey each year over the last decade. While in 2001 more than 12 million foreign citizens arrived in Turkey, in 2010 over 32.8 million entered the country. Exit figures indicated the similar trend: while 12.4 million foreigners departed from Turkey in 2001, more than 32.8 million left the country in 2010.

Overall, over the period 2001 - 2010, a remarkable rise can be observed in the proportion of arrivals from the neighbouring regions such as the Middle East and North Africa (MENA) and the Common wealth of Independent States (CIS). The increasing proportion of arrivals from the CIS countries is particularly striking: they were 11 percent of the total arrivals in Turkey in 2001, 15 percent in 2005, and 18 percent in 2010. Similar increasing trend was also visible for those who are arriving from the

MENA counties. While the Asian countries constituted about 17 percent of the total of arrivals in 2001, their ratio rose to 20 percent in 2005 and to 25.4 percent in 2010. As it will be elaborated in this report, these overall arrival figures are parallel to increasing migratory flows coming from these particular regions (Table 1).

Even though the nature of irregular migration makes it difficult to examine the exact figures on the number of people who pass across the borders through illegal means, the data provided by different official sources enable predicting estimations. Based on different official sources (presented in İçduygu, 2011b), the number of migrants annually arriving in Turkey during the first half of 2000s was estimated to be close to 226 000 of whom around two thirds (some 152 000) had entered legally, some 70 000 were irregular migrants, and asylum seekers accounted for only two percent of the total arrivals. In the second half of the 2000s, however, the number of total migrants annually coming to Turkey was around 235 000 of whom around three quarter (some 177 000) had arrived legally, some 50 000 were irregular migrants, and the proportion of asylum seekers were over three percent of the total (see Table 3). The estimations illustrate there are four main types of inflows of foreign nationals to Turkey: (1) irregular labour migrants; (2) transit migrants; (3) asylum seekers and refugees and (4) regular migrants (İçduygu and Kirişci, 2009). The first three often overlap and fluctuate, and will be classified under the heading of “irregular migrants” in this report, as migrants may drift from one status into the other, depending on circumstances and opportunities.

Table 1: Arrivals in Turkey by Nationality, 2001-2010

Nationality	Numbers										% Percentage									
	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Foreigner total	12 705 483	14 440 708	15 349 059	19 237 417	23 464 409	22 127 249	26 214 566	29 540 793	30 527 666	32 880 885										
Europe OECD Countries	6 854 504	7 947 397	7 986 524	10 012 187	11 519 879	10 163 292	11 411 620	12 703 142	13 304 316	13 423 954										
Other OECD Count.	646 143	44 3107	399 361	486 865	741 830	873 536	1 0712 53	1 124 673	1 123 610	1 147 049										
Other European Count.	1 373 124	1 761 677	1 875 215	2 311 364	2 769 927	2 362 971	2 752 617	3 110 342	3 185 059	3 276 293										
Com. of Ind. States	1 431 190	1 661 767	2 072 103	2 790 003	3 431 601	3 772 925	4 824 943	5 713 180	5 480 640	6 075 484										
Asian Count.	2 124 114	2 379 609	2 775 686	3 346 772	4 581 238	4 512 887	5 674 460	6 351 815	6 726 696	8 360 384										
African Count.	187 508	189 753	178 421	203 779	239 863	246 684	272 730	328 056	453 330	396 810										
South American Count.	77 053	46 302	47 342	66 807	157 160	175 460	186 407	186 204	2 275 72	174 833										
Ocean Count.	269	477	281	351	428	207	171	246	183	2870										
Unknown	11 578	10 619	14 126	19 289	22 483	19 287	20 365	23 135	26 260	23 208										
Nationality	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010										
Europe OECD Countries	53.95	55.03	52.03	52.05	49.10	45.93	43.53	43.00	43.58	40.83										
Other OECD Count.	5.09	3.07	2.60	2.53	3.16	3.95	4.09	3.81	3.68	3.49										
Other European Count.	10.81	12.20	12.22	12.01	11.80	10.68	10.50	10.53	10.43	9.96										
Com. of Ind. States	11.26	11.51	13.50	14.50	14.62	17.05	18.41	19.34	17.95	18.48										
Asian Count.	16.72	16.48	18.08	17.40	19.52	20.40	21.65	21.50	22.03	25.43										
African Count.	1.48	1.31	1.16	1.06	1.02	1.11	1.04	1.11	1.48	1.21										
South American Count.	0.61	0.32	0.31	0.35	0.67	0.79	0.71	0.63	0.75	0.53										
Ocean Count.	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.01										
Unknown	0.09	0.07	0.09	0.10	0.10	0.09	0.08	0.08	0.09	0.07										
% Total	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100										

Data obtained from Turkish Statistical Institute (TURKSTAT).

Table 2: Departures from Turkey by Nationality, 2001-2010

Nationality	Numbers									
	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Foreigner total	12351919	14130885	15010766	18752293	22622733	21383595	25716646	29609632	30896400	32833542
Europe OECD Count.	6694736	7846486	7886362	9960273	11284856	10030496	11439822	12675075	13335061	13412070
Other OECD Count.	635166	439813	401652	495592	748544	885505	1098933	1143066	1137964	1151200
Other European Count.	1313271	1645587	1825879	2240579	2715866	2329803	2832495	3370775	3421099	3286354
Com. of Ind. States	1370335	1586838	2084654	2737343	3411204	3660920	4639360	5702131	5511876	6014945
Asian Count.	2070611	2374140	2574480	3022910	4032931	4058248	5238302	6180455	6800176	8397279
African Count.	179761	182077	176471	207553	241173	238836	258049	305353	436668	372554
South American Count.	76227	45310	47319	68107	165933	161458	190027	208819	225798	172908
OCEAN Count.	355	387	309	920	395	212	144	318	205	2811
Unknown	11457	10247	13640	19016	21831	18117	19514	23640	27553	23421
% Percentage										
Nationality	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Europe OECD Count.	54.20	55.53	52.54	53.11	49.88	46.91	44.48	42.81	43.16	40.85
Other OECD Count.	5.14	3.11	2.68	2.64	3.31	4.14	4.27	3.86	3.68	3.51
Other European Count.	10.63	11.65	12.16	11.95	12.01	10.90	11.01	11.38	11.07	10.01
Com. of Ind. States	11.09	11.23	13.89	14.60	15.08	17.12	18.04	19.26	17.84	18.32
Asian Count.	16.76	16.80	17.15	16.12	17.83	18.98	20.37	20.87	22.01	25.58
African Count.	1.46	1.29	1.18	1.11	1.07	1.12	1.00	1.03	1.41	1.13
South American Count.	0.62	0.32	0.32	0.36	0.73	0.76	0.74	0.71	0.73	0.53
OCEAN Count.	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.01
Unknown	0.09	0.07	0.09	0.10	0.10	0.08	0.08	0.08	0.09	0.06
% Total	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00

Data obtained from Turkish Statistical Institute (TURKSTAT).

Table 3: Indicative Number of Migration to Turkey, 2001-2010

	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Undocumented Migration	92 400	82 800	56 200	61 200	57 428	51 983	64 290	65 737	34 345	32 667
of which: illegal entries	57 300	44 200	30 348	34 745	26 046	18 876	30 120	45 462	22 975	25 637
of which: overstays	35 100	38 600	25 852	26 455	31 382	33 107	34 170	20 275	11 370	7 030
Asylum application	5 200	3 794	3 966	3 908	3 914	4 548	7 640	12 981	7 834	9 226
of which: Afghan	400	47	77	341	365	339	427	1 571	1 009	1 248
of which: Iran	3 500	2 505	3 108	2 029	1 716	2 297	1 668	2 217	1 981	2 881
of which: Iraq	1 000	974	342	964	1 047	724	3 470	6 904	3 763	3 656
Residence Permit	161 254	157 670	152 203	155 500	131 594	186 586	183 757	174 926	163 326	176 944
of which: work	22 414	22 556	21 650	27 500	22 130	22 805	25 475	18 900	17 483	19 351
of which: study	23 946	21 548	21 810	15 000	25 240	24 258	22 197	28 597	27 063	29 266
of which: other	114 894	113 566	108 743	113 000	84 224	139 523	135 365	127 429	118 780	128 327

Compiled from data obtained from UNHCR Ankara Office (2001-2010), Bureau for Foreigners, Borders and Asylum at the Directorate of General Security of the Ministry of Interior (2001-2010)

When we examine specifically the history of irregular immigration in Turkey, it is possible to distinguish four periods which exhibit different characteristics related to migrants and the migratory flows, as well as to the management practices. One can call these periods the *fertilization period* during 1979-1987; the *maturation period* during 1988-1993; the *saturation period* during 1994-2000/2001, and the *period of degeneration* since 2001 onwards (İçduygu, 2005; İçduygu and Sert, 2012).

The first period that covers the end of 1970s and the first half of 1980s, was very much influenced by the influx of Iranians after the Iranian Revolution in 1979. The Iranian immigrants were mostly transit migrants, who fled their country essentially due to political reasons and stayed in Turkey until they migrated to a third country in Europe or in North America. It was in the second period, or the *maturation period*, that the Turkish state faced mass migration: more than half million people entered the country as a result of political and economic turmoil in the neighboring countries. The period was characterized by two entirely different migratory flows: first, the massive arrivals of asylum seekers from Iraq and Bulgaria, and second the movements of economically motivated migrants from the Soviet Republics. These flows further engendered different practices of migration during this period, including *asylum seeking*, *transit migration* and the most common practice of the period, *shuttle migration*.

While most of the Kurdish asylum seekers from Iraq returned to their country of origin, almost half of the Turkish Bulgarian asylum seekers settled in Turkey as a result of the citizenship laws that allow ethnic Turks to naturalize. The immigrants from former Soviet Republics were shuttle migrants who stay in Turkey only for few months and move between their home countries and Turkey for the purpose of trade and other economic activities. Finally, the Iranian and Iraqi migration to Turkey had basically the characteristics of transit migration and immigrants stayed for only short periods of time in the country.

The third period can be called as the *saturation period*, and it covers the years from 1994 until 2000/2001. The year 1994 was marked by the Regulation on Asylum that implemented new policy changes for the management of increasing migration flows to country. The number of transit migrants was significantly higher than the previous epochs and more importantly, many of the transit migrants drifted into irregularity as a result of overstaying or remaining in the country illegally. As Turkey increasingly turned into a transit country for thousands of irregular migrants and asylum seekers, the Turkish authorities began to pursue a more active and targeted policy to deal with such flows from 1994 to 2000/2001.

The final period that has started in 2001 indicates a *period of degeneration* for the irregular migration in Turkey. As Turkey's position on the migration systems became more crucial, the issues of irregular migration, trafficking and smuggling were positioned high on the agenda both in the domestic and the international arena. Since 2001, Turkey has actively engaged in transforming its migration and asylum system to the one harmonized with the EU *acquis*, by amending its legal and administrative structures,

as well as the technical infrastructures. The state collaborated in the recent years with the EU countries for implementing border management projects in order to reduce the number of immigrants who enter the country via irregular means. These initiatives have progressively paved the way for a stricter migration regime compared to the previous periods.

Along with the rising numbers of flows across Turkey's borders major measures developing the regulation of immigration to Turkey have been taken since the early 2000s (TMI and UNHCR, 2005), including new legislation and capacity building projects that complemented the administrative structure and the institutional infrastructure. Besides Turkey's growing role as a hub between immigrant sending and receiving countries during the last decade, the shift of migration to the forefront of official concerns was also the result of the global dynamics and Turkey's candidacy to the European Union. As it will be elaborated in this report, the harmonization process to the EU in the field of immigration focused on four main objectives, namely, the conclusion of community readmission agreement, the compliance to visa/Schengen procedures, the transformation in the border management and the lifting up of the geographical limitation in applying the 1951 UN Convention on Refugees.

Despite the recent ongoing attention given to irregular migration in Turkey, there is a gap in the literature about changes that have occurred over the last ten years, which represent a very crucial period of transformation of both migratory flows and the management of migration in Turkey. In order to fill the gap about the most recent migratory trends, this report focuses on two main objectives. First, it demonstrates the changes that have emerged in the patterns and scope of irregular migration in the country during the last ten years. By providing the statistical overview of irregular migration flows as well as the different characteristics, patterns and practices of four types of migration and migrant groups (irregular labor migration, transit migration, migration of asylum seekers and refugees, and regular migration), this report investigates the patterns and scope of irregular migration in Turkey. Second, the report explores the legal and institutional framework in Turkey that has undergone through crucial transformation over the last decade. It examines the processes and institutions that are involved in the regulation and management of the migration system in Turkey, by putting special emphasis on the impacts of the harmonization to the European Union.

**STATISTICAL OVERVIEW
OF IRREGULAR MIGRATION
FLOWS OBSERVED
IN TURKEY**

2. STATISTICAL OVERVIEW OF IRREGULAR MIGRATION FLOWS OBSERVED IN TURKEY

2.1. Irregular migration in Turkey in the 1990s: Evidence from the 1995 and 2003 IOM Studies

Turkey is positioned on a crucial location right on the international migration routes; or “on the crossroads” between Asia, Africa and Europe. This connectivity to numerous emigration and immigration countries makes the country highly susceptible to changing migration trends. Previous studies by IOM provide insights about transit and irregular migration experiences in Turkey. In 1995, 159 interviews were conducted with individual transit migrants in Istanbul and Ankara and in 2003, 53 interviews were conducted in Istanbul and Van (IOM, 1995 and İçduygu, 2003). Although the samples were limited, the evidence from these studies illustrates some possible trends regarding the personal characteristics, migration motives, conditions, migration and legal status and future migration plans of immigrants.

Both samples from 1995 and 2003 transit migrants were the largest group, suggesting that transit migration would have then been the most common migration type in Turkey. Among 159 people interviewed in 1995, 135 originated from Iran, Iraq, Afghanistan and several African states, and considered Turkey as a transit on their way to other countries. Only some of the interviewed Bosnian immigrants considered staying or going back home. The sample of the survey conducted in 2003 had similar composition: about two thirds of the immigrants came from Iran, Iraq and Afghanistan and the remaining one third came from Eastern European, CIS countries and Africa. And only those who were coming from Eastern European and CIS countries were not transit migrants, and most of them had entered the country legally but drifted into illegality by overstaying their visas.

The findings of the surveys did not fit with the standard image of transit migrants, designated as young, unmarried, poor, unskilled males from a rural background, with little formal education. The majority of immigrants who had migrated to Turkey were males, with almost three quarters in 1995 and more than half in 2003. In 1995, the immigrants were well under 30, more than fifth either single or divorced, and most of them being born in cities. In 2003, the majority of immigrants were still under 30, there were slightly more married people, and most had experience of living in urban areas. In both samples, more than half of immigrants had secondary school and tertiary education.

In 1995 and 2003 most immigrants’ motives for migration were associated with political reasons, social, cultural and religious difficulties faced in the country of origin, as well as immigrants’ concerns over the possibility of war or conflict in the future. About 74 percent of immigrants stated political reasons to be among the motives for migration and another 48 percent referred to social, cultural and religious difficulties in 2003. In

1995, 56 percent of immigrants had referred to political reasons and a larger share than in 2003 had cited problems with education or military service as reasons for migrating.

Immigrants' prior knowledge about the country of destination affects the motives and expectations for migration. In 2003 study, for those who had migrated from neighbouring countries, such as Iran and Iraq, the proximity was a decisive element that also allowed gathering additional information more easily about the migration process. Such immigrants comprised of about a half of the sample in 2003. The other half cited a number of expectations: finding work in Turkey, or applying to UN agency. 10 percent of the immigrants came to Turkey by mistake, usually because of the human smugglers who had promised for other destinations but left them in Turkish territories.

After political motivations to migrate, economic reasons were the second most cited reasons, with 40 percent in 2003, slightly more than 36 percent in 1995. Lack of employment opportunities and/or relative poverty was the crucial motives for migration. Almost two thirds of immigrants interviewed in 2003 had already worked in their countries of origin before migrating but some 55 percent reported to have a low or below average income and four percent reported to have had no income at all. These figures are lower compared to the results of 1995 (whereas two thirds of respondents had at least average income) and suggested, with the reserve following the small and heterogeneous samples, a decreasing trend of immigrants' economic status.

Immigrants' economic status has a determining role in their decision to migrate as well as their migration processes, because those who are willing to migrate should make substantial financial sacrifices. Especially whilst planning for transit migration, individuals and/or their families appropriate for expenses that would arise during the perilous journey to more developed countries. In particular, the need to bribe and pay smugglers makes the whole process of transit migration extremely expensive. The surveys have shown that 45 percent of the immigrants had to make some kind of payment either as bribe or cash down payment to the smugglers. In addition to the payments to smugglers, the immigrants also have to appropriate for travel costs. According to the surveys, immigrants paid less for the average costs in 2003, when compared to the costs of 1995.

Regarding the entry status of immigrants, the statistics show that there were more illegal entries in 2003 when compared to 1995. The survey in 1995 showed that two out of five respondents had entered the country without a valid document. These figures have arisen to three fifths by 2003, suggesting a trend of increasing illegal entries during the 2000s. As a result of this trend, the Turkish authorities engaged in counter-trafficking activities which initiated considerable decrease in the illegal entries and departures to and from Turkey.

Both surveys have shown that many immigrants took their decisions about migrating to Turkey individually and most usually without the support of social networks in Turkey. This contradicts with the general perception that migration flows are fuelled

by an extensive social network among migrant families in the countries of origin and of destination. In 2003 only 18 percent of the migrants announced that their family members could join them in Turkey. Nevertheless, a significant number of immigrants, almost 60 percent were living in Turkey with their partners and a little less than half of these couples had their children with them. These results illustrate that despite the lack of strong extensive networks, the nuclear family remained as a strong base of attachment.

The two samples suggested diverging trends of irregular migrants' legal status in Turkey. Most of them did not have any residence nor working permits. In 1995, a quarter of immigrants had residence permits and only nine percent had working permits; in 2003 the number of residence permit holders decreased to 16 percent and among the interviewees none had working permits. Asylum seekers and refugees are most often classified among the irregular migrants because of their precarious situation in Turkey. Since irregular migrants cannot be hired legally, the only jobs they can find are low-paid and precarious jobs, which are called as 3D jobs (dirty, difficult and dangerous). Almost 70 percent of interviewees reported their income to be low or below average and five percent stated to have no income at all in 2003. Housing is a very crucial and problematic issue for irregular migrants, due to their low incomes and lack of residence permits. In the small sample of the 2003 study, most of the respondents reported to be living with other people: 50 percent living in shared rented accommodation, eight percent with their friends, and four percent with their relatives. 10 percent stated that they were living alone and 20 percent responded as living in more precarious conditions (four percent at their workplace, six percent in hotels and 10 percent in shelters).

The irregular migrants interviewed in the two studies were mostly in transiting through Turkey, usually with the intention to go to other Western countries when they can find the opportunity to do so. In 1995, nearly 71 percent of the immigrants had attempted to leave Turkey previously; this number appeared to be 59 percent in 2003. The primary attempt of the immigrants in 2003 was reaching Italy (about 50 percent), and Germany (12 percent). Aside from these countries, main countries expected to be the final destinations were USA, France, Canada, United Kingdom, Russian Federation and Czech Republic. While planning for their departure, migrants regarded a number of factors which affected their preferred destinations. For many, the presence of family members and of friends in the country of destination was a decisive element in their selection of destination countries. More than half of the immigrants stated their prior knowledge about the living and job opportunities in the western countries were decisive of their choices of destination. Most of the respondents were familiar with the strict admission requirements, tightening of the immigrant policies as well as border controls. Hence, they acknowledged the need for entering at least the European Union borders through illegal means and eventually seeking for ways to naturalizing their status.

2.2. Migration to Turkey in the early 21st century

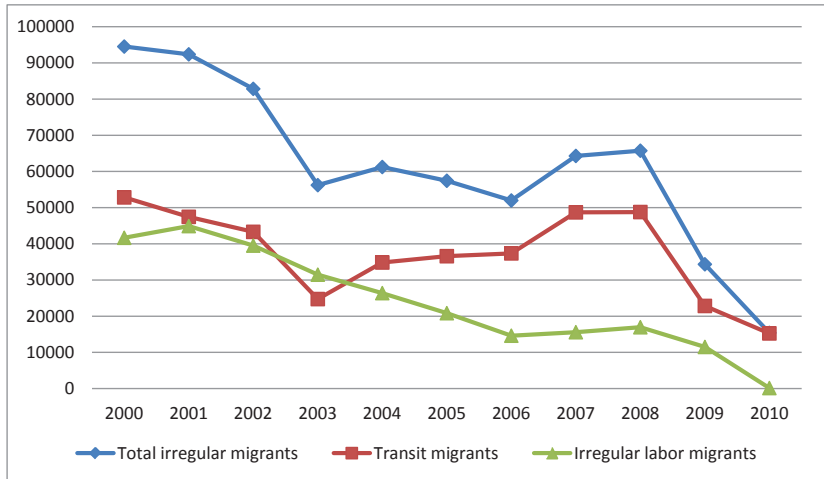
For a country that was well known for sending large numbers of guest workers to

European countries, it seemed out of the ordinary for Turkey to become a “migrant receiving country” within a few decades. A number of reasons have triggered this change. One of them was the series of events in Turkey’s neighboring countries that led to large-scale migration to more stable countries: the Soviet invasion in Afghanistan, the regime change in Iran (1970s), the legal turmoil and wars in the Middle East caused by Saddam Hussein’s regime in Iraq (late 1980s and early 1990s), and finally the fall of communist regimes in Eastern Europe and the Soviet Union (late 1980s and early 1990s). The other reason for the growing of the immigrant population in Turkey was the increasing intensity of the globalization process that changed Turkey’s position within the international migration systems, including the nature of its connection to the European migration regime. This intensity of globalization, created a complex migration system, involving different migrant categories in Turkey.

The concept of irregular migration is concerned with immigrants who are legally not permitted to stay in the country, it refers either to those who use Turkey when crossing to a third country, or those who stay or work in the country without necessary documents. Thus two patterns coexist in the irregular migration in Turkey: a) transit migration and, b) shuttle (or circular) and labour migration. Furthermore, movement of asylum seekers and refugees often involve irregular border crossings. These three patterns (transit migration, shuttle migration and the movement of asylum seekers and refugees) will be elaborated in this chapter in greater detail.

Regular migration, on the other hand, comprises of immigrants and their family members who arrive to Turkey for employment, educational or other purposes, and possess the necessary residence and work permits. Although the discussion in this chapter is not directly on regular migration, the status of the migrants of this group will also be evaluated briefly.

Figure 1: Irregular Migrants, Transit Migrants and Irregular Labor Migrants in Turkey, 2000-2010



Compiled from data obtained from the Bureau for Foreigners, Borders and Asylum at the Directorate of General Security of the Ministry of Interior

One great challenge in examining migration flows is how to obtain reliable data. The process gets even more challenging when the focus is on the irregular or “undocumented” migration, on which the figures can only represent fragments of the overall flow.

Several studies in the past, such as those published by Turkish Academy of Science (İçduygu and Toktaş, 2005) and the Turkish Statistical Institute (Sirkeci, 2009) have discussed the unavailability of data on migration in Turkey. Nonetheless, there are some indicative estimates available. A number of domestic sources, such as the statistics by Ministry of Interior or Turkish General Staff provide information on mobility in Turkey. The data on the persons apprehended by security authorities on charges of irregular migration – in Turkey or across Turkey’s borders with other countries - is particularly valuable. The data are not representative of the actual migration flows; yet they can be used to evaluate the actual or potential irregular flows. Another source for assessing the volume and patterns of irregular migration in Turkey is data provided in the context of Readmission Protocol between Greece and Turkey, as well as reports of Frontex that also address the statistics on apprehended cases across Turkey’s western borders. In the following sections, data by these different sources will be used to analyze recent trends.

2.2.1. Three patterns of irregular migration

There are three main groups of people among the migrants apprehended by Turkish authorities: the irregular migrants who have an intention of using Turkey as a transit country to migrate to a country in the Western world, mostly in Europe; the irregular migrants who come to Turkey for living and working without valid documents; and the rejected asylum seekers who are expected to leave the country, but do not. Unfortunately, the available apprehension statistics do not allow us to make clear distinctions between these three groups.

From the apprehension figures of irregular migrants in Turkey, it is possible to argue that the mentioned forms of migration have significantly accelerated from the mid-1990s to the early 2000s¹. When the numbers of apprehension are compared, it is seen that while there were only about 11 000 apprehended irregular migrants in 1995, and 19 000 in 1996, this figure reached 47 000 in 1999, and by 2000 it was over 94 000. Starting from 2001, a declining trend is observed in the number of apprehensions: this figure, which was nearly 83 000 in 2002, dropped below 50 000 in the year 2005, but again rose to nearly 52 000 in 2006, and to almost 66 000 in 2008 (Figure 1). The figure, again, demonstrated a significant decline between 2009 and 2010.

On average, over 55 000 irregular migrants were apprehended annually in the period of 1995-2009, when the total number of apprehended migrants was around 797 000.

¹ Data on the apprehended cases of irregular migrants in Turkey since the mid 1990s are compiled by the Bureau for Foreigners, Borders, and Asylum at the Directorate of General Security of the Ministry of Interior.

In addition to these apprehended migrants, from 1999 to 2010, there were 145 578 foreigners who were not admitted to Turkey at borders, mostly because they did not meet the necessary conditions to enter the country, such as not having valid visa or passport or other documents or resources, or had forged documents.

Those apprehended when trying to enter Turkey can be considered as potential irregular migrants to Turkey. The number of these cases fluctuated in the last ten years: they were 24 524 in 2000, 9 362 in 2003, 14 265 in 2007, and 15 227 in 2010. According to the data provided by the Turkish General Staff, about 21 500 people were apprehended by the gendarmerie forces in 2011.

Transit migrants

Transit migrants are those who use the Turkish territory on their way to another, usually more developed country, very often in Europe. The available statistics on apprehended people does not provide information on the migration routes, but we can estimate the volume of transit migration on the basis of the origin countries of the apprehended persons.

When we consider the countries from which irregular migrants originate, it can be argued that some of the apprehended migrants, mostly trying to enter through the Eastern and Southern borders of Turkey², perceive Turkey as a bridge to reach their destination countries in the West and North; therefore, they can most likely be characterized as transit migrants³. Of course, not all the migrants who originate from these countries can be considered as transit migrants; however, it should not be too misleading if they are seen as *potential transit migrants*⁴. It is well documented that most of these potential transit migrants enter Turkey illegally with the help of human smugglers and attempt to leave Turkey using similar assistance (IOM, 1995; Icduygu, 2003).

According to the figures by the Bureau for Foreigners, Borders and Asylum at the Directorate of General Security of the Ministry of Interior, the number of potential

2 Afghanistan, Angola, Bahrain, Bangladesh, West Sahara, Belize, Bengali, Benin, Bhutan, Biafra, United Arabian Emirates, Bissau Gina, Burma (Myanmar), Burkina Faso, Botswana, Burundi, Cape Verde, Algeria, Djibouti, Chad, China, Indonesia, Eritrea, Ethiopia, Morocco, Ivory Coast, Palestine, South Africa, Gambia, Ghana, Gina, India, Hong-Kong, Iraq, Iran, Cambodia, Cameroun, Qatar, Kenya, Kashmir, Comoren, Republic of Congo, Kuwait, Laos, Lesotho, Liberia, Libya, Lebanon, Madagascar, Malawi, Maldives, Malaysia, Mali, Mauritius, Egypt, Mauritania, Mozambique, Nepal, Niger, Nigeria, Oman, Central African Republic, Pakistan, Papua New Guinea, Rwanda, Senegal, Seychelles Islands, Sierra Leone, Somalia, Sri Lanka, Sudan, Suriname, Syria, Saudi Arabia, Swaziland, Tanzania, Thailand, Togo, Tongo, Tunisia, Uganda, Nationality unknown, Jordan, Stateless, Vietnam, Yemen, Zaire, Zambia, Zimbabwe.

3 There is much evidence that many irregular migrants are transit migrants who come to Turkey with the intention of going to a third country but who remain here and continue to maintain the idea of being in transit.

4 Indeed, several scholarly studies have used this proxy measure to roughly define the transit migrants. See the studies conducted and published on transit migration in Turkey by Kemal Kirişci and Ahmet Icduygu.

transit migrants in Turkey, calculated as above, has boosted significantly from mid 1990s till today. In the mid 1990s, the annual volume of potential transit migrants in Turkey was less than 5 000, but recent statistics of 2009-2010 show around 20 000 apprehended people. Yet, the greatest flows were seen during the 2000s, with over 52 000 assumed transit migrants apprehended by the Turkish security forces in the year 2000. In 2001-2003, the apprehensions fell sharply: nearly 25 000 people were apprehended in the year 2003, compared to almost 47 000 people in 2001. But, the figures increased again to around 37 000 in 2005, and to almost 49 000 in 2008. And lately there has been significant decline in 2009 and 2010 when around 23 000 and 15 300 people were apprehended in the country (Figure 1).

According to our rough estimation method, it can thus be observed that, from 2000 to 2010, among the total number of 700 000 irregular migrants apprehended in Turkey, 473 000, nearly 68 percent, were considered as potential transit migrants. This would imply that, there were around 43 000 transit migrants apprehended annually in Turkey from 2000 to 2010. Over this period, the top five migrant sending countries (mostly the potential transit migrants) were: Iraq (94 000), Pakistan (66 000), Afghanistan (59 000), Iran (22 000), and Bangladesh (17 000) (see Table 4).

Table 4: Top 5 Countries of Origin for Irregular Migrants, Transit Migrants and Irregular Labor Migrants in Turkey, 2000-2010

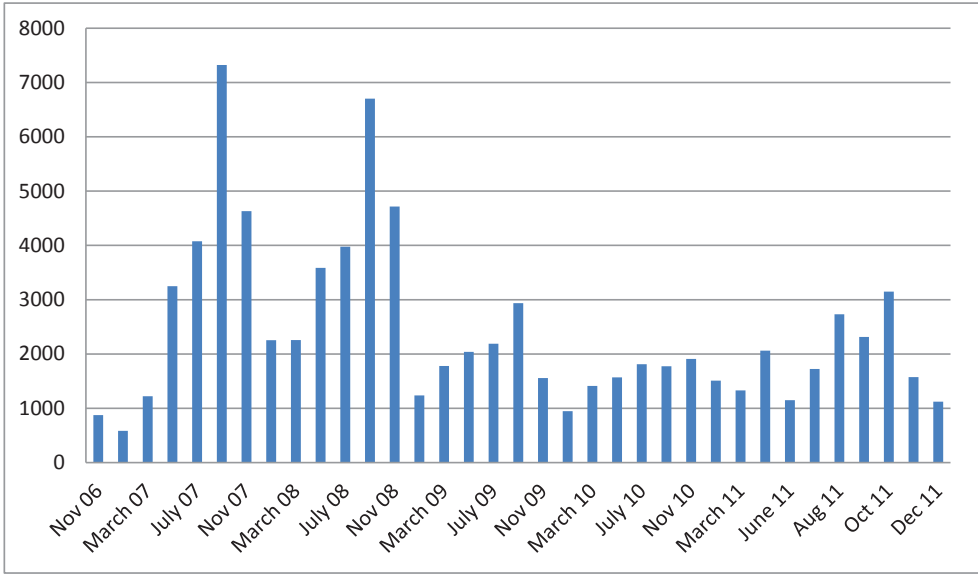
Irregular Migrants		Transit Migrants		Irregular Labor Migrants	
Country	Total	Country	Total	Country	Total
Iraq	93 862	Iraq	93 862	Moldova	50 288
Pakistan	65 604	Pakistan	65 604	Georgia	25 310
Afghanistan	58 436	Afghanistan	58 436	Romania	20 814
Moldova	50 288	Iran	22 132	Russian Fed.	19 943
Georgia	25 310	Bangladesh	17 409	Ukraine	19 487
% total*	42 %	% total	54%	% total	60 %
Others	404 868	Others	215 393	Others	87 953
Total	698 368	Total	472 836	Total	225 802

Compiled from data obtained from Bureau for Foreigners, Borders, and Asylum at the Directorate of General Security of the Ministry of Interior, (2000-2010); * represents the percentage of the total of five countries to the total of all countries

Another source for determining the volume and patterns of transit migration in Turkey is Turkish General Staff's (TGS) recent data on the irregular border-crossings

from Turkey to other countries⁵. TGS has been providing the data since 2006, and in this report that data is mainly used to cross-check the MoI data provided on the apprehended irregular migrants. Add up the figures reported by the GTS, nearly 143 000 foreign citizens were apprehended while trying to cross Turkish borders in the period of September 2006-June 2011. For the GTS apprehensions, at the borders the annual average was 32 000, with a significant majority of individuals with nationalities assumed to be inclined to transit migration (Figure 2).

Figure 2: Irregular Border Crossings, September 2006-December 2011

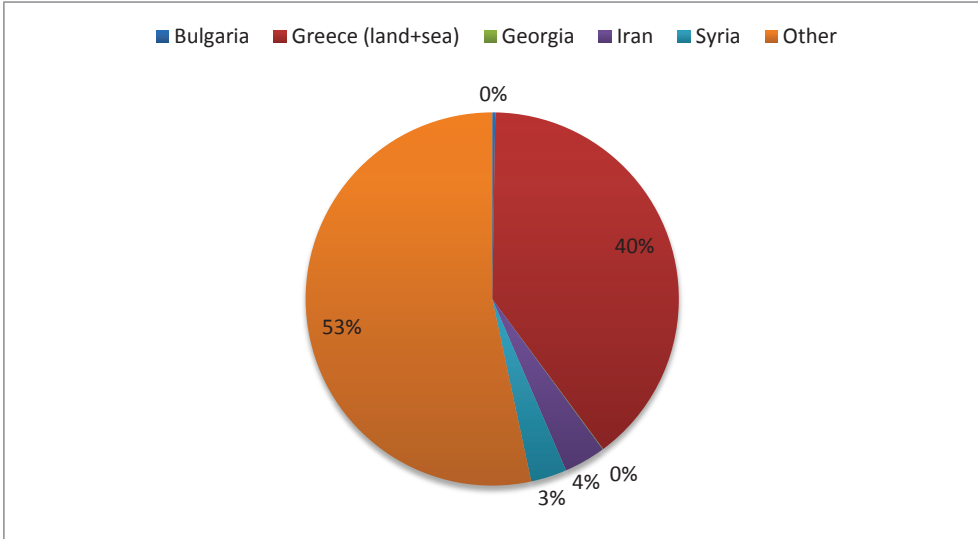


Compiled from the data on irregular border crossings on Turkish General Staff website

Over the last decade, the land and sea borders between Greece and Turkey gradually transformed to one of the most active migration corridors in Europe. Data by Turkish General Staff for the period from September 2006 to December 2011 indicates that more than one-third of the irregular border-crossings (about 40 percent) were caught near the land and sea borders between Greece and Turkey, while migrants were leaving for Greece. Within a period of five years there were nearly 60 thousands of apprehensions of irregular migrants near the land and sea borders between Greece and Turkey. Consequently, an average of about 12 000 transit migrants is predicted to have crossed each year illegally to the EU area using the Turkish-Greek borders during this period.

5 Information on these irregular border-crossings was compiled by the General Command of Gendarmerie and the Coast Guard Command. See the webpage of Turkish General Staff, www.tsk.tr.

Figure 3: Irregular Border Crossings by Border Sections, September 2006-December 2011



Compiled from the data on irregular border crossings on Turkish General Staff website

In comparison to the mobility on Turkish-Greek borders, nearly one-fifth of the total of immigrants were apprehended on the eastern borders of Turkey (mostly on Iraqi, Iranian and Syrian borders) while these migrants were entering Turkey. According to the same data source, for the period of September 2006-December 2011 the largest number of people apprehended at the borders was from Pakistan. Pakistanis made around 17 percent of these potential transit migrants, compared to 13 percent from Afghanistan, 8 percent from Syria and 6 percent from Iran.

Shuttle (or circular) and labour migration

By shuttle (or circular) and labour migration we mean the mobility of persons making multiple trips to Turkey in search of economic opportunities. It can be considered as a type of irregular migration because even though most of the immigrants enter Turkey by legal means, they either violate the terms of stay or overstay their visa. Two groups can be classified under this pattern: a) shuttle migration, including shuttle trade, suitcase trade, trader tourism or shopping tourism, and b) migration for informal jobs market, whereas immigrants are employed informally as domestic laborers, sex workers, construction workers, agricultural workers or sweatshop workers.

Movements of circular irregular migrants are mostly originated from the former Soviet Union (FSU) as well as from Bulgaria and Romania. According to the data obtained from the Bureau for Foreigners, Borders and Asylum at the Directorate of General Security of the Ministry of Interior, in the period of 2000-2010, the top five source countries of shuttle or circular irregular migrants were Moldova (50 000), Georgia (25

000), Romania (21 000), Ukraine (20 000), and Russian Federation (20 000) (see Table 4). Migrants to the informal jobs market usually come from the poorer republics of the former Soviet Union (FSU) as well as from Bulgaria and Romania. They arrive in Turkey with tourist visas to work informally as domestic labourers, sex workers, construction workers, agricultural workers or sweatshop workers (Erder and Kaşka, 2003).

Apparently, there seems to be a considerable decline both in the proportion and absolute numbers of irregular migrant workers within the total number of apprehended irregular migrants. In early 2000s, the annual number of such immigrants were seen around 30 000, yet the figures have declined to less than 10 000 in 2010. Several factors could explain this decline.

The first factor is the harmonization with EU rules and migration management practices: more solid measures are implemented for regulating irregular migration by the related authorities in Turkey, including tougher penalties for human trafficking and smuggling more effective border controls. The second factor is that Eastern European migrants, who preferred Turkey as a destination country in the past, have now become entitled to travel freely within the EU and therefore they tend to migrate directly to West European countries. And the third factor is that Turkish security forces have been more eager to combat against the illegal employment of foreigners in the recent years.

It is very hard to determine the magnitude of these two types of irregular migration, both transit and labour flows, leading the undocumented immigrants in practice to a relatively permanent stay in Turkey. However, there is no observable evidence that this proportion is considerably high: any type of immigrant population residing in the country as a result of these two migratory flows seemed to be quite small, accounting perhaps for only five to ten percent of the total irregular flows.

Movement of asylum seekers and refugees

Next to transit migration and shuttle or labour migration, the movement by asylum seekers and refugees in Turkey also represents traits of irregular migration. The country has signed the UN Geneva Convention of 1951 and its Additional Protocol of 1967, but maintains still the geographical clause limiting the application of the mentioned instruments. As a result, Turkey's protection commitment is limited only to European citizens who seek asylum in Turkey. Considering its geographical location as a neighbor to countries that have suffered long periods of political instabilities and other insecurity, Turkey's geographical limitation disqualifies a vast number of people who would be willing to seek protection in the country⁶. Despite these conditions, the citizens of Iran

and Iraq constitute a great majority among asylum seekers in Turkey. This is because with the geographical limitation in place, it is the UNHCR that is processing much of the non-Europeans' asylum applications in Turkey.

Thus, most asylum seekers and refugees can only stay in Turkey temporarily –under the temporary protection by the state- until they may be granted with refugee status and resettled to a third country. Although the position of asylum seekers is very different than that of irregular migrants, the nature and patterns of asylum seeking are often interlinked with irregular migration. For instance, both groups are often involved in irregular border-crossings in the hands of smugglers or traffickers and the status of the various migrant groups cannot be determined at that stage yet.

In fact, the asylum seekers and refugees in Turkey represent a significant share among the total number of immigrants. Between 1995 and 2009 nearly 70 000 asylum application were received, with the majority of applicants originated in Iran (47 percent) and Iraq (40 percent). Recently, there has been fluctuation in the numbers of asylum seekers coming to Turkey. While in 2000, there were over 3 500 Iranians and over 1 200 Iraqis, who sought asylum in Turkey, in the first half of 2000s, these figures declined. In 2006, less than 2 200 Iranians, and over 500 Iraqis sought asylum in the country. Afterwards, in 2007, a notable increase took place, in particular with the arrivals of people from Iraq and some African countries, with altogether nearly 12 000 applicants, including 7 500 Iraqis, around 2 000 Iranians, and 1 600 Afghanis. In 2008, the number of asylum seekers increased further to almost 13 000, with more than half of them Iraqi asylum seekers. Even though the total number of asylum seekers declined again (in 2009, about 7 900 people and in 2010 about 9 200 people), they have remained higher than the pre-2007 era. The average number of asylum seekers for the ten year period of 1997-2008 was about 4 900 (see Table 5).

The numbers on asylum applications in Turkey also illustrate an ongoing increase in the number of people coming from other countries of origin than Iran and Iraq. This increase in the last years is related to the increase in the asylum demands of Afghani, Palestinian, Uzbek, Somali and Sudanese people who have fled as a result of the political and economic turmoil in their countries.

⁶ There is serious criticism from the international community and various international agencies to the geographical limitation clause that Turkey applies in its asylum regime. In turn, with concerns of becoming a real "buffer zone" between the Europe and the countries of the east that are facing political turmoil, Turkish authorities tend to oppose lifting of this limitation clause. It has been stated that such a change would only be thinkable together with some concrete developments towards full membership to the EU.

Table 5: Asylum applications in Turkey, 1997-2010

Year/Country	Iranians	Iraqis	Other	Total
1997	1 392	2 939	117	4 448
1998	1 979	4 672	187	6 838
1999	3 843	2 472	290	6 605
2000	3 926	1 671	180	5 777
2001	3 485	998	709	5 177
2002	2 505	974	315	3 794
2003	3 092	342	514	3 948
2004	2 030	956	922	3 908
2005	1 716	1 047	1 151	3 914
2006	2 297	724	1 527	4 548
2007	1 668	3 470	2 502	7 604
2008	2 217	6 904	3 270	12 981
2009	1 981	3 763	1 140	7 834
2010	2 881	3 656	2 689	9 226
Total	35 013	34 588	15 513	86 602

Compiled from data obtained from the UNHCR Ankara Office and Bureau for Foreigners, Borders, and Asylum at the Directorate of General Security of the Ministry of Interior

Turkey's reluctance towards non-European asylum seekers may paradoxically engender relatively higher percentages of asylum seekers who are granted refugee status. The refugee status is provided by UNHCR and its acceptance rates are higher compared to most of the European countries. In the period between 1995 and 2009, among the total number of 72 000 asylum seekers, more than 37 000 – 51 percent of the applications-were granted refugee status and re-settled in other countries (see Table 6). Over the last ten years, asylum seekers and refugees were granted the status of transit migrants in the interval of their application and re-settlement⁷. Therefore the asylum procedure itself makes Turkey a transit country for the asylum seekers who have been granted the refugee status and are waiting for resettlement.

⁷ For a detailed elaboration of these figures, see the UNHCR Ankara Office webpage: <http://www.unhcr.org.tr>.

Table 6: Status of Asylum Seekers in Turkey, 1995-2009

Nationalities	Decision Pending	Decisions Regarding Acceptance	Decisions on Refusal	Others	Number of Applications
	Under Review	Refugee (Permanent Resident)	File Closed (Escape)	Abdicated the Demand	
Afghanistan	3 957		File Closed	Death	4 901
Palestine	167	12	Rejection of Demand	Exit (provided visa)	244
Iraq	6 303	482	Rejection from the Safe Country	Exit (migrant)	28 241
Iran	6 648	24		Eit (Family reunification)	33 906
Uzbekistan	138	13 988		Exit (Humanitarian)	335
Somalia	1 633	21 056			2 385
Sudan	263	84			334
Other	788	601			1 675
Total	19 897	41			72 021
Total Sum	19 897	222			72 021
		36 498			
		30			
		201			
		6 929			
		2 067			
		377			
		10 169			
		5 226			

Data obtained from UNHCR Ankara Office

2.2.2. Reflections of the transit migration in the EU

Previous discussions focused on three patterns of actual or potential irregular migration in Turkey – that of transit migration, shuttle migration and the movement of asylum seekers and refugees. Despite the difficulties in determining the exact figures for these different groups, our estimations suggest that potential transit migrants seem to cover the biggest share of the total number of irregular migrants in the country. This trend is gathered through the analysis of the number of apprehensions within and across the borders of Turkey, compiled with the help of data obtained from Turkish Security Forces.

Turkey has undergone major reform in the management of migration and asylum issues during the last decade, and the process of accession to the European Union has certainly had a very significant impact on that reform. Even though the relations between the two parties were not always stable during this period, the increasing flow of immigrants on Turkish borders and the demands from the European countries pushed the Turkish government to take stricter measures. With the reacceleration of the negotiation talks for a Readmission Agreement between Turkey and the EU in 2009, the prevention of especially transit migration at the country’s borders became a high priority. Turkey started collaborating in border management projects with the EU’s bodies and mechanisms such as Frontex, which started working on Turkish-Greek borders in 2010. Since the Turkish-Greek borders occupy an essential position in the relations between Turkey and the EU, this section will study and discuss the transit migration flows on this border in more detail⁸.

In this section, two different data sets from international sources will be compared. These data sets are: a) the figures of irregular migrant cases in the context of the Readmission Protocol between Greece and Turkey, provided by the Department of Aliens, Borders and Asylum of the General Directorate of Security within the Ministry of Interior; and b) the figures on persons apprehended at Turkey’s western borders, as provided in various reports by Frontex. Although the datasets at hand provide very limited information, they seem plausible for reflecting the EU’s perceptions on the Turkey-related irregular migration.

Turkey signed the Readmission Protocol with Greece in 2001, and with this protocol both countries accepted the readmission of citizens – from either country and from third countries- who entered their soils from the other’s territory by illegal means. Despite great expectations, the results were not satisfying. As a result of the hindrances faced during the period of 2002-2010, both parties signed a new agreement in May 2010 for improving the implementation of the Protocol.

8 The relations between Turkey and the European Union are taken into account in Chapter 6.

Table 7: Statistics from the Greece-Turkey Readmission Protocol, 2002-2010

Year	Claimed by Greece to be Readmitted	Accepted by Turkey to be Readmitted	Sent by Greece and Readmitted by Turkey
2002	8 045	1 302	645
2003	5 190	978	333
2004	4 015	206	45
2005	2 002	706	135
2006	2 023	521	125
2007	9 439	1 414	390
2008	16 386	3 168	398
2009	14 328	1 189	276
2010	3 872	525	78
Total	65 300	10 124	2 425

Data obtained from the Department of Aliens, Borders and Asylum of the General Directorate of Security within the Ministry of Interior

The figures provided in the context of the Readmission Protocol for 2002-2010 illustrate incompatibilities between two countries during the operations and the indeterminable character of the potential transit migration in Turkey. During the period of 2002-2010, Greek authorities requested that 65 300 migrants – claimed to have entered Greece from Turkey - to be sent back to Turkey. Of this group, the Turkish authorities accepted the readmission of 10 124 persons, but only 2 425 were actually sent back by Greece (see Table 7).

These statistics provide information of three totally different magnitudes, and thus reflect grey areas of irregular migration data. Looking at the same figures in terms of annual averages, the Greek authorities claimed that every year an average of 7 256 people crossed from Turkey to Greece. However, only a yearly average of 1 125 people was recognized and accepted by the Turkish state to be readmitted. And finally, the actual average on annual readmissions is only 269, differing drastically from Greek authorities’ first claims about the irregular migration figures. With such large variety, it is then impossible to say if the annual number of irregular migrants entering from Turkey to Greece was 7 256, or maybe 1 125, or only 269 in the period of 2002-2010.

The second dataset is provided by the Frontex reports concerning Turkey and the neighbouring EU countries. Established in 2004, Frontex is the European Union agency for external border security. It co-ordinates the activities of the national border guards for ensuring the security of the EU’s borders with non-member states. Frontex’s operation for controlling the border area between Turkey and Greece (both land and

sea borders) is very crucial for the management of irregular migration in the EU; that area is often cited as one of the most intensive border crossing cases (Frontex, 2006, 2007, 2008, 2009, 2010). As a result, a joint operation between the two countries was deployed by Frontex in 2010 and it continues up to this date.

The Frontex figures reflect a sharp increase in the percentage of irregular migrants detected on the Greek borders, in comparison to the total number of apprehended people on the EU's external borders. For instance, 45 percent of nearly 164 000 apprehensions in the EU's borders in 2007 were from Greece (implying some 74 000 people entering from both Turkey and Albania). This share rose to 50 percent (of a total of 159 000 apprehensions in the EU) in 2008 and to 75 percent (of a total of 106 000 apprehensions) in 2009. Frontex figures indicate that during the first nine months of 2010, nearly 80 percent of the total EU border apprehensions (74 900 people) were at Greek borders.

Nevertheless, Frontex's reports are only indicative of the irregular migration on the Turkish-Greek borders. For the years 2007, 2008, and 2009, these reports indicate that some 35 or 40 percent of total border apprehensions of Greece have been at the Turkish border, which would refer to an annual figure of 25 000 to 32 000 apprehensions at that border section. Furthermore, the Frontex figures show that, for the first nine months of 2010, just about 50 percent of the nearly 60 000 border apprehensions of Greece have been at the Turkish border.

The figures that are obtained from the Frontex data imply that, although there seems to be an increasing trend in these numbers until 2010, in the recent years, there has been a steady level of irregular migration flows of transit migration from Turkey to Greece both in absolute and proportional terms (see Table 7). According to a Frontex report in 2011⁹, more than 38 000 irregular migrants with a monthly average of over 5 400 people were detected on Turkish-Greek borders for the period of June-December 2010.

Aside from the Frontex data, the irregular migration reports prepared by the ICMPD, a Vienna-based international research centre, concerning 2006, 2007, and 2008, indicate that; whereas nearly 350 000 irregular migrants were apprehended in the 16 Central and Eastern European countries --- in a geography that in these reports includes Turkey --- within these three years, nearly 45 percent of these were indeed caught in Turkey (Futo and Jandl, 2006, 2007, 2008). As a result, these sources show that there are migratory flows over Turkey in the context of south-north and east-west directions, and a large portion of these flows have been ceased in Turkey, while some portion have been able to reach Europe (Triandafyllidou, 2010).

The figures above indicate that only rough estimates of the irregular migration flows can actually be obtained. This certainly is a result of the "undocumented" reality of this migration type. It is also an outcome of the changes in the migration patterns and trends over time due to the variances of push and pull factors in the migratory systems.

9 For detail, see Michael Parzyszek, Rabbit Operation, Situational Update, at <http://www.frontex.europa.eu> (viewed on 20 April, 2011).

Looking at these rough estimates above, it can be argued that Turkey has been able to detect an annual rate of nearly 30 000 transit migrants while crossing its borders with the EU over the last four or five years. In particular, Turkish-Greek borders have been active for the crossing and apprehension of irregular migrants, whereas an annual average saw as high as 29 000 for this borderline.

More precise and systematic data is required for evaluating the irregular migration from Turkey to the other EU member countries. On the side of these destination countries, there is currently only some imprecise information, such as some limited data from Germany and the Netherlands, which indicate that in the mid 2000s, while only around 10-12 percent of the apprehension cases of irregular migrants are Turkish citizens, only less than another 10 percent of those apprehended irregular third country migrants might be entering these countries directly from Turkey: in Germany, less than 5 000 migrants out of nearly 40 000 apprehended migrants were Turkish citizens, while in the Netherlands this figure was around 800 out of the total of nearly 7 000 apprehensions¹⁰.

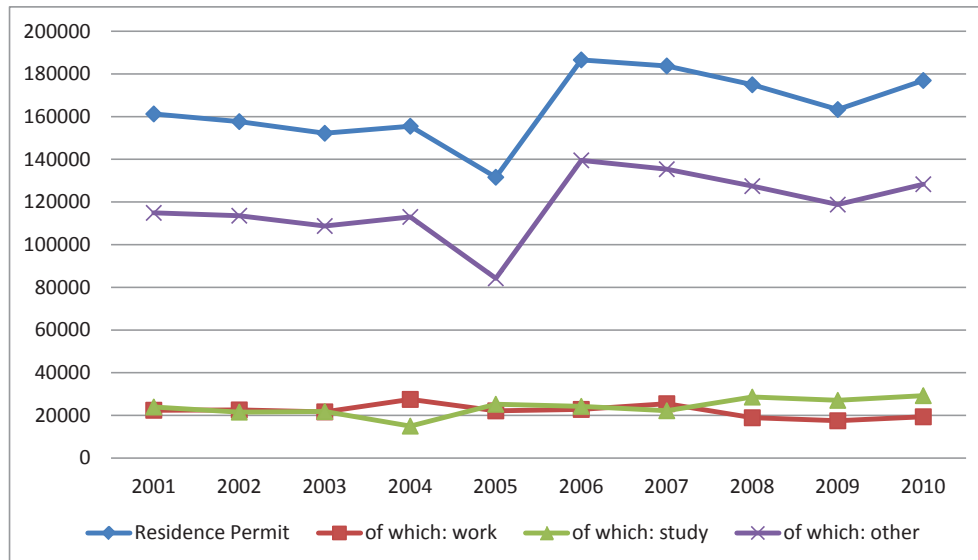
2.2.3. Regular migration in Turkey

A country with a long history of migrations, Turkey has certain, although limited, population of regular migrants. The data provided by the national censuses and the estimates by the Directorate of General Security on the number of residence permits are used here as a proxy measures to evaluate the total stock of "regular" migrants living in Turkey in any given year. These migrants have different backgrounds, and include nationals of EU member-states, professionals and retirees who settle in Turkey. The national census by Turkish statistical office found in 2000 that 1.2 million inhabitants of the country (making nearly 2 percent of the total population) were foreign-born persons originated from other countries.

In order to obtain a regular status in Turkey, migrants have a number of alternatives ranging from temporary to permanent permits. The first group of regular migrants possesses temporary permits, such as residence and work permits or student visas. An estimate by the Directorate of General Security shows that in 2005, there were nearly 180 000 foreigners who resided in Turkey with residence permits (12 percent with work permits and 14 percent students). Most of the foreigners were dependents of either working or studying foreigners or Turkish citizens (İçduygu, 2007). By 2010, the total figure declined slightly to 177 000, with nearly 20 000 people residing with work permits and 30 000 people with student permits (Figure 4). Among these regular migrants, around 10 000 to 20 000 people are estimated to be nationals of EU member-states. Interestingly, some of them are in a semi-irregular status, coming with an ordinary tourist visa but overstaying (Unutulmaz, 2007).

10 For the discussions over these figures, see the result of EU funded CLANDESTINO Project, <http://clandestino.eliamep.gr> (viewed on 19 March, 2011).

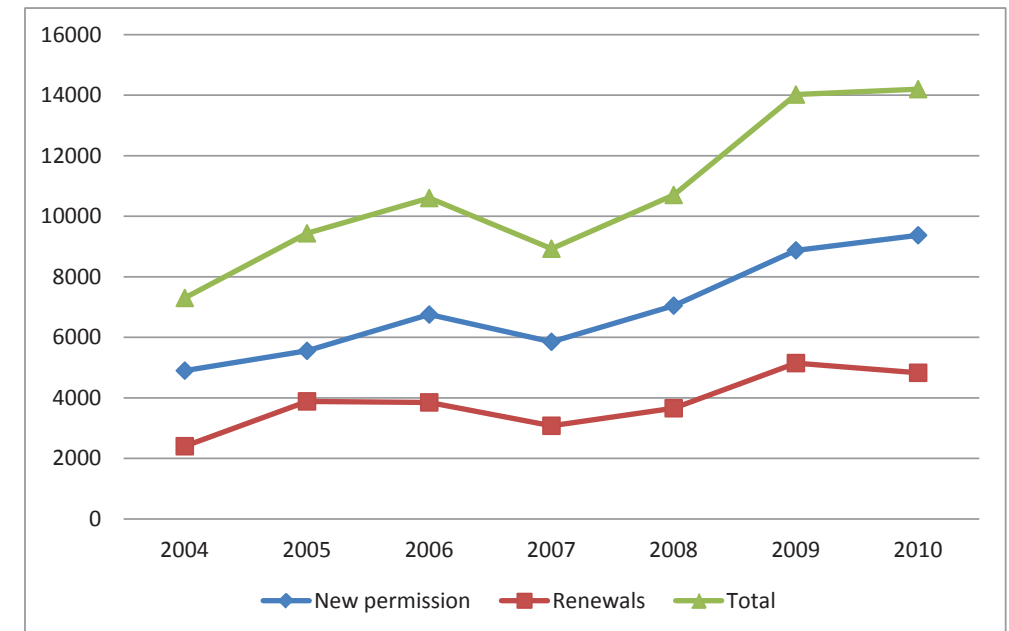
Figure 4: Residence Permits granted to foreigners, 2001-2010



Data obtained from the Directorate of General Security

The second group comprises of those who are naturalized by the Turkish state to become citizens. Figures obtained from the Ministry of Interior show that, between 1997 and 2009, 355 865 people were naturalized in Turkey. Among these naturalizations, 82 881 were based on the rights following from the nationality of the person's parents and the remaining 272 984 were persons who came to Turkey through different types of migration, e.g. through as marriage. We observe that, over time, the number of naturalization of migrants with non-Turkish and non-Muslim background has been increasing. This is a fact which indicates that, Turkey is also increasingly becoming a country of immigration for the "real foreigners" out of the context of the Settlement Law targeted for persons with Turkish ethnic origin.

Figure 5: Working Permits granted to foreigners, 2004-2010



Data obtained from Ministry of Labor and Social Security

A third group of regular migrants are the ones who have obtained working permits from the Ministry of Labor and Social Security. According to the data provided by the Ministry, there has been an increasing trend in the granting of working permits in Turkey during the period of 2004-2010. Whereas in 2004 about 5 000 persons obtained new permission permit, the number rose to more than 9 000 in 2010. Similarly, the number of people who applied for renewal of their working permits nearly doubled from 2004 (7 300 people) to 2010 (14 200 people) (Figure 5). Men have held a stable majority of those who obtained working permits, with 58.7 percent in 2004 and 59.8 percent in 2010. The statistics show that university graduates had a very high percentage of 49 percent in 2010¹¹.

11 For a detailed elaboration of these figures, see Turkish Ministry of Labor and Social Security webpage: <http://www.csgeb.gov.tr/csgebPortal/csgeb.portal>

LEGAL AND INSTITUTIONAL FRAMEWORK

3. LEGAL AND INSTITUTIONAL FRAMEWORK

Turkey's transformation over the course of the last three decades into a land of immigration is one of the most significant features of its recent history and very much an issue of debate in the context of its possible membership to the European Union (EU). As Turkey has been increasingly confronted with large-scale immigration and asylum flows, this relatively new migration phenomenon has had a number of social, economic, and political implications, not only for the country, but also in the wider context of Europe (İçduygu, 2004, p. 93; 2003, p.7; Kirişçi 2002, pp. 7-10). One of the most widely debated issues in this context is the 'management of migration and asylum flows' arriving in the country, and in particular the question of how Turkey's state institutions and legal frameworks would handle the phenomenon of irregular migration and asylum.

The issue of 'migration management' in Turkey has only in the last decade moved to the forefront of official concern. As already noted, this is partly because the country's experience with immigration is of relatively recent origin and partly because Turkey lacks established immigration policies and practices- except in the case of the influx of ethnic Turks during the early years of modern Turkey. In the last decade most official initiatives to manage immigration occur in response to external pressures, such as that from the EU, rather than local policy concerns (Apap et al., 2004; Kale, 2005; İçduygu, 2007, 2011a; Kirişçi, 2007).

The EU's Helsinki decisions of December 1999, which declared the candidacy of Turkey to the EU membership, and the EU's Brussels decision of December 2004, which announced the start of membership negotiations with Turkey in 2005, brought forward new questions and concerns in the areas of immigration policies and practices in Turkey (İçduygu, 2007). The ongoing negotiation process has complicated the issue and brought it to the forefront of the relations between Turkey and the EU. These debates have made clear that the health and stability of Turkey's integration into the EU depends not only on the economic, social, and political transformations in the country, but also on specific policy matters. This chapter of the Report addresses the transformation of national immigration policies and practices in Turkey with regard to the role played by the European Union's promotion of the notion of 'migration management' in the process of European integration.

3.1. Legal Framework for Combating Irregular Migration

Before discussing the details of the harmonization efforts taking place in Turkey regarding immigration and asylum policies and practices, it is helpful to point out the crucial turning points in recent developments in these areas. In this context of changes of policies and practices, *three* periods of changes can be identified¹²: the pre-1994

¹² This is a slightly different periodization than the previously made similar periodization (in the first chapter of this study), which was based on the characteristics of the migratory flows.

period which was a time of ignorance; the transition to international norms from 1994 to 2001; and finally the post-2001 period which is characterized by EU-ization types of changes (İçduygu, 2004, pp. 90-91).

The *first* development facing Turkey was the question of how to deal with the migration of people of Turkish descent or Turkish culture who live in the neighbouring countries to the homeland in the early 20th century. Consequently, the *1934 Law on Settlement* was designed accordingly, and it remained in force until the new Law on Settlement in 2006 (*Law No. 5190; dated 19 September 2006*). The Law on Settlement determined the people, who could enter, settle and/or apply for refugee status in Turkey and provided for individuals of Turkish descent and culture to be accepted as immigrants and refugees¹³. Even though the law was crucial for managing the migration waves within the neighbourhood of Turkey, it did not comprise of systematic regulations and therefore the pre-1994 era of the Turkish legislature remained as a “time of ignorance” regarding the management of immigration and asylum.

*1994 Regulation on Asylum*¹⁴ marked a turning point at which certain immigration- and asylum-related policies and practices changed and some new sets of rules became institutionalized. With the mass influx of asylum seekers from Iraq in early 1991, the Turkish authorities had become more conscious about the immigration and asylum flows to the country, and initiated this new legal arrangement. Although this was a positive attempt to regularize some rules and measures regarding asylum (and in part immigration as well), initially it did not reflect any significant liberalization of policy: rather, this move helped consolidate the authoritarian role of the state in immigration and asylum issues and increased its power over these areas. 1994 Regulation on Asylum had in its initial application period caused violations of the principle of *non-refoulement* and attracted both international and domestic criticisms. In response to such criticisms and partly because of the growing importance of immigration and asylum issues in Turkey, the post-1994 period saw some slow but tangible steps toward the harmonization of immigrants and asylum policies and practices in the country towards international norms and standards.

But the *crucial turning point* in this field came with the EU-related changes occurring after 2001 (TMI and UNHCR, 2005, p. vi), marked by major developments regarding

13 Although this tendency to favour people of Turkish descent and culture has often been counter-balanced by concerns over the possible arrival of large numbers of ethnic Turks, out of political considerations Turkish authorities have tended to adopt a liberal attitude towards such immigrant. In contrast, political considerations have also prompted the authorities to show greater reluctance in respect of some other people of Turkish descent, and to refuse entry to, e.g. large numbers of Chechen refugees on the border with Georgia in February 2000 (Kirisci, 2002: 74-76).

14 “Bylaw on the Procedures and the Principles Related to Mass Influx and Foreigners Arriving in Turkey either as Individuals or in Groups Wishing to Seek Asylum from a Third Country”. For the full text (in Turkish) see the following webpage: http://gib.icisleri.gov.tr/default_B0.aspx?id=8.

the legal provisions regulating the immigration in the country. These changes include the related legislation and the implementation projects complementing the administrative structure and the institutional infrastructure for Turkey’s immigration and asylum system that must be harmonized with the EU *acquis* and system throughout EU accession negotiations. The Accession Partnership for Turkey, which was prepared by the European Commission, adopted in 2001, and subsequently revised in 2003, sets out objectives for migration and asylum policy concerning Turkey’s accession to the EU (İçduygu, 2007).

These objectives include the harmonization of legislations and their implementations in the fields of migration and asylum to the EU *acquis*, including irregular migration. Following the adoption of the revised Accession Partnership, Turkey published its National Programme for the Adoption of the *Acquis* providing a detailed list of undertakings on migration and asylum issues including a comprehensive legislative reform. While the efforts to introduce new legislation have been in process (which now, in summer 2012 is coming to its close with the law waiting its final passing in the plenary of the Parliament), the Turkish government has this far made progress in implementing the existing legal structures by issuing secondary legislation in the form of Ministry directives.

In the following sections, the past and the present of the national legislation and the legal texts adopted by Turkey within the international arena on asylum and immigration will be discussed in light with the harmonization and reform processes.

3.1.1. National legislation on asylum and immigration

The following existing laws have offered elements into the combat against irregular migration in Turkey: Among them, it is necessary to name the followings: *the Passport Law* (Law no. 5682, 1950), *the Law on Residence and the Travel of Foreign Nationals* (Law no 5683, 1950), *the Law Concerning the Fight against Global Criminal Organizations* (Law no. 4422, 1999), *the Criminal Code* (Law no. 5237, 2004), *the Labor Law* (Law no. 4857, 2003), *the Law on Foreign Students Studying in Turkey* (Law no. 2922, 1983), *the Turkish Citizenship Law* (Law no. 403, 1964), *the Foreign Direct Investment Law* (Law no. 4875, 2003), *the Regulations concerning International Road, Transport of People and Goods* (1994), *the Regulation on the Inter-City Transportation of People* (2003), *the Regulation on the Procedures and the Principles Related to Population Movements and Aliens Arriving in Turkey Either as Individuals or in Groups Wishing to Seek Asylum Either from Turkey or Requesting Residence Permission in Order to Seek Asylum From Another Country* (1994) (Kaya, 2008).

It is possible to argue that the mentioned transformation of immigration and asylum policies and practices in Turkey which occurs as a product of Europeanization, particularly since the early 2000s, is a process that would lead to a new type of ‘migration

and asylum management’ which is neither fully identical to the modern European model nor totally the same as the conventional understanding of migration and asylum issues in Turkey (Apap et al., 2004; İçduygu, 2006). In other words, European integration has a strong impact on the transformation of the qualities and conditions of ‘migration and asylum management’ in the country, especially regarding the issue of irregular migration (İçduygu, 2007, 2011; Özçürümez and Şenses, 2011).

It is obvious that immigration and asylum policies and practices differ from one national setting to another, and various factors are employed to define their meanings and contents based on varied intentions. At different levels, in the process of Europeanization, national immigration and asylum policies and practices in Turkey are challenged by various social, cultural, economic, and political values because the creation, definition, and manipulation of these interactions is an ongoing process (Kirişçi, 2003; Özçürümez and Şenses, 2011).

For instance, *the new draft Foreigners and International Protection Law*¹⁵, which has been prepared to regulate the entry, settlement, and integration conditions of foreigners (immigrants) and asylum seekers and refugees and can be seen as part of Turkey’s EU harmonization efforts, is a strong indicator of the possibility of a significant change in migration and asylum legislation and management. Despite this attempt to create a new liberal legal framework, frequent disputes over immigration and asylum issues are still common, and have continuously imbued the notion of immigration as having concrete and metaphorical importance for national homogeneity and security (İçduygu, 2011a).

That the EU process of introducing the new perception and new law on the management of immigration and asylum in Turkey plays a role is undisputable. In fact, it is no longer challenged that the EU exerts influence on the qualities and conditions of immigration and asylum for candidate members as well as member states. But, the Europeanization of immigration- and asylum-related policies and practices is not a smooth process, and often involves ups and downs and occasional refusals to comply (Bürgin, 2011).

In the following section, recent changes in the Turkish national legislation on asylum and immigration will be classified under a number of issues: the regulations on *the stay and movement* of immigrants in Turkey, on *trafficking and smuggling* of immigrants, on *the work permits and conditions*, and on *social rights*. The newly established main legislative framework and related administrative attempts for managing the immigration and combating migration in Turkey will be discussed according to these topics.

Stay and movement of immigrants

- *The Passport Law* (Law 5682, 1950) – This law determines the rules governing the entry into and the departure from Turkey. It includes specific provisions related to illegal departures (Article 33) and illegal entries (Article 34). Article 36 concerns

¹⁵ For the full text of this draft law (in Turkish) see the following webpage: <http://www2.tbmm.gov.tr/d24/1/1-0619.pdf>.

smuggling operations and foresees imprisonment of one to two years for trafficking in human beings.

- *The Law on the Stay and Movement of Aliens* (Law 5683, 1950) – This law sets out the rights and responsibilities of foreigners living in Turkey, such as work and residence permits (Article 15), but it also includes rules relating to asylum seekers (Article 17).
- *Implementation Directive* (Regulation Number 57; dated 22 June, 2006): This directive introduced by the Ministry of Interior, reflects the heavy criticisms on the 1994 Asylum Regulation and provide very detailed instructions for the personnel of General Directorate of Security on the implementation of the 1994 Regulation, such as formally defining the procedures of seeking “temporary asylum”, and the specific rights, benefits and obligations of “temporary asylum seekers”. With this directive the 10-days time limitation for the application of the asylum seekers introduced in 1999 was lifted. In addition to this change, this Directive introduced certain asylum mechanisms of the EU asylum *acquis* such as accelerated asylum procedures, subsidiary protection status, in addition to a list of humanitarian grounds for granting residence permit including but not limited to health, education, family reunification purposes or application to a court.
- *Amendment to Article 5 of the Citizenship Law* (Law No. 403, dated 11 February, 1964): This amendment, made on 4 June 2003, proclaims that married couples from different nationalities must live together for three years after their marriage registration to obtain Turkish citizenship. Previously, foreigners (women) could acquire Turkish citizenship immediately by marrying a Turkish national while it was much harder for male foreigners to obtain Turkish citizenship through marriage. The procedure has now been standardized. In addition, children of mixed parents are granted Turkish citizenship. The new legislation was enacted to discourage arranged marriages through which many irregular migrant women obtained their residence and work permits. With the introduction of new Turkish Citizenship Law (*Law No. 5901, dated 29 May, 2009*), there was a significant change which made the required residence period for aliens with Turkish origins equal to the period for other aliens (5 years).
- *25 March 2005 National Action Plan on Asylum and Migration*: It identified in great detail both the national legislation and the EU *acquis* on asylum and migration. It also laid out the tasks and timetable on border and visa regulations, asylum and migration issues and on migrant smuggling and human trafficking. In line with this, it targeted Turkey’s asylum and migration legislation to be harmonized with that of the EU *acquis*.
- *The draft Law on Foreigners and International Protection*: The draft law combined the previously planned two separate laws, *the Law on Aliens* and *the Law on Asylum*, was prepared and was discussed in the relevant Commissions of the Turkish Parliament

in May and June 2012 and was awaited to be passed in the Plenary of the Parliament during the autumn 2012 Session. It seems that this law may bring some landmark reforms to provide Turkey with a modern, efficient and fair management system in line with core international and European standards. With the draft law, Turkey commits itself to treating asylum seekers and irregular migrants according to international norms. The law sets forth the rules and procedures on the status of foreigners and on international protection, which addresses the issues of asylum seekers and irregular migrants. The draft articles regarding international protection are directly based on European Union laws, U.N. Refugee Agency (UNHCR) guidelines, and Council of Europe norms.

Trafficking and smuggling of immigrants

- *The Turkish Penal Code* (Law 765; dated 1926) – This law contains provisions that could be used to indict people engaged in the falsification of passports and of other official documents in relation to irregular migration (Articles 350 and 351). Other provisions refer to the trafficking and smuggling of human beings with the intention of providing illegal employment abroad (Article 503 and 504/4).

Until recently there was no direct reference to any aspect of irregular migration, so that the Turkish Penal Code did not offer any effective tools to combat it. However, in August 2002 the Turkish Parliament adopted a legal reform package. Through this initiative, the Law No. 4771 added Articles 201/a and 201/b to the Turkish Penal Code to supplement Article 201. These changes conformed to the *Palermo Protocol against Trafficking in Persons*, which introduced a definition of trafficking in human beings into the Turkish legal system and criminalized the act of trafficking as such. Article of the law 201/a defines human smuggling and foresees sentences to two to five years' imprisonment and a fine of not less than one billion liras. Article 201/b identifies human trafficking, stipulates sentences from five to ten years of imprisonment and a fine of no less than one billion liras.

- *The New Penal Code* (Law No. 5237; dated 29 June, 2005): Article 79 of this Code defines migrant smuggling and foresees imprisonment for a term of three to eight years and a fine of up to ten thousand days on those who, by illegal means, and with the purpose of obtaining material benefit either directly or indirectly, a) enable an alien to enter or to remain in the country, b) enable a Turkish citizen or an alien to go abroad. If an act of human smuggling is proven to be part of organized crime, the penalty to be imposed increased by one half.

Article 80 defines human trafficking and stipulates imprisonment for a term of from eight to twelve years and a judicial fine of up to thousand days. Moreover, according to a recent amendments made in the Article 79 of the Penal Code (*Law No. 6008/6: dated 25 July, 2010*), even if the crime of human smuggling at the stage of attempt would be considered as a crime fully committed, and consequently they would be charged with the highest penalty possible.

- *The Law Concerning the Fight against Global Criminal Organizations* (Law 4422, 1999) – This law imposes penalties for persons who set up criminal organizations with the aim of exploiting others for financial gain (Articles 1, 2 and 6). To the extent that the smuggling and/or trafficking of human beings into Turkey is carried out by members of a criminal organization, they can be charged under this law.
- *The Witness Protection Law*: the law entered into force in 2007, and aims to protect the identity of victims of human trafficking who agree to testify against the perpetrators and opens the way to include them in a witness protection programme.

Working permits and conditions

- *Law on Work Permits of Foreigners* (Law No. 4817; dated 27 February 2003): This new law was a remarkable change in legislation pertaining to irregular migration and its labour outcomes. *The Turkish Parliament* enacted the Law in order to concentrate the administration of permits in one authority thus enabling foreigners to obtain their documents in Turkey more easily. *The Law aims to ensure* that the work permit acquisition process in Turkey matches international standards, in particular those of the EU.

One important aspect of this Law is to prevent the illegal employment of foreigners by issuing fines. In addition, it allows foreign workers to practice all professions. According to the previous law, foreigners were not able to engage in domestic work. This resulted in the exploitation of thousands of undocumented Moldavian women working in the domestic sector in Turkey.

The new *Law on the Work Permits of the Foreigners* and its accompanying Regulations¹⁶ (the Regulation for the Application of *the Law on the Work Permits of the Foreigners*, number 25214 and dated 29 August 2003, and *the Regulation for the Employment of the Foreign Nationals in the Direct Foreign Investments*, number 25214 and dated 29 August 2003) are the instruments which regulate the employment of foreign nationals in Turkey.

The procedure for acquiring a work permit has been simplified: work permits are given by a central authority, the Ministry of Labour and Social Security (the Law, Article 3), and are linked to residence permits, which are administered by the Ministry of the Interior (the Law, Articles 5 and 12). Moreover, recently through the Act No. 6111 (dated 25 March, 2011), some amendments made in the Article 20 of the Law on the Work Permits of the Foreigners, which facilitate the use of inspection mechanisms established by the Labour Law (number 4857 and dated 22 May, 2003) and make the inspection of security forces available granting the law enforcement to the authority to make an official report for a fee when they encounter a case of unregistered employment.

¹⁶ For the full text of this law and related regulations, see MLSS (2003).

Social rights

- *The Social Security Law* (Law 506, 1964) – In addition to providing for various details concerning social security in Turkey, this law also refers to illegal employment in Turkey. Although there is no direct reference to the employment of irregular migrants, by extension Articles 9 and 140 indirectly provide for sanctions against employers who benefit from illegal foreign labour.
- *Directive on the Instructive and Complementary Classes and Courses to be Opened According to the Primary Education and Education Law* (Law No. 12757; dated 1 December, 2005): Since language differences or lack of any education prior to arrival in Turkey are barriers to access to primary education for foreign children in Turkey, this directive is issued to allow for complementary and instructive courses for all children who either have never had any primary education or have dropped out after a certain level. These arrangements provide children of various types of migrants and asylum seekers with better access to education.
- *Ministry of National Education Informal Education Institutions Directive* (No. 26080; dated 14 February, 2006): Article 54 of this directive stipulates that in order to continue a course, one is required to be a citizen of the Turkish Republic. But apart from the citizens of Turkish Republic, this article lists foreigners such as stateless persons or foreigners in a refugee situation, and foreigners with a work permit in Turkey as the ones who can continue to the courses. In regards to the procedures for such people, the Directive on Occupational and Technical Education and the regulations regarding the education of foreigners in Turkey will be followed. Foreigners are able to benefit from the informal education institutions. These institutions are essentially education centers providing a plethora of free courses for all age groups based on demand including Turkish language, computer and craft courses.
- *The Law on Encouragement of Social Assistance and Solidarity* (Law No. 3294; dated May 1986): It foresees the establishment of the Social Assistance and Solidarity Foundation (SASF), which is responsible for the distribution of the social funds to poor and disadvantaged groups. Article 1 of this Law stipulates that social assistance services, including in health, education, shelter, food, clothes, etc. should be provided to all those with financial difficulties within the borders of Turkey. In 2005, the SASF introduced the “Principles on the Implementation of Health Assistance Programme” in an effort to cover the health costs of poor and vulnerable persons who have no social security including foreign nationals. Accordingly, all foreigners who incur health costs beyond their means, regardless of whether they hold a residence permit or not, may apply to the SASF for assistance. The SASF funding is open to use of illegal migrants, asylum seekers, and all foreigners who are in need of assistance for food and health reasons.

- *Law on the Social Insurance and General Health Insurance*, (Law No. 5510; dated May 2006): This law suppressed the principles of the SASF by stating that foreigners in Turkey who do not hold health insurance from another country and have a valid residence permit (Article 60d), as well as asylum seekers recognized by the Ministry of Interior, (Article 60c) can receive coverage under the auspices of the General Health Insurance Body.
- *General Directorate of Social Assistance and Solidarity*, (Directive No: B.02.1.SYD.0.08.300.5990./8237; dated 20 May, 2009): The Social Assistance and Solidarity Foundation (SASF) issued a new internal directive describing the kinds of assistance extended to vulnerable foreign citizens. Foreigners covered already by the general health insurance may apply only for other forms of assistance offered by the SASF such as food, coal and clothing. Those who are not covered by the law, including asylum seekers whose applications are still pending at the Ministry of Interior, victims of human trafficking and apprehended migrants, may apply to the SASF for health assistance as well, yet it can only cover the medication costs related to outpatient treatment.
- *March 2010 Circular*: In March 2010, a circular was issued by the Ministry of the Interior on combating irregular migration. According to the circular, an irregular migrant for whom the legal procedures have been completed will be placed in a removal centre or alternative premises previously indicated by the governorate. The circular also lays down the ‘principles concerning the physical conditions in removal centres and the practices adopted in these centres’, stating that removal centres need to be regularly inspected by the governor, district governor and the Turkish National Police (TNP); allegations of human rights violations in removal centres need to be investigated; irregular migrants need to be given an opportunity to contact the UNHCR at their request; access to legal counsel is given provided that illegal migrants cover the costs themselves. It encompasses the unaccompanied minors, the physically disabled and the elderly, who are hosted in the institutions run by the directorate general for social services and the child protection agency, as well as the data protection, social and general health insurance.

The circular also issued on the residence permit fees (*‘Ikamet’*) imposed on asylum seekers which, without providing explicitly for the removal of such fees, sets out a procedure that may, *de facto*, bring about a similar effect. The circular also had a retroactive effect with regard to outstanding fees and additional fines due by asylum seekers prior to its entry into force.

3.1.2. International documents and harmonization to the *acquis communautaire*

International conventions

Turkey is a party to several international conventions and regulations which have direct

or indirect implications for the management of irregular migratory flows. The basic international instruments in this context are the following: 1951 *Convention relating to the Status of Refugees* (ratified on 30 March 1962), 1967 *Protocol relating to the Status of Refugees* (acceded on 31 July 1968), 1990 *International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families* (ratified 27 September 2004), 2000 *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children* (ratified on 25 March 2003), 2000 *Protocol against the Smuggling of Migrants by Land, Sea and Air* (ratified on 25 March 2003), 1965 *International Convention on the Elimination of All Forms of Racial Discrimination* (ratified on 16 September 2002), 2000 *United Nations Convention against Transnational Organized Crime* (ratified on 25 March 2003), 1966 *International Covenant on Civil and Political Rights* (ratified on 23 September 2003), 1966 *International Covenant on Economic, Social and Cultural Rights* (ratified on 23 September 2003), 1979 *Convention on the Elimination of All Forms of Discrimination against Women* (acceded to 20 December 1985), 1984 *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (ratified on 25 June 1999), 1989 *Convention on the Rights of the Child* (ratified on 4 April 1995) and *European Convention on Human Rights* (ratified on 18 May 1954).

UN Convention against Transnational Organized Crime and its two Additional Protocols including 'The Protocol to Prevent, Suppress and Punish Trafficking, Especially Women and Children' and 'The Protocol against the Smuggling of Migrants by Land, Sea, and Air' (ratified on 25 March 2003) constituted a significant step in developing tools to combat trafficking, smuggling, and irregular migration. In June 2004 Turkey ratified the UN Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, which had been signed in 1999. Turkey signed the Council of Europe Convention on Action against Trafficking in Human Beings in March 2009. Institutional capacity to combat human trafficking was further strengthened, in particular by means of training for judges, prosecutors and law enforcement officers.

As a member of the Council of Europe, Turkey is a signatory of the European Convention on Human Rights and is a contracting state of its protective court, European Court of Human Rights (ECHR). Since 1990s, ECHR receives appeals by foreign individuals against Turkey, alleging to violations against the convention during their stays. There have been an increasing number of appeals over the last few years, some of which have elucidated the violations against immigrants, such as: the judgement in *Abdolkhani and Karimnia v. Turkey* and *Z.N.S. v. Turkey*, where the Court found that the detention and deportation of irregular migrants to their country of origin, due to the absence of clear provisions for ordering and extending detention, the lack of notification of the reasons for detention and the absence of any judicial remedy to the decision on detention were in breach of the European Convention on Human Rights; and the judgment in *Charahili v. Turkey*, where the Court concluded that the applicant's conditions of detention amounted to a violation of Article 3 of the European Convention on Human Rights, prohibiting torture.

*Harmonizing with the EU *acquis communautaire**

As a country that has been confronted with various types of immigration and asylum flows mentioned above, Turkey seems to attach great importance to the newly emerging migration and asylum questions and their 'management' (İçduygu, 2004: 88). This focus has been precipitated by Turkey's desire to enter the EU and by the conditionality imposed by the EU which has fuelled the need for the creation and implementation of a variety of migration- and asylum related policies. In other words, strategic bargaining and socio-political learning seem to be jointly reinforcing processes in the Europeanization of national immigration and asylum policies in the country. The issue of 'migration management' is seen here to be a component of the country's Europeanization or the EU-ization process¹⁷.

As discussed in some detail in this Report, for instance, the issue of lifting the geographical reservation of the 1951 Geneva Convention, which is very central to the asylum regime in Turkey, is also often regarded as an element of change which may subsequently harm the country's welfare and security. There is no doubt that these examples reflect the highly political character of immigration and asylum issues, which become even more political through the Europeanization process.

Thus, in this period of the pre-EU accession process, the issues of immigration, border controls, asylum, and the introduction of appropriate legislation are of considerable importance for Turkey, as reflected in the EU 'Accession Partnership' (AP) document adopted on 8 March 2001 and subsequently revised on 26 March 2003. Following the pre-accession requirements of the EU, in the National Program for the Adoption of the *Acquis* (NPAA) in 2003 Turkey declared its own intentions to introduce some major changes to its immigration and asylum policies and practices (Apap et al., 2004, p. 11; Kirişci, 2005, p. 347; Tokuzlu, 2005, p. 339).

According to the EU Accession Partnership document, Turkey must harmonize its immigration and asylum legislation to meet the following four objectives in particular: (1) to pursue alignment of visa legislation and practice with the *acquis*; (2) to adopt and implement the *acquis* and best practices on migration (admission, readmission, expulsion) with a view to preventing illegal immigration; (3) to continue alignment with the *acquis* and best practices concerning border management so as to prepare for full implementation of the Schengen *acquis*; and (4) to start an alignment of the *acquis* in the field of asylum including lifting the geographical reservation to the 1951 Geneva Convention; strengthening the system for hearing and determining applications for asylum; and developing accommodation facilities and social support for asylum-seekers and refugees.

The next section of the report will discuss the harmonization processes in the field of

¹⁷ In a different context, on the issue of Europeanization of civil society Diez *et al.* (2005) refer to the notion of 'EU-ization' as a dominant form of Europeanization in Turkey's European integration process.

immigration regarding the four objectives (readmission agreements, visa/Schengen procedures, border management and geographical limitation) introduced by the EU Accession Partnership document.

Readmission agreements

After having various ups and downs in the negotiations over the agreement in the period of 2004-2010, the EU and Turkey finally succeeded to prepare a draft text in 2010, and in the early 2011 the consensus on the final adjustments to the draft EU-Turkey readmission agreement was reached and the negotiations have now come to end. An official statement issued by the Justice and Home Affairs Council on February 25, 2011 welcomed the conclusions of negotiations on a readmission agreement, indicating that “Ministers reached political agreement on a draft agreement with Turkey” and called for ‘a reinforced cooperation between Turkey and the EU to tackle irregular migration’. While this statement supported the Commission’s intention to initiate a dialogue on visa, mobility, and migration with Turkey, it did not satisfy Turkey’s expectation on a clear road map for visa liberalization for the Turkish citizens. Subsequently, Turkey reacted to this decision mentioning that without having any initiation of the visa facilitation process and other steps towards a visa free regime, the readmission agreement will not be signed, initiated, or implemented.

Within the framework of alignment of Turkey’s asylum and migration strategy with the EU legislation, Turkey follows a policy of signing readmission agreements with primarily the source countries and progressively transit countries as well as the countries of destination. In line with the EU *acquis*, Turkey signed Readmission Protocol with Greece (dated 8 November 2001), and related agreements with Syria (dated 10 September 2001), Kyrgyzstan (dated 6 May 2003), Romania (dated 19 January 2004), Ukraine (dated 7 June 2005), Pakistan (dated 7 December 2010), and Russia (dated 18 January 2011).

Visa/Schengen procedures

The EU Accession Partnership document foresaw the harmonization of Turkey’s visa procedures with the member states and the third countries. Since 2003, Turkey has been ratifying positive or negative agreements with such countries.

Concerning efforts to align with the EU positive list, a visa exemption agreement for ordinary passports between Turkey and third countries entered into force in piecemeal fashion. Positive visa lists were established with Brazil in 2004, Guatemala and Czech Republic in 2004, Venezuela, Colombia, Andorra and Paraguay in 2005, Italy in 2006, Brunei Darussalam in 2009, Kosovo in 2009, Turkey agreed on visa exemptions with, Libya and Jordan in December 2009, Lebanon in January 2010, Russia and Tanzania in May 2010. Similar agreements with Syria in October 2009, Serbia in July 2010 and Cameroon, published in July 2010, exclude ordinary passport holders. However, a number of agreements lifting visa obligations for several countries were contradictory

with the *acquis*: Azerbaijan, Mongolia, Uzbekistan, Tajikistan and Turkmenistan in 2006.

In March 2004, Turkey established a national office which will act as a central authority in line with the Schengen Convention and as a contact point for Europol and OLAF. This Unit was placed within the Interpol Department of the Directorate General for Security. In August 2010, Turkey revised its policy as regards duration of stays allowed for 90 days within 180 days, in line with EU *acquis*. However, Turkey does not apply a uniform policy towards all EU citizens as regards the visa obligation. It is still the case that citizens of 12 EU Member States¹⁸ are required to hold a visa to enter Turkey, which can be obtained at the Turkish borders. Citizens of the other 15 Member States are exempted from the visa obligation for a short stay of up to 90 days. Turkish passports with biometric security features were put into use on 1 June 2010. Visa issuing was now processed on-line among the Consular Offices and the Ministry of the Interior.

Despite the extensive work for harmonizing the Turkish visa regime with the European Union, ostensible tensions remain between the Turkish state and some of the EU member states regarding the improvement of relations. On the one hand, the question of whether the EU will grant Turkish citizens facilitated visa procedures continues to occupy the negotiation process. As a result, the blockage regarding the visa facilitation agreement triggers other the other blockage in the negotiations for a readmission agreement between Turkey and the EU. On the other hand, the unpredictability of the future relations between the EU and Turkey, as well as the Turkish government’s interest in keeping up closer relations with its neighbourhood in the last five years has engendered an incremental transition towards a free visa regime. Against the criticisms of the EU bureaucrats, the number of countries, with Which Turkey has signed a visa liberalization agreement with has reached more than 50 in the last few years¹⁹. It should be noted that this transition towards a more liberal migration regime can in the future prompt tensions between Turkey and the EU, which wants to apply stricter visa regimes to many third countries.

18 These countries are Austria, Belgium, The Republic of Cyprus, Hungary, The Irish Republic, Malta, Netherlands, Poland, Portugal, Slovakia, Spain and the United Kingdom. See Turkish Ministry of Foreign Affairs’ webpage: <http://www.mfa.gov.tr/yabancilarin-tabi-oldugu-vize-rejimi.tr.mfa>.

19 Turkey has a free visa procedure for as of April 2012: Albania, Andorra, Argentina, Azerbaijan, Bolivia, Bosnia-Herzegovina, Brazil, Brunei, Bulgaria, Chile, Costa Rica, Croatia, Cyprus, Czech Republic, Denmark, Ecuador, El Salvador, Estonia, Finland, France, Georgia, Germany, Greece, Guatemala, Honduras, Iceland, Iran, Israel, Italy, Japan, Jordan, Kazakhstan, Kosovo, Kyrgyzstan, Latvia, Lebanon, Libya, Lichtenstein, Lithuania, Luxembourg, Macao, Macedonia, Malaysia, Monaco, Mongolia, Montenegro, Morocco, New Zealand, Nicaragua, Paraguay, Republic of Korea, Romania, Russian Federation, San Marino, Serbia, Singapore, Slovenia, Sweden, Switzerland, Syria, Tajikistan, Trinidad-Tobago, Tunisia, Turkish Republic of Northern Cyprus, Turkmenistan, Uruguay, Uzbekistan, Vatican, Venezuela. Visa liberalization and visa application procedures differ for each country. For the whole list of countries and their status regarding visa exemption (in Turkish), see Turkish Ministry of Foreign Affairs’ webpage: <http://www.mfa.gov.tr/yabancilarin-tabi-oldugu-vize-rejimi.tr.mfa>.

Border management

A National Action Plan towards the implementation of Turkey's Integrated Border Management Strategy was adopted in March 2006. The plan represented a step forward towards alignment with EU standards, as the development of an integrated approach to border management was a key element for accession negotiations. However, a number of serious shortcomings remained. It was still the case that the land forces, the police, and the gendarmerie as well as the coast guard are each responsible for parts of the borders. In addition, the Customs Administration, under the authority of the Prime Ministry, is responsible for checks on goods and persons. From the EU side, it is expected that Turkey should continue to work towards creating a non-military professional corps of border guards.

In 2007, the Development and Implementation Office on Border Management Legislation and Administrative Capacity was set up upon the Ministry of Interior. The number of border crossing points has been increased from 116 to 120. Modernisation of six border crossing points was completed in 2008; work was in progress on five more. A "Common Manual of Checks at the EU external borders" was published in 1500 copies and distributed for the use of the organisations performing border duties (General Staff, National Police, Customs Undersecretary, Gendarmerie and the Coast Guard). The manual would serve the purpose of being used as a practical tool to integrate EU requirements while carrying out their tasks. Sticker- and stamp-type visas were still issued at borders, with different authorities responsible for the issuing procedures, and airport transit visas had not been introduced.

Following the establishment of the new bureau on asylum and migration, the Task Force on External Borders as restructured and, since January 2009, had been meeting every two months. Modernisation of the border crossing points (BCPs) continued. A coordination board for IBM was established in May 2010 by Prime Ministerial decree to create an official follow-up mechanism at decision-making level to screen progress towards achieving the target of IBM. The board was also tasked with developing further policies and strategies in the area. In-service training on IBM was delivered to all sub-governors, despite the delays in adopting the proposed legislative amendment currently pending in the Parliament on expanding the tasks of the deputy governors acting as administrative heads of the border agencies. Negotiations on a working agreement with Frontex which started in 2009 continued in 2010, but few outstanding issues need to be solved to conclude it.

Geographical limitation

Turkey and Malta are the only two countries that maintain the geographical limitation with regard to the 1951 Geneva Convention upon acceding to the 1967 Protocol²⁰. As a result, Turkey's obligation to protect refugees is applied only to persons who

seek asylum as a result of events in Europe, but not to persons who seek for asylum from non-European countries. All other states that have signed the convention apply it without geographical limitation. Turkey faces harsh criticisms from the international community regarding its decision. Because of the geographical limitation, the United Nations High Commissioner for Refugees (UNHCR) has for long been the institution that manages the refugee reception, status determination and processing of those who seek asylum in Turkey, but shall eventually be resettled to a third country after eventually being granted refugee status (Kirişçi, 2001).

The lifting up of the geographical limitation is one of the several issues that have been consistently brought up in the regular progress reports of the European Commission on Turkey (Özgür and Özer, 2010). Even though the National Action Plan for the Adoption of the European Union Acquis in the Field of Asylum and Migration dated 2005 foresaw the lifting up of the limitation in 2012, the Turkish state did not keep its promise. Actually the geographical limitation remains today as a negotiation tool for both Turkey and the European Union. On the one side, Turkey is reluctant about lifting up the limitation before a possible membership to the European Union. Despite its highly central position in a number of migration systems, Turkey has a very small number of refugee population compared especially with the Southern Mediterranean countries that are also at the forefronts for immigrants who are willing to access to Europe. Hence the Turkish state fears that the lifting up would instigate the country to become a buffer zone for refugee flows before the EU territory. On the other side, relying on the international human rights concerns the European Union continuously demands from Turkey to lift its geographical limitation, which would actually shift its burden of refugee flows to outside of its territories.

All four issues mentioned above (readmission agreements, visa/Schengen procedures, border management and geographical limitation) are being treated during the negotiation talks between Turkey and the EU, in juxtaposition to the burden sharing/burden shifting debate which has become a template in the EU literature. The EU adopts procedures such as "first country of asylum" and "safe third country" rules for shifting the burden outside of its territories. At the same time, it employs tools such as human rights instruments or financial instruments and aims for more cooperative relations among the member states for sharing the burden of migration and asylum. Although the principle of burden sharing has been targeted mainly for the member states, there is an increasing expectation from the third countries such as Turkey for the adoption of similar measures for more cooperated management (Tokuzlu, 2010). In line with these conditions, Turkey demands for the sharing of the burden through cooperation for avoiding the potential burden shifting of the management of asylum and migration from the EU to Turkish territories.

3.2. Institutional Adjustments for Combating Irregular Migration

There are several state actors who are active in the field dealing with the management of irregular migration and relating combating efforts. Given the importance of cooperation

²⁰ For the full text of 1951 UN Convention relating to the Status of Refugees, see the website http://www.unhcr.ch/html/menu3/b/o_c_ref.htm.

and coordination among these diverse state actors, several platforms composed of various state institutions have been established, particularly as Turkey has become engaged in efforts of harmonization in the area of the management of migration and asylum.

Ministry of Interior

The Ministry of Interior and in particular *the Department of Aliens, Borders and Asylum of the General Directorate of Security within the Ministry of Interior* is currently the main actor in charge of handling asylum and migration procedures. This Department is mainly responsible for (a) the management and implementation of relevant procedures regarding visa, passports, residence permits (b) the border management, (c) the evaluation of the asylum requests of the aliens (d) the reception of refugees and asylum seekers (e) co-ordination of combating irregular migration, human smuggling and trafficking.

The Project Implementation Directorate on Integrated Border Management within the Ministry of Interior was established in 2004 with the goal of planning, developing, and implementing EU-based integrated border management projects. The Directorate has been extremely active in the area of modernization of the border management structures and process in the country. For instance, the Turkey-EU Twinning Project on Integrated Border Management was implemented with the cooperation of France and England. An Action Plan for Implementing Integrated Border Management Strategy was signed by the Prime Minister in March 2006 and submitted to the EU Commission.

With this the Directorate was closed down in 2008 which was also the time of establishment of *the Bureau for Development and Implementation of Border Management Legislation and Administrative Capacity within the Ministry of Interior*. The Bureau on Border Management today is in charge of activities regarding the increasing border management capacity, preparing for related upcoming reforms, and collaborating over the ongoing EU assistance in the field.

The Strategy Paper for the Protection of the External Borders in Turkey was adopted in 2003 as a civilian single authority which would be responsible for the security of the borders under the auspices of the Ministry of the Interior. It appears that the Bureau on Border Management will be active in the process of taking over the border control function which is currently performed by the Turkish military and semi-military structures. As the new authority it will be in charge of all border protection duties in Turkey and specially trained, professional law-enforcement units will perform all functions in line with EU standards. The Bureau's involvement in the process of combating against irregular migration and dealing with readmission issues is very clear. It is planned also that the Bureau will be in charge of implementing the possible readmission agreement, including the management of removal centres.

Established in 2008, *the Bureau on Development and Implementation of the Legislation on Asylum and Migration and Administrative Capacity within the Ministry of Interior* is vigorously engaged in various comprehensive activities for developing the relevant legislative and administrative capacity for the management of migration and asylum in Turkey, including related activities on irregular migration. Drafting of a new law on Asylum and Foreigners has been one of the primary tasks of this Bureau, which has also played active roles in developing strategies for combating irregular migration, including the drafting of readmission agreements.

This office was established to report to the Under-Secretary of the Ministry of the Interior (MoI) and to carry out studies, projects and needs analyses on the legislative and administrative structure for integrated border management (IBM) in line with the national action plan on asylum and migration and with the national action plan on adoption of the *acquis* (NPAA). Under the coordination of the new bureau, the task force met for the first time since summer 2007 in May 2009.

Ministry of Foreign Affairs

Under the responsibility of *the Ministry of Foreign Affairs, the Deputy Directorate General for Migration, Asylum, and Visa* is the other government entity in charge of the policies mainly related to illegal migration, migrant smuggling, and trafficking in human beings. In particular, the Department deals with the following main tasks: (a) preparation of bilateral readmission agreements, bilateral cooperation protocols on combating trafficking; negotiations with every country on illegal migration, migrant smuggling, and trafficking in human beings and ratification of the agreements (b) dealing with illegal migration and trafficking in human beings, border management, and cooperation in legal and criminal affairs in these areas in line with the implementation of the EU *acquis*, (c) negotiation of Turkey-EU readmission agreement, (d) harmonization activities with the EU/Schengen *acquis*, (e) combating trafficking (coordinated by *the Ministry of Interior*), (f) contribution to integrated border management (twinning) projects, (g) liaison with IOM and UNHCR, (h) dealing with issues related to asylum and migration requests to Turkey, (I) following up issues regarding EU refugee policy and harmonization of the legislation in this area.

Security forces

In Turkey, the security of the land borders is provided by *the Land Forces Command and the General Command of Gendarmerie*. *The Coast Guard* protects the sea borders. As part of the Turkish Armed Forces (although at the same time both the General Command of Gendarmerie and the Coast Guard are as the operational units under the Ministry of Interior), these units, which are responsible for the maintenance of safety and public order as well as carrying out other duties assigned by laws and regulations, provides an

armed security and law enforcement force of a military nature. They are also responsible for combating migrant smuggling and trafficking in human beings and coordinating the final situation with *the Ministry of Interior*. The operation of the border crossing points is provided by *the Department of Foreigners, Borders and Asylum of the General Directorate of Security*.

Ministry of Labor and Social Security

The Ministry of Labour and Social Security is responsible for the regulation of the relations between employers and employees; ensuring employment, workers' health, and job security; monitoring working practices; promoting social welfare and services to Turkish workers abroad; and since 2003, processing and granting the work permits for foreigners. *The Ministry of Justice* is responsible for the prosecution of migration-related crimes. It is involved in migration-related affairs through its *Directorate of Law* (for migration-related legislation), its *Directorate of International Law and External Affairs* (for the implementation of international laws and commenting in international conventions), and its *Directorate of EU Affairs* (for facilitation of legal issues of concern to the EU accession process).

Cooperation and coordination among state actors

Based on *the Strategy Paper on the Protection of the External Borders* in Turkey prepared by this Task Force in 2003, and subsequently associated with a series of twinning projects, *the Action Plans on "Asylum and Migration"* (2005) and *"Border Management"* (2006) appeared as a product of cooperation and coordination among these diverse state actors in Turkey. In short, in order to meet the challenges of such an increase in irregular migration and in accordance with the *EU Accession Partnership* and *Turkey's EU National Program*, Turkish authorities have already initiated a process of developing better institutional and technical capacity at the borders to manage orderly migration and to prevent irregular migration.

A *Task Force on Asylum, Migration, and Border Protection* was formed in 2002, which consists of representatives from *the Ministry of Interior, Ministry of Foreign Affairs, the Land Forces Command, the General Command of Gendarmerie, the Coast Guard, Undersecretary of Customs, and the Secretariat General for European Union Affairs*. Various working groups within this Task Force have been set up to start legislative scrutiny and arrange for investigations and study visits regarding border protection, illegal migration, the Schengen visa regime and asylum.

A coordination board for combating illegal migration was established in February 2010 to identify measures to fight irregular migration, strengthen inter-institutional cooperation and coordination and monitor operational activity. The board is chaired

by the Deputy Undersecretary of the Ministry of the Interior and meets every two months. Members are the Chief of General Staff, the Land Forces, the Ministry of Foreign Affairs, the TNP, the Gendarmerie General Command and the Coast Guards.

3.3. Dialogue with international and nongovernmental organizations

Turkey's long history of ignorance in the field of migration and asylum has entailed the emergence of other non state actors that sought for solutions to the up-and-coming problems. The United Nations High Commissioner for Refugees Turkish Bureau, International Organization for Migration and domestic nongovernmental organizations "tried to fill the gap" and participated in the management of temporary arrangements in cooperation with the Turkish authorities to provide some degree of protection and humanitarian assistance as well as advocacy for the betterment of immigrants' conditions (Kirişçi, 2001). The relations between the state and the non state actors have also occupied the attention of the European Commission, which provided since 1998 its regular reports on the progress and overall assessment to the latest trends in the Turkish policies dealing with asylum. The Commission started to publish more in depth analyzes after 2001, and since 2008 there is an increasing denotation on the importance of collaboration of MOI with UNHCR for the "decentralization of asylum and migration decision making mechanisms" as well as the need to facilitate Turkish NGOs' and international organizations' cooperation with the public bodies. In line with this cooperation, some of the international and nongovernmental organizations have actively participated in the legislative reform process in 2010, which gave birth to the "Foreigners and International Protection Draft Law".

This section of the report will provide brief information on some of the key non state actors that are involved in the migration and asylum issue in Turkey. It will also discuss the instances of dialogue between the Turkish state with the international organizations, domestic and transnational nongovernmental organizations in the recent years.

United Nations High Commissioner for Refugees (UNHCR)

Established in 1951, the UNHCR is UN refugee agency that aims at providing international protection for refugees and finding solutions working with the governments on refugee issues. Since the Turkish state does not provide refugee status non European asylum seekers, the UNHCR works in cooperation with the Ministry of Interior for granting refugee status to immigrants who are resettled to a third country²¹. Aside from its main occupations, UNHCR also plays an active role for improving the migration management culture in Turkey, via training conferences and seminars. Over the last years, UNHCR worked in close contact with the Turkish ministries and the

21 For more detailed information on UNHCR activities in Turkey, see website: <http://www.unhcr.org.tr/>.

Turkish Security Forces for strengthening the asylum system in Turkey. These activities include: capacity building activities with the General Directorate of Security of the Ministry of Interior as well as with the Social Services and Child Protection Agency, legislative drafting and institution building with the Ministry of Interior, Asylum and Migration Bureau, joint training activities for mixed groups of border officials from the Gendarmerie General Command, the Land Forces Command and the Coast Guard Command, providing of refugee law training to judges, public prosecutors and lawyers. In addition to the activities in cooperation with the public institutions, the UNHCR also works together with the domestic NGOs for capacity networking. Throughout 2009 and 2010 the UNHCR hosted a number of meetings and seminars, such as two round table meetings with NGOs and academicians on the main provisions of the draft asylum law²².

International Organization for Migration (IOM)

Turkey ratified the Agreement on the legal status, privileges and immunities of the International Organization for Migration (IOM) in October 2003, and granted the IOM legal status for facilitating its activities in Turkey. IOM Turkey has offices in Ankara and Istanbul, and works mainly on counter-trafficking, handling the resettlement of refugees and migrants to the USA, Canada, Australia and Europe, providing emergency assistance to refugees regarding their basic needs and health issues, and doing advocacy for legal migration alternatives. IOM initiated a counter trafficking programme in 2005 in cooperation with the Turkish authorities. The programme generated a number of projects, such as providing women tourists thought to be at risk from traffickers with information concerning trafficking, including the telephone number of a free emergency helpline. The organization provided the voluntary return of victims in cooperation with law enforcement bodies, NGOs and relevant institutions in source countries. IOM Turkey has arranged in the period of 2005-2009 a total of 16 470 resettlements as well as 932 counter-trafficking return movements and assisted and voluntary returns. The IOM's program for Technical Cooperation on Migration was designed to provide the government with access to information concerning the necessary or desirable legislation, administrative structures, operational systems and human resource base. In Turkey the program implemented projects that focused on staff training for Turkish agencies working on migration and border management; such as "Consolidating and Expanding Technical Cooperation on Migration through Turkey's Field Region" project that fostered the implementation of National Action Plan on migration and asylum, and "Fighting Against Illegal Migration through Fraud Detection" project that focused on training law enforcement officials and providing assistance on border control challenges²³.

22 http://www.unhcr.org.tr/uploads/root/f&f_issue_03-eng%281%29.pdf, accessed on April 10, 2012.

23 For more detailed information on IOM Turkey, see website <http://www.turkey.iom.int/operations.htm>.

Domestic and transnational nongovernmental organizations

Nongovernmental organizations working on migration in Turkey are crucial actors as intermediaries between the Turkish state and the regular and irregular migrants in Turkey. These civil actors work in a wide range of work targets, from providing humanitarian assistance to supporting the management of asylum seekers' stay in Turkey, from advocacy claiming for the betterment of immigrants' conditions to sustaining legal support. Nongovernmental organizations working in these fields include: Association for Solidarity with Asylum Seekers and Migrants (ASAM), Amnesty International, Association of Human Rights and Solidarity for Oppressed People (Mazlumder), Caritas, Istanbul Inter-Parish Migrants Program (IPMP), Helsinki Citizens' Assembly (hCa), Migrant Solidarity Network (GDA), Association of Solidarity with Refugees (Mülteci-Der), Human Resource Development Foundation (HRDF), Human Rights Association and Humanitarian Relief Foundation (İHH).

A group of nongovernmental organizations provide humanitarian assistance and psychosocial support to immigrants in Turkey. As one of the nongovernmental organizations that provide humanitarian assistance to immigrants, Association for Solidarity with Asylum Seekers and Migrants (ASAM) was established in 1995 as the humanitarian NGO to be specialized in working with asylum seekers and refugees in Turkey. With its offices in 13 Turkish cities, ASAM works in collaboration with the UNHCR, especially working on local projects in order to provide social service and promote integration of the refugees and asylum seekers²⁴. Human Resource Development Foundation (IKGV) works as the executive partner of the UNHCR office in Istanbul since 2007. The foundation works for enhancing and supporting especially women and children, while at the same time providing psychosocial support to asylum seekers and refugees since 2002 in Istanbul and 2003 in Ankara²⁵. Established as human rights organizations, Association of Human Rights and Solidarity for Oppressed People (Mazlumder), Human Rights Association and Humanitarian Relief Foundation (İHH), Amnesty International and Caritas also provide support coupled with advocacy for improving immigrants' conditions in Turkey.

Another group of organizations are working mainly on providing legal aid as well as raising public awareness in Turkey. Helsinki Citizens' Assembly is an NGO working on legal support for immigrants and refugees since 2006. As a legal organization, hCa has international cooperation with advocacy networks in the European countries such as European Council on Refugees and Exiles and Migreurop. hCa has also started applying cases to the European Court of Human Rights, after the first involvement with

24 For more detailed information on ASAM, see website: <http://www.sgdd.org.tr/en>.

25 For more detailed information on IKGV, see website: <http://www.ikgv.org>.

the ECHR for the case of Abdolkhani and Karimnia vs. Turkey in 2008²⁶. Since then, hCa has applied about 30 cases to the ECHR. Together with a number of human rights organizations, namely Amnesty International, Human Rights Association, Mazlum-Der, Human Rights Agenda Association, Mülteci-Der and Human Rights Research Association, Helsinki Citizens' Assembly founded in March 2010 Turkey Coordination for Refugee Rights. The initiative stressed its advocacy role in its press release as to *"represent a shared commitment to working together to promote public awareness and ownership of asylum issues in Turkey and to intervene in the Government's policy agenda on asylum and migration management from a human rights perspective"*²⁷. In 2010, another group of pro-immigrant activists and academicians founded Migrant Solidarity Network (GDA) in order to advocate against the inhumane conditions in Turkish detention centres. The network organizes events for raising the public awareness on the issue, while at the same time providing assistance to especially irregular migrants, and minors in Istanbul²⁸.

26 Abdolkhani and Karimnia c. Turquie/v. Turkey, no/no. 30471/08 (Sect. 2), CEDH/ECHR 2009. hCa was not the applicant of the case but kept track of the internal judiciary.

27 Turkey Coordination for Refugee Rights, Joint Press Statement, 15 March 2010, Ankara, <http://www.hyd.org.tr/?pid=788>.

28 For more detailed information on GDA, see webpage: <http://gocmendayanisma.org>.

CONCLUSION AND POLICY RECOMMENDATIONS

4. CONCLUSION AND POLICY RECOMMENDATIONS

Irregular migration is a particular concern for European countries, which are major targets of migrant flows since the end of 1990s. The increasing migration pressures driven by economic and/or political deprivation, social conflict and political turmoil has not affected only those countries of destination but also the countries that shared their borders. Especially during the last decade, Turkey's position as both a transit and destination country for the immigrants who were in search for better economic and social conditions became ever more apparent. As a result of its increasing role within the migration systems and its candidacy to the European Union, Turkey has invested more efforts to develop the management of migration and asylum.

This study has discussed four distinct periods which exhibited different characteristics related to the migrants and migratory flows, as well as the management practices by the state. These periods include the *fertilization period* during 1979-1987; the *maturation period* during 1988-1993; the *saturation period* during 1994-2001, and the *period of degeneration* since 2001 onwards (İçduygu, 2005; İçduygu and Sert, 2012). Until 1994 the country has been affected by diverse migration flows from its neighboring countries, and especially from Iran, Iraq, Bulgaria and former Soviet Republics. As the magnitude of migrations augmented, the Turkish state and authorities began pursuing more active and targeted policies. Hence the problematization of migration as a policy issue occurred as late as the 1990s, and it was marked by two major policy shifts: the 1994 Regulation on Asylum and the EU-ization of migration and asylum since the 2000s.

The report has considered the changing migration flows with respect to four different categories of immigration in Turkey: (1) irregular labor migrants; (2) transit migrants; (3) asylum seekers and refugees and (4) regular migrants. The irregular migrants (labor/shuttle and transit migrants) signified those who either used Turkey in their ways to crossing to a third country, or those who stayed or worked in the country without necessary permits. The asylum seekers and refugees were considered in parallel with the irregular migrants due to their entry to Turkey, often made through irregular border crossing. Regular migrants comprised of the immigrants and their family members who arrived to Turkey for employment or educational purposes.

Statistically the four distinct periods about migration to Turkey exhibited various trends for different immigrant categories. The apprehension figures of irregular migrants in Turkey illustrate that there has been a significant increase in this form of migration from mid-1990s to the early 2000s. The number of apprehensions decreased over the last ten years; however they remained higher than the 1990s. Regarding the potential transit migrants, the annual volume in Turkey during the 1990s was less than 5 000, and recent statistics of 2009-2010 show that there has been an increase of 20 000 apprehended people per year. Yet, the greatest flows were seen during the 2000s, with over 52 000 transit-assumed migrants apprehended by the Turkish security forces in the year 2000. The number of asylum seekers in Turkey has also increased over the last years, and between 1995 and 2009 nearly 70 000 asylum application were received, with

the majority of applicants originated in Iran and Iraq. Recently, there is a fluctuating trend in the numbers of asylum seekers coming to Turkey. Finally, there is a continuous trend regarding the number of foreigners with regular status; with 177 000 people in 2010, including nearly of 20 000 people residing with work permits and 30 000 people with student permits.

Turkey's transformation over the course of the last three decades into a land of immigration brought forward "management of migration and asylum flows" arriving in the country as a widely debated issue both in the policy realm and in the negotiation talks with the European Union. This report pointed to the policy changes since the beginning of 2000s and the sweeping reform over the last few years that finally gave birth to the draft Foreigners and International Protection Law. The law, which has been prepared to regulate the entry, settlement and integration conditions of foreigners (immigrants), asylum seekers and refugees, is expected to be amended in the short term.

The latest reforms in the domain of migration and asylum have included a number of transformations, including the changes in the legal framework for managing the irregular migration in the domestic arena (regarding stay and movement of immigrants, trafficking and smuggling of immigrants, working permits and conditions and social rights) as well as changes as a result of adoption of international documents and harmonization to the EU *acquis communautaire*. The changes in the legal framework and the implementation of the new policies for the management of migration were consolidated via institutional adjustments that enabled the cooperation and coordination among diverse state actors, various platforms, international and nongovernmental organizations.

As a result of the EU Accession Partnership, Turkey has negotiated with the EU on four major objectives: signing of readmission agreements both with member states and with the community, adoption of visa/Schengen procedures, realization of stricter measures in managing Turkey's borders and lifting up of the geographical limitation applied to non European asylum seekers. All four issues mentioned above (readmission agreements, visa/Schengen procedures, border management and geographical limitation) are being treated during the negotiation talks between Turkey and the EU, in juxtaposition to the burden sharing/burden shifting debate which has become a template in the EU literature. The readmission agreement and the geographical limitation remain critical and debated issues between the two sides.

The problematization of irregular migration and asylum in Turkey as a policy issue has engendered new questions about the changing perceptions, policies and practices. The efforts that are undertaken for bringing the migration policy into line with the EU norms and standards provided for better accumulation of knowledge on the existing migration flows in the country. More precise and systematic data about the irregular migration from Turkey to other EU member countries would further the quality of evaluation. The reflection of the recent legal, administrative and institutional reforms into the Draft Law on Foreigners and International Protection has demonstrated the political will of the authorities for better managing and controlling irregular migration on its

territory. The amendment of the draft law would translate the ongoing transformations into a systematized migration regime. More importantly, the humanitarian aspects of migration and asylum, as well as the states' responsibility for safeguarding the dignity of immigrants need to be considered as crucial during the reformation process. The measures such as the improvement of immigrants' conditions in retention/detention centers, the expansion of social policy mechanisms provided to irregular migrants as well as asylum seekers and refugees who are living in satellite cities, and adoption of more cooperative steps for fighting against trafficking, would directly influence the living conditions of the immigrant populations in Turkey. Finally, the increased dialogue between the state officials from different institutions with the domestic and international civil society is very promising for establishing a broader and more cooperative management of irregular migration and asylum. The continuation and expansion of this cooperation would be decisive for adopting more comprehensive solutions in the future.

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