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THE DEVELOPMENT OF ASYLUM LAW IN TURKEY WITHIN THE FRAMEWORK OF THE EUROPEAN UNION'S HARMONIZATION PROCESS

The impact of the European Union (EU) on international policy in Turkey is already regarded as minimal because of the absence of genuine membership prospects. Nevertheless, the approval by Turkey of the asylum laws in the past that fulfills virtually all of the EU's requirements speaks to the continued impact of the EU throughout this policy position. Most of our web-based study's academic scholars believed EU membership to be a key element in the passage of the bill. The conversations with Turkish State officials, as well as the European Commission, show how the EU affected the drafting process. This study discusses the influence and development of Europeanization on policy structures in Turkey within the asylum and refugee policy framework. It looks at the effect of Europeanization on the transition of Turkish pre-accession to the EU. Also, it explores how Turkey carries out its duties at the policy level in relation to an international refugee protection framework as well as asylum seekers harmonization.

I. INTRODUCTION

As Turkey is widely known among irregular migrants as the immigrations and transit nation, Turkey's asylum rules are increasingly attracting national and global attention. There have recently been two conventions held by the UN High Commissioner for Refugees (UNHCR) since 2011 and IOM in May of the same year with regional stakeholders and several academics, members of civil society, diplomats, and, above all, authorities [UNHCR, 2021]. This attention was partially caused by the publishing of the first draft of the Turkish asylum law in January 2011. This draft bill is the outcome of an exceptionally public legislative procedure based on Turkish principles, which began at the end of 2008 [Kirişçi, 2012]. If parliament ratifies this bill, Turkey shall ultimately have the statutory provisions that would provide protection and support for physical and organizational infrastructures to people seeking asylum and refugees.

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This is a substantial break from prior practice. This development is also happening when the discussions on Turkey's admission are quickly nearing a dead end. Yet, the team head who drafted the draft legislation recognizes the involvement of the European Union (EU) and, in particular, highlights that the legislation is a stepping stone to achieving Turkey's pledges in both its National Adoption Program (NAAP) as well as the Asylum and Migration Action Plans [Peers, 2016]. The significance of preparing for Chapter 24 accession talks covering the EU *acquis* is also mentioned as a rationale for developing the draft law.

Nowadays, no one body of legislation regulates all aspects of asylum. The Ministry of Interior issued an operational directive in 2006 to guide the asylum procedures and the rights and duties of asylum seekers and refugees. Asylum legislation is among the most critical aspects whereby the change is required to bring Turkish legislation in line with the EU *acquis* [UNHCR, 2015a]. Immigrants and asylum problems fall under Chapter 24 (Freedom, Justice, and Protection) of the accession talks, and Turkey must adopt the EU framework in this area to join. In 2005, the Prime Minister approved a National Action Plan (NAP) concerning Refugees and Immigrants produced by the MOI's Directorate General of Security [Kaya, 2009]. The Action Plan outlines ways Turkish federal Law must be modified EU-compliant and assigns priority to particular concerns. This article discusses existing legislation and rules on asylum seekers at the EU level and how asylum and migration laws have been developed to determine if these developments have been essential to satisfy the demands of EU Countries and harmonization in Turkey.

2. METHODOLOGY

The article utilizes secondary analyzes of literature reviews, papers, academic publications, and government articles. Secondary analysis of extremely high-quality quantitative and qualitative studies offers advantages. Such a study may enhance context knowledge by offering several views on fundamental topics, verification and counterpointing, highlighting the common themes of the content given, and showing literature gaps. In particular, the article includes a research process analysis of secondary sources incorporating a variety of scholarship and academic journals and political reports; conceptual and situational reports by local, national and global institutions of civil society; published material; administration and bilateral regulations and policies; laws; opinion papers and news reports [Bilecen & Yurtseven, 2018)]. The study aims to comprehend the viewpoints of refugees, asylum seekers, and host communities, providing both balancing and redundancy of data [Thomas, 2016].

3. THE LEGAL FRAMEWORK FOR PROTECTING ASYLUMS

In search of shelter, millions of people abandoned their native lands. Governments responded by developing a series of international accords to give these people traveling permits, which were the first 20th century immigrants [Ineli-Ciger, 2018]. During the Second World War, their populations rose rapidly, with millions more evacuated, expelled, and relocated forcefully. The global community has consistently constructed a collection of rules, regulations, and treaties during the 20th century to guarantee that refugees receive proper care and defend their human rights [Cupolo, 2017]. The procedure started in 1921 under the League of states, Turkey being one country to offer help.

The Geneva Diplomatic Conference approved the 1951 Convention on the Status of Refugees which was subsequently modified by the protocol of the Convention in 1967. The document describes the refugees and how the asylum is granted legal safety, further aid, and social rights. Also, it outlines the duties of a refugee to the host nations and sets out some rights of people, like war criminals, who may not be qualified for political asylum. At first, the 1951 Convention was somewhat confined after the Second World War to protect European refugees; however, the 1967 Protocol broadened its purview as the issue of relocation spread across the world [Öztürk, 2017]. Currently, the Convention of 1951 and the Protocol of 1967 remain jointly the foundation of safeguarding for refugees, and their rules are just as important today as when they were established.

4. EU TRANSFORMING THE TURKISH ASYLUM SYSTEM

The influence and timing of the EU's participation in this transition process are exceedingly hard to evaluate. This is because the EU started when a "paradigm shift" was taking place amongst Turkish authorities, mostly due to the lengthy and steady commitment of UNHCR in Turkey [Clayton and Holland, 2015]. It transitioned from a worldview that defined the asylum policy problem from a "national security" viewpoint to a position that highlighted the rising importance of human rights and international refugee laws [OSCE PA, 2017]. The EU's involvement in defining a clear plan has become more evident. Turkey has been an asylum nation ever since the Ottoman era. As a result of recent political and economic instability in and beyond its neighborhood, it now gets thousands of refugee claims annually. And as we have seen in recent years, a large flood of refugees into Turkey has become possible. The functional asylum system and the associated regulations have long been lacking in Turkey. Even though the 1951 Convention on Refugees and its procedure have been ratified and have a territorial applicability constraint, it enacted a Regulation in 1994 alone following a huge surge of refugees from Iraq [Xhaferi, 2021]. Moreover, no asylum legislation is still

in place. As a candidate for EU membership, Turkey must embrace its asylum process to that of the EU by promising to accept the protocols in this sector simultaneously.

Turkey has a lengthy history of migration and refuge stretching back to the Ottoman period: Jewish migration across Europe to the Ottoman Rule. Nevertheless, throughout the 19th and 20th centuries, the migration of Muslims from other ethnic regions and particularly the immigration of Turks marked Turkey's immigration [Kale, 2005]. It emerged from the withdrawal of the Ottoman Rule from the Caucasus, the Balkans, and the agony of thousands or perhaps millions of Turks in the nationalism movement and the formation of member governments in the territory relinquished [Sarı and Dinçer, 2017]. Between 1923 and 1997, the total figure was considerably over 1.6 million. Turkey is on a significant migratory road, and growing numbers of illegal migrants are seeking to enter its borders from its economically and politically unstable east and south towards Europe. Turkey is likewise undergoing major economic and social changes, for Turkey has succeeded in latching on an economic development trend, particularly following the economic and political crises of 2001 [Sarı and Dinçer, 2017]. Political reforms of extreme importance have been undertaken since 2001.

Turkey began discussions on full membership of the European Union (EU) in 2005. As an EU candidate country, foreign investment has increased markedly. Turkey is geographically supported between the West and East, Europe and Asia. Asian and African migrants utilize Turkey as a transit nation to Europe. Turkey's destination is not just Asian and African immigrants but also Russians, Ukraine, Moldova, and EU states such as Romania and Bulgaria. In addition to these nations' immigrant labor, Turkey has also become a destination for moderately affluent western Europeans, who select Turkey as their retirement landing place [Ineli-Ciger, 2018]. Turkey's integration with the rest of the globe is also improved. In 2000, ten million visitors visited Turkey, and within six years, the amount had significantly increased.

4.1. Turkey's Asylum Policy and Practice

Ordinarily, all nations attempt to communicate the perception that they maintain the integrity of the states through the Regulation of (1) their boundaries, (2) foreign citizens' residential designation in their regions, as well as (3) the availability of these citizens of other countries to the labor markets within their territorial boundaries, even though global tendency in immigration and asylum proceeds have increased significantly over the years [Heinrich Böll Stiftung, 2019]. Turkey is no exception: following the state's some nation-based and safety considerations, having created and strengthened its frameworks of boundaries checks, as well as its processes of control and Regulation on immigrants and

refugees, including its visa policies and processes of residence and authorizations, among other measures [Heinrich Böll Stiftung, 2019]. Such laws and procedures have also had an impact on the legislation and requirements that regulate the country's asylum and immigration systems.

Europe is the primary focus of this strategy which is firmly rooted in Turkey's status as a Western partner of the Soviet Union in the Cold War. Throughout this period, Turkey accepted immigrants from the Communists Bloc in European states, notably the Soviet Union, in greater coordination with the UNHCR. These refugees had all the rights laid down in the 1951 Refugee convention throughout their presence in Turkey. Nevertheless, only a tiny number could remain in Turkey, typically due to relationships with Turkish citizens. Modern Turkish legislation restricts the status of complete refugees with an integration alternative to those of 'Turkish origin or culture.' The vast majority of refugees have therefore been relocated from Turkey.

Turkey is becoming the world's largest home of refugees. As of October 2019, over three million Syrians left the violence and sought asylum in Turkey. Turkey upholds the Convention on the Situation of Refugees' geographical limitations (the 1951 Convention) [Şimşek and Çorabatır, 2016]. As a result, Turkey is not committed to giving asylum applicants from outside European refugee status. Turkey's 1951 Convention reserve has historically impacted its laws and practices on asylum and somehow continues to do so. During the time the Foreigners' and International Protection Act had come into effect in 2014, Reg largely controlled asylum-related proceedings in Turkey. Number 1994/6169 on Potential Demographic and Alien Arrivals Procedures and Principles [Sunata and Tosun, 2019]. These regulations set a very limited period for asylum seekers to make their requests for global protection, and no statement was made about the fundamental human rights of immigrants and asylum. In addition, the 1994 law failed to specify the non-refoulement principles nor offered any protections against extended imprisonment of refugees and asylum seekers.

4.2. Various Informative and Legal Documents on Asylum-seekers and Refugees

Turkey is a party to the 1951 Convention on refugees and the protocol of 1967, which maintains a geographical boundary on the 1951 Convention and so retains relocation as the preferable permanent option for refugees who have come because of occurrences beyond Europe [UNHCR Turkey, (n.d.)]. Turkey has carried out legal and administrative changes to establish, in accordance with international norms, an integrated national asylum process. In 2013, the parliament adopted and came into operation The Law on Foreigners and International Protection, her initial Law, effective from April 2014 [UNHCR

Turkey, (n.d.)). The Law establishes the basic foundations of the federal asylum process in Turkey. It establishes the DGMM as the principal institution responsible for law-making and procedures with all immigrants in Turkey. The country has also approved upon October 2014 the Temporary Protection Regulation which defines the rights, duties, and processes for people temporarily protected in Turkey. Therefore, these legal documents include;

- I. **European Convention on Human Rights (ECHR):** It safeguards the rights of all individuals in European commission countries. The Convention has been signed by all 47 Council Member Countries, such as Turkey [UNHCR, 1954]. The official name is just the 'Convention on Human Rights and Fundamental Freedoms.
- II. **The 1951 Convention relating to the Status of Refugees and its 1967 Protocol:** These are the primary lawful papers on which the work is based [UNHCR, 2011]. The fundamental concept is non-refoulement, which states that refugees must not be deported to a nation where they suffer significant life and freedom risks.
- III. **1954 Convention relating to the Status of Stateless Persons:** It specifies that stateless individuals deserve equal rights as citizens in terms of religious rights and children's education [UNHCR, 1954].
- IV. **1961 Convention on the Reduction of Statelessness:** It creates a global framework for ensuring that every individual has the freedom to choose their nationality [UNHCR, 1954]. It also establishes crucial protections to avoid statelessness as a consequence of the lack or renunciation of nationality, as well as the succession of sovereign states.
- V. **International Covenant on Civil and Political Rights:** Acknowledges the dignity of each human and commits to working with governments to create the conditions that will allow citizens to exercise their civil and human rights. "To defend and maintain fundamental human rights," nations that have signed the Covenant are required to do so, like Turkey [UNHCR, 1966].
- VI. **Law on Foreigners and International Protection:** The code stipulates that immigrants and other asylum seekers with immigration status cannot be sent back to countries where they'll be mistreated, subjected to inhumane treatments or punishments that are humiliating, or assaulted due to their racial group, religion, or member status in a particular class will not be sent back [UNHCR, 2013].

4.3. Harmonization with EU Legislation and Implementation

As previously noted, the 1994 regulation institutionalized new regulations and changed several policies concerning migration and asylum processes. With the surge of Iraqi refugees in early 1991, the Turkish government became more conscious of the state's immigration and asylum movements. The endeavor to normalize some asylum laws and procedures (and partially migration) was a welcome step, but it did not represent a policy liberalization; somewhat, it helped enhance the state's authoritarian role in the fields of migration issues [Kleist, 2017]. In 2003, Turkey's NPAA declared its desire to change its immigration and refugee laws and procedures in accordance with EU pre-accession requirements. These aims necessitated two new laws in 2005, but the political will to establish a new thorough legal structure on immigration and asylum issues did not occur. Once the Turkish government published its Immigration and Asylum Action Plans, it was clear that the comprehensive harmonization of Aliens Acts and the Asylum Laws was delayed until 2012 [İçduygu, 2007]. The Action Plan covers the current rules and processes and the mid-to-long-term objectives for refugees and asylum in Turkey.

4.4. Asylum and Immigration-Related Harmonization Efforts

The ten-day time restriction for submitting a refugee claim was one of the primary problems raised by the 1994 Asylum Regulations. Authorities appear to be reconsidering this rule, which is frequently criticized by the global community and the EU in specific. Also, the 2005 Action Plans for Migration and Asylum declares that various EU asylum processes like "subsidiary safety", "tolerated foreigners" and "humanitarian residency licenses" would be included in the Turkish asylum process [Yılmaz, 2017]. Moreover, as stated in the Action Plan, the Law of non-refoulement is a consideration in the asylum procedures in the country.

The new Legislation on Work Permission for aliens includes provisions for immigrants working with no permits. According to article 18a, "independently working foreigners" must notify the Ministry within 15 days of starting and finishing their work, while "business owners" must inform the Ministry within 15 days after the end of the task and the service agreement [Kaya, 2021]. Foreigners working without permission face fines—non-compliance with the notice duty under Article 18 results in a fine of 250 million Liras per alien. The company or employer representative who hires an alien without a work visa is also fined 2.5B Liras [Kaya, 2021]. An "administrative fine of 1B Liras" is also needed for foreigners who operate independently with no need for a work permit issued under this Law (art. 21).

5. CONCLUSION

These days, not just Turkey but also its European neighbors confront significant problems in managing and controlling Turkish migration. The EU is particularly worried about irregular migration and refugee flows across Turkey, which directly affects Europe. Considering its EU aspirations, Turkey has had to take aggressive steps to align its laws with the *acquis*. These attempts are being taken in the area of migration in overall and unauthorized migration and asylum in specific. The state's migration policies and procedures should be put in line with EU rules and regulations. In truth, Turkey has lately changed or plans to modify its important laws and practices, cementing its long-standing position as an EU contender. Therefore, some of these policies need to be modified, and others are maintained.

EU-Turkish ties have hit all-time low expectations on the Turkish side of future inclusion. Indeed, asylum is part of a section presently barred from opening up by many Member Nations' votes. The report therefore suggested that the impact the UNHCR enjoyed was at least part of the rationale for transformation. For the UNHCR, this impact has extended throughout nearly two decades, wherein the UNHCR has assisted to socializing Turkish officers and representing civilized society under international humanitarian law standards. Given the present asylum policies and implementation procedure in Turkey, this is evident that major changes were made in current history. Those amendments are in accordance with the National Asylum Action Plan for the formulating and implementing a lengthy strategy. This will not automatically be done due to the obvious requirements in the AP paper, but mostly because the conditions at the termination of the Cold War are necessary. The current method has indeed evolved over years. Its effectiveness needs close coordination among several domestic and international entities. The trends suggest that the problems posed by the amended public framework will affect the Turkish immigration and asylum policies. Till the opening of the membership discussions, nevertheless, quick and drastic changes cannot be envisaged. This justifies the constraints of the process of Europeanisation and harmonization.

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