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Irregular migration and asylum in Turkey

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Introduction

In December 1999, after years of negotiation, Turkey finally saw its name added to the list of candidates for accession to the European Union. Before accession can take place, however, Turkey faces the difficult challenge of meeting EU requirements in areas such as economic and political development, human rights protection as well as an area of particular interest to UNHCR: asylum and migration policy.

Turkey's prolonged experience of refugee and migratory movements, the fact that it is a large asylum seeker and irregular migrant-producing country, that it is a hub for other irregular migrants hoping to reach Europe and that it is engaged in a very important process of reform in the area of asylum and migration make it a particularly interesting case study. Since the late 1990s the Turkish authorities have achieved a great deal in improving institutional, legal and administrative frameworks and procedures in the area of migration control and asylum, in line with EU requirements, and have co-operated successfully with UNHCR. Nevertheless, they continue to have reservations about a number of sensitive issues and face practical difficulties in implementing reform, rendering progress in some areas slow.

The purpose of this paper is not to offer a detailed account of the nature and characteristics of irregular migration in Turkey which can be found in a number of existing studies.¹ Rather it aims firstly at providing a general overview of trends in asylum migration and other types of irregular movement of people into, through and from Turkey since the Second World War. This includes the origins and nature of these movements, migration routes and methods and reasons why Turkey so regularly serves as an area of temporary asylum and/or transit. Secondly, it provides an analysis of Turkish asylum and migration policy and practice together with criticisms of that policy and the way in which the issue of asylum and migration fits into Turkey's preparations for accession into the EU. Thirdly, this paper offers an overview of reforms undertaken by Turkish authorities and efforts by organizations such as UNHCR to assist them in achieving defined objectives. Finally, it outlines challenges that lie ahead in addressing problems of asylum and irregular migration in Turkey for UNHCR, the EU and Turkey itself.

Turkey as host and transit country

Although they are often used interchangeably in Western political discourse in particular, the difference between an asylum seeker and an illegal migrant transiting through a country such as Turkey is more often than not unclear. Analyses of migrants' motivations in leaving their home countries as well as their choice of destination usually reveal a complex mixture of political, social/cultural and economic factors, particularly in the region around Turkey.² Consequently, this paper deliberately tries to avoid the rigid categorization of migrants.

¹ See, for example, International Organization for Migration (IOM) Migration Information Programme "Transit migration in Turkey", 1995. This study compiles the findings of interviews carried out with 159 transit migrants in Ankara and Istanbul.

² IOM, *ibid.* Interviews with Iraqi, Iranian and Afghan migrants in the Red Cross Camp at Sangatte in Northern France in June 2002 reveal a mixture of economic and political motivations in individuals'

Since the Second World War, many groups of different nationalities have entered Turkey with the intention of seeking temporary or long-term asylum there. These include groups of European origin, Iranian nationals, Iraqi nationals and more recently, Asian and African migrants.³ Generally speaking, the overwhelming majority of these migrants entered with the intention of staying only temporarily before returning home or moving on to a third country.

European refugees and asylum seekers

The first large influx of non-Turkish migrants into the Republic of Turkey occurred during the Second World War when asylum seekers from Greece, Bulgaria and the Dodecanese islands arrived in search of temporary asylum. European Jews also came to Turkey either seeking temporary asylum or as part of their journey to Palestine. During the war Turkey was host to an estimated 67,000 temporary asylum seekers, some of whom stayed but most of whom returned home or moved on to a third country.⁴ As an extension of its anti-Communist foreign policy, in the cold war period Turkey was a host primarily to refugees from the Soviet Union and Eastern Europe. Considering the fact that Western European countries were keen to resettle these groups, Turkey served primarily as an area of transit.

During the 1990s Turkey witnessed large influxes of refugees and asylum seekers fleeing events taking place in Southeast Europe. After 1989, for instance, large numbers of Bulgarians of Turkish ethnic origin fleeing the repressive regime in Bulgaria sought refuge in Turkey. Between 1992 and 1994 some 25,000 Bosnian Muslims sought temporary refuge in Turkey, followed by Kosovo Albanians from 1999. Although the majority have since returned home, a significant number of those who had family ties in Turkey stayed on.

Iranian refugees

One of the largest waves of non-European migration into Turkey occurred in the aftermath of the Iranian Revolution of 1979 and during the Iran-Iraq war when Turkey adopted a policy allowing Iranians fleeing the Khomeini regime to enter the country without a visa and stay there temporarily. In this way, an estimated 1.5 million Iranians sought temporary refuge in Turkey between 1980 and 1991, the majority of whom intended to transit onwards to Europe and North America.⁵ The majority was, in fact, encouraged by the Turkish authorities to resettle in a third country.

decisions to flee. Sylvain Roumette and Alain de Sédouy, *Le Piège de Sangatte*, France Télévision, October 2002.

³ This list and brief description that follow are not comprehensive but account only for the groups who migrated to Turkey in very large numbers.

⁴ Kemal Kirişçi, "Disaggregating Turkish citizenship and immigration practices", *Middle Eastern Studies*, Vol. 36, No. 3, July 2000.

⁵ Kemal Kirişçi, *ibid.* Estimates vary. According to the article on transit migration in Turkey on www.ucansupurge.org the total number of Iranians hosted by Turkey following the revolution was 3 million.

Iraqi asylum seekers and migrants

Iraqis are the second largest group of non-European refugees who fled to Turkey during this period. It is estimated that between 1988 and 1991 some 600,000 people, mostly Kurds, poured into Turkish territory in search of protection.⁶ Like their Iranian counterparts the majority of these refugees intended to move on towards the West. The first massive influx in 1988 resulted from Iraqi military reprisal against the Kurds for their support for Iran in the Iran-Iraq war. In a series of attacks on Kurdish villages (Anfal) and the use of chemical weapons against the town of Halabja in 1988, more than 50,000 suspected Kurdish guerrillas and their families were displaced and moved north.

During the 1991 Gulf War 60,000 foreign workers and their dependents fleeing Kuwait and Iraq entered Turkey temporarily before arrangements were made by their governments and international organizations for their repatriation. That same year, a further half a million Kurds, fleeing strikes from the Iraqi military that left an estimated 180,000 people dead, poured into Turkey and were housed as “temporary guests”⁷ in camps near the border. Fearing repercussions of a mass influx on already volatile relations with its own 12 million Kurds and following intensification of the armed conflict against the Kurdish Workers’ Party (PKK), in 1991 Turkey advocated the creation of a safe-haven in Northern Iraq and initiated a voluntary repatriation programme. It also applied pressure on the international community to share some of the burden by assisting Turkey and offering to resettle some of these refugees.

In addition to these large influxes, there has been a more or less steady trickle of Iraqi migration into Turkey as a consequence of a combination of years of political instability and conflict, repression and hardship due to economic sanctions.⁸ In the early days of this latest Gulf crisis, renewed fears of tens of thousands of predominantly Kurdish refugees pouring into the mountainous region separating Turkey and Iraq as they did in 1991 presented Turkey with intricate political and military choices once again. Fearing harmful repercussions on its own internal security, Turkey opted for a *preventive* strategy aimed at setting up camps and providing assistance and protection to displaced populations inside Iraqi territory predominantly. This policy gave rise to doubts within UNHCR and the wider international community as to whether any large movement of Iraqi refugees would be seen heading towards Turkey.

Other migrants

Finally, since the end of the 1980s, groups from countries such as Ghana, Nigeria, Tanzania, Ethiopia, Sudan, Algeria, Tunisia, Indonesia, Sri Lanka, the Philippines, Bangladesh and Pakistan have also increasingly used Turkey as a transit route to reach

⁶ ucansupurge.org ibid. The Turkish government’s estimate stands at more than 2 million.

⁷ In light of Turkey’s reluctance to recognise the existence of a Kurdish identity and desire to avoid obligations under the 1951 Convention, the use of the terms “Kurdish” and “refugees” was and is generally avoided. In light of this policy, Turkey wished to prevent these groups from being granted refugee status and hence denied them access to UNHCR protection and assistance.

⁸ A good example is areas of Iraqi Kurdistan where, in addition to incursions by the Iraqi authorities and violent conflict between the two rival Kurdish factions, the Kurdish Democratic Party (KDP) and Patriotic Union of Kurdistan (PUK), there is an unemployment rate of 85 per cent.

the West. In the mid 1990s there were an estimated 2000 African and 750 Asian transit migrants in Turkey. By the late 1990s, these figures had risen to 5000 and 1000 respectively. It is estimated that, since the late 1980s, Turkey was host to more than 30,000 transit migrants of African and Asian origin.⁹

Routes, methods and motives

Detailed characteristics of irregular migration in Turkey such as origins, motivations and destination of migrants, methods and routes used, financial implications and the nature and function of smuggling networks are the subject of a number of existing studies and will, therefore, not be considered at great length here.¹⁰

It is very difficult to estimate numbers of illegal migrants transiting through Turkey each year. According to the Ankara Chief of Security 346,940 illegal migrants were caught and detained by Turkish security forces between 1995 and 2002.¹¹ Most of those arrested were citizens of Iraq, Iran, Afghanistan, Pakistan, former Soviet Republics and Bangladesh.¹² As far as asylum is concerned, UNHCR statistics reveal that there were 31,000 asylum applications in Turkey between 1994 and 2000, 11,000 of which were accepted and 18,000 rejected.

The majority of asylum seekers and other irregular migrants transiting through Turkey endeavour to reach Germany, the United Kingdom, the Netherlands and other Western European countries as their final destination. Those travelling by land tend to follow two main routes: (a) Iran, Iraq or Syria – Turkey – Bulgaria or Greece – the Balkans – Italy – Western Europe or (b) Iran, Iraq or Syria – Turkey – Bulgaria – Romania – Hungary – Austria – the Czech Republic – Slovakia – Germany. Another frequently used route is from Turkey's Mediterranean or Aegean coast aboard smuggler ships heading for Greece, Italy or Southern France. Finally, more fortunate migrants have also used air routes either direct from Turkish airports to the country of destination or through other known transit centres with relaxed visa requirements such as Bosnia or Morocco.

According to the report issued by the Security Department's Smuggling and Organized Crime Unit in 2000, there are 13 points of entry or official and illegal crossings along Turkey's eastern and southeastern borders and 10 points of exit on the Aegean and Mediterranean coasts.¹³ Methods used to cross into or out of Turkey are: (a) land to harbour crossing, where migrants are loaded onto small boats that take them to larger ships travelling to Greece, Italy or France; (b) river crossing; (c) land border crossing hiding in trucks; (d) border crossing with fake documents; and (e) crossing borders on foot or horse/donkey. Although some asylum seekers hoping to reach the West through Turkey opt to go through the channels of UNHCR for resettlement in a third country, the majority use their own connections and methods.

⁹ Ahmet İçduygu, "The politics of international migratory regimes: transit migration flows in Turkey", UNESCO, p. 363, 2000.

¹⁰ See, for example, the 1995 IOM report, *op. cit.* and Ahmet İçduygu, *ibid.*

¹¹ ucansupurge.org "Transit migration and human smuggling in Turkey", *op. cit.*

¹² Kemal Kirişçi, "Justice and Home Affairs, Issues in Turkish-EU relations", Tesev Publications, Istanbul, 2001.

¹³ For details of unauthorised entry and exit points see the article on ucansupurge.org on transit migration in Turkey, *op. cit.*

Forty per cent of the 159 transit migrants interviewed by IOM in 1995, for example, had entered Turkey without valid documentation and more than 70 per cent had not applied for refugee status in Turkey.¹⁴

There are many reasons why asylum seekers and other irregular migrants use Turkey as a springboard to reach the West, the most important being its unique geographical location. Historically, Turkey has always served as a bridge between East and West and North and South. To the east Turkey shares a common border with regions and countries with a long history of political conflict and ethnic divisions such as the Caucasus, Iran and Iraq. On the other side are Greek islands (some of which are just a few kilometres away) and the periphery of the European Union.

Other important factors include a relaxed visa policy and the relative absence of effective migration controls into and out of Turkish territory. Until recently, visa requirements to enter from the east were at best very limited. Only in recent years has Turkey begun introducing visa requirements (see below). Moreover, apprehension of unauthorised foreigners in Turkey is reported to be low as a result of the high detention costs for the enforcing agencies.¹⁵ For the same reason, asylum seekers who have had their case rejected by the authorities are rarely pursued and can, therefore, remain in the country illegally and make preparations for their onward journey. Finally, other factors such as the presence of relatives or friends, the low cost of living, the presence of UN agencies and availability of developed smuggling networks are also important considerations.¹⁶

Turkey as a source country

As well as being an area of transit and temporary asylum for migrants coming from Asia, Africa, the Middle East, the Caucasus and elsewhere, Turkey is also a country from which large numbers of asylum seekers and irregular migrants originate. According to UNHCR statistics, for the past three years Turkey ranked third in terms of numbers of nationals who have applied for asylum in industrialised states behind Iraq and the Federal Republic of Yugoslavia in 2002.¹⁷ UNHCR estimates that in the course of the 1990s, nearly 340,000 Turkish citizens applied for asylum in Europe.¹⁸ There are some 3.4 million Turks living in the European Union, some of whom entered legally, some illegally. Many of these Turks living in Europe are in fact Kurds. *Le Monde* estimates the number of Kurds living in Europe to be approximately 620,000.¹⁹ Although they are of course not all of Turkish origin, most are either *from* Turkey or have transited *through* Turkey to reach their final destination.

¹⁴ IOM, *op. cit.*, p. 20.

¹⁵ Philip Martin, Elizabeth Nidgley and Michael Teitelbaum, "Best practice options: Turkey" in *International Migration Quarterly Review*, Vol. 40, No. 3 special issue: "Managing emerging migration patterns", IOM, January 2002.

¹⁶ For further details, see IOM, *op. cit.*, 1995.

¹⁷ UNHCR, "Asylum applications lodged in industrialized countries: levels and trends, 2000–2002".

¹⁸ *The State of the World's Refugees: Fifty Years of Humanitarian Action*, Oxford University Press for UNHCR, 1999.

¹⁹ *Le Monde*, "Dossier sur les Kurdes", (electronic format).

Patterns of emigration

The first wave of migration from Turkey occurred in the 1960s when thousands of “guest-workers” settled in Europe following the signature of bilateral agreements between Turkey and the Federal Republic of Germany, the United Kingdom, Austria, France, Belgium and the Netherlands. This group was followed closely thereafter by migration resulting from family reunification.²⁰

As a result of the 1980 military coup, the outbreak and progressive intensification of conflict between Turkish security forces and the PKK and the implementation of emergency rule, there was a sharp increase in Turkish and in particular Kurdish asylum migration to the West in the 1980s and 1990s. For instance, many of those who had been internally displaced by hostilities moved progressively towards urban areas before joining into the flow of transit migrants on their way to the West.

As a result of rapidly increasing migration into Western Europe, in the 1990s European countries increased border controls and toughened anti-immigration laws. In some cases, this new policy was specifically targeted at Kurds as in France where strict laws were introduced in 1993 barring Kurds from access to asylum procedures.²¹ Consequently, since the early 1990s, Turkish migration to the West has been increasingly *illegal* in nature. Even though numbers decreased in the late 1990s following a thaw in Turkish-Kurdish relations, severe and deepening economic crisis is encouraging Turkish citizens to head west once again.

Characteristics of Turkish asylum migration

In an analysis of the characteristics of Turkish asylum migration, Ibrahim Sirkeci notes that:

- Turks are less likely to leave the country than Kurds.
- Sunni Muslims are less likely to migrate than Alevi Muslims.
- Individuals from middle ranking social categories are more likely to migrate than people from the lowest and highest ranks.
- Motives of migrants include family reunification, education, economic motives (employment opportunities and income) and political and social/cultural considerations (lack of basic freedoms, fear of persecution, ethnic divisions).²²

A recurring blend of several of these concerns illustrates the argument put forth earlier whereby the distinction between asylum seeker and economic or other types of irregular migrant is becoming increasingly blurred.

²⁰ To the displeasure of both Turkey and European countries, these workers stayed on whereas they had been expected to return to Turkey after only a brief stay in Europe.

²¹ As consequence of this piece of legislation (“Loi Pasqua”), less than 10 per cent of Kurdish refugees who have sought asylum in France since 1993 have had their claims recognised by the French authorities, UNHCR Press Release, 22 February 2001.

²² Ibrahim Sirkeci, “The ethnic environment of insecurity as a facilitating factor in asylum migration: the Turkish case”, University of Sheffield (undated paper).

Turkish asylum and migration policy

Patterns of asylum and other forms of irregular migration to and through Turkey have been very much determined by the nature and evolution of Turkish asylum and migration policy, a policy aimed at closely regulating the nature of inward migration and resettling or repatriating asylum seekers and refugees rather than providing for their long-term integration into Turkish society.²³

Asylum in Turkish legislation

The foundations of Turkish asylum policy are to be found in three pieces of legislation: the 1934 Law on Settlement, the 1951 Convention on the Status of Refugees and the 1994 Asylum Regulation.²⁴ The Law on Settlement which came into being in Turkey in 1934 set the criteria for defining the notion of “Turkish citizenship” and determining the parameters of asylum in Turkey.²⁵ It indeed states that only individuals of “Turkish descent and culture”, essentially Turks from the Balkans, Albanians, Bosnians, Circassians, Pomaks, Tatars and, to a lesser extent, Kazakhs, Kyrgyzs, Turkmens and Uygurs could migrate, settle and acquire refugee status in Turkey.

Despite being a signatory to the 1951 Convention on the Status of Refugees, Turkey imposed a geographical and time limitation to its obligations whereby only European refugees and asylum seekers fleeing events occurring in their home country prior to 1 January 1951 could be granted access to asylum procedures. The time limitation was in the end removed upon signing of the 1967 Protocol but the geographical limitation remains to this day.

The 1994 Asylum Regulation came into being as a response to the large influxes of refugees and asylum seekers described above as well as to increasingly restrictive European immigration policies which resulted in Turkey developing into a buffer zone where asylum seekers and other migrants failing to reach the West became stranded. This regulation, which served as the base for contemporary Turkish asylum procedures, effectively took status determination away from UNHCR and put it under the umbrella of the Turkish Ministry of Interior. Under this new framework only asylum seekers recognised as such beforehand by the Ministry of Interior could then refer to UNHCR for resettlement. In addition, the regulation initially required asylum seekers to register with the police within five days of entry to Turkish territory. Likewise, those who had entered the country illegally were compelled to apply for asylum at their point of entry and were, therefore, forced to travel long distances at the risk of missing the deadline.²⁶ After registering with the police asylum seekers were granted a further 15 days during which time they must provide the authorities with valid documentation. This clause obviously failed to take into account the fact that

²³ Kemal Kirişçi, “UNHCR and Turkey: nudging Turkey towards a better implementation of the 1951 Convention on the Status of Refugees”, draft paper for presentation at the 7th IRAP Conference, “The Refugee Convention at 50”, p. 2, January 2001.

²⁴ “Regulation of 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”.

²⁵ See Kemal Kirişçi, *op. cit.*, 2000, pp. 4–6, and *op. cit.*, 2001.

²⁶ Kirişçi, *op. cit.*, 2001. Failure to meet the deadline usually led to immediate deportation. Moreover, even after having been recognised by IOM and UNHCR as a legitimate asylum seeker, failure to be resettled within a “reasonable period of time” would eventually lead to an individual’s deportation.

even “genuine” asylum seekers are rarely in a position to carry valid documentation with them when crossing borders and that they sometimes deliberately choose not to do so.

Non-European refugees

There are no particular regulations defining the status of non-European refugees. They are usually subjected to Turkey’s general laws on foreigners entering the country in that they must possess a valid passport and are required to leave within the limited period of stay. Nevertheless, non-Convention refugees have benefited from what UNHCR refers to as “a well-functioning system of temporary asylum in Turkey”.²⁷ They are in principle granted legal status pending repatriation or resettlement as long as they register with the authorities within the above-mentioned deadline.

Among those who benefited from this form of temporary protection are, for example, Iranians who fled the Khomeini Regime after 1979 and Iraqi Kurds who entered Turkey between 1988–1991. Overall, however, there have been serious obstacles for non-European asylum seekers to be granted temporary protection in Turkey. According to UNHCR’s Global Appeal, some 13 per cent of asylum seekers registered with UNHCR were unable to lodge their applications with the Turkish authorities due to the procedural requirements described above.²⁸

Living conditions in Turkey

In the area of social support services provision such as housing, healthcare, counselling, legal advice and training, Turkey is seriously underdeveloped. Following even a positive appreciation of their application, asylum seekers are assigned to live in one of 25 “satellite” cities, usually in poor neighbourhoods and in cheap accommodation. Although in theory refugees and asylum seekers are entitled to work and receive social assistance in Turkey, in practice it is very difficult to obtain work permits and social support programmes are virtually non-existent, with the exception of those provided by UNHCR.²⁹ Consequently, the majority of refugees and asylum seekers experience serious social isolation and economic hardship in Turkey and many are forced into illegality so as to overcome economic and other difficulties. In doing so, they inevitably become vulnerable to deportation.

Illegal transit migrants face the greatest difficulties in Turkey. Their journey can be a very lengthy one, delays between departure from home country and arrival in the country of destination varying from a few days to several years.³⁰ Moreover, due to the obstacles involved in gaining access to social support services, illegal migrants tend to live in greater poverty than that which they left behind at home and encounter regular problems with the Turkish police. Illegal migrants with ethnic or cultural ties

²⁷ Ibid., p. 262.

²⁸ UNHCR, Global Appeal 2003, Strategies and Programmes.

²⁹ Of the 159 transit migrants interviewed by the IOM for example, only 27 per cent had acquired residents’ permits and 9 per cent had acquired a work permit. IOM, op. cit., p. 30, 1995. Types of UNHCR assistance include legal and social counselling and health assistance programmes.

³⁰ Ibid. According to this survey, the average length of stay in Turkey of transit migrants interviewed was 12 months, the minimum being one month and the maximum eight years.

to Turkey tend to have easier access to support networks within Turkish society than those with no such ties.

Critics of Turkish asylum policy and practice

In recent years, Western governments have been increasingly critical of both Turkey's asylum procedures and its border and immigration policies. With regards to the latter, Europe in particular has argued that lax border and immigration policies have allowed or even encouraged irregular migrants to use Turkish territory as a spring-board to reach Europe. A number of governments, including France and Italy, have even accused Turkey of purposefully neglecting migration control as a form of retribution for the occasional instances where European countries adopted policies that were seen as harmful to Turkish national interests.³¹

On the issue of asylum and refugee protection, EU countries and states that have traditionally welcomed refugees and asylum seekers from Turkey for resettlement, such as Canada, Australia, the United States, Sweden, Norway and the Netherlands, have increasingly criticised Turkey's preferred policy of "resettlement and repatriation". They argue that Turkey is now in position where it can and should take responsibility for the assimilation of some of the refugees and asylum seekers entering Turkish territory rather than systematically shifting the burden over to Western governments through resettlement.

Moreover, human rights advocacy groups have joined the ranks of Western governments in condemning what Kemal Kirişçi describes as a concern more for "detering applications for asylum than ensuring protection for asylum seekers and refugees".³² They denounce the 1994 Asylum Regulation in particular as a violation of asylum seekers' and refugees' right of access to fair asylum procedures and protection. Another important area of criticism has been the security arrangements Turkey concluded with countries such as Tunisia or Iran for the immediate repatriation of opposition activists. As a consequence of these measures genuine asylum seekers fearing persecution at home were handed over to the authorities of the home country despite the evident threat to their well-being.³³

Although non-governmental organizations in Turkey have not had a huge impact on Turkish asylum policy and practice they have nonetheless made some useful contributions to maintaining discussion with the Turkish authorities and they have achieved some results. The International Catholic Migration Committee (ICMC), for example, has a long history of collaboration with the Turkish Government as well as with UNHCR on the issue of resettlement. The Association of Solidarity with Migrants and Asylum Seekers (ASAM) founded in 1995, has played a part in raising public awareness on refugee and asylum issues. The Anatolian Development Foundation (ADF) has also been active in resettlement issues and in providing emergency relief in refugee crises such as that which occurred in 1991. International

³¹ When 912 Iraqi Kurds landed on the French Riviera in February 1991, for example, some observers blamed Turkey for planning the journey in response to France's recognition of the Armenian genocide by Ottoman Authorities in 1915. See the *Guardian* (London), February 2001.

³² UNHCR Press Release, op. cit. p.6.

³³ See, for example, Amnesty International report, "Turkey: refoulement of non-European refugees – a protection crisis", July 1997.

NGOs such as Amnesty International and Human Rights Watch have also published countless reports on violations of human rights in Turkey, including that of refugees and asylum seekers.

Turkey-EU relations and the asylum and migration issue

Criticism of Turkish migration and asylum policies and pressure on Turkey to implement reform in that field have been greatest in the context of enlargement of the European Union, to which Turkey is an official candidate since 1999. The migration debate is at the top of the political agenda in Western Europe where there has been a notable increase in right-wing electoral support in recent years. The prospect of EU enlargement and the geographical progression of the EU's external borders to the East and South is a great concern illustrated by the current frenzy in Western European media and political circles around illegal immigration.

Consequently, EU countries have engaged in a common effort to increase harmonisation of their policies to combat illegal migration from the East and South and committed themselves to bringing immigration under joint control by 2004. Most have adopted increasingly strict immigration policies at their national borders and at the external borders of the EU in particular. It is important to note that, in the event that Turkey becomes a member of the EU, its eastern borders would effectively become the external borders of the Union. Consequently, the EU would in effect have a common border with large asylum seeker and migrant populations-producing countries such as Iraq, Iran and Syria.

This prospect, together with high rates of immigration coming from Turkey, has led EU countries to apply increasing pressure on Turkish authorities to strengthen controls at entry points in the East and exit point in the West and South and to tackle illegal flows on its soil and inside territorial waters.

Meeting EU standards

Asylum and migration are, therefore, key elements on the agenda of reforms in preparation for Turkey's accession to the EU. Before accession can seriously be considered, Turkey is expected to adopt the *Acquis Communautaire* through a "tailor-made" national programme focusing, in part, on justice and home affairs. Targets identified and outlined in this programme³⁴ include:

- Lifting the geographical limitation on the 1951 Convention on the Status of Refugees in a way that does not encourage massive influxes from the East.
- Parallel to extending protection to non-European refugees, developing "new and more comprehensive arrangements" for refugee status determination. This request is partly based on the idea that, if Turkey becomes a member of the EU,

³⁴ "National Programme for the Adoption of the *Acquis*" (NPAA), European Commission, available at www.europa.eu.int/comm/enlargement/turkey/docs.html

it would become a first country of asylum and would, therefore, be responsible for status determination.³⁵

- Further developing accommodation and social support services for refugees.
- Reinforcing border management and making preparations to fully implement the Schengen Convention.
- Aligning its visa legislation and practices with the Acquis Communautaire.
- Adopting the EU Acquis Communautaire and migration practices with regards to admission, re-admission and expulsion so as to prevent illegal migration.
- Increasing Turkey's capacity to fight organised crime including human smuggling.

Improvements in Turkish legislation and practice

Predominantly as a result of its aspirations for EU membership, since 1994 Turkey has made significant progress in improving its migration and asylum policy and practice.³⁶ Following the adoption of the EU Accession Partnership Document in December 2000, the Turkish Government issued a National Programme for Accession in April 2001 covering a wide range of issues including migration and asylum and a working group was set up in the Ministry of Interior to develop a comprehensive strategy to bring Turkish law and practice in line with the Acquis Communautaire.

In practical terms, the five-day limit for filing asylum applications with the police was increased to ten days in 1999 and the number of deportations from Turkey significantly reduced in recent years. The authorities have also started developing a system of reception centres for applicants at border crossings. Even more significantly, since 1999 there are signs that the Turkish Government is increasingly willing to discuss the possibility of lifting the geographical limitation. Finally, Turkey agreed to enter "transit arrangements" with a number of European States whereby Iraqi asylum seekers whose application were rejected in Europe can return to Iraq via Turkey.

Aware of its weaknesses in the area of status determination, the Turkish Government has also increasingly sought the involvement and guidance of UNHCR. For example, both parties are currently engaged in a joint project aimed at identifying the strengths and weaknesses of legislative and constitutional arrangements in several EU countries so as to contribute to the development of Turkey's new asylum legislation. Since 1998 UNHCR is also involved in providing regular information and training on refugee law and status determination to Turkish officials, prosecutors, judges and members of the Gendarmerie.

In the area of migration control, between 2001 and 2002 Turkey introduced visa requirements for Kazakhstan, Bosnia, Bahrain, Qatar, the United Arab Emirates, Kuwait, Saudi Arabia and Oman. As requested by the EU, the Land Forces Command has taken over responsibility from the Gendarmerie for the protection of most green

³⁵ At the moment UNHCR is responsible for refugee status determination in Turkey as a consequence of the fact that non-European refugees are not allowed access to asylum procedures under Turkish law.

³⁶ For reports on Turkey's progress towards the adoption of the EU Acquis see enlargement documents on the European Commission's website, op. cit.

borders in the south and southeast and security measures at borders. The number of border control staff and sea patrols were increased. In 2001 Turkey signed bilateral agreements with Syria, Iran, Pakistan, Bangladesh, China, India, Sri Lanka, Romania, Bulgaria and Greece to combat illegal migration. As a consequence of all of these measures, numbers of illegal migrants apprehended by Turkish security forces has increased steadily in the past few years, from 11,362 in 1995 to 94,514 in 2000.³⁷

In the area of anti human-smuggling legislation, human trafficking is tackled as a component of organised crime. A new law was passed in August 2000 defining and criminalising migrant smuggling in the penal code and imposing tougher penalties on caught smugglers.³⁸ Consequently, other routes such as through Iran, the Caucasus and Ukraine have become increasingly “popular” with smugglers.

Finally, a recent easing of tensions between Turkish authorities and Turkey’s Kurdish population and improvements in the country’s overall human rights record such as the abolition of the death penalty, recognition of Kurdish linguistic and cultural rights and progress towards the abolition of torture and freedom of expression and association undoubtedly contributed to a notable decrease in outward migration from Turkey in recent years. Again, pressure from the EU on Turkey has been a major factor behind reform initiatives in this domain.

Conflicting interests

In contrast, progress has been particularly slow and laborious in areas such as alignment with the Schengen Convention, ratification of international instruments combating illegal migration such as the 2000 UN Convention against Transnational Organised Crime and its two protocols, improvements in the provision of social support services and, more importantly, final decision and action on waiving the geographical limitation.

To some extent, Turkey’s lack of progress in adopting the EU Acquis can be attributed less to a lack of goodwill on the part of the Turkish authorities than to the serious practical difficulties these authorities face. On the issue of the reforms solicited by EU states, Kemal Kirişçi suggests that “Turkey is not ready to carry out these tasks bureaucratically, organisationally and socio-economically”.³⁹ This is particularly true of progress in status determination, refugee integration and the provision of social support services, which requires substantial amounts of training, restructuring and financial investment.

Secondly, there are a number of important political considerations that shape the nature and extent of Turkey’s commitment to bringing its policy and practice in line with that of the EU. Although Turkey has made considerable efforts to meet EU standards it has always been very sensitive towards EU criticism and dialogue

³⁷ Kemal Kirişçi, “Justice and home affairs issues in Turkish-EU relations: assessing Turkish asylum and immigration policy and practice”, op. cit., p. 15.

³⁸ See ucansupurge.org op. cit. Under this new legislation, penalties vary from (a) two to five years’ imprisonment for caught smugglers, (b) five to ten years if the victim’s passport was confiscated or if a victim died as a result of transport conditions, and (c) ten to twenty years if the crime is part of an organised network.

³⁹ Kemal Kirişçi, op. cit., p.4.

between the two sides has often been marred with disagreement and mutual accusations. As mentioned above, the EU is pushing for Turkey to reconsider its preferred policy of “resettlement and repatriation” and take in some of the burden of refugees entering its territory, thereby alleviating pressure on European countries. In response, Turkey has accused the EU of double standards, arguing that its directives conveniently ignore the reality of Turkey’s geopolitical situation. Whilst on the one hand requesting from Turkey that it take in more refugees, the EU is progressively building itself into a guarded “fortress” doing all it can to keep asylum seekers and migrants out. This has severe consequences for countries which, like Turkey, are sitting on the periphery of the Union. Moreover, it is important to note that recognition rates in Turkey are in fact substantially *higher* than in most European countries.

As Kemal Kirişçi notes, an even greater concern for Turkey in aligning itself with EU policy in matters of asylum and migration is that, although co-operation is seen as a necessary requirement for accession, Turkey has no guarantee as such that it will in the end be granted EU membership. In the event that following reform of its asylum procedures Turkey’s application for membership is rejected, it could become a haven for refugees who fail to make it to Europe.⁴⁰ It would then be left to cope alone with the many problems associated with asylum and migration, problems which Europe is trying so vehemently to avoid. Consequently, Turkey expects some kind of tangible assurance that the EU is committed on the one hand, to alleviating some of the burden of taking in non-European refugees and asylum seekers and on the other, to granting Turkey EU membership before it commits itself to lifting the geographical limitation.

Conclusion – challenges ahead

At the dawn of the 21st century, Turkey is entering a crucial period in the development of its national asylum system. As a result of Turkey’s unique geopolitical situation and future the evolution of its asylum and migration reforms will undoubtedly have important implications not only for Turkey itself and for the whole of Europe and the Near and Middle East but also for the fate of the hundreds of thousands of people who transit in the area each year in search a better life.

As discussed in this paper, despite significant progress at political, legal and administrative levels towards improving migration control and refugee protection so as to meet Western and especially European standards, Turkey faces a number of important challenges ahead. For UNHCR in Turkey, the main challenge is to maintain effective collaboration with the Turkish authorities to assist them in improving their capacity for carrying out status determination and effective resettlement and make progress towards speeding up that process. UNHCR aims at creating a specialised corps of asylum decision-makers and a permanent training capacity on refugee protection and is working with refugees inside Turkey to achieve durable solutions through suitable integration or repatriation.⁴¹

An even more challenging task for both UNHCR and the Turkish political leadership is that of strengthening the capacity of civil society and shaping people’s perceptions

⁴⁰ Kemal Kirişçi, “Justice and home affairs issues in Turkish-EU relations: assessing Turkish asylum and immigration policy and practice”, op. cit., p. 2.

⁴¹ UNHCR *Global Appeal 2003*, op. cit.

of asylum and migration in such a way that is conducive to reform. In order for asylum seekers to benefit from improved status and living conditions in Turkey, it is essential that popular perceptions of the *yabancı* (foreigner) in Turkey be geared towards a better understanding of and greater sensitivity towards the predicament and rights of those who come to Turkey in need of protection and assistance.

The future of the refugee and asylum seeker in Turkey is, therefore, partly but not exclusively dependent upon Turkey's ability to implement change with the help of the EU, other governments, UNHCR and NGOs. This future will also be very much determined by the nature and development of EU policy with regard to Turkey.

As explained in this paper, EU policy concerning asylum and migration in Turkey has focused both on improving refugee protection and on combating illegal migration. In light of the fact that it is becoming increasingly difficult to distinguish between "genuine" asylum seekers and other irregular migrants, there are doubts as to whether these two objectives are fully compatible. The important question is to which of the two the EU chooses to attach greater importance. On the one hand, there is little doubt that as a result of the reforms undertaken by the Turkish authorities in its bid for EU membership refugees and asylum seekers will have access to improved status determination and social support services. On the other hand, the situation whereby they enjoy relative freedom from government supervision and control in Turkey will undoubtedly change if all the required reforms are implemented. If Turkey applies strict controls and regulations at and within its borders, asylum seekers are likely to face even greater difficulty in gaining access to asylum procedures and *refoulement* may become an increasingly common phenomenon.⁴²

Likewise, as Behzad Yaghmaian suggests, the progressive fortification of borders and erection of walls to block illegal migration flows only increases the population of "illegal migrants" coming to and passing through Turkey. Rather than declining, incentives to flee in the region such as violence, forced exile and deprivation appear to be on the increase (the current Iraq crisis is a case in point) and the state of affairs described above will only make asylum seekers' attempts to reach the West more desperate and hazardous.⁴³

⁴² This is a concern which is shared by the European Council on Refugees and Exiles (ECRE). In their article "The enlargement of the European Union in relation to asylum" they claim that the EU Acquis contains "grossly inadequate standards", focusing more on the control of illegal migration than on the promotion of fair and efficient asylum procedures. ECRE, September 1998.

⁴³ Yaghmaian B., *Embracing the Infidel: the Secret World of the Islamic Migrant*.

References

Amnesty International “Country Report Iraq 2000”.

Amnesty International “Country Report Iraq 2001”.

Amnesty International “Country Report Turkey 2002”.

Amnesty International report, “The Middle East: fear, flight and forcible exile”, September 1997.

Amnesty International report, “Turkey: refoulement of non-European refugees – a protection crisis”, July 1997.

Amnesty International report, “Turkish Government should stop forcible expulsion of refugees and asylum seekers”, 1996.

Byrne R., Noll G. and Vedsted-Hansen J., *New Asylum Countries? Migration Control and Refugee Protection in an Enlarged European Union*. Kluwer Law International, 2002.

Carver N., “Is Iraqi Kurdistan a state as such that it can be said to operate state systems and thereby offer protection to its citizens?” in *International Journal of Refugee Law*, Vol. 14, No. 1, Oxford University Press, 2002.

Christian Science Monitor, “Turkey becomes a way station for human trafficking”, (electronic format), May 2001.

EIU ViewsWire, European Union, “Country Briefing from the Economist Intelligence Unit”, December 2002.

European Commission, National Programme for the Adoption of the Acquis (NPAA), Turkey, Enlargement DG, Brussels, available at www.europa.eu.int/comm/enlargement/turkey/docs.html

European Commission Progress Reports for Turkey 1999, 2001, 2002, Enlargement DG, Brussels, available at www.europa.eu.int/comm/enlargement/turkey/docs.html

European Council on Refugees and Exiles (ECRE) position paper, “The enlargement of the European Union in relation to asylum”, September 1998 (electronic format, available at www.ecre.org/positions/eu.shtml).

Global IDP Project, *Internally Displaced People*, 2002.

The *Guardian* (London), “Fears of a new tragedy lead Kurds to call for help”, November 2002.

The *Guardian* (London), “The Kurdish dream: emigration to Europe”, August 2001.

The *Guardian* (London), “Migration myths”, December 2002.

The *Guardian* (London), “Turkey loosens grip over Kurds”, December 2002.

Human Rights Watch Report, “Turkey’s failed policy to aid the forcibly displaced in the Southeast”, Vol. 8, No. 9, June 1996.

Içduygu A., ‘The politics of international migratory regimes: transit migration flows in Turkey’, UNESCO 2000.

International Organization for Migration (IOM), Migration Information Programme, “Transit migration in Turkey”, December 1995.

Kirişçi K., “Disaggregating Turkish citizenship and immigration practices” in *Middle Eastern Studies*, Vol. 36, No. 3, July 2000.

Kirişçi K., “Immigration and asylum issues in EU-Turkish relations: assessing EU’s impact on Turkish policy and practice”, draft, July 2002.

Kirişçi K., “Justice and Home Affairs, Issues in Turkish-EU Relations”, Tesev Publications, Istanbul, 2001.

Kirişçi K., “UNHCR and Turkey: nudging Turkey towards a better implementation of the 1951 Convention on the Status of Refugees”, draft paper for presentation at the 7th IRAP Conference, South Africa, January 2001.

Philip Martin, Elizabeth Nidgley and Michael Teitelbaum, “Best practice options: Turkey”, in *International Migration Quarterly Review*, Vol. 40, No. 3, special issue: “Managing emerging migration patterns”, IOM, January 2002.

Le Monde, “Dossier sur les Kurdes”, (electronic format).

Papadopoulou A., “Kurdish asylum seekers in Greece: the role of networks in the migration process”, UNE/WIDER Conference on Poverty, International Migration and Asylum, Helsinki, September 2002.

Roumette S. and de Sédouy A., *Le Piège de Sangatte*, France 5 documentary, France Télévision, October 2002.

San Francisco Chronicle, “EU leaders to tighten borders, adopt asylum policies. More stringent anti-immigration measures rejected”, June 2002.

Sirkeci I., “The ethnic environment of insecurity as a facilitating factor in asylum Migration: the Turkish case”, University of Sheffield.

ucansupurge.org “Transit migration in Turkey” (electronic format, available at www.ucansupurge.org).

UNHCR “Background paper on refugees and asylum seekers from Iraq”, UNHCR Centre for Documentation and Research, June 2000.

UNHCR “Country Report Turkey”, 2001.

UNHCR, *Global Appeal 2003, Strategies and Programmes*, 2003.

UNHCR, Graham-Brown S., “The Kurds: a regional issue – update to April 1998”, April 1998.

UNHCR press release, “Debate shifts over the fate of 25 million Kurds”, February 2001.

UNHCR press release, “Iraqi Kurds fear for their future even after Saddam”, November 2002.

UNHCR press release, “Kurds could overload the French justice system”, February 2001.

UNHCR report, “Asylum applications lodged in industrialized countries: levels and trends, 2000–2002”, March 2003.

UNHCR, *The State of the World’s Refugees: Fifty Years of Humanitarian Action*, Oxford University Press for UNHCR, 1999.

UNHCR working paper, “Human smugglers and social networks: transit migration through the states of Former Yugoslavia”, Marvis L. for UNHCR, December 2002.

US Committee for Refugees, “Country Report: Turkey, 2001”, (electronic format, available at www.refugees.org/world/countryrpt/europe/2001/turkey).

US Committee for Refugees, “Country Report: Turkey, 2000”, (electronic format, available at www.refugees.org/world/countryrpt/europe/2000/turkey).

Yaghmaian B., *Embracing the Infidel: the Secret World of the Islamic Migrant*, book proposal.