



Hacettepe University Graduate School of Social Sciences
Department of Peace and Conflict

**AN ANALYSIS OF TURKEY'S POLICY
CONCERNING REFUGEE INTEGRATION**

Nilay ARKÜN

Master's Thesis

Ankara, 2019

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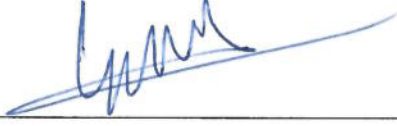
Department of Peace and Conflict

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Ankara, 2019

ACCEPTANCE AND APPROVAL

The jury finds that NILAY ARKÜN has on the date of 13 September 2019 successfully passed the defense examination and approves her Master's Thesis titled "An Analysis of Turkey's Policy concerning Refugee Integration".



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Bu alıřmadaki bütn bilgi ve belgeleri akademik kurallar erevesinde elde ettiđimi, grsel, iřitsel ve yazılı tm bilgi ve sonuları bilimsel ahlak kurallarına uygun olarak sunduđumu, kullandıđım verilerde herhangi bir tahrifat yapmadıđımı, yararlandıđım kaynaklara bilimsel normlara uygun olarak atıfta bulunduđumu, tezimin kaynak gsterilen durumlar dıřında zgn olduđunu, Dr. đretim yesi Kadri Kaan RENDA danıřmanlıđında tarafımdan retildiđini ve Hacettepe niversitesi Sosyal Bilimler Enstits Tez Yazım Ynergesine gre yazıldıđını beyan ederim.

Nilay ARKN

ABSTRACT

ARKÜN, Nilay. *"An Analysis of Turkey's Policy concerning Refugee Integration"*. Master's Thesis, Ankara, 2019.

Turkey has been hosting the largest number of refugees around the world since 2014. In line with international principles, regional standards and the European Union acquis, Turkey provides protection to refugees by offering admission into territory, access to asylum procedures, non-refoulement and access to basic rights. However, asylum system in Turkey does not introduce any long-term durable solution. In search for durable solutions for around 4 million persons in need of international protection in Turkey, by taking into consideration the limited number that can be resettled or that can return to their countries of origin, it is inevitably necessary to focus on local integration options and opportunities to ensure refugees' self-reliance.

In this study, refugee integration in Turkey is analyzed in the light of the norm diffusion theory and explored to what extent integration completes the norm diffusion cycle. The overarching theoretical question of the study is: "Does adoption of the international norms in the field of refugee protection provide integration as a durable solution for the refugees in Turkey and if and how it could be explained through norm diffusion theory?" The result of such exploration reveals that the diffusion of integration as a norm emerges but fails to exceed the tipping point. The conclusion is that due to its existence in the Law on Foreigners and International Protection, although there seems to be acceptance, from a contextual point of view, the content of Article 96 of the Law does not fulfil the name of integration. Accordingly, its content does not fully cover the intended meaning. Thus, this thesis argues that Turkey has not even accomplished the norm adoption when it comes to integration of persons in need of international protection.

Key Words

Turkey, International Protection, Asylum, Refugee, Integration, Harmonization, Norm Diffusion.

ÖZET

ARKÜN, Nilay. *"Türkiye'nin Mülteci Entegrasyonuna İlişkin Politikasının Analizi"*. Yüksek Lisans Tezi, Ankara, 2019.

Türkiye 2014 yılından bu yana dünyada en fazla mülteci barındıran ülke konumundadır. Türkiye uluslararası ilkeler, bölgesel standartlar ve Avrupa Birliği müktesebatı çerçevesinde ülke topraklarına giriş, iltica usullerine ve temel haklara erişimin yanında geri göndermeme ilkesine uygun hareket ederek mültecilere koruma sağlamaktadır. Ancak Türkiye'deki iltica sistemi uzun vadeli kalıcı çözümler sunmamaktadır. Sınırlı sayıda kişinin üçüncü ülkeye yerleştirilmesinin veya menşe ülkesine geri dönmesinin mümkün olduğu göz önünde bulundurulduğunda, Türkiye'de uluslararası koruma ihtiyacı içerisindeki yaklaşık 4 milyon kişiye yönelik kalıcı çözüm bulma arayışında yerel entegrasyon seçeneklerine ve mültecilerin kendi kendine yeterliliklerini elde etmelerini sağlayacak imkânlarla odaklanmak zaruri bir ihtiyaçtır.

Bu çalışmada Türkiye'deki mültecilerin entegrasyonu normların yayılması teorisi ışığında analiz edilerek entegrasyonun normların yayılması döngüsünü ne ölçüde tamamladığı incelenmektedir. Bu çalışmada cevap aranan temel soru şudur: "Mültecilerin korunması alanında uluslararası normların benimsenmesi Türkiye'deki mülteciler için entegrasyonu kalıcı bir çözüm kılıyor mu? Evet ise, normların yayılması teorisi üzerinden açıklanabilir mi ve nasıl açıklanabilir?" Bu araştırmanın sonucu göstermektedir ki bir norm olarak entegrasyonun yayılması gerçekleşmekte ancak kırılma noktasını aşamamaktadır. Buradan çıkan sonuç da şudur ki Yabancılar ve Uluslararası Koruma Kanunu'nda yer aldığı için kabul görmüş gibi görünse de, bağlamsal bir bakış açısıyla bakıldığında Kanunun "Uyum" başlıklı 96. maddesi entegrasyon kavramının içini dolduracak nitelikte değildir. Dolayısıyla bu madde verilmek istenen anlamı tam anlamıyla karşılayacak bir içerik sunmaktan uzaktır. Buradan hareketle bu tezde uluslararası koruma ihtiyacı içerisindeki kişilerin entegrasyonu bakımından Türkiye'nin söz konusu normu kabul etme noktasında dahi başarı elde edemediği öne sürülmektedir.

Anahtar Sözcükler

Türkiye, Uluslararası Koruma, İltica, Mülteci, Entegrasyon, Uyum, Normların Yayılması.

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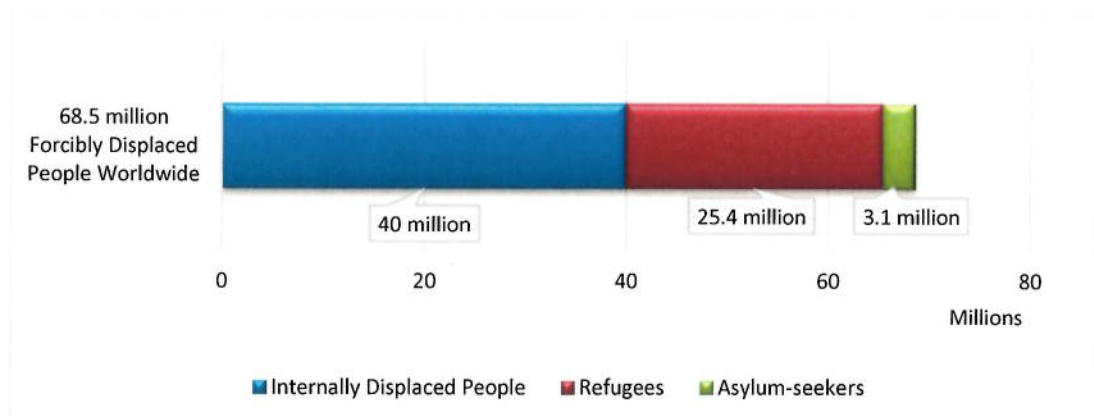
LIST OF ABBREVIATIONS

Art.	Article
CCTE	Conditional Cash Transfer for Education
CEAS	Common European Asylum System
CoE	Council of Europe
DGMM	Directorate General of Migration Management
EC	European Commission
ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights
ESSN	Emergency Social Safety Net
EU	European Union
ExCom	Executive Committee
FRONTEX	European Border and Coast Guard Agency
GHI	General Health Insurance
IOM	International Organization for Migration
LFIP	Law on Foreigners and International Protection
NGO	Non-Governmental Organization
PDMM	Provincial Directorate of Migration Management
SUT	Communique on Healthcare Implementation
TPR	Temporary Protection Regulation
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNICEF	United Nations Children's Fund
UNHCR	United Nations High Commissioner for Refugees
WFP	World Food Programme

INTRODUCTION

According to the statistics shared by United Nations High Commissioner for Refugees (UNHCR) in 2019, 68.5 million people have been forced to flee from their homelands across the world due to conflicts, violence, persecution and human rights violations. Among them are nearly 25.4 million refugees and 3.1 million asylum-seekers. This figure includes over 6 million nationals from the Syrian Arab Republic. Since 2011, people have been fleeing the Syrian conflict to seek asylum in neighbouring countries and beyond. Turkey, Lebanon and Jordan are among the major host countries in this respect (UNHCR, 2019).

Table 1 Figures of Forcibly Displaced People Worldwide



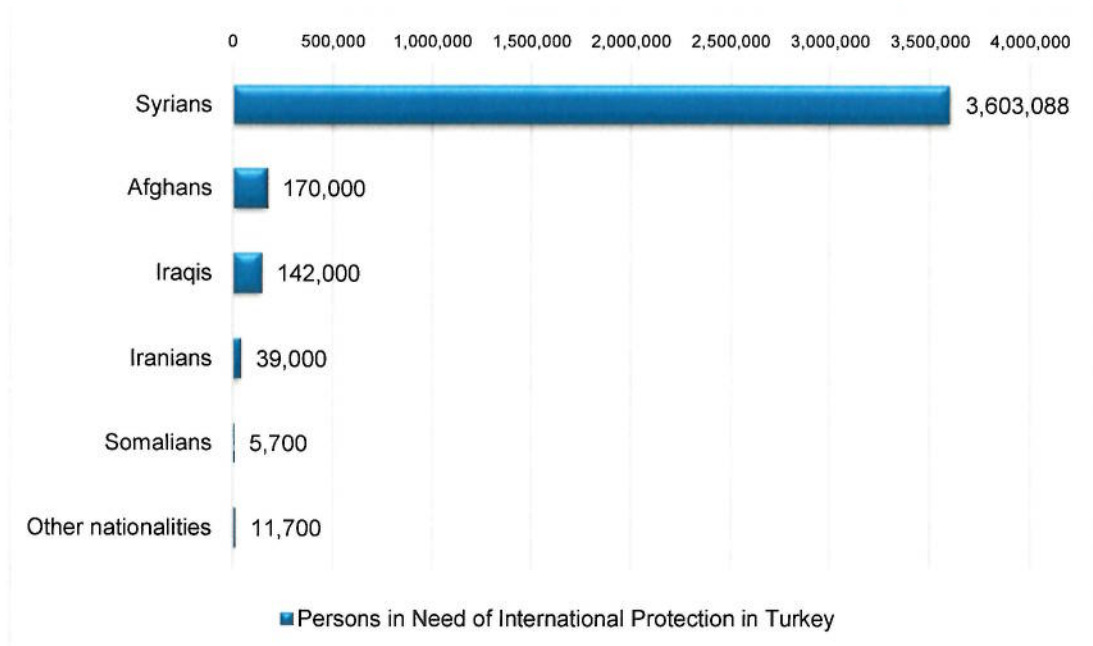
Source: Adopted from UNHCR data (UNHCR, 2019)

In this context, the international law governs the rights of people and the obligations of States. The 1948 Universal Declaration of Human Rights (UDHR) provides that “everyone has the right to seek and enjoy in other countries asylum from persecution” (UDHR, Art. 14). As defined in the 1951 Geneva Convention Relating to the Status of Refugees (thereafter, 1951 Convention) States are bound by the principle of *non-refoulement* (1951 Convention, Art. 33), which provides that “no refugee shall be expelled or returned in any manner whatsoever to the frontiers of territories where his/her life or freedom would be threatened on account of his/her race, religion, nationality, membership of a particular social group or political opinion”.

International protection ends only with the attainment of a long-term durable solution to allow refugees to resume their normal lives in safety. Traditionally, there are three durable solutions: voluntary repatriation, resettlement and local integration. Since realization of an appropriate durable solution may take time, enabling refugees to become self-reliant is crucial.

With around 4 million international protection applicants, status holders and temporary protection beneficiaries, Turkey has been hosting the largest number of refugees around the world since 2014 (UNHCR, 2014). According to the statistics shared by Directorate General of Migration Management of Turkey (DGMM) and UNHCR within the first half of 2019, Turkey hosts over 3.6 million Syrians (Göç İdaresi Genel Müdürlüğü, 2019) as well as more than 368,000 of other nationalities who are in need of international protection (UNHCR, 2019).

Table 2 Number of Persons in Need of International Protection in Turkey



Source: Adopted from UNHCR data (UNHCR, 2019)

As a State party to the 1951 Convention and its 1967 New York Protocol Relating to the Status of Refugees (thereafter, 1967 Protocol) and also as a European Union (EU) candidate country, Turkey introduced many legal and institutional reforms in line with international principles, regional standards and the EU acquis with a view to building an effective national asylum system.

The Law on Foreigners and International Protection (LFIP) entered into force on 11 April 2014 as the first national asylum law, and the Temporary Protection Regulation (TPR) was introduced on 22 October 2014. With the establishment of solid and comprehensive legal framework, Turkey adopted the international principles concerning international protection in compliance with the 1951 Convention, including but not limited to the principle of non-refoulment (LFIP, Art. 4 and TPR, Art. 6), non-criminalization for illegal entry or presence (LFIP, Art. 65(4)) and access to basic rights and services by persons in need of international protection. Drafting LFIP was not only resulted from Turkey's international obligations concerning 1951 Convention, but also directly linked with the increasing numbers of European Court of Human Rights (ECtHR) judgements against Turkey and the intention to harmonize the legislation with the EU acquis due to EU accession process. However, asylum system does not seem to introduce any long-term durable solutions for over 4 million international protection applicants, status holders and temporary protection beneficiaries in Turkey.

Turkey maintains the geographical limitation to the 1951 Convention and as a result, Turkey has developed its own asylum terminology, which comes up with different protection types. In fact, Turkey provides international protection to all individuals in need of international protection regardless of their country of origin, yet international protection statuses at the LFIP vary, such as refugee, conditional refugee and subsidiary protection. Persons who flee due to events in the Member States of the Council of Europe (CoE) and who meet the refugee definition according to 1951 Convention are granted "refugee status". Persons who flee due to events outside of the Member States of the CoE and who meet the refugee definition according to 1951 Convention are granted "conditional refugee status", and the durable solution available for conditional refugees is limited to resettlement. While all statuses will be defined in the upcoming chapters, in order to simplify the language of the thesis and not to refer to every status each time, below listed statuses will be overall referred as "persons in need of international protection" throughout the thesis in line with the LFIP:

- **International protection applicant:** *"a person who made an international protection claim and a final decision regarding whose application is pending"* (LFIP, Art. 3(1)(d)). Internationally, this is identified as an "asylum-seeker".
- **International protection status holder:** *"the status granted for refugee, conditional refugee, and subsidiary protection"* (LFIP, Art. 3(1)(r))
- **Refugee:** *"a person who as a result of events occurring in European countries and owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his citizenship and is unable or, owing to such fear, is unwilling to avail himself or herself of the protection of that country; or who, not having a nationality and being outside the country of his former residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it"* (LFIP, Art. 61)
- **Conditional refugee:** *"a person who as a result of events occurring outside European countries and owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself or herself of the protection of that country; or who, not having a nationality and being outside the country of former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it"* (LFIP, Art. 62)
- **Persons under subsidiary protection:** *"a foreigner or a stateless person, who neither could be qualified as a refugee nor as a conditional refugee, and if returned to the country of origin or country of [former] habitual residence would (a) be sentenced to death or face the execution of the death penalty; (b) face torture or inhuman or degrading treatment or punishment; (c) face serious threat to himself or herself by reason of indiscriminate violence in situations of international or nationwide armed conflict; and therefore is unable or for the reason of such threat is unwilling, to avail himself or herself of the protection of his country of origin or country of [former] habitual residence"* (LFIP, Art. 63)

- **Temporary protection beneficiary:** *"foreigners who have been forced to leave their country, cannot return to the country that they have left, and have arrived at or crossed the borders of Turkey in a mass influx situation seeking immediate and temporary protection"* (LFIP, Art. 91).

Additionally, the refugee term according to Article 61 of the LFIP will be used as *"Refugee"* at the thesis in order to differentiate it from the internationally accepted refugee term according to 1951 Convention.

CHAPTER 1

RESEARCH QUESTION AND THEORETICAL FRAMEWORK

1.1 RESEARCH QUESTION

Attainment of a long-term durable solution is an essential element of a policy on protection of refugees both to end international protection by allowing refugees resume their normal lives in safety and to enable countries hosting high number of refugee population for long periods to manage the asylum crisis considering its economic and social impacts. When potential durable solutions for refugees in Turkey are analyzed, one can easily argue that asylum system in Turkey does not seem to introduce any long-term durable solutions. For instance, the number of Syrians who have accessed to durable solutions are very low in Turkey in spite of returns to Syria or resettlements to third countries.

As stated by the Minister of Interior, Mr. Süleyman Soylu, as of 18 February 2019 311,968 Syrian nationals voluntarily returned to Syria after the Operation Euphrates Shield and the Operation Olive Branch.¹ However, according to UNHCR, present environment in Syria is not available for voluntary repatriation in safety and dignity. There are substantial risks for civilians across Syria. For the time being UNHCR is neither promoting nor facilitating returns to Syria (UNHCR, 2018, p. 2). Therefore, voluntary repatriation cannot be considered as a durable solution for Syrians in the near future. Besides, according to a study, the tendency of Syrians to permanently stay in Turkey has grown so strong that it is now almost impossible to consider their return (Erdoğan, 2018, pp. 169-172). Lastly, current voluntary returns of Syrians are actually self-organized returns and cannot be considered as a durable solution.

As for resettlement, only a limited number of refugees can benefit from this durable solution. This is because the annual quotas by third countries for resettlement is very low across the globe, therefore only those in the most

¹ Available at: <https://www.aa.com.tr/tr/politika/icisteri-bakani-soylu-geri-donen-suriyeli-sayisi-311-bin-968-kisi/1396108> (Accessed on 30 August 2019)

vulnerable situations are allocated places. The number of resettled persons in need of international protection from Turkey is 62,721 as of 31 July 2019 between 2014 and 2019 (UNHCR, 2019). The resettlement numbers are very low when compared to the actual refugee population sought asylum in Turkey. For instance, less than 1% of all refugees around the world are resettled (UNHCR, 2019). Therefore resettlement can not be considered as a durable solution for all persons in need of international protection in Turkey.

Turkey is experiencing the biggest refugee movement in its history and hosting the largest refugee population in the world. In the search of durable solutions for around 4 million persons in need of international protection in Turkey, by taking into consideration the limited number that can be resettled or spontaneously return to their countries of origin, it is inevitably necessary to focus on local integration options and opportunities to ensure their self-reliance.

In the light of the aforementioned reasons, this study aims at finding out the existing stage of refugee integration in Turkey from the lens of norm diffusion. The overarching theoretical question of the study is:

“Does adoption of the international norms in the field of refugee protection provide integration as a durable solution for the refugees in Turkey and if and how it could be explained through norm diffusion theory?”

In line with the research question, main arguments of this thesis are as follows:

First, Turkey has adopted major international norms concerning the protection of persons in need of international protection such as non-refoulment etc. in its legal framework with the enactment of the LFIP.

Second, despite the fact that Turkey has adopted major international norms in the field of refugee protection, there is an existing gap in introducing long-term durable solutions to refugees due to the domestic pressures and internal circumstances, such as increasing social tension and criminal incidents between refugee and host communities, perception of temporariness/expectation of return to countries of origin among the State authorities and the host community concerning refugees in Turkey, the geographical limitation to the 1951

Convention as a policy in order not to create a pull factor for refugees originated from non-European countries.

Lastly, Turkey has neither adopted nor implemented integration policy as a durable solution for the persons in need of international protection due to the political concerns such as rising popular dissent against Syrians and other foreigners.

Therefore this study aims to explore;

First, whether/to what extent the acceptance of integration as an international norm diffuses into the domestic system and,

Second, whether Turkey's current "harmonization" policy could be considered as proper acceptance of an international norm (integration) under the norm diffusion theory, thus offers a durable solution to refugees in Turkey.

To this aim, this study will first (a) give a general overview of the norm diffusion theory and its main elements, (b) provide an outline of international norms accepted by Turkey in the field of refugee protection, which covers international principles and regional standards; (c) describe the general system of international protection in Turkey; and (d) analyze integration policies of Turkey targeting international protection applicants, status holders and temporary protection beneficiaries.

1.2 THEORETICAL FRAMEWORK AND LITERATURE REVIEW

From a conceptual framework "diffusion" of norms, policies and ideas has been widely studied (Klotz, 1995); (Finnemore & Sikkink, 1998); (Gurowitz, 1999); (Marsh, 2009); (Meseguer, 2009); (Gilardi, 2010). The definition of the norm is commonly agreed as "*standard appropriate behaviour for actors with a given identity*" (Finnemore & Sikkink, 1998, p. 891) (Elgström & Jönsson, 2005, p. 30). Norms are recognized by the society, which means that they are not kept privately and related to a particular behaviour (Jönsson, 2002, p. 24).

Accordingly in this study when there is a reference to a norm, it is referred to something concrete and written in international refugee law instruments such as 1951 Convention (for example the principles of non-refoulement (LFIP, Art. 33), non-discrimination (LFIP, Art. 3), naturalization (LFIP, Art. 34)). In particular "*local integration of refugees*", which is named under various forms in international, national or EU legal frameworks, is presented in this thesis as one of the norms Turkey intends to internalize in its asylum system, yet has failed to do so far.

The concept of diffusion is generally defined by academics as a result of "*interdependence*" (Jönsson, 2002, p. 26) (Gleditsch & Ward, 2006, p. 923) (Gilardi, 2011, p.1). On the other hand, Gilardi brought an alternative description defining diffusion as a process rather than an outcome (Gilardi, 2011, p. 2). As argued, "*norms do not appear out of air*" (Finnemore & Sikkink, 1998, p. 896) and national authorities are continuously inspired or affected by the influence of foreign States, which are often not in line with domestic norms. In their comprehensive study, Finnemore & Sikkink examined the diffusion theory in a very detailed manner and came up with the "*life cycle*" of this process. These two authors also highlighted three aspects namely; the origins of norms, the mechanisms through which the norms exercise influence and basic conditions under which the norms could be influential (Finnemore & Sikkink, 1998, p. 888). On the other hand, Flockhart contributed to this research by emphasising the agent level theories – which mainly argue that the process is placed at the agent level and communication between them (Flockhart, 2006, p. 93). As a separate argument, Risse-Kappen stated that the channels by which norms go into the policy making process and be reflected into the domestic policies are determined by the nature of the political institutions (Risse-Kappen, 1994, p. 212).

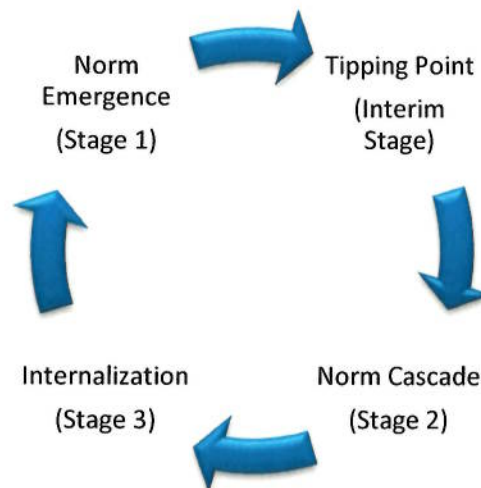
With this study, the dynamics of the norm diffusion process will be highlighted. While doing this it will consider that the process is created by certain agents of diffusion and specific conditions of the national environment shapes this process. Therefore, the norm diffusion process and the factors leading to acceptance or opposition to a norm in a specific environment will be considered as connected (Finnemore & Sikkink, 1998). In this study, we consider the norm "*adopted*" when it has been reflected into a legal text of the State. This could happen either by

adopting a national law or through incorporation of an international instrument into the national legal framework.

1.2.1 Three Stages of Norm Diffusion

The “*life cycle model*” as explained by Finnemore & Sikkink includes three main stages: norm emergence, norm cascade and internalization. In between the first two stages a threshold called tipping point exists. This is the stage where a critical number of relevant State actors adopt a norm (Finnemore & Sikkink, 1998, p. 895). In each of these stages, diverse social processes and reasoning exist.

Figure 1 Stages of norm “life cycle”



Source: Adopted from stages of norm “life cycle” by Finnemore & Sikkink (Finnemore & Sikkink, 1998)

1.2.1.1 Norm Emergence

Norm emergence is the first phase of the norm life cycle as noted above. During this stage norm entrepreneurs try to convince the country leaders to abide by new norms by promoting that it is an appropriate step to be taken (Finnemore & Sikkink, 1998, p. 895). In this regard for the creation and promotion of new norms two elements are quite important: norm entrepreneurs and organizational

platforms. In some situations these platforms are created with the specific purpose of promoting norms (Finnemore & Sikkink, 1998, pp. 896-899). These also include non-governmental and international organizations: CoE, EU or United Nations (UN) could be named as specific examples.

Norm entrepreneurs play a very important role in the norm emergence as they point out to issues and even create issues through naming, interpreting and dramatizing them. This is called "*framing*" (Finnemore & Sikkink, 1998, p. 897). At the UN, CoE or EU levels the framing process takes place in the creation of norms in international conventions (in the case of ECtHR in its jurisprudence). If the legitimacy of platforms and knowledge assumptions are high, the possibility of the norm to stay alive and succeed is also higher (Elgström & Jönsson, 2005, p. 29).

There is a view that norm diffusion process includes involvement of various actors as it occurs not only between States but also between different private and public entities (Gilardi, 2010, p. 3). As for Jönsson, participants of norm diffusion process could be categorized as individuals (including consultants, policy makers or development workers), groups, organizations and the media (Jönsson, 2002, p. 29). Dolowitz and Marsh on the other hand named six specific actors who are "involved in the norm diffusion process: elected officials, political parties, civil servants and bureaucrats, pressure groups, experts and institutions" (Dolowitz & Marsh, 1996, p. 345).

It should be kept in mind that a diffused norm bears the risk that it could be challenged by an already existing norm in the recipient environment. The existing norms are enforced by the bureaucracies, which are also institutions. Concerning this issue Finnemore and Sikkink highlighted how norms and institutions could be viewed from different point of views. For instance while constructivists call "*behavioural rules*" as "*norms*" under political science, sociologists call them "*institutions*" (Finnemore & Sikkink, 1998, p. 891). In this thesis, we will refer to institutions as bureaucratic structures.

The term "*norm entrepreneur*" covers both norm promoter (such as UN, CoE or EU) and the individuals involved in the norm diffusion (such as high level officials,

service providers etc). On the other hand, "*norm recipient*" refers to domestic level actors involved in the diffusion process such as domestic bureaucracies. At the norm emergence stage, the task of the norm entrepreneurs look for the usefulness of other players to mirror new normative commitments. Encouragement (persuasion) is considered as an essential instrument through which agent action turns into social structure and ideas turns into norms (Finnemore & Sikkink, 1998, p. 914). As for Elgström and Jönsson, when parties have opposing norms, it is not very easy to reach "*reasoned consensus*" as actors cannot be expected to compromise their principles even if they receive the most convincing arguments. Yet they may still be prepared to compromise from issues of implementation (such as "how" and "when") as well as on the scope of applicability of the norm (Elgström & Jönsson, 2005, p. 30).

1.2.1.2 Tipping Point

As noted above, in between the norm emergence and norm cascade (after norm framing and its demonstration to the recipients in the domestic environment) tipping point occurs. This is a critical stage where significant size of relevant norm recipients adopt the norm (Finnemore & Sikkink, 1998, p. 895). According to Gilardi, at this stage the norm dynamics lead to a change in existing or dominant norms. When the new norm takes its place, the new rules turns into the regular, while the older rules become outdated (Gilardi, 2010, p. 24). At this stage the balance of power between supporters and opponents of a norm changes; accordingly the domestic opponents of the norm also take part in the norm diffusion process along with the supporters. The tipping point can only be achieved when those individuals holding key roles in the State structures have been convinced about the importance of the norm and have taken steps to institutionalize the norm into the national law and practice (Flockhart, 2006, p. 93).

In real life not every rule reaches the tipping point (Finnemore & Sikkink, 1998, p. 895). Domestic recipient groups may back up or resist to the adoption of a foreign norm. Such negotiations may end up in stalemate and subsequently an emerging

norm would not enter into the recipient environment based on the recipients' arguments. These arguments may also vary as the objectors often find indirect ways of rejecting the norm. For instance, they could find excuses such as the principle not being relevant to the area in question, or try to benefit from some exceptions, transition periods or blurred definitions. The latter would prevent efficient implementation (Elgström & Jönsson, 2005, p. 29).

In the light of the above, communication among all relevant actors in the tipping point of the norm diffusion process is a must. This communication can go through interpersonal contacts or can also involve the media (Jönsson, 2002, p. 29). This communication should also take place at various levels, including both interaction between the norm entrepreneur and the recipient, and contacts among the actors of the recipient structure that are directly involved in the decision making process in the country. As argued by Elgström and Jönsson, norm entrepreneurs take initial steps to point out and draw the framework of an issue, and fight with the competing norm in controversial normative space (Elgström & Jönsson, 2005, p. 31). It is only possible for a diffused norm to have the chance to stretch into the societal practices and become "*undisputed*" when it wins the aforementioned debate (Elgström & Jönsson, 2005, p. 31).

1.2.1.3 Norm Cascade

When the tipping point was reached and domestic structures have shown support for a change, the next stage of life cycle -called norm cascade- takes place. This stage is regarded as "*the increase of dynamics*" (Finnemore & Sikkink, 1998, p. 895). At this phase, after having been introduced to the elites (who in fact are the rulers), a norm goes downwards or as the term defines it "*cascades*" through different actors.

"The process through which international norms are implemented domestically can be understood as a process of socialization" (Risse & Sikkink, 1999, p. 5). It is accepted that socialization forms the dominant mechanism of this stage due to the fact that norm leaders convince others to adhere to the norm (Finnemore & Sikkink, 1998, p. 902). With this mechanism, norm entrepreneurs "*encourage*" or

even “pressure” norm recipients with various motivational reasons such as increase international level of legitimacy or the need of State leaders to increase their self-confidence (Finnemore & Sikkink, 1998, p. 895). Flockhart points out to “social influence” and “coercion” which could be defined as two strategies for State socialization (Flockhart, 2010, p. 97). On the other hand Gilardi brought forward four different categories, which are “coercion” (the pressure to adopt a norm), “competition” (the process the ruling elites respond to the actions of other countries with a view to increase their standards), “learning” (when the experience of the other countries are taken by the decision makers to estimate the potential consequences of the intended policy change), and “emulation” (when the norms get dispersed based on their normative and socially constructed characteristics rather than objective natures) (Gilardi, 2010, p. 13).

At this particular point it is needed for the recipient to identify itself in a positive manner with the norm entrepreneur, as “we” rather than “them” or the “other”. The importance of this fact is that it is not possible to “socialize” agents who clearly are not willing to associate themselves with the social group of the socializer (Flockhart, 2010, p. 97). Scholars name this desire as fulfilling a psychological need to be part of the group, which will also function as avoiding the pressure from other countries (Finnemore & Sikkink, 1998, p. 903). This means internal willingness of the recipients to adopt a norm is essential for the norm to cascade into the domestic legal framework and its implementation.

In the light of the above, there are a few factors which are equally important. These include the recipients’ own willingness to abide by a foreign norm, the existence of mechanisms that the norm employer introduces to facilitate the norm diffusion process as well as the presence of conducive conditions in the environment, in which the foreign form gets diffused. Nevertheless it is still unclear and no basic hypothesis exists concerning which norms and under which circumstances will have influence in world politics (Finnemore & Sikkink, 1998, p. 908).

As a relevant concept, Flockhart tried to come up with possible conditions and presented the concept of “filters”, which in her view includes “multitude of country-

specific” factors (Flockhart, 2006, p. 113). As the term suggest, filters are certain components of a specific environment a diffused foreign norm should pass through before it is adopted. Due to their screening function, they impact the speed of the diffusion to happen. These filters could be exemplified as political structures and processes, political culture or national traditions of participation within the society (Flockhart, 2006, p. 99).

Risse-Kapen argues a parallel view highlighting the importance of domestic structure of a State. The writer expresses that domestic structure is created based on certain elements such as State’s political institutions, State-society relations and the values and norms rooted in the political culture (Risse-Kappen, 1994, p. 187). Besides, Jönsson states that some views of the elites ruling the State are built on institutionalized domestic norms. For her, certain routines and processes are incorporated into the law and custom, accordingly act as filters to a diffused foreign norm (Jönsson, 2002, p. 66).

On the other hand the recipient State’s domestic environment may have its own counter-norms, which are considered as *“unquestionable”* and *“correct”* within the society. Thus, new politically determined norms do not match with the main norm structure within the bureaucracy in each time (Elgström & Jönsson, 2005, p. 33). Consequently, the existing value and norm system functions as filter which blocks a diffused norm to reach the last phase of the *“life cycle”* of norm diffusion: internalization.

1.2.1.4 Internalization

Internalization forms the last phase of the life cycle of the norm diffusion as noted above.

At the international level in particular concerning the internalization of human rights norms, three types of causal mechanisms are considered essential to endure internalization of norms. This include processes of (a) instrumental adaptation and strategic bargaining, (b) moral consciousness raising,

argumentation, dialogue and persuasion, and (c) institutionalization and habitualization (Risse & Sikkink, 1999, pp. 5-11).

At the domestic level, norm internalization happens when norms' quality is taken as granted, thus compliance to it is automatic. This means that no public hesitation exists either (Finnemore & Sikkink, 1998, p. 895). A norm reaching this level, meaning when it is institutionalized and taken as a habit, is called an "*unobjectionable norm*" (Elgström & Jönsson, 2005, p. 32). Nevertheless, it should be kept in mind that completion of life cycle of a norm is not unavoidable. As mentioned above, the norm may never reach the level of "*tipping point*". Similarly, the outcome of the norm diffusion process closely depends on the degree to which the norm accomplishes the status of an issue of relevance in the recipient society. This is important because such accomplishment will also give the basis for a stable institutional environment (Flockhart, 2006, p. 97). So, adoption of a diffused norm in the domestic legal framework governing the societal environment has a significant role in its institutionalization. As Flockhart argues, the law is powerful method for internalization due to the fact that it is often viewed that law should not be breached, if so, such breach would be sanctioned (Flockhart, 2006, p. 97).

Prior to a norm to be integrated into the legal framework or to become a policy, it has to pass through additional stages of internalization phase. These are "*legalization*" and "*implementation*" (Elgström & Jönsson, 2005, p. 33). Therefore, negotiations between the supporters and opponents in the recipient State are highly important at the last phase of the diffusion process. Yet it should also be kept in mind that resistance at the very concluding stage while accepting a norm is also very common. A very good example of it is the negotiations over the text of the instruments including vague definitions, blurred language, long transitional or frequent exceptions provisions (Elgström & Jönsson, 2005, p. 34).

In the light of the aforementioned components of the norm diffusion theory, as a conclusion, norm diffusion process could be defined as a cyclical process, where the elements recipient environment (elites, country-specific filters etc.) could be seemed as fixed structures while the norm diffusion process itself requires

movement towards a specific direction, which it aims to reach. Although norm entrepreneurs may direct the diffusion process to a certain direction and can give special importance to the diffused norm, the recipient structures may remain stable in accordance with their values or beliefs such as political culture, customs or norms. This would have a major impact on the outcome of the diffusion process.

1.3 CONTRIBUTION AND METHODOLOGY

The aim of this study is to explore the process of refugee integration in Turkey from a perspective of norm diffusion theory. Therefore, "norm diffusion" is the key concept of the theoretical framework of this thesis.

In the field of integration the problems and challenges are often linked to the outcome of the norm diffusion – some factors are either facilitating or limiting the process of norm diffusion.

This thesis is expected to contribute to the literature with a view to analyse the process of integration policies in Turkey from the perspective of norm diffusion theory. The contributions of this thesis are as follows:

First, this thesis will shed light on Turkey's adoption of international norms concerning refugee protection.

Second, this thesis will contribute to the norm diffusion literature by examining the Turkish case of refugee protection policy and highlighting the importance of domestic concerns as an obstacle before the internalization of international norms.

Lastly, this thesis will demonstrate that Turkey's policy concerning the persons in need of international protection lacks integration strategy as a durable solution. Instead of integration, Turkish authorities prefer to use harmonization due to the concerns of general public about the permanent settlement of refugees in Turkey.

For this thesis, a literature review of national and international sources has been conducted within the scope of this study. National libraries, internet resources and university databases have been used for this purpose. Moreover, the study also reviews existing academic studies and reports, policy papers of international organizations, international, regional and national legal regulations. No field studies have been carried out yet this thesis examines the recent developments in legal frameworks and structures of Turkey's policy concerning persons in need of international protection. Ultimately, thesis explores the official rhetoric by elaborating on the official documents.

While both the EU integration policies and the harmonization policies in Turkey are designed to cover all foreigners legally residing in the country, this study is limited in scope to international protection applicants, status holders and temporary protection beneficiaries.

Some of the difficulties encountered in this study are the recency and novelty of the asylum law, the fresh adoption of the integration policy of Turkey at the end of 2018, the lack of up-to-date academic studies particularly in the field of integration, and the dynamic nature of asylum policies due to the political aspect of the subject in Turkey.

1.4 OUTLINE OF CHAPTERS

This study is composed of four main chapters. The first chapter sets out the aim and the scope as well as the methodology and the data collection tool employed in the thesis. Moreover, it also presents an overall theoretical and conceptual framework for the research question.

The second chapter provides an overview of the relevant concepts such as migration, migration and asylum nexus, and it attempts to provide answers to the following questions: (1) What is international protection; (2) Who are in need of international protection; (3) How to end international protection through durable solutions; and (4) What is the scope of refugee integration. Upon providing overall information on the concepts, it covers the main international principles such as

non-refoulement, non-criminalization for illegal entry or presence, non-discrimination and access to basic rights and services.

In terms of regional standards, the third chapter provides information on relevant articles of European Convention on Human Rights (ECHR), European Court of Human Rights (ECtHR) jurisprudence, a brief history of migration to Europe, followed by the development of asylum policies in the EU and the current CEAS and integration policies.

The fourth chapter deals with a brief history of migration in pre-Republican and Republican era of Turkey, followed by the development of asylum policies and the current LFIP and integration policy of Turkey. Concerning integration, the third chapter provides relevant articles of LFIP on harmonization, thematic policy priorities and a brief analysis of refugee integration policy in light of the international principles and regional standards, as well as the challenges faced in terms of refugee integration in Turkey.

Conclusion details the analysis concerning the research question.

CHAPTER 2

INTERNATIONAL PRINCIPLES IN THE FIELD OF REFUGEE PROTECTION

This chapter focuses on international principles and regional standards in the field of refugee protection. Prior to provision of information on the main international principles and regional standards, this chapter presents relevant concepts such as migration, migration and asylum nexus, international protection, persons in need of international protection and traditional durable solutions as the end of international protection.

This chapter also attempts to provide information on the main international principles such as non-refoulement, non-criminalization for illegal entry or presence, non-discrimination and access to basic rights and services.

2.1 CONCEPTS

2.1.1 Migration

Migration affects many countries across the world and there is a continued growth in the number of migrants. According to UN global migration data, the number of migrants reached 285 million people in 2017, which accounts for an increase of 49% since 2000 (United Nations, 2019).

Migration (LFIP, Art. 3(1)(i)) is defined as *"the movement of a person or a group of persons, either across an international border, or within a State encompassing any kind of movement of people"* (Çiçekli, Açıklamalı Göç ve İltica Hukuku Terimleri Sözlüğü, 2013, pp. 39-40). This definition covers any kind of population movement resulting in voluntary or forced migration irrespective of the length, composition and cause of such movement. Millions of people flee their homes and countries due to violence, disasters, political or economic reasons. Therefore, the definition also includes migration of refugees, asylum-seekers,

people in search of better living conditions and persons displaced by various reasons.

The concept of migration is classified under various types. The most common types are regular and irregular migration. Regular migration stands for a recognized movement of migration through legal means, whereas irregular migration is defined as the movement of persons that happens against the regulations of the sending, transit and receiving countries. Irregular migration encompasses the crossing of an international boundary by a person without a valid passport or travel document, failure to fulfil the administrative requirements for leaving the country and entry or stay in a country without the necessary permits and documents (IOM, 2019).

The term "migration" covers the situations when individuals make decisions to migrate freely for reasons of "personal convenience" and without any compelling reasons (IOM, 2019). The term also involves persons and their relatives that moves to another country to improve their economic or social conditions.

The term "irregular migrant" means a person lacking legal status in the transit or host country due to illegal entry, violation of admission conditions or expiry of visa. In effect, the term "irregular migrant" also covers persons who legally entered a transit or host country, but exceeded the legal period of stay in the country or started working there in contravention of the applicable regulations.

2.1.2 Migration and Asylum Nexus

Current mixed migration movements sometimes lead to a mix-up between the terms "migrant" and "refugee". It will be useful to clarify these terms for a better understanding of the concept of migration. First, it should be noted that both refugees and migrants are people who are outside their home countries. While they experience similar processes of migration, make use of similar means and methods, and benefit from the services of similar people, refugees and migrants are grouped under different categories. While migrants leave their country for reasons of building a better future, refugees flee their countries due to

persecution, conflicts, human rights violations and other compelling reasons. As defined in Article 1(A)(2) of the 1951 Convention, refugee is "...a person who, owing to a well-founded fear of persecution for reasons of race, religion, nationality, political opinion or membership of a particular social group, is outside the country of nationality and is unable or, owing to such fear, is unwilling to avail themselves of the protection of that country." In brief, refugees are forced to flee for their lives and freedoms owing to a well-founded fear of persecution, while migrants leave their countries out of their own will and in search of better living conditions without intervention of the aforementioned external compelling factors (Çiçekli, Açıklamalı Göç ve İltica Hukuku Terimleri Sözlüğü, 2013, p. 39).

Furthermore, refugees and migrants are subject to different procedures under the international law. Migrants do not benefit from the rights and the international protection guaranteed under the 1951 Convention in cases where they fail to meet the eligibility requirements for refugee status. Unlike migrants, refugees are not able to benefit from the protection of their own countries. Consequently, refugees should be admitted to countries where they seek international protection, granted access to procedures for international protection, and not returned to a country where there is a real risk of being subjected to persecution. A practice to the contrary would mean making the persons vulnerable to torture and death.

2.1.3 1951 Geneva Convention Relating to the Status of Refugees and its 1967 New York Protocol Relating to the Status of Refugees

The 1951 Convention and its 1967 Protocol form the foundation of international refugee law. These instruments set out the principles of international protection, provide the definition of a refugee and list the main rights and obligations that refugees are entitled. As of 2019, 146 States have become party to the 1951 Convention and 147 States have become party to its 1967 Protocol.

Article 1A (2) of the 1951 Convention defines as a refugee any person who:

"As a result of events occurring before 1 January 1951 and owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable, or owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it."

Since the 1951 Convention aimed at resolving the refugee problems that existed in Europe after the Second World War, two major restrictions were included in its refugee definition. First one was related to the temporal scope, which only applied to people who fled their homelands as a result of events occurred before 1 January 1951; and second one was related to the geographical scope as States becoming Parties to the 1951 Convention have the option of restricting its application to refugees in Europe. The temporal limitation was formally removed by the 1967 Protocol. In terms of the geographical limitation, while it was withdrawn by the vast majority of States which are Party to the two instruments, Turkey retains the geographical limitation to the 1951 Convention.

2.1.4 International Protection

While the concept of citizenship imposes an obligation on the States to protect its citizens, it also grants citizens the right to claim protection from the State. When a State is unable or unwilling to provide such national protection to citizens for any reason, citizens demand protection from another State. This is also defined as international protection (Büyükcılık, 2015, p. 10). Since, the basic rights of refugees are not protected by the governments of their countries of origin, the international community then takes the responsibility to ensure that refugees' basic rights are respected (UNHCR, 1999, p. 10). International protection is designed as a temporary replacement for national protection, and aims for the restoration of national protection (Çiçekli, Uluslararası Hukukta Mülteciler ve Sığınmacılar, 2009, p. 15) through durable solutions.

Throughout history, people have relied on the protection of other countries because of oppression, persecution, generalized violence or violations of human

rights within their homelands. Influenced by the Universal Declaration of Human Rights (UN General Assembly, 2019) Article 14, which guarantees the right to seek and enjoy asylum, and with the responsibility of protection, international community adopted the 1951 Convention at the UN General Assembly. The 1951 Convention together with its subsequent 1967 Protocol remain the cornerstone of the international legal framework of refugee law and international protection (UNHCR, 2006, pp. 10-14).

In line with the 1951 Convention, international protection includes protection of refugees' basic human rights such as non-discrimination, liberty and security of the person; prevention of expulsion or return of refugees to a country in which their life or liberty may be endangered (*non-refoulement*); access to territory and asylum procedures; non-penalization for illegal entry or presence; issuance of identity and travel documents; assurance of access to basic rights and services such as education, work, health, social assistance, legal representation and legal aid; facilitation of the search for durable solutions (Goodwin-Gill & McAdam, 2007, p. 447).

Complementary to the international protection, temporary protection regime may be used as an emergency response to provide an immediate protection from *refoulement*. Temporary protection would be an appropriate response to the large-scale movements of asylum-seekers, including to humanitarian crises and complex or mixed population movements across borders (UNHCR, 2014, p. 2).

2.1.5 Persons in Need of International Protection

The terms "refugee" and "migrant" are frequently used interchangeably, while two terms have distinct and different meanings. While the 1951 Convention and its 1967 Protocol provide a more clear definition of the term "refugee", the term "asylum-seeker" is not formally defined in both instruments.

Refugees are defined and protected in international law. Refugees are persons fleeing from intolerable situations such as indiscriminate violence or persecution to seek safety in other countries. With the assistance of States they are

recognized as refugees. The 1951 Convention defines refugee as *"someone who is outside his/her country of origin; has a well-founded fear of persecution because of his/her race, religion, nationality, membership in a particular social group, or political opinion; and is unable or unwilling to avail him/herself of the protection of that country, or to return there, for fear of persecution"*.

An asylum-seeker is someone who claims to be a refugee but whose claim has not been evaluated yet. Applications of asylum-seekers are assessed and decided on the basis of international law and the national law of the country of asylum (Acer, Kaya, & Gümüş, 2010, p. 13). As long as their application is pending status determination decision, they will be granted an asylum-seeker status. So not every asylum-seeker will be recognized as a refugee, but at the beginning every refugee is an asylum-seeker.

Migrants choose to leave their homeland voluntarily for various reasons such as finding work, seeking better education or reuniting with family, which is mainly to improve their lives (Çelikel, 2012, p. 22). Unlike refugees, migrants do not have a fear of a direct threat, persecution or death, and when they return to their country of origin they will continue to benefit from their government's protection.

However, refugees and migrants often use the same routes, modes of transport and networks to cross an international border, which is referred to as mixed movements. It is important to differentiate the categories of persons in mixed migratory movements to be able to apply the appropriate framework of rights, responsibilities and protection (UNHCR, 2015).

Lastly it is important to make the distinction between internally displaced persons and refugees. This group is also forced to flee their homes as a result of generalized violence, violation of human rights, an armed conflict or sometimes even because of disasters. However unlike refugees, internally displaced persons remain within their country of origin. Therefore they do not seek safety in other countries but due to the inability or unwillingness of their governments to provide them the national protection, internally displaced persons often need the protection of international humanitarian agencies.

2.1.6 End of International Protection

International protection is a temporary substitute of national protection (Öztürk, 2015, p. 33), which begins with admission to a country of asylum and ends only with the attainment of a long-term durable solution (UNHCR, 2005, p. 7). A durable solution ends the cycle of displacement of refugees and allows them to resume their normal lives in safety. Traditionally, there are three durable solutions; refugees may return safely to their homelands when feasible, locally integrate if the country of asylum provides residency or be transferred to a third country that is willing to admit them on a permanent basis (UNHCR, 2005, p. 137).

Neither the general international law, nor the 1951 Convention obliges any State to accord durable solutions (Goodwin-Gill & McAdam, 2007, p. 489). However, the international community has a shared responsibility to find durable solutions for refugees (UNHCR, 2006, p. 73).

There is no hierarchy among traditional durable solutions. Supporting refugees to find durable solutions requires close collaboration with countries of origin, host countries, humanitarian actors, as well as refugees themselves. Realization of an appropriate long-term solution may take time. Therefore, enabling refugees to become self-reliant is an important first step towards achieving any of the three durable solutions (UNHCR, 2011, p. 186).

2.1.6.1 Voluntary Repatriation

Voluntary repatriation occurs when refugees return to their country of origin as circumstances permit. This may happen following the end of the conflict and restoration of the stability in the country of origin.

The voluntary nature of the return is essential, where refugees make a free and informed decision on the prevailing conditions in the place of return, and when there is no physical, psychological or material enforcement.

When conditions in the country of origin are considered safe and stable, voluntary repatriation can be promoted. For the conditions to be considered safe, the physical, legal and material safety of the person shall be ensured. Additionally the return must take place in dignity, which implies that the human rights of the individual are respected in the country of origin.

2.1.6.2 Local Integration

Local integration occurs when refugees rebuild their lives in the country of asylum. In that case, it is expected from refugees to integrate into local community and over time to obtain permanent residency or citizenship from the country of asylum, which will cease their refugee status.

States have adopted different policies of co-existence between third country nationals and host communities. While assimilation or integration policies stand out in Europe, policies of multiculturalism are more prevalent in the USA and Canada. Assimilation is defined as the process of becoming similar to something, and results in the third country nationals to adopt the dominant values of the society and lose his/her cultural identity. Offered as an ideal form of co-existence, multiculturalism allows for the presence and peaceful co-existence of different ethnic, religious or cultural groups within the society. While in the past, the term "adaptation", defined as "adapting to the society", was being used, the same concept evolved into "integration" at present. Integration involves maintenance of the ethnic culture on the part of third country nationals as well as integration into the host community (Adigüzel, 2016, pp. 159-165). However the term "integration" has been variably defined in academic literature, public debates and policy documents (Scholten, et al., 2017, p. 3). "There is no single or generally accepted definition, theory or model of refugee integration". Therefore, the concept is still controversial (Castles, Korac, Vasta, & Vertovec, 2002, p. 114).

The 1951 Convention provides a legal framework for the integration of refugees (UNHCR, 2011, p. 193), and enumerates social and economic rights that complement the process of integration. Freedom of movement, access to education and livelihood opportunities, access to social assistance, access to

health services and the ability to obtain valid travel and identity documents to travel. Furthermore, facilitation of integration and access to citizenship is regulated under Article 34 of the 1951 Convention (UNHCR, 2009, p. 5). Article 34 of the 1951 Convention regulates integration of refugees as

"the Contracting States shall as far as possible facilitate the assimilation and naturalization of refugees. They shall in particular make every effort to expedite naturalization proceedings and to reduce as far as possible the charges and costs of such proceedings".

In the article, a reference to "assimilation" was made, however while drafting the 1951 Convention, the intention was not forced assimilation or coercion, but rather "the sense of integration into the economic, social and cultural life of the country". Refugees should not be expected to abandon their own culture and way of life (UNHCR, 2006).

According to UNHCR's definition, integration has three key elements: legal, economic and socio-cultural. As a gradual process, all three aspects need to be supported for successful integration. At the legal level, refugees are granted a progressively wider range of rights, which leads to permanent residence or citizenship. At the economic level, refugees become gradually less dependent on social assistance or aid and increasingly become self-reliant. At the socio-cultural level, interaction between refugees and the host community reaches to a certain point that allows refugees to participate in social life without fear of discrimination (UNHCR, 2005, p. 142).

Local integration (UNHCR, 2005) is defined at the Global Compact on Refugees as

"a dynamic and two-way process, which requires efforts by all parties, including a preparedness on the part of refugees to adapt to the host society, and a corresponding readiness on the part of host communities and public institutions to welcome refugees and to meet the needs of a diverse population" (United Nations, 2018, p. 39).

2.1.6.3 Resettlement

Resettlement is the transfer of persons in need of international protection from the country of asylum to a third country that has agreed to admit them as refugees and to grant them permanent settlement and the opportunity for citizenship.

Resettlement is a protection tool that provides international protection, and also a burden- and responsibility-sharing mechanism between the country of asylum and other countries, especially when return to country of origin or remaining in the country of asylum is difficult or impossible for refugees.

Countries may establish regular refugee resettlement programs or may resettle refugees on an ad hoc basis. In regard to resettlement, governments have the essential role of establishing resettlement programs and providing support to integration of resettled refugees.

Only a limited number of refugees can benefit from resettlement. This is because the annual quota for resettlement is very low across the globe, therefore only those in the most vulnerable situations are allocated a quota place. Less than 1% of all refugees around the world are resettled (UNHCR, 2019). The number of resettled persons in need of international protection from Turkey is 62,721 as of 31 July 2019 between 2014 and 2019 (UNHCR, 2019). More than 15,000 of them are Syrian nationals are resettled (Göç İdaresi Genel Müdürlüğü, 2019).

2.1.6.4 Self-Reliance

Rather than depending on the country of asylum, enhancing self-reliance allows refugees to contribute while waiting for an available durable solution (UN Executive Committee of the High Commissioner's Programme, 2018, p. 11). Persons in need of international protection shall have access to livelihood opportunities, education and health care services.

Self-reliance is defined by UNHCR as

“the social and economic ability of an individual, a household or a community to meet essential needs (including protection, food, water,

shelter, personal safety, health and education) in a sustainable manner and with dignity. Self-reliance, as a programme approach, refers to developing and strengthening livelihoods of persons of concern, and reducing their vulnerability and long-term reliance on humanitarian/external assistance”.

“Self-reliance provides the base for the uncertain future - whether it is resettlement to a third country, local integration or voluntary repatriation” (UNHCR, 2005, pp. 1-7). Promoting self-reliance is essential, especially in protracted refugee situations.

2.2 MAIN PRINCIPLES OF INTERNATIONAL PROTECTION

2.2.1 The Principle of *non-refoulement*

The principle of *non-refoulement* is the key principle of international refugee law. It prohibits the return of persons in need of international protection in any manner whatsoever to countries or territories where their lives or freedom may be threatened.

Article 33 of the 1951 Convention defines the principle of non-refoulement as:

*“1. No Contracting State shall expel or return (“refouler”) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.
2. The benefit of the present provision may not, however, be claimed by a refugee whom there are reasonable grounds for regarding as a danger to the security of the country in which he is, or who, having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the community of that country”.*

The Article 33(2) of the 1951 Convention defines two exceptions to the principle of *non-refoulement*. Those exceptions are permitted only in the limited circumstances; if there are reasonable grounds that a refugee poses a very serious future danger to the security of the host country, or if he has been

convicted by a final decision that is no longer open to appeal of a crime of a particularly serious nature and continues to pose a danger to the community of the host State.

However Article 33(2) of the 1951 Convention does not apply if the return of a person constitute a substantial risk of torture or cruel, inhuman or degrading treatment or punishment. Articles 2 and 3 of the ECHR unconditionally prohibit any return where the individual may face a real risk of treatment contrary to these provisions.

The principle of non-refoulement is applicable in locations that fall within the sovereign rights of a State. Within this framework, individuals under the risk of being subjected to torture, inhuman or degrading treatment or punishment or under threat to their lives or freedom should first be admitted into safe territories. Subsequently, these individuals should not be returned to the country of origin or third countries where such risk is present, or to other third countries from which the individuals may then be removed to the country in which the individuals would face such risk. The principle of non-refoulement corresponds to an absolute in the human rights instruments, namely "prohibition of torture and ill-treatment".

Regarding the implementation in Turkey, Article 4 of LFIP and Article 6 of TPR regulate the principle of *non-refoulement*, which is in line with Article 33 of 1951 Convention and Article 3 of ECHR. The principle of *non-refoulement* is defined under Article 4 of the LFIP as:

"No one within the scope of this Law shall be returned to a place where he may be subjected to torture, inhuman or degrading punishment or treatment or, where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion".

Since it is the duty and obligation of States to provide international protection, every State is required to have an asylum system and asylum procedures in place. Accordingly, States are obligated to grant access to fair and effective asylum procedures to individuals seeking international protection after their admission into its territory.

2.2.2 Non-criminalization for Illegal Entry or Presence

The principle of non-criminalization for illegal entry or presence to the country of asylum is regulated in Article 31 of the 1951 Convention. Authorities do not have the right penalize a person in need of international protection, if he presents himself to the authorities and shows a good cause for his illegal entry or presence without delay.

Unlike migrants and other foreigners, people in need of international protection may not be able to meet the legal entry conditions to a country at all times due to their particular circumstances. In this sense, it can be hard for individuals in need of international protection to obtain a valid passport, finish the visa process and meet other similar conditions. Therefore, beneficiaries of international protection will not be subjected to an administrative or a judicial sanction provided that they promptly explain the reasons for failing to complete such procedures to authorities.

Such protection covers all sanctions including imposition of administrative detention and administrative fines for reasons of illegal entry or presence.

In Turkey, according to the Article 65(4) of LFIP, persons who approach the authorities on their own accord to lodge an international protection application within a reasonable time frame and present the reasons for such illegal entry or presence, are not subjected to criminal action for illegal entry or stay. A parallel regulation takes place under the Article 5 of TRP.

2.2.3 Non-discrimination

The principle of non-discrimination is a general principle of international human rights law, which states that rights must be granted without discrimination on grounds of certain characteristics. It is preserved in all major treaties concerning human rights including the International Covenant on Civil and Political Rights. Article 3 of the 1951 Convention forbids discrimination on grounds of race, religion and country of origin.

In Turkey the Constitution of the Republic of Turkey is established on the principle of equality of all individuals. Irrespective of "language, race, colour, gender, political opinion, philosophical belief, religion and sect, or any such consideration" all individuals are equal before the law without discrimination. In addition the act of discrimination is prohibited by the Turkish Criminal Code and it constitutes a crime.

2.2.4 Access to Basic Rights and Services

Article 12 and other provisions of the 1951 Convention list the rights to be accorded to refugees by State Parties. Most of these rights arise from international human rights conventions. Refugees enjoy the rights listed below at least as favourable as that accorded to the nationals of the State concerned:

- Freedom to practise religion and access religious education (1951 Convention, Art. 4)
- The right to acquire property (1951 Convention, Art. 13)
- Artistic rights and industrial property (1951 Convention, Art. 14)
- Freedom of association (1951 Convention, Art. 15)
- Right to access to courts and legal assistance (1951 Convention, Art. 16)
- Right to wage-earning employment (1951 Convention, Art. 17)
- Right to start/set up a business (1951 Convention, Art. 18)
- Right to self-employment (1951 Convention, Art. 19)
- Right to housing (1951 Convention, Art. 21)
- Right to basic education, secondary education and higher education (1951 Convention, Art. 22)
- Right to social assistance and social security (1951 Convention, Art. 23-24)
- Right to select place of residence and freely travel (1951 Convention, Art. 26)
- Right to ID document (1951 Convention, Art. 27)
- Right to travel document (1951 Convention, Art. 28)

International protection applicants, status holders and temporary protection beneficiaries in Turkey are accorded fundamental rights and granted access to

certain services under the relevant provisions of the Convention, fundamental human rights instruments and the Constitution of the Republic of Turkey. Everyone has the right to access basic rights such as documentation, education, health, employment and legal aid. A detailed information on the rights of persons in need of international protection and available services can be found in the fourth chapter.

CHAPTER 3

REGIONAL STANDARDS IN THE FIELD OF REFUGEE PROTECTION

In line with the regional standards concerning international protection, Turkey enacted LFIP with a view to building an effective national asylum system. Increasing number of ECtHR judgements against Turkey and the intention to harmonize the legislation with the EU acquis due to EU accession process had played an important role while drafting the LFIP prior to 2013.

To present a better understanding of the regional standards concerning international protection, the ECtHR judgements and their affect on Turkey's asylum policy and the EU acqui that Turkey aims to harmonize its legislation, this chapter will provide an overview of the relevant ECtHR jurisprudence and the EU acqui through analyzing the migration history to Europe, development of asylum policy of the EU and its integration policy.

3.1 EUROPEAN CONVENTION ON HUMAN RIGHTS AND EUROPEAN COURT OF HUMAN RIGHTS JURISPRUDENCE AGAINST TURKEY

While the ECHR does not contain a provision specifically providing for the right to asylum, the purpose of the Convention is to protect human rights and fundamental freedoms.

Member States are required to ensure that the rights guaranteed under UNHCR for everyone within their jurisdiction are respected. Here, the term "jurisdiction" means all territories in which the State takes measures based on its sovereignty rights and its actions take effect; the scope of this term is shaped by the case law of the ECtHR. Ships sailing under the flag of a State in international waters (see *Hirsi Jamaa and others v. Italy*), transit zones of airports (see *Amuur v. France*) and places like prisons outside the territory, but under the sovereign rights of a State are all considered to fall within the jurisdiction of a State.

Article 2 on the right to life, Article 3 on the prohibition of torture, Article 5 on the right to liberty and security, Article 8 on the right to respect for private and family life, and Article 13 on the right to an effective remedy of the ECHR are among the major provisions that apply to lack of procedural guarantees particularly in practices involving denial of admission into safe territories and access to asylum procedures by foreigners as well as deportation and administrative detention of foreigners.

As regards applications for international protection, the ECtHR acknowledges the States' right to decide on who will be entitled to international protection under their jurisdiction and in compliance with the relevant standards. The ECtHR assessment of relevant applications is centred around the fact that the Member States of the CoE are required to ensure respect for human rights of asylum-seekers and refugees while controlling their borders.

States are required to strike a balance between their right to control entry, residence and deportation of foreigners and the principle of respect for rights of everyone under their jurisdiction as guaranteed under ECHR. The case law of the ECtHR introduces limitations on States regarding the right to turn away individuals at the border (see *Abdulaziz, Cabales and Balkandali v. United Kingdom* (1985); and *Saadi v. Italy* (2008)). This is in parallel with the principle of admission into safe territory.

The ECtHR determines whether an action contrary to the principle of non-refoulement and procedural guarantees took place during the deportation process. Moreover, the Court also takes into account the potential risk of conduct in violation of the right to liberty and security and the right to a fair trial of the individual concerned in the country of deportation (see *Mamatkulov and Askarov v. Turkey* (2005)). In addition, admission conditions in the destination country also play an important role in the assessment particularly regarding individuals in need of international protection. Accordingly, any violation of the Article 2 on the right to life, Article 3 on the prohibition of torture, inhuman or degrading treatment or punishment and Article 5 on the right to liberty and security is established by the Court. Moreover, Article 13 of the Convention, which guarantees the right to an

effective remedy, applies to international protection and deportation procedures. According to this provision, the ECtHR found that individuals should be provided with satisfactory information about the international protection procedures to be followed (see *Abdolkhani and Karimnia v. Turkey* (2009)). Lastly, interim measures envisioned under Article 39 of the Rules of Court of the ECtHR are legally binding and States are required to comply with such measures. The ECtHR's opinion on this matter has been shaped by its judgment in the case of *Mamatkulov and Askarov v. Turkey* (2005) and the Court ruled that failing to comply with interim measures is in breach of the right of individual application guaranteed by Article 34 of the Convention.

Before the adoption of LFIP, the ECtHR ruled against Turkey for violations in many individual applications for the actions and procedures of Turkey in admission into territory and access to asylum procedures by foreigners, deportation, administrative detention and administrative detention conditions of foreigners. These findings of violation by the ECtHR were taken into consideration during the drafting process of LFIP. The below table includes the ECtHR jurisprudence, where it is ruled against Turkey for violations:

Table 3 The ECtHR jurisprudence ruled against Turkey for Violations

No.	Case	Decision Date	Application No.
1	A. and K. v. Turkey	12/01/1991	14401/88
2	F. and Others. v. Turkey	11/07/1991	13624/88
3	A.G. and Others v. Turkey	15/06/1999	40229/98
4	Jabari v. Turkey	11/07/2000, 11/10/2000	40035/98
5	G.H.H. and Others v. Turkey	11/07/2000, 11/10/2000	43258/98
6	Mohammed Khadjawi v. Turkey	6/01/2000	52239/99
7	M.T. and Others v. Turkey	30/05/2002	46765/99
8	A.E. and Others v. Turkey	30/05/2002	45279/99
9	Affaire Müslim v. Turkey	26/07/2005	53566/99
10	Mamatkulov and Askarov v. Turkey	4/02/2005	46827/99, 46951/99

11	D. and Others v. Turkey	22/06/2006	24245/03
12	Roza Taleghani and Others v. Turkey	6/11/2007	34202/07
13	Fraydun Ahmet Kordian v. Turkey	4/07/2006	6575/06
14	Anvar Mohammadi v. Turkey	30/08/2007	3373/06
15	N.M. v. Turkey	18/03/2008	42175/05
16	Abdolkhani and Karimnia v. Turkey	22/09/2009	30471/08
17	Abdolkhani and Karimnia v. Turkey (II)	27/07/2010	50213/08
18	Z.N.S. v. Turkey	19/01/2010	21896/08
19	Charahili v. Turkey	13/04/2010	46605/07
20	Keshmiri v. Turkey	13/04/2010	36370/08
21	Keshmiri v. Turkey (II)	17/01/2012	22426/10
22	Ranjbar and Others v. Turkey	13/04/2010	37040/07
23	Tehrani and Others v. Turkey	13/04/2010	32940/08, 41626/08, 43616/08
24	M.B. and Others v. Turkey	15/06/2010	36009/08
25	D.B. v. Turkey	13/07/2010	33526/08
26	Dbouba v. Turkey	13/07/2010	15916/09
27	Alipour and Hosseinzadgan v. Turkey	13/07/2010	6909/08, 12792/08, 28960/08
28	Ahmadpour v. Turkey	15/06/2010	12717/08
29	Moghaddas v. Turkey	15/02/2011	46134/08
30	Asalya v. Turkey	15/04/2014	43875/09
31	Yarashonen v. Turkey	24/06/2014	72710/11
32	A.D. and Others v. Turkey	22/07/2014	22681/09
33	Musaev v. Turkey	21/10/2014	72754/11
34	Aliev v. Turkey	21/10/2014	30518/11
35	Babajanov v. Turkey	10/05/2016	49867/08
36	Alimov v. Turkey	1/09/2016	14344/13
37	Erkenov v. Turkey	6/12/2016	18152/11

38	R.M. v. Turkey	16/06/2017	81681/12
39	Kholdarov (Khaidarov) v. Turkey	5/09/2017	23619/11
40	Boudraa v. Turkey	28/11/2017	1009/16
41	Amerkhanov v. Turkey	5/06/2018	16026/12
42	Batykhairov v. Turkey	5/06/2018	69929/12

Source: ECtHR data

3.2 MIGRATION, ASYLUM AND INTEGRATION IN THE EUROPEAN UNION

3.2.1 History of Migration to Europe

Europe has long been a popular migration destination for migrants from Africa and the Middle East. Traditionally, the Mediterranean has been used as the main and the oldest route into Europe. As conflicts mounted in Africa, the number of migrants crossing the Mediterranean soared (Dragostinova, 2019, p. 1).

New nation states emerged after the First World War, and members of various ethnic groups within the borders of these countries were forced to migrate partly due to nationalist movements. Examples of forced migration include the population exchange agreements between Turkey and the Balkan States and movements of Jews fleeing Nazi persecution during Hitler's rule (Adıgüzel, 2016, p. 97).

After the Second World War, the leading cause behind the increase in migration to Europe was the pressing need for labor force in the wake of the industrial production growth in European countries (Özdağ, 2008, p. 92). Accordingly, developed European countries including Germany and France followed an open-door policy to close the labor gap by recruiting migrant workers (Özcan, 2005, p. 26). Labor programs developed by Western European countries initially allowed migrant workers from Southern European countries, then Turkey and North

Africa. Some 30 million migrant workers are estimated to have moved to Europe until the beginning of 1970s (Özerim, 2014, p. 22).

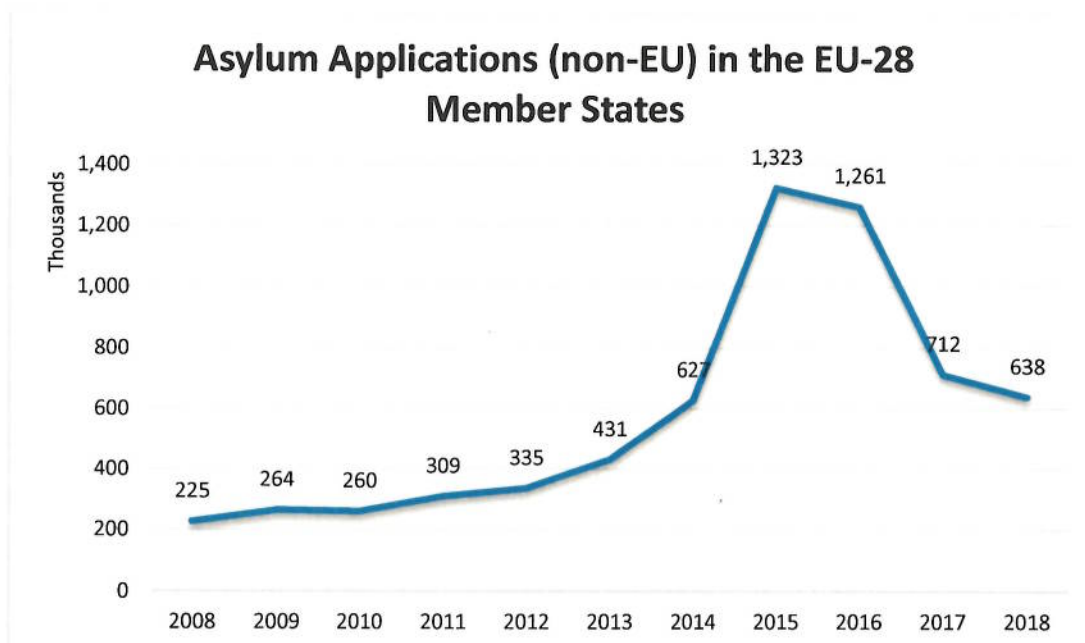
The 1973 Oil Crisis created an economic slowdown, which led to a migration policy change within Europe. After 1973, the European governments used migrant workers as relief valves to decrease the rate of unemployment through discharging them and creating jobs for their citizens (Castles & Vezzoli, *The global economic crisis and migration: temporary interruption or structural change?*, 2009, p. 70). When the recruitment of migrant workers came to a stop, people resorted to new ways to enter these countries. Migrants who were not granted legal entry into the country tried to come up with new ways, including asylum and illegal entry. During this period, illegal migration rose in Europe and various crime syndicates involved in human trafficking and smuggling were established. Consequently, the major political issue in Europe during 1980s and 1990s was illegal migration, the management of illegal migration and asylum-seekers rather than migrant workers (Özcan, 2005, p. 28). Hence with a sharp increase from 320,000 to 695,000, the number of asylum claims doubled in Europe between 1989 and 1992 due to the economic and political problems in Eastern European countries (Hansen, 2003, p. 35).

Migration patterns in Europe went through noteworthy changes in the 1990s. Until the 1990s, the great majority of migrants' motives for leaving their countries were employment, family reunification and asylum. However since the 1990s, motives for migration have become diversified, including an increasing motivation to attend higher education in Europe. While the number of asylum claims dropped to 455,000 by the end of the decade, it increased again to 471,000 in 2001 with asylum claims mainly coming from the Federal Republic of Yugoslavia, Romania, Turkey, Iraq, and Afghanistan (Mol & Valk, 2016, p. 37). Migration movements gained momentum following the collapse of the Soviet Union and the fall of the Berlin Wall and this momentum carried over until the Global Financial Crisis of 2008 (Haas, 2018, p. 9).

The Global Financial Crisis led to expectations of mass returns. Although migration movements decreased within and towards the EU, the anticipated

mass returns did not take place (Castles, Haas, & Miller, *The Age of Migration: International Population Movements in the Modern World*, 2014, p. 118). Starting in 2012, and particularly since 2015, migratory movements to Europe have shown resurgence due to sustained economic growth. According to Eurostat data in 2015, almost 1.3 million asylum-seekers came to Europe until the tightening of border controls in 2016 (Haas, 2018, pp. 11-12).

Table 4 Number of Asylum Applications of non-EU Member States in the EU-28 Member States



Source: Adopted from EUROSTAT data (EUROSTAT, 2019)

3.2.2 Development of Asylum Policy in the European Union and Common European Asylum System

Following the removal of internal borders in the EU, Member States had to define a common position on refugees and migrants. But the present structure took its shape after many revisions.

The European Coal and Steel Community was established with the Treaty of Paris in 1951 (European Union, 1951), and citizens of France, Germany, Italy, the Netherlands, Belgium and Luxembourg were also granted the right to work and freely move between the Member States. The concept of Common Migration

Policy was mentioned for the first time under the title of free movement of persons, services and capital in the Treaty of Rome signed in 1957 (European Commission, 1957). Only nationals of Member States are eligible to enjoy the rights to unlock the potential of labor markets in Member States (Özkan, 2013, pp. 194-195).

In the 1970s, many countries entered a period of recession and economic stagnation, and they had to take some measures against labor migration. Despite all measures, the migration continued in the form of family reunification and asylum claims, and the Member States came to understand that migration is not a phenomenon that could easily be avoided (Samur, 2008, p. 3). From an internal security perspective, this period marks a distinctive shift in the approach to migration.

Cooperation in the field of migration slowly developed beginning from 1975. The intergovernmental network called TREVI was founded during the same period and addressed the issue of migration since its inception. TREVI was established with the objective of coordinating counterterrorism responses and ensuring cooperation in legal matters. The intergovernmental cooperation in the field of migration came to fruition with the Schengen Agreement, which was signed on 14 June 1985. While this agreement gradually led to the removal of border controls in contracting parties, it also resulted in the tightening of external border controls. In this regard, the Schengen Agreement is considered to be a restrictive initiative against migration as it introduces stricter border controls (Euskirchen, Lebuhn, & Ray, 2007, pp. 42-43). On the other hand, the Schengen Agreement also laid the bases for the creation of a common migration policy (Gençler, 2010, p. 187). The Convention Implementing the Schengen Agreement² was signed on 19 June 1990 (Özkan, 2013, p. 195), but could only enter into force five years later. The subject of asylum, which is not covered under the Schengen Agreement, is governed by Articles 28-38 of the Convention Implementing the

² Convention Implementing the Schengen Agreement, The Schengen acquis, OJ L 239, 22.09.2000 p. 0019 - 0062 is available at <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX%3A42000A0922%2802%29%3AEN%3AHTML> (Accessed on 15 May 2019)

Schengen Agreement (Özcan, 2005, p. 34). The Convention includes provisions on Contracting Parties' obligations under the 1951 Convention, their responsibilities in addressing asylum claims, how to determine the Contracting Party responsible for processing an application for asylum, and the obligation of the Contracting Parties to readmit asylum-seekers who illegally cross the borders.

The next big step in migration has been the "Ad Hoc Group on Immigration" which was set up in 1986 to carry out studies on border controls, visa policy, asylum policy, illegal migrants and information technology (Zapata-Barrero, 2002, p. 515).

In 1987, European countries signed the Single European Act, which was the first major revision of the Treaty of Rome. The Act finalized the creation of a single market between the Member States, and Member States also expressed their wish to maintain their national sovereignty in order to keep migration under control. External borders grew in importance with the Act, and stricter external border controls and initiatives for new studies on the subject were brought up to the agenda (Zapata-Barrero, 2002, p. 515).

A significant output of the period was the Dublin Convention, which was signed on 15 June 1990 by the Ministers of the Member States of the European Communities responsible for immigration. The "Convention Determining the State Responsible for Examining Applications for Asylum Lodged in One of the Member States of the European Communities", also known as the Dublin Convention, became effective on 1 September 1997 (Özcan, 2005, p. 56). Built on intergovernmental cooperation, this Convention marks the beginning of political dialogues on migration between the Member States. According to the Dublin Convention, only one Member State is responsible for processing each application for asylum. Accordingly, the first Member State of entry is responsible for examining the application for asylum of the asylum-seeker. This provision is intended to prevent asylum-seekers from lodging applications for asylum in multiple Member States and exploiting the system. As of June 1991, the Dublin Convention was signed by all European Community countries and despite

containing parallel provisions, is structured better than the Schengen Agreement (Özcan, 2005, p. 57).

Member States of the European Communities signed the 1992 London Resolution to achieve the objective of harmonizing asylum policies and preventing abuse of asylum procedures. The London Resolution is composed of three instruments, namely "Resolution on Manifestly Unfounded Applications for Asylum", "Conclusions on Countries in Which There is Generally No Serious Risk of Persecution", and "Resolution on a Harmonized Approach to Questions Concerning Host Third Countries". These resolutions are politically binding on all States seeking to become an EU member from the mentioned date onwards (Özcan, 2005, p. 68). The concepts of safe third country, safe country of origin and accelerated procedures were brought forward with these resolutions. Moreover, strict visa policies of Member States against refugee-producing countries drove people at risk of persecution towards illegal entry and document fabrication practices.

The Treaty of Maastricht was signed on 7 February 1992 and became effective on 1 November 1993. This Treaty led to some major developments in the fields of migration and asylum. With the Maastricht Treaty, the European Community gave way to the EU and a three-pillar structure was established. The first pillar stands for European Communities, while the second is the Common Foreign and Security Policy pillar, and the third is the Justice and Home Affairs pillar. While the topics under the first pillar are addressed by community institutions, the second and third pillars are intergovernmental in nature (Bozkurt, Özcan, & Köktaş, 2006, pp. 30-31). Asylum, migration, entry and movement of third country nationals in the EU, and related visa policies are governed under the Treaty's provisions on cooperation in the field of the Justice and Home Affairs (Özcan, 2005, p. 83).

After 1993, migration studies started between the Member States with no concrete progress on the CEAS. On 20 June 1995, the Member States adopted the "Council Resolution on Minimum Guarantees for Asylum Procedures" to ensure minimum harmonization of national laws regarding asylum. Following the

adoption of this resolution, the Council reached a “Joint Position on the Harmonized Application of the Definition of the Term “Refugee” in Article 1 of the Geneva Convention of 28 July 1951 Relating to the Status of Refugees” with the objective of ensuring a common position between EU Member States on recognition of the refugee status at the national level (Savaşan, 2009, p. 20). This is important in terms of harmonizing the different domestic interpretations by EU Member States of the definition of the “refugee” term in the 1951 Refugee Convention (Özcan, 2005, p. 98).

The development of a common asylum system was hindered by the fact that the Maastricht Treaty covered asylum-related matters under the third pillar and attempted to address these issues through the method of intergovernmental cooperation. The Treaty of Amsterdam, which was signed on 2 October 1997 and entered into force on 1 May 1999, brought significant changes to the third pillar. Asylum and migration-related issues were transferred to the first pillar under the Title IV “Visas, Asylum, Immigration and Other Policies Related to Free Movement of Persons” (Özgür & Özer, 2010, pp. 25-26). The Treaty of Amsterdam of 1997 is a critical EU regulation in terms of asylum and immigration. Indeed, EU Member States failed to develop a migration policy and reach a common position on asylum until the Treaty of Amsterdam. The Treaty of Amsterdam intended to set new standards and common policies in the fields of immigration protection, asylum application conditions, asylum management and admissions, and free movement of persons (Hailbronner, 1999, p. 9).

After the Treaty of Amsterdam came into force, on 15 and 16 October 1999 the European Council held a meeting in Tampere on the establishment of an area of freedom, security and justice. As the first five-year programme adopted by the Council, the Tampere Programme³ covered the 1999-2004 period and aimed to ensure the well-being and peaceful existence of EU citizens. Tampere Summit laid the groundwork for common asylum system, cooperation with countries of origin, granting rights similar to those enjoyed by EU citizens to third country

³ More information on the Tampere Summit is available at http://ec.europa.eu/councils/bx20041105/tampere_09_2002_en.pdf (Accessed on 15 May 2019)

nationals and management of migration flows (Ovalı, 2006, p. 91). On this opportunity, Member States demonstrated their desire to establish a common asylum system for the first time.

A crucial development after the Treaty of Amsterdam is the establishment of the EURODAC system, which has proved vital in terms of external border controls. This system enables authorities to determine whether a person has already applied for asylum in another Member State or has illegally entered into the Member State territory (Özgür & Özer, 2010, p. 34).

After the Treaty of Amsterdam, studies have taken place to communitize the provisions of the Dublin Convention. Accordingly, the "Council Regulation Establishing the Criteria and Mechanisms for Determining the Member State Responsible for Examining an Asylum Application Lodged in One of the Member States by a Third-Country National" was adopted on 18 February 2003.⁴ Thus, the gaps in the Dublin Convention were filled and a binding effect was established. One of the centerpieces of CEAS was introduced with the Dublin II Regulation (Özcan, 2005, p. 189).

After the Tampere Programme, the Hague Programme provided new objectives and a roadmap for the 2004-2009 period. The Hague Programme was adopted by the European Council on 4 November 2004 in Brussels as the second phase of the CEAS. Along with an area of freedom, security and justice, the Hague Programme also covered policies on fundamental rights, citizenship, asylum, migration, integration and preventing cross border crimes. Among the priorities of the Hague Programme: protection of fundamental human rights of both citizens and the third country nationals; cooperation with third countries to fight against terrorism through data transferring and financial aid; constructing a common immigration policy at the EU level and fight against illegal migration; establishment of the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (FRONTEX) and common visa policy; establishment of a common asylum policy

⁴ Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32003R0343&from=en> (Accessed on 15 May 2019)

based on 1951 Convention; development of integration policies targeting third country nationals; fight against organized crimes via EUROPOL; ensuring an effective access to justice; and ensuring adequate funding to support policy priorities of the freedom, security and justice field were listed (European Council, 2005).

FRONTEX, with headquarters in Warsaw, was established on 26 October 2004 by the "Council Regulation on establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union"⁵ and became operational in 2005 with the aim to improve the integrated management of the external borders. FRONTEX's operational capabilities were strengthened in a number of areas through amending the establishing regulation twice in 2007 and 2011, and all have been repealed by Council Regulation 2016/1624⁶ on 14 September 2016 establishing FRONTEX, the European Border and Coast Guard Agency. Besides its operational duties, FRONTEX monitors borders, support border authorities to share data with Member States, support Member States with screening and debriefing migrants and collection of fingerprints, organize return operations for third country nationals, focus on cross border crimes and prepares risk analysis reports for policy makers.

The issue of migration was identified as a key topic for future studies in the 2005 World Summit, EU and Member States were called on to reach a common position in this field. Resolutions of the summit were followed by European Council adopting a "global approach to migration" in December 2005. The Global Approach addressed the root causes of migration in third countries by offering poverty reduction plans, achieving economic growth, and establishing good management practices and supporting human rights (Samur, 2008, p. 12). "The

⁵ Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32004R2007> (Accessed on 15 May 2019)

⁶ Available at: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2016.251.01.0001.01.ENG&toc=OJ:L:2016:251:FULL (Accessed on 15 May 2019)

Commission's Task Force on Migration" was established and contributed to the efforts in the field (Özdağ, 2008, p. 97).

The Treaty of Lisbon entered into force on 1 December 2009 and considerably influenced the development of the EU's migration and asylum policy. The Treaty of Lisbon not only enabled the adoption of minimum standards in asylum systems, but also strengthened the role of EU institutions and modified institutional regulations in the field of migration. Moreover, the Treaty of Lisbon made the European Union Charter of Fundamental Rights of 2000 legally binding on all EU Member States. The European Union Charter of Fundamental Rights governs the right to asylum and the principle of *non-refoulement* in its Article 18 and 19 (Savaşan, 2009, p. 17).

Upon the entry into force of the Treaty of Lisbon, the Stockholm Programme 2010-2014 was adopted by the European Council in 2009 and introduced new actions and objectives in migration and asylum (Özkan, 2013, p. 218). Among the objectives of the Stockholm Programme was the development of a common asylum system in 2012.

During the Hague Programme, the Council suggested revising the Dublin II Regulation. The Regulation was revised to a considerable extent, and the so-called Dublin III Regulation entered into force in July 2013. The primary purpose behind this amendment was to increase the efficiency of the Dublin System and provide higher protection standards to individuals subject to Dublin procedures (Hruschka, 2014, p. 470).

Common European Asylum System: Open borders and freedom of movement within the EU committed Member States to establish a CEAS in order to ensure a standardized, fair and effective approach throughout the EU for protection of refugees, and a shared responsibility among Member States.

Since 1999, the EU has been engaged to harmonize the asylum legislation of the Member States and establish a common system on asylum, which the mandate was created by the Amsterdam Treaty and the political agenda was set at the Tampere European Council. Until 2005 the EU adopted variety of Directives to

set the minimum standards on asylum. The Qualifications Directive⁷ set the rules on the qualification as a refugee; the Procedures Directive⁸ set the rules on the procedures for granting and withdrawing the refugee status; and the Reception Directive⁹ determined the rights of the asylum applicants. In the event of a mass influx, the Temporary Protection Directive¹⁰ established standards for temporary protection. The Dublin II Regulation laid down the criteria and mechanisms for allocation of the asylum applicants in the EU, and the adoption of the EURODAC Regulation supported Member States to identify and trace the asylum applications of asylum-seekers. Additionally the EU created the European Refugee Fund to support EU Member States due to unequal distribution of asylum-seekers.

In 2007, the Green Paper on the future of CEAS formed the basis for the European Commission's Policy Plan on Asylum, which was presented in 2008. In the second stage of CEAS, it was aimed to achieve a higher common standard, greater equality across the EU and effective cooperation in terms of protection, and to ensure advanced solidarity among the EU Member States. Subsequently revised rules have been decided in the EU; "the revised Asylum Procedures Directive, the revised Reception Conditions Directive, the revised Qualification Directive, the revised Dublin Regulation and the revised EURODAC Regulation".

The CEAS is established based on the 1951 Convention and its 1967 Protocol, which sets common concepts and standards in the field of international protection and asylum law (The International Association of Refugee Law Judges, 2016, p. 13), however it is criticized for not working well. Therefore on 6 April 2016 the EC

⁷ Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted (OJ L 304, 30.9.2004, p. 12).

⁸ Council Directive 2005/85/EC of 1 December 2005 on minimum standards on procedures in Member States for granting and withdrawing refugee status (O J L 326, 13.12.2005, p. 13)

⁹ Council Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers (OJ L 31, 6.2.2003, p. 18)

¹⁰ Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof (OJ L 212, 7.8.2001, p.12)

presented a communication¹¹ and on 4 May 2016 adopted the first package of proposals to reform the CEAS by reforming the Dublin Regulation, amending EURODAC system and establishing a European Union Agency for Asylum. Soon after on 13 July 2016 the EC put forward the second package of proposals to reform the CEAS through adoption of new regulations replacing Asylum Procedures Directive and Qualifications Directive, as well as modification of the Reception Conditions Directive.

3.2.3. Refugee Integration Policy in the European Union

Integration policies evolved within years at the EU level. The Justice and Home Affairs Council adopted the Common Basic Principles for Immigrant Integration Policy in the EU on 19 November 2004 with the aim to serve as a basis for Member States in formulating integration policies. Following this adoption, on 1 September 2005 the Commission presented EU actions in the Common Agenda for Integration Framework. Due to the changed social and political context, on 20 July 2011 a renewed European Agenda for the Integration of Third-Country Nationals was presented, which included recommendations targeting all actors of the integration process. Ten years after the adoption of Common Basic Principles for Immigrant Integration Policy in the EU, in 2014 the Justice and Home Affairs Council adopted a conclusion that reaffirmed the commitment of Member States to the Common Basic Principles. Additionally the EC encouraged the Member States to counter prejudices, to cooperate with receiving countries and countries of origin, to take measures responding to the persons with specific needs and to cooperate with private sector and civil society. Also the European Agenda on Migration dated 13 May 2015 underlined the importance of effective integration policies for the success of the EU's migration policy. Finally, the EC

¹¹ More information on EC communication entitled "Towards a reform of the Common European Asylum System and enhancing legal avenues to Europe" is available at: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/proposal-implementation-package/docs/20160406/towards_a_reform_of_the_common_european_asylum_system_and_enhancing_legal_avenues_to_europe_-_20160406_en.pdf (Accessed on 15 May 2019)

presented the Action Plan on the Integration of Third-Country Nationals on 7 June 2016.

The Common Principles for Immigrant Integration Policy: The Justice and Home Affairs Council accepted the Common Basic Principles for Immigrant Integration Policy in the EU on 19 November 2004. As stated by the Council, the aim was to support Member States in designing policies concerning integration by providing them non-binding basic principles. Member States renewed their commitment ten years later in 2014 with the adopted conclusions by the Justice and Home Affairs Council.

This comprehensive set of Common Basic Principles was developed as a tool for Member States, and incorporating into national policies is at their disposal. These principles are

- "1. Integration is a dynamic, two-way process of mutual accommodation by all immigrants and residents of Member States.*
- 2. Integration implies respect for the basic values of the European Union.*
- 3. Employment is a key part of the integration process and is central to the participation of immigrants, to the contributions immigrants make to the host society, and to making such contributions visible.*
- 4. Basic knowledge of the host society's language, history, and institutions is indispensable to integration; enabling immigrants to acquire this basic knowledge is essential to successful integration.*
- 5. Efforts in education are critical to preparing immigrants, and particularly their descendants, to be more successful and more active participants in society.*
- 6. Access for immigrants to institutions, as well as to public and private goods and services, on a basis equal to national citizens and in a non-discriminatory way is a critical foundation for better integration.*
- 7. Frequent interaction between immigrants and Member State citizens is a fundamental mechanism for integration. Shared forums, inter-cultural dialogue, education about immigrants and immigrant cultures, and stimulating living conditions in urban environments enhance the*

interactions between immigrants and Member State citizens.

8. The practice of diverse cultures and religions is guaranteed under the Charter of Fundamental Rights and must be safeguarded, unless practices conflict with other inviolable European rights or with national law.

9. The participation of immigrants in the democratic process and in the formulation of integration policies and measures, especially at the local level, supports their integration.

10. Mainstreaming integration policies and measures in all relevant policy portfolios and levels of government and public services is an important consideration in public policy formation and implementation.

11. Developing clear goals, indicators and evaluation mechanisms are necessary to adjust policy, evaluate progress on integration and to make the exchange of information more effective.”¹²

The Action Plan on the Integration of Third Country Nationals: On 7 June 2016 the EC presented the Action Plan on the Integration of Third-Country Nationals, which is the latest goal setting document. The Action Plan set a comprehensive framework to support national integration policy development efforts of the Member States. Although the topic of the Action Plan was determined as “integration of third country nationals”, it addresses the integration of migrants including refugees and asylum-seekers who are nationals of non-EU countries and who are in the EU legally.

The Action Plan set out thematic policy priority areas such as;

1. taking pre-departure/pre-arrival measures targeting both third country nationals and the host community,
2. ensuring access to education and training,
3. facilitating labour market integration and ensuring effective access to vocational training,
4. supporting third country nationals in access to basic services including

¹² Available at: http://europa.eu/rapid/press-release_PRES-04-321_en.htm (Accessed on 15 May 2019)

adequate and affordable housing and healthcare,
 5. ensuring active participation of third country national in design and
 implementation of integration policies.¹³

As the latest goal setting document, the Action Plan on the Integration of Third-Country Nationals presented by the EC on 7 June 2016 set a comprehensive framework to support national integration policy development efforts of the Member States.

To strengthen and support integration, the Action Plan mentioned pre-departure/pre-arrival measures as one of the policy priorities. As stated, providing support to the migrants in the migration process and refugees in the resettlement process is essential. These efforts may include conducting trainings on language or related to work, information sharing on the destination country, practical information on daily life, as well as their rights and obligations prior to departure (European Commission, 2016, pp. 5-6).

As being the essential tools for integration, ensuring access to education and training opportunities were mentioned at the Action Plan. This includes provision of trainings on the language of the destination country, on skills and competences and opportunities to gain work experience. All opportunities shall be available for both men and women, and in order to engage women to the courses, special effort may be needed. Especially provision of early childhood education and care, as well as provision of support through catch-up classes to children to ensure their success at school is crucial. Additionally teachers need to gain required skills to support integration process of children (European Commission, 2016, pp. 7-8).

Access to labour market and benefiting from vocational training opportunities are core of integration process. To have a decent living, employment is the fundamental part in a person's life. Therefore, the Action Plan includes validation

¹³ Available at: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/proposal-implementation-package/docs/20160607/communication_action_plan_integration_third-country_nationals_en.pdf (Accessed on 15 May 2019)

of skills, recognition of qualifications, provision of vocational trainings and support to entrepreneurship (European Commission, 2016, pp. 8-10).

For a newcomer, the first and most important need is to overcome accommodation challenges, and if it will not be addressed properly it may lead to isolation and ghettoization of third country nationals. Therefore establishment of reception system for immediate accommodation, and for later stages creation of affordable and adequate social housing opportunities were stated in the Action Plan (European Commission, 2016, p. 11).

Additionally as a fundamental issue, ensuring access to health services starting from first reception phase is extremely important, since health problems may affect all areas of third country nationals' life including integration. Also challenges that they may face due to being unfamiliar to the system or unable to communicate with the healthcare staff needs to be addressed (European Commission, 2016, p. 11).

Integration will not be complete unless third country nationals play an active role within the community they live. Therefore when developing integration policies, it is crucial to ensure active participation of third country nationals in design and implementation of integration policies (European Commission, 2016, p. 12).

In order to facilitate mutual understanding between third country nationals and host community members, promotion of social and cultural events, as well as volunteering will be helpful. Implementation of legislation that protects third country nationals from discrimination, combats racism, xenophobia and hate speech is an integral part of integration while developing integration policies (European Commission, 2016, p. 13).

CHAPTER 4

MIGRATION, ASYLUM AND INTEGRATION IN TURKEY

This chapter attempts to provide information on the history of migration in pre-Republican and Republican era of Turkey, followed by the development of asylum policies and the current LFIP and integration policy of Turkey.

Concerning integration, this chapter provides relevant article of LFIP on harmonization (LFIP, Art. 96), thematic policy priorities determined by the DGMM concerning its harmonization efforts and a brief analysis of refugee integration policy in light of the international principles and regional standards, as well as the challenges faced in terms of refugee integration in Turkey.

4.1 HISTORY OF MIGRATION TO TURKEY

4.1.1 Pre-Republican Era

Anatolia has always been a place of migration. As a result of its power and geographical position, the Ottoman Empire received individual migrants as well as flows of mass migration.

After the Ottomans declared independence in 1299, Muslims fleeing Mongol invasion were the first to take shelter in the Ottoman Principality (Shaw, 1991, p. 33). The conquest of Constantinople made the Ottoman Empire a force to be reckoned with. After it was decreed that people could worship freely as they wished and Orthodox Christians would not be disturbed by anyone or any institution, some Orthodox Christians fled the oppression of the Catholic Church to seek refuge in the Ottoman Empire (Shaw, 1991, p. 34). The year 1492 saw Jews arriving from Spain to be settled in the Ottoman territory (Shaw, 1991, pp. 34-35). This is an important example of mass influx as some 250,000 Jews took refuge during this event (Şeyban, 2007, p. 227).

Individual requests for asylum were lodged to the Ottoman Empire after the Thököly Uprising between 1672 and 1699 (Nazır, 2006, p. 26). In 1709, a group

of around 2,000 people accompanying the Charles XII of Sweden sought shelter in the Ottoman Empire (Kaynak, 1992, p. 14). Following the events of 1830 and 1848 in the Eastern Europe, Austro-Hungarian Empire refugees arrived in the Ottoman Empire. Another mass influx occurred between 1859 and 1922 with the flight of Circassians in Caucasus and Crimean Tatars (Ipek, 2006, p. 33). After the Bolshevik Revolution in 1917, some 135 thousand individuals made an asylum request to the Ottoman Empire (Kaynak, 1992, p. 15).

4.1.2 Republican Era

After the establishment of the Republic of Turkey in 1923, a population exchange happened between Turkey and Greece, whereby 380,000 Muslims were transferred to Turkey. Another population exchange happened between 1923 and 1945, where an estimated 215 thousand people left Bulgaria for Turkey (Türkeş, 1999, pp. 5-6).

Between the years of 1933 and 1945, 800 German people and 67 thousand people of Greek, Bulgarian and Italian origin fled the Nazi persecution to seek refuge in Turkey (Kirişçi, Refugee Movements and Turkey in the Post Second World War Era, 1994, pp. 4-5).

After the "1979 Revolution" in Iran, most of the dissidents took shelter in Turkey. Some 1.5 million Iranians left their homeland in a mass influx after the Shah of Iran was forced from power and Ayatollah Khomeini stepped in (Kirişçi, UNHCR and Turkey: Cooperating for Improved Implementation of the 1951 Convention relating to the Status of Refugees, 2001, pp. 71-97).

Another significant population movement into Turkey occurred in 1989 when Bulgarian authorities started extraditing people of Turkish origin and around 311 thousand people were obliged to move to Turkey. Moreover, 34 thousand people arrived in Turkey with valid documents. As of 1995, aside from those who returned to Bulgaria, 244,633 people settled in Turkey (Kirişçi, Disaggregating Turkish Citizenship and Immigration Practices, 2000, pp. 57-58).

After the Halabja Massacre in 1988, 51,542 individuals arrived in Turkey for asylum within a week. While some of these asylum-seekers returned to Iraq in 1991, around 20 thousand of them stayed in Turkey (Kaynak, 1992, pp. 24-25). Turkey also received mass migration during the Persian Gulf War of 1990-1991. A total of 519,031 Iraqi asylum-seekers arrived in Turkey in a mass influx situation (Kaynak, 1992, p. 87).

After the collapse of the Eastern Bloc in 1989, many people migrated from the member countries and Turkey got its share of this population movement. In the wake of this event, citizens of Russia, Ukraine, Moldova, Romania, Bulgaria and Georgia migrated to Turkey for various reasons. Moreover, 20 thousand people migrated from Bosnia and Herzegovina between 1992 and 1998, while 17,746 people left Kosovo after the events of 1999, and 10,500 people moved from the Republic of Macedonia to Turkey in 2001 as a result of the conflicts (Göç İdaresi Genel Müdürlüğü, 2019).

Lastly, Turkey encountered the largest population movement of its history between April 2011 and May 2019, wherein some 3.6 million people have sought asylum due to the conflict in Syria. According to data by Turkey's DGMM,

"Turkey has welcomed more than 6.5 million people since 1922; which does not include the foreigners coming for study or work purposes. Considering the number of foreigners coming to Turkey for study, work or other purposes, some 3.3 million foreigners were granted with residence permit in the past 15 years" (Göç İdaresi Genel Müdürlüğü, 2019).

Population exchanges during the first years of the Republic and labor migration in the 1960s characterized Turkey as a "country of origin". On the other hand, Turkey also is a "country of destination" for refugees and asylum-seekers, and a "country of transit" as it functions as a bridge between the politically and economically unsteady neighbours ridden with conflicts and the developed and prosperous European countries (Deniz, 2014, p. 186).

4.2 ASYLUM POLICY IN TURKEY

4.2.1 Development of Asylum Policy

4.2.1.1 Turkish Settlement Law and Other Regulations

The Republic of Turkey's first regulatory instrument on refugees and asylum-seekers is the Settlement Law No. 2510 of 14 June 1934.¹⁴ The Settlement Law regulated the admission of people to Turkey by diversifying people based on kinship and agnation. Article 4 of the Settlement Law forbid settlement of individuals who have no bonds with Turkish culture, anarchists, spies, itinerant gypsies and persons expelled from Turkey.

The Settlement Law was basically adopted with the purpose of governing the movement of migrants in relation to population exchanges, however it also contained certain provisions regarding refugees. However Article 3 of the Settlement Law regulated the integration of people with Turkish origin as migrants. Therefore, rather than persons in need of international protection, some asylum-seekers allowed to stay in Turkey on the ground of their origin (Amnesty International, 2009). Turkish people coming from Bulgaria in 1989, from Afghanistan in 1982 and Meskhetian Turks who arrived in 1992 benefitted from the Settlement Law No. 2510, and certain special legal arrangements have been adopted for these groups. The Settlement Law No. 5543 of 2006¹⁵ has been adopted to supersede the previous resettlement law (Ekşi, Mülteci ve Sığınmacılara İlişkin Mevzuat, 2010, p. 248).

The Passport Law No. 5682 of 15 July 1950¹⁶ governs the entry conditions and deportation of foreigners (Çelikel, 2012, p. 72). In addition, residence, travel and

¹⁴ Available at: <http://www.resmigazete.gov.tr/arsiv/2733.pdf> (Accessed on 15 May 2019)

¹⁵ Available at: <http://www.mevzuat.gov.tr/MevzuatMetin/1.5.5543.pdf> (Accessed on 15 May 2019)

¹⁶ Available at: <http://www.mevzuat.gov.tr/MevzuatMetin/1.3.5682.pdf> (Accessed on 15 May 2019)

settlement conditions of foreigners are regulated by the Law on Residence and Travel of Foreigners in Turkey No. 5683 of 15 July 1950¹⁷ (Çelikel, 2012, p. 84).

4.2.1.2 International Conventions Adopted by the Republic of Turkey

Turkey ratified the 1951 Convention under the Law No. 359 of 29 August 1961. Turkey became a party to the 1951 Convention with a reservation stating that “no provision of this Convention may be interpreted as granting to refugees greater rights than those accorded to Turkish citizens in Turkey”. Moreover, Turkey also introduced a geographical limitation to Article 1 of the Convention which limits the application of the Convention to refugees originating from European countries.

Turkey has acceded to the 1967 Protocol Relating to the Status of Refugees with the Council of Ministers Decision No. 6/10266 of 1 July 1968¹⁸. Turkey maintained the geographical limitation to the 1951 Convention while signing the 1967 Protocol.

4.2.1.3 1994 Regulation

While Turkey attached a geographical limitation as one of the original signatories of the 1951 Convention, it had certain obligations arising from this Convention towards non-European citizens. Moreover, as for Article 36 of the Convention, Turkey was required to update its domestic law in order to ensure the implementation of the Convention (Büyükcılık, 2015, p. 90).

On the other hand, some mass population movements happened in the eastern and southeastern borders of Turkey following Iraq's invasion of Kuwait which culminated in the Gulf Crisis. These events further revealed the need to introduce relevant regulations in the field.

Against this backdrop, “Regulation Concerning the Procedures and Principles Applicable to Foreigners Seeking Asylum in Turkey, Individual Foreigners

¹⁷ Available at: <http://www.mevzuat.gov.tr/MevzuatMetin/1.3.5683.pdf> (Accessed on 15 May 2019)

¹⁸ Available at: <http://www.resmigazete.gov.tr/arsiv/12968.pdf> (Accessed on 15 May 2019)

Applying for a Residence Permit to Seek Asylum in another Country, Foreigners that Arrive at Turkish Borders for Mass Asylum and Potential Population Movements (thereafter, 1994 Regulation)", namely 1994 Regulation, entered into force on 30 November 1994 with the Council of Ministers Decision No. 6169.

The 1994 Regulation governs the principles and procedures regarding asylum claims on an individual or group basis, and also qualifies as the first regulatory instrument focusing only on asylum claims. Based on the 1951 Convention and the 1967 Protocol, the 1994 Regulation can be regarded as the only instrument to designate the principles of asylum and migration policy in Turkey until 2005, the year when negotiations for Turkey's full membership to EU started (Özgür & Özer, 2010, p. 128).

4.2.1.4 European Union Harmonization Process

With the initiation of the EU Harmonization Process, Turkey commenced activities to harmonize its legislation, including the subject of asylum, with EU *acquis*. After Turkey's EU accession negotiations started, Accession Partnership Documents were drafted in 2001, 2003, 2006 and 2008 which all include objectives in the field of asylum, namely adoption of EU *acquis* and practices, stricter border management and removal of the geographical limitation (Özgür & Özer, 2010, pp. 132-133).

A National Programme was drafted in 2003 in line with the Accession Partnership Document and published in the Official Journal No. 25178 of 24 July 2003. This National Programme declared and undertook that a special law of asylum would be enacted to govern migration and asylum-related issues. Accordingly, the Asylum-Migration Action Plan Task Force drafted the "National Action Plan of Turkey for the Adoption of EU *Acquis* in the Field of Asylum and Migration", which entered into force on 25 March 2005 upon approval by the Council of Ministers (Güner, 2007, pp. 86-87). While the National Action Plan provided a legal and institutional framework in the field of asylum, it also included social right-based arrangements and plans to establish an integration system (Büyükcılık, 2015, pp. 104-106).

4.2.1.5 2006 Regulation, Circular No. 57 and Circular of 2010

The National Action Plan served to identify the challenges and shortcomings of 1994 Regulation, which was the only effective regulation in domestic law during the time. In this context, "Regulation on Amendments to the Regulation Concerning the Procedures and Principles Applicable to Foreigners Seeking Asylum in Turkey, Individual Foreigners Applying for a Residence Permit to Seek Asylum in another Country, Foreigners that Arrive at Turkish Borders for Mass Asylum and Potential Population Movements (thereafter, 2006 Regulation)" was adopted with the Council of Ministers Decision No. 2006/9938 of 16 January 2006 (Büyükcılık, 2015, pp. 106-107).

The 2006 Regulation brought certain amendments and novelties to the 1994 Regulation which can be summarized as follows: Application deadline for asylum-seekers was changed as "reasonable time"; the authority to conduct interviews was transferred to the Ministry of Interior to Governorates; the decision-making authority was exempted from the obligation to receive opinion of the Ministries; cooperation with UNHCR, International Organization for Migration (IOM) and NGOs was formalized; and it was stated that qualified personnel with asylum training would be employed in the field (Uluslararası Af Örgütü Türkiye Şubesi, 2007, pp. 4-6).

Following the 2006 Regulation, the Ministry of Interior issued the Circular No. 57 of 22 June 2006 to field officers. The Circular includes an assessment of the situation and details of the relevant procedures while taking a stand against the perspective of the 1994 Regulation, the 2006 Regulation and the National Action Plan. For instance, the Circular leaves it up to the discretion of the management to suspend deportation in case administrative appeal procedures are initiated against a negative decision (Büyükcılık, 2015, pp. 110-111).

The Ministry of Interior established the "Office of Development and Implementation of Asylum and Migration Legislation and Administrative Capacity" on 15 October 2008 to implement the coordination of the National Action Plan, the Circular No. 57 and the 2008 National Programme (Özgür & Özer, 2010, p.

138). The experience gained from the process enabled the redrafting of some provisions which caused loss of rights, and consequently, the Ministry of Interior published the “Circular on Refugees and Asylum-Seekers” on 23 March 2010 (Büyükçalık, 2015, p. 113).

4.2.2 Law on Foreigners and International Protection and Temporary Protection Regulation

The Office of Development and Implementation of Asylum and Migration Legislation and Administrative Capacity drafted the “International Protection Draft Law” with the participation of NGOs engaged in asylum-related activities, academics and relevant public institutions, and the draft law was submitted to the Turkish Grand National Assembly on 3 May 2012. The Law No. 6458 on Foreigners and International Protection was published in the Official Journal No. 28615 of 11 April 2013 (Büyükçalık, 2015, p. 122).

Within the scope of this legislation, Turkey grants refugee status (LFIP, Art. 61), conditional refugee status (LFIP, Art. 62) and subsidiary protection status (LFIP, Art. 63) to persons in need of international protection depending on their individual circumstances. Moreover, the Syrian Arab Republic citizens, stateless persons and refugees from the Syrian Arab Republic who have arrived at or crossed the borders of Turkey as part of a mass influx or individually in order to receive temporary protection because of the events occurred in the Syrian Arab Republic since 28 April 2011 are covered under temporary protection (LFIP, Art. 91 and TPR, Provisional Art. 1).

Figure 2 International Protection Statuses Available under the Turkish Asylum System



As being Turkey's first ever asylum law, the LFIP sets out the main pillars of Turkey's asylum system. In compliance with the 1951 Convention, EU legislation and ECtHR jurisprudence, in the Law, the non-refoulement principle is recognized as an overarching principle, while any forcible return that may lead to infringement of Article 3 of the ECHR is forbidden (Ekşi, *Yabancılar ve Uluslararası Koruma Hukuku*, 2014, p. 66). The Law also contains provisions on access to international protection procedures, including at the borders and removal centres; on access to lawyers, public notaries, legal aid and interpretation services throughout the procedures. It is also important as the Law introduced a rights-based approach in relation to rights and services by codifying in details such as access to health services, elementary and secondary education, labour market, social services and assistance by the international protection applicants and status holders. As of its entry into force, each asylum applicant is issued an identity document bearing a Foreigner ID number that enables access to services (European Council on Refugees and Exiles, 2018, p. 57).

Apart from the progressive nature of the Law, the geographical limitation to the 1951 Convention was maintained. Therefore, persons meeting the refugee definition who are fleeing due to events in CoE Member States are granted refugee status, while those fleeing due to events outside of CoE Member States are granted conditional refugee status (Büyükcılık, 2015, p. 123). Similarly, the Law entails differentiated durable solutions for persons in need of international protection. The retention of the geographical limitation in the LFIP limits the available durable solutions to resettlement and voluntary repatriation for conditional refugees. Conditional refugees are not granted a local integration option in Turkey and shall be allowed to reside in Turkey until they are resettled to a third country. In addition to refugee and conditional refugee statuses, the Law regulates subsidiary protection status and provides a legislative basis for granting temporary protection regime in cases of mass influx situations (Ekşi, *Yabancılar ve Uluslararası Koruma Hukuku*, 2014, pp. 51-55).

The Law also established a central and civil authority as the main entity in charge of policy-making and proceedings for all foreigners in Turkey. Following full

enforcement of the Law on 11 April 2014, DGMM became fully operational and established its provincial directorates in 81 provinces in Turkey, which became operational as of 18 May 2015 (Sirkeci & Pusch, 2016, p. 47).

Within the framework of the Article 91 of the LFIP, Turkey adopted TPR, which was published and entered into force in the Official Gazette No 29153 on 22 October 2014. The Regulation outlines the principles and procedures for the issuance and implementation of temporary protection regime. It also sets the rights and entitlements of persons under temporary protection in details. The Regulation also specifies duties and responsibilities of State institutions with respect to procedures and services.

According to Provisional Article 1 of the TPR, the regulation applies to Syrian nationals, refugees and stateless persons, who arrived in Turkey as part of a mass influx or individually, for temporary protection purposes owing to events occurring in the Syrian Arab Republic since 28 April 2011. With the Amending Regulation of the Temporary Protection Regulation endorsed by the Council of Ministers with its decision no. 2016/8722 and published in the Official Gazette on 7 April 2016, citizens of the Syrian Arab Republic, who were readmitted to Turkey after having irregularly crossed to the Aegean Islands through Turkey after 20 March 2016 are included in the scope of the TPR.

The great majority of international protection applicants, status holders and temporary protection beneficiaries in Turkey are living in urban areas. As of 2019 there are only two Reception and Accommodation Centres run by the DGMM with a total capacity of 150 people, which primarily accommodates persons with specific needs among international protection applicants and status holders (Göç İdaresi Genel Müdürlüğü, 2019). In addition, for temporary protection beneficiaries, as of 2 May 2019, there are 13 Temporary Accommodation Centres in 8 different provinces managed by the DGMM. Temporary Accommodation Centres accommodates 136,985 Syrian nationals, while the vast majority lives in urban areas (Göç İdaresi Genel Müdürlüğü, 2019).

Table 5 Figures concerning International Protection Applicants and Status Holders Living in Reception and Accommodation Centers

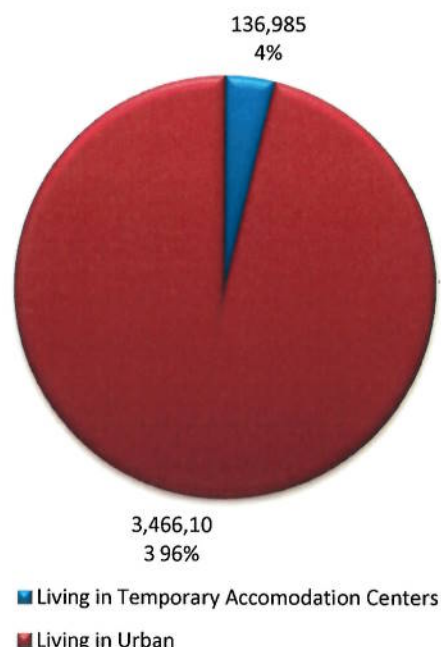
International Protection Applicants and Status Holders



Source: Adopted from DGMM data (Göç İdaresi Genel Müdürlüğü, 2019)

Table 6 Figures concerning Temporary Protection Beneficiaries Living in Temporary Accommodation Centers

Temporary Protection Beneficiaries



Source: Adopted from DGMM data (Göç İdaresi Genel Müdürlüğü, 2019)

4.3 INTEGRATION POLICY IN TURKEY

A closer look at the relevant legislation reveals that no local integration policy is adopted in Turkey as a durable solution. Local integration is set out neither in the TPR, which governs the rights and obligations of 3.6 million Syrian nationals under temporary protection, nor the LFIP, which is intended for over 368,000 Afghan, Iraqi, Iranian and Somali people arriving from non-member States of the Council of Europe filing a request for international protection. Moreover since Turkey maintains the geographical limitation to the 1951 Convention the durable solution available for conditional refugees is limited to resettlement (LFIP, Art. 62).

As such, local integration is not considered as a durable solution for the 4 million international protection applicants, status holders and temporary protection beneficiaries presently living in Turkey.

While the term "integration" is not used in the LFIP, a provision on harmonization activities for all foreigners is contained in the same law. Accordingly, the LFIP, Article 96(1) regulates that,

"The Directorate General may plan for harmonization activities in order to facilitate mutual harmonization between foreigners, applicants and international protection beneficiaries and the society as well as to equip them with the knowledge and skills to be independently active in all areas of social life without the assistance of third persons in Turkey or in the country to which they are resettled or in their own country".

It is also stated that, the DGMM may seek the suggestions and contributions of public institutions and agencies, local governments, non-governmental organizations (NGOs), universities and international organizations.

As indicated in the Law, the main purpose of harmonization is to enable foreigners, including international protection applicants and status holders, to be independently active in all areas of social life without the assistance of third persons in Turkey. The harmonization process encompasses multiple fields by definition. According to DGMM harmonization is neither assimilation nor integration; it stems from mutual understanding between migrant/refugee and community on voluntary basis. In the organization of harmonization activities the aim is a two way active interaction and voluntarism. Also a migrant/refugee-oriented approach is adopted. The Harmonization and Communication Department of DGMM is expected to organize courses that basically explain the structure, language, legal system, culture, history and their rights and obligations; and to conduct social, cultural and art events to foster harmonization.¹⁹

As stated in the LFIP, the DGMM carries out various activities and plans new ones to ensure the self-reliance of persons in need of international protection and maintain social harmony until a durable solution is provided to those under international protection in Turkey. One major activity is the ratification and entry

¹⁹ Available at: http://www.goc.gov.tr/icerik/uyum_409_564 (Accessed on 15 May 2019)

into force of the five-year Harmonization Strategy Paper and National Action Plan by the Migration Policies Board in 2018.²⁰ The said instruments were prepared during the consultation meetings coordinated by the Harmonization and Communication Department of DGMM with the participation of all relevant institutions, local authorities, NGOs, international organizations, academics and foreigners.

4.3.1 Thematic Policy Areas

The Harmonization Strategy Paper and National Action Plan is not publicly available. However the general framework of harmonization policy and strategic priorities can be deduced from the Strategic Plan 2017-2021²¹, the Activity Report 2018²² and the 2019 Performance Programme²³ of DGMM. Likewise the harmonization activities conducted by DGMM reflect the priority areas, which are (a) access to basic rights, (b) information sharing on rights and available services and (c) support to social harmonization.

4.3.1.1 Access to Basic Rights

1951 Convention sets forth that beneficiaries of international protection shall be accorded the same treatment with respect to certain rights as accorded to nationals of that country/at least as favourable as that accorded to foreigners in that country. International protection applicants, status holders and temporary protection beneficiaries in Turkey are accorded fundamental rights and granted

²⁰ Taken from the presentation of the Minister of Interior, Mr. Süleyman Soyulu and recorded in the minutes of the meeting dated 15 November 2018 in the Parliament's Planning and Budget Commission (p. 22). Available at:

https://www.tbmm.gov.tr/develop/owa/komisyon_tutanaklari.goruntule?pTutanakId=2222 (Accessed on 15 May 2019)

²¹ Available at: [http://www.goc.gov.tr/files/files/stratejik_plan_sitede_yay%C4%B1nlanan\(1\).pdf](http://www.goc.gov.tr/files/files/stratejik_plan_sitede_yay%C4%B1nlanan(1).pdf) (Accessed on 15 May 2019)

²² Available at: [http://www.goc.gov.tr/files/files/2018%20Y%C4%B1%C4%B1%20Faaliyet%20Raporumuz%20v_4%201_3_2019\(2\).pdf](http://www.goc.gov.tr/files/files/2018%20Y%C4%B1%C4%B1%20Faaliyet%20Raporumuz%20v_4%201_3_2019(2).pdf) (Accessed on 15 May 2019)

²³ Available at: http://www.goc.gov.tr/files/files/2019%20Performans%20Program%C4%B1%20v_2_1.pdf (Accessed on 15 May 2019)

access to certain services under the relevant provisions of the Convention, fundamental human rights instruments and the Constitution of the Republic of Turkey.

Article 67(1) of LFIP and Article 48(1) of TPR provide that persons with specific needs shall be given priority with respect to access to rights and services. The definition of the term "persons with specific needs" (LFIP, Art. 3(1)(i)) covers unaccompanied minors, the disabled, the elderly, pregnant women, single mothers or fathers with a child and persons subjected to torture, rape or other serious psychological, physical or sexual violence.

The crucial first step of integration into a new community is to be able to establish a decent life within the host community, which requires access to basic rights. Every person has right to access basic rights such as education, health and employment. In Turkey persons in need of international protection have the right to benefit from public services, however the key to access to services is registration and documentation. In line with this main priority of the DGMM is to register all persons in need of international protection and provide them a foreign identity number, which is compatible with the national systems. In addition to access to public services, provided identity documents allow persons in need of international protection to legally stay in Turkey.

Registration and Documentation: Registration with PDMMs and possession of a valid foreigner's ID document (starting with number 99) is a prerequisite for international protection applicants, status holders and temporary protection beneficiaries to benefit from rights and available services.

According to the LFIP, Provincial Directorates of Migration Management (PDMMs)²⁴ are responsible for registering persons in need of international protection, which covers both international protection applicants and temporary protection beneficiaries. Following registration, an "International Protection

²⁴ Law on Foreigners and International Protection No.6458, Article 69/1 regulates that international protection applications are registered by Governorates. In practice under the Governorates PDMMs are responsible. Temporary Protection Regulation, Article 21/1 regulates that registration is conducted by DGMM staff. In practice PDMMs are registering temporary protection beneficiaries.

Applicant Identity Document"²⁵ or "Temporary Protection Identity Document"²⁶, which bears foreigner ID number starting with 99, is issued for free of charge. Identification documents allow international protection applicants, status holders and temporary protection beneficiaries to legally stay in Turkey and provide them access to rights and public services.

Similarly civil events, such as birth, death or marriage that takes place in Turkey, are registered and documented by the Provincial Directorates of Population and Citizenship Affairs upon notification.

As stated in 2017-2021 Strategic Plan, one of the main strategic targets of the DGMM was set as registration and documentation of persons under international protection and temporary protection (Göç İdaresi Genel Müdürlüğü, 2017, pp. 77-80). Similarly verification of registration data of persons under temporary protection was included in the 2018 Activity Report (Göç İdaresi Genel Müdürlüğü, 2018, pp. 27-28) and in the 2019 Performance Programme by the DGMM (Göç İdaresi Genel Müdürlüğü, 2019, pp. 31-33).

Confidentiality and Access to Personal Files: Pursuant to Article 94(1-2) of LFIP and Article 51(1) of TPR, all information and documents pertaining to international protection applicants, status holders and temporary protection beneficiaries shall be confidential and not disclosed to third parties without consent. The individuals as well as their legal representative or lawyer may examine or obtain a copy of the documents in their personal file.

Access to Education: According to LFIP, Article 89(1) and TPR, Article 28 all children under international protection and temporary protection have the right to primary and secondary²⁷ education in Turkey and may enroll in Turkish schools free of charge upon applying to Provincial Directorates of National Education.²⁸

²⁵ Law on Foreigners and International Protection No.6458, Article 76(1)

²⁶ Temporary Protection Regulation, Article 22

Prior to Temporary Protection Identity Document, foreigners are given a registration document with a 30 days validity period to enable authorities to conduct security controls. With the registration document, foreigners can only access to emergency health services.

²⁷ For temporary protection beneficiaries, early childhood education is also available.

²⁸ Law on Foreigners and International Protection, Article 89(1); Implementing Regulation on the Law on Foreigners and International Protection, Article 105 and Temporary Protection

Provincial Education Commissions are responsible for determining the grade that children will be placed if necessary documentation is not available. Every child enrolled in Turkish schools can obtain a reports card at the end of each semester and graduation certificates upon completion of high school, which are issued by the Ministry of National Education. The Ministry of Family, Labour and Social Services, the Ministry of National Education, Turkish Red Crescent and UN Children's Fund are implementing "Conditional Cash Transfer for Education" programme, which aims to support families in need financially to support their childrens' enrollment into schools.

All international protection applicants, status holders and temporary protection beneficiaries can enroll in universities in Turkey through Foreign Students Examination administered by respective universities. Enrollment requires the payment of tuition fees.²⁹ The Presidency for Turks Abroad and Related Communities offers scholarships to temporary protection beneficiaries for higher education in Turkey.

All international protection applicants, status holders and temporary protection beneficiaries can benefit from language and skills building courses offered by the Ministry of National Education's Public Education Centres free of charge.

As stated in the 2019 Performance Programme, within the strategic objectives listed, the Turkish government is developing a harmonization education programme and promoting foreigners' participation in harmonization courses. Additionally the number of foreigners participated to the language and skills building courses was set as a performance indicator (Göç İdaresi Genel Müdürlüğü, 2019, p. 40).

Although the legislative framework is in place, there are challenges in practice such as school drop-outs, low number of students enrolled in universities or limited participation in language or skills building courses. In order to ensure access to education and increased participation in language and skills building

Regulation, Article 28, Circular No.2014/21 on Access to Education by Foreign Students drafted by Ministry of National Education.

²⁹ Temporary protection beneficiaries may be exempted from tuition fees of State universities.

courses, the DGMM planned to establish Migration Counselling Centres that provide information to persons in need on available services and make necessary referrals.

In order to achieve a basic standard of life, access to health services is crucial for everyone.

Access to Health: According to LFIP, Article 89(3)(a) if an international protection applicant or status holder are not covered with any health insurance and do not have financial means to afford it, they may be included under General Health Insurance.³⁰ PDMMs activate the General Health Insurance (GHI) of the individuals and GHI contributions are covered partially or in full from DGMM budget. Individuals can benefit from emergency, primary, secondary and tertiary health care services under the Communiqué on Healthcare Implementation (SUT) from health care facilities. They can also directly consult State hospitals and family physicians. Even being covered with General Health Insurance, some medical treatments and medications may require contribution fee.

In line with the TRP, Article 27 temporary protection beneficiaries can receive free health services in their respective provinces of residence upon receiving Temporary Protection Identity Document.³¹ Temporary protection beneficiaries can benefit from health care services provided under SUT free of charge. Health care service charges are billed to DGMM. Individuals can benefit from emergency, primary, secondary and tertiary health care services. They can directly consult State hospitals, Migrant Health Centres and family physicians. Temporary protection beneficiaries are expected to benefit from their rights and available services in their province of residence. They are not expected to pay contribution fee.

By acknowledging the importance of access to health services and in order to eliminate the existing challenges (Güzel, 2018, pp. 112-132) in the field, the DGMM included establishment of effective mechanisms to cover the direct and

³⁰ Law on Foreigners and International Protection, Article 89(3)(a); Implementing Regulation on the Law on Foreigners and International Protection, Article 107

³¹ Temporary Protection Regulation, Article 27

indirect costs of persons in need of international protection related to health and social insurance in 2019 Performance Programming. Also the foreseen Migration Counselling Centres are expected to provide information on available public services to persons in need of international protection.

As a crucial part of establishing a decent life, persons in need of international protection have the right to work in Turkey.

Access to Labour Market: All international protection applicants, status holders and temporary protection beneficiaries have the right to work in Turkey.³² While *Refugees* (LFIP, Art. 61) and subsidiary protection status holders may work with their ID cards without having to obtain work permit, other groups³³ need to obtain work permit.

International protection applicants, conditional refugees and temporary protection beneficiaries may apply for work permit for self-employment or their employers may apply for dependent work permit on their behalf. This application can be done six months after their international protection application or temporary protection registration.

Employers wishing to employ a foreign worker are required to lodge an application for work permit over the e-Government portal. An employment quota is applied while processing applications for work permit. Accordingly, the number of temporary protection beneficiaries at the workplace may not exceed 10% of Turkish citizens working at the same workplace. An employment quota of 20% is applied for international protection applicants and conditional refugees, which means one foreigner can be employed for every five Turkish employees at a workplace. International protection applicants, conditional refugees and

³² Law on Foreigners and International Protection, Article 89(4); Implementing Regulation on the Law on Foreigners and International Protection, Article 108 and Temporary Protection Regulation, Article 29. Additionally relevant legislation includes the Law on International Labour Force No.6735, the Regulation on Work Permit of International Protection Applicants and International Protection Status Holders (O.J. No: 29695 dated 26/04/2016) and the Regulation on Work Permits of Foreigners under Temporary Protection (O.J. No: 29594 dated 15/01/2016).

It is important to underline that some professions are prohibited for foreigners according to Law on International Labour Force No.6735, Article 9(1)(ç).

³³ International protection applicants, conditional refugees and temporary protection beneficiaries

temporary protection beneficiaries wishing to set up their own business are required to obtain an independent work permit and similar to Turkish citizens, register at competent authorities.

Seasonal agriculture and husbandry workers are exempted from the requirement of obtaining work permit. Obtaining an exemption document from the Provincial Directorate of ISKUR would be sufficient.

The professionals in the field of education or health under international protection and temporary protection are requested to obtain an initial permission from the Ministry of National Education, Council of Higher Education or Ministry of Health in line with their field of profession.

In order to find a suitable job, international protection applicants, status holders and temporary protection beneficiaries may get registered with ISKUR, which is the Labor Agency of Turkey. Also international protection applicants, status holder and temporary protection beneficiaries have right to participate on the job trainings, vocational trainings and entrepreneurship courses organized by ISKUR, the Labor Agency of Turkey.

Some professions (dentistry, pharmacy, veterinary, attorneyship, judgeship etc.) restricted only to Turkish citizens pursuant to the law cannot be practised by international protection applicants, status holders and temporary protection beneficiaries.

Foreigners may not be paid below minimum wage. They also enjoy social security and associated rights.

The necessary legislative framework is in place, however the number of work permits are still low. Accordingly as stated in the 2017-2021 Strategic Plan, the DGMM underlined the importance of ensuring coordination with relevant institutions to enable persons in need of international protection to obtain work permit.

Access to Social Assistance: According to the LFIP, international protection applicants, status holders and temporary protection beneficiaries may benefit from social assistance opportunities in Turkey if they are in need monetary or in

kind assistance.³⁴ Applications may be submitted to Social Assistance and Solidarity Foundations under Ministry of Family, Labour and Social Services, municipalities, Turkish Red Crescent or other relevant NGOs.

They can also ask for support from Social Service Centres to receive psychosocial support and counselling services. Additionally, international protection applicants, status holders and temporary protection beneficiaries also receive international fund assistance in the form of Emergency Social Safety Net (ESSN) and Conditional Cash Transfer for Education (CCTE). In that respect the Ministry of Family, Labour and Social Services, UN World Food Programme (WFP) and Turkish Red Crescent implements a programme funded by the EU called "Emergency Social Safety Net", which provides cash to the most vulnerable persons under international protection and temporary protection in Turkey to meet basic needs since November 2016.³⁵

Access to Legal Aid: According to LFIP, Article 81(1) international protection applicants, status holders and temporary protection beneficiaries have the right to be represented by a lawyer. However if they are unable to cover relevant expenses (lawyer's fee, litigation expenses, etc.) due to lack of sufficient financial means, they have right to apply to Bar Associations³⁶ and/or courts³⁷ to receive legal aid. In civil and administrative cases legal aid requests can be submitted to Bar Associations for an appointment of a lawyer free of charge. Bar Associations decide whether a lawyer would be appointed or not, following an assessment on means and merits of the claim. Additionally legal aid requests can be submitted to courts in order to be exempted from litigation fees and expenses, as well as appointment of a lawyer through Bar Associations. Courts decide by taking into

³⁴ Law on Foreigners and International Protection, Article 89(2); Implementing Regulation on the Law on Foreigners and International Protection, Article 106 and Temporary Protection Regulation, Article 30/1.

³⁵ As of April 2019 1,580,036 million *refugees* benefited from cash assistance under Emergency Social Safety Net.

³⁶ Law on Foreigners and International Protection, Article 81(2); Implementing Regulation on the Law on Foreigners and International Protection, Article 103; Temporary Protection Regulation, Article 53 and Attorneyship Law No.1136, Article 176-181.

³⁷ Civil Procedure Law No.6100, Article 334-340.

account the claim and financial situation of the requesting person before granting legal aid.

Moreover, in accordance with to Article 7 and 16 of 1951 Convention and Article 88 of LFIP, international protection applicants, status holders and temporary protection beneficiaries enjoy exemption from reciprocity.

Access to Translation Services: Pursuant to the LFIP, Article 70(2) and TPR, Article 31 for the procedures to be followed at the PDMMs, international protection applicants, status holders and temporary protection beneficiaries have right to request an interpreter free of charge.

As stated in 2017-2021 Strategic Plan, the DGMM planned to establish a pool of interpreters to improve service provision and to minimize the problems in accessing procedures (Göç İdaresi Genel Müdürlüğü, 2017, pp. 96, 99). Similarly in the 2019 Performance Programme, the DGMM plans to strengthen the PDMMs through recruitment of interpreters under the projects developed using international funds (Göç İdaresi Genel Müdürlüğü, 2019, pp. 30-31).

4.3.1.2 Information Sharing on Rights and Available Services

Enabling access to basic rights and public services legally and operationally is not enough if persons in need of international protection is not aware of the available services. Lack of information on their entitlement and the procedures required to be followed to access basic rights may constitute an obstacle in their access.

In order to overcome this, within the 2017-2021 Strategic Plan, one of the strategic targets of the DGMM was set as information dissemination on public services, access to livelihood opportunities and education, communication and access to health services in coordination with relevant external stakeholders (Göç İdaresi Genel Müdürlüğü, 2017, p. 89).

4.3.1.3 Support to Social Harmonization

Unfavourable language of the media and misinformation on social media fuel social tensions between persons in need of international protection and host communities. Therefore ensuring that persons in need of international protection are equipped with information about their rights, obligations and available services is crucial. While doing so, to foster understanding between persons in need of international protection and host communities, it is essential to strengthen social interaction between persons in need of international protection and host communities, establish platforms of dialogue. Also channeling correct information on rights and obligations of persons in need of international protection to host community to eliminate misperceptions is important.

In line with the above mentioned, in the 2019 Performance Programme the DGMM's one of the strategic objectives was set as to support the mutual harmonization between society and international protection applicants, status holders and temporary protection beneficiaries. In addition, information sharing with public regularly on the issues that fall under the field of work of the DGMM was set as another strategic objective of Harmonization and Communication Department (Göç İdaresi Genel Müdürlüğü, 2019, p. 40).

4.3.2 An Analysis of Refugee Integration Policy in Turkey in Light of the EU Policy

Turkey is hosting around 4 million international protection applicants, status holders and temporary protection beneficiaries. Main nationalities of the persons in need of international protection in Turkey are Syria, Afghanistan, Iraq, Iran and Somalia. Due to its geographical location and the type of migration that Turkey receives, Turkey is both a destination and a transit country. However, it is widely known that even if many of the persons in need of international protection arrive in Turkey with the intention to go to Europe in reality a dominant majority of them remain in the country. In addition, these arrivals occur irregularly, which means they come undocumented. These facts make the situation extremely difficult to

predict and plan. On the other hand the policy priority of "pre-departure/pre-arrival measures" are often applicable, where specific migration targets are predetermined like is the case in many EU Member States. In the case of Turkey such a predetermination is very difficult to achieve for a few reasons. First, Turkey's migration policy is not systematic and well-defined in terms of limiting forced migration movements in numbers. Second these policies are also based on humanitarian considerations initially. Third, geographically it is unrealistic to close the borders and limit the number of arrivals as many of the refugees originate from neighbouring countries which are active conflicts zones.

Regarding the policy priority on "access to education and training opportunities", it is important to underline that Turkey also set education as a theme with priority in terms of support to the harmonization of children. Similarly, increasing the number of participants to language and skills building courses is set as one of the performance indicators. All training opportunities are available for both men and women which are in line with the Constitution of Turkey. It is fundamental that the equality of each individual before the law is guaranteed regardless of their "language, race, colour, gender, political opinion, philosophical belief, religion and sect, or any such consideration".³⁸ Discrimination is forbidden by law and constitutes a crime. The Turkish Criminal Code contains several provisions penalizing acts of discrimination. Article 122 of the Turkish Criminal Code regulates the prevention of discrimination acts on grounds of language, race, colour, gender, disability, political opinion, philosophical belief, religion, sect or similar reasons.³⁹

Turkey practices provision of early childhood education services for persons under temporary protection according to TPR, Article 28(1)(a). However, this service is not available for international protection applicants and status holders and it constitutes an area of improvement.

With the objective to integrate children under temporary protection into the Turkish education system, the Ministry of National Education adopted the policy

³⁸ Constitution of the Republic of Turkey, Law No.2709, Article 10

³⁹ Turkish Criminal Code, Law No.5237, Article 122

to conduct catch up classes. However, the circumstances may differ for other nationalities in practice.

The Ministry of National Education conducts various skills building trainings targeting counsellor teachers and school principals mainly from provinces densely populated with refugees and asylum-seekers. Such training programmes mainly cover themes of main principles of international protection, national legal framework on international and temporary protection, working with refugee children, identification of persons with specific needs and referral mechanisms, rights and available services, combatting peer bullying and inter-cultural communication.

Persons in need of international protection have access to labour market opportunities in Turkey according to the national legislation which is a crucial aspect in order to have a decent standard of living. The opportunity to apply for work permit is available for all starting from six months following the international protection application or temporary protection registration. According to legislation, persons in need of international protection are eligible to benefit from vocational training and entrepreneurship opportunities free of charge provided by the Labour Agency.

The Ministry of National Education, the Council of Higher Education and the Ministry of Health are providing equivalencies for the degrees and vocational competencies held by those persons in need of international protection upon application.

The majority of the population of international protection applicants, status holders and temporary protection beneficiaries are concentrated in urban areas in Turkey. 136,880 is the number of Syrian nationals who are living in Temporary Accommodation Centres under the management of the DGMM. Additionally there are two Reception and Accommodation Centres are set up by the DGMM. These centers combined are running with a capacity of 150 people and primarily accommodating persons with specific needs among those in need of international protection. Although it is preferred to facilitate the settlement of refugees in urban areas rather than isolated refugee camps, in practice the lack of financial means

causes the refugees to seek accommodation in isolated, run down, low cost neighbourhoods in urban areas, consequently staying isolated among themselves within the host community. The reality falls far from the intended integration purposes and the result is the ghettoization of the refugees which in itself is the reason of other complications. Turkey's approach to this issue is required to improve in order to be on par with the corresponding EU policy priorities.

EU emphasizes the requirement for access to healthcare services starting from the reception phase for the persons in need of international protection. Turkey, in accordance with the EU policy priorities, provide full access to healthcare services free of charge to all Syrian nationals and to those of other nationalities under the General Health Insurance if they do not have the financial means. On the other hand language barrier remains as one of the main challenges in terms of service provision to refugees. This issue comes up especially in provision of healthcare services, since refugees are unable to express their health problems clearly to service providers or unable to understand them. In order to address the need, Migrant Health Centres have been established under the Ministry of Health, where Syrian doctors provide healthcare services to temporary protection beneficiaries. However the number of Migrant Health Centres are limited and there is lack of interpreters in other healthcare premises.

Policy priorities of the EU includes "active participation of refugees in design and implementation of integration policies". As reported the Harmonization Strategy and National Action Plan has been drafted through a participatory methodology in consultation with related public institutions, municipalities, international organizations, civil society organizations, as well as foreigners in Turkey. Additionally all harmonization related activities organized by the DGMM aims to bring persons in need of international protection together with Turkish citizens to foster mutual understanding and support social harmonization, which requires both parties active involvement in implementation.

A table that contains evaluation of the policy in Turkey in comparison with the Action Plan on the Integration of Third Country Nationals can be found below:

Table 7 A Comparison Table of the Policy in Turkey and the Action Plan on the Integration of Third Country Nationals.

THE ACTION PLAN OF THE EU ON THE INTEGRATION OF THIRD COUNTRY NATIONALS	TURKEY'S POSITION	EVALUATION AT POLICY LEVEL
<i>1. taking pre-departure/pre-arrival measures targeting both third country nationals and the host community</i>	Not applicable in the case of Turkey as explained above.	N/A
<i>2a. ensuring access to education</i>	Turkey set education as a theme with priority in terms of support to the harmonization of children. All children under international protection and temporary protection have the right to primary and secondary education in Turkey and may enroll in Turkish schools free of charge.	In accordance with the EU policy priorities.
	Turkey practices provision of early childhood education services for persons under temporary protection according to TPR, Article 28(1)(a). However this service is not available for international protection applicants and status holders and it constitutes an area of improvement.	Area of improvement for Turkey.
<i>2b. ensuring access to training</i>	All international protection applicants, status holders and temporary protection beneficiaries can participate to language and skills building courses offered by the Ministry of National Education's Public Education Centres free of charge.	In accordance with the EU policy priorities.
<i>3a. facilitating labour market integration</i>	Persons in need of international protection have access to labour market opportunities in Turkey. The necessary legislative framework is in place, however the number of work permits are still low.	In accordance with the EU policy priorities.
<i>3b. ensuring effective access to vocational training</i>	According to legislation, persons in need of international protection are eligible to benefit from vocational training and entrepreneurship opportunities free of charge provided by the Labour Agency.	In accordance with the EU policy priorities.
<i>4a. supporting third country nationals in access to basic services including adequate and affordable housing</i>	The majority of the population of Persons in need of international protection are concentrated in urban areas without adequate and affordable housing opportunities.	Area of improvement for Turkey.

4b. supporting third country nationals in access to basic services including healthcare	Turkey provide full access to healthcare services free of charge to all Syrian nationals and to those of other nationalities under the General Health Insurance if they do not have the financial means.	Ahead of the EU policy priorities.
5. ensuring active participation of third country national in design and implementation of integration policies.	The Harmonization Strategy and National Action Plan has been drafted through a participatory methodology. Additionally all harmonization related activities organized by the DGMM aims to bring persons in need of international protection together with the host community to foster mutual understanding and support social harmonization.	Area of improvement for Turkey.

CONCLUSION

By analyzing the relevant articles under LFIP and the policy of DGMM concerning local integration of refugees in the light of international principles and regional standards from a norm diffusion theory perspective, this thesis has shown that the diffusion of refugee integration, as a norm, emerges but fails to reach beyond the tipping point in Turkey. The term "harmonization" exists in the LFIP and there seems to be acceptance of the norm. However from a contextual point of view, the mentioned provision does not include "integration" as a term and accordingly, its content does not fully cover the intended meaning of "integration".

With its solid and comprehensive legal framework on international protection, which is in line with the international principles -*such as the principle of non-refoulment (1951 Convention, Art. 33), non-criminalization for illegal entry or presence (1951 Convention, Art. 31), and access to basic rights and services (1951 Convention, Art. 13-28)*- and regional standards -*such as ECtHR jurisprudence and the EU acquis*-, Turkey provides international protection to over 4 million refugees. In this sense, this thesis has argued that Turkey has complied with the fundamental international norms concerning refugees.

In the case of Turkey, the "framing" stage of norm emergence particularly derives from Turkey's efforts at the EU accession process to become an EU member state. Within the scope of its efforts Turkey came up with an Action Plan to amend its law and policies in accordance with the EU acquis. This is in a way complemented by the negative decisions given against Turkey by the ECtHR. Almost all of these decisions concerned violation of prohibition of torture (ECHR, Art. 3), right to liberty (ECHR, Art. 5) and right to effective remedy (ECHR, Art. 13) which are not directly related to integration, however they give a very clear message about the standard of treatment refugees deserve and accordingly the need to find a lasting solution for them. Such platforms particularly bear a legitimate role to promote refugee protection and integration. Thus, international pressures such as the demands of the EU during the accession negotiations and the decisions of ECtHR against Turkey's practices have forced Turkish officials to adapt their legal and institutional structures and to implement better the

international norms enshrined in the 1951 Convention. In addition to external pressure, the Syrian Crisis generated an urgency to transform Turkey's legal and institutional structures concerning refugees. Such an international crisis in one of the neighbours of Turkey has been influential in the way that international norms reached the tipping point. Thus, this thesis has shown that not only acceptance of a norm by many actors facilitates the diffusion of norms but also international crisis, especially the urgency it creates makes norms to reach tipping point and facilitates norm cascading.

The unfavorable political and security situations of refugee producing countries neighboring Turkey hampers the voluntary repatriation process. Lack of political will and the limited number of third country resettlement quotas, merely enable refugees to benefit from resettlement to a third country option as a durable solution. By taking into consideration the limited number that can be resettled or can spontaneously return to their countries of origin, it is inevitably necessary to focus on local integration possibilities and opportunities to ensure refugees' self-reliance. According to international principles, local integration of refugees is closely linked with social and economic rights, such as access to education and the livelihoods opportunities, access to social assistance, access to health services, which complement the process of integration. Legal, economic and socio-cultural aspects of local integration need to be supported for a successful integration. From a legal perspective, refugees are provided progressively comprehensive set of rights, which might lead to permanent stay, residence or citizenship. From an economic perspective, refugees become gradually less dependent on aid or assistance and increasingly become self-reliant. At the socio-cultural level, interaction between refugees and the host community reaches to a certain point that allows refugees to participate in social life without fear of discrimination. In this regard, the asylum system of Turkey and DGMM's harmonization policy support economic and socio-cultural aspects of integration. However, concerning the legal aspect of integration, LFIP does not provide a clear basis for facilitation of integration and access to citizenship unlike the regulation under Article 34 of the 1951 Convention. The naturalization in Turkey

takes place under the Nationality Law and mostly based on political determinations on the “usefulness” of individuals.

When Turkey’s position is compared with the regional standards, harmonization policy of DGMM is mainly in accordance with the EU policy priorities concerning integration of third country nationals, especially in the fields of access to education, training, labour market and vocational training. While there is an area of improvement in the fields of access to childhood education, housing and ensuring active participation of refugees in integration policies, Turkey is ahead of the EU policy priorities in terms of supporting refugees in access to healthcare services. This derives from provision of full access to healthcare services free of charge to all temporary protection beneficiaries and to those of other nationalities under the General Health Insurance in case they do not have the financial means.

On the other hand supporting the economic and socio-cultural aspects of integration is not enough for refugees’ local integration, since the legal aspect falls short. The provision on “harmonization” set forth under Article 96 of LFIP aims to enable refugees to be independently active in all areas of social life without the assistance of third persons in Turkey. The respective article of the LFIP focuses on the self-reliance and social harmony until a durable solution is provided for persons in need of international protection.

Therefore in the light of the norm diffusion theory, the diffusion of refugee integration in Turkey as a norm emerges but fails to go beyond the tipping point. It remains somewhere in between the norm emergence and the tipping point.

Turkey’s compliance with international and regional norms notwithstanding, the national asylum system in Turkey does not introduce any long-term durable solution. Although restoration of national protection could only be possible with the attainment of a long-term durable solution to end the cycle of displacement of refugees, and the international community has a shared responsibility to find durable solutions for refugees, due to the domestic political concerns such as rising popular dissent against foreigners in general, Syrian refugees in particular Turkey has refrained to use integration as a policy instrument for a durable solution. Thus, this thesis has shown that external pressure coming from regional

actors has a limited impact on domestic actors if there is a significant domestic objection to norm cascading and implementation of international norms. In the case of Turkey, this thesis has put forward that Turkish officials have refrained from using integration as a term in their official documents; therefore, Turkey's policy is concerned more about harmonization instruments which are believed to be temporary rather than integration instruments which are believed to be more comprehensive, permanent and durable.

There is a perception among the State authorities and the host community that refugees are "temporary" in Turkey, and this is what preferred. In order to ensure social cohesion, the service providers are offering economic, social and cultural rights to a certain extent, however the policies simultaneously prevent refugees' stay in Turkey in the medium and long term. In line with this point of view Turkey keeps its geographical limitation to the 1951 Convention as a policy. As per this policy lifting of the geographical limitation would create a pull factor for non-European refugees. Such policy is also supported by the public view and some local norms or beliefs such as "refugees not being loyal to their own States thus will never be loyal to Turkey" or "they should have stayed and fought for their own countries". In sum the adopted norm does not exceed the threshold of tipping point, thus not cascaded or internalized.

To explore the root causes of Turkey's political stance in terms of refugee integration as a durable solution, its effects on refugee and host communities and steps to be taken to institutionalize the norm into the national law and practice, the further research is needed. Furthermore, future research may be done on the perceptions of domestic actors on the policy of integration. To analyse the perceptions of general public on integration will provide us with valuable insights to alleviate their concerns.

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Tarih:13/09/2019

Tez Başlığı : SİVİL TOPLUM DÜZEYİNDE BARIŞ ALTYAPISI KURMAK SURETİYLE TÜRKİYE'DE NEFRET VE ÖTEKİLEŞTİRMENİN AZALTILMASI

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- 4- ☒ Alıntılar dâhil
- 5- ☒ 5 kelimedenden daha az örtüşme içeren metin kısımları hariç

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Gereğini saygılarımla arz ederim.

Adı Soyadı: NİLAY ARKÜN
Öğrenci No: N11227009
Anabilim Dalı: Barış Çalışmaları
Programı: Barış ve Çatışma Çalışmaları

Tarih ve İmza

13/09/2019

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UYGUNDUR.

[Signature]
Dr. Öğr. Üyesi Kadri Kaan Renda
(Unvan, Ad Soyad, İmza)



**HACETTEPE UNIVERSITY
GRADUATE SCHOOL OF SOCIAL SCIENCES
ETHICS COMMISSION FORM FOR THESIS**

**HACETTEPE UNIVERSITY
GRADUATE SCHOOL OF SOCIAL SCIENCES
PEACE STUDIES DEPARTMENT**

Date: 13/09/2019

Thesis Title: REDUCING HATRED AND OTHERNESS BY ESTABLISHING INFRASTRUCTURE FOR PEACE AT CIVIL SOCIETY LEVEL IN TURKEY

My thesis work related to the title above:

1. Does not perform experimentation on animals or people.
2. Does not necessitate the use of biological material (blood, urine, biological fluids and samples, etc.).
3. Does not involve any interference of the body's integrity.
4. Is not based on observational and descriptive research (survey, interview, measures/scales, data scanning, system-model development).

I declare, I have carefully read Hacettepe University's Ethics Regulations and the Commission's Guidelines, and in order to proceed with my thesis according to these regulations I do not have to get permission from the Ethics Board/Commission for anything; in any infringement of the regulations I accept all legal responsibility and I declare that all the information I have provided is true.

I respectfully submit this for approval.

13/09/2019

Date and Signature

Name Surname: NİLAY ARKÜN

Student No: N11227009

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Program: PEACE AND CONFLICT STUDIES

Status: ☒ MA ☐ Ph.D. ☐ Combined MA/ Ph.D.

ADVISER COMMENTS AND APPROVAL

APPROVED.

Assist. Prof. Kadri Kaan Renda

(Title, Name Surname, Signature)



HACETTEPE ÜNİVERSİTESİ
SOSYAL BİLİMLER ENSTİTÜSÜ
TEZ ÇALIŞMASI ETİK KOMİSYON MUAFİYETİ FORMU

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BARIŞ ÇALIŞMALARI ANABİLİM DALI BAŞKANLIĞI'NA

Tarih: 13/09/2019

Tez Başlığı: SİVİL TOPLUM DÜZEYİNDE BARIŞ ALTYAPISI KURMAK SURETİYLE TÜRKİYE'DE NEFRET VE ÖTEKİLEŞTİRMENİN AZALTILMASI

Yukarıda başlığı gösterilen tez çalışmam:

1. İnsan ve hayvan üzerinde deney niteliği taşımamaktadır,
2. Biyolojik materyal (kan, idrar vb. biyolojik sıvılar ve numuneler) kullanılmasını gerektirmemektedir.
3. Beden bütünlüğüne müdahale içermemektedir.
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Gereğini saygılarımla arz ederim.

13/09/2019

Tarih ve İmza

Adı Soyadı: NİLAY ARKÜN
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Programı: BARIŞ VE ÇATIŞMA ÇALIŞMALARI
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