

TUĞÇE KILIÇ*

International Reforms on Asylum Policy and Refugee Protection in Turkey: from Neighbour to Roommate

Turkey is in the cross-road of Asia, Europe, the Balkans, the Caucasus, and Middle East. Due to this geographical location, it has always destined to be on the way of asylum seekers and refugees during the history.

Since the birth of Republic of Turkey in 1923, it has always been a target country for the refugee influxes. Preliminary migration policy of Turkey between 1920s and 1930s was based on acquiring Turkish and Sunni inhabitants in order to create a nation state.¹ Therefore, up to 1997, the refugee population which corresponds to more than 1.6 million people was mainly consisted from the Balkan countries.²

What happens in the region affects Turkey directly or indirectly. As a result of the wars, ethnic disputes and political turmoil, many people fled to Turkey from Middle East Middle East, Africa and South-East Asia since the early 1980s. There is couple of examples such as Iranian Revolution in 1979 and after the Iran-Iraq War which led to refugee flows to Turkey. One of the serious flows which Turkey faced was Kurdish refugee influxes from 1988 and 1991.³ All these led Turkey to improve its preliminary migration policy and Turkey accepted around a half million Iraqi Kurdish Refugees.

Today, the world is witnessing the most dramatic refugee crisis of the 21st century. Turkey is one of the generous countries that opened its door to refugees. However, evolution of the Syrian Refugee Crisis caught Turkey unprepared and it was realized that Syrian “guests” sheltered in the temporary protection would not be staying that short. At this point, Turkey needed to experience some changes politically, socially, economically and legally. With the Syrian case, Turkey implemented the new law namely *the Foreigners and International Protection Law* and at the same time it had international support. As one of the major initiatives, the European Union created Joint Action Plan with Turkey. By this plan,

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¹ http://www.swp-berlin.org/en/publications/swp-comments-en/swp-aktuelle-details/article/turkey_as_partner_of_the_eu_in_the_refugee_crisis.html. (2017. 05. 03.)

² AVCI, Gamze – KIRISCI, Kemal: Turkey’s Immigration and Emigration Dilemmas at the Gate of the European Union. *Migracion y Desarrollo* Vol. 2., (2006) 61.

³ KIRISCI, Kemal: Refugee Movements and Turkey. *International Migration* Vol. 29., 4 (1991) 545.

the crises attempted to be regionalized and by this way, further mobility to Europe could be diminished.

Taking this crucial policy change and implementation of brand new law as a turning point, this paper evaluates how exactly these external supranational and intergovernmental bodies affect the domestic political grounds? What kind of the mechanisms of influences they implemented? How far the crisis would be regionalized? In order to create a more humane, fair and efficient asylum policy; a real, stronger International Cooperation should be implemented. By this way, it would be possible to establish a solid, coherent and long-term asylum policy.

The most dramatic humanitarian crisis of 21st century is being taken place just in the longest border (911km) of Turkey: Syria. Following the conflict occurred in March 2011 between the Syrian government- Assad regime and opposition groups, many people started to flee from the conflict territories and arrived to Hatay- Cilvegözü border gate in April, 2011.⁴ Many of the first arrivals to Turkey escaped from the government sanctions, imprisonment and torture because of the fact that they were political activists.⁵ As the clash between the parties went worse, people have been fleeing from the country not only because the cities are being destroyed but the humanitarian conditions are getting worse day by day since the conflict arose.

There have been many other causative reasons which force people to leave the country and seek a shelter in neighbouring countries. People faced a serious challenge to continue their daily lives under the bombs, lack of basic nutritious and potable water, and almost no access to health treatments.⁶ All these led people to go to Turkey upon an instruction coming from ex-Prime Minister Ahmet Davutoğlu to open the borders to everybody⁷ and accept the Syrian refugees as “guests”. This policy named after “open door policy” and was based on the idea that the war would end quickly, allowing Syrians to go back home. Approximately 5 months later in September 2011, Turkey’s new Disaster and Emergency Management Authority (AFAD) collaboration with the Turkish Red Crescent prepared the camps in the widespread locations to host many Syrian refugees.⁸

However, when another influx coming from Kobane and Tel Abyad on the Cilvegözü border took place in 2015, the Deputy Prime Minister, Numan Kurtulmuş stated that the border gates would not be opened for the entrances and they would provide more humanitarian aid across the Syrian border. Refugees insisted on entering by pushing against the wire fences and they made the open door policy active for them once again.⁹ However, this clearly reflects the paradigm shift in government’s long-term vision towards refugees

⁴ HOFFMANN, Sophia – SAMUK, Sahizer: *Turkish Immigration Politics and the Syrian Refugee Crisis*. https://www.swp-berlin.org/fileadmin/contents/products/arbeitspapiere/Working_paper_Hoffmann_Turkish_immigration_policy.pdf (2017. 05. 03.) 7.

⁵ Id. 7.

⁶ Id. 7.

⁷ Türkiye- Suriyeli Sığınmacılara Kapımız Açık <https://www.dw.com/tr/türkiye-suriyeli-sığınmacılara-kapımız-açık/a-15155526> (2017. 05. 03.)

⁸ HOFFMANN – SAMUK, 2016. 4.

⁹ KIRISCI, Kemal – FERRIS, Elizabeth: Not Likely to Go Home: Syrian Refugees and the Challenges to Turkey and the International Community. *Turkey Project Policy Paper 7* (2015) 4-5.

and open-arms policy. According to reporters, Syrians have taken advantage of this policy up to now since it was put into practice.¹⁰

In a short time, as a result of the open door policy, Syrians who were registered in camps as “guests” in 2011 would later become 2.75 million who are under the “temporary protection” and many of them would locate in the cities close to Syria while the rest could also be found outskirts of the big cities like Ankara, İstanbul, İzmir.¹¹ However, this policy is seen as a success policy by the government, opposition parties define it as a mistake of the ruling party AKP. According to the opposition parties, Syrian Refugee Crisis reached such levels because of the government’s standing against the Assad regime, supporting armed Sunni rebels and government’s moderate approach to ISIS until 2014.¹²

At the beginning, Disaster and Emergency Management Authority (AFAD) was responsible of dealing with the refugees and the operations related to them. Since the influx was relatively huge, answers given by the AFAD stayed inadequate. This inadequacy led to establish a new system. With the approval of The Law on Foreigners and International Protection, Directorate General of Migration Management (DGMM) was established. In Turkey, there were few experienced people on migration and asylum and consequently personnel of the DGMM is without experience or no related background in migration and asylum.¹³ However, DGMM has a significant role for policy and strategy development and implementation whereas AFAD carries out the coordination for humanitarian assistance.¹⁴

Apart from political side, growing number of Syrian refugees has also led to major economic consequences on national economy. While the economic effects of the Syrian refugee crisis are often seen as negative, it is also considered to be positive due to its contribution to the local economy.

The financial burden of refugees has started to be frequently voiced by government officials especially when the government is blaming the EU for not sufficiently sharing the burden of crisis. Turkey’s spending on refugees has reached around 25 billion dollars declared by the Minister of Development during a conference organized by the UNDP. 12 billion dollars has been spent by the government while the other half funded by civil society organizations.¹⁵ A significant part of expenditures has been used for the upkeep of the refugee camps as well as health, education and other services of camp and urban refugees.¹⁶

One of the most common economic effects created by the growing number of refugees is the increase in local living costs. The influx of refugees has inevitably pushed prices up and above-average inflation in border cities, such as Kilis and Gaziantep, gave rise to additional complaints among locals.¹⁷

¹⁰ HOFFMANN – SAMUK, 2016. 4.

¹¹ Turkey’s Refugee Crisis Politics Permanence. <https://www.crisisgroup.org/europe-central-asia/western-europe/mediterranean/turkey/turkey-s-refugee-crisis-politics-permanence> (2017. 05. 03.) 4.

¹² Id. 4.

¹³ <https://www.law.ox.ac.uk/research-subject-groups/centre-criminology/centreborder-criminologies/blog/2016/03/turkey-safe-third> (2017. 05. 03.)

¹⁴ Id.

¹⁵ <http://www.birgun.net/haber-detay/turkey-s-spending-on-syrian-refugees-reach-25bn-government-officials-say-152279.html> (2017. 05. 04.)

¹⁶ KİRİSCİ – FERRİS, 2015. 6.

¹⁷ ORHAN, Oytun – SENYUCEL GUNDOĞAR, Sabiha: Suriyeli Sığınmacıların Türkiye’ye Etkileri, Orsam-Tesev, Orsam Report No: 195, January 2015, Ankara <http://www.orsam.org.tr/files/Raporlar/rapor195/195eng.pdf> (2017. 05. 05.) 17.

The other economic effect generated by refugees is visible in the labor market. Almost 1.8 million Syrians, making up 60% of Syrian refugees in Turkey, are of working age.¹⁸ Many refugees are employed in the informal economy especially in industry and agriculture and receive lower salaries than native workers.¹⁹ Researches have shown that unemployment rate has increased, while labor force participation and job finding rates have decreased for Turkish citizens. The disadvantaged groups, such as women, young workers and less educated workers remained the most affected groups in the native labor market.²⁰ Given the fact that youth unemployment climbed by 5.3 percentage points to 24% and the overall rate of unemployment has increased by 1.9 percentage points to 13% in 2017,²¹ the effect of Syrian refugees becomes much more crucial in the society. This leads to resentment by Turkish people and towards Syrian refugees and makes them vulnerable to exploitation.²²

Furthermore, child labor and education of minors have emerged as an important issue in the economic transformation of the refugee crisis. Studies show that not only child labor is increasing but also daily working hours of most Syrian children exceed 8 hours.²³ In addition, while the education of minors remains satisfactory within the camps, two thirds of Syrian children are unschooled due to the fact that the large majority of children stay outside the camps.²⁴ Hence, this situation appears another negative consequence on financial burden of the crisis.

On the other hand, it can be said that Syrians has also contributed to the Turkish economy. First of all, most of the humanitarian aid sent to Syrian refugees and Syria has been provided through local companies and this actually supports the local economy. Furthermore, Syrian refugees have attracted business people as cheap labor force and this leads to a positive environment for local investors. It must be also noted that the business network of Syrian refugees has also significant impact on local economy. For instance, business people coming from Aleppo have important network with the Middle East and therefore this contributes to the distribution of Turkish products around the Middle East and generate new opportunities for Turkish people.²⁵

In general, financial burden of the refugee crisis presents a substantial challenge in terms of living costs, unemployment rate, labor force, minors' access to education while providing a modest contribution to the Turkish economy.

Refugee influxes also brought some social challenges. The refugees and locals have different cultures, languages and life styles. This creates an atmosphere to lead an ethnic and sectarian polarization among communities. Many Syrians are located bordering cities but quite a lot also can be found outskirts of Ankara, İstanbul, İzmir, Antalya namely in metropolis cities. Demographical change is inevitable and fertility rates, population increase is observable. As one of the visible effects, uncontrolled urban development is spreading.

¹⁸ <https://hbr.org/2017/04/turkey-badly-needs-a-long-term-plan-for-syrian-refugees> (2017. 05. 05.)

¹⁹ KİRİSCİ – FERRIS, 2015. 6.

²⁰ CERİTOĞLU, Gürcühan – YUNCULER, Torun, Tümen: *The Impact of Syrian Refugees on Natives' Labor Market Outcomes in Turkey: Evidence from a Quasi-Experimental Design*. Central Bank of the Republic of Turkey, 2017. 5.

²¹ Turkish Statistical Institute: *Labour Force Statistics, January 2017*. <http://www.turkstat.gov.tr/HbGetirHTML.do?id=24626> (2017. 05. 05.)

²² KİRİSCİ – FERRIS, 2015. 6.

²³ Terre des Hommes International Federation: *Child labour among Refugees of the Syrian Conflict*. Germany. 2016. 36.

²⁴ <https://www.swp-berlin.org/en/publication/turkey-as-partner-of-the-eu-in-the-refugee-crisis/> (2017. 05. 05.) 3.

²⁵ <http://www.orsam.org.tr/files/Raporlar/rapor195/195eng.pdf> (2017. 05. 05.) 18.

In parallel with this, especially locals are complaining about increase of rental fees in the bordering cities. These are one of the main aspects which cause the integration going slow and take more time.²⁶

Another crucial problem is that as a result of the increasing divorce rates and no obligation for a civil marriage by constitutional court ruling, polygamy is getting widespread among the region.²⁷

Apart from harsh living conditions, there is a possibility that there would be a loss generation: Up to 2016, 230 thousand Syrian babies were given birth within the border of Turkey. Although the number of Syrian school-age children is 968 thousand, 500 thousand do not go to school.²⁸

On the other hand, it is worth noting that majority of the refugees are children or young people and many of them following a Turkish course. Language is one of the main elements of the integration. There are also many Syrians and Turks are getting married. This fact also helps to deep the integration. Many Syrians are opening shops and stimulate the commerce in the market. Since there are many NGO and INGOs located in the border cities and operating across border, local people also had some opportunity to be employed over there.²⁹ No matter how complex the social issues are social peace is keeping normal and criminality and disturbance are low.³⁰

The influx of Syrian refugees has also profoundly affected country's legal situation. Due to the absence of a comprehensive law for the effective protection of refugees, "Foreigners and International Protection Law" has been passed on April 2013. This was proudly announced by the Ministry of Interior at that time: "We have a tradition of being a deep-rooted, compassionate society of millennia, opening its doors to immigrants, protecting those in need and being respected by the world. The Foreigners and International Protection Act is the manifestation of this tradition."³¹

Prior to the adoption of new law, the rights of refugees had been protecting under a piece of regulations together with the 1951 Geneva Convention on the Legal Status of Refugees. However, the geographical limitation to the Convention had been preventing Syrian refugees from an effective protection and accessing public services. This was giving rise to a number of administrative regulations and decisions of the Council of State in order to overcome the gaps within required areas.³²

The fulfilment of constitutional/international obligations and the increase in European Court of Human Rights rulings against Turkey concerning particularly deportation and administrative detention paved the way for a new and comprehensive legislation. Besides, legislative works in relation to migration in accordance with the EU *acquis* has been an important reason behind the preparation of law.³³

²⁶ <http://www.orsam.org.tr/files/Raporlar/rapor195/195eng.pdf> (2017. 05. 05.) 8.

²⁷ <http://www.hurriyet.com.tr/resmiden-once-dini-nik-ha-cezaya-iptal-29136365> (2017. 05. 05.)

²⁸ <http://www.milliyet.com.tr/turkiye-de-230-bin-vatansiz-gundem-2374476/> (2017. 05. 05.)

²⁹ KİRİSÇİ – FERRİS, 2015. 9-10.

³⁰ <http://www.orsam.org.tr/files/Raporlar/rapor195/195eng.pdf>, (2017. 05. 05.) 8-9.

³¹ *Turkey and Migration Management Publication*. Republic of Turkey Ministry of Turkey Directorate General of Migration Management, Ankara, 4 (2013) 1.

³² *Turkey and Migration*. Republic of Turkey Ministry of Turkey Directorate General of Migration Management. http://www.goc.gov.tr/icerik6/turkey-and-migration_1030_1033_1357_icerik (2017. 05. 05.)

³³ *Turkey and Migration*. Republic of Turkey Ministry of Turkey Directorate General of Migration Management. Op. cit.

The Directorate General of Migration Management has been established by the adoption of law and most importantly, even if it had been recognized by the case-law of the Council of State, the principle of non-refoulement has been set out, for the first time, by law. Furthermore, this principle has been accepted not only for refugees protected under the Geneva Convention but also for “conditional refugees” and for those who benefit from “secondary protection.” By this way, Syrian refugees have been fallen under the application of the Foreigners and International Protection Act.

It must be also claimed that current legal situation does not still enable the long-term integration of Syrian refugees within Turkish society and existing provisions prevents the naturalisation of larger groups of people of “non-Turkish origin and culture”. In addition, the issue of work permits still has not been completely resolved.³⁴

Briefly, it is clear that the influx of refugee crisis has led a crucial change in “Syrians our guest policy” confronted with economic, social and legal challenges. In light of these pressing matters, the level and form of international cooperation notably with the EU has particular importance in terms of burden-sharing of the crisis which will be discussed in the following chapter.

Turkey tried its best to reach a sufficient financial and programmatic background on its own by dealing with political, social, economic and legal dimension of the phenomenon, however it could not afford and deal with such an influx to a wide extend. For this reason, in order to have an economic and administrative support, Turkey has involved NGOs and later INGOs to operate the refugee related missions inside and cross-border of Syria. As mentioned in the previous chapter, Turkey has spent a remarkable amount of money to reply the needs of necessary preparations and operations for the refugee missions. However, a wider international cooperation and engagement has been demanded to deal with the crisis.

Given the fact that more than 1 million entered the EU via Eastern Mediterranean border, mainly Turkey, in 2015 and 2016,³⁵ a deal has been rendered necessary between the EU and Turkey to “*address this crisis together in a spirit of burden sharing.*”³⁶ Consideration of mutual interests made the EU a major partner for Turkey to cope with the crisis. This cooperation took place in the document, which was activated on 29 November 2015, as follows: “*This Action Plan reflects the understanding between the European Union (EU) and the Republic of Turkey to step up their cooperation on support of Syrians under temporary protection and migration management in a coordinated effort to address the crisis created by the situation in Syria.*”³⁷

According to the Action Plan, Turkey has committed to strengthen the interception capacity of the Turkish Coast Guard, support the cooperation with Greek and Bulgarian authorities to prevent irregular migration. Furthermore, it guaranteed the efforts for the implementation of measures allowing Syrians under temporary protection to access public services including education of minors, and participation in economy. The fight against criminal networks involved in the smuggling of migrants has been also ensured. It must be

³⁴ http://www.swp-berlin.org/en/publications/swp-comments-en/swp-aktuelle-details/article/turkey_as_partner_of_the_eu_in_the_refugee_crisis.html (2017. 05. 03.) 5.

³⁵ INFOGRAPHIC: *Irregular arrivals in the EU, 2015-2016.* <http://www.consilium.europa.eu/en/infographics/irregular-arrivals-eu-01-2017/> (2017. 05. 04.)

³⁶ *EU-Turkey Joint Action Plan.* European Commission. Brussels, 2015.

³⁷ Id.

also added that the asylum procedures that have been initiated would be quickly completed.³⁸

On the other side, the EU has promised to organize new funds in tackling the presence of Syrians under temporary protection together with ensuring the increase in financial assistance offered to support Turkey via relevant organisations. Within the framework of the Action Plan, the EU has committed to quickly provide funding from the €3 billion Facility for Refugees in Turkey. Another crucial point was that the EU would approve visa-liberalisation for Turkish citizens once the EU-Turkey Readmission Agreement has been fully implemented.³⁹ Briefly, the Joint Action Plan suggested adapting a long-term vision with a financial and administrative support for Turkish government.

Whilst it is generally agreed that the EU-Turkey deal was aimed at finding pragmatic solutions to common challenges, this has not been separately progressed from the debate about EU membership negotiations. Apart from refugee crisis, Turkey's unwillingness to take certain actions for the appropriate implementation of the Readmission Agreement and serious concerns on the rule of law, freedom of press and human rights protection of the country remained serious impediments to the achievement of the Plan. Turkey's instrumentalisation of refugee policy as part of EU negotiations and its Syria policy has been perceived to have a negative effect on the ability of commitments to be fully met by Turkey.⁴⁰ During a discussion of the report on visa liberalisation at the European Parliament, Burhan Kuzu, one of the advisers to President Recep Tayyip Erdoğan, wrote on the social media: "*If the wrong decision is taken, we will send the refugees.*"⁴¹ This approach was repeated by Turkish Foreign Minister Mevlut Cavusoglu by saying that if the promised visa liberalization failed, the ongoing agreement between the EU and Turkey would be jeopardized.⁴²

Yet, those opposed to EU's approach claimed that it was not an easy task for Turkey to handle such a big humanitarian crisis, regardless of its huge financial costs and political burden on Turkey. As regards EU's doubts on the question of how major steps could be expected by Turkey, the government officials and the President Erdoğan repeatedly voiced promised €3 billion financial aid by the EU. They argued that the EU has not transferred required funds to Turkey as promised by the Action Plan.⁴³ In addition, although there has been a positive step especially in legal situation, this was mostly disregarded by Brussels. It is indeed considered that even though the financial pressure was accepted and the hospitality of the country was praised, Turkey did not sufficiently take part in European discussions on the cooperation to deal with the refugee crisis and the signs of change were

³⁸ Id.

³⁹ *Managing the Refugee Crisis: EU-Turkey Joint Action Plan: Implementation Report*. European Commission, Brussels, 2016. http://europa.eu/rapid/press-release_IP-16-268_en.htm (2017. 05. 03.)

⁴⁰ http://www.swp-berlin.org/en/publications/swp-comments-en/swp-aktuelle-details/article/turkey_as_partner_of_the_eu_in_the_refugee_crisis.html (2017. 05. 03.) 6.

⁴¹ *Turkey repeats threat to flood Europe with refugees*. <http://www.euractiv.com/section/justice-home-affairs/news/turkey-repeats-threat-to-flood-europe-with-refugees/> (2017. 05. 03.)

⁴² *Turkey says all deals with EU in jeopardy if no visa liberalization*. <http://www.reuters.com/article/us-turkey-eu-visa-idUSKBN16I081> (2017. 05. 03.)

⁴³ *EU has not transferred promised 3 billion euros to refugee projects in Turkey, not even one tenth of it*. <http://www.abhaber.com/turkiyedeki-multeci-projelerine-3-milyar-euro-aktarmasi-gereken-ab10da-1ini-bile-vermedi/> (2017. 05. 03.)

ignored.⁴⁴ It is also argued that the main objective for the EU is to promote and impose its values on Turkey.

To sum up, instead of discussions on “dirty dealing” and ‘the sell-out of European values’,⁴⁵ a mutual understanding of this humanitarian crisis and human dignity must be, first of all, the order of collaboration. The EU should not ignore political, social and economic challenges of the crisis for Turkey and offer a financial and administrative support in order to realize commitments to the sharing burden of refugees in equal measure.⁴⁶ On the other side, a convincing plan should be provided by Turkey for the implementation of the Joint Action Plan and norm-based discussions must prevail.

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(Summary)

Turkey is in the cross-road of Asia, Europe, the Balkans, the Caucasus, and Middle East. Due to this geographical location, it has always destined to be on the way of asylum seekers and refugees during the history. It has not only been a target country to reach but also a transit country for whom are defined as irregular migrants, especially the ones seeking for an asylum in European countries. Being a country in the target and/or transit way of asylum seekers and refugees, Asylum and Refugee Policy of Turkey was determined mostly within the geographical limits of Geneva Convention, 1951. Therefore, it could not prepare a long-term national migration policy which would help it in the time of “crisis” which needed to be responded by the international community. This fact caused Turkey to have ended up with inadequate legal, institutional and physical background for a long time and faced with problems at the time of massive influxes. The year 2013 is considered as a turning point for the Asylum and Refugee Policy of Turkey. The Foreigners and International Protection Law was adopted and this brought a new, human-rights and international-norm oriented approach. This is a result of negotiations with supranational and intergovernmental entities such as European Union, United Nations High Commissioner for Refugees, International Organization for Migration, and rulings of the European Court of Human Rights. During the history, Turkey faced with two major refugee influxes namely 1988/1991 Iraqi Kurdish Refugee flow which had been the major crisis post-Cold War era and 2011 onwards Syrian Refugee flow. At the beginning, it can be seen that Turkey tried to solve these two crises with the same approach: creation of no-fly zones, safe shelters inside the refugees’ country of origin etc. However, evolution of the Syrian Refugee Crisis caught Turkey unprepared and it was realized that Syrian “guests” sheltered in the temporary protection would not be staying that short. At this point, Turkey

⁴⁴ http://www.swp-berlin.org/en/publications/swp-comments-en/swp-aktuelle-details/article/turkey_as_partner_of_the_eu_in_the_refugee_crisis.html (2017. 05. 03.)

⁴⁵ Id. 7.

⁴⁶ Id. 8.

needed to go for a change in the policies. With the Syrian case, Turkey implemented the new law namely the Foreigners and International Protection Law and at the same time it had international support. As one of the major initiatives, the European Union created Joint Action Plan with Turkey. By this plan, the crises attempted to be regionalized and by this way, further mobility to Europe could be diminished. Taking this crucial policy change and implementation of brand new law as a turning point, this paper evaluates how exactly these external supranational and intergovernmental bodies affect the domestic political grounds? What kind of the mechanisms of influences they implemented? How far the crisis would be regionalized? In order to create a more humane, fair and efficient asylum policy; a real, stronger International Cooperation should be implemented. By this way, it would be possible to establish a solid, coherent and long-term asylum policy.