

Thesis Pre-defense Draft

Long-Waited or Unwelcome Guests, The Logic of Reception Mechanisms of a Receiving State: Turkey and its Asylum Seekers in 1989 and 1991.

Introduction

German author, Heinrich Böll once stated that the Twentieth Century would be remembered as the century of the refugee¹. Indeed, wars, repressions and revolutions pushed millions of people during this century out of their homelands to countries, touching each continent. A population moving across borders has significant impacts both for the receiving and sending states, each of which is faced with questions of control, security and incorporation. David A. Martin comments the fact that scrutiny from the international community generally focuses on the reactions of the receiving countries while the actions of the sending states remain happily in shadows². Without neglecting the importance of a root-causes approach, this research will explore within a comparative perspective the dynamics involved in the reactions of a receiving state. The case study will be Turkey, and two populations flows, one in 1989 from Bulgaria and the second in 1991 from Iraq. Faced with a massive influx, the policy responses of governments range from humanitarian concerns to security issues, from ethnic affiliations to pressures from domestic non-governmental organizations, from foreign policy to internal politics' priorities. The objective thus will be trying to depict such mechanisms within a comparative framework and trace its legacies in current practices as well as connections with practices in other states.

Turkey, a country generally conceived as a country of emigration as it sent thousands of its citizens to Europe within labor recruitment programs, has also always been a country of immigration, notion commonly neglected until recently³. In fact, Turkey can be considered as a perfect case for studying the experience and the responses of the state when confronted with such

¹ Cited in G. Alfredson and A. Eide (eds.), "The Universal Declaration of Human Rights"p: 279 (p: 279-295), Kluwer Law International, 1999, the Netherlands

² David A. Martin (1982), "Large Scale American Journal of International Law, Vol. 76, No:3, p:599(598- 609)

³ Kemal Kirişi, "Asylum, Immigration and National Identity: Challenges to Turkish Harmonization of Policy and Practice with that of the EU", Draft paper prepared for Presentation for the Third Annual EU-Turkey Conference, Siena, 20-21 October 2003, p:2

challenging tasks of dealing with “foreigners” knocking on his doors to enter. Modern state defines who would make part of it and who would be considered a “foreigner”. Julia Kristeva notes: “the foreigner became the one who did not belong to the state”⁴, the terms of belonging are accorded by the state with reference to compatibility defined by certain subjective criteria illustrating the mechanisms through which state policies operate. From its inception, each state puts into place the conditions for making part to its society not only through law and regulations but also through its practices and treatments of subjects and non-subjects. The treatments of the Turkish state vis-à-vis the migrants in need are illustrative of how it tends to include or exclude by referring to their connection with Turkish identity and culture on the one hand. On the other hand, expecting the equal access of ethnically close groups to the state is by no means possible. Access to a society or state resources is a resultant of local, national and international factors, migrants who are not admitted by reference to some domestic security or foreign policy concerns are doomed to remain foreigners.

Historical Background

Starting from 1960, the Bulgarian state policies towards Turks and Muslim Bulgarians began to change in order to achieve their complete assimilation. A repressive integration policy was put into place gradually, which would lead to the unification of all Socialist citizens and the creation of a homogenous nation-state in Bulgaria. Turkish secondary schools were closed down, the newspapers began to be published only in Bulgarian, and some were banned. The culmination of the assimilation policy came in 1984/85 when the Bulgarian government forced Turks to change their names with Bulgarian ones. This will help to eradicate cultural and religious differences from the rest of the society and connections with Turkey. The government tried to intimidation by the local administrative authorities, economic blackmail, or overt violence. In 1989, Turks began protest actions to demand the government the restoration of their names, which resulted in clashes between state forces and local Turks. The solution found by the Communist Party was the opening up of the borders between Turkey and Bulgaria and starting deportations. The panic spread quickly to result in the mass migration of 350 000 Bulgarian citizens from Turkish origin to Turkey from 3 June 1989 to 21 August 1989.⁵ This was generally referred as one of the largest mass migration after the end of the World War II. Turkish government faced with such massive civilian

⁴ Julia Kristeva, (1991) *Strangers to ourselves*, (transl. by L.S.Roudiez), New York : Columbia University Press, p: 96

⁵ Antonina Zhelyazkova “The Social and Cultural Adaptation of Bulgarian Immigrants in Turkey”from: http://www.omda.bg/imir/studies/nostalgia_1.html

migration within a short period of time chose to reintroduce the visa requirements to Bulgaria⁶. Even if considerable numbers of migrants choose to return within a short period of time (estimated number of returned refugees is around 120 000), the volume of those who settled in Turkey was considerably high.

In 1991, after Iraqi forces were driven out of Kuwait, uprisings against Saddam Hussein started in the north and south of the country. The response of the Iraqi government was severe, quick and devastating, giving way to the displacement of mainly Kurdish people towards Turkish and Iranian frontier, the numbers of refugees estimated at each border were respectively 460 000 and 1,3 million⁷. The composition of the refugees were not only limited to Kurds but comprised also Turkmen, Christians and some Arabs antagonist to Saddam's regime who also escaped to Turkey⁸. The degree of human tragedy is depicted widely within the literature: the snow did not have yet disappeared from remote valleys and mountainsides, which the refugees tried to cross, Turkey did not concede to open its borders, supplies could hardly reach them. The solution offered by the then President Turgut Özal was to invite UN to take action in Northern Iraq and establish a zone where the refugees could be returned. The area that lay between 36th parallel of latitude and the Turkish frontier was established as a "safe haven" for the refugees. "Operation Provide Comfort" was carried out and without having the Kurds too much dispersed to camps around the country; Turkey had the overwhelming majority of the refugees returned back to Iraq⁹.

Legal Framework

The legal instruments that govern the immigration and asylum practices in Turkey are connected with first the 1934 Settlement Law, drafted in the early years of the Republic and which allows only those from "Turkish descent and culture" to settle in Turkey. The second is the 1951 Geneva Convention and the related 1967 New York Protocol. Turkey opted to become a signatory of the Geneva Convention with a time and geographical limitation initially, meaning that it agreed to accept as refugee only persons suffering fear of persecution

⁶ Kemal Kirişi, "Post Second World War Immigration from Balkan Countries to Turkey" *New Perspectives on Turkey*, Spring , 12, p: 67 (61-77)

⁷ BMMYK "Dünya Mültecilerinin Durumu", 2000, p: 212

⁸ Kaynak, (1992) page: 29

⁹ William Hale, "Turkey, the Middle East and the Gulf Crisis", *International Affairs*, Vol. 68, No.4, 1992.p: 687-88

as a result of events taking place in Europe prior to 1 January 1951¹⁰. In 1968, Turkey lifted the time limitation but retained the geographical one. Accepting as refugee only people coming from Europe pertains to eliminating the possibility to grant refugee status to people coming from the East. In our case studies, Turkey did not resort to the Geneva Convention in the 1989 mass influx, as it appealed the 1934 Settlement Law, which gave the necessary tools for letting the Turks coming from Bulgaria to settle in Turkey given the fact that they were referred as “our ethnic kin”, who did “return to home”. With respect to 1991 crisis, the flow of refugees occurred within a rare circumstance in which Turkey was caught unprepared. The 2510 Settlement Law, 5682 Passport Law and Law on the Settlement and Travels of Foreigners could not be used as tools to respond to the needs of the asylum seekers. The only legal instrument that could apply was the 1951 Geneva Convention. Given the fact that Turkey accepted the Convention with the above-mentioned limitation, no legal condition was present to have the asylum seekers from Iraq to be subject of the Geneva Convention. Turkey did not use the term “refugee” but granted only “temporary protection to displaced populations” encouraging the quick return of the Kurds. On the other hand, the Turkmen who came with the same influx were evacuated to refugee camps in Kayseri and Sivas and were given citizenship within a relatively short period of time.¹¹ The mechanism that was put into place for the Turkmen group is the same as the one that applied to the Turks from Bulgaria, they were not considered refugees but were accorded first the permit of residence then that of settlement and citizenship.

Reception and Perception of Newcomers

As mentioned previously, states are important actors in the international migration arena. State institutions, structures and responses have considerable impact on the control of borders, security issues and incorporation of migrants¹². State policies and perceptions cannot be overridden when studying particular migratory flows. A complex set of national and international factors shape the receiving context in one country. The discourses that precede the experience of migration flow may not totally coincide with concrete reception mechanisms. The aim will be to investigate the factors that shaped the policies of Turkish

¹⁰ Geneva Convention, Article 1

¹¹ Two migrants testified that it was easy for them to acquire citizenship, Turkish state giving them the option of either to become Turkish citizen or to return back to Iraq after in 1993, refusing to renew their residence permits. This was welcomed by the migrants.

¹² Hollifield, “Politics of International Migration, How Can We Bring the State Back In?”, p: 137-38

state to open and not to open its borders within these two migratory pressures, through parliamentary debates (from April 1989-December 1989 and from February 1991- December 1991), the newspaper articles of that period and if possible the narratives of state officials of that period and the narratives of migrants.

From 1985 onwards, when the campaigns of “Bulgarisation” of ethnic Turkish minority have acquired momentum, and the clashes between Bulgarian military forces and Turks erupted, Turkish state representatives bitterly criticized and protested the actions taken against the Turks in several occasions starting from 1985¹³. The then prime minister, Turgut Özal, repeatedly stated the willingness of Turkey to accept oppressed Turks in Bulgaria¹⁴. During that period, formal declarations from Turkey to Bulgaria were given about the fact that Turkey considered Turks living in Bulgaria as “Turkish minority, and as “kinsmen”. The newspapers from mid-1980s were constantly alerting the Turkish public about the events taking place in Bulgaria. The discourse constructed for the Bulgarian Turks (even if widely used, a contested name and, referring to the Bulgarian citizenship and Turkish origin) centered around the theme of their coming from “Turkish descent and culture”, making part to “Turkish kinship”. Such appeals evoke the idea that the immigrants are “home returning”; they are coming to their homelands. Indeed, the interviews that I conducted with 5 immigrants from 1989 mass influx, used the word, “homeland” (anavatan) for Turkey, while referring to Bulgaria they used “ancestral lands” (atavatan).

On the other hand, the discourse around the events taking place in Iraq is centered on a security- foreign policy nexus. The political agenda ranges from a concern to erase the bad impressions after the crisis management that was conducted in 1988 after the Halepce Massacres to appeal to the Kurdish constituency in Iraq¹⁵. When a preliminary scan through the newspapers of the period is taken into account, the accounts of arrival and reception of Iraqi refugees are shocking: they cross the mountainous area when the highest temperature was 5 degree Celsius, without even any primitive transport vehicles¹⁶. The consent of the Turkish state to open up its borders is built around a humanitarian concern and when the

¹³ Extract from “Arabia” of March 1995, from Bilal Şimşir’s “The Turks of Bulgaria in International Documents” Volume 1 (1985)

¹⁴ “Our people are ready to extend all help possible in such situations. We do not fear such an occurrence. Let them send 500 thousand, and even more if they wish, and we will welcome them all.” Extract from Newspot (Ankara) of 7 March 1985.

¹⁵ KAYNAK GAZETE EKSİK

¹⁶ Kaynak (1992), “Iraklı İğnmacılar ve Türkiye”, p: 42

asylum seekers are let in, this is not an official legal undertaking but a way to respond practically faced to huge human tragedy. The only parliamentarian, who spoke to make an appeal during this period, mentions the degree of sufferings by women, children and defenseless persons at the borders of Turkish state¹⁷. Though he is a parliamentarian of Kurdish origin, from Mardin, he does not make any reference to the ethnic similarity between the asylum seekers and Kurdish populations in Turkey. The ethnic proximity between the Kurdish refugees and the large Kurdish population in Turkey were in fact considered a danger. Turkey was undergoing through harsh combats in the southeast of the country with PKK groups. The idea of having disguised PKK militants within the refugee groups who try to penetrate secretly to the country was haunting the spirits¹⁸. They were deprived of the possibility to be included in the Turkish society as they were only accepted due to the dictates of the humanitarian responsibility, but the will of the Turkish state to see them return back to their countries of origin was asserted firmly from the inception of the events until the end of the political turmoil, which did materialize with the establishment of the “safe haven” in Iraq.

In a country where a minimally liberal culture was only in the making, an ethnically selective policy for immigration meant prejudiced treatment for some when compared with others. In fact, opting ethnicity as the criteria for letting in the territory is a widely used method by states for migration policies¹⁹. This was also an expected reaction from the Turkish state given the long lasting making of the nation-state. Migration experiences provide a perfect ground to depict how nationhood is defined by the State and what mechanisms are used to protect the imagined community through symbolic and material rewards. This project reflected itself in the pursuit of these seemingly non-economic, non-class objectives and continues to exist although the vector of liberal stateness is much more imposing on the policies of Turkey given the general global conjuncture. The difference of treatment of certain migrant or asylum seeker groups shows the preference for specific groups. The challenge arises when the state claims to be accessible to all while in reality the home coming migrants from Bulgaria feel after years of being a Turkish citizen as “second class citizens”, or when the state open the borders for asylum seekers and have migrants from a particular ethnic origin transferred to big cities to the vicinity of their relatives (Turkmen in this case) and others being imprisoned in refugee camps to be evacuated as quickly as possible (Iraqi

¹⁷ Nurettin Yılmaz’s speech on 3 April 1991 at TBMM

¹⁸ Erbil Tuşalp, “Zehir Yüklü Bulutlar, Halepçe’den Hakkari’ye” Ocak 1992, p: 27-28

¹⁹ See wide range of examples from Christian Joppke, “Selecting by Origin: Ethnic Migration in the Liberal State”, 2005

Kurds). The factors responsible for such divergences will be the focus of this analysis. The reception mechanisms of the state can reflect an “incorporation”, “control” or “ignorance” logic: it can try to incorporate the newcomers to the society (case of Turks from Bulgaria and Turkmen from Iraq), control them (Kurds from Iraq) or ignore and leave them to their own means (Christians from Iraq): the security-threat perception, ethnic affinity rhetoric playing a role in each event.

Literature

Migration literature in Turkey, leaving aside the internal migration subject, is generally concerned with migration from Turkey to Europe and its implications for Turkey and European countries. As far as the literature on migration to Turkey is concerned, the volume of work carried out is much more limited comparatively speaking. Kemal Kirişçi has intensively worked on the migration flows to Turkey, emphasizing the fact that neglecting the inward flows to Turkey would be inappropriate particularly when the prospects of becoming a member country in the European Union are discussed. Ahmet İçduygu’ work on irregular migration as well as broader theoretical perspectives on global migration and its impacts on Turkey are other important contributions. Selmin Kaşka and Sema Erder have reports on the issue of trafficking of women and works on use of migrant women domestic labor and new patterns of international migration in Turkey. Bülent Çiçekli wrote largely on the factors demanding changes in citizenship policies, which are largely designed to respond to the needs of the Turkish migrants in European countries while the inward population movements have only recently started to be the subject of limited interest.

The studies that focus on our particular case studies are not in excess. A study on immigration of Bulgarian Turks to Turkey has been realized by Ayse Parla from an ethnographic perspective in which she explored how the Bulgarians appropriated as “ethnic kin” has been marginalized in the everyday life, whether the discourse of the return migration was real or imagined. The real picture of the conditions of the immigrants was not a very promising one given the hardships endorsed, their disappointments and their return back to Bulgaria. Bulgarian scholars have also studied the subject of transmigration of “Bulgarian Turks”, the works of Antonina Zhelyazkova, Darina Vasileva, Tsvetana Gheorghieva, Donka Dimitrova, Peter Krasztev, Jale Hodja and Emil Milanov are to cite. In fact, these scholarly works are from an ethnographic or sociological perspective. There have been some projects carried out to assess the repercussions of forced

migration for migrants and local people alike within selected vilages²⁰. On the other hand, with respect to Iraqi mass influx, the report by Muhterem Kaynak and his team in 1992 depicts the general situation during and after the refugee flight, with focus on refugee camps and reception mechanisms. The unpublished thesis by Didem Daniş discusses the mass influx of 1991 from Iraq and the role of the Turkish state. A comparative study is not yet accomplished which can contribute to the completion of the role the state play within international immigration and asylum regimes.

Methodology

The method to be used for such a research should address both the policies and practices of the state and individual experiences of the migrants to understand how these policies reflected in their minds and daily lives and what is left behind today from these policies. The parliamentary minutes (from April 1989-December 1989 and from February 1991- December 1991 and following months of the same years to investigate the policies and regulations the state introduced for the immigrants) and the newspaper articles, the regulations passed, thus any executive and legislative piece in relation to the asylum seekers of that period as mentioned earlier will be the primary resources. On the other hand, reaching the state officials of that period may be relevant, for instance a figure engaged like Nurettin Yılmaz may be interesting. On the other hand, reaching Turks from Bulgaria and Turkmen is relatively easy when compared with Kurds who left long ago Turkey and even if they remained they are hardly attainable. One of the Kurds who came in 1991 influx and who still lives in Turkey and whom I reach with great difficulty, is still contemplating whether he can answer my questions via mail, as he objects to make an interview with me.

Preliminary Findings and Hypothesis

As far as the preliminary research shows, the difference of state acceptance of asylum seekers in these two cases is apparent. The parliamentary minutes during the two exoduses have been analyzed and they indicate the following inclinations among the parliamentarians:

In the Turks from Bulgaria case, there is a constant reference to the duty of the state to help because they are the ethnic kin, the community left in the Balkans after World War I. They stress

²⁰ See “Bulgaristan'dan Türkiye'ye zorunlu göç etmiş Türklerle Türkiye'de sürekli yaşayan Türklerin kendilerini ve birbirlerini algılamaları ve modernlik bakımından karşılaştırılması” by Handan Asûde Başal.

their determination to voice in international forums the nature of events Turks in Bulgaria are enduring, so there is a strong engagement with the causes of ethnic Turks there. On the other hand, appeals about the fact that “ Turkish ethnic groups are not abandoned”, that Turkey has been always supportive of the idea of encouraging the migration of Turkish community in Bulgaria, a belief in the fact that “they will contribute a lot to the Turkish economy”, that finding a solution to the events in Bulgaria became a national cause for Turkey. There have been criticisms about the reluctance of accepting Turks from Bulgaria to Turkey while “more than one million Iranians lived” in Turkey, that “those who did not listen to nobody when accepting the peshmergas from Iraq (referring to 1988 Halepce Massacres) do nothing but to make statements without them taking action and making preparations”²¹. A distinct preference for some ethnic affinity, a perception of a divide between east and west and a preference towards west, an appeal to specific religious allegiance (preference for Sunni Muslims) become apparent from these debates.

When the discourse about the refugee crisis in 1991 is concerned, the debates are considerably fierce. The parliamentarians from different parties are accusing their adversaries of having a particular kind of attitude toward the refugee crisis. The parliamentarian from ANAP claims the SHP (Social Democrat People’s Party) members of remaining silent and not taking necessary action to try to help the refugees, he goes even as far as labeling the parties as “anti-Kurdish”. Each part does accuse the other of acting strategically to gather the votes of the Kurdish people in Turkey in the elections.²² Nurettin Yılmaz is declared a spokesman for Saddam Huseyin but his appeals to the Assembly to open the borders in order to prevent the human tragedy is not responded, rather being a parliamentarian from ANAP, he is held responsible as being part of the Gulf Crisis due to Foreign Policy conducted by Turgut Özal. Each party condemns the other for not adequately evaluating the situation. Thus the major theme concentrates rather a national politics with a background of human tragedy at the frontiers at need to be dealt with to fulfill the obligations of being a “Strong State with a generous nation” and if possible work hard to procure a situation in which there will be no forced migration from Iraq²³. This idea of referring only to human rights abuses made by the Saddam regime and the need to restore their “human dignity” is used widely for the Iraqi case. Hannah Arendt’s explanation of human rights as a right of exception necessary for the

²¹ T.B.M.M Mustafa Murat Sökmenoğlu’s speech on 13.6.1989

²² Nurettin Yılmaz’s speech, and responses from Turhan Hırfanoğlu, Rıza İlman, Kamer Genç in TBMM, on 3.4.1991

²³ There is an announcement from the Turkish Ministry of Health published in newspapers, calling the citizens to donate money for the refugees, *Hürriyet*, 16.4.1991

ones who have nothing better to fall back upon can be explanatory in this instance²⁴. The Iraqi asylum seekers lose their possibilities to be treated as fellow-men as “a man who is nothing but a man has lost the very qualities which make it possible for other people to treat him as a fellow-man”. For the immigrants from Bulgaria, the discourse is one that asserts their equal citizen status.

After the settlement period, debates take place between the parliamentarians of the Motherland Party in charge of the government and opposition groups regarding the failure of the Government to respond adequately to the needs of the immigrants from Bulgaria. The policies dedicated for this issue were realized gradually like the recognition of diplomas, easy convertibility of the Bulgarian currency to Turkish lira, importation of their cars; acquisition of Turkish citizenship in an accelerated manner²⁵. The accommodation can be evaluated as having a relative success with refugee camps established for temporary solutions, the payment of rents up to a year, then building of “corporate apartments” near the cities²⁶. The debates regarding the Kurdish mass influx on the other hand, makes reference to the degree of expenditure and an urge to call upon the international community for assistance. In fact, the refugee camps in the southeast are pictured as prisons, overcrowded, unsafe by Bill Frelick and the expectations of the government is towards the return to the status ante by the return of the Iraqi Kurds to their country of origin. On the other hand, the Turkmen from Iraq who came with the same flow were not subject to the treatment accorded to Iraqi Kurds. The numbers of those who stayed in Turkey after these mass influxes can tell a lot: 294 out of 460,000 Iraqi Kurds are residing in different cities with their residence permits prolonged semi-annually²⁷, the number of Turkmen should much higher, given the fact that the number of the asylum seekers who stayed in Turkey as for April 1991 is set to 4.199²⁸. The numbers of the Bulgarian Turks who stayed in Turkey definitively is set to 244 360 persons. While the discourses of the politicians may be painted with words of help, hospitality, warmth for some and a certain distance, anxiety and involuntariness to accept for others, the policies and practices may not match totally with them. Thus in 1997, the coalition government between Welfare and True Path Party discussed the possibility to send back immigrants from Bulgaria, specifically those who stayed without residence permits and who did not apply for the acquirement of Turkish citizenship. Even if the ultimate result was the withdrawal of such suggestions, the debates in the parliament lasted for a

²⁴ Hannah Arendt, “The Decline of the Nation State and the End of the Rights of Man” in “Origins of Totalitarianism” p: 293

²⁵ Kemal Kirişçi, “Disaggregating Turkish Citizenship and Immigration Practices”, *Middle Eastern Studies*, Jul 2000, 36, 3, p:13

²⁶ Nuray Ekici, “The Diaspora of the Turks of Bulgaria in Turkey”, p: 25

²⁷ KAYNAK PARLAMENTERİN KONUŞMA KAYIP!

²⁸ Muhterem Kaynak, 1992,ibid, p: 87.

while. The fact that such a discussion took place after years to exclude them may indicate the possibility of the existence of conflicting practices and discourses. At each institution, the logic at higher levels of decision-making may be different than lower levels of execution of these decisions. It may be possible to come across rigid attitudes at the top but moderate ones at the lower level of execution. The importance of making interviews reveals itself in such instances.

Frozen Turkey versus Dynamic Turkey and Link with Europe

The steady increase of the asylum applications from mid-1980s and their peak after the massive civilian influxes in the above-cited 1989 and 1991, and one in 1992 from Bosnia caused the introduction of 1994 Asylum Regulation²⁹. The management of the population pressure became much more difficult due to economic burdens. This Regulation was subject to severe criticisms from scholars as well as from refugee advocacy groups: the major concern was the fact that Turkey wanted to take over the determination of refugee status from the UNHCR which was until that time the sole body responsible to make refugee determinations for the non-European asylum seekers or “the non-convention” refugees under the condition that the UNHCR would secure resettlement places in third countries for those who have been given refugee status.³⁰ The Ankara Branch of the UNHCR was established in 1960. The earlier practice was much more flexible in that it gave the UNCHR the upper hand in deciding for the status determination while at the same time granting a de facto right for these asylum seekers to reside temporarily in Turkey until their case had been processed. But the picture started to become obscure with the inability of Turkish officials to put under their control the flow of persons which changed in size, volume and composition such as mass influxes of refugees on the one hand, irregular, illegal migrants who wanted to use Turkey as a transit country on their way to Western countries on the other, which made the officials concerned about the possibility of Turkey turning into a buffer zone that the persons would use in order to reach Europe³¹; thus it was an expectable and acceptable move from the part of the Turkish state to assume responsibility of processing asylum claims. Furthermore, the allocation of responsibility with the Ministry of Interior which is a civilian state agency rather than a refugee office or organization points to the fact that the refugee issues are considered by the Turkish state as a high politics issue

²⁹ İçduygu, Keyman; “Globalization, Security, and Migration: The Case of Turkey”, *Global Governance*, June-September 2000, Vol. 6, No. 3, p:8-10

³⁰ Frelick, “Barriers to Protection: Turkey’s Asylum Regulations”, *International Journal of Refugee Law*, Vol. 9, 1997, p:9.

³¹ Kemal Kirişçi, “UNHCR and Turkey: Cooperating for Improved Implementation of the 1951 Convention Relating to the Status of Refugees” *International Journal of Refugee Law*, Volume 13 issue 1-2, 2001, p:80

and thus are not open to be more liberal but to be more inclined to think in terms of state sovereignty logic³².

The 1994 Asylum Regulation was at first welcomed as an initiative from the Turkish side to take over the status determination with even an expectation to the eventual lifting of the geographical limitation, so as a way that would secure a much more transparent asylum process with clearer procedures provided in the law, as a solid endorsement of the “non-refoulement” principle with an article dedicated to clarify under what conditions deportations may take place³³. But the experiences lived under this Regulation made it apparent that there were several points that caused concerns from the international community. The criticisms were directed towards several aspects of the Regulation: the differences of treatment between the non-Europeans and Europeans, the five-day limit for the asylum seeker to posit his asylum claim to the authorities after his entry into Turkish territory, the obligation for the undocumented foreigners to posit their asylum claim at the provincial office nearest to the point of entry of the foreigner, the deportations that took place because of the inability of the foreigners to make their claims within the time limit, the confusion as to what would be the status of those asylum seekers or refugees who posited their claims to the UNHCR before the introduction of the Regulation, the weakness of the appeal procedures which only give the possibility of an administrative review rather than a judicial one³⁴. It would not be inappropriate to state that the Turkish endeavor to take restrictive measures so as to be able to look less attractive for asylum seekers and to divert the flow of people looks very much the same as the policies of the European Union trying to secure difficultly reachable borders given the security and economic considerations. The ground for the cooperation on justice and home affairs issues has a history that dates back to 1995. On 8 March 2001 the Accession Partnership (AP) for Turkey has been adopted by the Council decision (2001/ 235/EC) laying down priority areas for the preparations for membership to the European Union with short and medium term objectives and stated the need to adopt a National Programme for the alignment with the EU acquis. The adoption of the EU acquis on asylum and migration as mentioned in the AP Document would be an integral part of the Turkey’s accession process, which was answered favorably by the Turkish side in the National Programme for the Adoption of the Acquis 2001 (NPAA)³⁵. The EU revised the AP in 2003

³² Ozmenek, “UNHCR in Turkey” *Refuge*, Vol. 19, No.5, p: 54-61. available from:

http://www.yorku.ca/crs/Refuge/refuge_-_volume_19,_issue_no__5.htm, p: 55

³³ Kirişçi, 2001, *ibid*, p: 81

³⁴ Frelick, 1997, *ibid*, p: 28-34

³⁵ Kemal Kirişçi, 2002, “Immigration and Asylum Issues in Turkish-EU Relations” in Sandra Lavenex and Emek M. Uçarer (eds.) *Migration and the Externalities of European Integration* p:130

provoking a revision of the NPAA by Turkey. Action Plans are prepared in several domains, one of which was adopted on Asylum and Migration on 25 March 2005 by Turkey. In its briefing note for asylum in Turkey, UNHCR (February 2006) welcomed the Action Plan on Asylum and Migration, evaluating it as highly promising with its focus on capacity building, responsive attitude towards women and children, its aim to incorporate into the asylum system the state and non-state agencies with commitments to improve social and economic conditions of vulnerable groups, its dedication to cooperate with the UNHCR. But as it is widely accepted, on the one hand, the norms put forward by the European Union are seen as both advancing the human rights side of the issue for the countries with extended protection categories, requirements and standards for the protection and reception of asylum seekers, support for the acceding countries with pre-accession and after accession tools (PHARE and Refugee Fund), increased cooperation as well as control against unwanted behavior. On the other hand the Union policies were considered to be directing towards more restrictive policies with carrier sanctions, border surveillance, visa policies, detention; restrictive interpretation of definitions that curbed rights, burden shifting instead of burden sharing, security perceptions prevailing over the humanitarian concerns³⁶.

The former French President Jacques Chirac in a newspaper interview said: “refugees smell non-French”³⁷. Adoption of an exclusionary attitude towards immigrants and refugees seem to be a recurring one even if there is a global commitment for exaltation of openness and liberal culture. The room for change is open and has begun in the Turkish case also, largely as a result of the membership aspirations to the European Union. Turkey has been in a process of redefining the individual rights and freedoms in a much liberal way, trying to reconcile with different components of the society by bringing in new laws that address their demands and needs. This process began with the Asylum Regulation with respect to asylum and immigration. But still, Turkey has significant steps to make in terms of asylum and immigration issues. There is a dynamic process inflicted by the European Union for the extension of rights for the immigrants and asylum seekers, yet there is also a tendency to comply with the internal security necessities. When the general practice becomes exclusionary, the push towards inclusionary politics becomes almost impossibility. While the room for change is opened with the accession aspirations to the European Union, the fear

³⁶ Bolizsár Nagy (2002), “Hungary” in “New Asylum Countries?: Migration Control and Refugee Protection in an Enlarged European Union” by Rosemary Byrne, Gregor Noll and Jens Vedsted (eds.) , *Netherlands: Kluwer Law International*, 2002.

³⁷ Nevzat Soğuk, (1999), *States and Strangers: Refugees and Displacements of Statecraft*. Minneapolis, MN [etc.]: University of Minnesota Press, p: 30

to become a “buffer zone” of the European Union countries haunt the Turkish executive and legislative organs. The restrictive policies when complemented with the above-mentioned arbitrary national reception mechanisms that promote either easy access or difficulty to reach further blur the picture. Even if a massive influx from Bulgaria is a non-issue, the one from Iraq was still envisaged after the 2003 war on Iraq. Furthermore, the arbitrary reception mechanisms apply also to other categories of migrants, illegal, irregular or transit, which can be detected from the respective migrant categories of Bulgaria and Iraq.

To highlight the dynamism or immutability in the Turkish case a brief look at the current practices with respect to the citizens of Bulgaria and Iraq in Turkey may be illustrative. A mass influx from Bulgaria appears to be impossible in today’s circumstances. Yet, the bulk of migrants who come and overstay their visas from Bulgaria are significant. When a bilateral agreement was signed in August 2007 between Turkey and Bulgaria giving the permission to stay in Turkey only three months out of six, a considerable degree of discontent arose. Earlier, it was possible to make entries every month without being subject to fines. The change in the previously advantageous visa policy can be in fact considered as a step towards alignment with the Schengen system. But the indignation was observed both in the police officers and migrants from Bulgaria living in Turkey³⁸. On the other hand, 2003 War on Iraq spread suspicions about a possible refugee crisis. Turkmen who have fled from war can be found in Osmanbey, working as shop assistants. The earlier policies to grant residence permits are not renewed, which is interpreted by migrants as a result of political considerations of Turkey to have Kerkuk remain Turkish. Generally, the police is said to be indulgent to Turkmen people. The foreign policy considerations continue to play part, yet some kind of flexibility to host Turkmen people is provided. For others who fled wars and repressions from East or Africa, life is not that easy in Turkey. So a line of continuity can be traced between current practices and the earlier ones that reflect some factors shaping immigration and asylum policy responses of Turkey. The alignment with the *acquis communautaire* in asylum and immigration issues sends mixed signals to the candidate countries. This can be said to result in the preservation of the status quo complemented with the arbitrary national predispositions. The hopeful commitments to ameliorate rights of asylum seekers remain only on paper. There is no significant achievement in this domain, even if three years have passed from the adoption of the Action Plan on Asylum and Immigration.

³⁸ Field work made in Police Centers in August 2007 as part of the TUBITAK project of Prof. Mine Eder and also personal field work in the Associations established by Turks from Bulgaria in March-May 2007.

A comparative study between these two migratory movements has not been yet accomplished, which may be an interesting point for discussion by way of highlighting the contrasts and calling for exploration of the differences behind. Such a discussion may first contribute to the general literature on theorizing on displacement and statecraft, which is not that much elaborate in the non-Western state literature. Second it can add to the literature on refugee and asylum in Turkey with in depth focus on two such recent flows. Third, it may help to explain the current ideology governing the policies and trace similarities between Turkey and the global conjuncture, particularly, Europe.