

MASTER THESIS

*READMISSION AGREEMENT OF
TURKEY AND ITS EFFECT
ON THE BALANCE
BETWEEN MIGRANT SECURITY AND
STATE SECURITY*

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ABSTRACT

The over populated immigration flows in last decade mainly from less-developed countries are one of the major human movements since WWII. Each migration flow has its own features, reasons and outcomes. In that respect, Turkey plays a crucial and critical role as one of the newest transit country for migrants, whose main destination is western countries. New migration flows, destinations and sources provide “new migration values” such as; Migrant Security and State Security. The immigration policies of European countries are mainly control-based and in order to control irregular migration flows, states sign bilateral Readmission Agreements with 3rd countries. Due to control-based immigration policies of European states, the Migrant Security issue becomes a conspicuous debate that should be analyzed.

*In this master thesis, it will be investigated the relations between Turkey and European Union, the influence of the Readmission Agreement to the relations and the benefit of Readmission Agreement for Turkey. It should also beared in mind that the entire enthusiasim of “**preventing and controlling irregular migration**” turns to a conditionality fact to complete membership accessions for Turkey. This master thesis elobrates the effect of the Readmission Agreement on the balance between State Security and Migrant Security. It intends to analyze the adverse security conditions of irregular migrants, refugees and asylum seekers, whose target destination countries are European Union memberstates. In order to query this argument, I will go in deep in various articles and reports from different scholars.*

METHODOLOGY

Readmission Agreements in general and Turkish case especially and the balance between Migrant Security and State Security are popular phenomena since these terms became crucial in the academic field. In this regard, detailed literature research has been done for this Master Thesis that is about *Readmission Agreement of Turkey* and its effect on *Human Security vs State Security*. On the one hand, migration is a phenomenon that academics coddle to analyze the reasons of migration, especially with regards to Turkish migration background because of Turkey's unique migration history. In this point, academics' articles, books on *Migration Past of Turkey, European Union Migration and Border Regime Policies*, matters were examined and investigated in depth. However there is a very limited scholarly studies of *Transit Migration, Readmission Agreement of Turkey and Human Security-State Security*, therefore reliable, concrete and direct information is stunted on these phenomena. Along with European Union Membership accession process, academics started to focus more in migration, mainly its reasons, sources, legal basis, economics, outcomes in turkish government and academic life. Since 2005, when the EU membership process has been started, civil society and NGO's focus more in European Union issues and migration is one the most crucial topic to be interested in. The civil society prepare reports and articles on Turkey's migration issues and specifically, irregular, regular and transit migration matters. In addition, numbers of migrants are given in these articles and reports as well.

On the other hand, Readmission Agreement is a new topic for Turkey as it was signed with the European Union in 2013, a growing number of academic journals emerge because Turkey plays an important role in these human movement towards developed countries. In fact, however, there are not only works written by turkish academics, but also foreign too, since Readmission Agreements are not a new fact for European Union itself. These articles talk about the reasons why this kind of agreement by European Union and Turkey, the consequences, its legal background, possible outcomes and how the Readmission Agreement influence Turkey's EU membership. In addition, not only academic literature from turkish academics is used, but also foreign academics' works are taken into account for this Master Thesis. These works are mainly about Readmission Agreement in general and *State Security & Migrant Security*.

Lastly, this master thesis talks about Readmission Agreement of irregular migrants, qualitative research is not adequate method. Since surveys, focus groups, case studies,

participant observation are included qualitative research, this master thesis focus on numbers and statistics, qualitative research would not be an effective research methods. Qualitative research is not an effective method to accomplish and carry out with politicians, authorities or experts in order to make a deeper reserach.



INTRODUCTION

The over populated immigration flows from less developed countries, are the most major human movements since WWII to European countries. These less developed countries are located mainly in the Middle East, the Caucasus and Northern Africa and the reason for these immigration flows is political conditions and economic instability, however it should beared in mind that each human movement has its own features, characteristics and outcomes. Due to social unrest, political instability and economic turmoil, millions of people migrate to more developed countries, in order to find better living conditions. The usual way for migration is irregular, since the regular way for migration takes longer time during political and economic unrest. Migrants enter to developed countries irregularly, where they apply for refugee and asylum seeker status.

Irregular migration contains factors, which force economies, internal policies, demografic features and social structures¹. Traditionally, irregular migrants receiving states aim to overcome these difficulties and factors by controlling irregular immigration and immigrants, instead of providing effective policies and strategies. Since it has been recognized and finally understood that controlling irregular immigration does not stop the migration flows, immigrant destination countries decided to focus on the irregular migration sources, reasons and economic&political factors². One of the core reasons of irregular migration is globalization that cause political and economic unity among states of entire world. Globalization process forms a basis for encouragement of migration because of increasing differences of economic and political progress, demography and democratization. Globalization sets people into motion to cross borders³. Citizens of less developed countries set goals migrating to more developed countries, where they hope to find better jobs with better income and welfare benefits and living in an enviroment of democracy and human rights.

Due to high populated and usually irregular migration flow, the general immigration policies are control based in Europe, in order to stem and even prevent the immigration flow from less developed contries. Instead of providing effective and *migrant welcome* policies and focus on the possible reasons, immigrant destination states concentrate on controlling and

¹ Jordan, Bill and Düvell Franck. *Irregular Migration: The Dilemmas of Transnational Mobility*

² Kale, Başak. Turkey As Irregular Transit Country. *İltica, Uluslararası Göç ve Vatansızlık: Kuram, Gözlem ve Politika* 164-174

³ Koser, Khalid. *Irregular Migration*

preventing immigration and stick to closing borders for any type of migrant. Since the end of WWII, it exists the largest migration flow towards developed countries, but also the largest anti-immigrant policies to control, stop and prevent immigration flow and stock. In this respect, it should be considered that control-based immigration policies are based on ethnicity identity, cultural hegemony and religious purposes. Although there are no far right government parties in final destination country for migrants (Germany, France, the Netherlands, Belgium, United Kingdom), still politicians are strong and have influence in media discourse, codification and resolution processes in terms of migration policies because Islamophobia and anti-immigrant discourses rise among policy makers and certain social and political actors⁴. Nationstate and citizenship perceptions, where states have sovereignty over their citizens, still designate and shape immigration policies in European countries. While the idea of “free movement of people” is produced under liberal international legislation, political philosophy of “controlling and preventing of border regimes” dominate the immigration policies of European states⁵.

European countries have several strategies and policies to reduce the number of irregular migrants. Among these policies, *Readmission Agreements* with 3rd countries are the most effective way to control the migration flows and stocks. In this regard, European Union signed bilateral Agreement with several neighbour countries to send away the immigrants, who cross their border irregularly. These neighbour countries are either country of origin or transit countries for immigrants. In this regard, Turkey is the central country for transit country for immigrants.

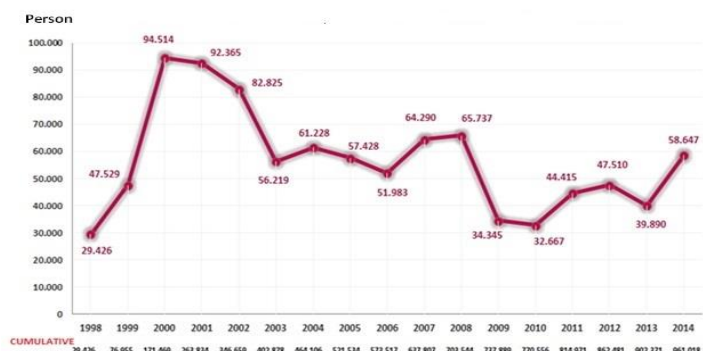
⁴ Kuru, Ahmet. *Secularism and State Policies Toward Religion. The United States, France, and Turkey*

⁵ İçduygu, Ahmet. *Türkiye'nin Uluslararası Göç Politikaları: 1923-2023*

MIGRATION VOLUME OF TURKEY

Turkey is one of the most used path for transit migrants because of Turkey's geographical position. According to European Union sources from Frontex, the vast majority of transit migrants to European Union countries come from Middle East, Africa, the Balkans or Caucasus. The main goal is to reach to EU countries of people, who live in these regions, because of ethnic and religious conflicts, civil wars, social unrests. High unemployment and economic low development make the migrants migrating to western countries. Other than its geographical position, the main reason, why people use Turkey as a path in order to reach western countries is Turkey's political interest in these countries. In last decade, Turkey have signed visa agreements that allow them to enter Turkey without visa⁶. These visa regimes make Turkey a final destination for labor migrants and refugees and also a transit country. Citizens of countries of origin enter Turkey without visa or can overstay their visas and are not send back to their countries due to Turkey's open-border and more liberal migrant policies. It should beared in mind that nationals of emigration countries cannot receive the refugee status because Turkey's geographical drawback to 1951 Geneva Convention. According to this legislation, citizens of European continent can only apply for refugee status in Turkey. Since the vast majority of people, who aim to migrate to European countries, are generally from Asia, the Middle East, Northern Africa and the Caucasus, cannot have refugee status in Turkey, but they either can enter Turkey without visa or will not deported by overstaying their visas in Turkey because of liberal and open border migration policy of Turkey. The government of Turkey signed bilateral visa-free agreements with more than 80 countries, which are located mainly in Africa, the Middle East, the Caucasus and Asia.

It is a fact and a reality that Turkey became a target country for migrants in last decade. Turkey's economic growth and political progress is the main indicator for this fact, especially with stronger democracy and human rights than countries of origin. The main immigrant origin countries are either



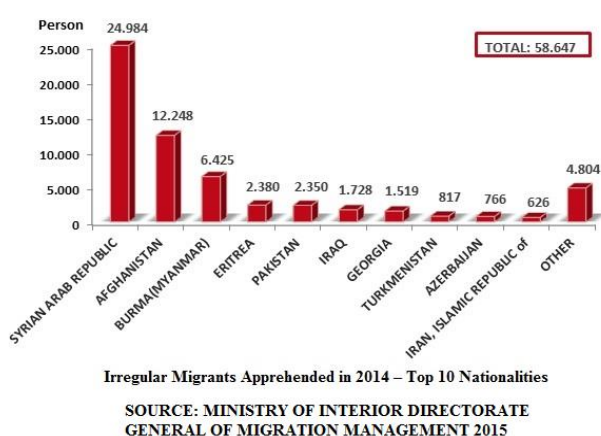
Number of Irregular Migrants Apprehended in Turkey per Year

SOURCE: MINISTRY OF INTERIOR DIRECTORATE
GENERAL OF MIGRATION MANAGEMENT 2015

⁶ <http://www.mfa.gov.tr/turk-vatandaslarinin-tabi-oldugu-vize-uygulamalari.tr.mfa>

Turkey's neighbors such as; Syria, Iraq, Iran, Georgia or countries located on the neighbor regions (Middle East, North Africa, Caucasus); Palestine, Russia, Afghanistan, Pakistan, Libya, Algeria. According to "Democracy Ranking" those countries are either failed, weak or authoritarian states⁷. Millions of citizens of those countries suffer due to civil wars and ethnic&religious conflicts, lack of democracy, and discrimination. Turkey provides economic opportunities; such as employment and welfare benefits, because of Turkey's *immigrant welcome* policies. Although Turkey has started to improve its border regimes and immigration policies according to accession process with the EU and harmonizing them to EU *acquis*, still regular and irregular migrants come to Turkey because of employment opportunities in Turkey. The source countries for employment opportunities are Belarus, Georgia, Turkmenistan, Azerbaijan, Moldova and Russian Federation⁸.

Moreover many of these immigrants apply for refugee status. In this point, it should be taken into account that Turkey had signed the 1951 Geneva Convention and its 1967 Protocol with *geographical limitation*. In this matter, migrants moving outside the European Continent cannot have neither refugee nor asylum seeker status in Turkey no matter for what reasons they migrate. Asylum Seekers are send to secure 3rd countries after their refugee status application are made. Those, who were not send to 3rd countries, are not send back by Turkish State according to *non-refoulement* principle, who is unable to receive refugee status due to 1951 Geneva Convention geographical limitation. The main reason, why Turkey does not



remove its geographical limitation and drawback is unstable and unsecure political and economic conditions in its region; Middle East, the Caucasus, North Africa and Asia. Asylum seekers, who are unable to receive refugee status should leave Turkey in two weeks. Immigrants, who does not leave Turkey in two weeks and over stay their visas, become irregular

migrants in Turkey. Turkish authorities highlight that irregular migrants are not sent back their home. However irregular immigrants' residence situation are not clear based on their legal status. According to UNHCR statistics, nationals from Iraq, Iran, Afghanistan, Pakistan

⁷ democracyranking.org 2014

⁸ Deniz, Orhan. *Irregular Entry to Eastern Border of Turkey. İltica, Uluslararası Göç ve Vatansızlık: Kuram, Gözlem ve Politika* 176-192

and Sudan apply for refugee status in Turkey⁹. Nationals of these countries also have the highest ratio becoming irregular migrants.

In addition, Turkey became also a transit country for migrants, whose main goal is to reach European Union countries, where they have the opportunity to be employed and to live in an environment with democracy, justice and human rights. It is clear that Turkey has been at the center of transit migration flows, although there is a declining trend in recent years¹⁰. Turkey signed visa free agreements with 94 countries during AKP government terms¹¹. Citizens of countries such as; Turkmenistan, Libya, Morocco, Azerbaijan, Ukraine and Tunisia are included to the “visa free entry” list. High unemployment, social unrest, economic and political crisis, racial and religious conflicts do not turn up in these countries in last decade. Citizens from those countries do not aim to settle and to be employed in Turkey. Their only goal is to enter European Union countries through Turkey. Since visas do not exist for nationals from those countries, there is no frontier for them to enter to Turkey. Not only citizens of visa-free countries migrate irregularly to European Union countries by using Turkey as transit country, but also citizens of countries, which is located in neighbor regions; Pakistan, Eritrea, Afghanistan, Iran, Burma, Somalia.

These transit irregular migrants enter Turkey from eastern frontier because Turkey’s eastern borders are not very well controlled due to geographical factors. There are two reasons of shortage of border control: First is Turkey has signed bilateral agreements with its eastern neighbors that allow free entry for citizens; Syria, Iran, Iraq and with non-neighbor countries such as; Russia, Albania, Ukraine, Palestine, Libya, Sudan etc. Second reason is, geographical conditions of eastern Turkey is hard because of high mountains, tough areas and long and difficult winter conditions. These geographical conditions cause shortage of controlling for irregular entry to Turkey. Other than geographical conditions, human-trafficking play a crucial role for transit irregular migration¹². According to Foreign Affairs Ministry of Turkey, human-trafficking take an important place for transit irregular migration in Turkey¹³. In order to reduce and even prevent human-trafficking, Turkey has signed cooperation Protocols on fighting against with Belarus, Georgia, Kyrgyzstan, Moldova and Ukraine. Some common operations are being implemented within the framework of cooperation between the source

⁹ Ministry of Interior Directorate General of Migration Management

¹⁰ İçduygu, Ahmet. *Transit Migration in Turkey. Trends, Patterns and Issues*

¹¹ Henley & the Partners 2013 Visa Limitations Index

¹² Deniz, Orhan. *Irregular Entry to Eastern Border of Turkey. İltica, Uluslararası Göç ve Vatansızlık: Kuram, Gözlem ve Politika 176-192*

¹³ Foreign Affairs Ministry: *Turkey Trafficking of Human Beings Directive*

countries and Ministry of Interiors to fight against human-trafficking. European Union spend more sources over time in order to control its borders tightly and border regimes becoming restricting. In addition, EU memberstates provide only policies, which are based on to control migration flows, to catch irregular immigrants and to ignore asylum seekers and refugees on their sea and land borders. These implementations, policies and border regimes conduct migrants to arrive EU irregularly via smugglers and traffickers.

These irregular transit migrants leave Turkey from Turkey-Greece land&see border and Turkey-Bulgaria land border in order to reach European Union countries. In order to prevent irregular migration and control and reduce the deaths of migrants, European Union authorities employ FRONTEX in order provide operations called POSEIDON in Aegean see between Turkey and Greece¹⁴. In last decade, deaths of transit irregular migrants in Aegean see reached very high numbers¹⁵.

In addition, according to 33. Article of the Geneva Convention, Turkey does not send back immigrants from the regions other than Europe, who is unable to have refugee status. These people are placed in 3rd various countries such as; United States, Canada, Finland, Sweden and Norway. Ofcourse, it should also taken account that the numbers that are placed in 3rd secure countries are very low than those, who applied for refugee status. Turkey obey studiously to the 33. Article of 1951 Geneva Conventon, where Turkey guarentee not to send back the regular&irregular migrants according to *non refoulement* principle, who is unable to receive refugee status.

On the one hand, one of the main differences between Turkey's and European (in last decade EU) immigration background is that Turkey accepts any kind of immigrant and refugee from any part of entire world. There are no limitations, restrictions or regulations for migrants – labor or asylum seeker – to enter Turkey because the governments, the state, the civil society, NGO's, politicians goals are not to benefit them. Turkey's borders are open for any kind of immigrants, although there is geographical drawback for 1951 Geneva Convention. Since the vast majority of migrants, who request for asylum seeker and/or refugee status, come from Asian and African countries, they will not receive these statuses due to geographical limitations of Turkey. But it should be bearded in mind that although they cannot receive refugee and asylum seeker status, Turkey does not send them back home, ever

¹⁴ Yunanistan ve Türkiye arasında Frontex: Geri çevrilme sınırı at https://www.fidh.org/IMG/pdf/rapport_tu_web-sommr-tu-ok.pdf

¹⁵ Kale, Başak. *Unexpected Large Scale Arrival of Migrants and Asylum Seekers in Europe: The Case of Turkey*

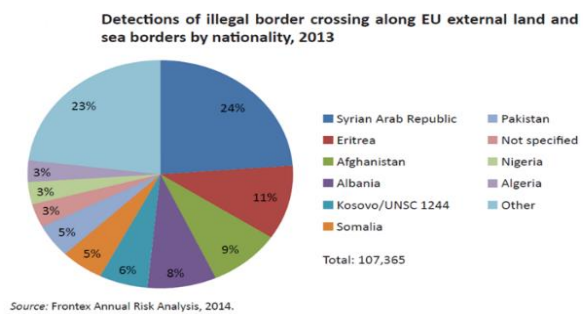
since they mainly enter Turkey irregularly. In addition, Turkey have signed readmission agreements with some of these countries such as Syria and Pakistan, however Turkey respects international migration laws and non-refoulement principle.

One the other hand, the European immigrant and refugee statistics show that only very low number of refugees and labor migrants are accepted in the EU¹⁶. The reason could be only that the EU member states aim only to benefit from them, therefore only accepts the most qualified, educated immigrants and refugees and their number are very low compare to , in general, other labor migrants and refugee destination countries and specifically Turkey¹⁷. According to UNHCR last report, there are more than 50 million displaced people and 20 million of them are refugees, however only very few of them live in EU countries¹⁸. The main refugee, asylum seeker and in general displaced people hosting countries are; Turkey, Lebanon, Pakistan, Iran, Ethiopia, Jordan and Kenya. Unfortunately none EU country is included in top ten lists and that shows, only very few displaced – refugees and asylum seekers – live in Europe under the protection.

The limitations and restrictions for refugees in EU countries, prompt the displaced persons to enter irregularly and to contact human-smugglers and human-traffickers. These two methods endanger Refugee Protection and State Security.¹⁹

The refugees, asylum seekers and labor migrants fall into the smugglers and traffickers hand in order to enter EU because of restricted and limited border regimes and migration policies of EU member states. The Syrian crisis clarifies the situation. EU member states accepted less than 300.000 Syrians refugee application, although these countries do not have geographical limitations as Turkey does have.

Above all, political and economic improvements, European Union membership accession, re-formalized market economy and stable democratic governments made Turkey a



¹⁶ Ateş, Selahattin. *Turkey and Refugees* İltica, Uluslararası Göç ve Vatansızlık: Kuram, Gözlem ve Politika 309-343

¹⁷ <http://researchturkey.org/tr/good-news-bad-news-or-no-news-management-of-irregular-migration-in-turkey/> 15 May 2013

¹⁸ <http://www.unhcr.org/556725e69.html>

¹⁹ Directorate of General Security of Ministry of Interior, 'Küresel Göç ve Fırsatçıları: Türkiye'de Yasadışı Göçmenler ve Göçmen Kaçakçıları', Uluslararası Terörizm ve Sınırşan Suçlar Araştırma Merkezi (UTSAM) Raporu, May 2012

country of destination. Turkey is a model country mainly for its eastern neighbours, where there are currently lack of democracy, human- rights, rule of law along with unemployment, economic instability²⁰. Syria, Iran, Iraq, Egypt, Libya, Tunisia that are either neighbor of Turkey or located in its region, struggle with social unrest, political instability via Arab Spring or civil wars. Although battles, civil wars, social and political unrest do ever exist in its neighbor regions, Turkey still preserve its political and economic improvements, democracy and rule of law. In the last decade of 19th century and entire 20th century, millions of people moved to Turkey mainly as refugees and asylum seekers but also as labor migrants. The political migrants come from Turkey's neighbor countries; Syria, Iraq, Iran, Bulgaria or from countries on them Turkey has political impact and interest; Russia, Bosnia, Chechenia, Kazakhstan, Turkmenistan.

²⁰ Keyman, Fuat. *Arab Spring, Turkish Model and European Union*

MIGRANT PROTECTION OF TURKEY

Turkey does protect migrants, who arrive its territory as refugees due to conflicts and civil wars in their countries. In the 1990's, more than hundred thousands Bosnians arrived Turkey as temporary protection during the Yugoslavian civil war and Turkish authorities did not expelled and returned them back as soon as political conditions relapsed back before the civil war. Many of them re-settled in Turkey.

In last four years, according to official number two million, Syrians came to Turkey as asylum seekers because of the civil war, lasting for 5 years, in their country. Because of geographical drawback to 1951 Geneva Convention, Syrians in Turkey do not have refugee status because only Europeans have refugee status and this drawback can only be removed with full membership of European Union. On the one hand without labelling as international refugee status, Syrians reached to more than two million in Turkey. The UN Refugee Agency claim, according to their Syria Regional Refugee Response Data, Turkey is the most populous Syrian migrant country²¹. On the other hand, although Turkey and Syria signed a Readmission Agreement in 2001 for irregular migrants, Turkey did not send any Syrian at all, even they have entered to Turkey without required documents. It should be taken account that for Turkish state migrant protection comes above every matter based on international law and state security. Syrians in Turkey have only temporal refugee status until they will move to another safe 3rd country²². In addition, some changes and improvements has been established in legal framework for the status of refugees, especially for Syrian migrants. Via changes and improvements of Interior Ministry regulations, Turkish government assured on October 2011 through "temporary protection regime": open-border policy, no strain to explosion, housing in refugee camps and providing other basic needs. Council of ministers of Turkey promulgates on October 22nd 2014 a new directive related with tempoaray protection based on *Foreigners and International Protection Law*. This temporary protection law will be enforced to Syrians and those stateless refugees coming from Syria²³. The Syrian crisis should be only analyzed as; Syrians do not have refugee status in Turkey according to international law, many entered irregularly, live the vast majority in cities, but under protection and did not returned back due to respect for non-refoulement principle²⁴. In addition, it shows clearly the Turkish migrant

²¹ Syrian Refugee Protection Report at <http://data.unhcr.org/syrianrefugees/regional.php> last updated 25.08.2015

²² Mersin University. The annual report of "Syrian Migrants" Workshop at <http://www.hugo.hacettepe.edu.tr/HUGO-REPORT-SyriansinTurkey.pdf>

²³ UNHCR. Questions for Syrians in Turkey

²⁴ Kap, Deniz. *Suriyeli Mülteciler: Türkiye'nin Müstakbel Vatandaşları*

protection policy is more humanitarian and tolerant accordingly EU countries' refugee policy and their protection. Not only Syrian debate, in general European Union refugee protection is very low as it can be understand directly from the UNHCR numbers. In entire EU along with Norway and Switzerland, there are only less than 300.000 refugee applications are between 2011 - 2015. The same refugee protection occured in Bosnian crisis that many were send back to either their country or safe 3rd countries after the war from western European countries.

European Union countries do not have an exact and systematic refugee policies, where EU countries might re-settle them in different member states. In these EU countries, refugees have the ability to be employed, reside and benefit from all needed welfare opportunities. This re-settlement refugee policies might created concrete consequences; employment, welfare and all humanitarian fundemantel rights, residence of refugees and young and creative, hard-working population for EU countries, in which the old age population exist. Refugees are labor force for many EU countries, which suffer due to old aged labor market. In addition, re-settlement policies would cause the accomplished integration and an entire Europe, where multi-culturalism and inter-culturalism occur. So the refugee re-settlement policies have strong and effective results for EU countries and refugees. However, currently the refugee re-settlement debate are not even in EU countries migration policy agenda.

It should be beared in mind that to open borders is not the only effective and liberal border regime for immigrants in general, since the migrants seek for education, healthcare, employment, residence and travel. Because of over populated number and lack of efficient infrastructure, Turkish government does not provide enoguh services for migrants. One of the most crucial example is that more than %50 of Syrian children cannot have basic education because of shortage in welfare system and legislation. In that regard, Turkey has open-brder regime unlike European Union memberstates, but does not provide welfare services as effective as European countries.

READMISSION AGREEMENT OF TURKEY

Irregular transit migration flows occur, where migrants do not have the ability to cross borders directly and orderly in the destination country and therefore decide to move from one country to another disorderly. Since the border regimes and migration policies of western countries based on controlling, limiting and even preventing, migrants find themselves in an irregular situation because targeted countries of destination do not provide free mobility for migrants. The lack of free mobility for migrants push them to find other solutions to reach their final destinations: irregular transit migration. Turkey is one of the most used transit country for irregular migrant coming to European Union memberstates because of Turkey's geographical location. Turkey is a bridge country for irregular transit migrants.

The relations between Turkey and European Union last more than half century that started on 1959 under Democrat Party government. However due to changes in politics and policies of Turkey, relations between two parts broke off several times. These changes were especially political unrest in Turkey, but also economic crisis, over unemployment²⁵. In addition through Turkey's political and economic democratization and westernization process in different governments, relations have started with European Union once more and Turkey became an official candidate for membership and accession negotiations had started in 2004 under Justice and Development Party government²⁶.

Accession process brought heavy duties and responsibilities to Turkey, especially migration issues that European Union and its memberstates overemphasise for irregular migration, flows, sources and security matters because in recent years the issues related with irregular migration have been on the agenda of Turkey-EU relations²⁷. With the growing strong economy, progressing political conditions and providing no policies in order to control and prevent irregular migration, Turkey became a transit country for international migrants. The main nationals are from Middle East (Iraq, Syria, Iran, Palestine), Northern and Sub-Saharan Africa (Egypt, Somalia, Mouritania,) and former Communist (Georgia, Moldova, Russia, Azerbaijan) countries. These migrant groups move to mainly western European countries to find jobs with better income and living enviorenment than their home countries and benefit from these countries' welfare system.

²⁵ ibid

²⁶ <http://www.ab.gov.tr/files/chronology.pdf>

²⁷ Terzi, Özlem. *The Influence of the European Union on Turkish Foreign Policy*

EU memberstates take migration, mainly irregular migration very seriously, therefore in 1998 *High-Level Working Group on Asylum and Migration* has been established under the leadership of the Netherlands²⁸. The group prepares the ground for concrete actions of implementation, including the identification of countries and of priorities. In particular it deals with:

- the external dimension of the EU's asylum and migration policies
- dialogue, cooperation and partnership with countries of origin and transit countries
- legal migration, illegal migration, asylum applicants and development²⁹

Irregular migration debate to the EU is a very crucial issue in order to analyze how this phenomenon influences EU migration policies and more seriously border regimes.³⁰ In addition, controlling irregular migration is an interaction between migration related issues and Turkey's membership accession because the entire aspect of migration management turns into a type of conditionally measure for Turkey's EU membership³¹. Within the accession process of Turkey's EU membership and According to 24th acqui that is about Justice and Home Affairs, irregular transit migration started to be talked, discussed and investigated in Turkish politics and policies started to be provided, in order to control irregular transit migration flows: Turkey's migration regimes' politicization and Europeanization of border regimes and migration policies of Turkey. Despite the unpromising climate of EU-Turkey relations, Turkey transformed its migration, Refugee and Asylum policies and regime with accession process and harmonizing these policies with European Union acquis³². With accession process, fighting against irregular migration turns to a harmonization obligation along with controlling the entire migration issues in a regular form.

It should be highlighted that there is no obligatory international law for a state to readmit any person, who is rejected from a different state because of lack of regular status to stay, other than the readmission of its own nationals³³. In this respect, there exist no obligation, practically, for Turkey to readmit irregular migrants from European Union countries, although these irregular migrants entered the EU from Turkey. It is all about

²⁸ Çelik, Ahmet. *Turkey-EU Readmission Agreement. Konya Chamber of Commerce*

²⁹ European Council: *High-Level Working Group on Asylum and Migration*

³⁰ Özler, Zeynep. *AB'de ve Türkiye'de Sınır Yönetimi" İktisadi Kalkınma Vakfı Değerlendirme Notu*

³¹ İçduygu, Ahmet. *Irregular Migration Control between the EU and Turkey*

³² Özler, Zeynep. *Breaking Vicious Circle in EU-Turkey Relations: Visa Negotiations*

³³ İçduygu, Ahmet. *Irregular Migration Control between the EU and Turkey*

international relations, mainly; political balance and for EU-Turkey Relations about *burden-sharing*.

Due to *fortress Europe* approach and EU's *externalization of border practices* that various peripheral areas of Europe are being subject to transit migrants, who then move into Europe³⁴, irregular transit migration has been widely debated, questioned and studied as a part of European Union international migratory regime. (Duvell, 2011) Since the 1990's, when Justice and Home Affairs became a crucial debate for European Union and its memberstates, more than two hundred bilateral Readmission agreements were signed around the World, the vast majority by the EU itself or by memberstates³⁵. European Union Readmission Agreements with 18 countries, where the first country was Morocco on 1996 and the last one is Azerbaijan on 2014³⁶. Although Turkey was reluctant to sign a Readmission agreement with European Union (USAK, 2010), Turkey has followed a policy of Readmission agreement with western countries of destination. In 2001, Turkey signed a Readmission agreement with Greece and following to this agreement, Turkey signed additional Agreements with migration source or transit countries, such as: Syria (2001), Romania (2004), Ukraine (2005), Pakistan (2010).

Readmission Agreements, in general, are tools for destination and transit countries to control migration, preventing irregular entry their borders. Countries sign the Readmission Agreements in order to return the irregular migrants back to country of origin or transit country and to leave an impression on potential irregular migrants. In fact, due to increasing numbers of conflicts, social unrests and civil wars, the number of displaced people increased as well and these people enter to western destination countries irregularly too. Some of them apply for refugee status and asylum seekers. However, Readmission Agreements in general are prepared bilaterally without regarding the special cases of asylum seekers and refugees. One of the main critic by civil society, NGO's and academics for Readmission Agreements in general, also for Turkey, are risky instruments for refugees, immigrants and asylum seekers. According to international law and 1951 Geneva Convention, refugees should be protected. Due to political tensions, in many parts of the world, every year hundred of thousands of refugees move to mainly western countries, where there exists a democratic environment. In these countries, refugees feel that they are protected in these states under international law.

³⁴ İçduygu, Ahmet. *The Irregular Migration Corridor Between The EU and Turkey: Is It Possible To Block It With A Readmission Agreement?*

³⁵ Coleman, Nils. *Third Country Interests and Refugee Rights*

³⁶ Republic of Turkey, European Union Ministry

1951 Geneva Convention guarantees the refugees to be protected and not to be expelled or returned by any state because of their life or freedom are under threat due to race, religion, nationality, membership of a particular social group or political opinion³⁷. It is a fact and a reality that there are obligation for European Union states to protect the refugees and asylum seekers by international law, but the main critic and anxiety for Readmission Agreement of Turkey by civil society and NGO's are the migrant policies and border controlling regimes of European Union, memberstates and especially those countries, where refugees at first arrive are malevolent for refugee protection³⁸.

In addition, according to 1951 Geneva Convention Article 1 C, *non-refoulement* principle and refugee protection disappear as the conditions return back as it was before in the country that the refugees have the nationality.

- *He has voluntarily re-availed himself of the protection of the country of his nationality.*
 - *Having lost his nationality, he has voluntarily re-acquired it.*

This article shows clearly that refugee protection does not last forever and there are time-limitations in case of political conditions would return back as it was before of the country of the refugees.

Although European Union has been established as a project, where the Copenhagen Political Criteria are cherished principles that are obligations to obey by member-and-candidate states, the tolerance level to enter the refugees is very low, because of repressive border regimes and migration control for EU countries. On the one hand, academics, civil society and NGO's, which are highly interested in Readmission Agreement of Turkey, concern that the balance between Migrant Security – especially refugee and asylum seeker – and State Security will not be reached effectively and fairly. Since most of refugees enter to EU countries without any required documents, such as; passport, visas and/or residence permits, these people would be added to the list of readmission process. They claim that refugees will be send away either back their homes or back to the 3rd country, they have entered through. Specifically Turkey is a transit country for irregular migrants and refugees

³⁷ 1951 Geneva Convention, Article 33

³⁸ Mülteci Hakları Koordinasyonu: Türkiye ile AB arasında imza edilen "Geri Kabul Andlaşması"na dair Tutum Belgesi

and these people will send to Turkey in terms of Readmission Agreement³⁹. In addition, EU countries oblige refugees to register as soon as possible and in case of lack of registration, they become irregular migrant and will send away to their country either directly or via Readmission Agreements.

On the other hand, Turkish authorities and experts from European Union Ministry and Internal Affairs Ministry underline insistently that refugees and asylum seekers will not be send back to Turkey because both Turkey and EU respect the 1951 Geneva Convention, its *non-refoulement* principle and refugee protection directive.

The biggest concern and critic for Readmission Agreement is that migrant entry, particularly moving due to political reasons, will be much harder then before to EU countries. Turkish civil society see the agreement another tool in order to control migration tighter and border regimes harder rather than to see the agreement as “burden-sharing” in terms of irregular transit migration control. Turkey’s Readmission Agreement might be a warning for transit irregular migrants in advance that will make them to be send their homes in case of being captured in EU soil. This will cause weakening the migrant, more in detail refugee, security and strenghten the irregular entry through illegal ways. These illegal ways will endanger European Union security along with migrant security⁴⁰.

The idea of Secure 3rd country process occur just the asylum seekers and immigrants movement directions and their routes in terms of burden-sharing principle. International solidarity and burden sharing are key concepts for refugee and asylum seeker protection. However burden sharing should not been perceived precondition for refugee and asylum seeker protection implementations and each states have to take the responsibility to protect refugees in any case. Non-refoulement principle and family unification must beared in mind in terms of migrant protection. In order to evade the responsibility of migrant protection, European Union countries sign Readmission Agreements with transit and emigrant countries to impute the entire migrant protection to non-member countries.

On the one hand, in many countries in different parts of the world, especially irregular migrants are driven by the perception that they cause risks and insecurity for receiving countries in terms of labor market, threat to states and society. On the other hand, according to

³⁹ Mülteci Hakları Koordinasyonu: Türkiye ile AB arasında imza edilen “Geri Kabul Andlaşması”na dair Tutum Belgesi

⁴⁰ http://www.multeci.net/index.php?option=com_content&view=article&id=271:geri-kabul-anlamas-ab-ve-tuerkiye&catid=47:orcun

international migration laws, regular & irregular migrants, refugees and asylum seekers should be protected by receiving states no matter their national policies address to migrants themselves. In this respect, how will Readmission Agreement of Turkey will balance the State Security and Migrant Security? How will refugees and asylum seekers will be diverge from irregular labor migrants?



STATE SECURITY vs MIGRANT SECURITY

Xenophobia, islamophobia and anti-immigrant political discourses among politicians, and control-based immigrant policies have risen in European countries, since far-right parties become stronger in these major final destination countries. It is In this regard, it should be analyzed, why immigrants still aim to move and settle in these countries, where anti-immigrant, especially irregular immigrants, policies developed in last decade.

The first step for state securities was taken in 1975 by establishing TREVI group and it started to work intergovernmentally in order to fight against terrorism, radicalism and international violence. Other than TREVI group, Schengen acquis were implemented in EU policies in 1985 among West Germany, Belgium, France, the Netherlands and Luxembourg that allows the nationals of these state free moement each other. With the integration of Schengen acquis to EU policies, not only citizens, but anyone in these countries have the right of free movements from one country to another one. Refugees, regular migrants along with irregular ones could put the free movements issue into their account. In addition, in order to fight drug trafficking, terrorism, irregular migration, human smuggling&trafficking, cyber crimes, forgery and money loundering in 1999 the polices force of entire EU has been established called EUROPOL.

According to political discourses, irregular migration mainly identified as constituting a basis for a threat to states and their sovereignty. States have the right to control their borders and record, who crosses their borders. Preventing and stopping irregular migration flows is a fundemental right for states for their entire sovereignty⁴¹. In certain, more extreme discourses, irregular migration has also been perceived as a threat to state security.

(Koslowski 2004) Also, irregular migrants and refugees might provide channels for potential terrorists to enter migrant destination countries. Irregular migration brings problems and dilemmas for receiving countries and expose the migrants to vulnerability and insecurity. In order to recognize the concerns of state security and the need of protection the rights of irregular migrants, coherent, new and efficient approaches to address the issue of irregular migration is required.

First of all, state security and sovereignty should be correctly identified with objective analysis. The general argument for anti-immigrant discourses claims that countries and their

⁴¹ Koser, Khalid. *Irregular Migration, State Security and Human Security*

security are under risk and danger due to enormous irregular migration flows. However irregular migration only consist a small percentage of entire migration flows. The political significance of irregular migration outweighs its numerical importance. The most maximum number of irregular migration accounts less than %50 of all migration worldwide and this percentage is a little more than %10 in the EU 28 memberstates⁴². In this point, it should be taken account that the most migration is regular, not only worldwide, but also for entire EU countries. In that respect, due to its low percentage, even over populated migration flow in last decade, irregular migration in general is only represents a small area in entire migration flow and stock.

Second, it has been mentioned by political discourses that many irregular migrants are threats for state security and sovereignty because they are criminals and potential terrorists, since the vast majority of irregular migrants come from less-developed muslim countries. After 9/11, far-right movements, discourses and political parties strengthen their voices and claim usually that irregular migrants are extreme threats not only for state security, but also for their culture, identity, social life, welfare state and so on. It is a reality that especially regular & irregular migrants from 3rd World, predominantly muslim, Asian and African countries are seen a potential threat for state security after 9/11 terrorist attacks. In fact there were some claims and discourses that terrorist attacks or attempts in some European Countries, where suspects were either immigrants or national from those countries, religious groups and ethnic groups. However, these are meaningless, not fact-based and over generalization discourses. It is a reality that some irregular migrants might be a danger for state security, but again, their number is very low. The over-generalization of irregular migrants are criminals is nothing but not fact-based arguments of anti-immigrant groups.

In addition, migration in general would be a threat for economic stability and increased of unemployment, where at the end it is combined with xenophobia and lack of integration. In fact migration can be correlated of main indicator of fall through of with ethnic, religious and cultural diversity. (Kicinger 2004) These challenges arise much from regular migration than irregular one, since the vast majority of human movements occur via regular migration.

⁴² Gilbert, A. and Koser, K. *Information dissemination to potential asylum seekers in countries of origin and/or transit, Home Office Findings*

In order to prevent irregular migration flows and control their borders, states have several strategies. Fortress Europe is definitive and certain goal of EU countries in order to stop the entry of irregular migrants. To fulfill this final goal, EU countries implement general visa requirements, Readmission Agreements with 3rd countries and deportation policies for irregular migrants and if necessary for regular migrants as well⁴³. On the one hand, these policies might be established by EU countries for justifiable reasons for State Security matters since controlling the borders and preventing irregular entry are their rights, which are protected by international laws. On the other hand, these border regimes and migration policies are only based on limitation, restriction and termination of irregular migrants and especially refugees themselves. In order to reach these countries, where there is an environment with democracy, peace and human rights, refugees and irregular migrants fall into human traffickers' and smugglers' trap. At this point, migrant security is under threat by smugglers and traffickers. Most obviously women and children are the victims of smuggling and trafficking. In order to pay the over high cost of irregular "travel", irregular migrants and refugees try to enter irregularly, they are forced to work in the crime organizations; organized mendicity, drug trafficking, child pornography and sex industry. Irregular migrants often work in the most dangerous and inhuman jobs and they are excluded from all fundamental human rights, social welfare provisions, health-care, education and residence. Migrating in an irregular way does not jeopardise the migrants themselves, but also their status because this is a certain and significant concern that irregular migrants will receive a valid asylum claim.

In order to establish *fortress Europe*, buffer-zones (countries) are needed, where irregular migrants in general will send back that entered EU countries in an irregular transit way. In this respect, to gain functionality of EU policies, Turkey play a crucial and effective role. The Readmission Agreement between EU and Turkey came into force in 2014 and three years will be preparation period. The first readmitted flow will be sent back to Turkey three years later, as the Agreement came into the force. With Readmission Agreement, Turkish citizens first have visa-liberalization from EU countries and as soon as readmission flows will start, all Turkish nationals will have visa-free right for EU countries.

Moreover most EU states view return as an important tool to reduce irregular migrant stocks. Irregular migrants have been deported or forcibly returned from states of destination.

⁴³ Koser, Khalid. *Irregular Migration, State Security and Human Security*

There are two options for irregular migrants and unsuccessful asylum seekers to return their country of origin: promoting return and deportation⁴⁴.

However, the biggest doubt for readmission agreements in general is that European Union member states will label all *unwanted* migrants as irregular migrants without checking in depth analysis intension; background, political, social and economic conditions of countries of origin of migrants. Since a lot of states located as eastern neighbours and in the region of Turkey face political difficulties, many citizens of these countries move EU through Turkey as refugees or asylum seekers⁴⁵. Naturally many of these people enter EU countries without a legal paper work and documents due to their failed or weak states' administration. According to many opponents, there is a high possibility that EU member states might label these potential refugees as irregular migrants and send them back to Turkey as the obligations of Readmission Agreement.

In addition, in many 3rd world countries, citizens are not allowed to leave their country. In the case of leaving their country, there are a lot of penalties, even death penalty exist in these countries. In fact, because of social and political unrest, failed administration, civil war in those countries, where refugees and asylum seeker come from, irregular migrants' lives are under huge risks in case of they should send back from Turkey in the matter of Readmission Agreement⁴⁶. On the mainly known example is that hundreds of Syrians were murdered by Syrian national army, when they were sent back to their countries in the beginning of civil war. Many academics, scholars, politicians and burocrats, who oppose the Readmission Agreement argue that political immigrants' will be put in jeopardy in order to secure the EU states. In fact, all irregular migrants other than labor migrants would move western European countries to be protected from the civil war, battles, discrimination and massacres in their countries of origin⁴⁷.

Readmission Agreement of Turkey is signed with European Union for member states' security along with the security of the Union itself. Turkey is one the state, which have highest transit irregular migrant volume towards Europe from African, Asian, Middle Eastern

⁴⁴ David, Fiona. *Human Smuggling and Trafficking: An Overview of the Response at the Federal Level*, Australian Institute of Criminology Research and Public Policy Series No. 24

⁴⁵ Refugees Rights Coordination. Condition Report for Readmission Agreement of Turkey at <http://www.ihad.org.tr/file/reports/2011/2010%20TURKEY%20MONITORING%20REPORT%20ON%20RIG%20TO%20REFUGES%20&%20ASYLUM.pdf>

⁴⁶ Göçmen, İlke. *Legal Analysis for Readmission Agreement of Turkey*

⁴⁷ Refugees Rights Coordination. Condition Report for Readmission Agreement of Turkey at <http://www.ihad.org.tr/file/reports/2011/2010%20TURKEY%20MONITORING%20REPORT%20ON%20RIG%20TO%20REFUGES%20&%20ASYLUM.pdf>

and former socialist countries. One of the main concern about the Agreement is that not only irregular labor migrants, but also political migrants have the risks to be send back to Turkey through Readmission Agreement. In fact, non-refoulement principle will be violated. Non-refoulement principle should be applied not only for regular migrants, but also irregular migrants as well. Basic rights extend to all migrants, including irregular migrants. These are secured by international law and international organizations. States might coddle detailedly for public safety and state security, still there are non-derogable rights applicable to all human-beings, including non-discrimination, the right of life, the prohibiton of torture, slavery and servitude, the right to recognition before the law and fundemantel rights.

On of the main critic from EU to Turkey is that Turkish borders are not controlled very well, which cause hundred of thousands irregular migration towards European Union member states. According to official numbers from the EU and turkish national sources, Turkey is one of the leading country for transit irregular migrants towards Europe. However European Union officials overlook the part of how weak the Greek and Bulgarian in the name of European Union borders are not controlled very well too, which let irregular migrants to enter to the EU soils. In this respect, European Union only blames Turkey not to provide the security for its own borders along with European Union borders. The real fact is not only Turkish western borders' control is weak, but also the most eastern borders' control of the EU is not sufficient and effective. In this matter, FRONTEX operations play an important role.

FRONTEX is the institution that manages the cooperation between national border guards that is undertaken to secure the external borders of the union, including from illegal immigration and human trafficking. Since Turkey is not a member states of the EU, Turkish officials cannot participate in FRONTEX operations in order to prevent irregular migration flows towards European Union. In this matter, Turkish government criticizes European Union not to allow to join for irregular migration flows from African, Middle Eastern and Asian Countries towards mainly western EU countries.

In the case of Turkey, the various risks, asymmetrics and uncertainties associated with a readmission agreement become more complicated, as the country is in the process of accession talks with the Euopean Union. The membership prospect and intension are often questioned and doubted by some member states as well. Although the Turkey-EU relations are in an uninspiring climate, Turkey has transformed the migration and asylum seeker

policies since the accession process, by harmonizing and integrating them with EU acquis⁴⁸. The engagement of Turkey to Readmission agreement not only with one member states, but with the entire EU and its institutions, must be seen in the context of becoming a member of the Union. In addition it is linked to have first visa liberalization and finally visa-free regime for turkish nationals by visiting all EU member states.



⁴⁸ İçduygu, Ahmet. *Irregular Migration Control between the EU and Turkey*

CONCLUSION

European Union memberstates aim to govern the extra-ordinary over populated migrant crisis with ordinary control-based migrant policies and strategies. Instead of focusing on to provide effective extra-ordinary legislation for this extra-ordinary irregular migrant crisis and its outcomes and impact on social and economic matters, European Union memberstates aim to manage the irregular migrant crisis with already existing legislation. Because of this strategy, the reasons and outcomes of over populated irregular migration flow are not analyzed effectively and European Union memberstates focus only to control migration flows.

The main irregular migrant destination countries sign bilateral Readmission Agreements with transit and destination countries in order to reduce the irregular immigrants' stock and to stop the potential irregular migrants before their entry. Specifically, to accomplish these implementations, European Union member states provide control and limiting border regimes by preventing irregular flows. Return is one of the most effective and integrant way on irregular migration via Readmission Agreements.

The Turkish corridor is in demand for transit irregular immigrants because of Turkey's visa-policies, external affairs and neighbour policies. Turkey has signed visa-free agreements with 96 (in some countries, visas are taken at the border) countries, including Turkey's some neighbours: Syria, Iran, Iraq or in its regions; Russia, Ukraine, Jordan and Libya. Citizens of these countries enter to Turkey without visa and in some cases they over stay their visa because of Turkey's strong and stable economy and its democracy. It should be taken into account that the countries, which have visa-free agreements with Turkey has diuturnal conflicts, battles, discrimination, civil wars along with economic crisis and unemployment. In addition, European Union countries, mainly western member states, attract these people with their economies, employment opportunities and their environment with human rights, democracy and rule of law. Since European Union migration policies are based on controlling rather than providing indulgent immigration policies, the irregular transit migration ratio has been increased in last decade through Turkey.

Biggest concern for readmission agreements in general and specifically for Turkey's Agreement is refugees and asylum seekers would be affected by Readmission Agreement and they will be send back to their country or to transit countries, without respecting refugee protection laws, non-refoulement principle and 1951 Geneva Convention. In addition,

according to basic human rights, even irregular immigrants should have benefit of fundamental protection.

Main immigrant destination countries in Europe claim that irregular migrants are threats for states because of their methods to enter their country. However irregular entry has nothing to do with criminality and in fact refugees and asylum seekers usually enter the transit and destination countries irregularly. Moreover, it has been usually mentioned that unemployment and economic competition occur due to irregular immigrants, but even regular migrants might cause economic difficulties in a immigrant destination countries. Moreover, EU countries spend Large economic sources for controlling and preventing irregular migration flows. These sources could be used for effective migration policies such as; employment of irregular migrants, refugees and asylum seekers, their housing support, basic social rights, education, health care because irregular migrants cannot benefit from social right due to their status.

States have the rights to protect their border, control the entry and attach importance to internal security. These legislation are under protection of international law. But states also are obligated by international law to protect refugees, asylum seekers, regular migrant and irregular migrants should have at least basic human rights. This case occurs a dilemma between state security and migrants security and in reality, state security prevail Migrant rights and Migrant security. Irregular immigrants, without checking their needs and priorities, are not accepted or even if accepted, forced to stay in camps that are located in destination countries or their borders with 3rd neighbour countries.

However open-border migrant policies are not very effective without providing infrastructure for migrants. These infrastructure include education, employment, healthcare and residence. In Turkish open-border Migrant policy, infrastructure for over-populated irregular migrants are not fulfilled yet, therefore a large number of children cannot benefit from primary education, the number of registered employees is very low and those, who can benefit from healthcare is not adequate. In order to provide effective welfare service infrastructure for immigrants in Europe, all migrants should be distributed in each EU memberstates so that specific countries will not take all responsibility for over-populated immigrants coming from less developed countries. Burden sharing is the most effective way, rather than readmission agreement or other control-based migrant policies.

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